

January 14, 2019

TOWN OF SOUTHAMPTON

SPECIAL TOWN MEETING WARRANT

**Tuesday, February 5, 2019
7:00 P.M.**



**CAFETERIA/GYMNASIUM
WILLIAM E. NORRIS SCHOOL
34 POMEROY MEADOW ROAD
SOUTHAMPTON, MASSACHUSETTS**

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TOWN OF SOUTHAMPTON

WARRANT FOR SPECIAL TOWN MEETING

February 5, 2019

HAMPSHIRE, ss.

To either of the Constables of the Town of Southampton in said County:

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of the precincts of the Town of Southampton, County of Hampshire, qualified to vote in elections and Town affairs to meet in the Cafeteria/Gymnasium, William E. Norris School, 34 Pomeroy Meadow Road, Southampton, Massachusetts, on

Tuesday, February 5, 2019 at 7:00 p.m.,

then and there to act on the following articles:

Note: Town Meeting will have to elect a Town Clerk to officiate at this Special Town Meeting according to Statute.

PART 1. ADMINISTRATIVE

ARTICLE 1 LOCAL OPTION ADULT USE MARIJUANA EXCISE TAX

To see if the Town will vote to accept G.L. c. 64N, § 3 to allow a 3% local tax on the sale or transfer of marijuana or marijuana products by a marijuana retailer operating within the Town of Southampton; or take any action related thereto.

PART 1. GENERAL BY-LAWS

ARTICLE 2 AMEND GENERAL TOWN BY-LAWS: LIMITATION ON THE NUMBER OF ADULT USE MARIJUANA RETAIL ESTABLISHMENTS

To see if the Town will vote to amend the Town of Southampton General Bylaws to create a new Article XXXIX – Marijuana, Section 1, Limitation on Adult Use Marijuana Retail Establishments, which would provide as follows:

Article XXXIX - Marijuana

Section 1. The number of adult use “marijuana retailer” establishments, as defined in G.L. c.94G, §1 - permitted to be located within the Town of Southampton shall not exceed 50% of the number of licenses issued within the Town for the retail sale of alcoholic beverages not to be drunk on the premises where sold under chapter 138 of the General Laws. For the purposes of determining this number, any fraction shall be rounded up to the next highest whole number where sold under chapter 138 of the General laws. For the purposes of determining this number, any fraction shall be rounded up to the next highest whole number: or take any action relative thereto.

ARTICLE 3 AMEND GENERAL TOWN BY-LAWS: PROHIBITION ON PUBLIC CONSUMPTION OF MARIJUANA OR TETRAHYDROCANNABINOL

To see if the Town will vote to amend the Town of Southampton General Bylaws to create a new Article XXXIX – Marijuana, Section 2, Prohibition on Public Consumption of Marijuana or Tetahydrocannabidnol, which would provide as follows:

Article XXIX - Marijuana

Section 2. No person shall inhale, ingest, or otherwise use or consume marijuana or THC (as defined in G.L. c. 94C, § 1, as amended) while in or upon any public place, including but not limited to any public or private street to which the public has a right of access, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the Town; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any place which members of the public have access as invitees or licensees, or in or upon any other place accessible to the public. Whoever is found in violation of this bylaw shall, when requested by an official authorized to enforce this bylaw, state their true name and address to such official.

This Bylaw may be enforced by any police officer of the Town through any lawful means in law or in equity including, but not limited to, enforcement by criminal indictment or complaint pursuant

to G.L. c.40, § 21, or by noncriminal disposition pursuant to G.L. c. 40, § 21D. The fine for violation of this Bylaw shall be three hundred dollars (\$300) for each offense. Any penalty imposed under this Bylaw shall be in addition to any civil penalty imposed under G.L. c. 94C, § 32L.

“This Bylaw may be enforced through any lawful means in law or in equity including, but not limited to, enforcement by criminal indictment or complaint pursuant to G.L. c.40, §21, or by noncriminal disposition pursuant to G.L. c. 40, §21D, or any police officer. The fine for violation of this Bylaw shall be three hundred dollars (\$300) for each offense. Any penalty imposed under this Bylaw shall be in addition to any civil penalty imposed under G.L. c. 94c, §32L.”

This Bylaw shall not alter or affect the jurisdiction of the Board of Health under the provisions of G.L. c.111, §31 or any other applicable law, including but not limited to the regulation of combustion and inhalation of tobacco and non-tobacco products in workplaces and public spaces in the Town. Or take any action related thereto.

PART 2. TOWN ROADS

ARTICLE 4 STREET ACCEPTANCE

To see if the Town will vote to accept Quigley Road as a public way, as shown on a plan entitled Quigley Road prepared for the Southampton Planning Board and recorded in the Hampshire County Registry of Deeds Plan Book 237, Page 29 and to authorize the Board of Selectmen to acquire by gift, purchase, and/or eminent domain the fee to and/or easements in Quigley Road for all purposes for which public ways are used in the Town of Southampton, and any drainage, utility, access and/or other easements related thereto, all as shown on the plan; or take any other action related thereto.

PART 3. ZONING BY-LAWS

ARTICLE 5 AMEND ZONING BYLAW/ADULT USE MARIJUANA ESTABLISHMENTS

To see if the Town will vote to amend the Southampton Zoning By-law by: (1) amending Section V, Table 1 Use Regulations, Wholesale, Transportation and Industrial uses to add the new Adult use Marijuana Establishment uses as set forth in attachment “A” hereto; and (2) deleting the current Section XVIII Temporary Moratorium on Recreational Marijuana Establishments and replacing it with a new Section XVIII Adult Use Marijuana Establishments as set forth in attachment “A” hereto; or take any action related thereto.



ARTICLE 6 AMEND ZONING BYLAW/MEDICAL MARIJUANA ZONING BYLAW

To see if the Town will vote to amend the Southampton Zoning By-law by: (1) amending Section V, Table 1 Use Regulations, Retail and Service uses to add “Off-Site Medical Marijuana Dispensary (OMMD)” and “Registered Marijuana Dispensary (RMD)” as set forth in attachment “B” hereto, and (2) add a new Section XIX Registered Marijuana Dispensary (RMD) and Off-Site Medical Marijuana Dispensary, as set forth in attachment “B” hereto; or take any action related thereto.

PART 4. FINANCIAL ITEMS

ARTICLE 7 UNPAID BILLS

To see if the town will vote to transfer \$1,276.62 to the Prior Year Bills Account for unpaid bills from Fiscal 2018 for graphics for the Police Department from ProMark Graphics, Medical bill for the Highway Department from Holyoke Medical Center and an Ambulance billing service invoice for the Fire Department from Coastal Billing (Invoices summarized below); said sum to be taken from Free Cash; or take any other action relative thereto.

- Police - ProMark Graphics \$485.25
- Highway - Holyoke Medical Center - \$80.00
- Fire - Coastal Billing - \$711.37

ARTICLE 8 TRANSFER FROM FREE CASH TO THE CAPITAL STABILIZATION FUND

To see if the Town will vote to transfer/appropriate \$106,845.55 to the Capital Stabilization Fund; said sum to be taken from Free Cash; or take any other action relative thereto.

ARTICLE 9 TRANSFER FROM FREE CASH TO THE OPEB FUND

To see if the Town will vote to transfer/appropriate \$ 30,527.30 to the Other Post-Employment Benefits (OPEB) account; said sum to be taken from Free Cash; or take any other action relative thereto.

ARTICLE 10 TRANSFER FROM FREE CASH TO THE OPERATING STABILIZATION FUND

To see if the Town will vote to transfer/appropriate \$91,581.90 to the Operating Stabilization Fund; said sum to be taken from Free Cash; or take any other action relative thereto.

- ARTICLE 18 TRANSFER FOR PIONEER VALLEY PLANNING**
 To see if the Town will vote to transfer \$14.71 from Hampshire Council of Governments Expense Account to the Pioneer Valley Planning Commission Expense Account; or take any other action relative thereto.
- ARTICLE 19 FUNDING FOR EXTENDED ILLNESS ACCOUNT COA VAN DRIVER**
 To see if the Town will vote to appropriate \$2,500 from Free Cash to an Extended Illness Account (per PPPB Policies) to fund the leave for the COA Van Driver for up to twelve weeks; or take any other action relative thereto.
- ARTICLE 20 TRANSFER FROM AMBULANCE RECEIPTS TO THE AMBULANCE OPERATING ACCOUNTS**
 To see if the Town will vote to transfer/appropriate \$2,000 from Ambulance Receipts, Reserve for Appropriation, to the Ambulance Maintenance Account to cover repairs to the ambulances; or take any other action relative thereto.
- ARTICLE 21 FUNDING FOR FIRE TRUCK MAINTENANCE**
 To see if the Town will vote to transfer \$2,000 from Fire Department Expenses, to the Fire Department, Fire Truck Maintenance Account to cover repairs to the fire trucks; or take any other action relative thereto.
- ARTICLE 22 FUNDING FOR THE HIGHWAY DEPARTMENT FOR REQUIRED MS-4 REQUIRED WORK**
 To see if the Town will vote to transfer \$27,000 from Operating Stabilization to the Highway Department MS-4 Stormwater Management Expense Account to cover the cost of required work to meet the Town's MS-4 (stormwater) permit; or take any other action relative thereto.
- ARTICLE 23 FUNDING FOR HEALTH DIRECTOR**
 To see if the Town will vote to transfer \$5,000 from Unemployment Expense Account to the Health Director Wage account to fund the position through the remainder of the year; or take any other action relative thereto.
- ARTICLE 24 FUNDING FOR HEALTH DIRECTOR**
 To see if the Town will vote to transfer \$10,629.01 from the Operating Stabilization Account to the Health Director Wage Account to fund the position through the remainder of the fiscal year; or take any other action relative thereto.

ARTICLE 11 ADDITIONAL FUNDING FOR TOWN HALL BUILDING EXPENSES

To see if the Town will vote to appropriate \$8,000 to the Town Hall Building Expense Account for unexpected expenses related to repair of the HVAC system and plumbing in the Town Hall; said sum to be taken from Free Cash; or take any other action relative thereto.

ARTICLE 12 FUNDING FOR PRINCIPAL ASSESSOR CERTIFICATION STIPEND

To see if the Town will vote to transfer \$1,000 from Assessor Admin Assistant Wage Account to the Certification Stipends Account to fund the Town approved stipend for attaining Assessor certification; or take any other action relative thereto.

ARTICLE 13 FUNDING FOR POLICE DEPARTMENT SERVER REPLACEMENT

To see if the Town will vote to transfer \$14,208.29 from the Police Communication Wages Account to the Police Department Police Equipment Maintenance Expense Account to replace the seven-year old Police server and backup; or take any other action relative thereto.

ARTICLE 14 FUNDING FOR POLICE CHIEF VACATION PAY OUT

To see if the Town will vote to transfer \$4,286.29 from the Police Education Incentive account to the Police Chief Salary account to pay out the vacation time for the retired Police Chief; or take any other action relative thereto.

ARTICLE 15 ADDITIONAL FUNDING FOR PEG ACCESS

To see if the Town will vote to appropriate \$34,000 to Public Access Television account, said sum to be appropriated from Revenues received from Charter/Spectrum from the town's contract with them; or take any other action relative thereto.

ARTICLE 16 TRANSFER FOR SHARPS PROGRAM

To see if the Town will vote to transfer \$1,900 from Hampshire Council of Governments Expense Account and \$1,000 from the Annual Audit Expense Account to the Board of Health, Sharps Program Expense Account to fund the program through the end of the fiscal year; or take any other action relative thereto.

ARTICLE 17 TRANSFER FOR TREASURER SOFTWARE SUPPORT

To see if the Town will vote to transfer \$583 from the Hampshire Council of Governments Expense Account to the Treasurer Software Support Expense Account; or take any other action relative thereto.

And you are hereby directed to serve this Warrant by posting attested copies thereof in six usual places in said Town, fourteen (14) days at least before the time of holding said meeting. Hereof, fail not, and make due return of the Warrant, with your doings thereon, to the Town Clerk, at the time and place of meeting, as aforesaid.

Given under our hands this 15th day of January in the year Two Thousand and Nineteen.

BOARD OF SELECTMEN



John Martin



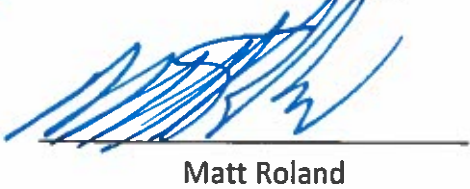
Maureen Groden



James Labrie



Francine Tishman



Matt Roland

ARTICLE 25 CONSERVATION COMMISSION FOREST MANAGEMENT OF TOWN CONSERVATION AREAS
To see if the Town will vote to allow proceeds, using a revolving fund, obtained by forest management of the Town's conservation areas, using best management practices, to be used in conservation related expenditures for the Town's conservation areas; or take any other action relative thereto.

PART 5. COMMUNITY PRESERVATION FUNDING

ARTICLE 26 TRANSFER CPC FUNDS FOR LIBRARY HISTORICAL RECORDS ONLINE ACCESS
To see if the Town will vote to transfer \$6,000 from Community Preservation Funds to the Edward's Library to continue and expand online access of Southampton's Historical materials available online to the public; said sum to be transferred from Community Preservation Surcharges – Historical Preservation Account; or take any other action relative thereto.

PART 6: BONDED DEBT

ARTICLE 27 REPLACEMENT OF EAST STREET BRIDGE
To see if the Town will vote to borrow a sum of money \$1,600,000, to replace the East Street Bridge in the Town of Southampton, said funds to be used for construction, fees and permits, engineering, temporary easements or any other eligible costs associated with the construction of the new bridge and the demolition of the existing bridge and, to meet this appropriation, authorize the Treasurer, with the approval of the Board of Selectmen, to borrow pursuant to General Laws Chapter 44, Sections 7 and 8, or any other enabling authority and to issue bonds and notes therefor, provided, however, that the appropriation authorized hereunder shall be contingent on the approval by the voters of the Town of a so-called Proposition 2 ½ debt exclusion under General Laws c. 59, Section 21C, and authorize the Treasurer with the approval of the Board of Selectmen, to issue any bonds or notes that may be necessary for that purpose, as authorized by General Laws Chapter 44, Section 7 (9), or any other general or special law; or take any other action relative thereto.

SECTION II DEFINITIONS

OFF-SITE MEDICAL MARIJUANA DISPENSARY (OMMD): A Registered Marijuana Dispensary that is located off-site from the cultivation/processing facility (and controlled and operated by the same registered and approved not-for-profit entity which operates an affiliated RMD) but which serves only to dispense the processed marijuana, related supplies and educational materials to registered Qualifying Patients or their personal caregivers in accordance with the provisions of 105CMR 725.00.

REGISTERED MARIJUANA DISPENSARY (RMD): A use operated by a not-for-profit entity registered and approved by the MA Department of Public Health on accordance with 105 CMR 725.00, and pursuant to all other applicable state laws and regulations, also to be known as a Medical Marijuana Treatment Center, that acquires, cultivates, possesses, processes (including development of related products such as food, 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. A RMD, shall explicitly include facilities which cultivate and process medical marijuana, and which may also dispense and deliver medical marijuana and related products.

The cultivation and processing of medical marijuana in accordance with these regulations is considered to be a manufacturing use and is not agriculturally exempt from zoning.

SECTION XII: SCHEDULE OF USES TABLE

Add:

Wholesale, Transportation and Industrial						
Principal Uses	Residential			Commercial		Industrial
	R-R	R-N	R-V	C-V	C-H	I-P
18. Registered Marijuana Dispensary (RMD) (See Section)	N	N	N	N	SPB	SPB
19. Off-Site Medical Marijuana Dispensary (OMMD) (See Section __)	N	N	N	N	SPB	SPB

SECTION XIX – REGISTERED MARIJUANA DISPENSARY (RMD) and OFF-SITE MEDICAL MARIJUANA DISPENSARY (OMMD)

19-10 Registered Marijuana Dispensary (RMD) And Off-Site Medical Marijuana Dispensary (OMMD)

1. Purposes

It is recognized that the nature of the substance cultivated, processed, and/or sold by medical marijuana treatment centers and off-site medical marijuana dispensaries may have objectionable operational characteristics and should be located in such a way as to ensure the health, safety, and general well-being of the public as well as patients seeking treatment. The specific and separate regulation of Registered Marijuana Dispensaries (hereafter referred to as a RMD) as Medical Marijuana Treatment Centers and Off-site Medical Marijuana Dispensary (hereafter referred to as an OMMD) facilities is necessary to advance these purposes and ensure that such facilities are not located within close proximity of minors and do not become concentrated in any one area within the Town of Blandford.

Subject to the provisions of this Zoning Bylaw, Chapter 40A of the Massachusetts General Laws, and 105 CMR 725.000, Registered Marijuana Dispensaries and Off-site Medical Marijuana Dispensaries will be permitted to provide medical support, security, and physician oversight that meet or exceed state regulations as established by the Massachusetts Department of Health (hereafter referred to as MDPH).

2. Additional Requirements/Conditions

In addition to the standard requirements for uses permitted By-right or requiring a Special Permit or Site Plan Approval, the following shall also apply to all Registered Marijuana Dispensaries and Off-Site Medical Marijuana Dispensaries:

a. Use:

- 1) RMD and OMMD facilities may only be involved in the uses permitted by its definition and may not include other businesses or services.
- 2) No marijuana shall be smoked, eaten or otherwise consumed or ingested within the premises.
- 3) The hours of operation shall be set by the Special Permit Granting Authority, but in no event shall an RMD or OMMD facility 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.

b. Physical Requirements:

- 1) All aspects of the use/facility 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 a fixed location within a fully enclosed building and shall not be visible from the exterior of the business.
- 2) No outside storage is permitted.
- 3) No OMMD Facility shall have a gross floor area in excess of 2,500 square feet.
- 4) Ventilation – all RMD and OMMD facilities 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) No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the medical marijuana business or at any adjoining use or property.
- 5) Signage shall be displayed on the exterior of the RMD and OMMD facility's entrance in plain sight of clients stating that "Registration Card issued by the MA Department of Public Health required" in text two inches in height.
- c. Location:
- 1) No RMD and OMMD facility shall be located on a parcel which is within five hundred (500) feet (to be measured in a straight line from the nearest points of each property line) of parcel occupied by:
 - a) a public or private elementary, junior high, middle, vocational or high school, college, junior college, university or child care facility or any other use in which children commonly congregate in an organized ongoing formal basis, or
 - b) another RMD or OMMD facility
 - 2) No RMD or OMMD facility shall be located inside a building containing residential units, including transient housing such as motels and dormitories.
- d. Reporting Requirements.
- 1) All Special Permit and Site Plan Approval holders for an RMD or OMMD facility 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 Commissioner/Inspector, Board of Health, Police Department, Fire Department and Special Permit Granting Authority (in cases where a Special permit or Site Plan Approval was granted) shall be notified in writing by an RMD or OMMD facility owner/operator/ manager:
 - a) A minimum of 30 days prior to any change in ownership or management of that facility
 - 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 RMD or OMMD.
 - 3) Permitted RMD and OMMD facilities shall file an annual report to and appear before the Special Permit Granting Authority no later than January 31st, 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.
 - 4) The owner or manager is required to respond by phone or email within twenty-four hours of contact by a town official concerning their RMD or OMMD at the phone number or email address provided to the Town as the contact for the business.
- e. Issuance/Transfer/Discontinuance of Use
- 1) Special Permits/Site Plan Approvals shall be issued to the RMD Operator
 - 2) Special Permits/Site Plan Approvals shall be issued for a specific site/parcel
 - 3) Special Permits/Site Plan Approvals shall be non-transferable to either another RMD Operator or 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 RMD or OMMD, and shall lapse:
 - a) If the permit holder ceases operation of the RMD, and/or
 - b) The permit holder's registration by MDPH expires or is terminated

- 5) The permit holder shall notify the Zoning Enforcement Officer and Special Permit Granting Authority in writing within 48 hours of such lapse, cessation, discontinuance or expiration.
- 6) An RMD or OMMD facility shall be required to remove all material, plants equipment and other paraphernalia prior to surrendering its state Registration or ceasing its operation.
- 7) Prior to the issuance of a Building Permit for a RMD or OMMD the applicant is required to post with the Town Treasurer a bond or other form of financial security acceptable to said Treasurer in an amount set by the Planning Board. The amount shall be sufficient to cover the costs of the town removing all materials, plants, equipment and other paraphernalia if the applicant fails to do so. The Building Inspector shall give the applicant 45 days' written notice in advance of taking such 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 45 days written notice, said bond shall be returned to the applicant.

3. Application Requirements

All Registered Marijuana Dispensaries (RMD) and Off-Site Medical Marijuana Dispensaries (OMMD) require a Special Permit issued by the Planning Board in accordance with Section XI. In addition to the standard application requirements for Special Permits, such applications for an RMD or OMMD facility shall also include the following:

- a. The name and address of each owner of the RMD or OMMD facility/operation;
- b. A copy of its registration as an RMD from the Massachusetts Department of Public Health or documentation that demonstrates that said RMD or OMMD facility, and it's owner/operators, qualify and are eligible to receive a Certificate of Registration and meet all of the requirements of a RMD in accordance with 105 CMR 725.000 of the Massachusetts Department of Public Health.
- c. Evidence that the Applicant has site control and right to use the site for a RMD or OMMD 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;
- d. A notarized statement signed by the RMD or OMMD 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 are entities rather than persons, the Applicant must disclose the identity of all such responsible individual persons
- e. In addition to what is normally required in a Site Plan, details showing all exterior proposed security measures for the RMD or OMMD including lighting, fencing, gates and alarms, etc. ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity.
- f. A detailed floor plan identifying the areas available and functional uses (including square footage)
- g. All signage being proposed for the facility.
- h. A traffic study to establish the RMD or OMMD impacts at peak demand times.
- i. A Management Plan including a description of all activities to occur on site, including all provisions for the delivery of medical marijuana and related products to OMMDs or off-site direct delivery to patients.

4. Findings

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

- a. That the RMD or OMMD facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest;

- b. That the RMD or OMMD facility demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations;
- c. That the applicant has satisfied all of the conditions and requirements of this Section and other applicable Sections of this Bylaw/Ordinance;
- d. That the RMD or OMMD project meets a demonstrated need
- e. That the RMD or OMMD facility 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.
- f. That the RMD or OMMD 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.

Adopted by Southampton Planning Board
September 5, 2018

SECTION II DEFINITIONS

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. Such use is not agriculturally exempt from zoning. The cultivation and processing of medical marijuana in accordance with these regulations is considered to be a manufacturing use and is not agriculturally exempt from zoning. Note this term is not defined in 935 CMR 500.

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:

- (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 cannabis or marijuana to prepare topical or oral administrations, food, drink or other products.

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

Ceases to Operate: Marijuana Establishment closes and does not transact business for a period greater than 60 days with no substantial action taken to reopen. The Commission may determine that an establishment has ceased to operate based on its actual or apparent termination of operations.

Commission: The Massachusetts Cannabis Control Commission established by M.G.L. c. 10, § 76, or its designee. The Commission has authority to implement the state marijuana laws, which include, but are not limited to, St. 2016, c. 334 as amended by St. 2017, c. 55, 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 up to a 3% host agreement revenue sharing. Note this term is not defined in 935 CMR 500.

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.

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.

Host Community: A municipality in which a Marijuana Establishment is located or in which an applicant has proposed locating an establishment.

Marijuana Independent Testing Laboratory: A laboratory that is licensed by the Commission and is:

- (a) 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 Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the Commission;
- (b) independent financially from any Medical Marijuana Treatment Center (RMD), Marijuana Establishment or licensee for which it conducts a test; and
- (c) qualified to test cannabis or marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34.

Licensee: A person or entity licensed by the Commission to operate a Marijuana Establishment under 935 CMR 500.000.

Manufacture: To compound, blend, extract, infuse or otherwise make or prepare a cannabis or marijuana product.

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.

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.

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.

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.

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.

Marijuana Research Facility: An entity licensed to engage in research projects by the Commission.

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

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.

Medical Marijuana Treatment Center, also known as a Registered Marijuana Dispensary (RMD): 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.

Propagation: The reproduction of cannabis or marijuana plants by seeds, cuttings, or grafting.

Provisional Marijuana Establishment License: A certificate issued by the Commission confirming that a Marijuana Establishment has completed the application process.

RMD Applicant: A previously Registered Marijuana Dispensary with a final or provisional certificate of registration in good standing with the DPH.

SECTION V USE REGULATIONS

Table 1. Use Regulations

Add:

Wholesale, Transportation and Industrial						
Principal Uses	Residential			Commercial		Industrial
	R-R	R-N	R-V	C-V	C-H	I-P
20. Craft Marijuana Cooperative	N	N	N	N	N	SPB
21. Marijuana Cultivator	N	N	N	N	N	SPB
22. Marijuana Product Manufacturer	N	N	N	N	N	SPB
23. Marijuana Retailer	N	N	N	N	SPB	SPB

24. Marijuana Independent Testing Laboratory	N	N	N	N	SPB	SPB
25. Marijuana Microbusiness	N	N	N	N	N	SPB
26. Marijuana Research Facility	N	N	N	N	N	SPB
27. Marijuana Transporter	N	N	N	N	SPB	SPB
28. Any other type of licensed marijuana-related business, except a medical marijuana treatment center	N	N	N	N	N	SPB

Section XVIII

Delete current Section XVIII Temporary Moratorium on Recreational Marijuana Establishments in its entirety.

Add a new Section XVIII Adult Use marijuana Establishments:

SECTION XVIII – ADULT USE MARIJUANA ESTABLISHMENTS

18-10 Adult Use Marijuana Establishments

1. Purposes

It is recognized that the nature of the substance cultivated, processed, and/or sold by marijuana establishments may have objectionable operational characteristics and should be located in such a way as to ensure the health, safety, and general well-being of the public as well as legally authorized adult customers seeking to legally purchase marijuana for their own use. The specific and separate regulation of Marijuana Establishments (hereafter also referred to as an ME) is necessary to advance these purposes and ensure that such facilities are not located within close proximity of minors and do not become concentrated in any one area within the Town of Southampton.

Subject to the provisions of this Zoning Bylaw, Chapter 40A of the Massachusetts General Laws, Chapter 94G of the Massachusetts General Laws and 105 CMR 725.000, Marijuana Establishments will be permitted to provide the opportunity for the legal cultivation, product manufacturing and retail sale of marijuana for non-medical adult marijuana use in a manner that complies with state regulations.

2. Applicability

Nothing in this section shall be construed to supersede federal and state laws governing the sale and distribution of marijuana. This section shall not be construed to prevent the conversion of a medical

marijuana treatment center licensed or registered no later than July 1, 2017 engaged in the cultivation, manufacture or sale of marijuana or marijuana products to a Marijuana Establishment, provided, however, any such medical marijuana treatment center obtains a special permit pursuant to this Section for any such conversion to an adult use Marijuana Establishment.

This bylaw 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.

3. Additional Requirements/Conditions

In addition to the standard requirements for uses permitted By-right or requiring a Special Permit or Site Plan Approval, the following shall also apply to all Marijuana Establishments:

a. Use:

- 1) Any type of Marijuana Establishment may only be involved in the uses permitted by its definition and may not include other businesses or services.
- 2) No marijuana shall be smoked, eaten or otherwise consumed or ingested within the premises.
- 3) The hours of operation shall be set by the Special Permit Granting Authority, but in no event shall a 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 marijuana establishment may commence operation or apply for a building permit 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 of Southampton shall not exceed 50% of the number of licenses issued within the town/city for the retail sale of alcoholic beverages not to be drunk on the premises where sold under chapter 138 of the General Laws. For the purposes of determining this number, any fraction shall be rounded up to the next highest whole number.

b. Physical Requirements:

- 1) All aspects of the any marijuana establishment, 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 a fixed location within a fully enclosed building (including greenhouses) and shall not be visible from the exterior of the business. They may not be permitted to be located in a trailer, storage freight container, motor vehicle or other similar type potentially movable enclosure.
- 2) No outside storage is permitted.
- 3) No Marijuana Retailer shall have a gross floor area open to the public in excess of 2,500 square feet.
- 4) Ventilation – all 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) No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the medical marijuana business or at any adjoining use or property.
- 5) Signage shall be displayed on the exterior of the marijuana establishment's entrance in plain sight of the public stating that "Access to this facility is limited to individuals 21 years or older." in text two inches in height.
- 6) All other signage must comply with all other applicable signage regulations in the Zoning Bylaw/Ordinance and 935 CMR 500

- 7) Cannabis plants, products, and paraphernalia shall not be visible from outside the building in which the cannabis establishment is located and shall comply with the requirements of 935 CMR 500. Any artificial screening device erected to eliminate the view from the public way shall also be subject to a vegetative screen and the Board shall consider the surrounding landscape and viewshed to determine if an artificial screen would be out of character with the neighborhood.
- c. Location:
- 1) Marijuana establishments are encouraged to utilize existing vacant buildings where possible
 - 2) No marijuana establishment shall be located on a parcel which is within three hundred (300) 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 Marijuana Establishment is or will be located) of a parcel occupied by a pre-existing public or private school (existing at the time the applicant's license application was received by the Cannabis Control Commission) providing education in kindergarten or any of grades 1-12.
 - 3) No marijuana retailer shall be located on a parcel which is within three hundred (300) 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 marijuana retailer is or will be located) of a parcel occupied by another marijuana retail facility.
 - 4) No marijuana establishment shall be located inside a building containing residential units, including transient housing such as motels and dormitories.
 - 5) No marijuana establishment is permitted to utilize or provide a drive-through service.
- d. Reporting Requirements.
- 1) Prior to the commencement of the operation or services provided by a marijuana establishment, it 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 Commissioner/Inspector, Board of Health, Police Department, Fire Department and Special Permit Granting Authority shall be notified in writing by the 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) Permitted 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.
 - 4) The owner or manager of a marijuana establishment is required to respond by phone or email within twenty-four hours of contact by a town official concerning their marijuana establishment at the phone number or email address provided to the Town as the contact for the business.
- e. Issuance/Transfer/Discontinuance of Use
- 1) Special Permits shall be issued to the marijuana establishment owner.
 - 2) Special Permits shall be issued for a specific type of marijuana establishment on a specific site/parcel.

- 3) Special Permits shall be non-transferable to either another marijuana establishment owner or another site/parcel.
- 4) Special Permits shall have a term limited to the duration of the applicant's ownership/control of the premises as a marijuana establishment, and shall lapse/expire if:
 - a) A minimum of 12 hours following a violation or potential violation of any law or the marijuana establishment ceases operation (not providing the operation or services for which it is permitted) for 365 days, and/or
 - b) the marijuana establishment's registration/license by the Cannabis Control Commission expires or is terminated.
- 5) The 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) A marijuana cultivation or product manufacturing establishment shall be required to remove all material, plants equipment and other paraphernalia prior to surrendering its state registration/license or ceasing its operation.
 - a) Prior to the issuance of a Building Permit for a marijuana establishment the applicant is required to post with the Town Treasurer a bond or other form of financial security acceptable to said Treasurer in an amount set by the Planning Board. The amount shall be sufficient to cover the costs of the town removing all materials, plants, equipment and other paraphernalia if the applicant fails to do so. The Building Inspector shall give the applicant 45 days' written notice in advance of taking such 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 45 days written notice, said bond shall be returned to the applicant.

4. Application Requirements

Applications for Special Permits and Site Plan Approvals for marijuana establishments will be processed in the order that they are filed with the town. The approval of a Special Permit for any marijuana establishment is up to the discretion of the Planning Board who will be making its determination based on selecting the marijuana establishments that it *Finds* are in the best interests of the town and best comply with the standards and intent of this Bylaw. While the Planning Board is authorized to approve Special Permits for marijuana establishments in an amount up to, but not exceeding, 50% of the number of licenses issued within the town for the retail sale of alcoholic beverages not to be drunk on the premises where sold under chapter 138 of the General Laws, the Planning Board is not obligated to approve an application for a marijuana establishment that it doesn't *Find* is in the best interests of the town and complies with the standards and intent of this Bylaw just because the maximum number of allowed Special Permits for a marijuana establishment haven't been approved.

In addition to the standard application requirements for Special Permits, such applications for a marijuana establishment shall include the following:

- a. The name and address of each owner and operator of the marijuana establishment facility/operation.
- b. A copy of an approved Host Agreement.
- c. A copy of its Provisional License from the Cannabis Control Commission pursuant to 935 CMR 500.
- d. If it's in conjunction with an approved RMD, a copy of its registration as an RMD from the Massachusetts Department of Public Health in accordance with 105 CMR 725.000 or from the Cannabis Control Commission in accordance with 935 CMR 500.

- e. Proof of Liability Insurance Coverage or Maintenance of Escrow as required in 935 CMR 500.
- f. Evidence that the Applicant has site control and right to use the site for a 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.
- g. A notarized statement signed by the 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 are entities rather than persons, the Applicant must disclose the identity of all such responsible individual persons.
- h. In addition to what is normally required in a Site Plan, details showing all exterior proposed security measures for the marijuana establishment including lighting, fencing, gates and alarms, etc. ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity.
- i. A detailed floor plan identifying the areas available and functional uses (including square footage).
- j. All signage being proposed for the facility.
- k. A pedestrian/vehicular traffic impact study, prepared by a registered professional engineer specializing in traffic engineering, to establish the marijuana establishment's impacts at peak demand times, including a line queue plan to ensure that the movement of pedestrian and/or vehicular traffic, including but not limited to, along the public right of ways will not be unreasonably obstructed.
- l. 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.
- m. A Management Plan including a description of all activities to occur on site, including all provisions for the delivery of marijuana and related products to marijuana establishment or off-site direct delivery.
- n. Individual written plans which, at a minimum comply with the requirements of 935 CMR 500, relative to the marijuana establishment's:
 - 1) Operating procedures
 - 2) Marketing and advertising
 - 3) Waste disposal
 - 4) Transportation and delivery of marijuana or marijuana products
 - 5) Energy efficiency and conservation
 - 6) Security and Alarms
 - 7) Decommissioning of the marijuana establishment including a cost estimate taking into consideration the community's cost to undertake the decommissioning of the site.

5. Findings

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

- a. That the Marijuana Establishment is consistent with and does not derogate from the purposes and intent of this Section and the Zoning Ordinance/Bylaw.
- b. That the marijuana establishment facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest;
- c. That the marijuana establishment facility demonstrates that it meets or exceeds all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations;
- d. That the applicant has satisfied all of the conditions and requirements of this Section and other applicable Sections of this Bylaw/Ordinance;
- e. That the marijuana establishment facility 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 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.

- - -
Approved by the Southampton Planning Board

December 5, 2018

11/11/11

JAN 17 2019
LAD 1:10PM

Warrant Return

Town of Southampton

Hampshire, ss.

Pursuant to the within warrant, I have notified and warned the inhabitants of the Town of Southampton by posting an attested copy at the Southampton Town Hall and five or more other places designated for the posting of such notices seven/fourteen days before holding said meeting.

Constable: 
Michael R Goyette

Date posted: 01 / 17 / 2019

Posted at the following locations:

- 1. Town Hall
- 2. Trading Post
- 3. Pure Food
- 4. Big Y
- 5. S'ton Liquors
- 6. County Liquors
- 7. Stop & Save
- 8. Edwards Library

Alternative posting location:

1. _____

2. _____

3. _____

True Copy:

ATTEST:



Constable

JAN 17 2019

BY:

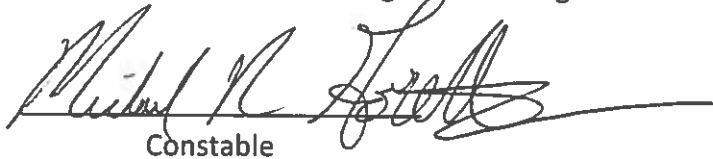
LAD - 12:40 PM

OFFICER'S RETURN

Hampshire, SS

January 18, 2019

This is to certify that I have served the within warrant by posting attested copies thereof in six usual places fourteen (14) days at least before the time of holding said meeting.



Constable

A True Copy, ATTEST:

Luci Dalton

Temporary Town Clerk of Southampton

