

Adult Use of Marijuana

A. Purposes

- (1) To provide for the placement of adult use marijuana establishments in appropriate places and under specific conditions in accordance with the provisions of Massachusetts General Law Chapter 94G, Regulation of the Use and Distribution of Marijuana Not Medically Prescribed.
- (2) To minimize any adverse impacts of adult use marijuana establishments on adjacent properties, dense or concentrated residential areas, schools and other places where children congregate, and other sensitive land uses.
- (3) To regulate the siting, design, placement, access, security, safety, monitoring, modification and discontinuance of adult use marijuana establishments.
- (4) To provide applicants, owners and operators with clear guidance regarding adult use marijuana establishment siting, design, placement, access, security, safety, monitoring, modification and discontinuance.

B. Applicability

- (1) No adult use marijuana establishment shall be permitted except in compliance with the provisions of this section.
- (2) 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.

C. Definitions

- (1) Refer to Commonwealth of Massachusetts 935 CMR 500.00 (Adult Use of Marijuana) for a comprehensive list of definitions related to the regulation of the adult use of marijuana. These definitions are hereby adopted by the City of Chicopee as they pertain to this section.

- (2) Definitions

Adult User – Any individual over the age of 21 years purchasing or consuming marijuana.

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.

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.

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

Marijuana Cultivator - An entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers. Cultivator licensees (except for Craft Marijuana Cooperative licensees) may hold up to three licenses across the Commonwealth of Massachusetts, however the total plant canopy area authorized by the licenses shall not exceed 100,000 square feet. Licensees shall be partitioned into “Tiers” based upon total plant canopy square footage held across all licensed cultivation facilities within the Commonwealth as outlined in the following table:

- Tier 1: up to 5,000 square feet (sq. ft.)
- Tier 2: 5,001 to 10,000 sq. ft.
- Tier 3: 10,001 to 20,000 sq. ft.
- Tier 4: 20,001 to 30,000 sq. ft.
- Tier 5: 30,001 to 40,000 sq. ft.
- Tier 6: 40,001 to 50,000 sq. ft.
- Tier 7: 50,001 to 60,000 sq. ft.
- Tier 8: 60,001 to 70,000 sq. ft.
- Tier 9: 70,001 to 80,000 sq. ft.

- Tier 10: 80,000 to 90,000 sq. ft.
- Tier 11: 90,001 to 100,000 sq. ft.

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.

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 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 Research Facility - an entity licensed to engage in research projects by the Massachusetts Cannabis Control Commission.

Independent Testing and Standards Laboratory - a laboratory that is licensed by the Commission and is:

- (1) 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;
- (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.

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.

- (a) **Existing Licensee Transporter** – a marijuana establishment that contracts with other marijuana establishments to transport the establishment’s marijuana and marijuana products to other marijuana establishments.

- (b) **Third Party Transporter** – an entity registered to do business in Massachusetts that does not hold another marijuana establishment license pursuant to 935 CMR 500.050 and is not registered as a registered marijuana dispensary pursuant to 105 CMR 725.000.

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.

Social Consumption Operator - a marijuana retailer licensed to purchase marijuana and marijuana products from marijuana establishment and to sell marijuana and marijuana products on its premises only to consumers or allow consumers to consume marijuana and marijuana products on its premises only.

Special Permit Granting Authority – the Special Permit Granting Authority shall be defined as the City of Chicopee City Council per City of Chicopee City Zoning Code, Article II: Administration and Enforcement §275-9 Special Permits.

Sensitive Land Use – Any of the land use activities outlined in subsection D. (4) Required Land Use Buffers, which require that any and all structures housing adult use marijuana establishments must locate beyond a specified spatial buffer requirement from the subject land use activity

Business to Business (B2B) Adult Use Marijuana Establishments (License Group A) – any entity that executes wholesale sales transactions involving adult use marijuana or marijuana products between itself and a licensed adult use marijuana establishment categorized as a marijuana retailer, microbusiness, and/or social consumption operator.

Business to Consumer (B2C) Adult Use Marijuana Establishments (License Group B) – any entity that executes retail sales transactions involving adult use marijuana or marijuana products between itself and the general public or non-business entities.

Adult Use Marijuana Establishments Not Conducting Sales Operations (License Group C) – an entity that engages in no adult use marijuana sales transactions of any kind.

D. Eligible Locations for Adult Use Marijuana Establishments

- (1) Per 935 CMR 500: the cultivation of marijuana for adult use is excepted from definition as an agricultural operation and therefore does not qualify as an agricultural land use subject to City of Chicopee Zoning Code, Article III: Regulations Applicable to All Districts, §275-35 (B).

- (2) Any buffer requirement delineated in this section shall refer to the distance between the closest point on a parcel line belonging to a parcel upon which any of the sensitive land uses subjected to buffer requirements are sited to the closest point of the adult use marijuana facility's structural footprint.
- (3) Eligible zones (for specific zoning requirements, refer to City of Chicopee Zoning Ordinances, Chapter 275, Article IV – District Regulations). Adult use marijuana establishments, other than agricultural operations meeting exemption standards under MGL 40A, § 3, may be allowed by Special Permit issued by the Special Permit Granting Authority in the following locations, according to license type:
- (a) License Group A [Business to Business (B2B) Establishments]
Marijuana Cultivator, Craft Marijuana Cooperative: Industrial Zoning District (§275-62).
 - (b) License Group B [Business to Consumer (B2C) Establishments]
Marijuana Retailer, Microbusiness, Social Consumption Operator: Industrial (§275-62), Business A (§275-58), Business B (§275-59), or Business C (§275-60), Mixed Use (§275-65), Central Business District (§275-61), and Mill Conversion and Commercial Center Overlay (§275-67).
 - (c) License Group C [Establishments Not Conducting Sales Operations]
Independent Testing and Standards Laboratory, Marijuana Research Facility, Marijuana Transporter: Industrial (§275-62), Business A (§275-58), Business B (§275-59), or Business C (§275-60), Mixed Use (§275-65), Central Business District (§275-61), and Mill Conversion and Commercial Center Overlay (§275-67), and Commercial A (§275-56).

(4) Required Land Use Buffers.

Land Use Category	License Group A	License Group B	License Group C
School Attended by Children Under the Age of 18	500'	500'	250'
Licensed Childcare Facility	500'	500'	250'
Municipally-Owned Park (not including non-vehicular paths)	500'	500'	250'
Municipally-Owned Park (including non-vehicular paths)	50'^	50'^	50'^
Boat Ramp/Slip/Water Access Facilities	50'^	50'^	50'^
Playground or Play Field	500'	500'	250'
Youth Center	500'	500'	250'
Other Establishment Regularly Hosting Youth Under Age 18	500'	500'	250'
Churches (Places of Worship)	500'	500'	250'
Libraries	500'	500'	250'
Drug Rehabilitation/Detoxification Facility	1,000'	1,000'	1,000'
Boarding and/or Lodging House	1,000'	1,000'	1,000'
Prison or Detention Facility	1,000'	1,000'	1,000'

^ Please refer to 275-72(D)(4)(d)(2)

- (a) In accordance with 935 CMR 500.110 (3): Security Requirements for Marijuana Establishments, Buffer Zones no adult use marijuana establishment categorized under License Group A shall be located within 500 feet of the following preexisting structures or uses: any school attended by children under the age of 18, licensed childcare facility, municipally owned and operated park or recreational facilities (not including bikeways, pedestrian paths, or other facilities primarily used for non-vehicular modes of travel), churches or places of worship, libraries, playground or play field, youth center, or other establishment at which youth under the age of 18 usually congregate.
- (b) In accordance with 935 CMR 500.110 (3): Security Requirements for Marijuana Establishments, Buffer Zones no adult use marijuana establishment categorized under License Group B shall be located within 500 feet of the following preexisting structures or uses: any school attended by children under the age of 18, licensed childcare facility, municipally owned and operated park or recreational facilities (not including bikeways, pedestrian paths, or other facilities primarily used for non-vehicular modes of travel), churches or places of worship, libraries, playground or play field,

youth center, or other establishment at which youth under the age of 18 usually congregate.

- (c) In accordance with 935 CMR 500.110 (3): Security Requirements for Marijuana Establishments, Buffer Zones no adult use marijuana establishment categorized under License Group C shall be located within 250 feet of the following preexisting structures or uses: any school attended by children under the age of 18, licensed childcare facility, municipally owned and operated park or recreational facilities (not including bikeways, pedestrian paths, or other facilities primarily used for non-vehicular modes of travel), churches or places of worship, libraries, playground or play field, youth center, or other establishment at which youth under the age of 18 usually congregate.
- (d) Other Land Use Buffers.
 - 1. No adult use marijuana establishment shall locate within 1,000 feet of any drug rehabilitation or detoxification facility, boarding and/or lodging house, or prison or detention facility.
 - 2. ^ No adult use marijuana establishment shall locate within 50 feet of any municipally owned and operated park or recreational facilities classified as a bikeway, pedestrian path, other facility primarily used for non-vehicular modes of travel, or boat ramp/slip or water access facility. There shall be no connection traversable by foot, bike, or any mode of transportation established between any recreational marijuana facility and any facility classified as a bikeway, pedestrian path, or other facility primarily used for non-vehicular modes of travel.
 - 3. All adult use marijuana establishments categorized under License Group A and License Group B shall install a densely-planted vegetated screen spanning the entire width of any parcel boundary abutting any residentially-zoned or residentially-used parcel and extending inwards on the establishment's parcel for a depth of not less than 100 feet. Any primary use or accessory use building related to the operations of an adult use marijuana establishment shall not be sited within the 100 foot screened buffer. The vegetated screen must be installed at a height of at least 8' at the time of installation. The dense vegetated screen must be permanently maintained for the duration of the establishment's existence on the subject parcel. All adult use marijuana establishments categorized under License Group C shall follow screening requirements for the underlying zoning district. Refer to City of Chicopee Zoning Code, Article II: Administration and

Enforcement, §275-6 Site Plan Review for regulations designating design and composition of vegetated screens.

4. Any and all lands or parcels owned, operated, managed or otherwise subjected to proprietary control by the United States Federal Government or its ancillary departments, including the United States Military, via deed and/or title, shall be assumed to prohibit any and all establishments conducting operations involving adult use marijuana and therefore shall be excluded from locational eligibility analyses conducted by the City of Chicopee.
- (5) Colocation. An adult use marijuana retailer, social consumption operator, or microbusiness shall not be located in:
 - (a) Buildings that contain any medical doctor's offices or offices of any other professional practitioner authorized to prescribe the use of medical marijuana.
 - (b) Buildings that contain a hotel or motel.

E. General requirements and conditions for all marijuana establishments

- (1) All adult use marijuana establishments shall be located within a permanent building and may not be located in a trailer, cargo container, motor vehicle or other similar nonpermanent enclosure. Adult use marijuana establishments shall not have drive-through service.
- (2) No outside storage of marijuana, related supplies or promotional materials is permitted.
- (3) All marijuana establishments shall be ventilated in such a manner that:
 - (a) No pesticides, insecticides, or other chemicals or products used in cultivation or processing are dispersed into the outside atmosphere;
 - (b) No odor from marijuana processing or consumption can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the adult use marijuana establishment or at any adjoining use or property.
- (4) In no event shall marijuana retailers, social consumption operators, or microbusinesses be open and/or operating and dispensing product between the hours of 9:00pm and 9:00am and not opening before 10:00am on Sundays, which is consistent with the operational requirements for licensed alcoholic beverage establishments outlined in M.G.L. c. 138, §12 (Licenses authorizing sale of beverages to be drunk on premises).

- (5) Any social consumption establishment allowing on-site smoking or burning of marijuana products must operate under the guidelines required of a membership association, outlined in M.G.L c. 270, §22 (c)(2) (Smoking in public places).
- (6) The Special Permit Granting Authority shall approve four (4) Special Permits for adult use marijuana establishments (License Group B) in the City of Chicopee at a single moment in time.
 - (a) The Special Permit Granting Authority reserves the right to increase the number of Special Permits allowed in the City of Chicopee through review of this section.
- (7) All adult use marijuana establishments shall comply with any and all structural design requirements per Commonwealth of Massachusetts 935 CMR 500.

F. Special Permit Requirements

- (1) An adult use marijuana establishment may only be allowed by Special Permit granted by the Special Permit Granting Authority in accordance with MGL c. 40A § 9, subject to the following statements, regulations, requirements, conditions and limitations.
- (2) A Special Permit for a marijuana establishment shall be limited to one or more of the following uses that shall be prescribed by the Special Permit Granting Authority:
 - (a) Marijuana Cultivator
 - (b) Craft Marijuana Cooperative
 - (c) Marijuana Product Manufacturer
 - (d) Marijuana Retailer
 - (e) Marijuana Research Facility
 - (f) Independent Standards and Testing Laboratory
 - (g) Microbusiness
 - (h) Social Consumption Operator
 - (i) Marijuana Transporter
- (3) In addition to the application requirements set forth above, a Special Permit application for an adult use marijuana establishment shall include the following:
 - (a) The name and address of owner(s) of the establishment;
 - (b) Copies of all required draft or final license and permit applications planned for submission by the applicant to the Commonwealth of Massachusetts Cannabis Control Commission;

- (c) Copies of any existing licenses for adult use and/or medical marijuana facilities within the Commonwealth of Massachusetts;
- (d) Evidence of the applicant's right to use the site of the proposed property for the establishment, such as a purchase and sale agreement, deed, owner's authorization, or lease;
- (e) Proposed security measures for the marijuana 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 City of Chicopee Police Chief, or designee, acknowledging review and approval of the marijuana establishment security plan is required.
- (f) A certified list of all parties in interest entitled to notice of the hearing for the Special Permit application, taken from the most recent tax list of the City of Chicopee and certified by the office of the Assessor; and
- (g) A Site Plan, fulfilling requirements as outlined in the City of Chicopee Zoning Ordinances, Article II: Administration and Enforcement, §275-6 Site Plan Review.
 - 1. Parking for all adult use marijuana establishments shall be designed in accordance with City of Chicopee Zoning Ordinances, Article III: Regulations Applicable to All Districts, §275-40: Parking and Loading
- (h) All Site Plans shall be referred to the Site Plan Review Advisory Committee (SPRAC) for review by the Special Permit Granting Authority.
 - 1. Review by the Site Plan Review Advisory Committee (SPRAC) shall be performed in accordance with City of Chicopee Zoning Code, Article II. Administration and Enforcement §275-6(C) Site Plan Review Advisory Committee.
 - 2. The SPRAC shall review the Site Plan and confirm that all conditions and requirements outlined in the City of Chicopee Zoning Code, Article III: Regulations Applicable to All Districts, Site Plan Regulations §275-6(C)(2)(b) are met satisfactorily.
 - 3. The SPRAC shall submit comments regarding the Site Plan which may be designated as Conditions of Approval for incorporation in the final approved application, should the SPRAC render that no comments submitted by any reviewing parties necessitate substantial alterations to the Site Plan and warrant a re-submission for SPRAC review.

- (4) Mandatory findings. The Special Permit Granting Authority shall not issue a Special Permit for a marijuana establishment unless it finds that:
- (a) The establishment is designed to minimize any adverse impacts on abutters and other parties in interest, as defined in Section A. Purposes of this ordinance;
 - (b) The applicant demonstrates to the satisfaction of Special Permit Granting Authority 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. The awarding of the Special Permit shall be contingent upon approval of licensure by the Cannabis Control Commission; and
 - (c) The applicant has satisfied all of the conditions and requirements set forth herein.
- (5) Annual reporting. Each adult use marijuana establishment permitted under this section shall, as a condition of its Special Permit, file an annual 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. Each adult use marijuana establishment permitted under this section shall additionally provide all copies of reports submitted to the Commonwealth of Massachusetts and inclusive of any and all responses to said reports issued by the Commonwealth of Massachusetts per adult use marijuana regulations.
- (6) A Special Permit granted under this section shall have a term limited to the duration of the applicant's ownership, lease, or control of the premises as an adult use marijuana establishment. A Special Permit granted under this section shall run with the applicant only and may be transferred only with the approval of the Special Permit Granting Authority in the form of an amendment to the Special Permit along with all information required in this section.
- (7) The City shall require a bond or deposit of money in order to guarantee the establishment, upkeep and maintenance of the facility and grounds, including any planted vegetated screen, through the duration of the adult use marijuana establishment's tenure. All bonds and deposits shall run with the applicant and shall be submitted to the City Solicitor as to form for his/her approval prior to submission to the City Treasurer for approval as to sufficiency and custody. Upon termination of the establishment's tenure in the City, the applicant shall submit a written petition to the Director of Planning & Development for the release of the bond.
- (8) Any violation of this section shall be grounds for revocation of a Special Permit issued under this section.

G. Waiver

- (1) The Special Permit Granting Authority, when granting a special permit under this section, may waive setback requirements as outlined in this Chapter, provided the applicant submits its request in writing and can demonstrate the proposed site will not have an adverse effect upon the surrounding neighborhood. The Special Permit Granting Authority reserves the authority to require the applicant to produce necessary documentation to support its position. Further, a waiver of setback requirements shall require both the affirmative vote of 3/4 of all of the members of the Special Permit Granting Authority and shall require a separate vote apart from the main vote on the proposed Special Permit.

H. Licensing for Current Medical Marijuana Operations

- (1) A medical marijuana facility licensed by the City of Chicopee shall be required to secure a Special Permit from the Special Permit Granting Authority but shall be exempt from the Request for Proposal requirement contained in this Chapter. Further, the Special Permit Granting Authority may allow a medical marijuana facility licensed by the City of Chicopee to submit a written opinion from the Director of Planning for the City of Chicopee opining that said facility meets or exceeds the requirements of this Chapter when its application under this Chapter.

I. Request for Proposals Process

- (1) The City of Chicopee shall only entertain approval of proposed adult use marijuana licensees during a period of time in which license applications are submitted during an open and public Request for Proposals (RFP) process. This Request for Proposals process will be managed at the sole discretion of the City of Chicopee.
 - (a) The response to the Request for Proposals process shall be an application package which shall include, but not be limited to, the following required materials:
 1. Complete business model, including confirmed sources of financing and projections of revenue and expenses spanning at least five (5) years.
 2. Site Plan.
 3. Draft / Proposed Host Community Agreement.
 - (b) An approved application package submitted in response to the Request for Proposals shall result in the endorsement of the applicant for the submission of a Special Permit application to the Special Permit Granting Authority.

J. Abandonment or Discontinuance of Use

- (1) A Special Permit granted under this section shall lapse if not exercised within one year of issuance. Exercising of the Special Permit shall be defined as the approval of a Building Permit issued by the City of Chicopee Building Commissioner.
- (2) An adult use marijuana facility shall be required to remove all material, plants, equipment and other paraphernalia.
 - (a) Prior to surrendering its Commonwealth of Massachusetts-issued licenses and/or permits; and
 - (b) Within six (6) months of ceasing operations.