

Town of Sandisfield, Massachusetts

Marijuana (Cannabis) Establishment Zoning Bylaw

1. Purpose

The **Marijuana Establishment Zoning Bylaw** is enacted to allow State-licensed adult use Marijuana Establishments to locate within the Town of Sandisfield in accordance with applicable State Laws, Rules and Regulations and to impose reasonable safeguards to govern the time, place and manner of Marijuana Establishments to ensure proper consideration of public health, safety, well-being, and undue impacts on the natural environment as it relates to cultivation, processing, manufacturing, testing, transportation and retail sales of adult use marijuana, subject to the provisions of this Zoning Bylaw and M.G.L. c. 40A , and M.G.L. c.94G. It is the intent of this section to minimize adverse impacts on adjacent properties, residential neighborhoods, schools and other places where children congregate, and other land uses potentially incompatible with adult use marijuana activities. This bylaw does not restrict the personal cultivation and consumption of marijuana in Sandisfield.

2. Definitions

MARIJUANA: means all parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C; provided that “Marijuana” shall not include:

- (1) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination;
- (2) industrial hemp; or
- (3) the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products. Marijuana also includes marijuana products except where the context clearly indicates otherwise.

MARIJUANA ESTABLISHMENT: For purposes of this Bylaw, the term Marijuana Establishment (ME) shall comprehensively include all permitted marijuana uses including a Non-Retail Marijuana Establishment, a Retail Marijuana Establishment and a Medical Marijuana Treatment Center.

MARIJUANA CULTIVATOR: an entity licensed to cultivate, process and package marijuana, and to transfer marijuana to marijuana establishments, but not to consumers.

MARIJUANA ESTABLISHMENT, NON-RETAIL: a licensed Marijuana Cultivator, Independent Marijuana Testing Laboratory, Marijuana Product Manufacturer, Marijuana Research Facility, Marijuana Transporter, Marijuana Micro-Business or any other type of licensed non-retail marijuana-related business or businesses at a single location.

MARIJUANA ESTABLISHMENT, RETAIL: an entity licensed to purchase and transport marijuana or marijuana product from Marijuana Establishments and to sell or otherwise transfer this product to consumers.

MARIJUANA PRODUCT MANUFACTURER: an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, and to transfer these products to marijuana establishments but not to consumers.

MARIJUANA PRODUCTS: products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

MARIJUANA CONSUMPTION FACILITY: a commercial establishment which either sells single servings of marijuana and marijuana products for consumption on the premises or allows patrons to bring their own marijuana or marijuana products for on-site social consumption.

MARIJUANA TESTING FACILITY: An Independent Testing Laboratory as defined in 935CMR 500.002 licensed to test marijuana and marijuana products, including certification for potency and the presence of contaminants.

MARIJUANA TRANSPORTATION OR DISTRIBUTION FACILITY: an entity with a fixed location that is licensed by the Cannabis Control Commission to purchase, obtain and possess marijuana or marijuana products solely for the purpose of transporting and temporary storage on the premises for sale and distribution to Marijuana Establishments, but not consumers.

MEDICAL MARIJUANA TREATMENT CENTER: an entity formerly and validly registered under 105 CMR 725.100, or currently and validly registered under 935 CMR 501.100, also known as a Registered Marijuana Dispensary (RMD), that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana infused products, 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 for medical use. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana for medical use.

TIER STRUCTURE:

Tier 0	up to 1,000 square feet	Tier 6	40,001 to 50,000 sq. ft.
Tier 1	up to 5,000 square feet	Tier 7	50,001 to 60,000 sq. ft.
Tier 2	5,001 to 10,000 sq. ft.	Tier 8	60,001 to 70,000 sq. ft.
Tier 3	10,001 to 20,000 sq. ft.	Tier 9	70,001 to 80,000 sq. ft.
Tier 4	20,001 to 30,000 sq. ft.	Tier 10	80,001 to 90,000 sq. ft.
Tier 5	30,001 to 40,000 sq. ft.	Tier 11	90,001 to 100,000 sq. ft.

3. Location and Permits

Marijuana Establishments must be permitted as provided in the following Table of Uses which describes what uses are allowed by right (Y), with issuance of a building permit (B); allowed through Site Plan review (SI); allowed by Special Permit with Site Plan review (SP); or prohibited (N).

This Bylaw references the Overlay District, Section 2B, of the Sandisfield zoning bylaws for Marijuana Retail Establishments, which is bounded by Route 57 from Silverbrook Road east to Route 8, and Route 8 from New Boston south to the Connecticut line. Marijuana Retail Establishments must be located within this Retail District.

Establishment Type	No Permit	By Right	Permit	Location
Medical Marijuana Treatment Center			B, SP	Unrestricted
Marijuana Independent Testing Laboratory			B, SP	Unrestricted
Marijuana Establishment, Retail			B, SP	Only in Overlay District
Marijuana Establishment, Non-Retail			B, SP	Unrestricted
Marijuana Consumption Facility			B, SP	Unrestricted
Marijuana Cultivator Tier 0-3			B, SP	*
Marijuana Cultivator Tier 4 through 11	N	N	N	N

*Subject to the provisions of section 4(B) below.

4. Operating Regulations

A. General: Marijuana Establishments (except as specified for Cultivators) must take place at a fixed location within a fully enclosed building and marijuana products shall not be visible from the exterior of the building. No outside storage of marijuana, related supplies, or educational materials is permitted. Commercial Marijuana Cultivation and Marijuana Establishments are not permitted as a home occupation. Site Plan Review is required for all Marijuana Establishments, including when the facility will reuse an existing structure.

B. 1. Setbacks and Location Standards:

A Tier 0 Marijuana Cultivator may operate a Marijuana Cultivation Facility that is up to 1000 square feet on any property within the Town that meets a minimum setback of 75 feet from any abutting property line, except that Any Tier 0 marijuana cultivation which takes place outdoors in open fields or outdoors on existing or cleared agricultural lands must meet a minimum set back of 150 feet from any abutting property line.

A Tier 1 or 2 Marijuana Cultivator may operate a Marijuana Cultivation Facility that is up to 10,000 square feet on any property within the Town that meets a minimum setback of 150 feet from any abutting property line, except that Any Tier 1 or 2 marijuana cultivation which takes place outdoors in open fields or outdoors on existing or cleared agricultural lands must meet a minimum setback of 300 feet from any abutting property line. Setback distance shall be measured in a straight line as the shortest distance between the Marijuana Establishment building and property line. Tier 2 cultivation must be located a minimum of 400 feet from a public road.

A Tier 3 Marijuana Cultivator may operate an indoor Marijuana Cultivation Facility that is up to 20,000 square feet on any property within the Town that meets a minimum set back of 200 feet from any abutting property line. Tier 3 cultivation must be located a minimum of 400 feet from a public road. No Tier 3 outdoor cultivation is permitted.

Tier 4 through Tier 11 Marijuana Cultivators are prohibited on any property within the town.

No Marijuana Establishment may be located within 500 feet from a pre-existing public or private school (preschool through grade 12). For schools, distance shall be measured as 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. With the exception of this school setback, minimum setbacks may be adjusted by the SPGA depending on site dimensions and adjacent uses.

B. 2. Access: No Marijuana Establishment is permitted to use or provide a drive-through service.

C. Signage: All business signage shall be subject to the requirements of the Sandisfield Zoning Bylaw.

D. Ventilation/Odor: All indoor Marijuana Establishments shall install odor control technology, as necessary, in order to control ventilation at the establishment in such a manner that no odor from marijuana cultivation, its processing or the manufacturing of products can be detected by a person with an unimpaired and otherwise normal sense of smell, to be determined by the Building Inspector or their designee, at any adjoining property. The Operator shall properly maintain all odor mitigation equipment to ensure maximum efficiency.

E. Security: The applicant shall submit a security plan to the Sandisfield Police Department to demonstrate that there is limited burden on the Town public safety officials as a result of the proposed Marijuana Establishment. The security plan shall include all security measures for the site and for transportation of marijuana and marijuana products to and from off-site premises to ensure the safety of employees and the public and to protect the premises from theft or other criminal activity. A letter from the Sandisfield Police Department to the Select Board acknowledging receipt and approval of such a security plan shall be submitted as part of the Special Permit application and/or Site plan review. All Marijuana Establishments shall provide 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 location of cultivation of marijuana product is adequately secured in enclosed, locked facilities. Safety plans should mitigate any potential harm to the employees and the public including ensuring all customers and employees are at least 21 years of age.

F. Hours: Marijuana Retailers shall be open and/or operating to the public only between the hours of 8:00 AM and 8:00 PM, Monday through Saturday, unless otherwise determined by the Select Board.

G. Visual Impact: Marijuana plants, products, and paraphernalia shall not be visible from outside the building in which the Marijuana Establishment is located and Marijuana Establishments shall comply with the requirements of 935 CMR 500 with respect to visibility of marijuana and marijuana products.

I. Private Clubs: Clubs, lodges, or other private grounds (non-profit and private) allowing on-site consumption of marijuana or marijuana products as a principal or accessory use, but not operating as a licensed marijuana social consumption facility, are prohibited.

J. Conversion: The conversion of a Medical Marijuana Treatment Center that is engaged in the cultivation, manufacture or sale of marijuana or marijuana products in Sandisfield to a Marijuana Establishment for adult use (also known as recreational use) engaged in the same type of activity shall require a special permit.

K. Nuisance: Marijuana Establishments shall be managed in a manner to protect against nuisance conditions in parking areas, sidewalks, streets, and areas surrounding the premises and at adjacent properties. "Nuisance" includes, but is not limited to, disturbances of the peace, open public consumption of cannabis, pedestrian or vehicular queuing that results in obstruction of sidewalks or public ways, littering, loitering, illegal parking, loud or sustained noises, disturbing lighting or citations for violations of State or local traffic laws and regulations.

L. Marijuana Cultivators: Marijuana Cultivators shall not transfer any cannabis or cannabis products to the site from any other location without express written permission from the Special Permit Granting Authority.

M. Limitations on Marijuana Retailers: In the Town of Sandisfield, there shall be no more than one (1) non-medical "marijuana retailer" as defined in M.G.L. c. 94G, sec.1 as "an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers."

N. Deliveries: All Marijuana Establishments, with the exception of Medical Marijuana Treatment Centers, are prohibited from delivering cannabis or marijuana products to consumers. No Marijuana Establishment shall offer marijuana or marijuana products for consumption on the premises of any Marijuana Establishment.

O. Design Guidelines: a) *Screening.* The Marijuana Establishment shall be screened year-round with dense native vegetation from all adjoining properties and public and private ways.

b) *Vegetation Clearing.* The clearing of vegetation shall be limited to that which is necessary for the construction, operation, maintenance, modification and removal of the Marijuana Establishment.

c) *Habitat Fragmentation.* All Marijuana Establishments shall to the fullest extent practicable be clustered and located in or adjacent to areas of the site where the land has already been cleared to avoid habitat fragmentation.

P. Annual Inspection: Any operating Marijuana Establishment within the Town shall be inspected annually by the Building Inspector, the Fire Chief, the Police Department, or their designee(s), to ensure compliance with this Section and with any conditions imposed by the SPGA as a condition of the Special Permit approval. The reasonable costs of such inspections shall be borne by the Operator, including periodic independent measurements of sound levels and/or laboratory analysis of any effluents, odor emissions or other discharges into the environment.

5. Special Permit Application Procedures

The Select Board shall be the Special Permit Granting Authority (SPGA) for all Marijuana Establishments.

A. A Marijuana Establishment may be allowed in locations set forth in above zoning table by special permit from the Select Board in accordance with M.G.L. c.40A, §9, subject to the procedures, regulations, requirements, conditions and limitations set forth herein. Only an applicant who has obtained a Provisional License or Provisional Certificate of Registration from the Cannabis Control Commission issued pursuant to M.G.L. c. 94G and 935 CMR 500 et. seq., or M.G.L. c.94I and 935 CMR 501 et. Seq., is eligible to apply for a Special Permit pursuant to this Article.

B. Applicants for a Special Permit pursuant to this Article are strongly encouraged to meet with the SPGA at a public meeting to discuss the proposed application for a new Marijuana Establishment and to discuss in general terms the proposed Marijuana Establishment prior to the formal submission of an application.

C. In addition to the standard Special Permit Application form, Site Plan Review of the Zoning Bylaw, an applicant for a Special Permit under this Article shall also submit the following:

(1) The name, address and contact information of each owner and operator of the Marijuana Establishment. Where the owner is a business entity, the names and address of each Controlling Person, as defined in 935 CMR 500.002 shall be provided.

(2) A copy of the final, executed Host Community Agreement ("HCA") between the applicant and the Town of Sandisfield, as well as any Provisional License or Provisional Certificate of Registration from the Cannabis Control Commission pursuant to 935 CMR 500 or 935 CMR 501.

(3) A written description of the status of its application to the Cannabis Control Commission relative to the Marijuana Establishment at issue, or a copy of such license, as applicable.

(4) A list of any waivers of regulations that the applicant seeks to obtain from the Cannabis Control Commission, or a copy of any such waivers that the Commission has issued to the applicant, as applicable.

(5) Copies of all policies and procedures approved by the Cannabis Control Commission including without limitation the Marijuana Establishment's operating and safety procedures, or copies of such policies and procedures that the applicant intends to submit to the Commission, as applicable.

(6) For applications for a Non-Retail Marijuana Establishment, information demonstrating that the applicant has considered the following factors in its design and its operating plan:

- i. Identification of potential energy use reduction opportunities (such as natural lighting and energy efficiency measures), and a plan for implementation of such opportunities;
- ii. Identification of opportunities for renewable energy generation, including, where applicable, submission of building plans showing where energy generators could be placed on the site, and an explanation of why the identified opportunities were not pursued, if applicable;
- iii. Strategies to reduce electric demand (such as lighting schedules, active load management, and energy storage);
- iv. Engagement with energy efficiency programs offered pursuant to M.G.L. c.25, §21
- v. Odor control technology;
- vi. Sound mitigation measures that minimize increases in ambient sound levels, including variable frequency drives to reduce fan speeds and fan sound when feasible and/or installing fan treatments (e.g., silencers or acoustically lined plenums);
- vii. Strategies and systems to minimize the use of chemical fertilizers, pesticides, herbicides, fungicides, plastics and other synthetic toxins; and
- viii. Water reclamation systems or other technology to reduce water usage and runoff.

(7) The approximate quantity and source or sources of all marijuana and marijuana products that will be cultivated, processed, manufactured, packaged, transported, tested, studied or sold at the proposed Marijuana Establishment, as applicable.

(8) A written statement confirming that no marijuana or marijuana products will be smoked, burned, or consumed on the premises as part of the cultivation, manufacturing, testing or researching operations, as applicable, or a statement explaining how any such uses have been authorized by the Cannabis Control Commission.

(9) If applicable, a copy of the Applicant's Articles of Organization, a current Certificate of Legal Existence from the Commonwealth, and the most recent annual report.

(10) Copies of all licenses and permits issued to the Applicant by the Commonwealth of Massachusetts and any of its agencies, other than those specified in sub-section (2) above.

(11) Proof of liability insurance.

(12) Evidence that the applicant has site control and the right to use the proposed site as a Marijuana Establishment. Such evidence shall be in the form of a deed, purchase and sale agreement, lease, or other legally binding document.

(13) The Site Plan shall clearly show:

- i. A topographic map of the property with elevations marked;
- ii. The extent of tree removal, and vegetation to be removed or altered, and landscaping or native vegetation for screening;
- iii. The amount of site grading, with estimates of fill to be removed from or brought to the site;
- iv. Drainage mitigation for new impervious areas;
- v. The visual impact of the building(s) relative to surrounding areas;
- vi. A traffic assessment (daily, weekly, annually) of passenger and transport vehicles;
- vii. Impact to ground water and streams, including sources and estimated quantities of all water to be used by the establishment, and descriptions and quantities of all effluents produced;
- viii. The type, extent and duration of exterior lighting.
- ix. Delineation of all wetland resources and associated buffer areas.
- x. Locations of rare, threatened or endangered species existing on the site.
- xi. Engineering controls at the site and on the access road to control erosion and sedimentation both during construction and after construction as a permanent measure. Such engineering controls shall conform to the Massachusetts Department of Environmental Protection's Stormwater Policy.

All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts.

(14) In addition to what is otherwise required to be shown on a site plan the applicant shall provide security details to the Sandisfield Police Department showing all exterior proposed security measures for the premises, including but not limited to lighting, fencing, gates and alarms to ensure the safety of employees and patrons and to protect the premises from theft or other criminal activity. The Sandisfield Police Department will issue their review on such security measures to the Sandisfield Planning and Select Boards. For confidentiality and security reasons, these security measures will only be submitted to and reviewed by the Sandisfield Police Department, who may only consult with the Sandisfield Fire Department on pertinent items as needed.

(15) The site plan shall further delineate various areas of the Marijuana Establishment (indoors and outdoors) such as public access areas, employee only access areas, storage, cultivation, preparation, waste disposal, administrative, transportation, loading and parking areas. Site plans and/or application narrative shall contain sufficient information so that the SPGA can evaluate the design and operational standards contained in this Article, provided however that information pertaining to the safety and security of the building and persons employed therein shall be kept confidential to the extent permitted by law.

(16) Certification to the SPGA that the applicant has filed copies of the special permit application as required by Section D.

D. Upon the filing of the special permit application with the SPGA, the Applicant shall simultaneously deliver copies (excepting item #14) of the application to the Planning Board, the Building Inspector, the Board of Health, the Police Department and the Fire Department.

The SPGA may waive documentary or copy requirements as it deems appropriate.

E. **Technical Review.** Upon receipt of an application for a Marijuana Establishment, the Select Board may engage professional and technical consultants, at the applicant's expense, pursuant to M.G.L. Chapter 44 § 53G to assist the Select Board with its review of application materials. The Select Board may direct the applicant to deposit funds with the Select Board for such review at the time the application is accepted and to add additional funds as needed upon notice. Failure to comply with this section shall be grounds for denying the special permit application. Upon the approval or denial of the application, any excess amounts in the account attributable to the application process, including any interest accrued shall be refunded to the applicant.

6. Special Permit Requirements

Applications shall be submitted in accordance with the Select Board's Special Permit Regulations. The fee for a Special Permit for marijuana is \$1/sq. ft., except that the fee for a Special Permit for marijuana cultivation only is \$.10/sq. ft. In addition to the special permit approval criteria for the applicable zoning district and the Select Board's Special Permit Regulations, the Select Board shall find that the proposed use meets the requirements of this section and the specific requirements as described below:

A. The Marijuana Establishment is fully permitted by all applicable agencies within the Commonwealth of Massachusetts and is in compliance with all State laws and regulations; provided, however, that issuance of a valid license pursuant to M.G.L. c.94G or Certificate of Registration pursuant to M.G.L. c.94I may be a condition of the special permit.

B. The proposed use is designed to minimize any adverse impacts on the residents of the Town;

C. For a Retail Marijuana Establishment, there shall be a secure indoor area for all customers.

D. The Marijuana Establishment adequately addresses issues of vehicular and pedestrian traffic, circulation and parking, especially during peak periods at the facility, and adequately mitigates the impacts of vehicular and pedestrian traffic on neighboring uses.

7. Special Permit Conditions

A. The SPGA shall include conditions concerning the following in any special permit granted pursuant to this Article:

(1) Hours of operation.

(2) The submission of a copy of the Final License or Certificate of Registration from the Cannabis Control Commission with the SPGA and the Building Inspector prior to the issuance of a building permit, certificate of occupancy, or commencement of use, whichever occurs first.

(3) The reporting of any incidents to the Building Inspector as required pursuant to 935 CMR 500.110(7) within 24 hours of their occurrence. Such reports may be redacted as necessary to comply with any applicable state or federal laws or regulations.

(4) The reporting to the Building Inspector of any cease and desist order, quarantine order, suspension order, limiting sales order, notice of hearing or final action by the Cannabis Control Commission or the Division of Administrative Law Appeals, as applicable, regarding the Marijuana Establishment within 48 hours of the applicant's receipt.

(5) Copies of all reports submitted to any state agency, including, but not limited to, the reports required by 935 CMR 500.105(10)(d) describing the establishment's liability insurance coverage and the annual security system audits required by 935 CMR 500.110(8) shall be submitted to the SPGA within 5 business days of submission to the State.

Such reports may be redacted as necessary to comply with any applicable state or federal laws or regulations.

(6) Documentation to the SPGA that each Marijuana Establishment Agent has completed training regarding the proper handling of marijuana prior to performing job functions. Such documentation must be provided to the Board within 5 business days of the completion of such training. Annually, the establishment shall provide documentation to the SPGA and the Select Board that all Marijuana Establishment Agents have received at least eight hours of on-going training.

B. In addition to compliance with M.G.L. c.94G, and 935 CMR 500 and M.G.L. c.94I and 935 CMR 501, the SPGA may impose reasonable conditions to improve site design, traffic flow, public safety, water quality, air quality, protection of significant environmental resources and the preservation of community character of the surrounding area including, without limitation, the following:

(1) Minimization of the impacts of increased noise and traffic.

(2) Minimization of the impacts of any odors or noise generated from the facility.

(3) Deterring the presence of unauthorized or ineligible persons at, or near, the Marijuana Establishment.

(4) Imposition of measures to prevent diversion of marijuana and marijuana products.

(5) Conditions related to the design and construction of the facility to improve safety, security and conformance with community character.

(6) Conditions, consistent with the State Building Code, relating to energy efficiency and conservation.

C. A Special Permit issued pursuant to this Article shall also be subject to the following conditions:

(1) Prior to the commencement of the operation or services provided by any Marijuana Establishment, it shall provide in writing to the Chief of Police and the Town Manager the names, phone numbers and email addresses of all management staff, key-holders, and a minimum of two (2) contact persons to whom complaints or inquiries associated with the Marijuana Establishment shall be directed. All such contact information shall be updated as needed to keep it current and accurate. The Town Manager shall provide this information to the Board of Health, Fire Department, Building Inspector and the Select Board. The owner or manager of a Marijuana Establishment is required to respond by phone or email within twenty-four hours of being contacted by a duly-authorized Town official concerning their Marijuana Establishment. Such contact will be made to the phone number or email address provided to the Town as the contact for the Marijuana Establishment.

(2) Special Permits shall be limited to the original applicant(s) and shall expire on the earliest date of either:

- a) the cessation of operation of the Marijuana Establishment by the special permit holder, or
- b) any revocation, expiration or termination of an applicant's license from the Cannabis Control Commission, or
- c) any change in the Company's ownership, including without limitation a takeover, merger, sale of assets and equity, sale to another entity for which the original applicant and or the individuals defined as Controlling Persons do not maintain a controlling equity interest or other change in ownership. [Any change in ownership requires a new special permit or modification of the existing permit for the succeeding owner of the Marijuana Establishment.], or
- d) five (5) years from the date of issue. If the applicant wishes to renew the special permit, an application to renew must be submitted at least 120 days prior to the expiration of the special permit.

(3) The holder of a special permit shall annually file an affidavit with the Building Inspector demonstrating that it is in good standing with respect to its license from the Cannabis Control Commission and any other applicable State licenses.

(4) The Operator shall notify the SPGA within 20 days of any projected or actual increase in the number of employees, amount of traffic, use of energy, or extent of tree removal, grading, drainage or lighting beyond that specified in the Site Plan submitted as part of the Special Permit Application.

(5) The Operator shall notify the SPGA and the Conservation Commission within 20 days of any increase over 10% in projected or actual water use, and of any projected use of fertilizer, pesticide, herbicide or fungicide, whether organic or not, by the facility.

(6) The Operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services.

(7) Prior to construction, applicants seeking to construct a Marijuana Establishment shall provide a form of surety to cover the cost of removal and restoration of the site in the event the site is abandoned. The amount and form of surety shall be determined by the Select Board, but in no event shall the amount exceed one hundred and twenty-five (125%) percent of the cost of removal. Applicants shall submit a fully inclusive cost estimate, which accounts for inflation, of the costs associated with the removal of the Marijuana Establishment prepared by a qualified engineer. Said cost estimate shall be reviewed by the applicant, or their successor, every 5 years from the date of the final installation and adjusted as necessary. This updated cost estimate shall be transmitted to the Select Board.

(8) The holder of a special permit shall notify the Building Inspector and the SPGA in writing within 48 hours of the cessation of operation of the Marijuana Establishment or the revocation, expiration or termination of the permit holder's license from the Cannabis Control Commission.

8. Abandonment & Removal

- a) A Marijuana Establishment shall be deemed abandoned when the Marijuana Establishment has not been in operation for a period of twelve (12) months.
- b) After twelve (12) months of non-operation, the Building Inspector shall provide written notification to the Operator that such Marijuana Establishment is presumed to be abandoned. The Operator has thirty (30) days to rebut the presumption of abandonment by submitting evidence to the Building Inspector that the Marijuana Establishment has been in operation during the relevant twelve (12) month period.
- c) If the Operator does not respond within the thirty (30) day appeal period or does not submit evidence that, in the discretion of the Building Inspector, proves that the Marijuana Establishment has been in operation for the relevant twelve (12) month period, then the Marijuana Establishment shall be deemed abandoned. The Building Inspector shall provide written notification of abandonment to the Operator.
- d) The Operator of the Marijuana Establishment shall remove the Marijuana Establishment and restore the site within one hundred eighty (180) days of the date of the written notification of abandonment. If the Operator fails to remove the Marijuana Establishment within one-hundred eighty (180) days, the Town shall have the right, to the extent it is duly authorized by law, to enter onto the proposed site and physically remove the Marijuana Establishment and restore the site at the sole expense of the Operator, using the surety provided in section 7 (C)(7). Any excess amounts in the surety account, including any interest accrued, shall be refunded to the Operator.

9. Severability

The provisions of this bylaw are severable. The invalidity of any section, sub-section, paragraph, sentence, clause, phrase or word of this Bylaw shall not be held to invalidate any other section, sub-section, paragraph, sentence, clause, phrase or word of this Bylaw.