

ADD THE FOLLOWING TO THE END OF SECTION 6 SPECIAL REGULATIONS - AS A NEW SECTION 6.8

6.8 LICENSED MARIJUANA ESTABLISHMENTS (LMES)

6.8.1 Purpose.

The purpose of this section is to provide for the placement of LMEs in suitable locations in Becket, in recognition of and in accordance with “The Regulation and Taxation of Marijuana Act,” G.L. c. 94G, in order to minimize potential adverse impacts of marijuana establishments. The specific purpose of this section is to safeguard the built environment by permitting compliance with state law in a manner consistent with community and neighborhood concerns, while also ensuring that those entities permitted to operate a LME, as defined herein, comply with all of the provisions of Chapter 334 of the Acts of 2016.

6.8.2 Definitions.

LICENSED MARIJUANA ESTABLISHMENT (LME) – A marijuana cultivator, testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business.

MARIJUANA CULTIVATOR – An entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments, and to transfer marijuana to other marijuana establishments but not consumers.

MARIJUANA PRODUCT MANUFACTURER – An entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments, and to transfer thru transportation marijuana and marijuana products to other marijuana establishments but not 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 RETAILER – 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.

MARIJUANA TESTING LABORATORY – A third-party entity licensed to test and research marijuana and marijuana products, able to perform work completely independent from any marijuana cultivator, processor, retailer or local government body within the Commonwealth.

6.8.3 Location.

Any LME may be sited in Becket by Special Permit issued by the Planning Board, which is the (SPGA) per Section 9.3, Special Permits, of the Zoning Bylaw for the Town of Becket.

6.8.4 Designated Number of LMEs.

1. The total number of all LMEs may not exceed fifty percent (50%) of the number of licensed package liquor stores within the Town.
2. In the event that the number of licensed packaged liquor stores within the Town decreases, any LME, if then exceeding fifty percent (50%) as noted in Subsection 6.8.6.1, may remain in operation.
3. There shall be no restrictions on the number of any particular type of establishment permitted within the Town, other than as regulated in Subsection 6.8.6.1.

6.8.5 Special Permit Requirements.

1. No licensed marijuana retailer shall be operated without first obtaining a Special Permit from the SPGA in accordance with this Section and Section 9.3 "Special Permits".
2. The SPGA shall be the Planning Board.

Applications for Special Permits shall be submitted to the Planning Board for approval. The Planning Board shall then approve, approve with conditions, or deny the site plan and Special Permit. No Special Permit shall take effect until such decision by the SPGA has been recorded at the Middle District Registry of Deeds. Conditions of approval may include but are not limited to the following:

- a. Street, side or rear setbacks greater than the minimum required by this bylaw;
 - b. Modification of the exterior features or appearances of the structure;
 - c. Limitation of size, number of occupants or hours of operation;
 - d. Regulation of number, design and location of access drivers or other traffic features;
 - e. Requirement of off-street parking or other special features beyond the minimum required by this or other applicable ordinances;
 - f. Proposed security precautions shall be adequate to protect the safety and well-being of users of the establishment.
3. . As part of the special permit process, the Planning Board may reduce the required minimum setback distance if it finds site-specific circumstances or barriers adequately separate the proposed marijuana establishment and a protected use. The burden shall be on the Applicant to demonstrate that reducing the minimum setback will serve the purpose of this Section and address the concerns of the Planning Board.
4. A Special Permit shall only be valid for use by the Applicant and will become null and void upon the sale or transfer of the license of a marijuana establishment or change in the location of the business.

PRELIMINARY DRAFT PROPOSED LICENSED MARIJUANA ESTABLISHMENT BYLAW - TOWN MEETING VERSION

5. In the event that the Commonwealth's licensing authority suspends the license or registration of a marijuana establishment, the Town shall suspend the Special Permit until the matter is resolved to the satisfaction of said licensing authority.
6. The Special Permit shall be considered null and void if meaningful construction has not begun on the project within 2 years of obtaining said permit.

6.8.6 General Design Requirements.

The following is required for proposed operations of LMEs.

6.8.6.1 Retail Requirements & Performance Standards

1. No retail marijuana use shall be located within 500 feet (measured from edge of the property line to edge of building or occupied space) of any public or private school providing education in kindergarten or any of grades 1 through 12, any public playground, or licensed daycare or other similar facility where minors commonly congregate.
2. The minimum lot size for this use shall be two (2) acres.
3. The number of medical and/or recreational marijuana retail uses located within the Town of Becket shall not exceed the number allowed under the rules and regulations put forward by the Commonwealth of Massachusetts, whichever is greater. Facilities, which provide both medical and recreational retail services in one shared location, shall be considered a single unit for purposes of this section.
4. The minimum required front, side, and rear yard setbacks shall be fifty (50) feet.
5. In any residential area, any property line of an abutting residential or institutional use shall be provided with a continuous screen along such side and rear property lines, in accordance with the screening regulations of this ordinance.
6. In reviewing a special permit under this section the Board shall consider the impact of the proposal on the following:
 - a. Character of the neighborhood to include visual compatibility with surrounding uses.
 - b. Proximity to other licensed marijuana uses to prevent clustering.
 - c. Relationship to surrounding uses to avoid unnecessary exposure to minors.
 - d. The provision of adequate lighting to promote security for customers and the public.
 - e. Hours of operation.
 - f. Site design and other development related site impacts.

6.8.6.2 Outdoor Cultivation Requirements & Performance Standards

1. No outdoor marijuana cultivation use shall be located within 500 feet (measured from edge of building or occupied space to edge of building or occupied space) of any public or private school providing education in kindergarten or any of grades 1 through 12, any public playground, or licensed daycare or other similar facility where minors commonly congregate.

2. The minimum lot size for this use shall be five (5) acres.
3. No fertilizers, compost, soils, materials, machinery, or equipment shall be stored within the required front, side, and rear yard setbacks.
4. The minimum required front setbacks shall be one hundred (100) feet; side, and rear yard setbacks shall be fifty (50) feet. No marijuana shall be planted within a required setback.
5. In any residential area, any property line of an abutting residential or institutional use shall be provided with a continuous screen along all such property lines, in accordance with the screening regulations of this ordinance.
6. Marijuana not grown inside a securable structure shall be enclosed within a six (6) foot fence, and inasmuch as possible the plants shall be screened from view, at grade, from all property lines.
7. In reviewing a special permit under this section the Board shall consider the impact of the proposal on the following:
 - a. Character of the neighborhood to include visual compatibility with surrounding uses.
 - b. Proximity to other licensed marijuana uses to prevent clustering.
 - c. Relationship to surrounding uses to avoid unnecessary exposure to minors.
 - d. The provision of adequate lighting to promote security for customers and the public.
 - e. Hours of operation.
 - f. Site design and other development related site impacts.

6.8.6.3 Indoor Cultivation, Manufacturing, Processing, Testing & Research Requirements & Performance Standards

1. No marijuana indoor cultivation, manufacturing, processing, research & testing use shall be located within 500 feet (measured from edge of building or occupied space to edge of building or occupied space) of any public or private school providing education in kindergarten or any of grades 1 through 12, any public playground, or licensed daycare or other similar facility where minors commonly congregate.
2. The minimum lot size for this use shall be five (5) acres.
3. No fertilizers, compost, soils, materials, machinery, or equipment shall be stored outdoors within the required front, side, and rear yard setbacks.
4. The minimum required front setbacks shall be one hundred (100) feet; side, and rear yard setbacks shall be fifty (50) feet.
5. In any residential area, any property line of an abutting residential or institutional use shall be provided with a continuous screen along such side and rear property lines, in accordance with the screening regulations of this ordinance.
7. In reviewing a special permit under this section the Board shall consider the impact of the proposal on the following:
 - a. Character of the neighborhood to include visual compatibility with surrounding uses.

- b. Proximity to other licensed marijuana uses to prevent clustering.
- c. Relationship to surrounding uses to avoid unnecessary exposure to minors.
- d. The provision of adequate lighting to promote security for customers and the public.
- e. Hours of operation.
- f. Site design and other development related site impacts.

6.8.6.4 Additional Requirements & Performance Standards

1. Hours of operation. Operating hours of a marijuana retail establishment shall be consistent with the regulations for “Alcoholic Liquors,” G.L. c. 138, unless determined otherwise by the SPGA. Hours of operation shall apply to all sales, delivery and dispensing activities for the business. There shall be no hourly restrictions on marijuana testing, manufacturing or cultivation facilities, unless imposed by the Planning Board as part of site plan approval.
2. Signage. All signage must comply with the regulations set forth in Section 5.0 of the Zoning Bylaw for the Town of Becket and the regulations established by the Commonwealth’s Cannabis Control Commission (CCC).
3. On-site consumption of marijuana. The use, consumption, ingestion or inhalation of marijuana or marijuana products on or within the premises of any LME is prohibited.
4. Visibility of activities. All activities of any LME except for outdoor cultivation operations, including any marijuana retailer, research & testing laboratory or manufacturer shall be conducted indoors.
5. Paraphernalia. Devices, contrivances, instruments and paraphernalia for inhaling or otherwise consuming marijuana, including, but not limited to, rolling papers and related tools, water pipes, and vaporizers may lawfully be sold at a marijuana retailer. No retail marijuana, marijuana products or paraphernalia shall be displayed or kept in a retail marijuana store so as to be visible from outside of the licensed premises.
6. Lighting. Outdoor light levels shall not exceed 1 foot-candle along property lines, nor 10 foot-candles for any location on the property. Any light poles, new or existing, may not exceed 18’ in overall height. All outdoor light fixtures must be shielded and aimed down to prevent light trespass onto adjacent properties. The Planning Board may modify this requirement if, upon recommendation by the Police Chief, it is required for adequate safety and security.
7. Landscaping. Landscaping is required for marijuana retailers to harmonize the facility with abutting uses. Landscaping must be provided in the form of one canopy tree for every 20’ of lineal road frontage, placed within 15’ of the property line, and 1 shrub for every 10’ of building frontage facing a public street, placed within 10’ of the building footprint. Canopy trees must measure at least 2.5” in diameter upon planting. Shrubs must measure at least 2’ tall upon planting. Existing trees and shrubs meeting the size and location requirements may be counted toward the required landscaping. Landscaping may be clustered. Landscaping must consist of native, non-invasive plant species. The

PRELIMINARY DRAFT PROPOSED LICENSED MARIJUANA ESTABLISHMENT BYLAW - TOWN MEETING VERSION

Planning Board may modify or waive this requirement

8. Control of emissions. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a LME must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a retail marijuana store or marijuana manufacturing or research & testing facility, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full cleanup and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.
9. Parking. Off-street parking must be provided for any LME as specified by the SPGA in the site plan. On street parking is prohibited. Off street parking requirements are:
 - a. Marijuana Cultivation, Manufacturing Facilities: one (1) parking space for each employee plus adequate space for service and supply vehicles or one (1) parking space for each 1,000 square feet of gross floor area, whichever is greater.
 - b. Marijuana Research & Testing Laboratories: one (1) parking space for each 300 SF of gross floor area.
 - c. Marijuana Retail Stores: one (1) parking space for each 200 SF of gross floor area and one parking space for each and every employee.
10. Marijuana retail establishments are prohibited from installing an on-site drive-through facility.
11. Fencing. The Planning Board as a condition of the Special Permit approval will determine the location, height and type of fencing. Additional fencing may be required if determined necessary by the Police Chief. In no instance shall barbed-wire fencing be permitted.
12. Marijuana Waste Disposal. There shall be no outdoor storage of marijuana waste for any marijuana retailer. All marijuana waste generated shall be secured indoors, to be serviced by an authorized professional waste removal service company or medical waste company.
13. Marijuana retail establishments are prohibited from selling alcoholic beverages.

6.8.7 Filing Requirements.

Applications to permit a LME must be submitted to the Planning Board. Said applications shall include the following, unless partially or completely waived by the Planning Board:

1. Site Plan. In addition to the site plan contents required per Section 9.4.5, the site plan shall also include:
 - a. The names, mailing addresses, phone numbers, email addresses and signatures of the applicant, owner and operator.

- b. Physical address (if one exists) and the map, lot and block number of the proposed site.
- c. Security Plan. A security plan is required to ensure the safety of employees, patrons and the public to protect the premises from theft or other criminal activity. The security plan shall be reviewed and approved by the local Police Chief. The following elements may be included in the security plan and are only required if deemed necessary by the Police Chief:
 - i. An interior floor plan (secured areas, windows, doors, etc.)
 - ii. Exterior lighting
 - iii. Fencing
 - iv. Gates
 - v. Alarms
 - vi. Additional security measures not listed above.
- 2. Traffic Study. The Planning Board may require a traffic study that includes an analysis of traffic generation, circulation and off-street parking demands to determine sufficient parking and optimum configuration for site ingress and egress.
- 3. State License. A copy of the license or registration as a LME from the Massachusetts CCC or documentation that demonstrates that said facility and its owner/operators qualify and are eligible to receive a Certification of Registration and meet all of the requirements of a LME in accordance with the regulations adopted by said commission, as amended.
- 4. Site Control. Evidence that the Applicant has site control and the right to use the site for a LME in the form of a deed, valid lease, or purchase & sale agreement or a notarized statement from the property owner certifying the Applicant has firm site control.
- 5. Applications for Site Plan Review shall include a project impact statement, which addresses potential impacts of the use on traffic, on-site parking, storm-water runoff, lighting, and landscaping.

6.8.8 Discontinuance of Use.

Any LME under this Section shall be required to remove all material, plants, equipment, and other paraphernalia in compliance with regulations established by the CCC within 30 days after the expiration or voiding of its license.

6.8.9 No Town Liability: Indemnification.

- 1. The Applicant and all licensees waive and release the Town, its elected officials, employees and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of the LME owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.

PRELIMINARY DRAFT PROPOSED LICENSED MARIJUANA ESTABLISHMENT BYLAW - TOWN MEETING VERSION

2. The Applicant, in receiving approvals issued pursuant to this chapter, and all licensees, jointly and severally, if more than one, agree to indemnify, defend and hold harmless the Town, its elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other loss of any kind whatsoever, arising out of or in any manner connected with the operation of the LME that is subject of the approval/license.

6.8.10 Annual Inspection.

1. The Building Inspector and Police Chief shall inspect any operating LME within the Town annually to ensure compliance with this section and with any conditions imposed by the Planning Board as a condition of the Special Permit approval.
2. The first annual inspection shall be more than one (1) year after beginning operation.

6.8.11 Other Laws Remain Applicable.

1. Business License Required. At all times while a permit is in effect the licensee shall possess a valid license.
2. To the extent that the state has adopted or adopts in the future any additional or stricter law or regulation governing the cultivation, manufacturing, testing or retail of marijuana or marijuana products, the additional or stricter regulation shall control the establishment or operation of any LME in the Town. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this chapter, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder.
3. Any LME may be required to demonstrate, upon demand by law enforcement officers of the Town of Becket and/or the local licensing authority; the source and quantity of any marijuana found upon the licensed premises are in full compliance with any applicable state law or regulation.
4. The issuance of any license pursuant to this chapter shall not be deemed to create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the cultivation, possession, sale, distribution or use of marijuana.
5. Prior to the issuance of a special permit or site plan approval, the LME must have entered into a Host Community Agreement (HCA) with the Town. If, upon review by the Select Board, the LME is found to not be fully in compliance with the HCA, the special permit and/or the local license may be suspended or rescinded.

6.8.12 Violations.

It is unlawful for any person or entity to construct, install, modify or operate a LME that is not in compliance with this bylaw

6.8.13 Penalties.

Any person or entity that fails to comply with any provision of this bylaw or any condition contained in a special permit, issued pursuant to this section shall be subject to enforcement and penalties as allowed by applicable law.

6.8.14 Severability.

The provisions of this bylaw are severable, and the invalidity of any section, subdivision, subsection, paragraph or other part of this bylaw shall not affect the validity or effectiveness of the remainder of this bylaw.

6.8.15 Enactment.

This bylaw shall take effect upon its enactment.

DRAFT

And by amending the Becket Zoning By-Law **SECTION 3.0, USE REGULATIONS**, by adding in **3.1.3 Table of Use Regulations** new lines in the **Agricultural, Commercial & Industrial Uses** sections as follows:

Table A: Table of Use Regulations

Agricultural Uses

Marijuana Cultivator nonexempt	PB
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Commercial Uses

Marijuana Research & Testing Laboratory	PB
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Marijuana Retailer	PB
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Industrial Uses

Marijuana Product Manufacturer	PB
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Marijuana Research & Test Facility	PB
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