



TOWN OF MILLIS

Robert Cantoreggi, *Chairman*
George Yered, *Clerk*
James McKay
Nicole Riley
Richard Nichols
Carlo Molinari, *Assoc. Member*

OFFICE OF THE PLANNING BOARD

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Camille Standley
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October 1, 2018

To: Town Clerk, Town of Millis

From: Town of Millis Planning Board
Robert Cantoreggi, Chairman



Re: Public Hearings held Tuesday, September 11, 2018, and Tuesday, September 25, 2018, at the Veterans Memorial Building, Room 229, to consider amending the Town of Millis Zoning By-Laws as follows:

The proposed amendments include:

ARTICLE - To see if the Town will vote to amend the Zoning Bylaws, as most recently amended, by repealing the "Section V. Use Regulations G. Temporary Moratorium On Recreational Marijuana Establishments" adopted by Town Meeting during November, 2017, and by amending the various sections identified herein as follows, or to take any other action related thereto.

By amending Section V, Use Regulations, Table 1, Use Regulations, Retail & Service uses, by adding a new use #42, "Marijuana Establishments" so that such use is allowed by special permit in the I-P-2 zoning district, and by amending Section XIII, Special Permit Conditions, by adding a new Section: V. Marijuana Establishments, 1. Purpose, 2. General Regulations, 3. Special Permit Conditions on Marijuana Establishments, 4. Prohibition Against Nuisance, 5. Severability, or to take any other action related thereto, and

ARTICLE – To see if the Town will vote to amend the Zoning Bylaw, as most recently amended, by amending Section XIII.V., Marijuana Establishments, to limit the number of Marijuana Retailers to no more than the greater of one (1) or 25% of the number of licenses issued within the Town under § 15 of M.G.L. c. 138, for the retail sale of alcoholic beverages not to be drunk on the premises where sold, as follows:

Amend section XIII.V.2., General Regulations: Marijuana Establishments, by adding the underlined language to the existing paragraph 2, as follows:

2. General Regulations: Marijuana Establishments, as defined in G.L. c., 94G, § 1, and 935 CMR 500.000, may be permitted in the I-P-2 district pursuant to a Special Permit issued by the Planning

Received Oct. 1, 2018
Kathleen E. Smith
Asst. Town Clerk

Board, subject to the provisions of this Bylaw, provided that the number of Marijuana Retailers, as defined in G.L. c. 94G, § 1, and 935 CMR 500.000, that shall be permitted in the Town of Millis is limited to the greater of one (1) or twenty-five percent (25%) of the number of licenses issued within the Town under § 15 of M.G.L. c. 138 for the retail sale of alcoholic beverages not to be drunk on the premises where sold.

Or take any other action relative thereto.

After due notices having been published in the Milford Daily News, a newspaper of local circulation, under dates of August 24, 2018, and August 31, 2018, a public hearing was held on Tuesday, September 11, 2018 at 8:12 p.m., with a continued public hearing held on Tuesday, September 25, 2018 at 7:30 p.m., in the Veterans' Memorial Building, Room 229.

Planning Board Members present: Robert Cantoreggi, Chairman
(Sept. 11 & Sept, 25, 2018) George Yered, Clerk
James McKay
Nicole Riley
Richard Nichols
Carlo Molinari

Others present: Scott Fuzy, 114 Union St.
(Sept. 11, 2018) Alan Handel, 11 J. William Heights
Catherine C. MacInnes, 78 Island Rd.
Ellen Rosenfeld, 730 Main St.
James McCaffrey, 13 Bogastow
Peter Harkey, 256 Orchard St.
Joyce Boiardi, 206 Orchard St.
Ellie Jarvis, 133 Farm St.
Tony Jarvis, 133 Farm St.
Chris Maltinsky, 431 Exchange St.
Lisa Hardin, 56 Walnut St.
John McVeigh, Director of Public Health
JaiKaur LeBlanc, Board of Health Chair

(Sept. 25, 2018) Lisa V. Whelan, Esq., Gelerman and Cabral, LLC
Catherine C. MacInnes, 78 Island Rd.
James McCaffrey, 13 Bogastow
Peter Harkey, 256 Orchard St.
Joyce Boiardi, 206 Orchard St.
Matthew McKenna, 80 West St., Braintree
Diane McBride, 37 Village St.
Kathy Lannon, 6 Cedar St.
Jim Borgman, 25 Grove St.
David Baker, 2 Holbrook Way

The first public hearing on September 11, 2018, was opened at 8:12 p.m. with notice being read by Mr. Yered, Clerk.

Mr. Cantoreggi summarized that the Recreational Marijuana Establishments zoning bylaw was proposed at Spring Town Meeting, however, it did not pass. Due to the moratorium expiring on December 31, 2018, the Planning Board, Retail Marijuana Committee and Board of Selectmen would like to get "a Zoning Bylaw on the books" to be able to have control over where retail/recreational marijuana establishments can operate. Ms. Riley, Chair of the Retail Marijuana Committee (RMC), stated that they, and the Board of Selectmen, voted to "go forward with the version put forth at the May Town Meeting." These types of establishments would only be allowed in the I-P-2 District by Special Permit. Any potential applicants would still have to file for a Special Permit with the Planning Board.

There was discussion regarding the legality of "Section 3. Special Permit Conditions on Marijuana Establishments, e.," wherein it states that "the special permit shall terminate" after five years. The Planning Board would like Special Town Counsel's opinion on this issue in writing.

Mr. McCaffrey, Clerk of the Board of Selectmen, stated that they have been working with the RMC and Board of Health regarding nuisance and odor provisions/regulations. He would like "all boards to work together for a single set of standards."

There was discussion regarding who would be the enforcement authority on these types of establishments. Ms. Riley stated that it was recommended by the RMC to the Board of Selectmen that the "Board of Health takes responsibility for nuisance violations" and that the Board of Health be the "enforcement agent."

A version of the proposed bylaw, with Board of Health provisions added, was discussed. Ms. MacInnes, Board of Selectmen Chair, stated that she was "opposed to the suggested changes" in this version. She was not in favor of having HVAC design in a Planning Board Decision as the applicant would have to go through the Board of Health anyway. The Board of Health has the statutory responsibility for their rules and regulations and it "should remain under their pervue."

Mr. McVeigh, Director, Board of Health, and Ms. LeBlanc, Chair, Board of Health, stated that the Board of Health is meeting on September 17 to "tackle" the marijuana nuisance draft regulations. They will be working with Atty. Kate Feodoroff of Mead, Talerman & Costa, on drafting Marijuana Nuisance Regulations.

Several residents in the audience spoke to the article.

There was discussion regarding the limitation article restricting the number of establishments. Mr. McCaffrey stated that the Town "is better served to take one at a time" and they could always "expand in the future" if need be.

Ms. Riley stated that another point of discussion is the "Hours of operation..." (3.a.). She said it was more appropriate to be part of the licensing process through the Board of Selectmen and could be removed from the bylaw.

On a motion made by Mr. Cantoreggi, seconded by Mr. Nichols, it was unanimously voted to continue the public hearing at 9:43 p.m. to Tuesday, September 25, 2018, 7:30 p.m.

The public hearing continuation on September 25, 2018 was opened at 7:31 p.m. with notice being read by Mr. Yered, Clerk.

Atty. Lisa Whelan, Special Town Counsel, stated that there are ambiguous provisions with the State law and the Cannabis Control Commission (CCC) is still issuing guidelines to cities and towns. In her opinion, it is better not to wait and a good idea to "get something on the books." She discussed a letter from Ms. MacInnes, Chair of the Board of Selectmen, wherein four changes (language deletions/amendments) to the presented articles were unanimously approved by the Selectmen. She presented the changes in hopes that the Planning Board would agree that these changes will better serve the residents of Millis. The changes/deletions are as follows:

- (1) Delete the second paragraph of proposed zoning by-law article entitled, "**Recreational Marijuana Establishments**" ("By amending Section V, Use Regulations, by repealing Subsection G. 'Temporary Moratorium On Recreational Marijuana Establishments' adopted by Town Meeting during November, 2017"). This deletion was recommended by special town counsel due to the fact that this language is contained in the proposed Retail Marijuana Licensing article.
- (2) Delete the sentence at the end of proposed Section XIII, Special Permit Conditions, Section V 2 a (1) ("There shall be a minimum separation of 300 feet between Marijuana Retailers, as that term is defined by 935 CMR 500.00 and G. L. c. 94G, § 1"). This language regarding separation of marijuana retailers is unnecessary because, as proposed, there shall be but one retail marijuana establishment permitted in the town of Millis.
- (3) Delete proposed Section XIII, Special Permit Conditions, Section V 3 a ("Hours of operation, including dispatch of home deliveries"). The hours of operation of a facility are better stated in the Board of Selectmen's License to Operate rather than contained in a Planning Board special permit.
- (4) Delete proposed Section XIII, Special Permit Conditions, Section V 3 e ("The special permit shall terminate on the five (5) year anniversary of its issuance. If the permit holder wishes to renew the special permit, an application to renew the special permit must be submitted to the Planning Board at least 120 days prior to the expiration of the special permit"). It is not a good business practice to terminate a special permit five (5) years after approval. The License to Operate and the Host Agreement, both issued by the Board of Selectmen, will contain language to require the applicant to renew its Special Permit through the public hearing process, at which time abutters shall be notified of said public hearing, with input from town boards, etc., including but not limited to police, fire, and school departments Board of Health, shall be heard.

Atty. Whelan supports these four deletions/changes. The Planning Board was in favor as well.

Mr. McCaffrey spoke on the annual license renewal process through the Selectmen. Any non-compliance or nuisance issues may also be addressed by the appropriate authorized Town Board at any time prior to the renewal of the license.

There was discussion regarding waiting to vote on a bylaw until the Board of Health Regulations were in place. Because the Board of Health's Rules and Regulations do not require Town Meeting vote, the Planning Board did not support delaying its vote.

Ms. MacInnes further explained the process of a potential applicant working with the Selectmen on a Host Community Agreement prior to applying for an application with the Planning Board. She stated that this could take from a few months to a year, allowing time for the Board of Health to finalize their regulations. She was not in favor of delaying a vote on the proposed bylaw. Ms. Lannon of the Board of Health also spoke in favor of passing the Bylaw at the fall Town Meeting.

There being no further discussion, on a motion made by Mr. Robert Cantoreggi, seconded by Mr. Richard Nichols, it was unanimously voted to close the public hearing on the two proposed bylaw amendment articles at 8:58 p.m.

At the regularly scheduled meeting of the Planning Board held on Tuesday, September 25, 2018, the following motions/votes were made:

On a motion made by Mr. James McKay, seconded by Mr. Robert Cantoreggi, it was voted to recommend approval of the **Recreational Marijuana Establishments** bylaw article as amended with Mr. Cantoreggi **modifying** the motion to add recommending changing Section V.2.a.1. from "1,500 feet" to "1,000 feet" and amending V.2.a.2. from "500" feet to "1,000" feet. The amended sections would read as follows:

V.2.a.1. Marijuana Retailers, as that term is defined in G.L. c. 94G, § 1 and 935 CMR 500.000, may not be located within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12, and 1,000 feet of the following other uses within the Town of Millis: (a) - (j)

V.2.a.2. Marijuana Establishments, other than Marijuana Retailers, may not be located within 1,000 feet of the following uses within the Town of Millis: (a) - (i)

There was no second to Mr. Cantoreggi's modifications. It did not pass.

Ms. Riley modified Mr. McKay's motion by adding recommending changing Section V.2.a.2 from "500" feet to "1,000" feet, with the exception of the schools. The amended section would read as follows:

V.2.a.2. Marijuana Establishments, other than Marijuana Retailers, may not be located within 500 feet of a pre-existing public or private school providing education in kindergarten or any of

grades 1 through 12, and 1,000 feet of the following uses within the Town of Millis (a) - (i) (having removed "pre-existing schools....." from the list)

Mr. Yered seconded Ms. Riley's modification, and it was voted with Ms. Riley in favor and Mr. Cantoreggi, Mr. Yered, Mr. McKay, Mr. Nichols and Mr. Molinari opposed (1-5). Ms. Riley's modification did not pass.

Mr. Cantoreggi modified Mr. McKay's motion by adding recommending changing Section V.2.a.1 from "1,500" feet to "500" feet. The amended section would read as follows:

V.2.a.1. Marijuana Retailers, as that term is defined in G.L. c. 94G, § 1 and 935 CMR 500.000, may not be located within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12, and 500 feet of the following other uses within the Town of Millis: (a) - (j)

Mr. McKay seconded the motion modification. All voted unanimously to oppose (0-6). Mr. Cantoreggi's modification did not pass.

Recommendation: Mr. James McKay made a motion, seconded by Mr. Robert Cantoreggi, to vote to recommend approval of the **Recreational Marijuana Establishments** bylaw article as amended for the November 5, 2018, Town Meeting with all members voting in the affirmative (6-0). Voting on this motion was Mr. Robert Cantoreggi, Mr. George Yered, Mr. James McKay, Ms. Nicole Riley, Mr. Richard Nichols and Mr. Carlo Molinari. (Approved Article attached)

Recommendation: Mr. James McKay made a motion, seconded by Mr. Robert Cantoreggi, to vote to recommend approval of the **Retail Marijuana – Limit to 25% of Alcohol Licenses** bylaw article as written below for the November 5, 2018, Town Meeting with all members voting in the affirmative (6-0). Voting on this article was: Mr. Robert Cantoreggi, Mr. George Yered, Mr. James McKay, Ms. Nicole Riley, Mr. Richard Nichols and Mr. Carlo Molinari.

ARTICLE – Retail Marijuana – Limit to 25% of alcohol licenses

To see if the Town will vote to amend the Zoning Bylaw by amending Section V., Use Regulations, by repealing Subsection G., "Temporary Moratorium On Recreational Marijuana Establishments" adopted by Town Meeting in November, 2017, and replacing it with the following new Subsection G, the purpose of which is to limit the number of Marijuana Retailers to no more than greater of one (1) or 25% of the number of licenses issued within the Town under § 15 of M.G.L. c. 138, for the retail sale of alcoholic beverages not to be drunk on the premises where sold, as follows:

G. Marijuana Retailers.

The number of Marijuana Retailers, as defined in G.L. c., 94G, § 1, and 935 CMR 500.000, that shall be permitted in the Town of Millis is limited to the greater of one (1) or twenty-five

percent (25%) of the number of licenses issued within the Town under § 15 of M.G.L. c. 138 for the retail sale of alcoholic beverages not to be drunk on the premises where sold.

Or take any other action relative thereto.

cc: Michael Guzinski, Town Administrator
Board of Selectmen
Finance Committee
RMC
File

ARTICLE – Recreational Marijuana Establishments

To see if the Town will vote to amend the Zoning Bylaws, as most recently amended, by amending the various sections identified herein as follows, or to take any other action related thereto.

By amending Section V, Use Regulations, Table 1, Use Regulations, Retail & Service uses, by adding a new use #42, "Recreational Marijuana Establishments" so that such use is allowed by special permit in the I-P-2 zoning district, as follows:

	R-T	R-S	R-V	R-V-C	C-V	C-V-2	V-B	I-P	I-P-2
42. Recreational Marijuana Establishments	N	N	N	N	N	N	N	N	SPB

By amending Section XIII, Special Permit Conditions, by adding a new Subsection V. Recreational Marijuana Establishments, as follows, and to amend the Table of Contents to add Section XIII, Subsection V. Recreational Marijuana Establishments:

V. Recreational Marijuana Establishments

1. Purpose: To provide for the placement of Marijuana Establishments, in accordance with G.L. c. 94G, and 935 CMR 500.000, in locations suitable for lawful Marijuana Establishments and to minimize adverse impacts of Marijuana Establishments on adjacent properties, residential neighborhoods, historic districts, schools, playgrounds, and other locations where minors congregate, by regulating the siting, design, placement, security, and removal of Marijuana Establishments.

2. General Regulations: Marijuana Establishments, as defined in G.L. c., 94G, § 1, and 935 CMR 500.000, may be permitted in the I-P-2 district pursuant to a Special Permit issued by the Planning Board, subject to the provisions of this Bylaw.

a. Location

(1) Marijuana Retailers, as that term is defined in G.L. c. 94G, § 1 and 935 CMR 500.000, may not be located within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12, and 1,500 feet of the following other uses within the Town of Millis:

- (a) child care facility;
- (b) library;
- (c) playground;
- (d) public park;
- (e) youth center;

- (f) public swimming pool;
- (g) video arcade facility;
- (h) similar facility in which minors commonly congregate in an organized, ongoing basis;
- (i) place of worship; or
- (j) residential zoning district as identified in Section III. A. of the Millis Zoning Bylaws.

(2) Marijuana Establishments, other than Marijuana Retailers, may not be located within 500 feet of the following uses within the Town of Millis:

- (a) pre-existing public or private school providing education in kindergarten or any of grades 1 through 12;
- (b) child care facility;
- (c) library;
- (d) playground;
- (e) public park;
- (f) youth center;
- (g) public swimming pool;
- (h) similar facility in which minors commonly congregate in an organized, ongoing basis; or
- (i) place of worship.

(3) The distance under this section is measured in a straight line from the nearest point of the property line of the protected uses identified in this section to the nearest point of the property line of the proposed Marijuana Establishment.

(4) Marijuana Establishments shall be located in stand-alone facilities and shall not be allowed within a building or structure containing other retail, commercial, residential, industrial, or other uses, except for co-location with another licensed Marijuana Establishment or Medical Marijuana Treatment Center.

b. Location waiver: The distance requirements may be reduced by twenty-five percent or less, but only if:

(1) the applicant demonstrates that the Marijuana Establishment would otherwise be effectively prohibited within the municipality; and

(2) the applicant demonstrates that the Marijuana Establishment will employ adequate security measures to prevent diversion of marijuana to minors.

c. Procedure

(1) Application: In addition to the materials required under Section XII.Q., the applicant shall include:

- (a) a copy of its license issued by the Massachusetts Cannabis Control Commission ("CCC");
- (b) a detailed floor plan of the premises of the proposed Marijuana Establishment that identifies the square footage available and describes the functional areas of the Marijuana Establishment;
- (c) detailed site plans that include the following information:
 - (i) compliance with the requirements for parking and loading spaces, for lot size, frontage, yards and heights and coverage of buildings, and all other provisions of this Bylaw;
 - (ii) convenience and safety of vehicular and pedestrian movement on the site and for the location of driveway openings in relation to street traffic;
 - (iii) convenience and safety of vehicular and pedestrian traffic off the site, if vehicular and pedestrian traffic off-site can reasonably be expected to be substantially affected by on-site changes;
 - (iv) adequacy as to the arrangement and the number of parking and loading spaces in relation to the proposed use of the premises, including designated parking for home delivery vehicle(s), as applicable.
 - (v) design and appearance of proposed buildings, structures, freestanding signs, screening and landscaping; and
 - (vi) adequacy of water supply, surface and subsurface drainage and light.
- (d) a description of security measures, including employee security policies, approved by the CCC;
- (e) a copy of the emergency procedures approved by the CCC;
- (f) a copy of the policies and procedures for the transfer, acquisition, or sale of marijuana products, as those are defined by G.L. c. 94G, § 1;
- (g) a copy of proposed waste disposal procedures; and
- (h) a description of any waivers from the CCC regulations issued for the Marijuana Establishment.

(2) The Planning Board shall refer copies of the application to the Building Department, Fire Department, Police Department, Board of Health, Conservation Commission, Department of Public Works and the Board of Selectmen, acting as Board of Water Commissioners. These boards/departments shall review the application and shall submit their written recommendations to the Planning Board. Failure to make written recommendations within 35 days of referral of the application shall be deemed lack of opposition.

(3) After notice and public hearing and consideration of application materials, consultant reviews, public comments, and the recommendations of other town boards and departments, the Planning Board may act upon the application.

3. Special Permit Conditions on Marijuana Establishments: The Planning Board shall impose conditions reasonably appropriate to improve site design, traffic flow, public safety, protect water quality, air quality, and significant environmental resources, preserve the character of the surrounding area and otherwise serve the purpose of this Bylaw. In addition to any

specific conditions applicable to the applicant's Marijuana Establishment, the Planning Board shall include the following conditions in any special permit granted under this Bylaw:

- a. The permit holder, or the Marijuana Establishment Agent, as defined by 935 CMR 500.002, shall file a copy of any Incident Report required under 935 CMR 500.000 with the Zoning Enforcement Officer and the Planning Board within 24 hours of creation by the Marijuana Establishment. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations;
- b. The permit holder, or the Marijuana Establishment Agent, shall file a copy of any deficiency statement, plan of correction, limitation of sales, summary cease and desist order, cease and desist order, quarantine order, summary suspension order, notice of violation, notice of hearing, and notice of final action issued by the CCC, or any other adjudicatory agency, as applicable, regarding the Marijuana Establishment, with the Zoning Enforcement Officer and Planning Board within 48 hours of receipt by the Marijuana Establishment or Marijuana Establishment Agent;
- c. The permit holder, or the Marijuana Establishment Agent, shall provide to the Zoning Enforcement Officer and Chief of the Police Department, the name, telephone number, and electronic mail address of the Marijuana Establishment Agent in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder and the Marijuana Establishment Agent;
- d. The special permit shall be limited to the original applicant and is not transferrable;
- e. The special permit shall lapse if the permit holder ceases operation of the Marijuana Establishment for a period of thirty (30) days, or upon the expiration, termination or nonrenewal of the applicant's license issued by the CCC;
- f. The permit holder, or the Marijuana Establishment Agent, shall annually provide the Zoning Enforcement Officer and the Planning Board with a copy of the renewed license issued by the CCC, as well as any modification of the existing license, as approved by the CCC;
- g. The permit holder, or the Marijuana Establishment Agent, shall notify the Zoning Enforcement Officer and Planning Board in writing within 48 hours of the cessation of operation of the Marijuana Establishment or the expiration, termination or nonrenewal of the license issued by the CCC;
- h. No marijuana shall be smoked, eaten or otherwise consumed or ingested on the premises.

4. Prohibition Against Nuisance: No Marijuana Establishment shall be permitted to create a nuisance to abutters or to the surrounding areas, or create any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise, or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area. Any

Establishment that the Zoning Enforcement Officer or Planning Board finds has become a nuisance for any reason may be found in violation of the special permit.

5. Severability: The provisions of this Bylaw are severable. If any provision, paragraph, sentence, or clause of this Bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Bylaw.

Or take any other action relative thereto.