

TOWN OF MATTAPOISETT

TOWN MEETING WARRANT

SPECIAL TOWN MEETING

NOVEMBER 4, 2019

6:30 P.M.

**OLD ROCHESTER REGIONAL
HIGH SCHOOL AUDITORIUM**

**SPECIAL TOWN MEETING
TOWN OF MATTAPOISETT
NOVEMBER 4, 2019**

Commonwealth of Massachusetts

Plymouth, ss

To either of the Constables of Mattapoisett, in said County of Plymouth:

Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of the Town of Mattapoisett qualified to vote in Elections and Town Affairs to meet at the Old Rochester Regional High School, located at 135 Marion Road, in said Mattapoisett on Monday, the fourth day of November in the Year 2019 at six thirty in the evening, then and there to act on the following Articles:

ARTICLE 1: ADULT USE MARIJUANA ESTABLISHMENTS

To see if the Town will vote to amend the Zoning Bylaw, Article 5, USE REGULATIONS, Section 5.11, MEDICAL MARIJUANA TREATMENT CENTERS as set forth below, with text to be inserted as shown in **bold** and text to be deleted shown in ~~strikethrough~~, to allow adult use (recreational) Marijuana Cultivators and Marijuana Product Manufacturers to operate within the Limited Industry Zoning District, and further to amend the Table of Contents to change the title of Section 5.11 to "MEDICAL MARIJUANA TREATMENT CENTERS AND ADULT USE MARIJUANA ESTABLISHMENTS"

to read as follows:

Section 5.11 – Medical Marijuana Treatment Centers and Adult Use Marijuana Establishments

Section 5.11.1: Purpose

To provide for the placement of Medical Marijuana Treatment Centers (each an "MMTC"), **and adult use Marijuana Cultivators and Product Manufacturers (hereinafter "Marijuana Establishments")** in accordance with ~~An Act for the Humanitarian Medical Use of Marijuana, Chapter 369 of the Acts of 2012, as codified in Massachusetts General Laws ("M.G.L.") Chapter 94I ("Chapter 94I) and M.G.L. Chapter 94G ("Chapter 94G") and An Act To Ensure Safe Access to Marijuana, Chapter 55 of the Acts of 2017 and all regulations which have or may be issued by the Department of Public Health and/or the Cannabis Control Commission ("CCC"), including, but not limited to 105 CMR 725.000 and 935 CMR 501.000, and 935 CMR 500.000,~~ all as may be amended hereafter, which will minimize adverse impacts of an MMTC **and Marijuana Establishments** on adjacent properties, residential neighborhoods, schools,

playgrounds, public beaches and other locations where minors congregate and which will regulate the siting, design, security, monitoring, and removal of an MMTC such uses.

Section 5.11.2: Establishment and Applicability

An MMTC or Marijuana Establishment may be established on land solely within the Limited Industry Zoning District. However, notwithstanding any other permit granted herein, no facility or product sold or produced or stored on the MMTC site may be used for or engaged in adult use marijuana sale or distribution. An MMTC and a Marijuana Establishment may be co-located within the same facility; however, adult use retail sales of marijuana and marijuana products directly to consumers are expressly prohibited at such facilities.

This Section 5.11 shall be applicable to those uses specified in Section 5.11.5 below. Unless expressly provided otherwise in this Section 5.11, all the requirements of the Bylaws which are applicable to a Limited Industry District shall be applicable to such uses.

The location of any bike or recreational or walking path within any portion of the Limited Industry District now or hereafter shall not preclude an MMTC or a Marijuana Establishment within 500 feet of such path.

Section 5.11.3: Definitions

Where not expressly defined in these Zoning Bylaws, terms used in this Section 5.11 shall be interpreted as defined in Chapter 94I, ~~105 CMR 725.000~~, 935 CMR 501.00, Chapter 94G, 935 CMR 500.000 and any regulations issued by the CCC implementing Chapter 94I and Chapter 94G, and otherwise by their plain language.

“Marijuana Cultivator” shall mean an entity licensed to cultivate, process and package adult use marijuana, and to transfer marijuana to other licensed Marijuana Establishments, but not to consumers.

“Marijuana Establishment” shall mean a Marijuana Cultivator and a Marijuana Product Manufacturer, including the state-licensed categories of Marijuana Microbusiness and Craft Marijuana Cooperative, as defined in 935 CMR 500.002. For purposes of this Bylaw, all other types of marijuana establishments licensed by the Cannabis Control Commission, including, but not limited to, Marijuana Retailer, Independent Testing Laboratory, Marijuana Research Facility and Marijuana Transporter are expressly prohibited.

“Marijuana Product Manufacturer” shall mean an entity licensed to obtain, manufacture, process and package adult use marijuana and marijuana products and to transfer these products to other licensed Marijuana Establishments, but not to consumers.

“Medical Marijuana Treatment Center” shall mean an entity formerly and validly registered under 935 CMR 501.100 (~~or 105 CMR 725.000 if applicable~~), which acquires, cultivates, possesses, processes (including development of related products such as edible MIPs, 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. An MMTC refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

Section 5.11.4: Location and Dimensional Controls

1. An MMTC **or Marijuana Establishment** may not be located within 500 feet (measured in a straight line from the nearest point of the property line of any of the following uses to the nearest point of the property line of the MMTC **or Marijuana Establishment**) of the following pre-existing uses:
 - (a) Public or private school providing education in pre-school, kindergarten and/or grades 1 through 12;
 - (b) State-licensed Child Care Center, as defined in M.G.L. Chapter 15D; or
 - (c) Library, playground, public park, public beach, religious facility, youth center; or similar facility in which minors commonly congregate for a particular purpose in a structured or scheduled manner.
2. **MMTC or Marijuana Establishment** Cultivation and processing facilities located within the Limited Industry District shall be separated from adjacent property lines by a 50-foot buffer strip, unless the applicant can demonstrate, and the SPGA (defined in Section 5.11.5) finds, that adequate buffering can be provided in a narrower buffer strip.
3. An MMTC **or Marijuana Establishment** shall be located only in a permanent building and not within any mobile facility. All **MMTC** sales shall be conducted either within the building or by home delivery pursuant to applicable state regulations.
4. Unless expressly stated otherwise in this Section 5.11, an MMTC **and Marijuana Establishment** shall conform to the dimensional requirements applicable to non-residential uses in the Limited Industry District.

Section 5.11.5: Special Permit and Site Plan Requirements

1. Procedure: An MMTC **or Marijuana Establishment** may be permitted in the Limited Industry District pursuant to a Special Permit in accordance with M.G.L. Chapter 40A, Section 9 and Site Plan Approval under the same application and time standards as provided under said Chapter 40A, Section 9 by the Planning Board which shall be the Permit Granting Authority ("SPGA") under this Section 5.11 and shall conduct Site Plan Approval for an applicant for an MMTC **and/or Marijuana Establishment**.
2. A Special Permit for an MMTC **and/or Marijuana Establishment** shall be limited to one or more of the following uses:
 - (a) Cultivation of Marijuana for medical **or adult** use.
 - (b) Processing and packaging of Marijuana for medical **or adult** use, including Marijuana that is in the form of smoking materials, food products, oils, aerosols, ointments, and other products.
 - (c) Testing of Marijuana for medical **or adult** use, **provided it is conducted as incidental to the cultivation or product manufacturing operations and not as an Independent Testing Laboratory.**
 - (d) Sale or distribution of medical use Marijuana. **The retail sale of adult use marijuana directly to consumers is expressly prohibited.**
 - (e) Wholesale sale of medical **or adult use** Marijuana to other MMTCs **or Marijuana Establishments** located in the Town or another municipality in Massachusetts.
 - (f) Medical Marijuana transportation or distribution **in accordance with 935 CMR 501. Adult use Marijuana Transporters, as defined in 935 CMR 500.002, and**

delivery of adult use marijuana directly to consumers from Marijuana Establishments are expressly prohibited.

3. Application: The application for an MMTC **and/or Marijuana Establishment** shall include the following:
- (a) the name and address of each owner of the MMTC **and/or Marijuana Establishment**.
If the Applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similar parties, representatives and entities and their addresses. If any of the above are entities rather than persons, the Applicant must provide the same disclosure in writing under oath for all of such entities.
 - (b) Copies of all required licenses and permits issued to the Applicant by the Commonwealth of Massachusetts and any of its agencies for the MMTC **and/or Marijuana Establishment**, together with a copy of all materials (including surety bonds or other guarantees) submitted to the ~~Department of Public Health (if applicable)~~ and/or CCC in connection with the licensing and permitting of an MMTC **or Marijuana Establishment**;
 - (c) A description of the proposed use;
 - (d) Evidence of the Applicant's right to use the site for an MMTC **and/or Marijuana Establishment**, such as a recorded deed, fully executed lease or fully executed purchase and sale agreement;
 - (e) A certified list of all parties in interest entitled to notice of the hearing for the Special Permit and Site Plan Approval application, taken from the most recent tax list of the Town and certified by the Town Assessor;
 - (f) Evidence that the Applicant has entered into a fully executed ~~Community-Host~~ **Community** Agreement with the Town;
 - (g) A detailed floor plan of the site of the proposed MMTC **and/or Marijuana Establishment** that identifies the square footage available and describes the functional areas of the facility;
 - (h) A detailed site plan that includes:
 - 1. Compliance with the requirements for parking and loading spaces, lot size, frontage, yards and heights and coverage of buildings, signage and all other provisions of this Section 5.11 and other applicable provisions of Section 3.9 of the Bylaws;
 - 2. Design for convenience and safety of vehicular and pedestrian movement on the site and access to and from the site which must be located on a public way or approved private way;
 - 3. Design and appearance of proposed buildings, structures, screening and landscaping;
 - 4. Adequacy of water supply, drainage, waste water conveyance and treatment plant capacity; and
 - 5. Adequacy of any on-site septic system, if applicable, as approved by the Board of Health.

- (i) A Security Plan that shall include the details of all security measures for the site and 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 site from theft or other criminal activity. The Security Plan shall be submitted to the Fire Department and Police Department for review, comments, and recommendations as determined by such departments. This report shall remain confidential as required by applicable law.
 - (j) An Operation and Management Plan that shall include: Organizational Structure, Location, Property Description, Hours of Operation and Staffing, Cultivation Practices, Processing Practices, Distribution Practices, Employee Safety, Fire Prevention, Sanitation Requirements, Electrical System Overview, Ventilation System and Air Quality and Waste Refuse Chemical Remediation Plan. The plan shall be submitted to the Building Department, Board of Health, Water and Sewer Department, Police Department, Fire Department, Conservation Commission and Board of Selectmen for review, comments, and recommendations as determined by such departments and boards.
 - (k) An Emergency Response Plan. All owners and senior managers of an MMTC **and/or Marijuana Establishment** shall meet with the Police Department and Fire Department to discuss and identify emergency/contingency plans for the site, and a written Emergency Response Plan shall be filed with and approved by the Police Department and Fire Department as a condition of the Special Permit and Site Plan Approval.
4. The SPGA, in its discretion, may retain the services of consultants, as to any matter contained in the application, all expenses of which shall be the responsibility of the Applicant.
 5. Mandatory Findings: The SPGA shall not issue a Special Permit for an MMTC **and/or Marijuana Establishment** unless it finds that after notice and public hearing in accordance with Section 7.2.2 and Section 3.9 of the Bylaws and consideration of application materials, consultant reviews, public comments, and the recommendations of other town boards and departments:
 - (a) The MMTC **and/or Marijuana Establishment** is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in M.G.L. Chapter 40A, Section 11;
 - (b) The MMTC **and/or Marijuana Establishment** is fully permitted by all applicable agencies of the Commonwealth of Massachusetts and is in compliance with all applicable state laws and regulations and;
 - (c) The Applicant has satisfied all conditions and requirements of this Section 5.11.
 6. The SPGA shall refer copies of the application to the Board of Selectmen, Building Department, Fire Department, Police Department, Board of Health, Conservation Commission, Water and Sewer Department and such other departments, boards and commissions as determined by the SPGA. These boards/departments shall review the application and shall submit their written comments and recommendations. Failure to

make comments and recommendations within 45 days of referral of the application shall be deemed lack of opposition.

7. Special Permit Conditions on an MMTC **and/or Marijuana Establishment**: Conditions which are reasonably appropriate to improve site design, traffic flow, and public safety, to protect water quality, air quality, and significant environmental resources, to preserve the character of the surrounding area and to otherwise serve the purposes of this Section 5.11 may include, but not be limited to:
- (a) Hours of Operation of an MMTC for sale or distribution to consumers and/or wholesalers shall be limited to 7:00 a.m. – 7:00 p.m., unless otherwise permitted by the SPGA.
 - (b) The use shall be limited to the permitted use and shall not generate outside odors from the cultivation or processing of marijuana and marijuana products. No use shall be allowed in the Limited Industry District which creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive sound or vibration, flashes, glare, objectionable effluent or electrical interference.
 - (c) The permit holder shall provide to the Zoning Enforcement Officer/Building Inspector, Board of Health, Chief of the Fire Department, Chief of the Police Department, Town Administrator, and the SPGA the name, telephone number and electronic mail address of all managers and key holders who can serve as a contact person if such person needs to be contacted at any time, including after regular business hours to address any problems or urgent issues. Such contact information shall be kept updated by the permit holder.
 - (d) With consent of the MMTC **or Marijuana Establishment**, law enforcement personnel or local public health, inspectional services, or other permit-granting agents acting within their lawful jurisdiction may enter and inspect the MMTC **or Marijuana Establishment** for compliance with local and state regulations with prior notice during normal business hours.
 - (e) An MMTC **or Marijuana Establishment** may not operate, and the Special Permit and Site Plan Approval will not be valid, until the applicant has obtained all licenses and permits issued by the Commonwealth of Massachusetts and any of its agencies for the facility and the Applicant has entered into a Host Community Agreement with the Town with respect to the facility.
 - (f) The Special Permit and Site Plan Approval Shall lapse and will not be valid if a substantial use thereof has not commenced within two (2) years of issuance, except for good cause, and not including any time as is required to pursue or await a determination of an appeal from the grant thereof.
 - (g) A Special Permit and Site Plan Approval granted under this Section shall have a term limited to the earlier of the (i) duration of the permit holder's ownership of the MMTC **or Marijuana Establishment**, (ii) change in ownership of the permit holder (other than a change in, in the aggregate, of not more than 40 ~~(ten)~~ **25 (twenty five)**% ownership interest), including any transfer of ownership voluntarily, involuntarily or by operation of law, or (iii) the expiration or termination of the permit holder's license by the CCC for use of the site as an MMTC **or Marijuana Establishment**. A Special Permit and Site Plan Approval under this Section may be transferred only with the approval of the SPGA in the form of an amendment to the Special Permit and Site Plan Approval.

- (h) The permit holder shall notify the Zoning Enforcement Officer/Building Inspector, the Board of Selectmen and the SPGA in writing at least 48 hours prior to the cessation of operation of the MMTC **or Marijuana Establishment** and immediately upon expiration or termination of the permit holder's license with the CCC.
- (i) An Annual Report shall be filed with the SPGA, the Board of Selectmen and Board of Health no later than January 31st of each year, providing a copy of all applicable state licenses and renewals thereof required under Chapter 94I **or Chapter 94G**, 105-CMR 725.000, and 935 CMR 501.00 **or 935 CMR 500.000**, as applicable, together with the then current Compliance Inspection report from the CCC and evidence of compliance with all ongoing conditions of the Special Permit and Site Plan Approval.
- (j) Abandonment or Discontinuance of Use. An MMTC **or Marijuana Establishment** shall be required to remove all material, plants, equipment, signs and other paraphernalia at the time of surrendering its state-issued licenses or permits in accordance with any requirements of the CCC and a written discontinuance plan submitted to the SPGA, the Board of Selectmen, and the Board of Health. An MMTC **or Marijuana Establishment** shall be required to provide surety in a form acceptable to and approved by the Town Treasurer, and in an amount determined by the SPGA, to cover (A) the costs for cleaning the facility and the removal of all materials, plants, equipment, signs and other paraphernalia in the event the MMTC **or Marijuana Establishment** fails to do so, plus (B) a contingency equal to 25% of such costs. The applicant shall submit a fully inclusive estimate of the costs associated with cleaning and removal at prevailing wages, which estimate shall be prepared by a qualified licensed contractor who is authorized to undertake such work. The SPGA may, in its discretion, require cost estimates from not more than two qualified licensed contractors as it shall determine in its discretion and shall have the right to determine the amount of the surety based upon the estimate which the SPGA determines to select. Surety is required to be posted at time of grant of permit by the Town.

Section 5.11.6: Prohibition Against On-Site Consumption

No Marijuana or Marijuana Products shall be smoked, eaten, or otherwise consumed or ingested in public or on the site of an MMTC **and/or a Marijuana Establishment** absent a positive vote by ballot question presented to the voters of the town at a biennial state election pursuant to M.G.L. Chapter 94G, s.3(b) **and receipt of all necessary local and CCC approvals for such use**.

Section 5.11.7 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 by a court of competent jurisdiction, such invalidity shall not affect the other provisions or application of this Bylaw.

Section 5.11.8 Rules and Regulations

The SPGA shall have the authority to adopt rules and regulations for purposes of implementing this bylaw.

or take any other action relative thereto.

SPONSOR: Various Petitioners

ARTICLE 2: ADULT USE (RECREATIONAL) MARIJUANA ESTABLISHMENT PROHIBITION

To see if the Town will vote to amend the Zoning Bylaw, by deleting the following Articles:

1. Article 11 – TEMPORARY MORATORIUM ON RECREATIONAL MARIJUANA ESTABLISHMENTS;
2. Article 12 – TEMPORARY MORATORIUM ON MEDICAL MARIJUANA TREATMENT CENTERS; and
3. Article 13 –RECREATIONAL MARIJUANA ESTABLISHMENTS

and adopt a new Article 11, ADULT USE MARIJUANA ESTABLISHMENT PROHIBITION, which would provide as follows:

Article 11 — Adult Use Marijuana Establishment Prohibition

Consistent with General Laws Chapter 94G, subsection 3(a)(2), the following adult use (recreational) Marijuana Establishments, as defined in 935 CMR 500.002, shall be prohibited within the Town of Mattapoisett: Marijuana Retailers, Marijuana Transporters, Marijuana Research Facilities, Independent Testing Laboratories, and any other type of licensed Marijuana Establishment not otherwise permitted under Section 5.11 of the Zoning Bylaw.

or take any other action relative thereto.

SPONSORS: Various Petitioners

ARTICLE 3: ADULT USE MARIJUANA ESTABLISHMENTS

To see if the Town will vote to amend the General Bylaw, Recreational Marijuana Establishments, by deleting Article 26 in its entirety and replacing it with the following:

Article 26-Adult Use Marijuana Establishments

Consistent with General Laws Chapter 94G, subsection 3 (a)(2), the following adult use (recreational) Marijuana Establishments, as defined in 935 CMR 500.002, shall be prohibited within the Town of Mattapoisett: Marijuana Retailers, Marijuana Transporters, Marijuana Research Facilities, Independent Testing Laboratories, and any other type of licensed Marijuana Establishment not otherwise permitted under Section 5.11 of the Zoning Bylaws, or take any action relative thereto.

SPONSORS: Various Petitioners

You are hereby notified to serve this Warrant by posting up attested copies thereof at the several places designated in the Town By-Laws, namely the Mattapoisett Post Office and the Mattapoisett Town Hall, and the Mattapoisett Library fourteen (14) days at least before the day appointed for said meeting.

Here of fail not and make due return of this Warrant with your doing thereon to the Town Clerk at the time and place of the meeting aforesaid.

Given under our hands this 19th day of October in the year Two Thousand and Nineteen.

BOARD OF SELECTMEN

Paul Silva, Chairman



Jordan Collyer, Vice Chairman



I, Kenneth Pacheco, being a duly elected Constable of the Town of Mattapoisett, in the County of Plymouth, hereby make affidavit that legal notice of the meeting called under this Warrant has been served on the voters of said Town of Mattapoisett by posting attested copies of this Warrant in two public places within said Town of Mattapoisett namely the Town Hall, the Mattapoisett Post Office on October 19, 2019, said date being fourteen (14) days at least before the date of the Meeting, in accordance with Section 10 of Chapter 39 of the General Laws of Massachusetts.

A handwritten signature in cursive script, appearing to read "Kenneth Pacheco".

CONSTABLE

CERTIFIED TO BE A TRUE COPY,

ATTEST:

A handwritten signature in cursive script, appearing to read "Kenneth Pacheco".

CONSTABLE