

Planning Board
856 Main Road
Westport, MA 02790
www.westport-ma.gov



Tel. (508) 636-1037
Fax (508) 636-1031
Planning@westport-ma.gov

October 26, 2020

Westport Board of Selectmen
816 Main Road
Westport, MA 02790

**RE: Town of Westport Zoning Bylaw Proposed Zoning Amendments
Medical & Non Medical Marijuana**

Dear Board Members:

At their meeting on October 20, 2020, the Planning Board voted to initiate amendments to the Town of Westport Zoning By-laws pursuant to MGL 40A § 5 for consideration at the 2021 Annual Town Meeting (ATM). The following proposed amendments are attached:

Amendment 1.

Item 1. To amend Section 9.9 Marijuana Establishments. The proposed amendments would require Medical and Non-Medical Marijuana Establishments to locate only in the Science and Technology District (STOD) or the Adult Entertainment Overlay District (AEOD). Additional dimensional requirements have been added including a maximum building height of 40' and a minimum setback from residential use of 500'.

Item 2. To amend Section 3 Definitions. The proposed amendment would define Marijuana Microbusiness and Marijuana Transporter

Item 3. To amend Section 5.1 Table of Use Regulations. The proposed amendment would update the Table of Uses for Marijuana Establishments.

Amendment 2.

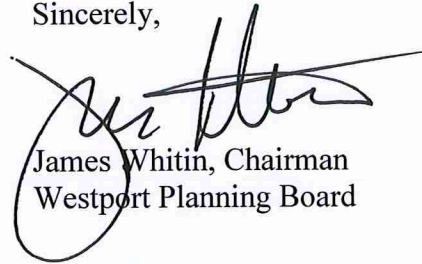
Item 1. To amend Section 9.9 Marijuana Establishments. The proposed amendment would prohibit Non-Medical Marijuana Establishments from locating in Westport.

Item 2. To amend Section 5.1 Table of Use Regulations. The proposed amendment would update The Table of Uses for Marijuana Establishments.

The Planning Board requests that the Board of Selectmen move to return the proposed zoning amendments back to the Board for review within fourteen (14) days. Accordingly, the Planning

Board will hold a public hearing for consideration and input. The Planning Board will also be requesting review of the By-laws by Town Counsel. Attached are clean copies and mark-ups of both amendments.

Sincerely,

A handwritten signature in black ink, appearing to read 'James Whitin', is written over the printed name. The signature is stylized with a large loop at the beginning and a long horizontal stroke extending to the right.

James Whitin, Chairman
Westport Planning Board

Cc: Planning Board

Amendment 1 Regulate Medical & Non-Medical Clean

To see if the Town will vote to amend the **TOWN OF WESTPORT ZONING BY-LAWS** by making the following changes:

Item 1. By amending **SECTION 9.9 MARIJUANA** to read as follows:

9.9 MARIJUANA ESTABLISHMENTS

9.9.1 PURPOSE

The purpose and intent of this Section is to regulate the siting of Marijuana Establishments by minimizing the adverse impacts on adjacent properties, residential neighborhoods, schools and other places where children congregate, and other land uses potentially incompatible with said Establishments.

9.9.2 AUTHORITY

Marijuana Establishments, may be allowed by Special Permit from the Westport Planning Board provided the Planning Board finds that:

1. The 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.
2. The Establishment is designed to maximize security measures including but not limited to lighting, fencing, visibility and gates. Alarms and video shall connect to the Police Station for security.
3. The Establishment demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations.
4. The Establishment will be designed and operated to minimize noise and odors.
5. The applicant has demonstrated that there is sufficient water supply and that all waste will be properly disposed, and
6. The applicant has satisfied all the conditions and requirements of this Section.

9.9.3

REQUIREMENTS

1. Marijuana Establishments shall only be located in the Science and Technology Overlay District, or within the boundaries of the Adult Entertainment Overlay District.
2. All Marijuana Establishments shall be contained within a permanent building or structure.
3. No other use shall be permitted on a lot containing a Marijuana Establishment.
4. Buildings and public parking areas shall be clearly visible from the street.
5. All Marijuana Establishments shall meet the following dimensional requirements in addition to those of the district in which it is located.

Minimum Front Yard 50'

Minimum Side Yard 25'

Minimum Rear Yard 25'

Maximum Gross Floor Area 10,000 s.f.

Maximum Building Height 40'

Setback from Residential Uses, Minimum 500' (1)

(1) To qualify as a residential use, the structure shall be occupied and used as a single family or two family dwelling at the time of the Special Permit filing. The distance shall be measured between structures.

6. The hours of operation of a Retail Marijuana Establishment and/or Medical Marijuana Treatment Center shall be set by the Special Permit Granting Authority, but in no event shall said facilities be open to the public between the hours of 9:00 PM and 8:00 AM for sales to consumers. All visits to Marijuana Establishments shall be by appointment only.
7. Site Plan Approval under Section 2.8 is required for all Marijuana Establishments.

8. Cultivation shall be located entirely within one or more fully enclosed buildings with conventional or post framed opaque, rigid walls and roof covering.
9. The total number of Marijuana Retailers shall not exceed 20 percent of the number of licenses issued within the Town for the retail sale of alcoholic beverages not to be drunk on the premises where sold under Section 15 of M.G.L. Chapter 138.

9.9.4 WAIVER OF COMPLIANCE

The Planning Board acting as the Special Permit Granting Authority, under this Section may waive strict compliance with the dimensional requirements, provided the Board finds that the waivers are in the public interest and not inconsistent with the purpose and intent of this Section.

9.9.5 TERM LIMIT

A special permit granted under this Section shall have a term limited to the duration of the applicant's ownership of the premises as a Marijuana Establishments. A special permit may be transferred only with the approval of the Planning Board in the form of an amendment to the special permit.

- Item 2.** By amending **SECTION 3 DEFINITIONS** by adding to the definition of **Marijuana Establishments** the following uses in proper alphabetical order:

SECTION 3 DEFINITIONS

Marijuana Establishment - A marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business as defined in MGL Chapter 94G, Section 1 or the Cannabis Control Commission regulations at 935 CMR 500.00. Marijuana Establishment uses include, but are not limited to the following uses and attributes

Marijuana Microbusiness – A collocated Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or Product Manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2, 000 pounds of marijuana per year from other Marijuana Establishments.

Marijuana Transporter – An entity, not otherwise licensed by the Commission, that is licensed to purchase, obtain, and process cannabis or marijuana product solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments, but not to consumers. Marijuana Transporters may be an Existing Licensee Transporter or Third party Transporter.

Item 3. By amending **SECTION 5.1 TABLE OF USE REGULATIONS, Uses relating to Marijuana Establishments and Table of use Regulations Note (1)** to read as follows:

TABLE OF USE REGULATIONS

X = Prohibited unless allowed in Underlying District

Y = Allowed By Right

N = Prohibited

SPBA = Special Permit Board of Appeals

SPPB = Special Permit Planning Board

SPA-PB = Site Plan Approval Planning Board

and/or take any other action relative thereto.

	RESIDENTIAL /AGRICULTURAL	BUSINESS	UNRESTRICTED
MARIJUANA ESTABLISHMENTS			
INDEPENDENT TESTING LABORATORY (1)	N	N	N
MEDICAL MARIJUANA TREATMENT CENTERS (1)	N	N	N
MARIJUANA CULTIVATOR (1)	N	N	N
MARIJUANA MICROBUSINESS	N	N	N
MARIJUANA PRODUCT MANUFACTURER (1)	N	N	N
MARIJUANA RETAILER (1)	N	N	N
MARIJUANA TRANSPORTER (1)	N	N	N
CRAFT CULTIVATOR (1)	N	N	N

(1) Marijuana Establishments are permitted in the Science and Technology Overlay District and the Adult Entertainment Overlay District subject to the provisions of Section 9.9

Amendment 2 Prohibition Clean

To see if the Town will vote to amend the **TOWN OF WESTPORT ZONING BY-LAWS** by making the following changes:

Item 1. By amending **SECTION 9.9 MARIJUANA ESTABLISHMENTS** to prohibit Non-Medical Marijuana Establishments to read as follows:

9.9 MARIJUANA ESTABLISHMENTS

MARIJUANA ESTABLISHMENTS

9.9.1 PURPOSE

The purpose and intent of this Section is to regulate the siting of Medical Marijuana Establishments by minimizing the adverse impacts on adjacent properties, residential neighborhoods, schools and other places where children congregate, and other land uses potentially incompatible with said Establishments.

Consistent with M.G.L. Chapter 94G, Section 3(a)(2), all types of non- medical marijuana establishments as defined in M.G.L. Chapter 94G, Section 1, including marijuana cultivators, independent testing laboratories, marijuana product manufacturers, marijuana retailers or any other type of licensed marijuana-related businesses, shall be prohibited within the Town of Westport.

9.9.2 AUTHORITY

Medical Marijuana Establishments, may be allowed by Special Permit from the Westport Planning Board provided the Planning Board finds that:

1. The 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.
2. The Establishment is designed to maximize security measures including but not limited to lighting, fencing, visibility and gates. Alarms and video shall connect to the Police Station for security.
3. The Establishment demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of

Massachusetts and will be in compliance with all applicable state laws and regulations.

4. The Establishment will be designed and operated to minimize noise and odors.
5. The applicant has demonstrated that there is sufficient water supply and that all waste will be properly disposed, and
6. The applicant has satisfied all the conditions and requirements of this Section.

9.9.3

REQUIREMENTS

1. Medical Marijuana Treatment Centers shall only be located in the Science and Technology Overlay District and the Business District with the exception of that portion of the Business District bounded to the south following an east-west line 50' parallel to and south of Kaila's Way; to the east by Route 88; to the north by the northern boundary of the Business District; and to the west by a line 1,000' from the westerly line of Main Road, currently the boundary of the Business District.
2. All Marijuana Establishments shall be contained within a permanent building or structure.
3. No other use shall be permitted on a lot containing a Marijuana Establishment.
4. Buildings and public parking areas shall be clearly visible from the street.
5. Medical Marijuana Treatment Centers shall meet the following dimensional requirements in addition to those of the district in which it is located.

Minimum Front Yard 50'

Minimum Side Yard 25'

Minimum Rear Yard 25'

Maximum Gross Floor Area 10,000 s.f.

Maximum Building Height 40'

Setback from Residential Uses, Minimum 500' (1)

(1) To qualify as a residential use, the structure shall be occupied and used as a single family or two family dwelling at the time of the Special Permit filing. The distance shall be measured between structures.

6. The hours of operation of a Medical Marijuana Treatment Center shall be set by the Special Permit Granting Authority, but in no event shall said facilities be open to the public between the hours of 9:00 PM and 8:00 AM for sales to consumers. All visits to Medical Marijuana Treatment Centers shall be by appointment only.
7. Site Plan Approval under Section 2.8 is required for all Marijuana Establishments.
8. Cultivation within the Business District shall be located entirely within one or more fully enclosed buildings with conventional or post framed opaque, rigid walls and roof covering. Cultivation within the Science and Technology Overlay District shall be located within one or more fully enclosed buildings with conventional or post framed walls, rigid walls or properly secured greenhouse structures. Hoop houses are specifically prohibited.

9.9.4 WAIVER OF COMPLIANCE

The Planning Board acting as the Special Permit Granting Authority, under this Section may waive strict compliance with the dimensional requirements, provided the Board finds that the waivers are in the public interest and not inconsistent with the purpose and intent of this Section.

9.9.5 TERM LIMIT

A special permit granted under this Section shall have a term limited to the duration of the applicant's ownership of the premises as a Medical Marijuana Treatment Centers. A special permit may be transferred only with the approval of the Planning Board in the form of an amendment to the special permit.

Item 2. By amending SECTION 5.1 TABLE OF USE REGULATIONS, Uses relating to Marijuana Establishments and the Table of Use Notes (1) to read as follows:

TABLE OF USE REGULATIONS

X = Prohibited unless allowed in Underlying District

Y = Allowed By Right

N = Prohibited

SPBA = Special Permit Board of Appeals

SPPB = Special Permit Planning Board

SPA-PB = Site Plan Approval Planning Board

and/or take any other action relative thereto.

Uses	RESIDENTIAL /AGRICULTURAL	BUSINESS	UNRESTRICTED
MARIJUANA ESTABLISHMENTS			
MEDICAL MARIJUANA TREATMENT CENTERS (1)	N	SPPB/SPA-PB (1)	N
NON MEDICAL MARIJUANA ESTABLISHMENTS	N	N	N

(1) Medical Marijuana Treatment Centers shall only be located in the Science and Technology Overlay District and the Business District with the exception of that portion of the Business District bounded to the south following an east-west line 50' parallel to and south of Kaila's Way; to the east by Route 88; to the north by the northern boundary of the Business District; and to the west by a line 1,000' from the westerly line of Main Road, currently the boundary of the Business District.