

Form 7-PBN



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Notice of Planning Board Hearing

Relative to Proposed Zoning By-Law Amendments Pursuant to M.G.L. c. 40A, § 5

The Planning Board of the Town of Westport will hold a public hearing to discuss proposed amendments to the town's zoning by-laws. The public hearing will be held as follows:

Place: Town Hall Annex, 856 Main Road, Westport, MA 02790
Date: Wednesday, February 5, 2020
Time: 6:00 pm

The subject matter of the proposed amendments is/are as indicated below (*attach additional sheets if necessary*). The complete text and maps relative to the proposed amendments are available for inspection during regular business hours at the following place(s):*

Place: Town Clerk's Office, Town Hall, 816 Main Road, Westport, MA 02790
Place: Town Hall Annex, 856 Main Road, Westport, MA 02790

Article Number	Subject Matter of Proposed Amendments Sufficient for Identification
##	<u>SEE BELOW</u>

The town of Westport Planning Board will hold a public hearing pursuant to G.L c. 40A § 5 and Article 2.1 of the Westport Zoning Bylaws, on Wednesday, February 5, 2020, at 6:00 p.m. at the Town Hall Annex, 856 Main Road Westport, Massachusetts. The purpose of the public hearing is to provide interested parties with an opportunity to comment on proposed changes to the Westport Zoning By-Laws.

Item 1 (ARTICLE 8)

To see if the Town will vote to amend the TOWN OF WESTPORT ZONING BY-LAWS, ARTICLE 1, PURPOSE AND DEFINITIONS, SECTION 1.1 DEFINITIONS by making the following changes:

Item 1. *By inserting the following definitions in alphabetical order:*

* **Note:** The above information is *strictly required* by M.G.L. c. 40A, § 5.

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Marijuana – 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 M.G.L. Chapter 94C; provided, that “marijuana” shall not include: (i) 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 seeds of the plant or the sterilized seed of the plant that is incapable of germination; (ii) hemp; or (iii) 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 - 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.

Independent Testing Laboratory – a laboratory that is licensed by the Cannabis Control Commission and is: (i) accredited to the most current International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the commission; (ii) independent financially from any medical marijuana treatment center or any licensee or marijuana establishment for which it conducts a test; and (iii) qualified to test marijuana in compliance with 935 CMR 500.160 and M.G.L. Chapter 94C, Section 34.

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 to 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 marijuana and marijuana products to other Marijuana Establishments, but not to consumers.

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 Accessories – equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating,

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growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body.

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.

Craft Marijuana Cooperative – means a marijuana Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited partnership, or cooperative corporation under the laws of the Commonwealth. A cooperatives license to Cultivate, Manufacture and Transfer marijuana to Marijuana Establishments, but not to consumers.

and/or take any other action relative thereto.

BY PETITION

Item 2 (ARTICLE 9)

To see if the Town will vote to amend the **TOWN OF WESTPORT ZONING BY-LAWS** by adding **ARTICLE 27, NON-MEDICAL MARIJUANA FACILITIES AND USES:**
ARTICLE 27

NON-MEDICAL MARIJUANA FACILITIES AND USES

27.1 PURPOSE

The purpose and intent of this Article is to regulate the siting of Non-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 Centers.

27.2 AUTHORITY

Non-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 shall connect to the Police Station for security.*

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

27.3

REQUIREMENTS

1. *Non-Retail Marijuana Establishments shall be located in the Science and Technology Overlay District, Business District and Unrestricted District.*
2. *Retail Marijuana Establishments shall only be located in the Business District or the Science and Technology Overlay District.*
3. *No other use shall be permitted on a lot containing a Marijuana Establishment.*
4. *Craft cultivators shall be allowed in the Agricultural District, Business District, Unrestricted District and the Science and Technology Overlay District.*
5. *Buildings and parking areas shall be clearly visible from the street.*
6. *Cultivation within the Business District and Unrestricted 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.*
7. *Craft cultivators within the Business District and Unrestricted District shall be located entirely within one or more fully enclosed buildings with conventional or post framed opaque, rigid walls and roof covering. Craft cultivators within the Agricultural District and Science and Technology Overlay District shall be located within one or more fully enclosed buildings with conventional or post framed walls, rigid walls and roof covering or properly secured greenhouse structures. Hoop houses are specifically prohibited. Craft cultivation within the Agricultural District*

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must be located no less than 500 feet from any residential structure and may only occur upon a lot of 5 acres or more.

8. *The hours of operation of a Retail Marijuana Establishment shall be set by the Special Permit Granting Authority, but in no event shall said establishment be open between the hours of 9:00 PM and 8:00 AM for sales to consumers.*
9. *Site Plan Approval under Article 15 is required for all Non-Medical Marijuana Establishments.*
10. *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.*

27.4 WAIVER OF COMPLIANCE

The Planning Board acting as the Special Permit Granting Authority, under this Section, may waive strict compliance with the requirements of Section 27 et seq., provided the Board finds that the waivers are in the public interest and not inconsistent with the purpose and intent of this Section.

27.5 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 Establishment. A special permit may be transferred only with the approval of the Planning Board in the form of an amendment to the special permit.

27.6 LAPSE

A special permit shall lapse if not exercised within two years of issuance.

and/or take any other action relative thereto.

BY PETITION

Item 3 (ARTICLE 10)

To see if the Town will amend the **TOWN OF WESTPORT ZONING BY-LAWS** by inserting into **ARTICLE 4, USE REGULATIONS, SECTION 4.0.1 RESIDENCE/AGRICULTURE DISTRICTS, SUBPARAGRAPH B.1.** the bold and underlined text as follows:

- B. *Accessory use on the same premises, including, but not limited to the following:*
 - I. *Use of room or rooms in a dwelling for customary home occupations conducted by resident occupants,*

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such as dressmaking, candy making, or for the practice, by a resident, of a recognized profession.
Non-Medical and Medical Marijuana Establishments are not permitted as home occupations.

and/or take any other action relative thereto.

BY PETITION

Item 4 (ARTICLE 11)

*To see if the Town will vote to amend the **TABLE OF USE REGULATIONS** in the **TOWN OF WESTPORT ZONING BY-LAWS** by adding the Non-Medical Marijuana Establishments use in proper alphabetical order 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

<u>USES</u>	<u>RESIDENTIAL/ AGRICULTURAL</u>	<u>BUSINESS</u>	<u>UNRESTRICTED</u>	<u>STOD (Art. 22)</u>
<i>MARIJUANA ESTABLISHMENTS</i>				
<i>(excluding Medical Marijuana Treatment Centers)</i>				
<i>INDEPENDENT TESTING LABORATORY</i>	<i>N</i>	<i>SPPB/SPA-PB</i>	<i>SPPB/SPA-PB</i>	<i>SPPB/SPA-PB</i>
<i>MARIJUANA CULTIVATOR</i>	<i>N</i>	<i>SPPB/SPA-PB</i>	<i>SPPB/SPA-PB</i>	<i>SPPB/SPA-PB</i>
<i>MARIJUANA PRODUCT MANUFACTURER</i>	<i>N</i>	<i>SPPB/SPA-PB</i>	<i>SPPB/SPA-PB</i>	<i>SPPB/SPA-PB</i>
<i>MARIJUANA RETAILER</i>	<i>N</i>	<i>SPPB/SPA-PB</i>	<i>N</i>	
<i>CRAFT CULTIVATOR</i>	<i>SPPB/SPA-PB</i>	<i>SPPB/SPA-PB</i>	<i>SPPB/SPA-PB</i>	<i>SPPB/SPA-PB</i>

and/or take any other action relative thereto.

These Articles may not be numbered as it will ultimately appear in the warrant at Annual Town Meeting.

A copy of the proposed Zoning By-Laws are on file with the Town Clerk's office, Town Hall, and Planning Board at the Town Hall Annex, 856 Main Road and may be inspected there during regular business hours or on our website on-line at www.westport-ma.gov/planning-board.