



Braintree Town Council

ORDER NO: 22 015

DATE FILED: MARCH 10, 2022

REQUEST OF: Citizen Petition/Mark Doucette on behalf of Flower Xpress

**UPON THE REQUEST OF HIS HONOR, THE MAYOR, THE TOWN OF BRAintree, THROUGH THE BRAintree TOWN COUNCIL, IT IS SO ORDERED:**

To approve Citizen Petition: Zoning Ordinance Text Amendments: Proposed Amended Article XVIII – Medical and Adult Use or Non-Medical Marijuana Establishments and related amendments to Section 135-601 and 135-806 or take up any action relative thereto in accordance with Planning Board Recommendations #1 and #3 dated July 19, 2022:

**EXISTING:** Section 135 Article XVIII – Prohibition on Non-Medical Marijuana Establishments

**PROPOSED:** Section 135 Article XVIII – Medical and Adult Use or Non-Retail Marijuana Establishments

**Section 135-1801 Purpose:**

**EXISTING:** The purpose of this article is to prohibit the cultivation, manufacturing, testing, retail sale, or any other type of licensed nonmedical marijuana-related business in the Town of Braintree.

**PROPOSED:** The purpose of this Section is to allow for of Cannabis Control Commission (CCC) licensed Medical Marijuana Treatment Centers as set forth in 935 CMR 501 and Adult Use or Non-Retail Marijuana Establishments, as defined in 135-1802 in the Highway Business and Commercial Zoning Districts consistent with the MGL Chapter 94G and 935 CMR 500.00 as most recently amended and all other applicable state laws and regulations. Medical Marijuana Treatment Centers are permitted by-right in the Highway Business Zoning Districts. Non-Retail Marijuana Establishments may be permitted by Special Permit in order to impose reasonable conditions and restrictions on said uses to ensure the public health, safety and well-being of the Town is preserved and to mitigate against undue impacts on the natural and built environment of the Town.



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**Section 135-1802 Definitions. As used in this Section, the following terms shall the meanings indicated:**

**EXISTING:** MARIJUANA ESTABLISHMENT — As defined in MGL c. 94G, § 1, a "marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business." §135-1803. Prohibition. A marijuana establishment shall not be permitted in any zoning district in the Town of Braintree. No building permit, special permit, variance, site plan or other permit may be issued under the Zoning Ordinance, and no use of land or structures shall be allowed, for the purpose of establishing or operating a marijuana establishment within the Town.

**PROPOSED:**

MARIJUANA or MARIHUANA or CANNABIS: All parts of any plant of the genus Cannabis, not exempted in 935 CMR 500.002: Cannabis or Marijuana or Marihuana (a) through (c) and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; clones of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant; its seeds or resin including tetrahydrocannabinol as defined in M.G.L. c. 94G, Section 1; provided that cannabis shall not include: a. The mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; b. Hemp; or c. The weight of any other ingredient combined with cannabis or marijuana to prepare topical or oral administrations, food, drink or other products.

MARIJUANA CULTIVATOR: An entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers. A Craft Marijuana Cooperative is a type of Marijuana Cultivator.



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**NON-RETAIL MARIJUANA ESTABLISHMENT:** A Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Microbusiness, Marijuana Delivery Operator, Marijuana Independent Testing Laboratory, Marijuana Research Facility, Marijuana Transporter, or any other type of licensed marijuana-related business, excluding marijuana retailers and social consumption establishments.

**MARIJUANA DELIVERY OPERATOR OR DELIVERY OPERATOR:** Means an entity licensed to purchase at Wholesale and Warehouse Finished Marijuana Products acquired from a Marijuana Cultivator, Marijuana Product Manufacturer, Microbusiness or Craft Marijuana Cooperative, and White Label, sell and deliver Finished Marijuana Products, Marijuana Accessories and Marijuana Branded Goods directly to Consumers, but is not authorized to Repackage Marijuana or Marijuana Products or operate a storefront under this license. A Delivery Operator is an additional license type under M.G.L. c. 94G, § 4(b)(1) that allows for limited delivery of Marijuana or Marijuana Products to Consumers; and shall not be considered to be a Marijuana Retailer under 935 CMR 500.002 or 500.050 and shall be subject to 935 CMR 500.050(1)(b)

**MARIJUANA INDEPENDENT TESTING LABORATORY:** A laboratory that is licensed by the Commission and is: (a) Accredited to the International Organization for Standardization 17025 (ISO.IEC 17025:2017) 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; (b) Independent financially from any Medical Marijuana Treatment Center, Marijuana Establishment or licensee for which it conducts a test; and (c) Qualified to test cannabis or marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, subsection 34.

**MARIJUANA LICENSEE:** A person or entity licensed by the Commission to operate a Marijuana Establishment under 935 CMR 500.000.



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**MARIJUANA MANUFACTURE:** To compound, blend, extract, infuse or otherwise make or prepare a cannabis or marijuana product.

**MARIJUANA MICROBUSINESS:** Is an entity that can be either a Tier 1 Marijuana Cultivator or Marijuana Product Manufacturer or both, in compliance with the operating procedures for each License and, if in receipt of a Delivery Endorsement issued by the Commission, may deliver Marijuana or Marijuana Products produced at the licensed location directly to Consumers in compliance with established regulatory requirements for retail sale as it relates to delivery. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of Marijuana per year from other Marijuana Establishments for the purpose of Marijuana Product manufacturing by the Licensee.

**MARIJUANA PRODUCTS:** Cannabis or marijuana and its products unless otherwise indicated. These include products that have been manufactured and contain cannabis or marijuana or an extract from cannabis or 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 PROCESS OR PROCESSING:** To harvest, dry, cure, trim and separate parts of the cannabis or marijuana plant by manual or mechanical means, except it shall not include manufacture as defined in 935 CMR 500.002.

**MARIJUANA PRODUCT MANUFACTURER:** An entity licensed to obtain, process, manufacture and package cannabis or marijuana products and to transfer these products to other Marijuana Establishments, but not to consumers.

**MARIJUANA RESEARCH FACILITY:** An entity licensed to engage in research projects by the Commission.



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**MARIJUANA TRANSPORTER:** An entity, not otherwise licensed by the Commission, that is licensed to purchase, obtain, and possess cannabis or marijuana product solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments, but not to consumers.

**MARIJUANA FOR MEDICAL USE:** Marijuana that is designated and restricted for use by, and for the benefit of, Qualifying Patients in the treatment of Debilitating Medical Conditions as defined by 935 CMR 501.

**MEDICAL MARIJUANA TREATMENT CENTER (MTC):** Formerly known as a Registered Marijuana Dispensary (RMD), means an entity licensed pursuant to M.G.L. c. 94I and 935 CMR 501 that acquires, cultivates, possesses, processes (including the development of related products such as edibles, marijuana infused products (MIPs), Tinctures, aerosols, oils or ointments), repackages, transports, sells distributes, delivers, dispenses or administers Marijuana, products containing Marijuana, related supplies or educational materials to registered qualifying patients or their personal caregivers for medical use.

**Section 135-1803 Prohibition:**

**EXISTING:**

A marijuana establishment shall not be permitted in any zoning district in the Town of Braintree. No building permit, special permit, variance, site plan or other permit may be issued under the Zoning Ordinance, and no use of land or structures shall be allowed, for the purpose of establishing or operating a marijuana establishment within the Town.

**PROPOSED:**

Consistent with M.G.L. Chapter 94G Section 3(a)(2), the Town hereby strictly prohibits in all Zoning Districts Marijuana Retailers, Retail storefronts and all types of onsite sales at a Marijuana Establishment of any type directly to consumers. No building permit, special permit, variance, site plan or other permit may be issued under the Zoning Ordinance, and no use of land or structures shall be allowed, for Marijuana Retailers, Retail storefronts and all types of onsite sales at a Marijuana Establishment of any type directly to consumers within the Town.



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**Section 135-1804 Special Submission Requirements for Non-Retail Marijuana Establishments and Medical Marijuana Treatment Centers**

**NEW SECTION**

- a. Copies of any provisional licenses issued to the applicant by the Cannabis Control Commission and any other licenses and/or permits issued by the Commonwealth of Massachusetts and any of its agencies for the operation of the facility;
- b. Evidence of the applicant's right to use the site of the proposed facility, such as a deed or lease;
- c. If the applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly situated individuals and entities and their addresses. If any of the above are entities rather than persons, the applicant must disclose the identity of the owners of such entities until the disclosure contains the names of individuals;
- d. Plans for all proposed security measures for the facility, including lighting, fencing, gates, cameras, alarm systems, security monitoring, and on-site security personnel, to ensure the safety of persons and to protect the premises from theft;
- e. Plans for all proposed ventilation and air cleaning installations, including technical specifications for the equipment to be used; and
- f. A copy of the emergency response plan filed by the applicant with the Fire and Police Departments.
- g. Transportation and Delivery Route Plans
- h. Hours of Operation
- i. Floor Plans detailing the use of specific areas within the building, including square footage of each area.
- j. Each Non-Retail Marijuana Establishment and Medical Marijuana Treatment Center permitted in Braintree shall, file an annual report to the Mayor and Planning Board (if Applicable) certifying its continued compliance with the Host Agreement and all land use Decisions granted by the Town of Braintree.



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**Section 135-1805 Restrictions on Non-Retail Marijuana Establishments and Medical Marijuana Treatment Centers**

**NEW SECTION**

- a. No Non-Retail Marijuana Establishment or Medical Marijuana Treatment Center, as defined in this Article shall be established except in compliance with this article.
- b. No Non-Retail Marijuana Establishment or Medical Marijuana Treatment Center shall be allowed as an accessory use in any zoning district.
- c. No Non-Retail Marijuana Establishment or Medical Marijuana Treatment Center shall be permitted within 500 feet of any pre-existing K-12 school, day-care center, or public park or playground. The buffer zone distance of 500 feet shall be measured in a straight line from the geometric center of the Non-Retail Marijuana Establishment Entrance to the geometric center of the nearest School or Day Care Entrance, unless there is an Impassable Barrier within those 500 feet; in these cases, the buffer zone distance shall be measured along the center of the shortest publicly-accessible pedestrian travel path from the geometric center of the Non-Retail Marijuana Establishment Entrance to the geometric center of the nearest School or Day Care Entrance. For purposes of determining the minimum distance separation to a public park or playground, the distance shall be measured by following a straight line from the outer property line of the proposed Non-Retail Marijuana Establishment or Medical Marijuana Treatment Center to the outer property line of any such public park or playground.
- d. No property containing a Non-Retail Marijuana Establishment shall be located within 100 ft. of any property that contains a residential use. The 100 ft. buffer shall be measured by following a straight line from the outer property line of the proposed Non-Retail Marijuana Establishment to the outer property line of any such residential use property.
- e. No Non-Retail Marijuana Establishment or Medical Marijuana Treatment Centers shall be permitted to have a ground sign as defined in Article IX. All Non-Retail Marijuana Establishments and Medical Marijuana Treatment Centers shall be permitted to have one (1) wall sign on one (1) side of the building. Said sign area shall be limited to ½ Foot in for the length of the building wall in which the sign will be located or 60 Sq. Ft., whichever is less and the height of any letter, logo or symbol used in the wall sign shall not exceed 2 Feet in height. If the Non-Retail Marijuana Establishment or Medical Marijuana Treatment Center is located in a building with multiple tenants said building wall length shall be equal to the space occupied within the building along that wall.



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- f. Non-Retail Marijuana Establishments and Medical Marijuana Treatment Centers shall be allowed wayfinding and address signage not be considered a ground sign. All wayfinding signs must be located on the property, shall not exceed three (3) in total and no individual sign shall exceed four (4) Sq. Ft. in area.
- g. No Non-Retail Marijuana Establishment or Medical Marijuana Treatment Center shall be located in any building that contains residential housing.
- h. No Non-Retail Marijuana Establishment or Medical Marijuana Treatment Center shall operate between the hours of 9:00 p.m. and 8:00 a.m. All business operations of all type shall conclude by 9:00pm and all employees shall be off the premise by 9:15 P.M.
- i. No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of any Non-Retail Marijuana Establishment or Medical Marijuana Treatment Center.
- j. All Non-Retail Marijuana Establishments and Medical Marijuana Treatment Centers shall be 100% indoors. No exterior Non-Retail Marijuana Establishments and Medical Marijuana Treatment Centers are permitted outdoors or exterior to any building. Loading and unloading is permitted in an approved loading bay or space.
- k. All Non-Retail Marijuana Establishments and Medical Marijuana Treatment Centers shall conform to a no Odor Standard, therefore must install, maintain, and operate sufficient ventilation and air cleaning equipment to ensure that no odors produced by the operation are detectable at any exterior areas on the site or property, or any adjacent property or street.
- l. All Non-Retail Marijuana Establishments shall provide the Chief of Police, the Inspector of Buildings, and the special permit granting authority with a list containing the names, phone numbers, and e-mail addresses of all management staff and key holders. An updated list shall be provided whenever changes occur to the information listed.
- m. Before submission of any Applications to the Planning Board or Building Inspector for a Non-Retail Marijuana Establishments and Medical Marijuana Treatment Centers under this article, the applicant shall provide proof of an executed host community agreement with the Town Council or Mayor.
- n. No Non-Retail Marijuana Establishment or Medical Marijuana Treatment Center shall allow cultivation, processing, manufacture, sale or display of marijuana or marijuana products to be visible from the exterior of the building.





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- o. If a Medical Marijuana Treatment Center does not trigger a Site Plan Review Application, all aspects of this Article shall be reviewed for Compliance by the Inspector of Buildings and the Director of Planning and Community Development.

**Section 135-1806 Special Permit Criteria**

**NEW SECTION**

In addition to the standard Findings for a Special Permit(135-503i) the Special Permit Granting Authority must also find all the following:

- A. The Non-Retail Marijuana Establishment is consistent with and does not derogate from the purposes and intent of this Section and the Zoning Ordinance/Bylaw.
- B. That the Non-Retail Marijuana Establishment is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest;
- C. That the Non-Retail Marijuana Establishment demonstrates that it meets or exceeds 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;
- D. That the applicant has satisfied all of the conditions and requirements of this Section and other applicable Sections of this Bylaw/Ordinance;
- E. That the Non-Retail Marijuana Establishment provides adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation is adequately secured on-site or via delivery.
- F. That the Non-Retail Marijuana Establishment adequately addresses issues of traffic demand, circulation flow, parking and queuing, particularly at peak periods at the facility, and its impact on neighboring uses.



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**Section 135-601 Table of Principal Uses**

**PROPOSED:**

USE	RA	RB	RC	C I, II & III	GB	HB	C	OSC	BWLD
Marijuana Retailers	N	N	N	N	N	N	N	N	N
Marijuana Establishments	N	N	N	N	N	SP	SP	N	N
Medical Marijuana Treatment Center	N	N	N	N	N	Y	Y	N	N

**Section 135-806 Schedule of Off-Street Parking**

**PROPOSED:**

USE	PARKING RATIOS
Marijuana Establishments	1 per 250 Sq. Ft. for all non-cultivation areas 1 per 1,000 Sq. Ft. – 1 per 2,000 Sq. Ft. for canopy area used for cultivation*
Medical Marijuana Treatment Center	1 per 250 Sq. Ft. for area used for sale, dispensing and all other non-cultivation areas 1 per 1,000 Sq. Ft. – 1 per 2,000 Sq. Ft. for canopy area used for cultivation*



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YEAS: Boericke, Flaherty, Hume, Maglio, Ringius, Ryan

NAYS: Mackin, O'Brien, Reynolds

ABSENT: NONE

PASSED IN COUNCIL: AUGUST 2, 2022

PRESENTED TO MAYOR: AUGUST 3, 2022

A True Record, Attest:

\_\_\_\_\_  
Date Approved

\_\_\_\_\_  
James M. Casey, Town Clerk

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Charles C. Kokoros, Mayor