

Section 1: AUTHORITY AND PURPOSE

This bylaw is adopted under Chapter 40A, as amended. The purpose of this bylaw is to promote the health, safety and welfare of the inhabitants of the Town of Hancock, to preserve the scenic beauty and natural environment of the Town.

Section 2: USE/DIMENSIONAL REGULATIONS

- 2.1 All by right except for the following:
- 2.2 There shall be a minimum requirement of one acre of land per dwelling unit.
- 2.3 No structure that is used or intended to be used in any part for dwelling purposes shall be taller than 50 feet, as measured from the mean grade around all sides of the structure to the highest point of the building, excluding chimneys, antennas, cupolas, or similar accessories.
- 2.4 The height of a commercial wind facility for generation of electricity shall not be taller than 386 feet above ground level as measured from the base of the tower to the tip off the highest blade.

Section 3: DEFINITIONS

- 3.1 Dwelling Unit: A residential building designed for one or two families.

Section 4: TEMPORARY MORATORIUM ON MARIJUANA RETAIL SALE

PURPOSE

4.0 Currently non-medical Marijuana is not addressed in the Zoning Bylaw. Regulations to be promulgated by the Cannabis Control Commission will provide guidance on local regulation of recreational marijuana licensing, sales, taxing, etc. The regulation of recreational marijuana raises legal, planning, and public safety issues, and the Town needs time to study and consider forthcoming Massachusetts regulations, to assess their impact on local zoning, and to propose potential amendments to the Zoning Bylaw. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for retail sale of recreational marijuana so as to allow sufficient time to address the effects of such structures and uses in the Town and to enact bylaws that are consistent with state regulations.

TEMPORARY MORATORIUM

4.1 For the reasons set forth and notwithstanding any other provisions of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for marijuana retail sale, including dispensing, processing, cultivating and other related activities to sale, storage and distribution of marijuana. The moratorium shall be in effect through June 2019, or six months after the effective date

of the Cannabis Control Commission regulations, whichever is earlier. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of recreational marijuana in the Town, consider the Cannabis Control Commission regulations regarding Recreational Marijuana Establishments, and shall consider adopting new Zoning Bylaws in response to these new issues.

“Section 4.2: Purpose”

To regulate the sale and cultivation of marijuana within the boundaries of Hancock.

“Section 4.3: Marijuana Zoning Bylaw”

- a. Medical Marijuana Treatment Center –
  1. The Board of Selectmen finds the lot area is adequate for the proposed use, and the buildings, structures, off-street parking and other facilities and equipment are so designed and located as not to be a nuisance to the neighborhood.
  2. Limited to two (2) Medical Marijuana Treatment Centers.
  3. The total number of permits issued shall not exceed two (2) and shall only be issued to separate owners.
  4. Setback of three hundred (300') feet from road.
  5. One hundred-foot (100') frontage.
  6. One hundred fifty feet (150') from abutter's boundaries.
  7. Four (4) acre minimum lot size requirement.
  
- b. Marijuana Establishment, Marijuana Retailer –
  1. The Board of Selectmen finds the lot area is adequate for the proposed use, and the buildings, structures, off-street parking and other facilities and equipment are so designed and located as not to be a nuisance to the neighborhood.
  2. Limited to two (2) Marijuana Establishments, Marijuana Retailers.
  3. The total number of permits shall not exceed two (2) and shall only be issued to separate owners.
  4. Setback of three hundred (300') feet from road.
  5. One hundred-foot (100') frontage.
  6. One hundred fifty feet (150') from abutter's boundaries.
  7. Four (4) acre minimum lot size requirement.
  
- c. Marijuana Establishment, Marijuana Cultivators using Indoor Cultivation, or Craft Cultivator Cooperative using Indoor Cultivation –
  1. The total cumulative area of enclosed building or buildings, greenhouses or other structures for cultivation shall not exceed ten thousand (10,000') square feet.
  2. Limited to two (2) Marijuana Establishments, Marijuana Cultivators using Indoor Cultivation, or Craft Cultivator Cooperative using Indoor Cultivation.
  3. The total number of permits issued for all types of cultivation shall not exceed two (2) and shall only be issued to separate owners.

4. The Board of Selectmen finds the lot area is adequate for the proposed use, and the buildings, structures, off-street parking and other facilities and equipment are so designed and located as not to be a nuisance to the neighborhood.
  5. Setback of three hundred (300') feet from road.
  6. One hundred-foot (100') frontage.
  7. One hundred fifty feet (150') from abutter's boundaries.
  8. Four (4) acre minimum lot size requirement.
- d. Marijuana Establishment, Marijuana Cultivators using Outdoor Cultivation, or Craft Cultivator Cooperative using Outdoor Cultivation - PROHIBITED
- e. Marijuana Establishment, Marijuana Independent Testing Laboratory, Marijuana Research Facility, Marijuana Product Manufacturer, Marijuana Transporter, or Marijuana Microbusiness, as defined in 935 CMR 500.02.
1. The total cumulative area of enclosed building or buildings, greenhouses or other structures for cultivation shall not exceed ten thousand (10,000') square feet.
  2. Limited to one (1).
  3. The total number of permits issued for all types of cultivation shall not exceed one (1) and shall only be issued to separate owners.
  4. The Board of Selectmen finds the lot area is adequate for the proposed use, and the buildings, structures, off-street parking and other facilities and equipment are so designed and located as not to be detrimental to the neighborhood.
  5. Setback of three hundred (300') feet from road.
  6. One hundred-foot (100') frontage.
  7. One hundred fifty feet (150') from abutter's boundaries.
  8. Four (4) acre minimum lot size requirement.

A: Site Plan Review Required

All proposed Medical Marijuana Treatment Centers, and Marijuana Establishments, Marijuana Retailer, Marijuana Cultivator using Indoor Cultivation, or Craft Cultivator Cooperative using Indoor Cultivation and Marijuana Independent Testing Laboratory, Marijuana Research Facility, Marijuana Product Manufacturer, Marijuana Transporter, or Marijuana Microbusiness, as defined in 935 CMR 500.02, shall be subject to Planning Board Site Plan Review.

B: Special Permit

All proposed Medical Marijuana Treatment Centers, and Marijuana Establishments, Marijuana Retailer, Marijuana Cultivator using Indoor Cultivation, or Craft Cultivator Cooperative using Indoor Cultivation and Marijuana Independent Testing Laboratory, Marijuana Research Facility, Marijuana Product Manufacturer, Marijuana Transporter, or Marijuana Microbusiness, as defined in 935 CMR 500.02, shall obtain a Special Permit by the Zoning Board of Appeals.

A Special Permit issued pursuant to this bylaw shall be subject to the following:

The Special Permit shall expire within three (3) years of date of issue. If the Applicant wishes to renew the Special Permit, an application to renew must be submitted at least one hundred twenty (120) days prior to the expiration of the Special Permit. The

Zoning Board of Appeals may, at the time of renewal, renew a special permit for a marijuana related use for a period of time not less than three (3) years and not greater than seven (7) years.

Special Permits shall be limited to the original applicants(s) and shall expire on the date the Special Permit holder ceases operation of the Medical Marijuana Treatment Center, Marijuana Establishment, Marijuana Retailer, Marijuana Cultivator using Indoor Cultivation, or Craft Cultivator Cooperative using Indoor Cultivation and Marijuana Independent Testing Laboratory, Marijuana Research Facility, Marijuana Product Manufacturer, Marijuana Transporter, or Marijuana Microbusiness, as defined in 935 CMR 500.02.

The holder of the Special Permit shall annually file an affidavit with the Building Inspector demonstrating it is in good standing with respect to its license or certificate from the Cannabis Control Commission, Department of Public Health, and/or any other applicable State license.

The holder of the Special permit shall notify the Building Inspector and the Zoning Board of Appeals in writing within 48 hours of the cessation of operation of the Medical Marijuana Treatment Centers and other Marijuana Establishments, Marijuana Retailer, Marijuana Cultivator using Indoor Cultivation, or Craft Cultivator Cooperative using Indoor Cultivation and Marijuana Independent Testing Laboratory, Marijuana Research Facility, Marijuana Product Manufacturer, Marijuana Transporter, or Marijuana Microbusiness, as defined in 935 CMR 500.02; or the expiration of the Permit Holder's State license.

Special Permits shall lapse upon the expiration or termination of an applicant's license from the Cannabis Control Commission, Department of Public Health or such other applicable State entity.

C: Revocation of Permit and Enforcement:

Should the Medical Marijuana Treatment Center or Marijuana Establishments, Marijuana Retailer, Marijuana Cultivators using Indoor Cultivation, or Craft Cultivator Cooperative using Indoor Cultivation and Marijuana Independent Testing Laboratory, Marijuana Research Facility, Marijuana Product Manufacturer, Marijuana Transporter, or Marijuana Microbusiness, as defined in 935 CMR 500.02; be in non-compliance or considered a nuisance as defined in definitions section 4.3. The following penalties will be imposed. –

1. In the case of the first violation, a fine of five hundred (\$500.00) will be imposed.
2. In the case of a second violation within a twenty-four (24) month period, a fine of five hundred (\$500.00) and suspension of Special Permit for seven (7) consecutive business days.
3. In the case of three (3) violations within a twenty-four (24) month period, a fine of five hundred (\$500.00) dollars and suspension of thirty (30) consecutive business days.

Each violation occurrence will be reported to the Cannabis Control Commission. Special Permits may be revoked at the discretion of the issuing authority or the Board of Selectmen.

Notice of intent of revocation of Special Permit, which shall contain the reasons therefore and provide a hearing date, no earlier than seven (7) days after the date of said notice shall be issued to the Special Permit holder. Special Permit holder or its

agent shall have an opportunity to be heard at such hearing and shall be notified in writing with the Town's decision and the reasons why. After the Hearing the Town will suspend or revoke the Special Permit, if the Town finds that a violation of this Bylaw occurred.

D: Location Requirements

Setback of three hundred (300') feet from road.

Four (4) acre minimum lot size requirement.

One hundred-foot (100') frontage.

One hundred fifty feet (150') from abutter's boundaries.

A Medical Marijuana Treatment Center or Marijuana Establishments, Marijuana Retailer, Marijuana Cultivators using Indoor Cultivation, or Craft Cultivator Cooperative using Indoor Cultivation and Marijuana Independent Testing Laboratory, Marijuana Research Facility, Marijuana Product Manufacturer, Marijuana Transporter, or Marijuana Microbusiness, as defined in 935 CMR 500.02, shall not be sited within a radius of one thousand feet (1000') or one mile (1), whichever greatest amount is approved by the Attorney General's Office, of a school, daycare center, or any facility in which children commonly congregate.

The distances referenced for the A Medical Marijuana Treatment Center or Marijuana Establishments, Marijuana Retailer, Marijuana Cultivators using Indoor Cultivation, or Craft Cultivator Cooperative using Indoor Cultivation and Marijuana Independent Testing Laboratory, Marijuana Research Facility, Marijuana Product Manufacturer, Marijuana Transporter, or Marijuana Microbusiness, as defined in 935 CMR 500.02, are to be measured in a straight line from the nearest point of the property line of the proposed Medical Marijuana Treatment Center or Marijuana Establishment to the nearest point of the property line of the protected school, public library or playground.

E: Physical Requirements

In addition to meeting the requirements of the CCC, both Medical Marijuana Treatment Centers and other Marijuana Establishments, Marijuana Retailer, Marijuana Cultivators using Indoor Cultivation, or Craft Cultivator Cooperative using Indoor Cultivation and Marijuana Independent Testing Laboratory, Marijuana Research Facility, Marijuana Product Manufacturer, Marijuana Transporter, or Marijuana Microbusiness, as defined in 935 CMR 500.02, in Hancock shall comply with the following:

Cultivation of marijuana shall take place at a fixed secure location within a Fully Enclosed and Secure Structure.

Acquisition, processing, sales, distribution, dispensing, or administration of marijuana shall take place at a fixed location within a Fully Enclosed and Secure Structure and shall not be visible from the exterior of the business. This provision applies also to the sale and distribution of products containing marijuana, marijuana accessories and related supplies, and marijuana educational materials.

All finished marijuana or marijuana products shall be stored in a secure, locked safe or vault in such a manner as to prevent diversion, theft and loss.

Ventilation must not allow for pesticides, insecticides or other chemicals or products used in cultivation or processing to be dispersed into the outside atmosphere. No odor from marijuana or its processing can be detected by a person with an unimpaired or otherwise normal sense of smell at the exterior of the Marijuana Establishment, Marijuana Retailer, Marijuana Cultivators using Indoor Cultivation, or Craft Cultivator Cooperative using Indoor Cultivation from more than fifty (50') feet away.

Any marijuana cultivation area regulated under this section must have enough screening in place to limit visibility from road or abutting properties. The location shall not result in a nuisance or adversely affect the health, welfare or safety of the nearby residents by creating dust, glare, heat, noise, noxious gases, odors, smoke, traffic, vibration, or other impacts, or be hazardous due to the use or storage of materials, processes, products or wastes.

#### F: Use Regulations

In addition to pertinent requirements of impacting regulations of the CCC, Medical Marijuana Treatment Centers, and Marijuana Establishments, Marijuana Retailer, Marijuana Cultivator using Indoor Cultivation, or Craft Cultivator Cooperative using Indoor Cultivation and Marijuana Independent Testing Laboratory, Marijuana Research Facility, Marijuana Product Manufacturer, Marijuana Transporter, or Marijuana Microbusiness, as defined in 935 CMR 500.02, shall comply with the following:

Uses under this Section may only consist of the uses and activities permitted by their definition as limited by state law.

No marijuana shall be smoked, eaten or otherwise consumed or ingested on the premises.

Retail sales of marijuana products and opening of the premises to the public shall not occur earlier than 10:00 AM or later than 8:00 PM.

Additional regulations may be imposed as Site Plan Review or Special Permit conditions.

#### G: Submittal Requirements

In addition to a standard application for Site Plan Review and Special Permit, an application under this section shall include the following:

Copies of all required Marijuana Establishments, Marijuana Retailer, Marijuana Cultivators using Indoor Cultivation, or Craft Cultivator Cooperative using Indoor Cultivation, Marijuana Independent Testing Laboratory, Marijuana Research Facility, Marijuana Product Manufacturer, Marijuana Transporter, or Marijuana Microbusiness, as defined in 935 CMR 500.02 or Medical Marijuana Treatment Center licenses, or restrictions issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the facility.

Evidence that the applicant has site control and the right to use the site for a facility in the form of a deed, valid lease, or purchase and sales agreement, and a signed statement from the property owner.

A plan showing all signage, exterior proposed security measures for the premises, including cameras, lighting, fencing, screening, gates, alarms, and other devices intended to ensure the safety of employees and patrons and to protect the premises from theft or other criminal activity.

If location is to be a cultivator of Marijuana, an aquifer study must be completed with report included with application.

#### H: Approval Process

Applicants should plan to obtain licenses, approvals and permits in the following sequence unless the Planning Board and the Board of Selectmen approve an alternate sequence:

Host community agreement approved by the Board of Selectmen.

Licenses or registrations issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the facility.

Site plan approval by the Planning Board.

Special permit issued by the Zoning Board of Appeals.

I: Discontinuance of Use

Any Marijuana Establishments, Marijuana Retailer, Marijuana Cultivators using Indoor Cultivation, or Craft Cultivator Cooperative using Indoor Cultivation, Marijuana Independent Testing Laboratory, Marijuana Research Facility, Marijuana Product Manufacturer, Marijuana Transporter, or Marijuana Microbusiness, as defined in 935 CMR 500.02 or Medical Marijuana Treatment Center permitted under this section shall be required to remove all material, plants, equipment and other paraphernalia in compliance with implementing regulations of the CCC prior to expiration of its operating license or permit issued by the Commonwealth of Massachusetts or immediately following revocation or voiding of such license or permit. The host community agreement shall include provisions for recovery of any cost incurred by the Town of Hancock resulting from the discontinuance of use.

J: Indemnification Clause:

The applicant and all licensees waive and release the Town of Hancock, its elected officials, employees and agents from liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of the Marijuana Establishments, Marijuana Retailer, Marijuana Cultivators using Indoor Cultivation, or Craft Cultivator Cooperative using Indoor Cultivation, Marijuana Independent Testing Laboratory, Marijuana Research Facility, Marijuana Product Manufacturer, Marijuana Transporter, Marijuana Microbusiness or Medical Marijuana Treatment Center owners, operators, employees, clients or customers for any violation of State or Federal laws, rules or regulations.

DEFINITIONS SECTION 4.2 AND 4.3

MARIJUANA MEDICAL TREATMENT CENTERS AND MARIJUANA ESTABLISHMENTS, MARIJUANA RETAILER, MARIJUANA CULTIVATOR USING INDOOR CULTIVATION, OR CRAFT CULTIVATOR COOPERATIVE USING INDOOR CULTIVATION:

Section 4.2 Purpose

To provide for the placement and regulation of Medical Marijuana Treatment Centers in suitable locations in Hancock in accordance with chapter 369 of the Acts of 2012 (Humanitarian Medical Use of Marijuana Act), G.L c.94I (Medical Use of Marijuana), and in compliance with the regulations 105 CMR 725.000, et seq. This bylaw also provides for the placement and regulation of other Marijuana Establishments under G.L. c.94G (Regulation of the use and Distribution of Marijuana Not Medically Prescribed) and in compliance with the regulations promulgated by the Massachusetts Cannabis Control Commission (CCC) found at 935 CMR 500.00 et seq.

### DEFINITIONS SECTION 4.3

**MEDICAL MARIJUANA TREATMENT CENTER:** A not-for-profit entity registered under 105 CMR 725.100, also known as a registered marijuana dispensary (RMD), that meets the definition set forth in 935 CMR 500 (Medical Marijuana Treatment Center)

**MARIJUANA ESTABLISHMENT:** A marijuana cultivator, craft marijuana cultivator cooperative, independent testing laboratory, marijuana transporter, marijuana product manufacturer, marijuana retailer, or other type of licensed marijuana-related business registered, approved, and regulated in accordance with the regulations of the CCC.

**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 customers.

**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 customers.

**CRAFT MARIJUANA CULTIVATOR COOPERATIVE:** A Marijuana Cultivator comprised of residents of the Commonwealth organized as a limited liability company or limited liability partnership under the laws of the Commonwealth, or an appropriate business structure as determined by the commission, and that is licensed to cultivate, obtain, manufacture, process, package and brand marijuana and marijuana products to deliver marijuana to Marijuana Establishments but not to customers.

**FULLY ENCLOSED AND SECURE STRUCTURE:** A space within a building, greenhouse or other legal structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening, and which is accessible only through one or more locked doors and is inaccessible to minors.

**INDOOR CULTIVATION:** Any cultivation of marijuana within the Town of Hancock that is within a Fully Enclosed and Secure Structure as defined in this section.

**NUISANCE:** Any such activity that produces odors which are disturbing to people of normal sensitivity residing or present on adjacent or nearby property and/or areas open to the public. Repeated responses (more than three (3) times in a one (1) year time period), to the parcel from law enforcement or code enforcement officials. Repeated disruption (more than three (3) times in a one (1) year time period), to the free passage of persons or vehicles in the area near

the location. Excessive noise, excessive light or any other impacts which are disruptive of normal activity in the area.

**OUTDOOR CULTIVATION:** Any cultivation of marijuana within the Town of Hancock that is not within a Fully Enclosed and Secure Structure.

All additional terms used, but not defined in this Bylaw, shall have the same meaning as defined in the applicable governing statutes and regulations, including said chapters 94I and 94G of the General Laws and regulations of the CCC.

#### Section 5: ZONING BOARD OF APPEALS

There shall be a Zoning Board of Appeals consisting of five members and up to four alternate members appointed by the Board of Selectmen for a term of not longer than two years as provided in Section 12 of Chapter 40A of the General Laws. The Board shall act within its statutory powers as provided in Section 10 and 14 of Chapter 40A and on matters within its jurisdiction under this bylaw in the manner described in Section 15 of Chapter 40A. This Board of Appeals also shall serve as the Board of Appeals under the subdivision control laws as provided in Sections 81Y and Z of Chapter 41 of the General Laws.

#### Section 6: ADMINISTRATION

This bylaw shall be administered and enforced by the Building Inspector of the Town of Hancock. No building permit shall be issued by the Building Inspector unless the application complies with this bylaw and other applicable Town bylaws and applicable state laws and regulations.

State Requirements 20' Road Frontage

December 10, 2018

May 6, 2019