



# **Town of Leicester PLANNING BOARD**

3 Washburn Square  
Leicester, Massachusetts, 01524-1333  
Phone: 508-892-7007 Fax: 508-892-7070  
[www.leicesterma.org](http://www.leicesterma.org)

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## **PLANNING BOARD AGENDA Tuesday February 2, 2021 @ 7:00PM *ONLINE MEETING ONLY***

Please join the meeting from your computer, tablet or smartphone.

<https://global.gotomeeting.com/join/414070989>

You can also dial in using your phone.

United States (Toll Free): 1 877 309 2073

**Access Code: 414-070-989**

### **ORDER OF BUSINESS\***

1. 7:00PM **Zoning Bylaw Amendments (General Discussion)**
2. 7:30PM **Approval of Minutes**
  - January 19, 2021
3. 7:45PM **Town Planner Report/General Discussion:**
  - A. Miscellaneous Project Updates
  - B. Board Member Committee Updates
  - C. Upcoming Meeting Dates
4. **Adjourn**

***\*Note: Agenda times for items that are not public hearings may be taken out of order.***

“The listings of matters are those reasonably anticipated by the Chair 48 hours before said meeting, which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law”



# Town of Leicester PLANNING BOARD

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## Memorandum

**TO:** Planning Board Members  
**FROM:** Michelle R. Buck, AICP  
Town Planner/Director of Inspectional Services  
**DATE:** January 13, 2021  
**RE:** **January 19, 2020 Planning Board Meeting**

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Information to log in to the meeting is on the agenda, and a direct link is also available on the Planning Board web page where applications are posted. All votes must be **Roll Call** votes.

### **Remote Meeting – Suggested Instructions:**

1. Ask the public participating to silence cell phones and mute their device during the meeting until called upon to speak
2. Ask all members of the Board to identify themselves by name for the public at the start of the meeting
3. When time for public comment, ask everyone to identify themselves before speaking.

### **Zoning Bylaw Amendments**

See attached summary and draft bylaws.

**Zoning Bylaw Amendments Status:****updated 1-28-2021**

<b>General Description</b>	<b>Details</b>	<b>Status</b>
NB District/Hankey Street Amendments	Overall changes to NB district, as well as requested changes to allow high-density multi-family by WorcShop	Draft Amendments Attached
Outside Storage	Bylaw Changes to address outdoor storage at self-storage rental facilities and address related issues	Draft Amendments Attached
Housekeeping Amendments	<ul style="list-style-type: none"> <li>• <u>BR-1 District</u>: renumbering</li> <li>• <u>RIB District</u>: renumbering, correction of typographical errors, clarification of dimensional requirements</li> <li>• <u>HB-1 District</u>: corrections to make it clearer that site development standards apply to HB-2, change threshold for compliance to match other commercial districts, update to outdated cross-references.</li> </ul>	Draft Amendments Attached
Marijuana Establishments	Request by Town Administrator's office to add marijuana delivery and increase the cap on retail.	Draft Amendments Attached
Water Resources Protection Overlay District	Change Special Permit Granting Authority to Planning Board, clarify allowed uses, requirements, and prohibitions	More work needed; postponed to future Town Meeting
ZBA Variances & Special Permits	Make Section 6.4 more consistent with state law (specifically deadlines and approval criteria) & correcting MGL references	More work needed; postponed to future Town Meeting
Flood Zone Bylaw	Required by National Flood Insurance Program (NFIP).	Postponed to future Town Meeting. FEMA maps to be referenced in bylaw are not complete.

**Draft Amendments**  
**Greenville Village Neighborhood Business District (NB)**  
**11/26/2019, rev 11/28/2020, 1/23/2021**

***[Existing text, with proposed amendments shown.]***

## **5.6 Greenville Village Neighborhood Business District (NB)**

### **5.6.01 Purpose and Intent**

To enable the development and redevelopment of Leicester's Greenville area in keeping with the historic development pattern including the size and spacing of structures by allowing, in addition to residential uses, convenient small-scale retail, service and other small-scale commercial uses compatible with nearby residential areas, which minimize traffic, parking visibility, late hour operations, destruction of historic buildings or architectural features, or other characteristics not compatible with the existing character of the surrounding residential neighborhood, and further providing that no such use shall be permitted which would be detrimental or offensive by reason of odor, noise, excessive vibration or danger of explosion or fire.

### **5.6.02 Permitted Uses**

No building or structure shall be used and no change shall be made in the use of land or premises, except for one or more of the following purposes:

**5.6.02.1** All uses that are permitted in the Residential 1 District (R1), under Section 3.2, Schedule of Use Regulation, except that the Planning Board shall be the Special Permit Granting Authority for all uses listed as requiring a special permit, and unless otherwise regulated in this Section 5.6.

**5.6.02.2** All non-residential projects, of any size, shall require site plan review (See Section 5.2) in the Neighborhood Business (NB) district, **except for reuse of existing structures for uses not requiring a special permit**. The following uses are allowed **with site plan review** by the Planning Board, provided that no individual establishment shall exceed 3,000 square feet in gross floor area, except as regulated under Section 5.6.03.4 below.

***[Note: if this is changed, amend Section 5.2.02.e (Site Plan Review thresholds) accordingly]***

- A.** Retail services, including but not limited to a drug or package store; grocery, variety, clothing or shoe store; hardware or household appliance sales and services; music store; computer store; book, card, or stationery store; news dealer.
- B.** Professional or administrative offices.
- C.** Office or clinic for medical or dental examination or treatment of persons as outpatients, including laboratories incidental thereto.
- D.** Financial institution, such as bank or credit union.
- E.** Personal services, including but not limited to a barber or beautician; pickup or self-service laundry or dry cleaning; garment or shoe makers and repairers; florist; printing, publishing or photocopying; or photographer's studio
- F.** Artisans, Jewelry Makers, Handicrafts, Artists Studios
- G.** Mortuary, undertaker, or funeral establishment.
- H.** Shop of a plumber, carpenter, electrician, upholsterer or similar workshop or repair establishment conducted entirely within an enclosed structure.
- I.** Restaurant, lunchroom, or other eating establishment primarily for on-premises consumption, not to include fast food establishment.

- J. Delicatessen, traditional bakery, confectionery, caterer, and other similar establishments, which incidentally sell retail food and beverages in disposable containers for off-site consumption.
- K. Small-Scale Ground-Mounted Solar Energy Systems (Medium-Scale and Large-Scale Ground-Mounted Solar Energy Systems are prohibited.)

### 5.6.03 Special Permit Allowed Uses

The following uses shall require a special permit for use from the Planning Board:

**5.6.03.1** Business uses as listed in Section 3.2.03 except where prohibited under Section 5.6.04 or where said use is prohibited in all other districts, which are not listed above in Section 5.6.02.2, provided that no individual establishment shall exceed 3,000 square feet in gross floor area, except as regulated under Section 5.6.03.4.

**5.6.03.2** Drive-through facility. *[Note: remove italics in bylaw].*

**5.6.03.3** Take-out establishments primarily engaged in the sale, dispensing or serving of food, refreshments or beverages for consumption off the premises or consumption in vehicles temporarily parked on the premises, or at tables, benches or counters, the majority of which are out of doors, not to include establishments commonly known as fast food establishments.

**5.6.03.4** Establishments that exceed 3,000 square feet in gross floor area per establishment, provided that in no event may a special permit be issued for individual establishments in excess of 6,000 square feet in gross floor area. Commercial structures in existence prior to the creation of the NB district (ATM 5/6/2002, Article 34) are exempt from the above size limitations, except that any expansions shall require a special permit.

**5.6.03.5** Additional Uses allowed by special permit in commercial structures in existence prior to the creation of the NB district (ATM 5/6/2002, Article 34)

A. Makerspaces

B. Outdoor storage and parking of commercial vehicles and construction vehicles associated with uses in the existing building (i.e. not rental storage)

C. Rental self-storage facility (outdoor storage prohibited)

### 5.6.04 Prohibited Uses:

**5.6.04.1** Any use not expressly permitted above.

**5.6.04.2** Vehicle-related uses (sales, service and repair of all vehicle types including but not limited to trucks, boats and recreational vehicles, towing companies, taxi or limousine service, etc.)

**5.6.04.3.** All types of Marijuana Establishments regulated by Section 5.15.

**5.6.04.4** Rental Self-Storage Facilities (indoor or outdoor)

### 5.6.05 Site Development Standards

All non-residential use, or conversion to a non-residential use, within the NB district shall comply with all Site Development Standards in Section 5.6.05.1 through 5.6.05.3 described below:

#### 5.6.05.1 Parking & Loading

Non-residential uses within a NB district shall provide parking and loading facilities in compliance with Section 5.1, PARKING AND LOADING REQUIREMENTS AND UNLOADING SPACE, the Planning Board's Parking Regulations, and the following additional requirements:

*[Consider deleting all language below that's duplicated in the Board's Parking Regulations.]*

- A. Parking facilities sufficient to accommodate the motor vehicles of all employees, customers and other persons normally visiting the site at any time shall be provided on the lot and off the street.
- B. In determining the appropriate number of parking spaces required, the Planning Board may give consideration to the hours of usage of the proposed use/structure, the opinion of municipal officials or consultants as to the adequacy or inadequacy of parking spaces within the specific area of the proposed use/structure, as well as other relevant information to assist the Planning Board in determining the need for additional parking for motor vehicles.

- C. All parking shall be provided on the same lot with the principal use or on a contiguous lot within the same zoning district, provided that no space is counted as meeting the requirements of more than one building or use.
- D. New parking areas shall be located to the side or rear of the primary structure.
- E. Parking areas serving all non-residential structures shall be hard-paved.
- F. Parking areas shall include handicap accessible parking spaces as required by 521 CMR, Architectural Access Board Code, as may be amended from time to time.
- G. To the maximum extent feasible, loading areas shall be located at the rear of the building, off the street right-of-way.
- H. Adequate turning and maneuvering space shall be provided for loading areas, without encroachment into parking areas.
- I. Parking area lighting may not shine beyond the property lines, except for driveway entrances where light may shine onto the immediate area of the street right-of-way.

#### 5.6.05.2 Landscaping

- A. A landscaped buffer zone, of at least the width of the required setback, continuous except for approved driveways, shall be established along any side of the lot with road frontage to visually separate the building and its parking areas from the road.
- B. A landscaped buffer zone along the side and rear of each lot, of at least the width of the required side and rear setback, shall be provided where a proposed non-residential use abuts a residential use.
- ~~C. A landscaped buffer zone of at least 50 feet shall be provided where a NB district boundary abuts a Residential District (R1, R2, and SA).~~
- D. The buffer zones shall be planted with grass, ground cover, medium height shrubs, and shade trees planted at least every fifty (50) feet. The buffer zone shall include both deciduous and evergreen shrubs and trees. Trees and shrubs at driveway intersections shall be set back a sufficient distance from such intersections so as not to obstruct traffic visibility.
- E. An opaque buffer shall be provided to screen exposed storage areas, machinery, garbage “dumpsters”, service areas, truck loading areas, utility buildings and structures from the view of abutting properties and streets, using plantings, fences and other methods compatible with the goals of this regulation.
- F. Parking shall not be located within required buffer areas.
- G. All landscaped areas and buffers shall be maintained in good condition and shall be kept free of refuse and debris. Shrubs or trees that die shall be replaced within one growing season.
- H. Appropriate water management procedures shall be followed to serve all landscaped areas, including irrigation systems if warranted.
- I. The Planning Board may require a bond to ensure that required landscaping improvements are maintained and survive for at least one growing season following the completion of planting.
- J. The Planning Board shall have the authority to adopt from time to time suitable landscaping regulations, which may include the required height and spread of trees and shrubs in buffer zones and parking areas. [\[Insert reference to Landscaping Regulations?\]](#)
- K. The landscaped buffer requirements in paragraphs A & B shall not apply to reuse of existing structures and associated parking areas. The Planning Board may require a landscape buffer for uses requiring a special permit.

#### 5.6.05.3 Design

The Planning Board shall have the authority to adopt from time to time suitable regulations to specify design standards within the Greenville Village Neighborhood Business District. Such standards may

include regulation of building form and features, architectural details, and historic buildings.

#### 5.6.06 Special Permits – NB District

##### 5.6.06.1 Requirements and Procedures

- A. The special permit granting authority for all special permits in the NB District shall be the Planning Board except where such authority is specifically delegated to the Zoning Board of Appeals. No building, use or occupancy permits for any ~~construction of any use designated "SP" (Special Permit) under the NB District use requiring a special permit shall be issued~~ except in accordance with the terms of a special permit as set forth herein. This shall apply to new construction, change in use to a use requiring a special permit, and resumption of any use requiring a special permit where the use has been discontinued or abandoned for more than two (2) years.
- B. Applicants for Special Permits under this section shall submit plans in compliance with the Leicester Planning Board ~~Rules & Regulations for Special Permit Applications~~ **Special Permit Regulations.**
- C. Procedures for Special Permits (filing, hearing notification, and decision timelines) shall follow MGL Ch.40A, Section 9, Special Permits, and Section 11, Notice for Public Hearing.

##### 5.6.06.2 Special Permit Review Criteria

The Planning Board shall grant a special permit only after finding that the proposed use will be consistent with the purpose and intent of this bylaw, and that the proposed use or structure is in conformance with the following criteria:

- A. Provision shall be made for convenient and safe vehicular and pedestrian circulation within the site and in relation to adjacent streets and property. The service level of adjacent streets shall not be significantly reduced due to added traffic volume or type of traffic in accordance with the most recent edition of the Massachusetts Highway Department Highway Capacity Manual;
- B. The proposed use shall not overload the capacity of water and sewer systems, stormwater drainage, solid waste disposal facilities, and other public facilities;
- C. The design of the project shall provide for adequate methods of disposal of sewage, refuse, or other wastes generated by the proposed use;
- D. The project shall be compatible in character and scale with existing uses and other uses allowed by right in the district.
- E. The project shall comply with all applicable environmental laws and regulations;
- F. The proposed project shall be consistent with Leicester's Master Plan;
- G. The project shall comply with all Site Development Standards required in the NB district **where applicable.**

**Leicester Planning Board  
Zoning Bylaw Amendments:  
Outside Storage  
1/28/2021**

**Explanation:** The purpose of these amendments is to address outside rental storage and related issues.

**A. Insert the following definitions in Section 1.3, Definitions:**

**RENTAL SELF-STORAGE FACILITY** – A building or buildings consisting of individual self-contained units that are leased for the storage of vehicles or business and household goods. Storage of hazardous materials or substances, hazardous waste, gas, oil or any substances or materials which pose a threat to human health or safety or a threat to the environment is prohibited. No activity other than storage shall occur in such facilities. Such facilities may have associated outdoor storage by special permit in certain Zoning Districts (See Sections 3.2.03. and 5.2.18).

**B. Amend the Zoning Bylaw, Section 3.2, Schedule of Use, Subsection 3.2.03, Business, as shown below:**

<b>3.2.03 BUSINESS</b>		<b>SA</b>	<b>R1</b>	<b>R2</b>	<b>B</b>	<b>CB</b>	<b>I</b>	<b>BI-A</b>	<b>HB-1 &amp;</b>
13a.	<del>Rental Enclosed Self-Storage Facility (outdoor storage prohibited)</del> <u>Rental Self-Storage Facility with no outdoor storage (Special Permits issued by Planning Board)</u>	N	N	N	SP	SP	SP	SP	<del>SP</del> Y
13b.	<u>Rental Self-Storage Facility with outdoor storage (Special Permits issued by the Planning Board)</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>SP</u>	<u>N</u>	<u>SP</u>	<u>SP</u>	<u>SP</u>
26.	Land and water recreational vehicle (including boats) sales, rental, service, and storage yards. <sup>3</sup>	N	N	N	SP	N	SP	SP	SP

<sup>3</sup>. Land and water recreational vehicle storage yards shall meet the requirements for Rental Self-Storage Facility with outdoor storage

**C. Amend Section 3.30, Business Residential-1 (BR-1) Zone, by amending subsection aa, as follows:**

~~aa. Enclosed storage facilities excepting hazardous materials or substances, hazardous waste, gas, oil or any substances or materials which poses a threat to human health or safety or a threat to the environment by Special Permit from the Planning Board.~~

**aa. Rental Self-Storage Facilities (with or without outdoor storage) by special permit from the Planning Board.**



**D. Amend Section 3.32, RESIDENTIAL INDUSTRIAL BUSINESS ZONE (RIB) ZONE, by modifying subsection h., as follows:**

- ~~h. Rental enclosed storage facilities by special permit issued by Planning Board.~~
- h. Rental Self-Storage Facilities (with or without outdoor storage) by special permit from the Planning Board.

**E. Amend Section 3.2.08, Parking of Commercial Vehicles, subsection B, as shown below:**

**B. Other Parking of Commercial Vehicles**

1. Outdoor storage of commercial vehicles as a primary use is allowed by right in the HB-1 and HB-2 district, and requires a special permit in HB-4, I, BI-A, RIB, and BR-1 districts. This use is prohibited in all other zoning districts.
2. The continued and regular parking of commercial vehicles, tractor trailers, and construction vehicles (including but not limited to tractors, backhoes, bulldozers, dump trucks, etc.), where accessory to a lawfully ~~per-mitted~~ permitted commercial use, is allowed by right in all commercial zoning districts (B, CB, I, BI-A, HB-1, HB-2, BR-1, and RIB).
3. Parking of commercial and construction vehicles (including but not limited to tractors, backhoes, bulldozers, dump trucks, etc) related to a Contractor's Yard where a special permit is required is subject to the requirement that such vehicles be stored in a garage in the Suburban Agriculture (SA) district, or screened by fencing or landscaping in the Business (B) district. The Planning Board may impose other conditions to protect abutting residential uses and the surrounding neighborhood.
4. The continued and regular parking of commercial vehicles, tractor trailers, or construction vehicles (including but not limited to tractors, backhoes, bulldozers, dump trucks, etc) accessory to a special-permitted commercial use in residential districts (SA, RA, and RB) will be addressed through the special permit process for the primary use. The ~~Special Permit Granting Authority Zoning Board of Appeals~~ may impose reasonable conditions to protect abutting residential uses and the surrounding neighborhood.

**F. Add a new Section 5.18, Outdoor Storage**

5.18.01 Rental Self-Storage Facility with Outdoor Storage

All Rental Self-Storage Facilities with outdoor storage shall be required to meet the following standards:

- A. Outdoor storage areas shall be screened from view from roadways and abutting property owners by an opaque fence at least 6 feet in height.
- B. Storage areas shall not be located in required setbacks from property lines
- C. Outdoor storage areas shall not impede emergency access to the site or structures on the site.
- D. Appropriate provisions shall be made to ensure vehicle fuel or other contaminants are appropriately controlled and don't infiltrate the ground.
- E. No commercial activity other than storage shall occur in indoor or outdoor areas, including vehicle maintenance, fueling, or repair work.

[Is there anything the Board wants to explicitly prohibit from being stored outside?]

5.18.01 Other Outdoor Storage

- A. For parking of commercial vehicles, see Section 3.2.08 (Parking of Commercial Vehicles)
- B. Storage of large equipment or storage containers outside where accessory to a lawfully permitted commercial use on the same site is allowed by right in HB-1, HB-2, B, and I, and by special permit from the Planning Board in CB, RIB, BI-A, and BR-1. Emergency access to structures shall be maintained at all times. Parking sufficient for the uses on site in conformance with the the Planning Board's Parking Regulations must remain unobstructed.

**G. Amend Section 5.6 [Greenville Village Neighborhood Business (NB) District], subsection 5.6.04, Prohibited Uses, by inserting a new section 5.6.04.3, as follows:**

**5.6.04 Prohibited Uses:**

**5.6.04.4 Rental Self-Storage Facilities (indoor or outdoor), except that Rental Self-Storage Facilities (indoor storage only) may be permitted by special permit in in commercial structures in existence prior to the creation of the NB district (ATM 5/6/2002, Article 34)**

[Note: amendments to the NB district may have to be modified depending on the amendments to the NB district]

**Leicester Planning Board  
Zoning Bylaw Amendments:  
BR-1 District Amendments  
1/28/2021**

## **BR-1 and RIB District Bylaws, with Changes Shown**

Deletions shown with ~~strikethrough~~, new text shown underlined.

### **Section 3.30: BUSINESS RESIDENTIAL-1(BR-1)ZONE**

Single family residential uses permitted within this zone. Dimensional requirements per Section 4.2 Table 1.

The Special Permit Granting Authority in the BR-1 District shall be the Planning Board.

**The Business uses permitted in this Zone are as follows:**

- ~~a-~~ 1. Legal, accounting, consulting, architectural, engineering, surveying, real estate, insurance or similar professional office.
- ~~b-~~ 2. Offices for agents for industrial, distributing and wholesale companies.
- ~~c-~~ 3. Travel agency or office.
- ~~d-~~ 4. Secretarial services, telephone answering service.
- ~~e-~~ 5. Photocopying service.
- ~~f-~~ 6. Photo studio; artist's, craftsman, locksmith's, or other artisan's studio.
- ~~g-~~ 7. Florist, gift, stationery, or antiques shop.
- ~~h-~~ 8. Repair and alteration of wearing apparel and accessories.
- ~~i-~~ 9. Repair shop for musical instruments.
- ~~j-~~ 10. Medical or dental office.
- ~~k-~~ 11. Barber or beauty shop.
- ~~l-~~ 12. Repair of household furnishings, including appliances and upholstery.
- ~~m-~~ 13. Repair and rental of non-motorized bicycles.
- ~~n-~~ 14. An inn or bed and breakfast establishment in a pre-existing building.
- ~~o-~~ 15. Collection agency for utilities; pickup for laundry or dry cleaning.
- ~~p-~~ 16. Child Care Facility and Family Child Care Home
- ~~q-~~ 17. Store, showroom, salesroom for the conduct of retail business, including a grocery, hardware, clothing, drug, or general store, not including auto sales.
- ~~r-~~ 18. Sales and distribution facilities. but not storage of toxic or virulent substances.
- ~~s-~~ 19. Catering service, delicatessen or other food market or a permitted eating establishment.
- ~~t-~~ 20. Farm stand for sales of natural produce and commercial greenhouse.
- ~~u-~~ 21. Bank or equivalent financial institution, or automated teller facility.
- ~~v-~~ 22. Restaurant.
- ~~w-~~ 23. Shop and sales of supplies for plumbing, electrical, carpentry, cabinet making, plastering, masonry, glass, and similar work.
- ~~x-~~ 24. Light manufacturing or light assembly (By Special Permit).
- ~~y-~~ 25. A group of four or more commercial establishments planned, developed, and managed as a unit with off-street parking provided on the property.
- ~~z-~~ 26. Sales or Rental, up to 30 vehicles (30 or more by special permit).
- ~~aa-~~ 27. Enclosed storage facilities excepting hazardous materials or substances, hazardous waste, gas, oil or any substances or materials which poses a threat to human health or safety or a threat to the environment by Special Permit from the Planning Board.
- ~~bb-~~ 28. Athletic/recreation facilities.
- ~~cc-~~ 29. Establishments serving alcoholic beverages, including brew pubs, by special permit
- ~~dd-~~ 30. Senior Village Developments by special permit from the Planning Board.

- ~~ee-~~ 31. Accessory Apartment
- ~~ff-~~ 32. Large Wind Facilities by Special Permit from the Planning Board.
- ~~gg-~~ 33. Small Wind Facilities by Special Permit from the Planning Board
- ~~hh-~~ 34. Veterinary Clinic by Special Permit from the Planning Board
- ~~ii-~~ 35. Farmers' Market
- ~~jj-~~ 36. Private Kennel by Special Permit from the Planning Board (Commercial Kennels prohibited).
- ~~kk-~~ 37. Ground-Mounted Solar Energy Systems
- ~~ll-~~ 38. Medical Marijuana Treatment Center, (Planning Board Site Plan Review Required, see Section 5.15).
- ~~mm-~~ 39. Marijuana Establishment by special permit (See Section 5.15)
- ~~nn-~~ 40. Backyard Chickens
- ~~oo-~~ 41. Brewery, Distillery, Winery by special permit
- ~~pp-~~ 42. Earth Removal Operation or Earth Filling Operation by special permit from the Planning Board (See Section 5.16)

### SECTION 3.32: RESIDENTIAL INDUSTRIAL BUSINESS ZONE (RIB) ZONE

Dimensional requirements per Section 4.2 Table 1. The Special Permit Granting Authority in the RIB District shall be the Planning Board.

#### A. Intent:

It is the intent of this section to provide for residential uses in somewhat higher density than in other residential zones and to provide and increase the value of residential property situated in the vicinity of operating businesses, to protect the community from the detrimental effects of development not suited to location near residences, to protect persons and property against the hazards of pollution; to conserve natural conditions and open spaces; to separate and otherwise divide potentially conflicting property uses and to provide a harmonious relationship between residential and commercial development.

#### B. Permitted Residential Uses ~~Within This Zone Are:~~

1. Detached one-family dwelling ~~subject to dimensional requirements set forth in Section 4.2 Table 1.~~
2. Two-family dwelling by Special Permit. ~~Subject to dimensional requirements set forth in Section 4.2 Table 1.~~
3. Multi-family (more than 2 family dwelling) ~~-- by Special Permit. Dimensions for residential use are set forth in Section 4.2 Table 1.~~
4. ~~Permitted Business uses within this Zone are as follows:~~

#### C. Permitted Business Uses:

~~The dimensional requirements for the business uses in this zone shall be the same as the BR-I Zone Section 4.2 Table 1.~~

- ~~a-~~ 1. Light manufacturing or light assembly facility limited to small scale assembly and manufacturing industries which are not injurious, noxious or offensive, or tend to reduce residential property values in the same or adjoining districts by reason of emission of odor, fumes, dust, smoke, vibration, sewerage, and/or industrial waste, noise, danger of explosion, fire or otherwise. Manufacturing allowed in this paragraph shall not include heavy industrial operations such as steel manufacturing, heavy forging presses and the like and shall be for utilizing hand labor or quiet machinery and process.
- ~~b-~~ 2. Landscaping services involving equipment purchasing.
- ~~c-~~ 3. Nursing home; extended or intermediate care facility licensed or approved to provide full time convalescent or chronic care.
- ~~d-~~ 4. Child Care Facility and Family Child Care Home.
- ~~e-~~ ~~The dimensional requirements for the business uses in this zone shall be the same as the BR-I Zone Section 4.2 Table 1.~~
- ~~f-~~ 5. Senior Village Developments are allowed by special permit from the Planning Board.
- ~~g-~~ 6. Accessory Apartment
- ~~h-~~ 7. Rental enclosed storage facilities by special permit issued by Planning Board.

- ~~i.~~ **8.** Uses allowed in the HB-1 district under sections 3.2.03, 3.2.04, 3.2.05, 3.2.06, and 3.33, only by special permit issued by the Planning Board. Uses prohibited under Section 3.33.3 are also prohibited in the RIB district.
- ~~j.~~ **9.** Small Wind Facilities by Special Permit from the Planning Board.
- ~~k.~~ **10.** Farmers' Market
- ~~l.~~ **11.** Small-Scale and Medium-Scale Ground-Mounted Solar Energy Systems
- ~~m.~~ **12.** Large-Scale Ground-Mounted Solar Energy Systems by Special permit from the Planning Board
- ~~n.~~ **13.** Backyard Chickens
- ~~o.~~ **14.** Vehicle Sales or Rental, up to 30 vehicles (30 or more by special permit)
- ~~p.~~ **15.** Taxi or Limousine Service
- C.D.** **Development within the RIB District** shall comply with Sections 5.5.02 through 5.5.04, except that the landscaped buffer specified in Section 5.5.02.2.C shall be 50 feet, rather than 100 feet. At the discretion of the Planning Board, the width of the required fifty (50) foot landscaped buffers from an abutting residential use or district may be reduced to a minimum of twenty (20) feet where site constraints do not allow for the 50-foot buffer and an opaque fence is provided to provide screening from the abutting residential use or district.

**Leicester Planning Board  
Zoning Bylaw Amendments:  
HB-1 District Amendments  
1/28/2021**

**1. Amend Sub-Section 5.5.02 and 5.5.03.1.B., as follows:**

**5.5.02 Site Development Standards**

All non-residential use, or conversion to a non-residential use, within the HB-1 district shall comply with all Site Development Standards in Sections 5.5.02.1 through 5.5.02.3 described below:  
The following site development standards shall apply to all new construction of non-residential uses, expansions of more than 25% of the existing non-residential uses, and increases of more than 10 parking spaces.

**5.5.02.1 Parking, Loading Areas, and Access**

Non-residential uses within the HB-1 Zone shall provide parking and loading facilities in compliance with Section 5.1, PARKING AND LOADING ~~REQUIREMENTS AND UNLOADING SPACE~~, and the following additional requirements:

**5.5.03.1 Requirements and Procedures**

**B.** Applicants for Special Permits under this section shall submit plans in compliance with the Leicester Planning Board ~~Special Permit Regulations Rules & Regulations for Special Permit Applications~~.

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# Potential Marijuana Amendments:

Draft 11/19/2020, rev 1/28/2021

The basic question is if the Board wants to require a special permit for delivery services. If not, these uses can be combined with other Marijuana Establishments, Non-Retail.

For context, I've also attached all sections of the Zoning Bylaw related to marijuana, as well as an excerpt from the Cannabis Control Commission (CCC) regulations.

## Amend Section 1.3 (Definitions), by inserting new definitions, as follows:

[Note: we may also have to amend existing definitions]

**MARIJUANA COURIER:** an entity licensed to deliver Finished Marijuana Products, Marijuana Accessories and Branded Goods directly to Consumers from a Marijuana Retailer, or directly to Registered Qualifying Patients or Caregivers from a Medical Marijuana Treatment Center, but is not authorized to sell Marijuana or Marijuana Products directly to Consumers, Registered Qualifying Patients or Caregivers and is not authorized to Wholesale, Warehouse, Process, Repackage, or White Label. A Marijuana Courier is an additional license type under 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: *Definitions* or 935 CMR 500.050: Marijuana Establishments and shall be subject to 935 CMR 500.050(1)(b): *Control Limitations*.

**MARIJUANA DELIVERY LICENSEE:** an entity that is authorized to deliver marijuana and marijuana products directly to consumers and as permitted, Marijuana Couriers to patients and caregivers

**MARIJUANA DELIVERY OPERATOR:** 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 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: *Definitions* or 935 CMR 500.050: Marijuana Establishments and shall be subject to 935 CMR 500.050(1)(b): *Control Limitations*.

## Amend Section 3.2.03, by inserting new uses, as follows:

3.2.03 BUSINESS		SA	R1	R2	B	CB	I	BI-A	HB-1 & HB-2
18.	Medical Marijuana Treatment Center (Planning Board Site Plan Review Required)	N	N	N	Y	N	Y	Y	Y
19.	Marijuana Retailer, Consumer Sales Only (Special Permits issued by the Planning Board)	N	N	N	SP	N	SP	SP	SP
20.	Marijuana Establishment, Non-Retail <b>except courier or delivery operator?</b> (Planning Board Site Plan Review Required)	N	N	N	Y	N	Y	Y	Y

3.2.03 BUSINESS		SA	R1	R2	B	CB	I	BI-A	HB-1 & HB-2
21.	Marijuana Social Consumption Facility	N	N	N	N	N	N	N	N
22.	Marijuana Outdoor Cultivator	SP	N	N	N	N	N	N	N
<u>23.</u>	<u>Marijuana Courier</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>
<u>24</u>	<u>Marijuana Delivery Operator</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>Y</u>	<u>SP</u>	<u>SP</u>	<u>SP</u>	<u>Y</u>

[Note: uses after #24 would have to be re-numbered]

*How to regulate & BR-1 RIB?*

*BR-1 currently allows Medical Marijuana by-right (with Site Plan Review) and other marijuana establishments by special permit. RIB requires a special permit for all marijuana*

**Amend Section 5.1.5.02.I, as follows:**

I. Limitations

Marijuana Retailers, Consumer Sales Only shall be limited to ~~4 establishment~~ 2 establishments in the Town of Leicester.

**Amend Section 5.2.02.1 (Projects Requiring Site Plan Review, subsection h., as follows:**

- h. Medical Marijuana Treatment Centers and Marijuana Establishments, except that Site Plan Review is not required for Marijuana Couriers unless Site Plan Review would otherwise be required under the criteria above.



parcel of land would be subject to the subdivision regulations in existence at the time. Access must be across the front of the lot and in accordance with the Zoning By Laws of the Town of Leicester. The driveway to the dwelling on the lot shall not be more than 500 feet in length and must be gravel if not paved and installed in accordance with the Town of Leicester Zoning Bylaws. The provisions of this Section shall not apply to any lot shown on a definitive subdivision plan under M.G.L. c41, sec 81(O) or to a lot which being owned in common with other lots could be configured to conform to the dimensional requirements of the zoning district.

**LOT-** A single or continuous parcel of land held in the same ownership throughout.

**LOT, CORNER-** A lot at the point of intersection of and abutting on two or more intersecting streets, the interior angle of intersection of the street lot lines, or in the case of a curved street, extended lot lines, being not more than 135 degrees.

**LOT, DEPTH-** The mean horizontal distance between the front lot line and the rear lot line.

**LOT, FRONTAGE:** The continuous distance measured along the front lot line between the points of intersection of the side lot lines with the front lot line.

**LOT, FRONTAGE, STREET-** A street which provides the required lot frontage for a building and the primary access to the lot. The principal permitted building on the lot shall be numbered on such frontage street. When a lot is bounded by more than one street, any one of them, but only one, may be designated as the frontage street by the owner, provided that the street meets the frontage requirement. When a lot is bounded by another municipality, the principal permitted building in Leicester must be numbered on a street within Leicester and gain access from said street. (See definitions of ACCESS and STREET)

**LOT, NONCONFORMING-** A lot lawfully existing at the effective date of this by-law, or any subsequent amendment thereto, which is not in accordance with all provisions of this by-law.

**LOT, WIDTH-**The width measured along a straight line so placed as to constitute the minimum distance between the side lot lines and upon which no point shall be closer than the required setback to the street.

**LOT LINE, FRONT-** The property line dividing a lot from a street (right of way). On the corner lot the owner shall designate one street line as the front lot line.

**LOT LINE, REAR:** The lot line opposite from the front lot line.

**LOT LINE, SIDE:** Any lot line not a front or rear lot line.

**MAKERSPACE:** a collaborative incubator workspace for making, learning, exploring in a variety of artistic, industrial, or light industrial activities such as machining, plasma cutting, sandblasting, ventilated painting, forging, casting, ceramics, and various other industrial processes. Such workspace may include a variety of low-tech and high-tech tools and equipment including but not limited to 3D printers, laser cutters, cnc machines, soldering irons, blacksmith equipment, and woodworking machinery. Makerspaces may include training and educational activities, including training related to vehicle repair, and may also include live-work spaces. *[new ATM 6/2/2020]*

**MAXIMUM BUILDING COVERAGE-** Maximum building coverage shall be computed as the percentage of the total lot area which may be covered by all principal and accessory buildings and structures.

**MARIJUANA:** Marijuana or Marihuana means 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 chapter 94C; provided that "Marijuana" shall not include: (1) 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 the seeds of the plant or the sterilized seed of the plant that is incapable of germination; (2) hemp; or (3) 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 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 ESTABLISHMENT:** a licensed Marijuana Cultivator, Marijuana Testing Facility, Marijuana Product Manufacturer, Marijuana Retailer, or any other type of licensed marijuana-related business or businesses at a single location except a medical marijuana treatment center.

**MARIJUANA ESTABLISHMENT, NON-RETAIL:** a marijuana establishment that does not involve on-site retail

sales to consumers, including Marijuana Cultivators, Marijuana Product Manufacturers that only sell to Marijuana Establishments but not consumers, Marijuana Testing Facilities, and Marijuana Transportation or Distribution Facilities. Not to include Marijuana Outdoor Cultivator. **[amended ATM 6/2/2020]**

**MARIJUANA RETAILER, CONSUMER SALES ONLY:** a marijuana establishment that involves on-site retail sales to consumers, excluding Marijuana Social Consumption Operators.

**MARIJUANA OUTDOOR CULTIVATOR:** a marijuana establishment that involves the cultivation of mature Cannabis outdoors without the use of artificial lighting in the canopy area, except to maintain immature or vegetative Mother Plants, including but limited to open air, hot house, or cold frame greenhouse production, which is not (a) for personal use or (b) conducted by a licensed caregiver, in amounts not to exceed the state imposed limits for individuals or caregivers. **[new ATM 6/2/2020]**

**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 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.

**MARIJUANA SOCIAL CONSUMPTION FACILITY:** a "Marijuana Social Consumption Establishment" that is licensed by the Cannabis Control Commission where single servings of marijuana may be sold for consumption on the premises.

**MARIJUANA SOCIAL CONSUMPTION OPERATOR:** a marijuana retailer licensed to purchase marijuana and marijuana products from marijuana establishment and to sell marijuana and marijuana products on its premises only to consumers or allow consumers to consume marijuana and marijuana products on its premises only.

**MARIJUANA TESTING FACILITY:** An Independent Testing Laboratory as defined in 935CMR 500.002 licensed to test marijuana and marijuana products, including certification for potency and the presence of contaminants.

**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 TRANSPORTATION OR DISTRIBUTION FACILITY:** an entity with a fixed location not otherwise licensed by the Cannabis Control Commission, that is licensed to purchase, obtain and possess cannabis or marijuana products solely for the purpose of transporting and temporarily storing the same on the premises for sale and distribution to Marijuana Establishments, but not consumers.

**MEDICAL MARIJUANA TREATMENT CENTER:** a not-for-profit entity registered under 105 CMR 725.100, also known as a Registered Marijuana Dispensary (RMD), that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana infused products, 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 for medical use. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana for medical use.

**MIXED-USE DEVELOPMENT, VERTICAL MIX:** An integration of commercial and residential uses in a single building in which the residential uses are located above the ground floor.

**MIXED-USE DEVELOPMENT, HORIZONTAL MIX-** An integration of commercial and multifamily residential uses in a development comprised of two or more buildings on the same lot, or in a single building where residential use is on the ground floor. This may include a single residential unit combined with a commercial use. **[Amended ATM 6/2/2020]**

**OWNER-** The duly authorized agent, attorney, purchaser, devisee, trustee, lessee or any person having vested or equitable interest in the use, structure or lot in question.

**PET GROOMING-** An establishment that offers pet grooming services. In residential districts (SA, R1, and R2), such use shall only be allowed as an accessory use carried out entirely within a dwelling or accessory structure and incidental and subordinate to the dwelling use. Such use shall not include boarding or other animal-related activity.

<b>3.2.03 BUSINESS</b>		<b>SA</b>	<b>R1</b>	<b>R2</b>	<b>B</b>	<b>CB</b>	<b>I</b>	<b>BI-A</b>	<b>HB-1 &amp; HB-2</b>
1.	Any wholesale or retail business, research laboratory, service or public utility not involving manufacturing on the premises except of products the major portion of which is sold on the premises by the producer to the consumer	N	N	N	Y	SP	Y	Y	Y
2.	Antique or gift shop, provided that the exterior of the building shall not be changed to look like a store, nor any new building be constructed to look like a store and provided that no merchandise shall be displayed outside the building.	Y	Y	Y	Y	SP	Y	Y	Y
3.	Place of amusement or assembly, club conducted for profit	SP	N	N	SP	SP	SP	SP	SP
4.	Office, bank, newspaper or job printing establishment.	N	N	N	Y	SP	Y	Y	Y
5.	Hotel or motel	N	N	N	Y	SP	Y	Y	Y
6.	Restaurant	SP	N	N	Y	SP	Y	Y	Y
7.	Gasoline station(prohibited in Watershed Overlay District	N	N	N	SP	N	N	N	SP
8.	Kennel, Commercial – Special Permits issued by the Planning Board.	SP	N	N	N	N	N	SP	SP
9.	Kennel, Private – Special Permits issued by Zoning Board of Appeals.	Y	SP	SP	Y	SP	Y	Y	Y
10.	Bed & Breakfast *in a pre-existing building	SP	SP	SP	Y	SP	N	N	Y*
11.	Drive-through facility (Special Permits issued by Planning Board)	N	N	N	SP	SP	SP	SP	SP
12.	Car Wash (Special Permits issued by Planning Board)	N	N	N	SP	N	SP	SP	SP
13.	Rental Enclosed Self-Storage Facility (outdoor storage prohibited) (Special Permits issued by Planning Board)	N	N	N	SP	SP	SP	SP	SP
14.	Contractor's Yard Not allowed (N) in NB, CB, and RIB. Allowed by-right (Y) in BR-1 and HB-2. (Special Permits issued by Planning Board. See also Section 3.2.08., Parking of Commercial Vehicles)	SP	N	N	SP	N	Y	Y	Y
15.	Veterinary Clinic	N	N	N	SP	SP	N	N	N
16.	Farmers' Market	Y	Y	Y	Y	Y	N	Y	Y
17.	Pet Grooming (Special Permits issued by Planning Board)	Y	SP	SP	Y	SP	Y	Y	Y
18.	Medical Marijuana Treatment Center (Planning Board Site Plan Review Required)	N	N	N	Y	N	Y	Y	Y
19.	Marijuana Retailer, Consumer Sales Only (Special Permits issued by the Planning Board)	N	N	N	SP	N	SP	SP	SP
20.	Marijuana Establishment, Non-Retail (Planning Board Site Plan Review Required)	N	N	N	Y	N	Y	Y	Y
21.	Marijuana Social Consumption Facility	N	N	N	N	N	N	N	N

<b>3.2.03 BUSINESS</b>		<b>SA</b>	<b>R1</b>	<b>R2</b>	<b>B</b>	<b>CB</b>	<b>I</b>	<b>BI-A</b>	<b>HB-1 &amp; HB-2</b>
22.	Marijuana Outdoor Cultivator	SP	N	N	N	N	N	N	N
23.	Vehicle Service or Repair Facility (prohibited in Watershed Overlay District)	N	N	N	SP	N	SP	SP	SP
24.	Vehicle Sales or Rental, up to 30 vehicles <sup>2</sup>	N	N	N	SP	N	Y	Y	Y
25.	Vehicle Sales or Rental/Auto Dealership, 30 or more vehicles <sup>2</sup>	N	N	N	N	N	SP	SP	SP
26.	Land and water recreational vehicle (including boats) sales, rental, service, and storage yards.	N	N	N	SP	N	SP	SP	SP
27.	Towing Company	N	N	N	SP	N	SP	SP	SP
28.	Vehicle Salvage Yard	N	N	N	N	N	N	N	N
29.	Brewery, Distillery, Winery	SP	N	N	SP	SP	Y	Y	Y
30.	Brew Pub	SP	N	N	Y	SP	Y	Y	Y

<sup>2</sup> Display/parking of vehicles for sale is prohibited in the right-of-way of any roadway (public or private) and in any required landscaped buffer areas for the applicable zoning district. Where the number of vehicles for sale combined with parking spaces exceeds twenty (20), Site Plan Review is required in accordance with Section 5.2 (Site Plan Review).

<b>3.2.04 INDUSTRIAL</b>		<b>SA</b>	<b>R1</b>	<b>R2</b>	<b>B</b>	<b>CB</b>	<b>I</b>	<b>BI-A</b>	<b>HB-1 &amp; HB-2</b>
1.	Any manufacturing or industrial use, including processing, fabrication and assembly, providing that no such use shall be permitted which would be detrimental or offensive or tend to reduce property values in the same or adjoining districts by reason of dirt, odor, fumes, smoke, gas, sewage, refuse, noise, excessive vibration or danger of explosion or fire.	N	N	N	N	N	Y	Y	Y
1-A	Research laboratory. (Same restrictions as above)	N	N	N	N	N	SP	SP	Y
2.	Construction headquarters or building from which construction work is directed and supplied.	N	N	N	N	N	Y	Y	Y
3.	Storage warehouse	N	N	N	SP	N	Y	Y	Y
4.	Earth Removal Operation (See Section 5.16)	SP	SP	SP	SP	N	SP	SP	N
5.	Earth Filling Operation (See Section 5.16)	SP	SP	SP	SP	SP	SP	SP	SP

### Section 3.30: BUSINESS RESIDENTIAL-1(BR-1)ZONE

Single family residential uses permitted within this zone. Dimensional requirements per Section 4.2 Table 1. The Special Permit Granting Authority in the BR-1 District shall be the Planning Board.

**The Business uses permitted in this Zone are as follows:**

- a. Legal, accounting, consulting, architectural, engineering, surveying, real estate, insurance or similar professional office.
- b. Offices for agents for industrial, distributing and wholesale companies.
- c. Travel agency or office.
- d. Secretarial services, telephone answering service.
- e. Photocopying service.
- f. Photo studio; artist's, craftsman, locksmith's, or other artisan's studio.
- g. Florist, gift, stationery, or antiques shop.
- h. Repair and alteration of wearing apparel and accessories.
- i. Repair shop for musical instruments.
- j. Medical or dental office.
- k. Barber or beauty shop.
- l. Repair of household furnishings, including appliances and upholstery.
- m. Repair and rental of non-motorized bicycles.
- n. An inn or bed and breakfast establishment in a pre-existing building.
- o. Collection agency for utilities; pickup for laundry or dry cleaning.
- p. Child Care Facility and Family Child Care Home
- q. Store, showroom, salesroom for the conduct of retail business, including a grocery, hardware, clothing, drug, or general store, not including auto sales.
- r. Sales and distribution facilities. but not storage of toxic or virulent substances.
- s. Catering service, delicatessen or other food market or a permitted eating establishment.
- t. Farm stand for sales of natural produce and commercial greenhouse.
- u. Bank or equivalent financial institution, or automated teller facility.
- v. Restaurant.
- w. Shop and sales of supplies for plumbing, electrical, carpentry, cabinet making, plastering, masonry, glass, and similar work.
- x. Light manufacturing or light assembly (By Special Permit).
- y. A group of four or more commercial establishments planned, developed, and managed as a unit with off-street parking provided on the property.
- z. Sales or Rental, up to 30 vehicles (30 or more by special permit).
- aa. Enclosed storage facilities excepting hazardous materials or substances, hazardous waste, gas, oil or any substances or materials which poses a threat to human health or safety or a threat to the environment by Special Permit from the Planning Board.
- bb. Athletic/recreation facilities.
- cc. Establishments serving alcoholic beverages, including brew pubs, by special permit
- dd. Senior Village Developments by special permit from the Planning Board.
- ee. Accessory Apartment
- ff. Large Wind Facilities by Special Permit from the Planning Board.
- gg. Small Wind Facilities by Special Permit from the Planning Board
- hh. Veterinary Clinic by Special Permit from the Planning Board
- ii. Farmers' Market
- jj. Private Kennel by Special Permit from the Planning Board (Commercial Kennels prohibited).
- kk. Ground-Mounted Solar Energy Systems
- ll. Medical Marijuana Treatment Center, (Planning Board Site Plan Review Required, see Section 5.15).
- mm. Marijuana Establishment by special permit (See Section 5.15)
- nn. Backyard Chickens
- oo. Brewery, Distillery, Winery by special permit
- pp. Earth Removal Operation or Earth Filling Operation by special permit from the Planning Board (See Section 5.16)

### Section 3.31: HIGHWAY BUSINESS-INDUSTRIAL DISTRICT2(HB-2)

The Highway Business-Industrial District 2 (HB-2) shall comply with all requirements for the Highway Business-Industrial District 1 (HB-1), except that the minimum lot size for HB-2 shall be 45,000 square feet.

### SECTION 3.32: RESIDENTIAL INDUSTRIAL BUSINESS ZONE (RIB) ZONE

Dimensional requirements per Section 4.2 Table 1. The Special Permit Granting Authority in the RIB District shall be the Planning Board.

#### A. Intent:

It is the intent of this section to provide for residential uses in somewhat higher density than in other residential zones and to provide and increase the value of residential property situated in the vicinity of operating businesses, to protect the community from the detrimental effects of development not suited to location near residences, to protect persons and property against the hazards of pollution; to conserve natural conditions and open spaces; to separate and otherwise divide potentially conflicting property uses and to provide a harmonious relationship between residential and commercial development.

#### B. Permitted Residential Uses Within This Zone Are:

1. Detached one family dwelling subject to dimensional requirements set forth in Section 4.2 Table 1.
2. Two family dwelling by Special Permit. Subject to dimensional requirements set forth in Section 4.2 Table 1.
3. Multi-family (more than 2 family dwelling) - by Special Permit. Dimensions for residential use are set forth in Section 4.2 Table 1.
4. Permitted Business uses within this Zone are as follows:
  - a. Light manufacturing or light assembly facility limited to small scale assembly and manufacturing industries which are not injurious, noxious or offensive, or tend to reduce residential property values in the same or adjoining districts by reason of emission of odor, fumes, dust, smoke, vibration, sewerage, and/or industrial waste, noise, danger of explosion, fire or otherwise. Manufacturing allowed in this paragraph shall not include heavy industrial operations such as steel manufacturing, heavy forging presses and the like and shall be for utilizing hand labor or quiet machinery and process.
  - b. Landscaping services involving equipment purchasing.
  - c. Nursing home; extended or intermediate care facility licensed or approved to provide full time convalescent or chronic care.
  - d. Child Care Facility and Family Child Care Home.
  - e. The dimensional requirements for the business uses in this zone shall be the same as the BR-I Zone Section 4.2 Table 1.
  - f. Senior Village Developments are allowed by special permit from the Planning Board.
  - g. Accessory Apartment
  - h. Rental enclosed storage facilities by special permit issued by Planning Board.
  - i. Uses allowed in the HB-1 district under sections 3.2.03 , 3.2.04, 3.2.05, 3.2.06, and 3.33, only by special permit issued by the Planning Board. Uses prohibited under Section 3.33.3 are also prohibited in the RIB district.
  - j. Small Wind Facilities by Special Permit from the Planning Board.
  - k. Farmers' Market
  - l. Small-Scale and Medium-Scale Ground-Mounted Solar Energy Systems
  - m. Large-Scale Ground-Mounted Solar Energy Systems by Special permit from the Planning Board
  - n. Backyard Chickens
  - n. Vehicle Sales or Rental, up to 30 vehicles (30 more by special permit)
  - o. Taxi or Limousine Service

**C. Development within the RIB District** shall comply with Sections 5.5.02 through 5.5.04, except that the landscaped buffer specified in Section 5.5.02.2.C shall be 50 feet, rather than 100 feet At the discretion of the Planning Board, the width of the required fifty (50) foot landscaped buffers from an abutting residential use or district may be reduced to a minimum of twenty (20) feet where site constraints do not allow for the 50-foot buffer and an opaque fence is provided to provide screening from the abutting residential use or district.



## SECTION 5: SPECIAL REGULATIONS

### 5.1 PARKING AND LOADING REQUIREMENTS

*[Amended STM 11/14/2017, Article 11]*

- 5.1.01** No use of land for either residential or non-residential purposes in any district in the Town will be permitted which does not provide off-street parking and loading and unloading space adequate for its customary needs.
- 5.1.02** The Planning Board is authorized to adopt from time to time Parking Regulations to regulate parking and to define adequacy for off-street parking and loading and unloading space for residential and non-residential use
- 5.1.03** Parking shall be located on the same lot as the principal use or on a contiguous lot within the same zoning district or in an adjacent zoning district in which such parking is permitted provided that no space is counted as meeting the requirements for more than one building or use except in accordance with the shared parking requirements in the Planning Board's Parking Regulations.
- 5.1.04** In the Business (B) and Central Business (CB) districts all parking shall be provided on the same lot as the principal use or on another lot within a radius of 300 feet in the same zoning district or in an adjacent zoning district in which such parking is permitted provided that such parking is located on a lot on the same side of a major road (e.g. Route 9, Pleasant Street, Stafford Street) as the principal use and that no space is counted as meeting the requirements of more than one building or use except in accordance with the shared parking requirements in the Planning Board's Parking Regulations. Properties within the CB District shall not be required to comply with the 300 foot limitation and may share parking anywhere within the CB District on the same side of a major road. By Special Permit, the Planning Board may allow parking on the opposite side of the road in the CB district.

### 5.2 SITE PLAN REVIEW

#### 5.2.01 PURPOSE.

The purpose of this Section is to provide for a comprehensive review of site plans for those uses and structures that may have a significant impact on the Town's character, infrastructure, environment and quality of life.

#### 5.2.02 APPLICABILITY

##### 1. Projects Requiring Site Plan Review:

Site Plan Review by the Planning Board shall be required in all zoning districts prior to the issuance of a Building Permit, except as exempted below, for the following:

- a. Any new use, or any expansion of an existing use, that results in 3,000 square feet of new floor area, addition or creation of more than 20 parking spaces, or 10,000 square feet of new land area devoted to a use
- b. Addition or creation of a drive-in or drive-through establishment
- c. Any building over 35 feet in height
- d. Radio or TV broadcasting towers and any structure meeting the definition of a wireless communication facility or large wind facility.
- e. All non-residential projects in the Greenville Village Neighborhood Business District (NB) per Section 5.6.02.2 of the Zoning Bylaw
- f. All business and/or multiple family uses set forth in the BR-1, and RIB Zones per Section 4.4 of the Zoning Bylaw.
- g. Medium-Scale Ground-Mounted Solar Energy Systems that occupy 3,000 square feet or more of surface area and Large-Scale Ground-Mounted Solar Energy Systems.
- h. Medical Marijuana Treatment Centers and Marijuana Establishments

##### 2. EXEMPTIONS:

Site Plan Review shall not be required for the construction or enlargement of any single-family or two-family dwellings, the construction or alteration of any structure to be used exclusively for agricultural purposes, or for any public buildings or uses of the Town of Leicester.

## → 5.15 MEDICAL MARIJUANA TREATMENT CENTERS AND MARIJUANA ESTABLISHMENTS

*[New Bylaw voted May 7, 2013, Revised 5/1/2018, 5/7/2019, and 6/2/2020]*

### 5.15.01 Purpose and Intent:

To provide for the limited establishment of Medical Marijuana Treatment Centers and Marijuana Establishments in appropriate places and to minimize the adverse impacts of Medical Marijuana Treatment Facilities and Marijuana Establishments on residential neighborhoods, schools and other places where children congregate, and other land uses potentially incompatible with said facilities.

### 5.15.02 STANDARDS:

#### A. General

All aspects of a Medical Marijuana Treatment Center or Marijuana Establishment except Marijuana Outdoor Cultivators must take place at a fixed location within a fully enclosed building with opaque walls and shall not be visible from the exterior of the building. Except as allowed for Marijuana Outdoor Cultivators, greenhouses with transparent or translucent walls are prohibited: glass or other transparent roofs are allowed. (See related subsection J., Lighting and Section 5.15.04 Marijuana Outdoor Cultivators). No outside storage of marijuana, related supplies, or educational materials is permitted. Medical Marijuana Treatment Centers and Marijuana Establishments are not permitted as a home occupation. Site Plan Review is required for all Medical Marijuana Treatment Centers, Marijuana Outdoor Cultivators and Marijuana Establishments, including when the facility will reuse an existing structure.

#### B. Buffer Requirements

No Medical Marijuana Treatment Center or Marijuana Establishment may be located within required buffer areas. Buffers shall be 500 feet for Medical Marijuana Treatment Centers and Marijuana Retailers, Consumer Sales Only and 200 feet for Marijuana Establishments, Non-Retail, from the following: residential zoning districts (SA, R1, and R2), and pre-existing public or private schools (pre-school through grade 12), except that buffer from the SA district shall not apply to Marijuana Outdoor Cultivators. Distance shall be measured in a straight line as the shortest between the Medical Marijuana Treatment Center or Marijuana Establishment building and residential district boundaries, and as a straight line from the nearest point of the property line in question to the nearest point of the property line where the Medical Marijuana Treatment Center or Marijuana Establishment is or will be located for schools.

#### C. Signage

All business signage shall be subject to the requirements of the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and the requirements of Leicester Zoning Bylaw

#### D. Ventilation/Odor

All Marijuana Establishments shall be ventilated in such a manner that no odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the Medical Marijuana Treatment Center or Marijuana Establishment or at any adjoining use or property

#### E. Security

All Medical Marijuana Treatment Centers and Marijuana Establishments shall provide 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 of marijuana is adequately secured in enclosed, locked facilities.

#### F. Permitting

All Medical Marijuana Treatment Centers and Marijuana Establishments shall meet all of the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will as proposed be in compliance with all applicable state laws and regulations.

#### G. Private Clubs

Clubs, lodges, or other private grounds (non-profit and private) allowing on-site consumption of marijuana or marijuana products, but not operating as a licensed marijuana social consumption operator are prohibited.

#### H. Conversion

The conversion of a Medical Marijuana Treatment Center (also known as a registered marijuana dispensary



or RMD) licensed or registered not later than July 1, 2017 that is engaged in the cultivation, manufacture or sale of marijuana or marijuana products in Leicester to a marijuana establishment for adult use (also known as recreational use) engaged in the same type of activity shall be permitted by-right (without a special permit), but shall require Planning Board Site Plan Review. Abutters, and abutters to the abutters within three hundred feet of the property line of the applicant, shall be notified of the date and time of the Site Plan Review discussion.

- I. Limitations  
Marijuana Retailers, Consumer Sales Only shall be limited to 1 establishment in the Town of Leicester.
- J. Lighting  
Lighting shall not extend beyond property lines. Artificial lighting from within the building(s) shall not create light pollution.

### 5.15.03 SPECIAL PERMIT REQUIREMENTS:

The Planning Board shall be the Special Permit Granting Authority for all Marijuana Establishments. Applications shall be submitted in accordance with the Planning Board's Special Permit Regulations. In addition to the special permit approval criteria for the applicable zoning district and the Planning Board's Special Permit Regulations, the Planning Board shall find that the proposed use meets the requirements of this section 5.15.

### 5.15.04 MARIJUANA OUTDOOR CULTIVATOR REQUIREMENTS

- A. Purpose  
The intent of this Section is to address local siting and land use concerns in relation to the legalization of medical and recreational marijuana in the Commonwealth following ballot initiatives in 2012 and 2016. The granting of a Special Permit by the Town of Leicester does not supersede state or federal laws or pre-empt an applicant from complying with all relevant state and federal laws. In addition, the purpose of this bylaw is to update the Marijuana Establishment Bylaw and to regulate Marijuana Outdoor Cultivators, to incorporate the recent circular issued by the Cannabis Control Commission entitled "Guidance for Farmers" and to protect the integrity of natural resources in the Town of Leicester.
- B. Applicability  
A Special Permit under this section shall be required from the Planning Board for any Marijuana Outdoor Cultivator as a principal or accessory use, or combination of uses involving a Marijuana Outdoor Cultivator.
- C. Performance Standards
  1. No Marijuana Outdoor Cultivator shall be located within 500 feet (measured from edge of building or occupied space to edge of building or occupied space) of any public or private school providing education in kindergarten or any of grades 1 through 12, any public playground, or licensed daycare.
  2. The minimum lot size for this use shall be fifteen (15) acres. In addition, the Town establishes the following minimal ratios of acreage for outdoor cultivation based on the following footage of Canopy:

<b>Tier:</b>	<b>Footage of Canopy</b>	<b>Acreage required</b>
Tier 1:	up to 5,000 s.f canopy	15 acres
Tier 2:	5,001 to 10,000 s.f.	25 acres
Tier 3:	10,001 to 20,000 s.f.	30 acres
Tier 4:	20,001 to 30,000	35 acres
Tier 5:	30,001 to 40,000	40 acres
Tier 6:	40,001 to 50,000	45 acres
Tier 7:	50,001 to 60,000	50 acres
Tier 8:	60,001 to 70,000	50 acres
Tier 9:	70,001 to 80,000	50 acres
Tier 10:	80,001 to 90,000	50 acres
Tier 11:	90,001 to 100,000	50 acres

3. No fertilizers, compost, soils, materials, machinery, or equipment shall be stored within the required front, side, and rear yard setbacks.
4. The minimum setback from all property lines shall be 200 feet.
5. Marijuana not grown inside a securable structure shall be enclosed within a minimum of eight (8') foot opaque perimeter security fence to prevent unauthorized entry to the cultivation facility with signs notifying observers that it is a Limited Access Area.

6. The establishment shall not allow any person under 21 years of age to volunteer or work for the marijuana establishment;
7. The outdoor cultivation facility shall comply in every respect with the requirements of 935 CMR 500.110 (6) which regulates "Security and Alarm Requirements for Marijuana Establishments Operating Outdoors." The outdoor cultivation facility shall:
  - a). Implement adequate security measures to ensure that outdoor areas are not readily accessible to unauthorized individuals and to prevent and detect diversion, theft or loss of Marijuana which shall, at a minimum, include:
  - b). A perimeter security fence designed to prevent unauthorized entry to the cultivation facility with signs notifying observers that it is a Limited Access Area;
  - c). Commercial-grade, nonresidential locks;
  - d). A security alarm system that shall: be continuously monitored, whether electronically, by a monitoring company or other means determined to be adequate by the Commission; and provide an alert to designated employees of the Marijuana Establishment within five minutes after a notification of an alarm or a system failure, either by telephone, email or text message.
  - e). Video cameras at all points of entry and exit and in any parking lot which shall be appropriate for the normal lighting conditions of the area under surveillance. The cameras shall be directed at all safes, vaults, sales areas, and areas where Marijuana is cultivated, harvested, processed, prepared, stored, handled, transferred or dispensed and for the purpose of securing cash. Cameras shall be angled so as to allow for the capture of clear and certain identification of any person entering or exiting the Marijuana Establishment or area;
  - f). 24-hour recordings from all video cameras that are available immediate viewing by the Commission on request and that are retained for at least 90 calendar days. Recordings shall not be destroyed or altered, and shall be retained as long as necessary if the Marijuana Establishment is aware of a pending criminal, civil or administrative investigation or legal proceeding for which the recording may contain relevant information;
  - g). The ability to immediately produce a clear, color still image whether live or recorded;
  - h). A date and time stamp embedded in all recordings, which shall be synchronized and set correctly at all times and shall not significantly obscure the picture;
  - i). The ability to remain operational during a power outage; and
  - j). A video recording that allows for the exporting of still images in an industry standard image format, including .jpg, .bmp and .gif. Exported video shall have the ability to be archived in a proprietary format that ensures authentication of the video and guarantees that no alteration of the recorded image has taken place. Exported video shall also have the ability to be saved in an industry standard file format that may be played on a standard computer operating system. All recordings shall be erased or destroyed prior to disposal.
  - k). All security system equipment and recordings shall be maintained in a secure location so as to prevent theft, loss, destruction and alterations.
  - l). In addition to the requirements listed in 935 CMR 500.110(4)(a) and (b), the Marijuana Establishment shall have a back-up alarm system, with all capabilities of the primary system, provided by a company supplying commercial grade equipment, which shall not be the same company supplying the primary security system, or shall demonstrate to the Commission's satisfaction alternate safeguards to ensure continuous operation of a security system.
  - m). Access to surveillance areas shall be limited to persons that are essential to surveillance operations, Law Enforcement Authorities acting within their lawful jurisdiction, police and fire departments, security system service personnel and the Commission. A current list of authorized employees and service personnel that have access to the surveillance room must be available to the Commission on request. If the surveillance room is on-site of the Marijuana Establishment, it shall remain locked and shall not be used for any other function.
  - n). All security equipment shall be in good working order and shall be inspected and tested at regular intervals, not to exceed 30 calendar days from the previous inspection and test.

- o). Security plans and procedures shared with Law Enforcement Authorities pursuant to 935 CMR 500.110(1)(o) shall include: a description of the location and operation of the security system, including the location of the central control on the Premises, a schematic of security zones, the name of the security alarm company and monitoring company, if any, a floor plan or layout of the facility in a manner and scope as required by the municipality; and, a safety plan for the Manufacture and production of Marijuana Products as required pursuant to 935 CMR 500.101(1)(d)3.c.
  - p). Each licensee shall file an emergency response plan with the Leicester Fire and Police Department
  - q). No Outdoor Marijuana Cultivation establishment shall allow cultivation, processing, manufacture, sale or display of marijuana or marijuana products to be visible from a public place without the use of binoculars, aircraft or other optical aids.
8. In reviewing a special permit under this section the Board shall consider the impact of the proposal on the following:
- a. Character of the neighborhood to include visual compatibility with surrounding uses.
  - b. Proximity to other licensed marijuana uses to prevent clustering.
  - c. Relationship to surrounding uses to avoid unnecessary exposure to minors.
  - d. Site design and other development related site impacts.
  - e. No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the Marijuana Establishment or at any adjoining use or property, except as allowed under a Special Permit granted to a Outdoor Marijuana Cultivator. Outdoor cultivation of marijuana will implement industry best practice to eliminate any noticeable trace of marijuana odor at the perimeter of property of the cultivator site.
9. Liability Insurance Coverage or Maintenance of Escrow as required in 935 CMR 500(10).

These amendments establish permitting requirements and reasonable regulations for Marijuana Outdoor Cultivators

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- ii. The outdoor space shall be open to the air at all times. For purposes of 105 CMR 661.000: *Regulations Implementing M.G.L. c. 270, § 22*, this shall mean that the space has thorough, unobstructed circulation of outside air to all parts of the outdoor space. An outdoor space shall be presumed to meet this test if:
  - (A) the space has a ceiling and at least  $\frac{1}{2}$  of the total surface area of the walls and other vertical boundaries of the space permits unobstructed flow of outside air into the space; or
  - (B) the space has no ceiling and no more than two walls or other vertical boundaries of the space that obstruct the flow of air into the space exceed eight feet in height.
- iii. For purposes of 105 CMR 661.000: *Regulations Implementing M.G.L. c. 270, § 22*, a ceiling shall include any top or covering that is placed or maybe placed over a space, or any other structure or arrangement above the space (including substantial coverage by umbrellas or awnings) that may impede the flow of air into the space, regardless of the type or nature of the materials or the partial or removable nature of the covering.
- iv. The local board of health shall be notified in writing prior to initiating construction or renovation of an outdoor space for the purpose of permitting smoking, if such construction or renovation requires notification of the local building department or a licensing authority.

**500.145: Additional Operational Requirements for Delivery of Marijuana, Marijuana Products, Marijuana Accessories, and Marijuana Establishment Branded Goods to Consumers and as Permitted, to Patients or Caregivers**

**(1) General Requirements.**

- (a) For purposes of section 935 CMR 500.145, Delivery Items means Finished Marijuana Products, Marijuana Accessories, and Marijuana Establishment Branded Goods.
- (b) Pursuant to 935 CMR 500.105(4), a Delivery License or Delivery Endorsement is a necessary prerequisite for the delivery of Delivery Items directly to Consumers, and as permitted, Marijuana Couriers, to Patients or Caregivers. Applications for a Delivery License or Delivery Endorsement shall be in a form and manner to be determined by the Commission.
- (c) Prior to commencing operations, Delivery Licensee or a Marijuana Establishment with a Delivery Endorsements shall comply with all operational requirements imposed by:
  - 1. 935 CMR 500.105;
  - 2. 935 CMR 500.110 as applicable, including 935 CMR 500.110(8); and
  - 3. 935 CMR 500.145.
- (d) All individuals delivering for a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement directly to Consumers, and as permitted Patients or Caregivers, shall be employees of the Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement and shall hold a valid Marijuana Establishment Agent registration.
- (e) All Marijuana and Marijuana Products delivered by a Marijuana Courier shall be obtained from a licensed Marijuana Retailer or MTC. A Marijuana Courier may deliver Marijuana Establishment Branded Goods and MTC Branded Goods carrying the Marijuana Courier's brand or that of a licensed Marijuana Retailer or

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MTC. A Marijuana Courier may deliver Marijuana Accessories from a licensed Marijuana Retailer or MTC, or acquire and deliver their own Marijuana Accessories. A Marijuana Courier may not acquire electronic vape devices, hardware or batteries utilized in products that vaporize concentrates and oils, other than from a licensed Marijuana Retailer or MTC.

1. Marijuana Couriers shall only obtain Marijuana or Marijuana Products for delivery from a licensed Marijuana Retailer or MTC with which the Marijuana Courier has a Delivery Agreement.
  2. All agreements between a Marijuana Courier and a Marijuana Retailer or MTC shall be disclosed under the requirements of licensure in 935 CMR 500.101 and subject to limitations on control over Licenses under 935 CMR 500.050(1)(b).
  3. The Commission shall be notified in writing of any Substantial Modification to a Delivery Agreement.
- (f) Delivery Operators shall only deliver Finished Marijuana Products, Marijuana Accessories and Marijuana Establishment Branded Goods carrying the Delivery Operator's brand or that of a licensed Marijuana Cultivator, Marijuana Product Manufacturer, Microbusiness or Craft Marijuana Cooperative. All Finished Marijuana Products delivered by a Delivery Operator Licensee shall be obtained from a licensed Marijuana Cultivator, Marijuana Product Manufacturer, Microbusiness or Craft Marijuana Cooperative and shall comply with 935 CMR 500.105(1)(e): *Written Operating Procedures*. Delivery Operators may deliver Marijuana Establishment Branded Goods carrying the Delivery Operator's brand or that of a licensed Marijuana Cultivator, Marijuana Product Manufacturer, Microbusiness or Craft Marijuana Cooperative.
1. A Delivery Operator shall only obtain Finished Marijuana Products for delivery from a licensed Marijuana Cultivator, Marijuana Product Manufacturer, Microbusiness or Craft Marijuana Cooperative with which the Delivery Operator has a Wholesale Agreement.
  2. All Wholesale Agreements between a Delivery Operator and a Marijuana Cultivator, Marijuana Product Manufacturer, Microbusiness or Craft Marijuana Cooperative shall be subject to limitations on control over Licenses under 935 CMR 500.050(1)(b) and shall be subject to inspection and disclosure under 935 CMR 500.105(9): *Recordkeeping*.
  3. The Commission shall be notified in writing of any Substantial Modification to a Wholesale Agreement.
- (g) A Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement and Marijuana Retailer may use a Third-party Technology Platform Provider to facilitate orders by Consumers, and as permitted Patients or Caregivers.
1. All agreements between a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement and a Third-party Technology Platform Provider shall be submitted to the Commission prior to Final Licensure as part of the requirements for licensure in 935 CMR 500.101 and shall be subject to the control limitations under 935 CMR 500.050(1)(a).
  2. The Commission shall be notified in writing within five days of the following:
    - a. Any Substantial Modification to an agreement.
    - b. Any new or additional or assigned agreements between a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement and a Third-party Technology Platform Provider.
  3. Contracts between Delivery Licensees and Third-party Technology Platform Providers shall be negotiated at arm's length and entered into knowingly and willingly by both parties.
    - a. The terms of a contract between a Delivery Licensee and a Third-party Technology Platform Provider shall be transparent and shall describe the methodology for determining the placement of Delivery Licensees

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- in search results.
- b. The terms of a contract between a Delivery Licensee and a Third-party Technology Platform Provider shall define the fee structure for payment of services provided under the contract.
- c. The terms of a contract between a Delivery Licensee and a Third-party Technology Platform Provider shall include that the placement of Delivery Licensees in search results shall be based on objective, consumer-oriented criteria which may include, but shall not be limited to, time to deliver to the Consumer; Finished Marijuana Product price; and Finished Marijuana Product availability.
- d. Inducements intended to influence the placement of Delivery Licensees shall be strictly prohibited. No Delivery Licensee shall directly or indirectly give, permit other people or entities to give, receive or otherwise accept, an Inducement in any effort to persuade or influence a Third-party Technology Platform Provider to list any particular Delivery Licensee, brand or kind of Finished Marijuana Product, or to persuade or influence a Third-party Technology Platform Provider from listing any particular Delivery Licensee, brand or kind of Finished Marijuana Product.
- e. Advertising by a Delivery Licensee on a Third-party Technology Platform Provider shall not be considered to be an Inducement, provided:
  - i. The contract terms for Advertising clearly state that the decision by a Delivery Licensee to advertise or not to advertise on a Third-party Technology Platform Provider shall not influence the placement of that Delivery Licensee in search results.
  - ii. Any advertisement shall include a clear and conspicuous disclosure on the face of the advertisement that it is paid Advertising.
  - iii. No Delivery Licensee may advertise or market Marijuana or Marijuana Products in conjunction with a Third-party Technology Platform Provider outside of the technology platform, and shall ensure that the Third-party Technology Platform Provider does not use the Delivery Licensee's license number, legal business name or Brand Name on any advertisement or marketing that primarily promotes the services of the technology platform.
- 4. A Delivery Licensee, in its engagement with a Third-party Technology Platform Provider shall ensure compliance with the consumer and patient protection standards established by G.L. c. 94G and c. 94I and the associated regulations, including, but not limited to 935 CMR 500.820: *Confidentiality* and 501.820: *Confidentiality*, and other applicable state laws.
- 5. A Delivery Licensee shall ensure minimum identifying information regarding the Delivery Licensee and its products, including but not limited to the Delivery Licensee's business name and license number, and as specified by the Commission, is on its menu and any receipt provided to Consumers placing an order for Marijuana and Marijuana Products through the technology platform.
- (h) The maximum retail value of Marijuana or Marijuana Products allowed in a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement's vehicle at any one time shall be \$10,000 and each Marijuana Product shall be associated with a specific Individual Order. For purposes of this provision, "maximum retail value" shall mean the aggregate value of Marijuana and Marijuana Products as priced on the day of the order for delivery.



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- (i) All Marijuana and Marijuana Product deliveries shall be tracked using the Seed-to-sale SOR as designated by the Commission.
  - (j) Records of sales of Marijuana Accessories and Marijuana Establishment Branded Goods shall be maintained by the Delivery Licensee or Marijuana Establishment with a Delivery Endorsement, but may not be tracked in the Seed-to-sale SOR.
  - (k) For non-Marijuana or non-Marijuana Product sales, a Delivery Licensee or Marijuana Establishment with a Delivery Endorsement shall comply with Massachusetts tax laws, and DOR rules and regulations including, but not limited to, 830 CMR 62C.25.1: *Record Retention and DOR Directive 16-1* regarding recordkeeping requirements.
  - (l) Deliveries by a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall be geographically limited to:
    - 1. The municipality identified as the Marijuana Establishment License's place of business;
    - 2. Any municipality which allows for retail within its borders whether or not one is operational; or
    - 3. Any municipality which after receiving notice from the Commission, has notified the Commission that delivery may operate within its borders.
  - (m) Limitations on the time for delivery shall comply with all municipal bylaws and ordinances, provided however, that all deliveries shall be completed before 9:00 P.M. local time or the time determined by municipal bylaw or ordinance, whichever occurs first, and deliveries may not occur between the hours of 9:00 P.M. and 8:00 A.M., unless otherwise explicitly authorized by municipal bylaw or ordinance.
  - (n) Every effort shall be made to minimize the amount of cash carried in a Delivery Licensee or Marijuana Establishment with a Delivery Endorsement vehicle at any one time. Marijuana Retailers utilizing a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement for Consumer transactions shall use best efforts to implement platforms for the electronic payment of funds. Where cash is carried by a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement vehicle, cash shall be stored in a locked compartment.
  - (o) Delivery Licensees and Marijuana Establishments with a Delivery Endorsement shall comply with the requirements of 935 CMR 500.110(7) for purposes of cash transport to financial institutions.
  - (p) In addition to complying with 935 CMR 500.105(4), a Delivery Licensee shall include on any website it operates or that operates on its behalf the license number(s) issued by the Commission.
  - (q) In addition to complying with 935 CMR 500.105(4), a Marijuana Establishment with a Delivery Endorsement shall include on any website it operates or that operates on its behalf the endorsement number(s) issued by the Commission.
- (2) Orders Fulfilled by Marijuana Couriers. All orders for deliveries made by a Marijuana Courier or a Marijuana Establishment with a Delivery Endorsements shall comply 935 CMR 500.145(1)(e) and the following requirements:
- (a) Orders for home delivery shall be received by a Marijuana Retailer and transmitted to a Marijuana Courier for delivery to a Residence.
  - (b) Only Marijuana Products that are Shelf-stable may be delivered. Products that are perishable or time and temperature controlled to prevent deterioration may not be allowed to be delivered by a Marijuana Courier or a Marijuana Establishment with a Delivery Endorsement.
  - (c) A Marijuana Courier or Marijuana Establishment with a Delivery Endorsements shall deliver only to the Residence address provided. A Marijuana Courier or a Marijuana Establishment with a Delivery Endorsement shall be prohibited from delivering to college- or university-designated dormitories or housing; and federal public housing identified at <https://resources.hud.gov/>.
  - (d) A Marijuana Courier shall only acquire from a Marijuana Retailer and deliver

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Marijuana or Marijuana Products for which a specific order has been received by a licensed Marijuana Retailer with which the Marijuana Courier has a Delivery Agreement. A Marijuana Courier is prohibited from delivering Marijuana or Marijuana Products without a specific order destined for an identified Residence. An order may be generated directly through a Marijuana Retailer or through a Third-party Technology Platform identified to the Commission under 935 CMR 500.145(1)(g).

- (e) A Marijuana Establishments with a Delivery Endorsement shall only acquire from its inventory at the Marijuana Establishment premises and deliver Marijuana or Marijuana Products for which a specific order has been received. Marijuana Establishments with a Delivery Endorsement are prohibited from delivering Marijuana or Marijuana Products without a specific order destined for an identified Residence. An order may be generated directly through a Marijuana Establishments with a Delivery Endorsement or through a Third-party Technology Platform identified to the Commission under 935 CMR 500.145(1)(g).
- (f) Delivery Licensees or a Marijuana Establishments with a Delivery Endorsements are prohibited from delivery of more Marijuana or Marijuana Products to an individual Consumer than the individual possession amounts authorized by M.G.L. c. 94G, § 7(a)(1). An Individual Order may not exceed one ounce of Marijuana or its dry-weight equivalent. The Individual Order shall only be delivered to the individual Consumer identified on the order after verification of the individual's identity consistent with the requirements of 935 CMR 500.140(2)(d) and 935 CMR 500.145(4). A Marijuana Courier or a Marijuana Establishment with a Delivery Endorsements shall only deliver one Individual Order, per Consumer, during each delivery.
- (g) A Marijuana Courier or a Marijuana Establishment with a Delivery Endorsement may not deliver to the same Consumer at the same Residence more than once each calendar day and only during authorized delivery hours.
- (h) For home delivery, each order shall be packaged and labeled in accordance with 935 CMR 500.105(5) and (6) originating the order prior to transportation by the Marijuana Courier or a Marijuana Establishment with a Delivery Endorsement to the Consumer.
- (i) Any Delivery Item that is undeliverable or is refused by the Consumer shall be transported back to the originating Marijuana Establishment that provided the product once all other deliveries included on a delivery manifest have been made. A Marijuana Courier or Marijuana Establishment with a Delivery Endorsement is prohibited from maintaining custody overnight of Marijuana or Marijuana Products intended for delivery. It shall be the responsibility of the Marijuana Courier or Marijuana Establishment with a Delivery Endorsement, in conjunction with the Marijuana Retailer with which there is a Delivery Agreement, to ensure that any undelivered product is returned to the appropriate Marijuana Retailer and not retained by the Marijuana Courier or Marijuana Establishment with a Delivery Endorsement. A process for ensuring that undelivered Marijuana and Marijuana Products can be returned to the Marijuana Retailer by the Marijuana Courier shall be a term of the Delivery Agreement.

- (3) Orders Fulfilled by Delivery Operators. All orders for deliveries made by a Delivery Operator shall comply with 935 CMR 500.145(1)(f) and the following requirements:
  - (a) Orders for home delivery by a Delivery Operator shall be received by the Delivery Operator.
  - (b) Only Finished Marijuana Products that are Shelf-stable may be delivered. Products that are perishable or time and temperature controlled to prevent deterioration may not be allowed to be delivered by a Delivery Operator.
  - (c) A Delivery Operator shall deliver only to the Residence address provided. A Delivery Operator shall be prohibited from delivering to college- or university-designated dormitories or housing; and federal public housing identified at



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<https://resources.hud.gov/>.

- (d) A Delivery Operator shall only acquire from its inventory at its Warehouse and deliver Finished Marijuana Products for which a specific order has been received by the Licensee. Delivery Operators are prohibited from loading a delivery vehicle for deliveries and delivering Finished Marijuana Products without a specific order destined for an identified Residence. An order may be generated directly through a Delivery Operator or through a Third-party Technology Platform identified to the Commission under 935 CMR 500.145(1)(g).
- (e) Delivery Operators are prohibited from delivery of more Finished Marijuana Products to an individual Consumer than the individual possession amounts authorized by M.G.L. c. 94G, § 7(a)(1). An Individual Order may not exceed one ounce of Marijuana or its dry-weight equivalent. The Individual Order shall only be delivered to the individual Consumer identified on the order after verification of the individual's identity consistent with the requirements of 935 CMR 500.145(5). A Delivery Operator shall only deliver one Individual Order, per Consumer, during each delivery.
- (f) A Delivery Operator may not deliver to the same Consumer at the same Residence more than once each calendar day and only during authorized delivery hours.
- (g) Prior to fulfilling an Individual Order for delivery to a Consumer, each Finished Marijuana Product shall be packaged and labeled in accordance with 935 CMR 500.105(5) and (6) before transportation by the Delivery Operator.
- (h) Any Delivery Item that is undeliverable or is refused by the Consumer shall be transported back to the originating Delivery Operator's Warehouse that provided the product once all other deliveries included on a delivery manifest have been made.

(4) Marijuana Courier Consumer Age Verification.

- (a) A Marijuana Retailer shall require any Consumer making a purchase for delivery by a Marijuana Courier or a Marijuana Establishment with a Delivery Endorsement to have the valid government-issued identification card a Consumer intends to use to verify her or his age at the time of delivery examined and authenticated by the Marijuana Retailer prior to the first Individual Order.
- (b) Pre-verification of the Consumer's identification shall be performed prior to the initial delivery, by using one of the following Pre-verification methods:
  - 1. In-person at the Marijuana Retailer's physical location or through a Commission approved electronic means, which may include a Commission-approved Third-party Technology Platform, and shall include examination of the Consumer's valid, unexpired government-issued photo identification that bears a date of birth in accordance with 935 CMR 500.140(2)(d). A Marijuana Courier or Marijuana Establishment with a Delivery Endorsement is prohibited from performing a delivery to any Consumer who has not established an account for delivery through Pre-verification of the Consumer's government-issued identification card by the Marijuana Retailer; or
  - 2. Through a Commission-approved electronic means and shall include examination of the Consumer's valid, unexpired government-issued photo identification that bears a date of birth. A Marijuana Establishment with a Delivery Endorsement is prohibited from performing a delivery to any Consumer who has not established an account for delivery through Pre-verification of the Consumer's government-issued identification card.
- (c) A Marijuana Courier or a Marijuana Establishment with a Delivery Endorsement may not deliver Delivery Items to any Person other than the Consumer who ordered the Delivery Items.
- (d) A Marijuana Courier or a Marijuana Establishment with a Delivery Endorsement shall verify the age and identity of the Consumer at the time at which the Delivery Items are delivered to the Consumer at a Residence to ensure that Marijuana and

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Marijuana Products are not delivered to individuals younger than 21 years old. Prior to relinquishing custody of the Marijuana or Marijuana Products to the Consumer, the Marijuana Establishment Agent conducting the delivery shall verify that the government-issued identification card of the Consumer receiving the Marijuana or Marijuana Products matches the pre-verified government-issued identification card of the Consumer who placed the order for delivery by:

1. Viewing the government-issued identification as provided for Pre-verification under 935 CMR 500.145(4)(a);
2. Viewing proof of order generated at the time of order; and
3. Receiving the signature of the Consumer who ordered the Delivery Items and verifying that the signature matches the government-issued photo identification card presented.

(5) Delivery Operator Consumer Age Verification.

- (a) A Delivery Operator shall require any Consumer making a purchase for delivery to have the valid government-issued identification card a Consumer intends to use to verify her or his age at the time of delivery examined and authenticated by the Delivery Operator prior to the first Individual Order.
- (b) Pre-verification of the Consumer's identification shall be performed prior to the initial delivery through a Commission approved electronic means, which may include a Commission-approved Third-party Technology Platform, and shall include examination of the Consumer's valid, unexpired government-issued photo identification that bears a date of birth.
- (c) A Delivery Operator may not deliver Finished Marijuana Products to any Person other than the Consumer who ordered the Finished Marijuana Product.
- (d) A Delivery Operator shall verify the age and identity of the Consumer at the time at which the Finished Marijuana Products are delivered to the Consumer at a Residence to ensure that Finished Marijuana Products are not delivered to individuals younger than 21 years old. Prior to relinquishing custody of the Finished Marijuana Products to the Consumer, the Marijuana Establishment Agent conducting the delivery shall verify that the government-issued identification card of the Consumer receiving the Finished Marijuana Products matches the pre-verified government-issued identification card of the Consumer who placed the order for delivery by:
  1. Viewing the government-issued identification as provided for Pre-verification under 935 CMR 500.145(5)(a);
  2. Viewing proof of order generated at the time of order; and
  3. Receiving the signature of the Consumer who ordered the Delivery Items and verifying that the signature matches the government-issued photo identification card presented.

(6) Vehicle and Transport Requirements for Home Delivery.

- (a) Vehicles used for home delivery by a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall be owned or leased by the Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement, shall be properly registered as commercial vehicles, and inspected and insured in the Commonwealth of Massachusetts.
- (b) Vehicles used for home delivery by a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement may be parked overnight at the address identified as the Licensee's place of business or another location, provided that keeping the vehicle at the identified location complies with all general and special bylaws of the municipality.
- (c) Vehicles used for delivery by a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall carry liability insurance in an amount not less than \$1,000,000 combined single limit.
- (d) Any vehicle used to transport or deliver Marijuana or Marijuana Products shall

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comply with applicable Massachusetts Registry of Motor Vehicles (RMV) requirements, but may not include any additional external marking that indicate the vehicle is being used to transport or deliver Marijuana or Marijuana Products.

- (e) A Delivery Licensee or a Marijuana Establishment with a Delivery Endorsements transporting Marijuana and Marijuana Products for home delivery shall ensure that all vehicles used for deliveries are staffed with a **minimum of two Marijuana Establishment Agents**. At least one Marijuana Establishment Agent shall remain with the vehicle at all times that the vehicle contains Marijuana or Marijuana Products.
- (f) Marijuana and Marijuana Products must not be visible from outside the vehicle.
- (g) A Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall transport Marijuana and Marijuana Products in a secure, locked storage compartment that is a part of the vehicle and complies with the requirements of 935 CMR 500.110(8): *Security Requirements for Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement Operations*.
- (h) A Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall maintain, in each vehicle used for deliveries, a secure, locked storage compartment for the purpose of transporting and securing cash used as payment. This compartment shall be separate from compartments required under 935 CMR 500.145(5)(h) for the transport of Marijuana and Marijuana Products.
- (i) In the case of an emergency stop during the transportation of Delivery Items, a log shall be maintained describing the reason for the stop, the duration, the location, and any activities of personnel exiting the vehicle. The Marijuana Establishment Agents in the vehicle shall provide notice of the location of the stop and employ best efforts to remain in contact with the Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement.
- (j) The Marijuana Establishment Agents transporting Delivery Items for home delivery shall contact the Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement fixed location when arriving at and leaving any delivery, and regularly throughout the trip, at least every 30 minutes.
- (k) The Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall maintain a separate log for each vehicle in use for home deliveries. For each delivery, the Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall record:
  1. The location of the originating Marijuana Establishment and date and time the vehicle leaves the location;
  2. The mileage of the transporting vehicle at departure from the Marijuana Establishment mileage on arrival at each Consumer destination, and mileage on return to the Marijuana Establishment;
  3. The date and time of departure from the Marijuana Establishment and arrival at each Consumer destination for each delivery; and
  4. An entry indicating the date and time of the last delivery in an order.
- (l) A Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall ensure that all delivery routes remain within the Commonwealth of Massachusetts at all times.
- (m) A Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall make every effort to randomize its delivery routes.
- (n) A Delivery Licensee or a Marijuana Establishment with a Delivery Endorsements may not transport products other than Delivery Items during times when the Delivery Licensee or a Marijuana Establishment with a Delivery Endorsements are performing home deliveries.
- (o) Firearms are strictly prohibited from Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement vehicles and from Marijuana Establishment Agents performing home deliveries.

(7) Manifests.

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- (a) Every home delivery shall have a manifest produced by the originating Marijuana Establishment. A Marijuana Retailer shall provide the manifest to the Delivery Licensee or Marijuana Establishment with a Delivery Endorsement. A Delivery Operator shall produce its manifests. A manifest shall be completed in duplicate, with the original manifest remaining at the premises of the originating Marijuana Establishment, whether it is a Marijuana Retailer or a Delivery Operator, and a copy to be kept with the Delivery Licensee agent or a Marijuana Establishment with a Delivery Endorsement agent during the delivery. The manifest shall be signed by the Consumer, and as applicable Patient or Caregiver receiving the Marijuana or Marijuana Products and the Marijuana Establishment Agent acting on behalf of the Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement. A signed manifest shall serve as the written record of the completion of the delivery. A manifest does not need to include Marijuana Accessories or Marijuana Establishment Branded Goods; however, the Delivery Licensee or Marijuana Establishment with a Delivery Endorsement shall maintain a record of the sale of all Delivery Items.
- (b) The manifest shall, at a minimum, include:
  - 1. The originating Marijuana Retailer's or Delivery Operator's name, address, and License number;
  - 2. The name and License number of the Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement performing the home delivery;
  - 3. The names and Marijuana Establishment Agent numbers of the Marijuana Establishment Agents performing the delivery;
  - 4. The Consumer's, Patient's or Caregiver's name and address;
  - 5. A description of the Marijuana or Marijuana Products being transported, including the weight and form or type of product;
  - 6. Signature lines for the agents who transported the Marijuana or Marijuana Products;
  - 7. A signature line for Consumer, Patient or Caregiver who receives the Marijuana or Marijuana Products; and
  - 8. The Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement vehicle make, model, and license plate number.
- (c) The manifest shall be maintained within the vehicle during the entire transportation process, until all the deliveries are completed.
- (d) A Marijuana Establishment shall retain all transportation manifests for no less than one year and make them available to the Commission on request.

#### **500.146 Additional Operational Requirements for Marijuana Delivery Operators**

##### **(1) Warehousing.**

- (a) A Delivery Operator shall operate a Warehouse for the storage of Finished Marijuana Products and preparation of Individual Orders for Delivery.
- (b) Warehouses shall comply with all applicable requirements of 935 CMR 500.110: *Security Requirements for Marijuana Establishments*.
- (c) Warehouses shall comply with all requirements of 935 CMR 500.105(11): *Product Storage*.
- (d) Warehouses shall incorporate a sally port or loading area immediately adjacent to the Warehouse that enables the transfer of Finished Marijuana Products into a vehicle for delivery.

##### **(2) Limitation on Sales.**

- (a) In accordance with M.G.L. c. 94G, § 7, a Delivery Operator may not knowingly sell more than one ounce or its combined dry weight equivalent in Finished Marijuana Products to Consumers per day.
  - 1. One ounce of Marijuana flower shall be equivalent to five grams of active



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tetrahydrocannabinol (THC) in Marijuana concentrate including, but not limited to, Tinctures.

2. One ounce of Marijuana flower shall be equivalent to five hundred milligrams of active tetrahydrocannabinol (THC) in Edibles.
  3. Topicals and ointments shall not be subject to a limitation on daily sales.
- (b) A Delivery Operator may not sell Finished Marijuana Products in excess of the potency levels established by 935 CMR 500.150(4): *Dosing Limitations*; and
- (c) A Delivery Operator shall demonstrate that it has a point-of-sale system that does not allow for a transaction in excess of the limit established in 935 CMR 500.146 (1)(a) or the potency levels established in 935 CMR 500.146(1)(b).

(3) Unauthorized Sales and Right to Refuse Sales or Delivery.

- (a) A Delivery Operator shall refuse to sell or deliver Finished Marijuana Products to any Consumer who is unable to produce valid proof of government-issued identification.
- (b) A Delivery Operator shall refuse to sell or deliver Finished Marijuana Products to a Consumer if, in the opinion of the Marijuana Establishment Agent based on the information available to the agent at that time, the Consumer or the public would be placed at risk. This includes, but is not limited to, the Consumer engaging in daily transactions that exceed the legal possession limits or that create a risk of diversion.
- (c) A Delivery Operator may not sell or deliver to an individual more than one ounce or its dry weight equivalent in Finished Marijuana Products per transaction. A Delivery Operator may not knowingly sell or deliver to an individual more than one ounce or its dry weight equivalency in Finished Marijuana Products per day.
- (d) A Delivery Operator is prohibited from selling or delivering Finished Marijuana Products containing nicotine, if sales of tobacco or cigarettes would require licensure under state law.
- (e) A Delivery Operator is prohibited from selling or delivering Finished Marijuana Products containing alcohol, if sales of such alcohol would require licensure pursuant to M.G.L. c. 138.

(4) Recording Sales.

- (a) A Delivery Operator shall only utilize a point-of-sale system approved by the Commission, in consultation with the DOR.
- (b) A Delivery Operator may utilize a sales recording module approved by the DOR.
- (c) A Delivery Operator is prohibited from utilizing software or other methods to manipulate or alter sales data.
- (d) A Delivery Operator shall conduct a monthly analysis of its equipment and sales data to determine that no software has been installed that could be utilized to manipulate or alter sales data and that no other methodology has been employed to manipulate or alter sales data. A Delivery Operator shall maintain records that it has performed the monthly analysis and produce it on request to the Commission. If a Delivery Operator determines that software has been installed for the purpose of manipulation or alteration of sales data or other methods have been utilized to manipulate or alter sales data:
  1. It shall immediately disclose the information to the Commission and DOR;
  2. It shall cooperate with the Commission in any investigation regarding manipulation or alteration of sales data; and
  3. Take such other action directed by the Commission to comply with 935 CMR 500.105: *General Operational Requirements for Marijuana Establishments*.
- (e) A Delivery Operator shall comply with 830 CMR 62C.25.1: *Record Retention* and DOR Directive 16-1 regarding recordkeeping requirements.
- (f) A Delivery Operator shall adopt separate accounting practices at the point of sale for Marijuana and Marijuana Product sales, and non-Marijuana sales.
- (g) The Commission and the DOR may audit and examine the point-of-sale system used

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by a Delivery Operator in order to ensure compliance with Massachusetts tax laws and 935 CMR 500.140(5): *Recording Sales*.

- (5) Consumer Education. A Delivery Operator shall make available educational materials about Finished Marijuana Products to Consumers. A Delivery Operator shall have an adequate supply of current educational material available for distribution. Educational materials shall be available in commonly spoken languages designated by the Commission, which will include, but not be limited to, appropriate materials for the visually- and hearing-impaired. Such materials shall be made available for inspection by the Commission on request. If there is a failure to provide these materials, a licensee may be subject to disciplinary action under 935 CMR 500.000. The educational material shall include at least the following:
- (a) A warning that Marijuana has not been analyzed or approved by the FDA, that there is limited information on side effects, that there may be health risks associated with using Marijuana, and that it should be kept away from children;
  - (b) A warning that when under the influence of Marijuana, driving is prohibited by M.G.L. c. 90, § 24, and machinery should not be operated;
  - (c) Information to assist in the selection of Finished Marijuana Products, describing the potential differing effects of various strains of Marijuana, as well as various forms and routes of administration;
  - (d) Materials offered to Consumers to enable them to track the strains used and their associated effects;
  - (e) Information describing proper dosage and titration for different routes of administration. Emphasis shall be on using the smallest amount possible to achieve the desired effect. The impact of potency shall also be explained;
  - (f) A discussion of tolerance, dependence, and withdrawal;
  - (g) Facts regarding substance use disorder signs and symptoms, as well as referral information for substance use disorder treatment program, and the telephone number for the Massachusetts Substance Use Helpline;
  - (h) A statement that Consumers may not sell Finished Marijuana Products to any other individual;
  - (i) Information regarding penalties for possession or distribution of Marijuana in violation of Massachusetts law; and
  - (j) Any other information required by the Commission.
- (6) Testing. No Finished Marijuana Product may be sold or otherwise marketed for adult use that has not first been tested by Independent Testing Laboratories, except as allowed under 935 CMR 500.000: *Adult Use of Marijuana*. The product shall be deemed to comply with the standards required under 935 CMR 500.160: *Testing of Marijuana and Marijuana Products*.
- (a) Potency levels derived from the Cannabinoid Profile, including the amount of delta-nine-tetrahydrocannabinol ( $\Delta^9$ -THC) and other Cannabinoids, contained within Finished Marijuana or Marijuana Product to be sold or otherwise marketed shall be recorded in the Seed-to-sale SOR.
- (7) White Labeling. The Licensee engaged in the White Labeling of Finished Marijuana Products shall comply with the labeling and packaging requirements under 935 CMR 500.105(5): *Labeling of Marijuana and Marijuana Products* and 935 CMR 500.105(6): *Packaging of Marijuana and Marijuana Products* prior to delivery to Consumers.
- (a) The Wholesale Agreement between a Delivery Operator and the Marijuana Establishment from which they are wholesaling shall clearly indicate whether the Delivery Operator or the Marijuana Establishment licensee from which the Finished Marijuana Product(s) are being wholesaled shall be responsible for White Labeling on behalf of the Delivery Operator.
  - (b) The Delivery Operator shall notify the Commission within twenty-one (21) days of any Substantial Modification to a Wholesale Agreement that alters which Licensee

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has responsibility for White Labeling on behalf of the Delivery Operator. A Licensee shall obtain the written authorization of the Commission prior to commencing White Labeling.

- (c) The Delivery Operator may submit the label to be used for White Labeling to the Commission in accordance with 935 CMR 500.105(7): *Packaging and Labeling Preapproval*.

- (8) Product Database. A Delivery Operator that purchases any Wholesale Finished Marijuana Products from a licensed Marijuana Cultivator, Microbusiness or Craft Marijuana Cooperative for the purpose of delivery to Consumers, whether White Labeled or not, shall provide the Commission with information to populate the Product Database. A Delivery Operator that purchases wholesale Finished Marijuana Products from a licensed Marijuana Product Manufacturer for the purpose of White Labeling and sale to Consumers shall provide the Commission with information to populate the Product Database. Product Database information for Finished Marijuana Products purchased at Wholesale from Product Manufacturers that are not White Labeled shall remain the responsibility of the Product Manufacturer under 935 CMR 500.130(6): *Product Database*.

- (a) The Delivery Operator shall provide the following:

- 1. A photograph of a Finished Marijuana Product outside of but next to the Marijuana Product's packaging, provided however that where single servings of a multi-serving product are unable to be easily identified because of its form, a description of what constitutes a single serving shall be provided (e.g. a single serving is a 1" x 1" square);
    - 2. A photograph of the Marijuana Product inside packaging; and
    - 3. The name of the Product Manufacturer that produced the Marijuana Product.

- (b) Photographs submitted shall be electronic files in a JPEG format with a minimum photo resolution of 640 x 480 and print resolution of 300 DPI. Photographs shall be against a white background.

- (c) A Delivery Operator shall provide the information required under 935 CMR 500.146(7)(a) for each Finished Marijuana Product it offers for sale and delivery prior to the product being made available for sale and shall update the information whenever a substantial change to packaging or label of the Finished Marijuana Product occurs. For purposes of this section, a substantial change shall be a change to the physical attributes or content of the package or label.

- (9) In addition to the written operating policies required under 935 CMR 500.105(1): *Written Operating Procedures*, a Delivery Operator shall maintain written policies and procedures which shall include:

- (a) Policies and procedures for adequately tracking, recording, and documenting all Vendor Samples that the Delivery Operator receives from a Marijuana Cultivator, a Marijuana Product Manufacturer, a Microbusiness or a Craft Marijuana Cooperative; and
  - (b) Policies and procedures for adequately tracking, recording, and documenting all Vendor Samples that the Delivery Operator provides to employees for the purpose of assessing product quality and determining whether to make the product available to sell.

- (10) Vendor Samples.

- (a) A Delivery Operator may receive a Vendor Sample of Marijuana flower from a Marijuana Cultivator pursuant to 935 CMR 500.120(13): *Vendor Samples*. A Delivery Operator may also receive a Vendor Sample of Marijuana Product from a Marijuana Product Manufacturer pursuant to 935 CMR 500.130(7). Receipt of a Vendor Sample under this subsection shall not be considered a prohibited practice under 935 CMR 500.105(4)(b)6.

- (b) Vendor Samples may not be sold to another licensee or Consumer.

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- (c) A Delivery Operator may provide the Vendor Samples it receives from a Marijuana Cultivator or a Marijuana Product Manufacturer to its Employees for the purpose of assessing product quality and determining whether to make the product available to sell the product. Vendor Samples may not be consumed on any licensed Premises.
- (d) Vendor Sample limits. A Marijuana Delivery Operator is limited to providing the following aggregate amounts of Vendor Samples to all Employees in a calendar month period:
  - 1. Four grams per strain of Marijuana flower and no more than seven strains of Marijuana flower;
  - 2. Five grams of Marijuana concentrate or extract, including but not limited to Tinctures;
  - 3. Five hundred milligrams of Edibles whereby the serving size of each individual sample does not exceed five milligrams and otherwise satisfies the potency levels set forth in 935 CMR 500.150(4): *Dosing Limitations*; and
  - 4. Five units of sale per Cannabis product line and no more than six individual Cannabis product lines. For purposes of 935 CMR 500.146(12), a Cannabis product line shall mean items bearing the same Stock Keeping Unit Number.
- (e) Upon providing a Vendor Sample to an employee, the Delivery Operator shall record:
  - 1. The reduction in quantity of the total weight or item count under the unique alphanumeric identifier associated with the Vendor Sample;
  - 2. The date and time the Vendor Sample was provided to the Employee;
  - 3. The agent registration number of the employee receiving the Vendor Sample; and
  - 4. The name of the Employee as it appears on their agent registration card.
- (f) All Vendor Samples provided by a Delivery Operator to its employees shall also be entered into the point-of-sale system and shall count against the individual employee's daily purchase limit, if applicable, consistent with 935 CMR 500.146(2): *Limitation on Sales*.

(11) Sale of Marijuana Vaporizer Devices.

- (a) A Marijuana Delivery Operator offering Marijuana Vaporizer Devices for sale to Consumers shall include a conspicuous and prominently displayed statement on its website, that is legible and enlarged and contains the following statements:
  - 1. "Marijuana Vaporizer Devices have been tested for Vitamin E Acetate and other contaminants, with no adverse findings. **WARNING: Vaporizer Devices may contain ingredients harmful to health when inhaled.**"
  - 2. "Consumers shall have access to the test results of Marijuana Vaporizer Devices including copies of any Certificates of Analysis provided by the device's manufacturer."
- (b) A Delivery Operator shall provide a physical insert to Consumers that accompanies all purchased and delivered Marijuana Vaporizer Devices that states, including capitalization and emphasis, the following:

"Marijuana Vaporizer Devices have been tested for Vitamin E Acetate and other contaminants, with no adverse findings. **WARNING: Vaporizer Devices may contain ingredients harmful to health when inhaled.**"

- (c) The sale of disposable and reusable vaporizer pens and devices shall be accompanied by a product insert identifying the materials used in the vaporizer device's atomizer coil (e.g., titanium, titanium alloy, quartz, copper, nichrome, kanthal, or other specified material), and manufacturer identification of the device hardware, cartridge, battery and other components;



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- (d) A Delivery Operator shall make available the information contained in 935 CMR 500.105(5)(c)(6) in the product description as part of any product list posted on the Delivery Operator's website or Third-party Technology Platforms or applications employed for delivery.
- (e) A Delivery Operator shall retain all records of purchases from any Product Manufacturer or supplier of any ingredient, additive, device, component part or other materials provided to the Delivery Operator about Marijuana Vaporizer Devices sold by licensees. Such records shall be made available to the Commission upon request.

(12) Prohibition on Monopolies

- (a) It shall be a violation of these regulations, 935 CMR 500.000: *Adult Use of Marijuana*, for any Delivery Operator to monopolize or attempt to monopolize, or combine or conspire with any other person or entity, including but not limited to a Third-party Technology Platform Provider, to monopolize any part of licensed activities authorized under 935 CMR 500.000.
- (b) It shall be a violation of these regulations, 935 CMR 500.000: *Adult Use of Marijuana*, for any Delivery Operator engaged in activities authorized under 935 CMR 500.000 to make a contract for services with a Third-party Technology Platform Provider for the listing of a Delivery Operator or a Delivery Operator's Finished Marijuana Products on the condition, agreement or understanding that the parties to the contract shall not deal in Marijuana or Marijuana Products, either generally or specific brands or categories of Finished Marijuana Products, of a competitor or competitors of the parties where the effect of such contract or such condition, agreement or understanding may be to lessen substantially competition or tend to create a monopoly in any activity engaged in under 935 CMR. 500.000.

500.147: Operational Requirements for Marijuana Research Facility Licensees and Research Permits.

- (1) In addition to the security requirements provided in 935 CMR 500.110: *Security Requirements for Marijuana Establishments*, Marijuana Research Facility Licensees shall comply with the operational requirements required under 935 CMR 500.147: *Operational Requirements for Marijuana Research Facility Licensees and Research Permits*.

(2) General Requirements

- (a) For each research project to be conducted on the Premises, a Marijuana Research Facility Licensee shall have a valid Research Permit issued by the Commission pursuant to 500.147(4): *Research Permits* prior to beginning a research project. The Research Permit shall be renewed at least annually, or sooner depending on the nature and duration of the approved research project.
- (b) All individuals engaging in research at the Marijuana Research Facility shall be registered with the Commission as Marijuana Establishment Agents under 935 CMR 500.030: *Registration of Marijuana Establishment Agents*.
- (c) A Marijuana Research Facility Licensee may submit an application for a Research Permit to conduct research in areas including, but not limited to, the following:
  1. Chemical potency and composition levels of Marijuana and Marijuana Products;
  2. Clinical investigations of Marijuana Products, including dosage forms;
  3. Efficacy and safety of administering Marijuana or Marijuana Products as a component of medical treatment under the supervision of a Certifying Healthcare Provider;
  4. Genomic research on Marijuana;
  5. Horticultural research on Marijuana;
  6. Agricultural research on Marijuana; and
  7. Other research topics upon the approval of the Commission, provided

**Town of Leicester Planning Board  
Meeting Minutes  
January 19, 2021**

***[Note: This meeting was held remotely using GoToMeeting]***

**Members Present:** Jason Grimshaw (Chair), Jaymi-Lyn Souza, Sharon Nist, Debra Friedman, James Reinke (Associate)

**Members Absent:** Andrew Kularski

**In Attendance:** Michelle Buck, Town Planner; Brooke Hammond, Department Assistant

<b>1</b>	<b>ANR Plan</b> Lilyestrom Grove (Applicant: James White)
<b>2</b>	<b>Approval of Minutes</b> December 8, 2020
<b>3</b>	<b>Town Planner Report/General Discussion</b> <ul style="list-style-type: none"><li>a. DLTA Grant Support Letter</li><li>b. Zoning Bylaw Amendments</li><li>c. Miscellaneous Project Updates</li><li>d. Board Member Committee Updates</li><li>e. Upcoming Meeting Dates</li></ul>
<b>4</b>	<b>Adjourn</b>

Mr. Grimshaw called meeting to order at 7:04PM.

**1. ANR Plan - Lilyestrom Grove**

Ms. Buck states that this plan originally came before the board in 2002. At the time the plan divided the land into 3 parcels. Shortly thereafter the zoning changed from 50,000 sq. ft. to 80,000 sq. ft. minimum lot size. These lots were protected for 5 years after the zoning changed because the lots had common ownership. The current plan is to change the parcel from three 50,000 sq. ft. lots to two lots, both with over 80,000 sq. ft. of area and 200 ft of frontage in the Suburban-Agriculture zoning district.

**Motion:** Ms. Friedman moves to approve the ANR Plan for Lilyestrom Grove.

**Second:** Ms. Nist

**Discussion:** None

**Roll-Call Vote:** (4-0-0)

**2. Approval of Minutes – December 8, 2020**

**Motion:** Ms. Nist moves to approve the December 8, 2020 minutes.

**Second:** Ms. Souza

**Discussion:** None

**Roll-Call Vote:** (4-0-0)

### **3. Town Planner Report/General Discussion**

#### **a. DLTA Grant Support Letter**

Ms. Buck states there is a grant offered through the DLTA (District Local Technical Assistance) which offers state funds through the Central Mass Regional Planning Commission for planning projects, primarily projects focused on housing and economic development. The Town of Leicester considering an economic development project to have the town participate in economic development 43D expedited permitting. The grant requires the Planning Board's support. Ms. Buck asks for the support of the Board without full project details and asks Mr. Grimshaw to review the letter before it is sent.

**Motion:** Ms. Friedman moves to support the grant in theory, with Mr. Grimshaw handling the details of the letter of support.

**Second:** Ms. Nist

**Discussion:** None

**Roll-Call Vote:** (4-0-0)

#### **b. Zoning Bylaw Amendments**

Ms. Buck states the Zoning Bylaw amendments are in the same stage as they were at the December meeting. The potential amendments include housekeeping, outside storage, floodzone bylaw, marijuana delivery, neighborhood business district changes, water resources protection overlay district changes, and ZBA procedures where there are inconsistencies between the state and local bylaws. Ms. Buck requests that the February 2, 2021 meeting be primarily dedicated to reviewing amendment drafts, because hearings need to be scheduled for March.

#### **c. Miscellaneous**

*Hanks Marine, 1570 Main St*

Special Permit hearing will be held at the planning board meeting on February 16, 2021.

*15 Water St Complaint*

Ms. Buck states the planning office received a complaint regarding 15 Water Street about the landscape business owner on the property operating machinery and performing vehicle maintenance outside of previously agreed upon business hours. The complainant asked the Planning Board to adjust the hours of operation. The complaint also said there is currently no enclosure around the dumpster. Ms. Buck states that the Fire Department is fine with the location of the dumpster in terms of access. There remain issues with the Leicester Water Supply District and Fire Department regarding sprinklers that need to be resolved. The business owner either had to make improvements to the sprinklers and activate them or apply to the fire department to disassemble and remove the sprinklers. Neither of these resolutions has been pursued by the business owner. Ms. Nist asks if sprinklers are required in the building, to which Ms. Buck responds they are not. Ms. Buck states she will talk to both the business owner/tenant and the building owner. Ms. Buck asks the Board how they would like to handle the complaint.

Ms. Friedman says the abutter has good reason to complain; if there is no snow, there is no reason for the business owner to be out past business hours. Ms. Friedman asks if it is possible

to amend the business hours from 7am to 7pm, unless there is snow. Ms. Souza agrees with the proposed solution. Ms. Buck offers to send a letter saying if the problem doesn't stop the Board will schedule public hearing to amend the hours. Ms. Friedman agrees that a written letter sent by certified mail is the best place to start. Ms. Buck states she needs to resolve the other issues as well with the landscape company business owner.

Mr. Reinke asks what the water district's concern was in the building. Ms. Buck states the issues were that they had to add backflow protection and there was a floor drain issue. Mr. Reinke raised concern over the plugging of floor drains.

Ms. Nist reads from previous minutes that at 15 Water Street it was agreed that the building would only be used after hours for storage, parking, and minor maintenance, except in the instance of snow plowing; Ms. Nist states the business owner is in violation of the original conditions. Mr. Grimshaw says it is necessary to clarify definitions of operations if the Board ends up moving forward with a special permit amendment.

#### *Classic Automotive*

Mr. Grimshaw was contacted by an individual regarding Classic Automotive on Route 9. He read the complaint into the record:

- *Operating Business on two separate lots*
- *Built multi tiered parking area in wetlands*
- *Filled in wetlands with unknown materials including burning and burying a large pile of debris over the course of many hours- suspect it was the former building that was demolished.*
- *Built retaining wall in wetlands*
- *Junk cars on lots in wetlands on newly constructed parking areas visible from residential neighborhoods on Rawson St.*
- *Water runoff onto neighborhood properties (Rawson St.)*
- *Security lights lighting up yards on Rawson St.*
- *Fumes from paint booth in air along Rawson Street*
- *Business sign on route # 9 some kind of new LED sign shining into homes.*
- *Constructed road thru field onto former Schold property up toward Tractor Supply Store then and connected to a property at the rear of 82 block of Rawson St. owned by a family member*
- *Works on Saturday and Sundays (and beyond business hours), hides vehicles and locks doors.*

Mr. Reinke states LED lights were approved by the Zoning Board of Appeals, but at night the sign is in violation of conditions set by the Board.

Ms. Buck says comments from different departments can be consolidated into one letter. Ms. Buck says the Conservation Commission members will be asked to conduct a site visit. The property owner's addition did not have to come before the Planning Board (it was below the size threshold for Site Plan Review). The owner also had at least two special permits from the ZBA related to expansions to a nonconforming use. Ms. Buck will investigate the issue further.

#### **d. Board member Updates**

Mr. Grimshaw says that there haven't been any EDC meetings since December. No updates.

Ms. Souza mentions her attendance at the CMRPC meeting (topic: diversity inclusion planning).

Ms. Nist states there are no new capital improvement projects.

Ms. Nist asks if there has been any response from Hankey St. Ms. Buck says the applicants are still working on their Special Permit application.

**e. Upcoming meeting dates:**

February 2, 2021 and February 16, 2021

**4. Adjourn**

**Motion:** Ms. Nist motions to adjourn.

**Second:** Ms. Friedman

**Roll-Call Vote:** (4-0-0)

Meeting adjourned at 7:31 pm

Documents

- Agenda
- Memo from Town Planner dated January 13, 2021
- Lilyestrom Grove Plans (2002 and 2020)
- December 8, 2020 minutes
- Email from Carol Pappas dated January 11, 2021 regarding 15 Water St
- Planning Board minutes for the Public Hearing for 15 Water St Special Permit dated August 18, 2020