

SPECIAL TOWN MEETING
COMMONWEALTH OF MASSACHUSETTS
Tuesday, December 5, 2023
6:00 p.m.

Special Town Meeting, Tuesday, December 5, 2023, at 6:00 p.m. at the Southwick Regional School, 93 Feeding Hills Road, in the Auditorium.

HAMPDEN, ss. To either of the constables in the Town of Southwick in the County of Hampden:

GREETINGS: In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of said Town qualified to vote in elections and town affairs to meet and assemble at the SOUTHWICK REGIONAL SCHOOL AUDITORIUM on Tuesday, December 5, 2023 at 6:00 p.m. then and there for the Special Town Meeting and to act on the following articles:

ARTICLE 1:

To see if the Town will vote to accept M.G.L. Ch. 64N, §3 to impose a local sales tax upon sale or transfer of marijuana or marijuana products by a marijuana retailer operating within the Town to anyone other than a marijuana establishment at a rate of three percent (3%) or take any action relative thereto.

Requested by the Select Board

ARTICLE 2:

To see if the Town will vote to amend Chapter 185, §35.2 of the Code of the Town of Southwick and further that the Town authorize non-substantive changes to the lettering and numbering of the Bylaw be authorized in order to make it consistent with the numbering format as sequencing of the code of the Town of Southwick, as follows:

To amend the list of prohibited uses under Chapter 185, §35.2 by deleting the section in its entirety as shown below in strike-through font:

~~C. Prohibited uses. Non-medical "marijuana retailers," as defined in MGL c. 94G, § 1, shall be prohibited within the Town of Southwick.~~

Or take any other action relative thereto

Requested by the Planning Board

ARTICLE 3.

To see if the Town will vote to amend Chapter 185, §35.2 of the Code of the Town of Southwick and further that the Town authorize non-substantive changes to the lettering

and numbering of the Bylaw be authorized in order to make it consistent with the numbering format as sequencing of the code of the Town of Southwick, as follows:

To amend Chapter 185, §35.2 by deleting the language in strike-through font and adding the underlined language so that the section is amended as follows:

§ 185-35.2. Medical and recreational marijuana.

A. Purposes.

- (1) It is recognized that the nature of the substance cultivated, processed and/or sold by ~~medical marijuana dispensaries and recreational marijuana establishments~~ Medical Marijuana Treatment Centers and Marijuana Establishments have unique operational characteristics and should be located in such a way as to ensure the health, safety and general well-being of the public as well as patients and customers seeking the substance. The specific and separate regulation of marijuana uses is necessary to advance these purposes and to minimize adverse impacts on abutters and other parties in interest within the Town of Southwick.
- (2) Subject to the provisions of this Zoning Bylaw; Chapters 40A, and 94G, and 94I of the Massachusetts General Laws; ~~105 CMR 725.000; and 935 CMR 500.000, and 935 CMR 501.000,~~ registered medical marijuana dispensaries, registered recreational marijuana establishments and off-site marijuana dispensaries Medical Marijuana Treatment Centers and Marijuana Establishments may be permitted upon issuance of a special permit and site plan approval from the Planning Board to provide for marijuana production and/or distribution and other uses allowed for licensed Medical Marijuana Treatment Centers and Marijuana Establishments under M.G.L. 94G and 94I that meets or exceeds state regulations as established by the Massachusetts Department of Public Health and the Massachusetts Cannabis Control Commission.

B. Definitions.

OFF-SITE MARIJUANA DISPENSARY (OMD)

~~A marijuana retailer that is located off-site from an RMMD or an RRME and which serves only to dispense processed marijuana, related supplies and educational materials to registered qualifying patients or their personal caregivers in accordance with the provisions of 105 CMR 725.000 or which serves only to dispense processed recreational marijuana, related supplies and educational materials to customers in accordance 935 CMR 500.00.~~

REGISTERED MEDICAL MARIJUANA DISPENSARY (RMMD)

~~A use operated by a not-for-profit entity registered and approved by the Massachusetts Department of Public Health in accordance with 105 CMR~~

~~725.000 and pursuant to all other applicable state laws and regulations, also to be known as a medical marijuana treatment center, that may acquire, cultivate, possess, process (including development of related products such as food, tinctures, aerosols, oils, or ointments), test, research, transfer, transport, sell, distribute, dispense and/or administer marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. An RMMD shall explicitly include facilities which cultivate and process medical marijuana, and which may also dispense and deliver medical marijuana and related products.~~

Colocated Marijuana Operations (CMO)

An MTC operating under a License pursuant to 935 CMR 501.000: Medical Use of Marijuana and a Marijuana Establishment operating under at least one License pursuant to 935 CMR 500.000 on the same Premises. Colocated Marijuana Operations pertain to cultivation, product manufacturing, and retail licenses, but not any other adult-use License.

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 an MTC, 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 M.G.L. c. 94G, § 4(b)(1) that allows for limited delivery of Marijuana or Marijuana Products to Consumers; and shall not be considered to be a Marijuana Retailer under 935 CMR 500.002 or 500.050 and shall be subject to 935 CMR 500.050(1)(b).

Marijuana Cultivator

An entity licensed to cultivate, Process and package Marijuana, and to Transfer Marijuana to other Marijuana Establishments, but not to Consumers. A Craft Marijuana Cooperative is a type of Marijuana Cultivator.

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 M.G.L. c. 94G, § 4(b)(1) that allows for limited delivery of Marijuana or Marijuana Products to Consumers; and shall not be considered to be a Marijuana Retailer under 935 CMR 500.002 or 500.050 and shall be subject to 935 CMR 500.050(1)(b).

Marijuana Establishment

A Marijuana Cultivator (Indoor or Outdoor), Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Microbusiness, Independent Testing Laboratory, Marijuana Retailer, Marijuana Transporter, Delivery Licensee, Marijuana Research Facility Licensee (as defined in 935 CMR 500.002: Marijuana Research Facility Licensee) Social Consumption Establishment (as defined in 935 CMR 500.002: Social Consumption Establishment) or any other type of licensed Marijuana-related business, except a Medical Marijuana Treatment Center (MTC).

Marijuana Research Facility

The Premises at which a Marijuana Research Facility Licensee is approved to conduct research.

Marijuana Retailer

An entity licensed to purchase, Repackage, White Label, and transport Marijuana or Marijuana Product from Marijuana Establishments and to Transfer or otherwise Transfer this product to Marijuana Establishments and to sell to Consumers. Unless licensed, retailers are prohibited from offering Marijuana or Marijuana Products for the purposes of on-site social consumption on the Premises of a Marijuana Establishment.

Marijuana Transporter

An entity, not otherwise licensed by the Commission, that is licensed to possess Marijuana Products solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments or MTCs, but not to Consumers. Marijuana Transporters may be an Existing Licensee Transporter or Third-party Transporter.

Medical Marijuana Treatment Center (MTC), (formerly known as a Registered Marijuana Dispensary (RMD))

An entity licensed under 935 CMR 501.101 and pursuant to all other applicable state laws and regulations, that acquires, cultivates, possesses, processes (including development of related products such as edibles, MIPs, tinctures, aerosols, oils, or ointments), repackages, transports, sells, distributes, delivers, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to Registered Qualifying Patients or their Personal Caregivers for medical use. Unless otherwise specified, MTC refers to the site(s) of dispensing, cultivation, and preparation of Marijuana for medical use.

Social Consumption Establishment

An entity licensed to sell Marijuana or Marijuana Products and allow Consumers to consume Marijuana or Marijuana Products solely on its Premises.

- ~~C. Prohibited uses. Non-medical "marijuana retailers," as defined in MGL c. 94G, § 1, shall be prohibited within the Town of Southwick.~~
- C. Prohibited uses. Social Consumption Establishments as defined in 935 CMR 500, shall be prohibited within the Town of Southwick.
- D. Permitted uses. A Medical Marijuana Treatment Center (MTC), Marijuana Retailer, Marijuana Courier, Marijuana Cultivator, Marijuana Delivery Operator, Marijuana Research Facility, or Marijuana Transporter A registered medical marijuana dispensary (RMMD), registered recreational marijuana establishment (RRME) or off-site marijuana dispensary (OMD) may only be involved in the uses permitted by its definition and not otherwise prohibited herein, and may not include other businesses or services.
- E. Permitted locations.
- (1) A Marijuana cultivation Cultivator may be permitted in the Agriculture and Conservation District [§ 185-11B(1)], Industrial and Industrial Restricted Zones. A Marijuana Cultivator and on a minimum tract of five acres in the succeeding may be permitted in the Residential Zone R-40 [§ 185-12A(1)] and Residential Zone R-20 [§ 185-13A(1)] on a minimum tract of five acres.
 - (2) A Marijuana Courier, Marijuana Delivery Operator, Marijuana Research Facility, and/or Marijuana Transporter may be permitted in the Industrial and Industrial Restricted Zoning Districts.
 - (3) Registered medical marijuana dispensaries and registered recreational marijuana establishments A Marijuana Retailer may be permitted in the Business, Business Restricted, Industrial, and Industrial Restricted Zoning Districts Registered Medical and Recreational Marijuana District.
 - (4) A Medical Marijuana Treatment Center (MTC) may be permitted in the Industrial and Industrial Restricted Zoning Districts. If an MTC does not cultivate marijuana, it may also be permitted in the Business and Business Restricted Zoning Districts.
 - (3) ~~Off-site marijuana dispensaries may be permitted in the Off-site Marijuana Dispensary District.~~
 - (4) ~~The Registered Medical and Recreational Marijuana District and the Off-site Marijuana Dispensary District are overlay districts located as shown on a map on file with the Town Clerk of the Town of Southwick identified as the "Marijuana Districts Overlay," dated December 19, 2017.~~
 - (5) ~~The above districts will be construed as overlay districts and the regulations of the underlying zoning districts shall remain in effect, except that where the above districts impose additional regulations, such regulations shall prevail.~~
- F. General requirements.
- (1) A Special Permit with site plan approval is required from the Planning Board for

all ~~marijuana facilities~~ Medical Marijuana Treatment Centers and/or Marijuana Establishments.

- (2) All aspects of the use relative to the acquisition, cultivation, possession, processing, sale, distribution, dispensing, testing, researching or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at a fixed location.
- (3) No outside storage is permitted.
- (4) All signage shall be subject to the requirements of 105 CMR 725.000 or 935 CMR 500.00 and the requirements of § 185-29 of the Zoning Bylaws of the Town of Southwick.
- (5) Security measures shall be provided in accordance with 105 CMR 725.110 or 935 CMR 500.110, and a copy of the security plan shall be provided to the Southwick Police Department.
- (6) Community Host Agreement: No Special Permit with Site Plan Approval shall be granted without first having an executed Community Host Agreement with the Town of Southwick.
- (7) Community Outreach Meeting: No application for a Special Permit with Site Plan Approval shall be deemed complete by the Planning Board until a Community Outreach Meeting in accordance with 935 CMR 500 has occurred.
- (8) License requirements:
 - (a) The applicant shall submit proof that the application to the Cannabis Control Commission (CCC) has been deemed complete pursuant to 935 CMR 500.102 or 935 CMR 501.102. Copies of the complete application, to the extent legally allowed, shall be provided as integral component of the application to the Planning Board and no Special Permit with Site Plan Approval application shall be deemed complete by the Planning Board until this information is provided.
 - (b) No Special Permit with Site Plan Approval shall be granted by the Planning Board to an applicant without the Marijuana Establishment first having been issued a Provisional License from the Commission pursuant to 935 CMR 500 or 935 CMR 501. For Delivery Operator and Courier applicants, a dated notice of approval of Pre-Certification from the CCC pursuant to 935 CMR 500.101(2)(b)(3) shall be accepted in lieu of a Provisional License.
 - (c) No person shall operate a Medical Marijuana Treatment Center and/or Marijuana Establishment without having a license in good standing from the Commission.

G. Specific requirements.

- (1) No ~~marijuana dispensary or establishment~~ Medical Marijuana Treatment Center or Marijuana Establishment shall be located within 500 feet of any

property line of a public or private elementary or secondary school, preschool, or child care center.

- (2) ~~No marijuana dispensary or establishment~~ MTC or Marijuana Retailer shall be located within 1,000 feet ~~(to be measured in a straight line from the nearest points on each building or storefront)~~ of another ~~marijuana dispensary or establishment~~ MTC or Marijuana Retailer, to be measured in a straight line from the nearest points on each building or storefront.
- (3) No Medical Marijuana Treatment Center, Marijuana Retailer, or Marijuana Establishment shall abut or be located within 250 feet of any dwelling, to be measured in a straight line from the nearest points on each building or storefront.
- (4) No marijuana shall be smoked, eaten or otherwise consumed or ingested on the site of an OMD any Medical Marijuana Treatment Center or Marijuana Establishment except when used in conjunction with a licensed Marijuana Research Facility.
- (5) Up to two (2) Marijuana Retailers or Medical Marijuana Treatment Centers shall be permitted in the Town of Southwick at any given time. A third Special Permit may be granted by the Planning Board only if a) the marijuana retailer is established as a Colocated Marijuana Operations with a Medical Marijuana Treatment Center, and b) if no other Medical Marijuana Treatment Centers are currently permitted.

H. Issuance/transfer/discontinuance of use.

- (1) Special Permits/Site Plan Approvals shall be issued to the ~~marijuana dispensary or marijuana establishment~~ Medical Marijuana Treatment Center or Marijuana Establishment registered entity.
- (2) Special Permits/Site Plan Approvals shall be issued for a specific site/parcel.
- (3) Special Permits/Site Plan Approvals ~~shall~~ may be transferable to another licensed operator after submission of documentation of the approved transfer of the state license by the CCC with the approval of to the Southwick Planning Board and the Board's acceptance thereof.
- (4) Special Permits/site plan approvals shall have a term limited to the duration of the applicant's ownership or control of the premises, and shall lapse:
 - (a) If the permit holder ceases operation, and/or
 - (b) The permit holder's license/registration expires or is terminated.

- I. Bond. Prior to the issuance of a building permit/occupancy permit for a ~~marijuana related business~~ Medical Marijuana Treatment Center or Marijuana Establishment, the applicant may be required to post with the Town Treasurer a bond or other form of financial security acceptable to said Treasurer in an amount set by the Planning

Board. The amount shall be sufficient to cover the costs of the Town securing the facility and removing all materials, plants, equipment and other paraphernalia if the applicant fails to do so. The Building Inspector shall give the applicant 45 days' written notice in advance of taking such action. Should the applicant remove all materials, plants, equipment and other paraphernalia to the satisfaction of the Building Inspector prior to the expiration of the 45 days' written notice, said bond shall be returned to the applicant.

Or take any other action relative thereto.

Requested by the Planning Board

Purpose:

The Southwick Planning Board requests consideration of this bylaw amendment primarily to align marijuana-related definitions with current state law, to better define the sequence of an applicant's activities under F. above, to do away with the existing "Marijuana Districts Overlay" Map and more clearly define the allowable locations for various Medical Marijuana Treatment Centers and Marijuana Establishments, to cap the number of Marijuana Retailers or Medical Marijuana Treatment Centers that may be permitted, and to better define the conditions under which the Special Permit/Site Plan Approval granted for a Medical Marijuana Treatment Center or Marijuana Establishment may be transferred.

ARTICLE 4:

For the Town of Southwick to vote to amend the Town of Southwick Zoning Map as referenced under Chapter 185-5 of the Town of Southwick Zoning By-law by redesignating a portion of the property at 157 Feeding Hills Road, Southwick, Massachusetts 01077, as referenced by the Town of Southwick Assessor's Database as Parcel ID: 068-052-000, currently zoned Agricultural-Conservation (AC) to the zone of Business Restricted (BR). Said land for re-designation is real estate in the Town of Southwick located along the southerly side of Feeding Hills Road (a.k.a. Route 57) in Hampden County of the Commonwealth of Massachusetts. The subject property is more particularly described in the deed recorded in the Hampden County registry of Deeds in Book 22714, Page 451. Said land is currently assessed to Crepes Tea House, LLC and the re-zoning is described as follows:

The portion of the property that lies between the southerly line of Feeding Hills Road and a line drawn 230 feet south of and parallel to the said southerly line of Feeding Hills Road (a.k.a. Route 57). Containing 78,000 Square Feet of land, more or less.

Being the northerly portion of the premises described in the deed recorded in the Hampden County Registry of Deeds in Book 22714, Page 451.

Or take any other action relative thereto..

ARTICLE 5:

To see if the Town will vote to appropriate and transfer the sum of \$207,990.12 from the Community Preservation General Fund in order to construct four pickleball courts at Whalley Park, 42 Powdermill Road, Assessors Map 090 Parcel 014, registered at the Hampden County Registry of Deeds Book 19495 Page 325, or take any other action relative thereto.

Requested by the Community Preservation Committee

ARTICLE 6:

To see if the Town will vote to appropriate and transfer the sum of \$115,006.00 from the Community Preservation General Fund in order to construct two pickleball courts at Prifti Park, 454 College Highway, Assessors Map 088 Parcel 001, registered at the Hampden County Registry of Deeds Book 2286 Page 0461, or take any other action relative thereto.

Requested by the Community Preservation Committee

ARTICLE 7:

To see if the Town of Southwick will authorize the Select Board to petition the General Court for a Special Act authorizing the Town to enact special legislation relative to the election and composition of the Conservation Commission within the Town of Southwick as follows:

In the Town of Southwick, the composition of the Conservation Commission, the number to be elected, the appointing authority and the term of office of the Commission Members shall be as follows:

A. Four (4) members shall be appointed by the Select Board; Three (3) members shall be elected by the voters at the Annual Town Election, and all shall reside in the Town and be registered voters therein.

B. Each member of the Commission shall serve for a term of three years or until the person no longer serves in the position or on the commission, board or authority as set forth above, whichever is earlier. The initial terms of the three (3) persons elected by the voters at the next Annual Town Election shall be one person for one (1) year, one (1) persons for two (2) years and one (1) person for a three (3) years term. Thereafter, these members shall be elected for three (3) year terms at the Annual Town Election.

C. Should any of the commissions, boards or authorities who or which have appointing authority under this chapter be no longer in existence for whatever reason, that position that would have been appointed shall thereafter be elected by the voters and whomever is elected must be a resident of and a registered voter in the Town.

D. Any member of the Commission may be removed for cause by his respective appointing authority after hearing.

E. Any vacancy occurring in the Commission from any cause shall be filled for the remainder of the unexpired term by the commission, board, or authority that made the appointment, such appointment shall be made not less than twenty-one (21) days following notice of such vacancy.


F. Any vacancy occurring in one of the positions elected by the voters shall be filled by appointment by the Select board but only until the next Annual Town Election at which time the vacant position shall be filled by election by the registered voters of the Town of Southwick for the balance of the unexpired term if any otherwise for the new term.

And further to authorize the Board of Selectmen to take any and all actions necessary to petition the General Court as aforesaid, or take any other action relative thereto.

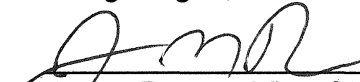
Requested by the Select Board

Given under our hands at said Southwick this 17th day of November, year of the Lord Two thousand and Twenty-Three


SELECT BOARD



Doug Moglin, Chair



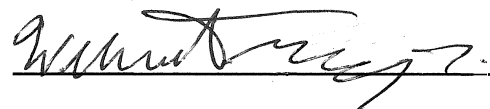
Jason Perron, Vice-Chair



Diane Gale, Clerk

HAMPDEN, ss.

Pursuant to the within warrant, I have notified and warned the inhabitants of the Town of Southwick by posting up attested copies of the same in three (3) public places in said Town at least fourteen (14) days before the date thereof, as within directed.

Constable or Police Officer of Southwick, MA 

**A TRUE COPY
ATTEST
TOWN CLERK, SOUTHWICK, MA**



Michelle L. Hill, Town Clerk

POSTED: TOWN HALL, POST OFFICE AND LIBRARY