

WARRANT ARTICLE

To see if the town will vote to amend its Zoning Bylaw as follows:

Add a new Section 620:

Section 620 Medical Marijuana Overlay District Bylaw

Section 620.1: Purpose

To provide for the placement of Medical Marijuana Treatment Centers (each an “MMTC”) in accordance with Chapter 94I (“Chapter 94I”) and all regulations which have or may be issued by the Department of Public Health and/or the Cannabis Control Commission (“CCC”), including, 935 CMR 501.00, as may be amended hereafter, which will minimize adverse impacts of an MMTC on adjacent properties, residential neighborhoods, schools, playgrounds, public beaches and other locations where minors congregate and which will regulate the siting, design, security, monitoring, and removal of an MMTC.

Section 620.2: Establishment and Applicability

The Marijuana Overlay District (“MOD”) is established as an overlay district within the Town of Duxbury, the boundaries of the MOD are shown on the Zoning Map on file with the Town Clerk and shall comprise the following parcels, as set forth on the maps of the Town Board of Assessors:

Address:

MOD District	Parcel ID – NB2
Fred’s Fix-It	Portion of 015-782-001
	Portion of 015-782-002
	Portion of 015- 502-056
Bennett’s Gas	062-752-015
	Portion of 062-752-014
Hall’s Corner	110-772-034
	110-772-045
	110-772-134

Snug Harbor	119-762-102
	Portion of 119-762-918
	Portion of 118-762-101
	Portion of 118-761-142
	Portion of Private ROW 119-761-115
Millbrook	106-742-060
	106-742-006
	106-742-005
	106-742-003
	106-742-002
	106-742-004
	Portion of 106-034-000
Cox's Corner	104-732-042

Within the MOD, all requirements of the underlying zoning district remain in effect, except where these this Bylaw provides an alternative to such requirements. Land within the MOD may be used for (1) a Medical Marijuana Treatment Center (“MMTC”); or (2) a use allowed in the underlying district, in which case the requirements of the underlying district shall apply. If the provisions of the MOD are silent on a zoning regulation, the requirements of the underlying district shall apply. If the provisions of the MOD conflict with the requirements of the underlying district, the requirements of the MOD shall control.

Section 620.3: Definitions

Where not expressly defined in these Zoning Bylaws, terms used in the MOD Bylaw shall be interpreted as defined in Chapter 94I, 935 CMR 501.00, and any regulations issued by the CCC implementing Chapter 94I, and otherwise by their plain language.

Medical Marijuana Treatment Center means an entity formerly and validly registered under 935 CMR 501.100, that acquires, cultivates, possesses, processes (including development of related products such as edible MIPs, 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. An MMTC refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

Section 620.4: Location and Dimensional Controls

1. An MMTC may not be located within 1,000 feet (measured in a straight line from the nearest point of the property line of any of the following uses to the nearest point of the property line of the MMTC) the following pre-existing uses:
 - (a) Public or private school providing education in pre-school, kindergarten and/or grades 1 through 12;
 - (b) State-licensed Child Care Center, as defined in M.G.L. Chapter 15D; or
 - (c) Library, playground, public park, public beach, religious facility, youth center; or similar facility in which minors commonly congregate for a particular purposes in a structured and scheduled manner.
2. Cultivation and processing facilities located within the MOD shall be separated from adjacent property lines by a 100-foot buffer strip, unless the applicant can demonstrate, and the SPGA (defined in Section 620.5) finds, that adequate buffering can be provided in a narrower buffer strip.
3. An MMTC shall be located only in a permanent building and not within any mobile facility. All sales shall be conducted either within the building or by home delivery pursuant to applicable state regulations.
4. Unless expressly stated otherwise in this Bylaw, an MMTC shall conform to the dimensional requirements applicable to non-residential uses in the underlying district.

Section 620.5: Special Permit and Site Plan Requirements

1. Procedure: An MMTC may be permitted in the MOD pursuant to a Special Permit and Site Plan Approval by the Planning Board which shall be the Special Permit Granting Authority (“SPGA”) under this MOD Bylaw and shall conduct Site Plan Approval for an applicant for a MMTC, the Special Permit application and time standards of G.L. c.40A, §9 shall also apply to applications for Site Plan Approval under this Section.
2. A Special Permit for an MMTC shall be limited to one or more of the following uses:
 - (a) Cultivation of Marijuana for medical use.
 - (b) Processing and packaging of Marijuana for medical use, including Marijuana that is in the form of smoking materials, food products, oils, aerosols, ointments, and other products.

- (c) Testing of Marijuana for medical use.
 - (d) Sale or distribution of medical use Marijuana.
 - (e) Wholesale sale of medical Marijuana to other MMTCs located in the Town or another municipality in Massachusetts.
 - (f) Medical Marijuana transportation or distribution.
3. Application: The application for an MMTC shall include the following:
- (a) The name and address of each owner of the MMTC. If the Applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similar parties, representatives and entities and their addresses. If any of the above are entities rather than persons, the Applicant must provide the same disclosure in writing under oath for all of such entities.
 - (b) Copies of all required licenses and permits issued to the Applicant by the Commonwealth of Massachusetts and any of its agencies for the MMTC, together with a copy of all materials (including surety bonds or other guarantees) submitted to CCC in connection with the licensing and permitting of an MMTC;
 - (c) A description of the proposed use;
 - (d) Evidence of the Applicant's right to use the site for an MMTC, such as a recorded deed, fully executed lease or fully executed purchase and sale agreement;
 - (e) A certified list of all parties in interest entitled to notice of the hearing for the Special Permit and Site Plan Approval application, taken from the most recent tax list of the Town and certified by the Town Assessor;
 - (f) Evidence that the Applicant has entered into a fully executed Host Community Agreement with the Town;
 - (g) A detailed floor plan of the site of the proposed MMTC that identifies the square footage available and describes the functional areas of the facility;
 - (h) A detailed site plan that includes:
 1. Compliance with the requirements for parking and loading spaces, lot size, frontage, yards and heights and coverage of buildings, signage and all other provisions of this MOD Bylaw and other applicable provisions of the Duxbury General Bylaws;
 2. Design for convenience and safety of vehicular and pedestrian movement on the site and access to and from the site which must be located on a public way or approved private way;
 3. Design and appearance of proposed buildings, structures, screening and landscaping;

4. Adequacy of water supply, drainage, waste water conveyance and treatment plant capacity; and
 5. Adequacy of any on-site septic system, if applicable, as approved by the Board of Health.
- (i) A Security Plan that shall include the details of all security measures for the site and transportation of marijuana and marijuana products to and from off-site premises to ensure the safety of employees and the public and to protect the site from theft or other criminal activity. The Security Plan shall be submitted to the Fire Department and Police Department for approval with such terms and conditions as determined by such departments. This report shall remain confidential as required by applicable law.
 - (j) An Operation and Management Plan that shall include: Organizational Structure, Location, Property Description, Hours of Operation and Staffing, Cultivation Practices, Processing Practices, Distribution Practices, Employee Safety, Fire Prevention, Sanitation Requirements, Electrical System Overview, Ventilation System and Air Quality and Waste Refuse Chemical Remediation Plan. The plan shall be submitted to the Building Department, Board of Health, Water and Sewer Department, Police Department, Fire Department, DPW Director, Conservation Commission and Board of Selectmen for review and comment.
 - (k) An Emergency Response Plan. All owners and senior managers of an MMTC shall meet with the Police Department and Fire Department to discuss and identify emergency/contingency plans for the site, and a written Emergency Response Plan shall be filed with and approved by the Police Department and Fire Department as a condition of the Special Permit and Site Plan Approval.
 - (l) The SPGA, in its discretion, may retain the services of consultants as to any matter contained in the application, the expenses of which shall be the responsibility of the Applicant.
4. The SPGA shall refer copies of the application to the Board of Selectmen, Building Department, Fire Department, Police Department, Board of Health, Conservation Commission, Water and Sewer Department and such other departments, boards and commissions as determined by the SPGA. These boards/departments shall review the application and shall submit the written recommendations. Failure to make recommendations within 45 days of referral of the application shall be deemed lack of opposition.
 5. Mandatory Findings: The SPGA shall not issue a Special Permit for an MMTC unless it finds that after notice and public hearing in accordance with G.L. c. 40A,

§ 11 and consideration of application materials, consultant reviews, public comments, and the recommendations of other town boards and departments:

- (a) The MMTC is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in M.G.L. C. 40A, Section 11;
- (b) The MMTC is fully permitted by all applicable agencies of the Commonwealth of Massachusetts and is in compliance with all applicable state laws and regulations and;
- (c) The Applicant has satisfied all conditions and requirements of this MOD Bylaw.

6. Special Permit Conditions on an MMTC: Conditions which are reasonably appropriate to improve site design, traffic flow, and public safety, to protect water quality, air quality, and significant environmental resources, to preserve the character of the surrounding area and to otherwise serve the purposes of this MOD Bylaw may include, but not be limited to:

- (a) Hours of Operation of an MMTC for sale or distribution to consumers and/or wholesalers shall be limited to 7:00 a.m. – 7:00 p.m., unless otherwise modified by the SPGA.
- (b) The use shall be limited to the permitted use and shall not generate outside odors from the cultivation or processing of marijuana and marijuana products. No use shall be allowed in the MOD which creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive sound or vibration, flashes, glare, objectionable effluent or electrical interference.
- (c) The permit holder shall provide to the Zoning Enforcement Officer/Building Inspector, Board of Health, Chief of the Fire Department, Chief of the Police Department, Town Manager, and the SPGA the name, telephone number and electronic mail address of all managers and key holders who can serve as a contact person if such person needs to be contacted at any time, including after regular business hours, to address any problems or urgent issues. Such contact information shall be kept updated by the permit holder.
- (d) An MMTC may not operate, and the Special Permit and Site Plan Approval will not be valid, until the applicant has obtained all licenses and permits issued by the Commonwealth of Massachusetts and any of its agencies for the facility and the Applicant has entered into a Host Community Agreement with the Town with respect to the facility.
- (e) The Special Permit and Site Plan Approval shall lapse and will not be valid if a substantial use thereof has not commenced within two (2) years of issuance,

except for good cause, and not including any time as is required to pursue or await a determination of an appeal from the grant thereof.

- (f) A Special Permit and Site Plan Approval granted under this Section shall have a term limited to the earlier of the (i) duration of the permit holder's ownership of the MMTC, (ii) change in ownership of the permit holder (other than a change in, in the aggregate, of not more than 10 (ten)% ownership interest), including any transfer of ownership voluntarily, involuntarily or by operation of law, or (iii) the expiration or termination of the permit holder's license by the CCC for use of the site as an MMTC. A Special Permit and Site Plan Approval under this Section may be transferred only with the approval of the SPGA in the form of an amendment to the Special Permit and Site Plan Approval decisions.
- (g) The permit holder shall notify the Zoning Enforcement Officer/Building Inspector, the Board of Selectmen and the SPGA in writing at least 48 hours prior to the cessation of operation of the MMTC and immediately upon expiration or termination of the permit holder's license with the CCC.
- (h) An Annual Report shall be filed with the SPGA, the Board of Selectmen and Board of Health no later than January 31st of each year, providing a copy of all applicable state licenses and renewals thereof required under Chapter 94I and 935 CMR 501.00, together with the then current Compliance Inspection report from the CCC and evidence of compliance with all ongoing conditions of the Special Permit and Site Plan Approval.

Section 620.6 Abandonment or Discontinuance of Use.

An MMTC shall be required to remove all material, plants, equipment, signs and other paraphernalia at the time of surrendering its state-issued licenses or permits in accordance with any requirements of the CCC and a written discontinuance plan submitted to the SPGA, the Board of Selectmen, and the Board of Health. An MMTC shall be required to provide surety in a form acceptable to and approved by the Town Treasurer, in an amount determined by the SPGA, to cover the costs for cleaning the facility and the removal of all materials, plants, equipment, signs and other paraphernalia in the event the MMTC fails to do so. In no event shall the surety exceed more than 125 percent of the estimated cost of removal and compliance. The applicant shall submit a fully inclusive estimate of the costs associated with cleaning and removal at prevailing wages, which estimate shall be prepared by a qualified licensed contractor authorized to undertake such work. The SPGA may, in its discretion, request cost estimates from not more than two additional qualified licensed contractors in order to accurately determine the amount of the surety. Surety is required to be posted at time of grant of permit by the Town.

Section 620.7 Prohibition Against Nuisances

No use shall be allowed in the MOD which creates a nuisance to abutters or to the

surrounding area, or which creates any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive sound or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.

Section 620.8 Severability

The provisions of this Bylaw are severable. If any provision, paragraph, sentence, or clause of this Bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid by a court of competent jurisdiction, such invalidity shall not affect the other provisions or application of this Bylaw.

Section 620.9 Rules and Regulations

The SPGA shall have the authority to adopt rules and regulations for purposes of implementing this Bylaw.

Or take any action relative thereto.

DUXBURY PLANNING BOARD

A 2/3 vote is required.