

# Changes to the Marijuana By-Law (Section 8.6)

Over the last year, the Planning Board has reviewed the Medical / Adult Use Marijuana by-law for two reasons. First, we were made aware of language which makes developing a Marijuana Establishment in Worthington very difficult if not impossible. And second, we were asked about outdoor cultivation and realized that the current by-law does not consider that use.

The amendment we are proposing is meant to honor what we believe was the intent of the town in passing the by-law to allow Marijuana Establishments, while addressing concerns specific to outdoor cultivation, and allow for some flexibility on the part of the board in terms of which documents are required.

The sections below show in detail the changes we are suggesting, and the revised by-law in its entirety is included at the end of the document.

To be clear, the term Marijuana Establishment is defined by state law and includes any type of licensed Marijuana-related business from retail to cultivation, but also things like transportation and testing laboratories.

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## Adjustments to the Location Requirements (Section 8.6.4)

The essence of the current Location Requirement is that there can be no Marijuana Establishment on any piece of land which is not surrounded on all sides by undeveloped parcels which are at least 500' wide. In effect this means that the minimum lot size for any Marijuana Establishment in Worthington is roughly 25 acres with a 500' setback on any side that abuts a lot with a house or library or school, and the parcel cannot be under any kind of conservation restriction (including APR) because it would need to be subdivided to meet the requirement.

The Planning Board does not believe it was the intent of the town to place such an extreme restriction on the development of Marijuana Establishments when they approved this by-law.

The main issue is the requirement that measurements be made from property-line to property-line. This language may make sense in an urban setting where there are a variety of zoning districts. In effect it would push Marijuana Establishments deeper into commercial or industrial zones, away from residential development. But Worthington has only Residential/Agricultural zoning, so any lot which is developed is included under 8.6.4(A)(6).

The amendment we are proposing updates the location requirement in several ways. First, it removes the language regarding how the 500' measurement is made. This removes the reliance on property lines, and leaves the Planning Board (as Special Permit Granting Authority) discretion in what part of the Establishment is most relevant when making the 500' measurement.

Second, it reduces the distance between a Marijuana Establishment and any residential use to 250', which is more in keeping with the distance requirements of other towns.

**Change Section 8.6.4(A) from:**

8.6.4 Location Requirements

- A. No Medical Marijuana Treatment Center or Marijuana Establishment shall be located ~~on a parcel which is~~ within five hundred (500) feet ~~(to be measured in 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 structure is or will be located)~~ of a parcel, occupied at the time the ~~Applicant's license application was received by the Cannabis Control Commission,~~ ~~by~~ any of the following:
1. A public or private school providing education in preschool, kindergarten or any of grades 1-12
  2. A public or private library
  3. Duly licensed daycare centers
  4. Churches, synagogues or other places of worship
  5. Public or private parks, playgrounds and recreation areas
  6. ~~Any residential use, either established by right or with a Special Permit~~

**To:**

8.6.4 Location Requirements

- A. No Medical Marijuana Treatment Center or Marijuana Establishment shall be located within five hundred (500) feet of any of the following:
1. A public or private school providing education in preschool, kindergarten or any of grades 1-12
  2. A public or private library
  3. Duly licensed daycare centers
  4. Churches, synagogues or other places of worship
  5. Public or private parks, playgrounds and recreation areas

**Renumber 8.6.4(B) - 8.6.4(E) to 8.6.4(C) - 8.6.4(F)**

**Insert Section 8.6.4(B):**

- B. Under no circumstance shall a Medical Marijuana Treatment Center or Marijuana Establishment be located within two hundred fifty feet (250) feet of a residential use.

**The final amended Section 8.6.4 would read:**

8.6.4 Location Requirements

- A. No Medical Marijuana Treatment Center or Marijuana Establishment shall be located within five hundred (500) feet of any of the following:
1. A public or private school providing education in preschool, kindergarten or any of grades 1-12
  2. A public or private library
  3. Duly licensed daycare centers
  4. Churches, synagogues or other places of worship
  5. Public or private parks, playgrounds and recreation areas
- B. Under no circumstance shall a Medical Marijuana Treatment Center or Marijuana Establishment be located within two hundred fifty feet (250) feet of a residential

use.

- C. All aspects of any Medical Marijuana Treatment Centers and Marijuana Establishments, except for the transportation of product or materials, relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at an enclosed, fixed location and shall not be permitted to be located in a trailer, storage freight container, motor vehicle or other similar type potentially movable platform or enclosure.
- D. No Medical Marijuana Treatment Center or Marijuana Establishment shall be located inside a building containing residential units, including transient housing such as motels and dormitories.
- E. No Medical Marijuana Treatment Center or Marijuana Establishment is permitted to utilize or provide a drive-through service.
- F. Enclosed area cultivation, manufacturing, processing, retail, and standards and testing establishments are encouraged to utilize existing buildings where possible.

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## Consideration of Outdoor Cultivation (Section 8.6.6 - Design Standards)

The proposed amendment would insert a new subsection under 8.6.6(B) defining Outdoor Cultivation, and imposing standards on Establishments meeting that definition.

There are several aspects to the State Regulations (935 CMR 500, Adult Use of Marijuana) which may be relevant when considering these proposed Design Standards. First, 935 CMR 500.110 (6) requires “A perimeter security fence designed to prevent unauthorized entry to the cultivation facility with signs notifying observers that it is a Limited Access Area” and 935 CMR 500.110 (1)(l) requires Establishments to take measures which include “Ensuring that all Marijuana Products are kept out of plain sight and are not visible from a public place”. Together these requirements suggest fencing which effectively screens the cultivation operation from view.

There are also requirements in 935 CMR 500.110 (6) relating to security cameras “appropriate for the normal lighting conditions of the area under surveillance”. We understand this to mean that infrared cameras would be required if no artificial lighting exists. The definition of Outdoor Cultivation (935 CMR 500.002) states that there can be no “use of artificial lighting in the Canopy area at any point in time”.

The proposed Section 8.6.6(B)(3)(d)(5) explicitly directs the Board reviewing the Special Permit application to consider the impact of any proposed Establishment on the character of the neighborhood. This is in addition to the considerations which are part of any Special Permit review. The job of the Board reviewing a Special Permit application is to “protect the best interests of the surrounding property, the neighborhood, or the Town as a whole” [Section 2.5(G)] and to do so it may place conditions upon a Special Permit. Applicable conditions are listed in Section 2.5(G) of Worthington’s Zoning By-law, but include such things as controlling vehicular access, requiring landscaping and screening, and specifying standards for operation which may restrict hours of operation or address noise, lighting or odor concerns.

Finally, it is important to note that any Special Permit application requires a Public Hearing in which members of the public can express their concerns to the Board reviewing the application. In the case of a Marijuana Establishment seeking a license to operate, they must hold a “Community Outreach Meeting” prior to submitting their application to the Cannabis Control Commission (CCC). That Community Outreach Meeting is meant to educate the community of their plans. The Special Permit application, and associated Public Hearing, happen after the Community Outreach Meeting, and after the applicant receives a Provisional License from the CCC.

**Insert Section 8.6.6(B)(3)**, renumbering the previous 8.6.6(B)(3) - 8.6.6(B)(10) to 8.6.6(B)(4) - 8.6.6(11):

3. **Outdoor cultivation:** For the purpose of this section, outdoor cultivation shall mean a marijuana establishment that involves the cultivation of mature cannabis outdoors in the open air, 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, and allowed in all areas where marijuana cultivation is allowed provided that:
  - a) No fertilizers, compost, soils, materials, machinery, or equipment shall be stored within the required front, side, and rear yard setbacks.
  - b) The minimum setback from all property lines shall be 200 feet.
  - c) 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,” as amended.

- d) In reviewing a special permit under this section the Board shall consider the impact of the proposal on the following:
1. Character of the neighborhood to include visual compatibility with surrounding uses.
  2. Proximity to other licensed marijuana uses to prevent clustering.
  3. Relationship to surrounding uses to avoid unnecessary exposure to minors.
  4. Site design and other development related site impacts.
  5. 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 Marijuana Cultivator with outdoor cultivation. 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.

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## Additional Waiver Capability (Section 8.6.9(J))

The final proposed change to the by-laws is to add a clause under Section 8.6.9(J) allowing the Planning Board (as Special Permit Granting Authority) to waive information requirements it deems unnecessary in a particular application. The by-laws governing Special Permits are written in a way to accommodate a wide variety of uses, including all types of Marijuana Establishments. There may be information which is important for reviewing one type of project which is irrelevant to another type. This gives the board some flexibility in determining what information it requires.

### **Renumber the current language in 8.6.9(J) as 8.6.9(1):**

#### 8.6.9 Application Requirements

##### J. Waivers:

1. The Applicant shall be required to submit specific information regarding any waivers from 935 CMR 500.000 or 935 CMR 501.000 granted by the Commission. The Special Permit Granting Authority shall consider said waivers based on the following Commission criteria in 935 CMR 500 or 935 CMR 501.000.
  - a. Compliance would cause undue hardship to the investor;
  - b. If applicable, the requestor's non-compliance does not jeopardize the health or safety of any patient or the public;
  - c. If applicable, the requestor has instituted compensating features that are acceptable to the Planning Board; and
  - d. The requestor provides to the Planning Board written documentation, in a form and manner determined by the Planning Board, supporting its request for a waiver.

### **Add the following as Section 8.6.9(J)(2):**

2. The Planning Board may waive any information requirements it judges to be unnecessary to the review of a particular plan. A request for a waiver(s) by an applicant must be made in writing by the applicant to the Planning Board.

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## Complete, amended, text of Section 8.6, Medical/Adult Use Marijuana

Note, this text includes the changes to references proposed in the Editorial Changes amendment detailed elsewhere.

Proposed additions are **marked by being green**.

### **Section 8.6 MEDICAL/ADULT USE MARIJUANA**

#### **8.6.1 Purpose**

It is recognized that the nature of the substance cultivated, processed, and/or sold by Registered Marijuana Dispensaries, also known as Medical Marijuana Treatment Centers and Marijuana Establishments may have operational characteristics that should be located in such a way as to ensure the health, safety, and general well-being of the public while also supporting the right of legally authorized adults to access marijuana for their own use. The specific and separate regulation of Medical Marijuana Treatment Centers and Marijuana Establishments is necessary to advance these purposes.

Subject to the provisions of this Zoning Bylaw, Chapter 40A of the Massachusetts General Laws, Chapters 94G and 94I of the Massachusetts General Laws and 935 CMR 500.000, 935 CMR 501.000 and 935 CMR 502.000, Medical Marijuana Treatment Centers and Marijuana Establishments will be permitted to provide the opportunity for the legal cultivation, product manufacturing, retail sale and other legally authorized uses of marijuana for medical and non-medical adult marijuana use in a manner that complies with state regulations.

#### **8.6.2 Applicability**

This section applies to the operation of Medical Marijuana Treatment Centers and Adult Use Marijuana Establishments as defined in part 3 of this section. Nothing in this section shall be construed to supersede state law governing the sale and distribution of marijuana, or any federal laws governing the interstate transportation or sale of the same. This section does not apply to the cultivation of industrial hemp as is regulated by the Massachusetts Department of Agricultural Resources pursuant to General Laws, Chapter 128, Sections 116-123.

#### **8.6.3 General Administration**

- A. Special Permit Granting Authority: for the purposes of this section, the Special Permit Granting Authority shall be the Planning Board of the Town of Worthington.
- B. Enforcement: Any violations of the terms of a Special Permit granted under to this section and otherwise not of a criminal nature, shall be directed to the Zoning Enforcement Officer as defined by Section 2.6.12 of this zoning bylaw or in writing to the Special Permit Granting Authority.
- C. Special Permits granted under this section shall apply to no more than one Licensee and no Special Permit shall allow for the concurrent operation of two or more Medical Marijuana Treatment Center and/or Marijuana Establishments on the same parcel of land.

## 8.6.4 Location Requirements

- A. No Medical Marijuana Treatment Center or Marijuana Establishment shall be located on a parcel which is within five hundred (500) feet (to be measured in 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 structure is or will be located) of a parcel, occupied at the time the Applicant's license application was received by the Cannabis Control Commission, by any of the following:
  - 1. A public or private school providing education in preschool, kindergarten or any of grades 1-12
  - 2. A public or private library
  - 3. Duly licensed daycare centers
  - 4. Churches, synagogues or other places of worship
  - 5. Public or private parks, playgrounds and recreation areas
- B. Under no circumstance shall a Medical Marijuana Treatment Center or Marijuana Establishment be located within two hundred fifty feet (250) feet of a residential use.
- C. All aspects of any Medical Marijuana Treatment Centers and Marijuana Establishments, except for the transportation of product or materials, relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at an enclosed, fixed location and shall not be permitted to be located in a trailer, storage freight container, motor vehicle or other similar type potentially movable platform or enclosure.
- D. No Medical Marijuana Treatment Center or Marijuana Establishment shall be located inside a building containing residential units, including transient housing such as motels and dormitories.
- E. No Medical Marijuana Treatment Center or Marijuana Establishment is permitted to utilize or provide a drive-through service.
- F. Enclosed area cultivation, manufacturing, processing, retail, and standards and testing establishments are encouraged to utilize existing buildings where possible.

## 8.6.5 Use Regulations

- A. Any type of Medical Marijuana Treatment Center or Marijuana Establishment may only be involved in the uses permitted by its license definition and may not include other businesses or services.
- B. No marijuana shall be smoked, eaten or otherwise consumed or ingested within Medical Marijuana Treatment Centers or Marijuana Establishments unless expressly permitted under this Bylaw, and permitted by state law or regulation. The prohibition on on-site consumption shall also include Marijuana Membership Clubs, private social clubs and any other establishment which allows for social consumption of marijuana or marijuana products on the premises, regardless of whether the product is sold to consumers on site.

- C. The hours of operation shall be set by the Special Permit Granting Authority, but in no event shall a Medical Marijuana Treatment Center or Marijuana Establishment be open to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises, between the hours of 8:00 p.m. and 8:00 a.m.
- D. No Medical Marijuana Treatment Center or Marijuana Establishment may commence operation or apply for a building permit prior to its receipt of all required permits and approvals including, but not limited to, its Final License from the Cannabis Control Commission.
- E. The number of adult use marijuana retail establishments permitted to be located within the Town shall not exceed twenty percent (20%) of the number of licenses issued within the Town for the retail sale of alcoholic beverages not to be consumed on the premises where sold under chapter 138 of the General Laws.
- F. Medical Marijuana Treatment Center or Marijuana Establishment operations shall not create nuisance conditions in parking areas, sidewalks, streets, and areas surrounding the premises and adjacent properties. "Nuisance" includes, but is not limited to, disturbances of the peace, open public consumption of marijuana, excessive pedestrian or vehicular traffic, illegal drug activity under state or local law, harassment of passerby, excessive littering, excessive loitering, illegal parking, excessive loud noises, excessive citation for violations of State or local traffic laws and regulations, queuing of patrons (vehicular or pedestrian) or other obstructions in the public or private way (sidewalks and streets).

### 8.6.6 Design Standards

- A. Medical Marijuana Treatment Centers and Marijuana Establishments are encouraged to utilize existing vacant buildings where possible.
- B. In addition to the general requirements in Sections 8.6.3, 8.6.4, and 8.6.5, all structures utilized for any purpose by a licensed Medical Marijuana Treatment Center or Marijuana Establishment shall be compatible in scale, design and aesthetic with the existing neighboring properties in particular, and with the rural, agricultural character of the Town of Worthington in general. The following design standards shall also apply to all Medical Marijuana Treatment Centers or Marijuana Establishments in the Town of Worthington:
  - 1. Enclosed Structures: for the purposes of this section, an Enclosed Structure shall mean any structure, other than a standard Greenhouse, actively devoted to the cultivation, manufacture, transportation, storage or testing of marijuana products.
    - a) Combined Maximum Building Footprint: The total combined footprint for all Enclosed Structures shall not exceed 15,000 square feet.
    - b) Maximum Building Footprint: An individual enclosed structure shall not exceed 5,000 square feet of area.
    - c) Height: no Enclosed Structure shall exceed a total of thirty-five (35) feet in height.



- d) Spacing: Enclosed Structures shall be no less than twenty (20) feet apart and in no instance shall a Marijuana Establishment erect more than five (5) Enclosed Structures.
2. Greenhouses: For the purpose of this section, a Greenhouse shall mean any structure with walls and roof made of transparent or translucent material in which plants requiring regulated climatic conditions are grown and allowed in all areas where Marijuana Cultivation is allowed provided that:
- a) The greenhouse installation conforms to all regulations regarding security, screening, ventilation, odor and any other provisions of 935 CMR 500, 935 CMR 501 and of this bylaw.
  - b) The total footprint of all structures devoted to active cultivation, including greenhouse space, does not exceed 13,500 square feet of total area.
  - c) No greenhouse exceeds a total height of twenty (20) feet.
3. Outdoor cultivation: For the purpose of this section, outdoor cultivation shall mean a marijuana establishment that involves the cultivation of mature cannabis outdoors in the open air, 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, and allowed in all areas where marijuana cultivation is allowed provided that:
- a) No fertilizers, compost, soils, materials, machinery, or equipment shall be stored within the required front, side, and rear yard setbacks.
  - b) The minimum setback from all property lines shall be 200 feet.
  - c) 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,” as amended.
  - d) In reviewing a special permit under this section the Board shall consider the impact of the proposal on the following:
    - 1. Character of the neighborhood to include visual compatibility with surrounding uses.
    - 2. Proximity to other licensed marijuana uses to prevent clustering.
    - 3. Relationship to surrounding uses to avoid unnecessary exposure to minors.
    - 4. Site design and other development related site impacts.
    - 5. 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 Marijuana Cultivator with outdoor cultivation. 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.

4. Retail Establishments: The total gross floor of Retail Marijuana Establishments or a Medical Marijuana Treatment Center engaged in retail operations shall not exceed 2,500 square feet.
5. Setbacks: With the exception of retail uses, all marijuana establishments shall have a minimum setback of 100 feet as measured from the nearest edge of any public right-of-way or abutting property boundary.
6. Roofing: No Enclosed Structure, as defined herein, shall have a roof pitch of less than 5/12, unless the applicant can demonstrate to the satisfaction of the Special Permit Granting Authority that any deviation from this standard is in better keeping with Section 2.6.9(A)(1) of this section.
7. Visual Impact: Marijuana plants, products, and paraphernalia shall not be visible from the outside of the building in which the Medical Marijuana Treatment Center or Marijuana Establishment is located and shall comply with the requirements of 935 CMR 500. No outside storage of marijuana, related supplies, or promotional material is permitted. Any artificial screening device erected to eliminate the view from a public way shall also be subject to a vegetative screen and the Special Permit Granting Authority shall consider the surrounding landscape and views to determine if an artificial screen would be out of character with the neighborhood.
8. Ventilation and odor: all Medical Marijuana Treatment Centers and Marijuana Establishments shall be ventilated in such a manner that no:
  - a) Pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere, and
  - b) No odor from marijuana, marijuana products 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.
8. Signage: All signage shall comply with all other applicable signage regulations in the Zoning Bylaw, 935 CMR 500, and 935 CMR 501.
9. Lighting: to the extent permissible by state law and regulations, all Medical Marijuana Treatment Centers and Marijuana Establishments shall make every reasonable effort to minimize the effects of security and other necessary light installations on the surrounding community and shall comply with “dark skies” standards whenever possible.

### 8.6.7 Reporting Requirements

- A. Prior to the commencement of the operation or services, any Medical Marijuana Treatment Center or Marijuana Establishment approved under this section shall provide the Police Department, Fire Department, Building Commissioner/Inspector and the Special Permit Granting Authority with the names, phone numbers and email addresses of all management staff and key-holders, including a minimum of two (2) operators or managers of the facility identified as contact persons to whom one can provide notice if there are operating problems associated with the

establishment. All such contact information shall be updated as needed to keep it current and accurate.

- B. The local Building Inspector, Board of Health, Police Department, Fire Department, Selectboard and Special Permit Granting Authority shall be notified in writing by the Medical Marijuana Treatment Center or Marijuana Establishment facility owner/ operator/ manager:
  - 1. A minimum of 30 days prior to any change in ownership or management of that establishment.
  - 2. A minimum of 12 hours following a violation or potential violation of any law or any criminal or potential criminal activities or attempts of violation of any law at the establishment.
- C. Permitted Medical Marijuana Treatment Centers or Marijuana Establishments shall file an annual written report to, and appear before, the Special Permit Granting Authority no later than January 31<sup>st</sup> of each calendar year, providing a copy of all current applicable state licenses for the facility and/or its owners and demonstrate continued compliance with the conditions of the Special Permit.
- D. The owner or manager of a Medical Marijuana Treatment Center or Marijuana Establishment is required to respond by phone, text message or email within twenty-four hours of contact by a town official concerning their Marijuana Establishment at the phone number or email address provided to the Town as the contact for the business in cases of town emergencies or public health emergencies.

### 8.6.8 Issuance/Transfer/Discontinuance of Use

- A. Special Permits/Site Plan Approvals shall be issued to the Medical Marijuana Treatment Center or Marijuana Establishment entity only.
- B. Special Permits/Site Plan Approvals shall be issued for a specific type of Medical Marijuana Treatment Center or Marijuana Establishment on a specific site/parcel only.
- C. Special Permits/Site Plan Approvals shall be non-transferable to either another Medical Marijuana Treatment Center or Marijuana Establishment owner or another site/parcel.
- D. Special Permits/Site Plan Approvals shall have a term limited to the duration of the Applicant's ownership/control of the premises as a Medical Marijuana Treatment Center or Marijuana Establishment, and shall lapse if:
  - 1. The Medical Marijuana Treatment Center or Marijuana Establishment ceases to operate; and/or
  - 2. The Medical Marijuana Treatment Center or Marijuana Establishment's registration/license by the Cannabis Control Commission expires or is terminated.

- E. The Medical Marijuana Treatment Center or Marijuana Establishment shall notify the Zoning Enforcement Officer and Special Permit Granting Authority in writing within 48 hours of such lapse, cessation, discontinuance or expiration or revocation.
- F. In the event that any Medical Marijuana Treatment Center or Marijuana Establishment has reasonable grounds to temporarily ceases to operate, the Special Permit Granting Authority may, at its discretion, extend the term limit defined in §8.6.8(D), provided that:
  - 1. The licensed Medical Marijuana Treatment Center or Marijuana Establishment submits to the Special Permit Granting Authority a written statement explaining the need for such an extension, the steps being taken to resume operations and the amount of time considered necessary to realize those steps; AND
  - 2. No such cessation of operations shall be for a period longer than 365 days in total.
- G. A marijuana cultivator or manufacturer shall be required to remove all material, plants equipment and other paraphernalia prior to surrendering its state registration/license or ceasing its operation.
- H. Prior to the issuance of a Building or Occupancy Permit for a Medical Marijuana Treatment Center or Marijuana Establishment, the Applicant shall be required to furnish evidence that a decommissioning bond or other form of financial security pursuant to the requirements of 935 CMR 500.105, as may be amended, has been posted with the Commission in an amount which shall be sufficient to cover the costs of removing all materials, plants, equipment and other paraphernalia in the event the Applicant fails to do so.
  - 1. Should the applicant not furnish sufficient evidence, or such financial security is deemed insufficient in the opinion of either the Special Permit Granting Authority or Town Treasurer to cover potential costs to the Town for the removal of said material, the Applicant shall post with the Town Treasurer an addition bond or other form of financial security acceptable to said Treasurer in an amount set by the Special Permit Granting Authority, which shall cover any and all potential costs to the Town for the removal of said material.
  - 2. In the event that the Town finds a licensed Medical Marijuana Treatment Center or Marijuana Establishment to have ceased operations, the Building Inspector shall give the owner 30 days' written notice in advance of taking any 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 30 days written notice, any bond posted with and under the control of the Town Treasurer shall be returned to the Applicant.
  - 3. All licensed Medical Marijuana Treatment Centers and Marijuana Establishments in the Town of Worthington shall be required to furnish to the Town an annually updated estimate of decommissioning costs which shall include any increases resulting from changes to operations, annual inflation or any and all other factors, as well as a full accounting of any bonds or other financial securities held with the Commission and/or the Town. The owner shall be responsible for the cost of any annual increases in posted bonds necessary to cover the cost of decommissioning.

- I. The Special Permit Granting Authority may hire, at the applicant's expense, professional, third-party consultant(s) of their choosing to assist them in evaluating the Special Permit application, estimating any bond amounts as required by Section 8.6.8(H) of this bylaw, or any other requirements contained herein.

### 8.6.9 Application Requirements

A Medical Marijuana Treatment Center or Marijuana Establishment shall only be allowed by Special Permit from the Special Permit Granting Authority in accordance with MGL c.40A §9 and other provisions of this chapter. All Special Permits for Medical Marijuana Treatment Centers and Marijuana Establishments shall be subject to following requirements and conditions:

- A. Community Host Agreement: All applications for a Special Permit shall include an executed Community Host Agreement with the Town.
- B. Community Outreach meeting for Marijuana Establishments: All applications for a Special Permit shall include certification that a Community Outreach Hearing in accordance with 935 CMR 500 has occurred. Additionally, the applicant shall demonstrate that reasonable efforts have been made to ensure that any and all handouts, presentations and other audio/visual materials utilized in a public hearing have been designed so as to accommodate the needs of sight and/or hearing-impaired residents.
- C. Site Plan Approval: No Special Permit for any Medical Marijuana Treatment Centers and Marijuana Establishments shall be issued without site plan approval by the Special Permit Granting Authority. In addition to the standards set forth herein, the site plan must meet all dimensional, parking, and other requirements set forth by this zoning bylaw
- D. License requirements:
  1. The Applicant shall submit proof that the application to the Commission has been deemed complete by the Commission pursuant to 935 CMR 500.102. Copies of the complete application, to the extent legally allowed, shall be provided as an integral component of the application to the Planning Board and no Special Permit application shall be deemed complete by the Planning Board until this information is provided.
  2. No Special Permit shall be granted by the Planning Board to an applicant without the Medical Marijuana Treatment Center or Marijuana Establishment first having been issued a Provisional License from the Marijuana Control Commission pursuant to 935 CMR 500 or 935 CMR 501.
  3. No person shall operate a Medical Marijuana Treatment Center or Marijuana Establishment without having a license in good standing from the Cannabis Control Commission.
- E. Security Plan: All applications for a Special Permit shall include a security plan describing all proposed security measures including lighting, fencing, gates and alarms, and any other such measures that will satisfy the requirements of 935 CMR 500.110. Security information shall be submitted and retained by the Planning

Board submitted as a confidential document and forwarded to the Police Chief for review and comment.

- F. Odor Control Plan: All applications for a Special Permit shall include an Odor Control Plan detailing the specific odor-emitting activities or processes to be conducted on-site, the source of those odors, the locations from which they are emitted from the Medical Marijuana Treatment Center or Marijuana Establishment, the frequency of such odor-emitting activities, the duration of such odor-emitting activities, and the administrative of odor control including maintenance of such controls.
- G. Management Plan: All applications for Special Permit shall include a management plan with a comprehensive description of all activities to occur on site, including all provisions for the delivery of marijuana and related products to the Medical Marijuana Treatment Center or Marijuana Establishment or off-site direct delivery.
- H. Energy Use Plan: All applications for a Special Permit shall include an energy use plan which shall demonstrate best practices for energy conservation, water usage, and waste disposal. The plan shall include an electrical system overview, proposed energy demand, ventilation system and air quality, proposed water system and utility demand.
- I. Decommissioning Plan: All applications for Special Permit shall include a plan providing for the decommissioning of the Medical Marijuana Treatment Center or Marijuana Establishment. Such decommission plans shall include a cost estimate provided by a qualified, third-party expert and shall detail dismantling, disposal of equipment and all other reasonably anticipated costs associated the decommissioning of the Medical Marijuana Treatment Center or Marijuana Establishment, along with detailed accounting of any bonds posted with the Commission in accordance with 935 MCR 500 and Section 5 (i)(viii) of this section. The Special Permit Granting Authority/Planning Board reserves the right to request a comparison estimate provided by an independent, qualified professional estimator of the board's choosing, the cost of which shall be borne by the Applicant.
- J. Waivers:
  - 1. The Applicant shall be required to submit specific information regarding any waivers from 935 CMR 500.000 or 935 CMR 501.000 granted by the Commission. The Special Permit Granting Authority shall consider said waivers based on the following Commission criteria in 935 CMR 500 or 935 CMR 501.000.
    - a) Compliance would cause undue hardship to the investor;
    - b) If applicable, the requestor's non-compliance does not jeopardize the health or safety of any patient or the public;
    - c) If applicable, the requestor has instituted compensating features that are acceptable to the Planning Board; and
    - d) The requestor provides to the Planning Board written documentation, in a form and manner determined by the Planning Board, supporting its request for a waiver.
  - 2. The Planning Board may waive any information requirements it judges to be unnecessary to the review of a particular plan. A request for a waiver(s) by an applicant must be made in writing by the applicant to the Planning Board.

#### K. Other Requirements

1. The name and address of each owner and operator of the Medical Marijuana Treatment Center or Marijuana Establishment facility/operation.
2. Proof of Liability Insurance Coverage or Maintenance of Escrow as required in 935 CMR 500 and 935 CMR 501.
3. Evidence that the Applicant has site control and right to use the site for a Medical Marijuana Treatment Center or Marijuana Establishment facility in the form of a deed or valid purchase and sales agreement or, in the case of a lease a notarized statement from the property owner and a copy of the lease agreement.
4. A notarized statement signed by the Medical Marijuana Treatment Center or Marijuana Establishment organization's Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers, directors, shareholders, partners, members, managers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of all such responsible individual persons.
5. A detailed floor plan identifying the areas available and functional uses (including square footage).
6. All signage being proposed for the Medical Marijuana Treatment Center or Marijuana Establishment.
7. A pedestrian/vehicular traffic impact study to establish the Medical Marijuana Treatment Center's or Marijuana Establishment's impacts at peak demand times, including a line queue plan to ensure that the movement of pedestrian and/or vehicular traffic along access areas including, but not limited to the public right of ways, will not be unreasonably obstructed.

#### 8.6.10 Findings

In addition to the standard Findings for a Special Permit or Site Plan Approval the Special Permit Granting Authority must also find all the following:

- A. The Medical Marijuana Treatment Center or Marijuana Establishment is consistent with and does not derogate from the purposes and intent of this Section and the Zoning Bylaw.
- B. That the Medical Marijuana Treatment Center or Marijuana Establishment is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest;
- C. That the Medical Marijuana Treatment Center or Marijuana Establishment demonstrates that it meets or exceeds all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and is in compliance with all applicable state laws and regulations; and
- D. That the Applicant has satisfied all of the conditions and requirements of this Section and other applicable Sections of this Bylaw;

- E. That the Medical Marijuana Treatment Center or Marijuana Establishment provides adequate security measures to ensure that there is no direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation is adequately secured on-site or via delivery.
- F. That the Medical Marijuana Treatment Center or Marijuana Establishment adequately addresses issues of traffic demand, circulation flow, parking and queuing, particularly at peak periods at the facility, and its impact on neighboring uses.

### 8.6.11 Severability

If any provision of this section is found to be invalid by a court of competent jurisdiction, the remainder of this section shall not be affected but shall remain in full force. The invalidity of any provision of this section shall not affect the validity of the remainder of this zoning bylaw.