

19A

Relating to

Communication - Chair, Planning Board -  
Planning Board Recommendation Regarding  
Proposed Zoning Ordinance Amendment -  
Establishing Land Use Categories &  
Regulations for Marijuana Establishments

IN CITY COUNCIL

..... DEC 13 2018 .....

Referred to the Standing Committee  
on

LEGAL AFFAIRS A3-0/A

PUBLIC HEARING HELD NOV 08 2018

Ordinance read once, adopted  
and passed to be ordained.

9-2

CITY OF BEVERLY

Presented to the Mayor for Approval  
JAN 9 2019

*Shirley Webb* CITY CLERK

Approved *David J. Webb* Mayor

.....  
*Shirley Webb*, City Clerk

Clerk

Entered Page ..... Vol. 123 .....

A TRUE COPY  
ATTEST: *Shirley Webb*  
City Clerk

*David J. Webb*  
*Emily*

PUBLIC NOTICES

PUBLIC NOTICES

**LEGAL NOTICE #2018-213A  
CITY OF BEVERLY**

**ORDERED:** Be it ordained by the City Council of the City of Beverly as follows:

In the year two thousand and eighteen:  
An ordinance amending an ordinance entitled Chapter 300 – Zoning, amending Article II – Definitions and Article V – General Provisions, and proposing a new article to the Beverly Zoning Ordinance Chapter 300.  
Copies of the completed Ordinance are on file in the Office of the City Clerk and in the Planning Department, and are available for public review.  
First Reading: Monday, 3 December 2018  
Second Reading: Monday, 17 December 2018  
Ordinance to take effect upon Publication & Final Passage.  
Final Passage: Monday, 7 January 2019

Attest:  
D. Wesley Slate, Jr.  
City Clerk  
As per order of the City Council  
SN - 12/7/18



# City of Beverly

213A

## IN CITY COUNCIL

3 December 2018

The Committee on

### Legal Affairs / Committee of the Whole

To whom was referred the matter of **Communication – Chair, Planning Board –  
Planning Board Recommendation Regarding Proposed Zoning Ordinance  
Amendment – Establishing Land Use Categories & Regulations for Marijuana  
Establishments**

have considered said matter and beg leave to report as follows, to wit:

- Submit the accompanying amended Ordinance and recommend its adoption, pending Publication and Final Passage
- Submit the accompanying Resolution and recommend its adoption
- Submit the accompanying Order and recommend its adoption
- Receive and Place on File
- No Further Action
- Refer to City Solicitor
- Recommend the Licenses be granted
- Recommend the Petition be granted
- Recommend the Application be granted
- Recommend the Council Approve the Request
- Recommend the Council Approve the Appointment

A3-0  
A9-0

*Donald Martin*

*Julie R. Flomen*

*David Hayes*



# City of Beverly

No 213A

IN CITY COUNCIL  
3 December 2018

.....

**ORDERED:**

Be it ordained by the City Council of the City of Beverly as follows:  
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An ordinance amending an ordinance entitled Chapter 300 – Zoning, amending Article II –  
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Ordinance Chapter 300.

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First Reading: Monday, 3 December 2018  
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Final Passage: Monday, 7 January 2019



**CITY of BEVERLY  
PLANNING BOARD**

*191 Cabot Street  
Beverly, Massachusetts 01915  
Phone (978) 921-6000  
Fax (978) 921-6187*

213A

CITY OF BEVERLY  
RECEIVED AND RECORDED  
CITY CLERKS OFFICE

2018 NOV 29 P 12:01

*Mayor*

*Michael P. Cahill*

*Planning Director*

*Aaron Clausen*

*Chairperson*

*Ellen Hutchinson*

*Vice-Chair*

*Edwin Barrett, III*

*Members*

*William Boesch*

*Alexander Craft*

*Ellen Flannery*

*Allison Kilcoyne*

*David Mack*

*James Matz*

*Wayne Miller*

November 29, 2018

The Honorable City Council  
Beverly City Hall  
191 Cabot Street  
Beverly, MA 01915

RE: CITY COUNCIL ORDER #213 – PLANNING BOARD RECOMMENDATION REGARDING PROPOSED ZONING ORDINANCE AMENDMENT – ESTABLISHING LAND USE CATEGORIES & REGULATIONS FOR MARIJUANA ESTABLISHMENTS

Dear Honorable Council:

The Beverly Planning Board heard testimony on the above-referenced request at a joint public hearing with the City Council held on November 5, 2018, where the hearing was opened and concluded in the same night. Following the joint public hearing, the Planning Board discussed the proposed amendment to the Beverly Zoning Ordinance at a regular meeting on November 20, 2018, where they made the recommendation herein.

Members in attendance at the public hearing included Ellen Hutchinson, Edwin Barrett, William Boesch, Alexander Craft, Ellen Flannery, and Wayne Miller. While absent from the hearing, Allison Kilcoyne and James Matz certified that they reviewed the evidence from the joint public hearing and therefore participated in the discussion and vote on November 20, 2018. Miller and David Mack were absent on November 20, 2018.

Planning Department staff presented three proposed revisions to the Board at the November 20, 2018 meeting, which respond to requests or questions made during the public hearing, as follows:

- Page 7, section B(2): Revised language to clarify that Marijuana Establishments only require Site Plan Review if §300-98 Site Plan Review of Commercial, Industrial and Multifamily Developments is triggered.
- Page 7, section C(1): Revised to clarify that Marijuana Establishments can only be operated with a final license from the state licensing authority, as well as a special permit from the City of Beverly.
- Page 11, section F(2): Revised to state that an applicant must provide proof of a valid provisional or final license with an application for special permit; prior to this proposed change, the

amendment required applicants to provide a final license, and did not allow submission of a provisional license.

Additionally, the Planning Board discussed three scrivener's errors, as follows:

- Page 2, under the definition "Craft Marijuana Cooperative:" add the word "Establishments" to the end of the paragraph.
- Page 7, section C(1): Change "Zoning Appeals Board" to "Zoning Board of Appeals."
- Page 8, section C(6): Add the word "days" to the final sentence, which now reads "The Departments shall provide comment to the Board within 30 calendar days of receipt of a complete application."

At the conclusion of the discussion, the Board voted 7-0 to recommend to the City Council that Council Order #213 be ADOPTED, with the six revisions described above. These revisions have been incorporated in the attached redline of the Proposed Zoning Amendment, revision date November 21, 2018.

Sincerely,



Ellen Hutchinson, Chair

EH/dw

cc: Mayor Michael P. Cahill  
D. Wesley Slate, City Clerk  
Stephanie M. Williams, City Solicitor  
Aaron Clausen, Planning Director  
Steve Frederickson, Building Commissioner  
file

Enc.

M213/

## PROPOSED ZONING AMENDMENT

October 15, 2018

Revised November 16, 2018

Revised November 21, 2018

The Beverly Planning Department hereby submits a proposed amendment to the Beverly Zoning Ordinance Chapter 300, Article II – Definitions and Article V – General Provisions, and submits a proposed new article to the Beverly Zoning Ordinance Chapter 300.

The following amendments are proposed:

### **Section 300-5 [Definitions]**

Add the following new definitions to Section 300-5.

#### **Cannabis or Marijuana**

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; clones of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in M.G.L. c. 94G, § 1; provided that cannabis shall not include:

- i. 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;
- ii. hemp; or
- iii. the weight of any other ingredient combined with cannabis or marijuana to prepare topical or oral administrations, food, drink or other products.

#### **Cannabis or Marijuana Accessories**

Equipment, products, devices, or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing cannabis or marijuana into the human body.

**Cannabis Control Commission or CCC**

A commission created by the Commonwealth of Massachusetts to have general supervision and regulatory authority over the conduct of the business of Marijuana Establishments as defined in M.G.L. c. 94G.

**Co-located Marijuana Operation**

An entity operating under both a RMD registration pursuant to 935 CMR 501.000: *Medical Marijuana*, and under at least one Marijuana Establishment license pursuant to 935 CMR 500.000: *Adult Use of Marijuana*, in compliance with 935 CMR 502.000: *Co-located Adult-Use and Medical-Use Marijuana Operations*, on the same premises. Co-located Marijuana Operations pertain to cultivation, product manufacturing, and retail, but not any other adult-use license.

**Craft Marijuana Cooperative**

A Marijuana Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed by the CCC to cultivate, obtain, manufacture, process, package and brand cannabis or marijuana products to transport marijuana to Marijuana Establishments.

**Hemp**

The plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3% on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of cannabis or marijuana product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus Cannabis regardless of moisture content.

**Independent Testing Laboratory**

A laboratory that is licensed by the Massachusetts Cannabis Control Commission and is:

- i. accredited to the International Organization for Standardization 17025 (ISO/IEC 17025: 2017) by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the Cannabis Control Commission;

- ii. independent financially from any Medical Marijuana Treatment Center (RMD) or Marijuana Establishment for which it conducts a test; and
- iii. qualified to test marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34.

**Marijuana Cultivator**

An entity licensed by the CCC to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers.

**Marijuana Establishment**

A Marijuana Retailer, Marijuana Product Manufacturer, Marijuana Cultivator, Marijuana Testing Facility, Marijuana Research Facility, Marijuana Transporter, or any other type of CCC licensed marijuana-related business.

**Marijuana Product**

Marijuana and its products unless otherwise indicated. These include products 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 Product Manufacturer**

An entity licensed by the CCC to obtain, manufacture, process and package marijuana products and to transfer these products to other Marijuana Establishments, but not to consumers.

**Marijuana Research Facility**

An entity licensed by the CCC to engage in research projects.

**Marijuana Retailer**

An entity licensed by the CCC to purchase and transport marijuana product from Marijuana Establishments and to sell or otherwise transfer this product to Marijuana Establishments and to consumers. Retailers are prohibited from delivering marijuana products to consumers; and from offering marijuana products for the purposes of on-site social consumption on the premises of a Marijuana Establishment.

**Marijuana Transporter**

An entity that is licensed by the CCC to purchase, obtain, and possess marijuana product solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments, but not to consumers.

**Medical Marijuana Treatment Center, also known as a Registered Marijuana Dispensary (RMD)**

An entity registered under 935 CMR 501.000: *Medical Marijuana*, that acquires, cultivates, possesses, processes (including development of related products such as edible cannabis or marijuana 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. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

**Microbusiness**

A co-located Marijuana Establishment that can be either a Marijuana Cultivator or Marijuana Product Manufacturer or both, in compliance with the operating procedures for each license by the CCC. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Marijuana Establishments.

Amend the following sections by adding “Marijuana Retailers, subject to provisions of Section 300-122” in the following sections:

- Section 300-40: (CC – Central Business District), Section C(2) (Uses by Special Permit allowed as granted by the Board of Appeals).
- Section 300-41: (CG – General Commercial District), Section C(1) (Uses by Special Permit allowed as granted by the Board of Appeals).
- Section 300-42: (IR and IR Overlay – Restricted Industrial, Research and Office District), Section C(1) (Uses by Special Permit allowed as granted by the Board of Appeals).
- Section 300-43: (IG – General Industrial District), Section C(1) (Uses by Special Permit allowed as granted by the Board of Appeals).

Amend the following sections by adding “Medical Marijuana Treatment Center of Registered Marijuana Dispensary (RMD), subject to provisions of Section 300-122” in the following

sections:

- Section 300-40: (CC – Central Business District), Section C(2) (Uses by Special Permit allowed as granted by the Board of Appeals).
- Section 300-41: (CG – General Commercial District), Section C(1) (Uses by Special Permit allowed as granted by the Board of Appeals).
- Section 300-42: (IR and IR Overlay – Restricted Industrial, Research and Office District), Section C(1) (Uses by Special Permit allowed as granted by the Board of Appeals).
- Section 300-43: (IG – General Industrial District), Section C(1) (Uses by Special Permit allowed as granted by the Board of Appeals).

Amend the following sections by adding “Craft Marijuana Cooperative, subject to provisions of Section 300-122” in the following sections:

- Section 300-42: (IR and IR Overlay – Restricted Industrial, Research and Office District), Section C(1) (Uses by Special Permit allowed as granted by the Board of Appeals).
- Section 300-43: (IG – General Industrial District), Section C(1) (Uses by Special Permit allowed as granted by the Board of Appeals).

Amend the following sections by adding “Independent Testing Laboratory, subject to provisions of Section 300-122” in the following sections:

- Section 300-42: (IR and IR Overlay – Restricted Industrial, Research and Office District), Section C(1) (Uses by Special Permit allowed as granted by the Board of Appeals).
- Section 300-43: (IG – General Industrial District), Section C(1) (Uses by Special Permit allowed as granted by the Board of Appeals).

Amend the following sections by adding “Marijuana Cultivator, subject to provisions of Section 300-122” in the following sections:

- Section 300-42: (IR and IR Overlay – Restricted Industrial, Research and Office District), Section C(1) (Uses by Special Permit allowed as granted by the Board of Appeals).
- Section 300-43: (IG – General Industrial District), Section C(1) (Uses by Special Permit allowed as granted by the Board of Appeals).

Amend the following sections by adding “Marijuana Product Manufacturer, subject to provisions of Section 300-122” in the following sections:

- Section 300-42: (IR and IR Overlay – Restricted Industrial, Research and Office District),

Section C(1) (Uses by Special Permit allowed as granted by the Board of Appeals).

- Section 300-43: (IG – General Industrial District), Section C(1) (Uses by Special Permit allowed as granted by the Board of Appeals).

Amend the following sections by adding “Marijuana Research Facility, subject to provisions of Section 300-122” in the following sections:

- Section 300-42: (IR and IR Overlay – Restricted Industrial, Research and Office District), Section C(1) (Uses by Special Permit allowed as granted by the Board of Appeals).
- Section 300-43: (IG – General Industrial District), Section C(1) (Uses by Special Permit allowed as granted by the Board of Appeals).

Amend the following sections by adding “Marijuana Transporter, subject to provisions of Section 300-122” in the following sections:

- Section 300-42: (IR and IR Overlay – Restricted Industrial, Research and Office District), Section C(1) (Uses by Special Permit allowed as granted by the Board of Appeals).
- Section 300-43: (IG – General Industrial District), Section C(1) (Uses by Special Permit allowed as granted by the Board of Appeals).

Amend the following sections by adding “Microbusiness, subject to provisions of Section 300-122” in the following sections:

- Section 300-42: (IR and IR Overlay – Restricted Industrial, Research and Office District), Section C(1) (Uses by Special Permit allowed as granted by the Board of Appeals).
- Section 300-43: (IG – General Industrial District), Section C(1) (Uses by Special Permit allowed as granted by the Board of Appeals).

**Chapter 300 [Zoning]**

**Replace existing Article XVII with “Sale and Distribution of Recreational Marijuana.”**  
**Replace existing Section 300-122 with “Marijuana Establishments”**

A. Purpose. In addition to the general purposes of the City of Beverly Zoning Ordinances, the purpose of this Article is to ensure the responsible development and location of state-licensed marijuana establishments in the City of Beverly in accordance with applicable state and local laws and regulations, to provide standards for the placement and operation of marijuana establishments that ensure and protect the public health, safety, and welfare, to mitigate and/or limit any undue impact on adjacent or neighboring uses due to the geographic location of any marijuana establishment, to promote geographic distribution, and to mitigate and/or

limit any undue impact on the natural environment of the operation of any and all marijuana establishments as defined herein.

B. Applicability. This Ordinance applies to all Marijuana Establishments.

- (1) All Marijuana Establishments shall require a Special Permit from the Zoning Board of Appeals in accordance with the requirements of this Article and the general criteria for granting a special permit contained in §300-91 of this chapter.
- (2) Marijuana Establishments subject to the Zoning Ordinance of the City of Beverly § 300-98 Site Plan Review of Commercial, Industrial and Multifamily Developments shall require Site Plan Review by the Planning Board in accordance with the Zoning Ordinance of the City of Beverly § 300-98 Site Plan Review of Commercial, Industrial and Multifamily Developments ~~saforementioned section~~, in addition to meeting the requirements of this section.
- (3) Use restrictions for Marijuana Establishments are established in the Beverly Code of Ordinances, Chapter 300, Article VII District Regulations.

C. General Provisions.

- (1) It shall be unlawful for any person or entity to operate a Marijuana Establishment without both a valid final license issued by the state licensing authority under M.G.L. c.94G and a special permit from the City of Beverly Zoning Board of Appeals ~~Board~~.
- (2) Any Marijuana Establishment that obtains a special permit shall thereafter annually provide to the Director of Municipal Inspections a copy of its CCC license demonstrating that the Marijuana Establishment continues to hold a current, valid license issued by the CCC. Said license shall be provided within 14 days of receipt of such.
- (3) In the event that more than one Marijuana Establishment is located on the same premises, each Marijuana Establishment shall require a special permit from the Zoning Board of Appeals.
- (4) A special permit issued for a Marijuana Establishment is not transferrable or assignable to a different location or a different type of Marijuana Establishment.
- (5) The special permit requirements set forth in this Article shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by other state or local law, regulation, or ordinance.
- (6) Review Procedure. Upon receipt of an application for special permit, the Zoning Board

of Appeals (“ZBA”) shall distribute a copy of the application and relevant materials as described in Paragraph F (Application Requirements) below for review and comment to Fire Department, Police Department, Engineering Department, Director of the Health Department, and Planning Department. The Departments shall review and provide comment to the ZBA for its consideration of the Special Permit application and the requirements established herein. The Departments shall provide comment to the Board within 30 calendar days of receipt of a complete application.

- (7) Peer Review. The Zoning Board of Appeals and/or Planning Board may require an applicant to pay for reasonable consulting fees to provide peer review of the application or subsections of the application for a Special Permit, pursuant to M.G.L. c. 44, §53G and/or any other applicable law. Such fees shall be held by the City in accordance with the provisions of M.G.L. c. 44, §53G.

#### D. General Requirements

- (1) Dimension and Height Requirements. Marijuana Establishments must meet the setback, height, and lot coverage requirements of the zoning district in which the facility is located.
- (2) Buffer.
  - (a) No Marijuana Retailer or Medical Marijuana Treatment Center shall be located within:
    - i. Five hundred (500) feet of any pre-existing public or private school providing education in kindergarten or any of grades 1 through twelve (1-12);
    - ii. Five hundred (500) feet of any pre-existing state-licensed child care facility, including daycare center, preschool, or afterschool facility;
    - iii. Five hundred (500) feet of any pre-existing City of Beverly-owned library;
    - iv. Three hundred (300) feet of any pre-existing City of Beverly-owned park, playground, and/or recreation area; or
    - v. Two thousand (2,000) feet of another Marijuana Retailer or Medical Marijuana Treatment Center, provided that this buffer shall not apply to a Marijuana Retailer and a Medical Marijuana Treatment Center operating at the same premises as a Co-located Marijuana Operation.
  - (b) All other Marijuana Establishments shall not be subject to the buffer requirements in 935 CMR 500.110(3).

- (c) For the purposes of siting standards for this ordinance, distance shall 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 Marijuana Establishment is proposed to be located.
- (d) Whether or not a use is “pre-existing” is determined as of the date that the applicant files its state license application with the Cannabis Control Commission.
- (3) Marijuana Establishments shall be located only in a permanent, fully enclosed building and not within any mobile or temporary facility or enclosure, and shall not have drive-up or window service.
- (4) Hours of Operation: The hours of operation for Marijuana Retailers or RMDs shall be consistent with those of liquor stores under M.G.L. c.138, § 15.
- (5) Requirements Specific to Marijuana Cultivator Establishments: The cultivation and processing of Marijuana is not considered agriculture under M.G.L. c.128, §1A, and is subject to M.G.L. c.94G, §12.

E. Performance Standards.

- (1) Odor. All odors, smoke, vapor, fumes, gases, pesticides, insecticides, chemicals, and/or particulate matter resulting from the storage, processing, manufacture, and/or cultivation of Marijuana or Marijuana Products shall be effectively confined or disposed of so as to prevent the emission of any noxious odors, air pollution and public nuisance.
- (2) Waste Disposal. All waste containing Marijuana or Marijuana by-products resulting from the storage, processing, manufacture, and/or cultivation of Marijuana or Marijuana Products shall be disposed of in compliance with 935 CMR 500.105, General Operational Requirements for Marijuana Establishments, any other applicable operational requirements that may be promulgated by the Cannabis Control Commission, and any other applicable state and local laws, ordinances, codes, and/or regulations; and otherwise in a manner that does not create a public nuisance.
- (3) Noise. Noise generated by Marijuana Establishments shall conform at a minimum to applicable state and local noise regulations, including the Massachusetts Department of Environmental Protection’s Division of Air Quality noise regulations, 310 CMR 7.10; the Beverly Board of Health Regulations, Chapter 400, Article XI: Noise Control; and all relevant State Health Department regulations.
- (4) Light/Visual Impacts.

- (a) Light emitted from grow lights used in production facilities shall not be visible outside the facility.
- (b) Marijuana plants, products, and accessories shall not be visible to a person from the exterior of the Marijuana Establishment.
- (5) Parking. All Marijuana Establishments shall comply with the City of Beverly Ordinance Chapter 300 Article X: Parking and Loading Requirements, unless a greater number of spaces are required under Special Permit based on the Transportation Analysis provided by the applicant.
- (6) Security. All Marijuana Establishments shall comply with 935 CMR 500.110, Security Requirements for Marijuana Establishments, and any other relevant security regulations that may be promulgated by the Cannabis Control Commission, in order to demonstrate that there is a limited undue burden on City public safety officials as a result of the proposed establishment.
- (7) Emergency Response. All Marijuana Establishments shall develop an emergency response plan to protect the health and safety of employees, patrons, and the general public; and to limit undue burden on City public safety officials as a result of the proposed establishment. The Emergency Response Plan shall be filed with the Beverly Fire Department and Beverly Police Department pursuant to M.G.L. c. 94G, §12(h).
- (8) Energy and Environmental Standards. All Marijuana Establishments shall prepare and follow an Energy and Environmental Standards Report to ensure the site design and management of any such Marijuana Establishment is done in such a manner that has a minimal detrimental impact on the environment. Any Energy and Environmental Standards Report shall address the following:
  - (a) Energy Use. The report shall include detailed analysis and data regarding the proposed energy use for any Marijuana Establishment that is not a Marijuana Retailer or Medical Marijuana Treatment Center. The analysis shall include – but not be limited to – details regarding energy efficiency and conservation efforts.
  - (b) Water Use. The report shall include detailed analysis and data regarding the proposed water use for any Marijuana Establishment that is not a Marijuana Retailer or Medical Marijuana Treatment Center. The analysis shall include – but not be limited to – details regarding the adequacy of the water supply, surface and subsurface drainage, technology utilized to keep tainted water from entering public water systems.

F. Application Requirements.

- (1) The applicant shall submit a statement:
  - (a) disclosing all of the Marijuana Establishment's owners, including officers, directors, partners, managers, and/or any other individuals or entities having direct or indirect authority over the management, policies, security, and/or operation of the establishment, and,
  - (b) providing a description of facility operations including staffing, hours of operation, distribution and logistics, and management and oversight of operations.
- (2) The applicant shall submit proof of a valid provisional or final license issued by the Cannabis Control Commission for the proposed Marijuana Establishment by submitting copies of all required licenses, registrations, and permits issued by the Commonwealth and any of its agencies.
- (3) The applicant shall submit proof of site control and right to use the premises proposed for the Marijuana Establishment in the form of a deed, executed lease, valid purchase and sale agreement, or other suitable option for such site control that documents the applicant's legal right to control the site.
- (4) The applicant shall provide a Site Plan prepared by a Massachusetts registered Architect, Professional Engineer or other appropriate designation, and at a minimum include site and building details consistent with the Zoning Board of Appeals rules and regulations.
- (5) Security Plan. The applicant shall submit a Security Plan demonstrating compliance with §300-122E(6). The Beverly Chief of Police or his designee shall review and provide written comment to the Zoning Board of Appeals.
- (6) Emergency Response Plan. The applicant shall submit an Emergency Response Plan demonstrating compliance with §300-122E(7). The Beverly Fire Chief or designee and Beverly Chief of Police or designee shall review and provide written comment to the Zoning Board of Appeals.
- (7) Odor Control Plan. The applicant shall submit an Odor Control Plan demonstrating compliance with §300-122E(1). The Director of the Health Department shall review and provide written comment to the Zoning Board of Appeals.
- (8) Waste Disposal Plan. The applicant shall submit a Waste Disposal Plan demonstrating compliance with §300-122E(2). The Director of the Health Department and Engineering Department shall review and provide written comment to the Zoning Board of Appeals.

- (9) Energy and Environmental Standards Report. The applicant shall submit an Energy and Environmental Standards Report demonstrating compliance with §300-122E(8). The Engineering Department and Municipal Inspection Department shall review and provide written comment to the Zoning Board of Appeals.
- (10) Parking and Transportation Analysis. The applicant shall provide a Transportation Analysis prepared by a qualified transportation specialist acceptable to the Zoning Board of Appeals, at a minimum, modeling the expected origin and frequency of client and employee trips to the site, peak times of business with the expected number of vehicles entering and exiting the property, the expected modes of transportation used by clients and employees, and the frequency and scale of deliveries to and from the site.
- (11) Location. The applicant shall submit a plan signed by a licensed surveyor depicting compliance with the linear distance requirements set forth in herein.

F. Special Permit Criteria.

- (1) When approving a special permit under this article, the Zoning Board of Appeals shall make findings, in addition to any specific requirements or criteria set forth in §300-91B, Special Permit Uses, of this chapter, that the project proposal meets the following additional criteria:
  - (a) That the applicant demonstrates the establishment will meet all permitting requirements of all applicable agencies within the Commonwealth and will be in compliance with all applicable state laws and regulations, including, but not limited to, M.G.L. c.94G, Regulation of the Use and Distribution of Marijuana Not Medically Prescribed, 935 CMR 500, Adult Use of Marijuana, 935 CMR 501, Medical Use of Marijuana, and 935 CMR 502, Co-located Adult-Use and Medical-Use Marijuana Operations.
  - (b) That the applicant complies with §300-123D, General Requirements, and §300-123E, Performance Standards, of this chapter.

G. Waiver of Buffer Requirements through Special Permit.

- (1) Buffer requirements may be reduced or waived by the Zoning Board of Appeals if the applicant demonstrates the following in addition to the criteria set forth in §300-91B, Special Permit Uses, of this chapter:
  - (a) The Marijuana Establishment is separated from the pre-existing use by a natural or manmade physical barrier that sufficiently limits access to the Marijuana Establishment from the property containing the pre-existing use; and

- (b) The Marijuana Establishment is not readily visible from the nearest point of the property line of the pre-existing use, and that any visibility may be eliminated or significantly reduced through landscaping or site improvements;
- (2) If buffer requirements are waived the Zoning Board of Appeals may require additional conditions, including but not limited to, landscaping or fencing to further protect neighboring and pre-existing uses from nuisance or unreasonable hazard.
- H. Modifications. Subsequent to a special permit being granted by the Zoning Board of Appeals, the Marijuana Establishment shall notify the Zoning Board of Appeals in writing of any proposed modification and submit a plan depicting the modification before such modification is implemented. The Zoning Board of Appeals shall initially make a determination as to whether or not the modification is minor. If the Zoning Board of Appeals determines that the proposed modifications are not minor, it shall order that an application for modification of a special permit be filed and a public hearing be held in the same manner as set forth for such applications.
- I. Prohibition against Nuisances. No activity shall be permitted in connection with a Marijuana Establishment that creates a public nuisance.
- J. Violation. All provisions of Section 300-99 of the Beverly Zoning Ordinances shall apply except that any violation shall be subject to a fine of \$300 for each day such violation continues unabated after the remedy of same is ordered by the Building Inspector.
- K. Severability. The provisions of this ordinance are severable, and invalidity of any section, subdivision, subsection, paragraph, or other part of this ordinance shall not affect the validity or effectiveness of the remainder of this ordinance. For any provision of this ordinance that conflicts with another state or local ordinance, the most restrictive provision shall apply.