

ARTICLE 8

To see if the Town will take the following actions relative to allowing retail marijuana establishments:

- 1) vote to delete the existing Chapter 5.10 in the Town General Bylaws in its entirety and replace it with the following:

Chapter 5.10

MARIJUANA ESTABLISHMENTS

Sections:

5.10.010	Purpose
5.10.020	Definitions
5.10.030	Medical Marijuana Treatment Centers
5.10.040	Limits on the Number of Select Board Licenses for Marijuana Retailers
5.10.050	General Requirements for Marijuana
5.10.060	Marijuana Establishment Select Board License
5.10.070	Fines
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5.10.010 Purpose

The intent of this section is to permit Storefront Marijuana Retailers to operate pursuant to local requirements to ensure safe and appropriate implementation to Massachusetts General Laws, Chapter 94G, Section 1 and Chapter 94I, Section 1 and the regulations promulgated thereunder, as they may be amended. If any provisions of this section shall be held to be invalid, those provisions shall be severable and the remaining sections shall be valid.

5.10.020 Definitions

Reference is given to Massachusetts General Laws, Chapter 94G, Section 1 and Chapter 94I, Section 1 and the regulations promulgated thereunder, as they may be amended. In the event there is a conflict between the following definitions and those contained in the foregoing State laws and regulations, the definitions contained in the foregoing State laws and regulations shall govern.

- a. Cannabis Control Commission: the Massachusetts Cannabis Control Commission (CCC);
- b. 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 per cent on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of Marijuana product, or the combined per cent of delta-9-tetrahydrocannabinol and tetrahydrocannabinol acid in any part of the plant of the genus Cannabis regardless of moisture content;
- c. Manufacture: to compound, blend, extract, infuse or otherwise make or prepare Marijuana product;
- d. 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; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in Section 1 of Chapter 94C; provided, however that "Marijuana" shall not include (1) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt derivative, mixture or preparation of the mature stalks, fiber, oil or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; (2) Hemp; or (3) the weight of any other ingredient combined with Marijuana to prepare topical or oral administrations, food, drink or other products. Marijuana also includes Marijuana products except where the context clearly indicates otherwise.
- e. Marijuana Cultivator: an entity licensed by the Cannabis Control Commission to cultivate, process and package Marijuana, to deliver Marijuana to Storefront Marijuana Retailers and to transfer Marijuana to other Marijuana Establishments, but not to consumers;

- f. Marijuana Establishment: A Marijuana Retailer, Marijuana Product Manufacturer, Marijuana Cultivator, Marijuana Independent Testing Laboratory or any other type of Cannabis Control Commission-licensed Marijuana-related business or entity;
- g. Marijuana Establishment Agent: a board member, director, employee, executive, manager or volunteer of a Marijuana Establishment, who is 21 years of age or older. Employee includes a consultant who provides on-site services to a Marijuana Establishment related to the cultivation, harvesting, preparation, packaging, storage, testing or dispensing of Marijuana;
- h. Marijuana Independent Testing Laboratory: an entity licensed by the Cannabis Control Commission that is (I) accredited to the most current International Organization for Standardization 17025 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 or any Cannabis Control Commission licensee or Marijuana Establishment of which it conducts a test; and (iii) qualified to test Marijuana in compliance with 935 CMR 500.160 and M.G.L. chapter 94C, Section 34.
- i. Marijuana Product Manufacturer: an entity licensed by the Cannabis Control Commission to obtain, manufacture, process and package Marijuana and Marijuana Products, to deliver Marijuana and Marijuana Products to Storefront Marijuana Retailers and to transfer Marijuana and Marijuana Products to other Marijuana Establishments, but not to consumers;
- j. Marijuana Products: products that have been manufactured and contain Marijuana or an extract from Marijuana, including concentrated forms of Marijuana and products composed of Marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments and tinctures;
- k. Marijuana Retailer: an entity licensed by the Cannabis Control Commission to purchase and deliver Marijuana and Marijuana Products from Marijuana Establishments and to deliver, sell or otherwise transfer Marijuana and Marijuana Products to Marijuana Establishments and to consumers;
- l. Medical Marijuana Treatment Center: an entity that acquires, cultivates, possesses, processes (including development of related products such as edible Marijuana- infused products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers Marijuana, products containing Marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use;
- m. Storefront Marijuana Retailer: A Marijuana Retailer providing a retail location accessible to consumers 21 years of age or older or in possession of a registration card demonstrating that the individual is a registered qualifying patient with the Massachusetts Medical Use of Marijuana Program.

5.10.030. Medical Marijuana Treatment Centers

Medical Marijuana Treatment Centers licensed prior to July 1, 2017 may be licensed pursuant to Section 5.10.060 below, as the Select Board may determine in conformity with applicable State and local laws.

5.10.040 Limits on the Number of Select Board Licenses for Marijuana Retailers

The Select Board shall not issue more Storefront Marijuana Retailer licenses than the number that is 20% of the number of liquor licenses for off-premises alcohol consumption that have been issued by the Select Board pursuant to M.G.L. Chapter 138, Section 15, as rounded up to the nearest whole number in the event the number is a fraction.

5.10.050 General Requirements for Marijuana

Storefront Marijuana Retailers shall comply with the following requirements:

A. General

1. Storefront Marijuana Retailers shall comply with applicable State and local laws, regulations, bylaws, codes, conditions and agreements with the Town of Tewksbury, including, but not limited to, M.G.L. Chapter 94G, Chapter 94i, 935 CMR 500, the Town of Tewksbury General Bylaws, the Town of Tewksbury's Zoning Bylaw, all applicable Town building, fire prevention, police and health codes, regulations and standards and any conditions imposed upon licenses and permits held by the Storefront Marijuana Retailers.
2. Storefront Marijuana Retailers shall execute and maintain a Host Community Agreement with the Town of Tewksbury which shall include the conditions for having the Marijuana Establishment within the Town in conformity with all applicable laws. The Town Manager, working with the Select Board, shall coordinate the language and conditions of said agreement for the review and approval of the Select Board.
3. Storefront Marijuana Retailers shall maintain all permits and licenses required by State and local laws, including, but not limited to, a valid current license in good standing from the Cannabis Control Commission. Any voiding of the good standing from the Cannabis Control Commission's license by operation of law (including due to the cessation of operations, failure to become operational within the permitted time, or relocation without Cannabis Control Commission approval), and any revocation or suspension of the Storefront Marijuana Retailer's Cannabis Control Commission license, shall result in an automatic suspension of the Select Board's license pending hearing or the opportunity therefore afforded to the Storefront Marijuana Retailer.
4. All taxes and charges owed to the Town must be paid on a current basis. The Town may place a lien on the property of any person who has an outstanding balance due the Town from any fee, charge or tax, which balance is at least six (6) months past due.
5. Any Storefront Marijuana Retailer licensee wishing to close a place of business or cease operations, whether on a temporary or permanent basis, may do so only if permitted by State Law and must submit to the Select Board a written request for the Select Board's permission to do so, stating the reason for and length of such closing or inactivity. Failure to provide such notice and to obtain such permission may, after hearing and reasonable opportunity therefor, result in cancellation of the license.

B. Operational Requirements

1. All Storefront Marijuana Retailers' licensed operations shall be conducted within a building or fixed structure.
2. No Storefront Marijuana Retailer shall allow cultivation, processing, manufacture, sale or display of Marijuana or Marijuana Products to be visible from a public place without the use of binoculars, aircraft or other optical aids.
3. Storefront Marijuana Retailers may cultivate, process, test, store and manufacture Marijuana or Marijuana Products only within an area that is enclosed and secured in a manner that prevents access by persons not permitted by the Storefront Marijuana Retailer to access the area.
4. No Storefront Marijuana Retailer shall allow any person under 21 years of age to volunteer or work for the Storefront Marijuana Retailer.
5. The hours of operation of the Storefront Marijuana Retailer shall be set by the Select Board. The licensee shall not change the hours of operation without Select Board approval.
6. Storefront Marijuana Retailers shall ensure that their hours and methods of transportation of product shall not be detrimental to the surrounding area and nearby uses.
7. Storefront Marijuana Retailers shall not permit any disorder, disturbance, or illegality under State or local law of any kind on the premises.
8. Storefront Marijuana Retailer operations shall not result in illegal redistribution under State or local law of Marijuana obtained from the Storefront Marijuana Retailer, or in use of Marijuana in any manner that violates State or local laws.
9. Storefront Marijuana Retailer operations shall not create nuisance conditions in parking areas, sidewalks, streets and areas surrounding its 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, odors emanating from the Storefront Marijuana Retailer's premises, electrical lighting, illegal drug activity as defined under State and local laws, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises, excessive citation for violations of State traffic laws and regulations and/or Transportation Department Rules and Regulations, queuing of patrons (vehicular and pedestrian) in or other obstructions of the public way (sidewalks and streets), collisions between vehicles, bicyclists and pedestrians, lewd conduct or police detentions and arrests.

10. Storefront Marijuana Retailers shall equip the premises and other conduct their operations in such a manner that (a) no pesticides or other chemicals or products are dispersed into the outside atmosphere, and (b) no odor of Marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the facility or at any adjoining use or property.
11. A Storefront Marijuana Retailer shall be required to remove all Marijuana and Marijuana products by the earlier of:
 - a) Prior to surrendering its State-issued license; or
 - b) Within six (6) months of ceasing operations.
12. Storefront Marijuana Retailers are required to engage in patron age verification using legally- acceptable proof of age as may be further specified by the Select Board license.
13. Storefront Marijuana Retailers shall not sell or offer for sale Marijuana or Marijuana Products in a quantity that exceeds the limits established by 935 CMR 500.
14. Storefront Marijuana Retailers shall not supply Marijuana or Marijuana Products free of charge or in connection with a commercial or promotional endeavor within the Town of Tewksbury. Such endeavors may include, but are not limited to, product “giveaways”, or distribution of Marijuana or Marijuana Products as incentive, prize or bonus in a game, contest or tournament involving skill or chance.
15. Storefront Marijuana Retailers are prohibited from use of on-site self-service displays. Self- service displays are defined to mean displays from which customers may select Marijuana or Marijuana Products without assistance from an employee or store personnel and include vending machines.

C. Security-Specific Requirements

1. Storefront Marijuana Retailers shall maintain compliance with any Town Police Department-approved security and public safety plan as the Police Department may require, which plan may include measures relating to alarms, fencing, gates, limited access areas, delivery procedures, police details, specification of video and lighting locations, notifications to the Police Department in the event of any known or suspected violation of criminal law that has taken place on or near the location of the establishment (related or unrelated to the business or the establishments), providing access to and transfer of video footage from the establishment’s video surveillance system to the Police Department when the Police Department so requests (which request may be made when the Police Department has reason to believe that such footage may be of assistance in an ongoing investigation related or non-related to the business of the establishment), a requirement to connect an alarm system to a third party monitoring system and to notify the Town’s Chief of Police about said third party monitoring system, and any other notifications and security-related measures as may be required by the Police Department and the Select Board.
2. Storefront Marijuana Retailers shall secure every entrance to the Storefront Marijuana Retailers so that access to areas containing Marijuana is restricted to employees and others permitted by the Storefront to access the area and to agents of the Cannabis Control Commission or state and local law enforcement officers and emergency personnel.
3. Storefront Marijuana Retailers shall secure their inventory and equipment during and after operating hours to deter and prevent theft of Marijuana, Marijuana Products and Marijuana accessories.
4. Storefront Marijuana Retailers shall file an emergency response plan with the Town’s Fire Department, Police and Health Departments and share with these Departments their security plan and procedures and any updates to them in the event they are modified.

D. Access to Premises and Information/Reporting/Record-Keeping

1. Storefront Marijuana Retailers shall consent to unannounced, unscheduled, periodic inspections of its premises by the Select Board, under the oversight by the Town Manager, as specified in Article 4 of the Tewksbury Home Rule Charter, and agents of the Select Board from the Building, Health, Police and Fire Departments (which, when conducted by the Police Department, shall be by a sworn police officer holding the rank of Sargent or higher) on week-days during normal business hours to determine the Storefront Marijuana Retailer’s compliance with the requirements of applicable state and local laws, regulations, codes, licenses and permit conditions, and this section. In addition, routine inspections may be made on weekdays during regular town business hours by authorized inspectional departments to determine compliance with applicable state and local laws, regulations, codes and license and permit conditions. Inspections by authorized inspectional departments may be made at other times to investigate complaints or suspected non-compliance issues. Inspections may include all areas occupied, used or controlled by the Storefront Marijuana Retailer. Facilities requiring re-inspection are subject to applicable re-inspection fees. Inspections shall be conducted in conformity with applicable federal, state and local laws.

2. Storefront Marijuana Retailers shall cooperate and comply with requests for information made by the Select Board and its agents from the Building, Health, Police, Fire and Public Works Departments.
3. Within twenty-four (24) hours of receipt of notice of it, a Storefront Marijuana Retailer shall file with the Town Manager, Health Agent and Building Commissioner any summary cease and desist order, cease and desist order, quarantine order, suspension order, revocation order, order limiting sales, deficiency statement, plan of correction, notice of a hearing, notice of any other administrative process or legal action issued by the state or federal agency including, but not limited to; the Cannabis Control Commission and the Massachusetts Department of Public Health (DPH) regarding the Marijuana Establishment, the Cannabis Control Commission license, or the DPH Certification of Registration.

5.10.060 Marijuana Establishment Select Board License

- a. No person shall operate a Storefront Marijuana Retail business or sell Marijuana within the Town unless licensed to do so by the Tewksbury Select Board. Unless the Select Board license states a different duration, a Storefront Marijuana Retailer license shall be valid for a term of one year from the first day of January. Each day of operation without a Select Board license shall constitute a separate violation.
- b. A Select Board license shall be subject to the Storefront Marijuana Retailer's compliance with this General Bylaw and with any conditions placed on the Storefront Marijuana Retailer's license. An applicant's or licensee's violation of this bylaw and applicable State and local laws shall be good cause for and may result in the Select Board's denial of an application or sanction of a license to the extent permitted by law, including but not limited to, the imposition of additional conditions on a license, a reduction or modification of the licensee's approved hours of operations, or a suspension, non-renewal, revocation, forfeiture, or cancellation of a license. No sanction shall be made except after notice and opportunity for hearing.
- c. The Select Board may issue regulations for the implementation of this bylaw.
- d. The Select Board shall specify the process and forms to be used by applicants for new and renewed licenses.
- e. All license applications must contain complete and truthful information. Submission of an application containing material false information may be cause for refusing the application or for suspending, canceling or revoking a license already granted. No application will be accepted for filing by the Select Board until it is fully complete. Annual license fees shall be payable immediately upon approval of the license by the Select Board. License fees shall not be prorated and are not refundable. Application and license fees shall be in an amount established by the Select Board pursuant to M.G.L, Chapter 40, Section 22F.
- f. No Select Board licensee may transfer a license to another person or entity, or transfer the license or operations to another location, without Select Board approval. A Select Board licensee must obtain Select Board approval for a change to or addition of Board Member, Executive, Director and/or Managers, as may be determined by the Select Board. Any transfer shall be subject to the terms and conditions of the original license, unless otherwise stipulated by the Select Board.
- g. A Select Board licensee must apply for and obtain the approval of the Select Board or its designee prior to making any structural change to the premises.
- h. The Select Board licensee shall display its license on the premises in a conspicuous place where it can be easily read.
- i. The Select Board or its designee may inspect a Storefront Marijuana Retailer and affiliated vehicles prior to the issuance of a Storefront Marijuana Retailers license or renewal of a license.
- j. All areas of a Storefront Marijuana Retailer Establishment may be subject to inspection consistent with applicable law.
- k. The Select Board may, to the extent permitted under applicable law, consider whether an applicant for a license is a suitable and responsible license candidate and other aspects of the application as may be necessary to implement the purposes of this bylaw. An applicant's non-compliance with applicable Massachusetts laws and regulations (including 935 CMR 500), Town bylaws (including this Chapter and applicable sections of the Town of Tewksbury Zoning Bylaw), Town regulations and codes, and any conditions on a license may be cause for denial of an application for a new or renewed Storefront Marijuana Retailer license.

5.10.070 Fines

Any person violating this bylaw shall be fined in the amount of \$100 for each violation. Each day of a continuing violation shall count as a separate violation.

5.10.080 Implementation

This bylaw shall not be implemented in a manner that conflicts or interferes with the Massachusetts General Laws, Chapter 94G or Chapter 94I, or with the regulations promulgated thereunder, including 935 CMR 500.

- 2) Allow for the immediate licensing of retail marijuana establishments upon the passage of this article by Town Meeting.

Select Board

Executive Summary: This article establishes the approval process for retail marijuana sales. A retail establishment must follow the State licensing procedures and receive a local license from the Select Board.

ARTICLE 9

To see if the Town will vote to amend the Tewksbury Zoning Bylaw as follows:

- 1) Delete Section 5.4.2.C.19 which currently reads “Marijuana Retailers. Consistent with G.L. c. 94G, § 3(a)(2), all types of marijuana retailers as defined in G.L. c. 94G, § 1, including all types of licensed marijuana retail-related businesses, shall be prohibited within the Town.”
- 2) Insert new Section 5.7.2.D Retail marijuana sales are authorized in the Interstate Overlay District subject to a license by the Select Board in accordance with Chapter 5.10 of the Town General Bylaws and a site plan review by the Planning Board.
- 3) Amend Section 8.7.2 by adding the following:
 - C. These requirements do not apply to the retail sale of marijuana, which is governed by Chapter 5.10 of the Town General Bylaws.
- 4) Add new use Retail Marijuana Sales in Appendix A: Table of Uses under Section A.4 as follows:

	F	R40	MF	VR	MUB	TC	LB	WNB	SB	GB	I1	I2	OR	TD	P
J.RETAIL MARIJUANA SALES	N	N	N	N	N	N	N	N	Y	Y	N	Y	N	N	N

Select Board

Executive Summary: This article adjusts the Tewksbury Zoning Bylaw to allow for the retail sale of marijuana by a license through the Select Board and a site plan review approval by the Planning Board. It also establishes the districts that these establishments may exist to include the South Village Business District, the General Business District, the Industrial 2 District and the Interstate Overlay District.

ARTICLE 10

To see if the Town will vote to impose the local excise on the retail sales of marijuana under G.L. c. 64N, § 3 at the rate of 3.0 percent.

Select Board

Executive Summary: This article allows the Town to impose a local 3% excise tax rate on the sale of retail marijuana.