**ARTICLE XXX – Marijuana Overlay District Bylaw**

**Section XXX- Purpose**

The purpose of the Marijuana Overlay District Bylaw is to provide for the placement of Medical Marijuana Treatment Centers (“MMTCs”) and Adult Use Marijuana Establishments (“MEs”) in locations suitable for such uses in accordance with G.L. c. 94G and all applicable regulations, including 935 CMR 500.000 and 935 CMR 501.000, in order to support the public’s right to access marijuana and marijuana products while mitigating community impacts and protecting public health, safety and welfare.

**Section XXX – Establishment**

The Marijuana Overlay District (“MOD”) is hereby established as an overlay district and consists of the areas(s) shown on the map entitled Proposed Marijuana Overlay District, Town of Hopedale, Massachusetts, Produced by CMRPC, on file with the Town Clerk, as it may be amended from time to time.

Within the MOD, all requirements of the underlying zoning district shall remain in effect, except where these regulations provide an alternative to such requirements. Land within the MOD may be used for a (1) MMTC; and (2) any state-licensed MEs, including Marijuana Cultivator (indoor or outdoor), Marijuana Product Manufacturer, Marijuana Retailer, Marijuana Research Facility, Independent Marijuana Testing Laboratory, Marijuana Transporter, Craft Marijuana Cooperative, Marijuana Micro Business, and Marijuana Delivery Licensee, in which case the requirements set forth in this section shall apply; or (3) a use allowed in the underlying district, in which case the requirements of the underlying district shall apply. If the provisions of the MOD are silent on a zoning regulation, the requirements of the underlying district shall apply. If the provisions of the MOD conflict with the requirements of the underlying district, the requirements of the MOD shall control.

**Section XXX- Definitions**

1. Where not expressly defined in the Zoning Bylaws, terms used in the MOD Bylaw shall be interpreted as defined in G.L. c.94G, § 1 and the regulations governing Adult Use of Marijuana (935 CMR 500.000), Medical Marijuana (935 CMR 501.000) and otherwise by their plain language.

**Section XXX – Limitation and Prohibitions**

1. Retail Establishments: No more than four (4 )Marijuana Retailers shall be permitted within the Town of Hopedale.
2. Social Consumption Establishments: No marijuana or marijuana product shall be smoked, eaten or otherwise consumed or ingested on the premises of any MMTC or ME. The prohibition on on-site consumption shall also include private social clubs or 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.

**Section XXX– Location and Dimensional Controls**

1. MMTCs and MEs may be permitted in the MOD pursuant to a Special Permit and Site Plan Approval.
2. MMTCs and Marijuana Establishments may not be located within 500 feet of the pre-existing public or private school providing education in kindergarten or grades 1 through 12, the Draper Gym, public or private libraries, the Hopedale Community House, Draper Field, Phillips Field, or the Hopedale Town Park.

The distance under this section shall be measured in a straight line from the geometric center of the ME or MMTC Entrance to the geometric center of the nearest School Entrance, unless there is an Impassable Barrier within those 500 feet; in these cases, the buffer zone distance shall be measured along the center of the shortest publicly-accessible pedestrian travel path from the geometric center of the ME or MMTC Entrance to the geometric center of the nearest School Entrance.

1. Cultivation and Product Manufacturing Establishments located within the MOD shall be separated from adjacent uses by a 100-foot buffer strip, unless the applicant can demonstrate, and the Planning Board finds, that adequate buffering can be provided in a narrower buffer strip.
2. All aspects of a MMTCs and MEs relative to the cultivation, possession, processing, distribution, dispensing or administration of marijuana, marijuana products, or related supplies must take place at a fixed location within a fully enclosed building and shall not be visible from the exterior of the building. All sales shall be conducted either within the building or by home delivery pursuant to applicable state regulations.
3. MMTCs and MEs shall be located only in a permanent building and not within any mobile facility, storage freight container, or other similar movable enclosure, unless operating as a licensed Marijuana Transporter or Marijuana Delivery Licensee.
4. Unless explicitly stated otherwise, MMTCs and MEs shall conform to the dimensional requirements applicable to non-residential uses within the underlying zoning district.
5. All MMTCs and MEs shall conform to the signage requirements of the Zoning Bylaw. The Planning Board may impose additional restrictions on signage, as appropriate, to mitigate any aesthetic impacts.

# No drive-through services shall be permitted at a MMTCs and MEs.

**Section XXX – Special Permit**

1. Procedure: The Planning Board shall be the Special Permit Granting Authority (SPGA) and the Planning Board shall conduct Site Plan Review for an applicant for a MMTC or ME.
	1. Application: In addition to the materials submission requirements of Sections 18 and 10.6 of this Bylaw, the applicant shall also include:
		1. A detailed floor plan of the premises of the proposed MMTC or ME that identifies the square footage available and describes the functional areas of the facility;
		2. Detailed site plans that include the following information:
			1. Compliance with the requirements for parking and loading spaces, for lot size, frontage, yards and heights and coverage of buildings, signage and all other provisions of this Bylaw;
			2. Convenience and safety of vehicular and pedestrian movement on the site to provide secure and safe access and egress for clients and employees arriving to and from the site;
			3. Convenience and safety of vehicular and pedestrian movement off the site, if vehicular and pedestrian traffic off-site can reasonably be expected be substantially affected by on-site changes;
			4. Adequacy as to the arrangement and the number of parking and loading spaces in relation to the proposed use of the site, including designated parking for home delivery vehicle(s), as applicable;
			5. Site design such that it provides convenient, secure and safe access and egress for clients and employees arriving to and from the site.
			6. Design and appearance of proposed buildings, structures, freestanding signs, screening and landscaping; and
			7. Adequacy of water supply, surface and subsurface drainage and light.
		3. A description of the security measures, including employee security policies;
		4. A copy of the emergency procedures;
		5. A copy of proposed waste disposal procedures;
		6. A copy of all licensing materials issued by the Cannabis Control Commission and any materials submitted to the Cannabis Control Commission by the applicant for purposes of seeking licensing to confirm that all information provided to the Town is consistent with information provided to the Cannabis Control Commission;
		7. A copy of an odor control plan that provides for proper and adequate ventilation at MMTCs and MEs in such a manner so as to prevent pesticides, insecticides or other chemicals used in the cultivation or processing and/or keeping of marijuana or marijuana related products from being dispersed or released outside the facilities and to prevent odor from marijuana or its processing from being detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of such facility or at any adjoining use or property; and
		8. Evidence of the applicant's right to use the proposed site for the MMTC or ME, such as a purchase and sale agreement, deed, owner’s authorization, or lease.
	2. The SPGA shall refer copies of the application to the Building Department, Fire Department, Police Department, Board of Health, the Conservation Commission, the Highway Department and the Water and Sewer Department. These boards/departments shall review the application and shall submit their written recommendations. Failure to make recommendations within 35 days of referral of the application shall be deemed lack of opposition.
	3. After notice and public hearing in accordance with Section 10.9 of the Bylaw and consideration of application materials, consultant reviews, public comments, and the recommendations of other town boards and departments, the SPGA may act upon such a permit and request for site plan approval.
2. Special Permit Findings: In addition to the standard findings for special permit set forth in Section 10.6, the SPGA shall not issue a special permit for a MMTC or MC unless it makes the following findings:
3. The MMTC or ME does not derogate from the purposes and intent of this Section and the Zoning Bylaw.
4. The proposed MMTC or ME is designed to minimize any adverse impacts on abutters and other parties in interest, as defined in MGL c. 40A, § 11.
5. The applicant demonstrates that the MMTC or ME will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will comply with all applicable state laws and regulations;
6. The security plan provides sufficient assurance that adequate security controls will be implemented to ensure the protection of the public health and safety during hours of operation and that any marijuana or marijuana related products are adequately secured on-site or via delivery.
7. The odor control plan proposed adequately provides for the ongoing safe operation of the MMTC or ME and minimizes any adverse impacts to abutting properties from odor-emitting activities to be conducted on-site.
8. The proposed design and operation of the MMTC or ME will meet the requirements of this Bylaw.
9. Special Permit Conditions on MMTCs and MEs: The SPGA shall impose conditions reasonably appropriate to improve site design, traffic flow, public safety, protect water quality, air quality, and significant environmental resources, preserve the character of the surrounding area and otherwise serve the purpose of this section. In addition to any specific conditions applicable to the applicant’s MMTC or ME, the SPGA may include the following conditions in any special permit granted under this Bylaw:
10. Hours of Operation, but if none are specified in the special permit, hours of operation for retail sales shall be limited to 8:00 a.m. – 10:00 p.m.
11. The use shall not generate outside odors from the cultivation or processing of marijuana and marijuana products.
12. A Security Plan shall be required for all MMTC and MEs, which shall be subject to approval by the Hopedale Fire and Police Chiefs and submitted to the SPGA.
13. The permit holder shall provide to the Zoning Enforcement Officer and Chief of the Police Department, the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder.
14. MMTCs and MEs may not operate, and the special permit will not be valid, until the applicant has obtained all licenses and permits issued by the Commonwealth of Massachusetts and any of its agencies for the facility.
15. A special permit granted under this Section shall have a term limited to the duration of the applicant’s ownership and use of the premises as a MMTC or ME. A special permit may be transferred only with the approval of the SPGA in the form of an amendment to the special permit.
16. The special permit shall lapse upon the expiration or termination of the applicant’s license by the Cannabis Control Commission.
17. The permit holder shall notify the Zoning Enforcement Officer and SPGA in writing within 48 hours of the cessation of operation of the MMTC or ME’s expiration or termination of the permit holder’s license with the Cannabis Control Commission

**Section XXX - Prohibition Against Nuisances**

No use shall be allowed in the MOD which creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive sound or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.

**Section XXX – Curbside Retail Operations**Notwithstanding anything to contrary set forth within this Bylaw, if and only if (a) the Commonwealth of Massachusetts allows Marijuana Retailers to conduct curbside retail sales and (b) there is a government-ordered shutdown (of a like nature to that which occurred during the COVID-19 pandemic) which prevents customers of Marijuana Retailers from entering the premises of such Marijuana Retailers, then curbside retail transactions shall be allowed only to the extent permitted by Massachusetts laws and regulations; provided however, that the Marijuana Retailer shall first notify the Hopedale Chief of Police of its intent to conduct curbside retail operations not less than ten (10) days prior to the commencement of such operations and shall comply with reasonable safety measures and other restrictions imposed by the Chief of Police. . Such measures and restrictions may include, but shall not be limited to, the implementation of mitigation plans to help ensure that the curbside operations do not block traffic, sidewalks, or result in increased lines or crowds. Curbside operations must occur on the licensed premises and shall be located so as to minimize compromises to security, taking into consideration camera locations, foliage or other obstructions, proximity to the MMTC or ME entrance and similar considerations.

**Section XXX - Severability**

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