

**ADD THE FOLLOWING TO THE END OF SECTION 8 AS A NEW SECTION 8.7, LICENSED MARIJUANA ESTABLISHMENTS**

**§[8.7]. Licensed Marijuana Establishments.**

(a) **Purpose.** The purpose of this section is to provide for the placement of Licensed Marijuana Establishments in suitable locations in the Town of Cheshire in recognition of and in accordance with “The Regulation of the Use and Distribution of Marijuana Not Medically Prescribed,” M.G.L. c. 94G. The specific purpose of this section is to safeguard the built environment by permitting compliance with state law in a manner consistent with community and neighborhood concerns, while also ensuring that those entities permitted to operate a licensed marijuana establishment, as defined herein, comply with all of the provisions of Chapter 334 of the Acts of 2016.

(b) **Definitions.**

**CRAFT MARIJUANA COOPERATIVE** – a marijuana cultivator comprised of residents of the commonwealth organized as a limited liability company or limited liability partnership under the laws of the commonwealth, or an appropriate business structure as determined by the Cannabis Control Commission, and that is licensed to cultivate, obtain, manufacture, process, package and brand marijuana and marijuana products to deliver marijuana to other Marijuana Establishments but not to consumers.

**INDEPENDENT TESTING LABORATORY** - a laboratory that is licensed by the commission and 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 commission; (ii) independent financially from any medical marijuana treatment center or any licensee 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.

**LICENSED MARIJUANA ESTABLISHMENT (LME)** – a marijuana cultivator, testing laboratory, research facility, marijuana product manufacturer, marijuana retailer, micro-business, craft cooperative, or any other type of licensed marijuana-related business.

**MARIJUANA CULTIVATOR** – an entity licensed to cultivate, process, and package marijuana; to deliver marijuana to other marijuana establishments; and to transfer marijuana to other marijuana establishments but not consumers.

**MARIJUANA PRODUCT MANUFACTURER** – an entity licensed to obtain, manufacture, process, and package marijuana and marijuana products; to deliver marijuana and marijuana products to other marijuana establishments, and to transfer marijuana and marijuana products to other marijuana establishments but not consumers.

**MARIJUANA MICRO-BUSINESS** – a marijuana establishment that is licensed to act as a: licensed marijuana cultivator in an area less than 5,000 square feet; licensed marijuana product manufacturer, and licensed marijuana delivery service in compliance with the operating procedures for each such license.

**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, oils and tinctures.

**MARIJUANA RESEARCH FACILITY** – an entity licensed to engage in research projects by the Cannabis Control Commission.

**MARIJUANA RETAILER** – an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell, or otherwise transfer marijuana and marijuana products to other marijuana establishments and to consumers.

(c) **Designated Locations for Marijuana Establishments.** The locations designated by the Town of Cheshire where an LME may be sited are as follows:

- (1) Marijuana cultivation facilities may be sited within the Agricultural Residential (A-R) zone district on parcels at least 5 acres in size, upon the approval of a Special Permit and Site Plan, as per Section 10 of the Zoning Bylaw and the Town of Cheshire Special Permit Rules & Regulations.
- (2) All types of LME's, except for cultivation uses, may be sited in the Marijuana Overlay District (Figures 1a & 1b, below), upon the approval of a Special Permit and Site Plan, as per Section 10 of the Zoning Bylaw and the Town of Cheshire Special Permit Rules & Regulations.

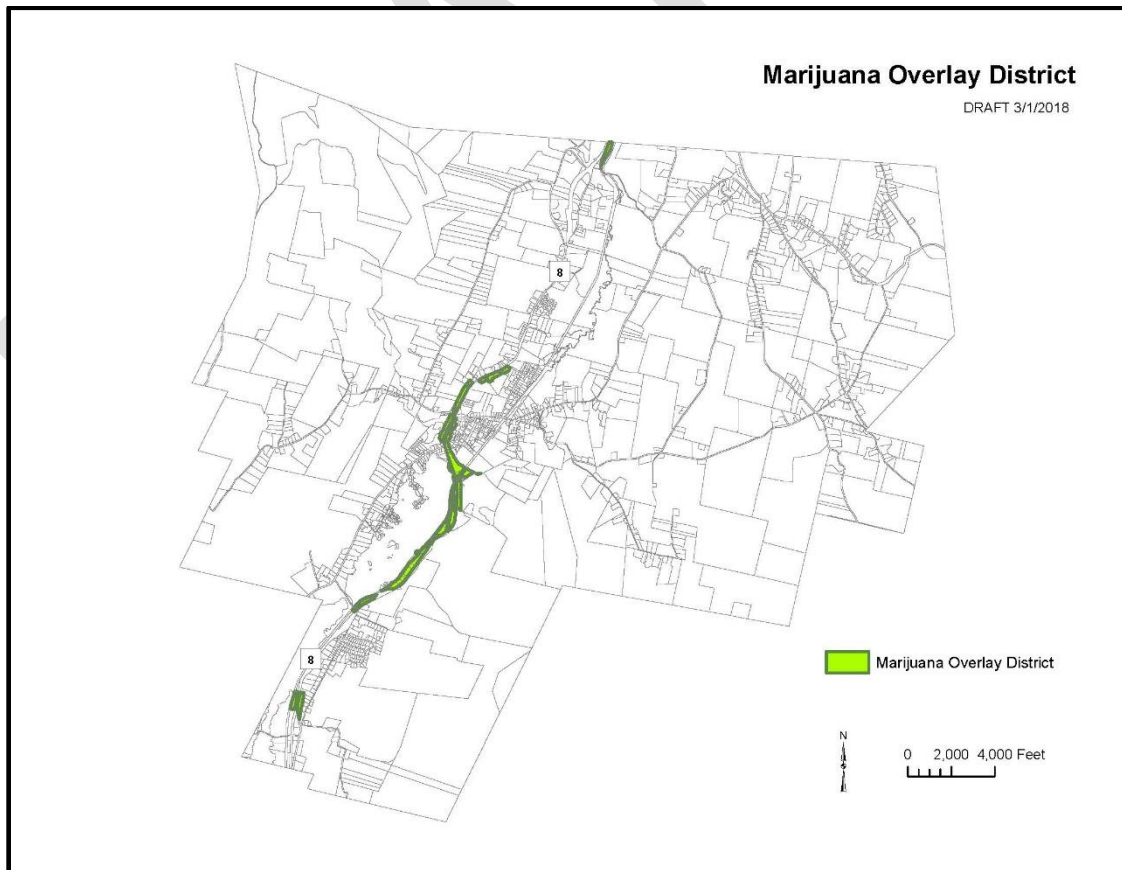


Figure 1a (entire overlay district)

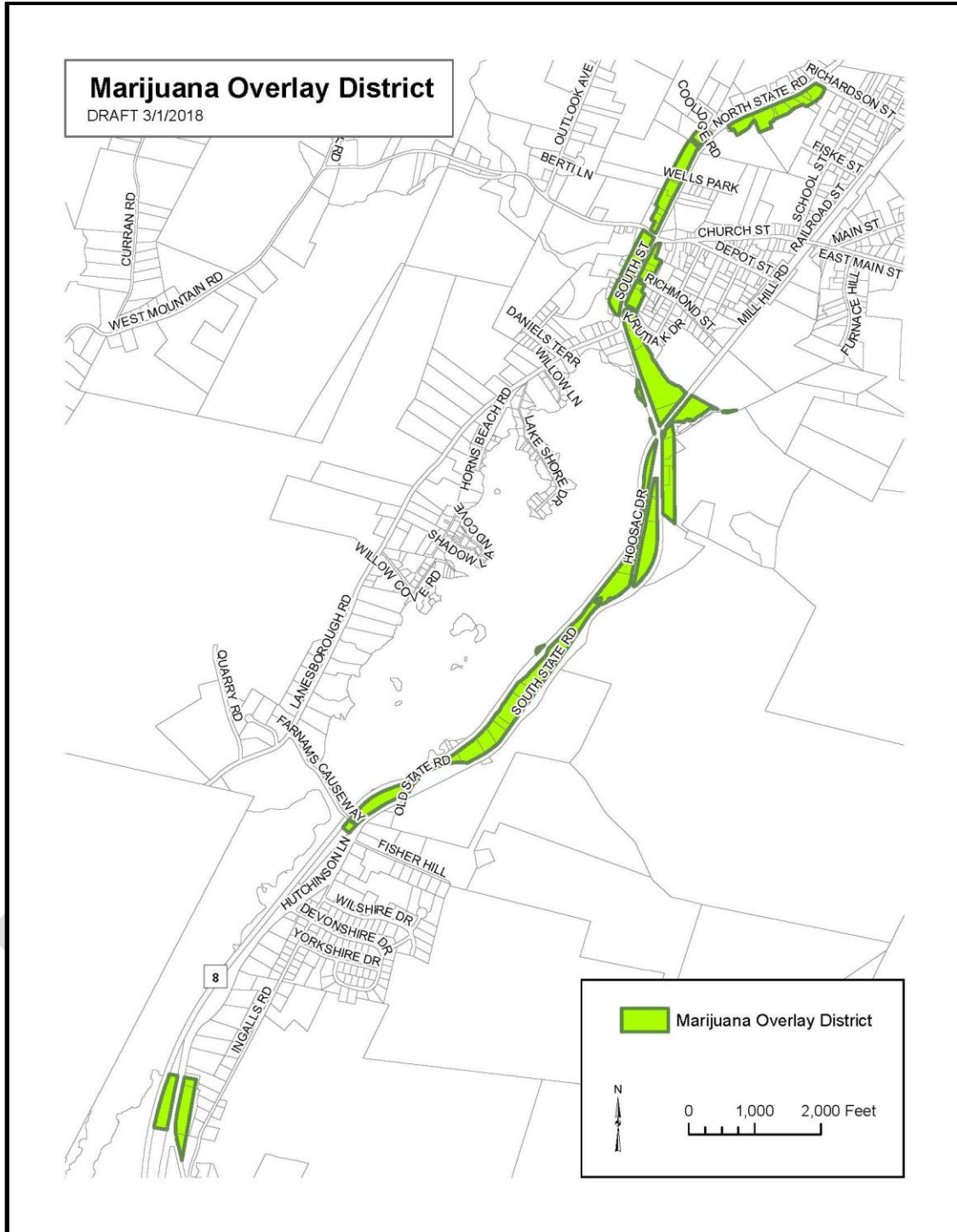


Figure 1b (detail of most of district, except the single northernmost property)

- (3) All LME's must be set back at least five hundred feet (500') from any public or private school or licensed daycare center. Distances shall be measured by a straight line between the nearest structures of said schools or daycares and the LME.

- (4) Each LME and any part of its operation, including but not limited to, cultivation, processing, packaging, and sales, shall be operated from a fixed location. No marijuana establishment shall be permitted to operate from a moveable, mobile, or transitory location

**(d) Designated Number of Marijuana Establishments.**

- (1) The total number of marijuana retail establishments shall not be limited to fewer than twenty percent (20%), of the number of licenses issued within the Town for the retail sale of alcoholic beverages not to be drunk on the premises.
- (2) The total number of non-retail establishments shall not exceed one (1).
- (3) In the event that the number of licenses issued within the Town for the retail sale of alcoholic beverages not to be drunk on the premises decreases, any licensed marijuana establishment, if then exceeding the limits as noted in D.1, may remain in operation.

**(e) Special Permit Required.** No LME shall be operated or expanded without first obtaining a Special Permit from the Town of Cheshire Special Permit Granting Authority in accordance with Section 10 of the Zoning Bylaw and the Town of Cheshire Special Permit Rules & Regulations.

- (1) The Special Permit Granting Authority for any LME shall be the Planning Board.
- (2) A Special Permit shall only be valid for use by the Applicant and will become null and void upon the sale or transfer of the license of an LME or change in the location of the business.
- (3) In the event that the Commonwealth's licensing authority suspends the license or registration of an LME, the Special Permit shall be so suspended by the Town until the matter is resolved to the satisfaction of said licensing authority.
- (4) The Special Permit shall be considered null and void if meaningful construction has not begun on the project within 6 months obtaining said permit, as determined by the Building Inspector or their designee(s).

**(f) Site Plan Review.** Applications to operate or expand an LME shall be subject to Section 10 of the Zoning Bylaw and the Town of Cheshire Special Permit Rules & Regulations. The site plan shall be submitted in conjunction with the Special Permit application and joined to the final approval for the Special Permit.

**(g) General Requirements.**

- (1) Outside storage. No outside storage of marijuana, marijuana products, related supplies, or educational materials is permitted, except at open-air, outdoor cultivation facilities.
- (2) Visibility of activities. All activities of any LME shall be conducted indoors, except for open-air, outdoor cultivation facilities.
- (3) Paraphernalia. Devices, contrivances, instruments and paraphernalia for inhaling or otherwise consuming marijuana, including, but not limited to, rolling papers and related tools, water pipes, and vaporizers may be lawfully sold at a marijuana retailer. No retail

marijuana, marijuana products, or paraphernalia shall be displayed or kept in a retail marijuana store so as to be visible from outside of the licensed premises.

- (4) Hours of operation. A marijuana retailer may not open earlier than 8:00 AM and shall close no later than 8:00 PM the same day, Monday through Saturday, and no earlier than 12:00 PM and no later than 6:00 PM on Sunday. There shall be no hourly restrictions on any other type of LME, unless imposed by the Special Permit Granting Authority as part of site plan approval.
- (5) On-site consumption of marijuana. On-site consumption is prohibited on or within the premises of any LME.
- (6) Sale of alcohol. LME's are prohibited from selling alcoholic beverages.
- (h) **Filing Requirements.** Applications to permit an LME must be submitted to the Planning Board. Such applications for LME's shall include the following:
  - (1) A Site Plan, as per the requirements of the Town of Cheshire Special Permit Rules and Regulations.
  - (2) A Security Plan. A security plan shall be submitted to ensure the safety of employees, patrons, and the public to protect the premises from theft or other criminal activity. The security plan shall be reviewed and approved by the local Police Chief, or their designee. The Security Plan shall include the following:
    - i. An interior floorplan (including secured areas, windows, doors, etc.)
    - ii. Exterior lighting
    - iii. Fencing (if any)
    - iv. Gates (if any)
    - v. Alarms
    - vi. Any other security measures as requested by the Police Chief.
  - (3) State License. A copy of the license or registration as an LME from the Massachusetts Cannabis Control Commission or documentation that demonstrates that said facility and its owner/operators qualify and are eligible to receive a Certification of Registration and meet all of the requirements of an LME in accordance with the regulations adopted by the Commission, as amended.
- (i) **Discontinuance of Use.** Any LME under this Section shall be required to remove all material, plants, equipment, and other paraphernalia in compliance with regulations established by the Cannabis Control Commission within thirty (30) days after the expiration or voiding of its license.
- (j) **No Town liability; indemnification.**
  - (1) The Applicant and all licensees waive and release the Town, its elected officials, employees, and agents from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of the LME owners, operators, employees, clients, or customers for a violation of state or federal laws, rules, or regulations.
  - (2) The Applicant, in receiving approvals issued pursuant to this chapter, and all licensees, jointly and severally, if more than one, agree to indemnify, defend and hold harmless the

Town, its elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other loss of any kind whatsoever, arising out of or in any manner connected with the operation of the LME that is subject of the approval/license.

(k) **Other laws remain applicable.**

- (1) Business License Required. At all times while a permit is in effect the licensee shall possess a valid license.
- (2) To the extent that the state has adopted or adopts in the future any additional or stricter law or regulation governing the cultivation, manufacturing, testing, research or retail of marijuana or marijuana products, the additional or stricter regulation shall control the LME in the Town.
- (3) Prior to the issuance of a Special Permit, the LME must have entered into a Host Community Agreement (HCA) with the Town. If, upon review by the Planning Board, the LME is found to not be fully in compliance with the HCA, the Special Permit may be suspended or rescinded.

**AMEND TABLE OF CONTENTS WITHIN PROTECTIVE AND PLANNING ZONING BYLAW:**

**SECTION 8 – SPECIAL REGULATIONS**

- 8.1 Temporary Buildings
- 8.2 Radioactive and Hazardous Waste Disposal
- 8.3 Wireless Telecommunication Facilities
- 8.4 Large Wind Energy Facilities
- 8.5 Small Wind Energy Systems
- 8.6 Solar Photovoltaic Installations
- 8.7 Licensed Marijuana Establishments**

**AMEND SECTION 2.1, Types of Zoning Districts**

**Overlay Districts**

- FP Flood Plain District
- FHD Flood Hazard District
- WSPD Water Supply Protection District
- LMED Licensed Marijuana Establishment District**

**AMEND SECTION 3.2(a), TABLE OF USE REGULATIONS**

21. Research laboratory or light manufacturing activity where the major portion of the product is retailed on the premises or by mail, **not including recreational marijuana uses.**

25. Commercial greenhouse, nursery or landscape gardening, **not including recreational marijuana uses.**

**37. Licensed marijuana cultivation facilities (see Section 8.7)**

Zoning Districts		
R-1	A-R	B
<b>NO</b>	<b>SPP</b>	<b>NO</b>

**38. Licensed marijuana establishments for retailers, manufacturers, testing laboratories, research facilities, micro-businesses, craft cooperatives and all other types of licensed marijuana facilities (See Section 8.7)**

Zoning Districts		
R-1	A-R	B
<b>NO</b>	<b>NO</b>	<b>SPP</b>

**CREATE A NEW ARTICLE 45 WITHIN THE TOWN OF CHESHIRE BYLAWS: RECREATIONAL MARIJUANA EXCISE TAX**

The Town accepts G.L c. 64N, Section 3, and imposes a local sales tax upon the sales or transfer of marijuana or marijuana products by a marijuana retailer operating within the Town to anyone other than a marijuana establishment at a rate of 3 per cent (3%) of the total sales price received by the marijuana retailer as a consideration for the sale of marijuana or marijuana products. A marijuana retailer shall pay a local sales tax imposed under this section to the commissioner at the same time and in the same manner as the sales tax due to the commonwealth.