

To further amend Chapter 12, Revised Ordinances of 1991, as Amended, City of Malden, as follows:

1. ESTABLISHMENT OF DISTRICTS (SECTION 200)

I. To amend Section 200.1 (Establishment of Districts) to add the following (NEW):

Section 200.1.10: Marijuana Establishment Overlay District.

II. To amend Section 200.2 (Zoning Map) to add a Marijuana Establishment Overlay District over the following parcels:

	Property Address	Parcel ID
1	616 BROADWAY	160 625 501
2	619 BROADWAY	183 573 351
3	628 BROADWAY	160 625 510
4	632 BROADWAY	160 625 509
5	636 BROADWAY	160 625 508
6	639 BROADWAY	183 573 355
7	644 646 BROADWAY	160 625 505
8	646 BROADWAY	160 625 507
9	649 BROADWAY	183 573 356
10	650 BROADWAY	160 625 506
11	665 BROADWAY	184 573 364
12	672 BROADWAY	160 623 316
13	689 BROADWAY	184 573 385
14	700 BROADWAY	160 623 314
15	701 REAR BROADWAY	184 573 366B
16	703 BROADWAY	184 573 366A
17	709 BROADWAY	184 573 367

2. USE REGULATIONS (SECTION 300).

I. To amend Section 300.1.1 (Basically) to add the following:

“Except for Marijuana Retailer, Marijuana Cultivator, Independent Marijuana Testing Laboratory, Marijuana Product Manufacturer, Marijuana Research Facility and Marijuana Transporter, where a special permit shall be required by the City Council in accordance with Section 300.20; and”

II. To amend Section 300.3 (Table of Use Regulations) to add the following:

Section #	Use	A	B	C	RO	BN	BC	BH	I1	I2	ME Overlay District
	Business Uses										
300.3.4.29	Marijuana Retailer	No	No	No	No	No	No	SP	SP	SP	SP
	Industrial Uses										
300.3.5.12	Marijuana Cultivator	No	No	No	No	No	No	SP	SP	SP	SP
300.3.5.13	Independent Marijuana Testing Laboratory	No	No	No	No	No	No	SP	SP	SP	SP
300.3.5.14	Marijuana Product Manufacturer	No	No	No	No	No	No	SP	SP	SP	SP
300.3.5.15	Marijuana Research Facility	No	No	No	No	No	No	SP	SP	SP	SP
300.3.5.16	Marijuana Transporter	No	No	No	No	No	No	SP	SP	SP	SP
	Other Uses										
300.3.6.6	Marijuana Social Consumption Establishment	No	No	No	No	No	No	No	No	No	No

III. To Add Section 300.20 (NEW).

A Marijuana Establishment, as defined by this Ordinance to expressly only include Marijuana Retailer, Marijuana Cultivator, Independent Marijuana Testing Laboratory, Marijuana Product Manufacturer, Marijuana Research Facility and Marijuana Transporter, may be allowed only in the Highway Business, Industrial 1 and Industrial 2 zoning districts or the Marijuana Establishment Overlay District, only by special permit granted by the City Council and only in conformance with the following controls and requirements:

- a) For construction of new buildings, compliance with the dimensional controls and parking requirements of this Ordinance.
- b) For Marijuana Establishment use of a building lawfully existing or begun prior to the first publication of notice of the public hearing on this Ordinance, or alteration, conversion or other change to a Marijuana Establishment use lawfully existing or begun prior to the first publication of notice of the public hearing on any amendment to this Ordinance, the City Council must find that any creation or increase in violations of dimensional controls or parking requirements will not be more detrimental to the neighborhood.
- c) A Marijuana Establishment shall be located in a permanent building and not within a mobile facility or movable structure.
- d) A Marijuana Establishment shall not be located inside a building containing residential units, including transient housing such as hotels, motels, dormitories.
- e) A Marijuana Establishment must be the principal use of the property and may be accessory only to another type of Marijuana Establishment at the same property and shall be prohibited as an accessory use to any other use.
- f) The location of a Marijuana Establishment shall comply with the following buffer zones:
 - .1 The location of a Marijuana Establishment shall comply with the following buffer zones, all distances as measured from the closest property line of the proposed Marijuana Establishment to the closest property line of a property that, as of the date of filing of the petition for a special permit for the Marijuana Establishment, is lawfully used for the following. No Marijuana Establishment shall be located within:
 - i. 75 feet of a Substance Abuse Treatment Center, as defined by this Ordinance;
 - ii. 500 feet of a public or private school providing education in kindergarten, or Grades 1-12;
 - iii. 75 feet of any residential use;
 - iv. 250 feet of any park playground, recreational field or recreational facility, and including, but not limited to: the Malden Teen Enrichment Center, the YMCA and the YWCA;
 - v. 75 feet of any religious facility; and
 - vi. 75 feet of any daycare licensed by the Commonwealth of Massachusetts;

Except for a Marijuana Establishment located at property in the Marijuana Establishment Overlay zoning district, which shall not be subject to a buffer zone from any residential use, however, shall comply with all other buffer zones specified herein this Ordinance.

.2 The City of Malden Building Commissioner shall determine whether a proposed location is compliant with the buffer zones specified herein this Ordinance.

- g) Required findings: For a special permit to be granted, the City Council must find:
- .1 The proposal will not be more detrimental to the neighborhood.
 - .2 The proposal is not in conflict with surrounding land uses.
 - .3 The proposal is in the interest of the common good.
 - .4 The traffic and traffic patterns generated by the proposal will not adversely impact any of the surrounding streets or create a traffic or safety hazard. For purposes of determining traffic impact, the City Council employ and outside consultant, in accordance with M.G.L. c. 44, Section 53G, to perform an independent peer review analysis of traffic data submitted by the petitioner, the cost of which will be borne by the petitioner.
 - .5 The proposal will not generate any noise, odor, fumes, vibration, heat or other conditions that may be noxious or cause a nuisance to the community, a danger to public health, or impair public comfort and convenience.
 - .6 The proposal is not detrimental to the health, safety or welfare of the neighborhood or the city.
- h) Conditions to Special Permit. The City Council may impose any conditions it deems reasonable to regulate the use of a property for a Marijuana Establishment; and in addition and in all cases, any special permit granted hereunder shall be subject to the following conditions:
- i. The special permit is non-transferable and non-assignable.
 - ii. The Marijuana Establishment shall design and implement a Security Plan approved by the Malden Police Chief, which shall include, without limitation: all security measures for the site and the transportation of Marijuana and Marijuana Products to and from off-site premises to ensure the safety of employees and the public and to protect the premises property from theft or other criminal activity; a detailed explanation of payment method, if applicable, acceptable at such establishment and the protection and security of such payments and, if applicable, cash on site; and the presence of a security guard on site at all hours of operation.
 - iii. Consumption of Marijuana and/or Marijuana Products is prohibited at or within 500 feet of a Marijuana Establishment.
 - iv. Smoking or burning of Marijuana and/or Marijuana Products is prohibited on the premises of a Marijuana Establishment.
 - v. Marijuana in any form, including plants, and Marijuana Products shall not be visible from outside of the building in which the Marijuana Establishment is located.
 - vi. Any outside storage of any kind is prohibited.
 - vii. Any outside display of any kind is prohibited.
 - viii. The Marijuana Establishment shall incorporate odor control technology and provisions, and ensure that emissions do not violate MGL Chapter 111, Section 31C, including but not limited to those specified for odors.
 - ix. Prior to issuance of any building permit or occupancy permit pursuant to a special permit granted hereunder, the Marijuana Establishment shall submit copies of the following licenses and approvals:
 - A. A valid license issued by the Massachusetts Cannabis Control Commission, as defined herein this Ordinance;
 - B. A fully executed Community Host Agreement with the City of Malden, as defined herein this Ordinance;
 - C. Any required license and/or approvals issued by the Malden License Board; and
 - D. Any required license and/or approvals issued by the Malden Board of Health.

- x. The expiration, termination or revocation for any reason of any licenses and approvals as required by this Ordinance and described herein above shall be grounds for the immediate revocation of a building permit and/or occupancy permit.

i) Filing Requirements.

- .1 Site plan: (15 copies= 3 to scale size + 12 reduced/11"x17" size): to scale; dated; prepared, signed and stamped by a Registered or Professional Engineer or Surveyor; depicting lot boundaries and lot area, frontage and classification of street (public/private, width), footprint, lot coverage (SF), setbacks of existing & proposed building(s)/structure(s), parking layout (spaces, driveways, aisles), landscaping, screening, open space, snow storage and outside dumpster/trash storage.
- .2 Floor plan (15 copies= 3 to scale size + 12 reduced/11"x17" size): to scale; dated; prepared, signed and stamped by a Registered Architect; depicting entire building with total gross floor area, all separately occupied spaces with gross floor areas, subject premises with gross floor area, entrances/exits, windows, fixtures and interior walls.
- .3 Building Elevations and/or Pictorial Renderings (15 copies= 11"x17" size): to scale; dated; prepared by a Registered or Licensed Professional; depicting façade and views of building(s) and structure(s) on lot from all directions.
- .4 Written evidence of applicant's right to use the property for a Marijuana Establishment, such as a deed, lease, purchase and sale agreement or other legally binding document.
- .5 No more than 60 days prior to filing a petition for a special permit, a proposed Marijuana Establishment shall coordinate and host with the Ward City Councilor for the Ward where the subject property is located a Community Outreach Meeting to present the proposal to the community, and notice of this meeting shall be in accordance with the notice provisions of this Ordinance.

IV. To Amend Section 300.1.3 (Uses expressly prohibited): to revise as follows:

Section 300.1.3.2 Except and only if allowed by special permit as provided by this Ordinance as a Marijuana Establishment; and except for personal growing of no more than six plants by an individual for personal use at his/her residence per MGL c. 94G §7 (2) and provided no more than twelve plants are cultivated if more than one adult resides therein, and provided this exception does not supersede and shall not be construed to limit landlord and/or property owner rights if said landlord and/or property owner prohibits tenants/occupants from cultivating plants, the raising of marijuana for individual, personal, family, caregiver/caretaker, provider or any other medicinal purposes, accessory to any residential, institutional, business, industrial or other use.

Section 300.1.3.3 Except and only if allowed by special permit as provided by this Ordinance as a Marijuana Establishment, the sale, lease, rental, dispensing or any means of distribution of any accessories, supplies, equipment related to the growing, cultivation or processing of marijuana or products containing marijuana, as a principal use or use accessory to any existing or new residential, institutional, business, industrial or other use or use legally existing or begun prior to the first publication of notice of the public hearing on this amendment of the ordinance.

Section 300.1.3.4 (NEW) Marijuana Social Consumption Establishments are expressly prohibited anywhere in the City, including as an accessory use to any other use.

3. GENERAL REGULATIONS (SECTION 700).

I. To Amend Section 700.1.3.2 (General Regulations, Nonconforming Uses, Lots, Buildings and Structures) to add the following:

Except for Marijuana Retailer, Marijuana Cultivator, Independent Marijuana Testing Laboratory, Marijuana Product Manufacturer, Marijuana Research Facility and Marijuana Transporter, where a special permit shall be required by the City Council in accordance with Section 300.20, in all cases, whether or not there is extension or structural change.

II. To Amend Section 700.3.3 (Home Occupations, Prohibited Occupations) to add the following to the list of occupations which shall be specifically prohibited:

Marijuana Establishment, Marijuana Retailer, Marijuana Cultivator, Independent Marijuana Testing Laboratory, Marijuana Product Manufacturer, Marijuana Research Facility, Marijuana Transporter, Marijuana Social Consumption Establishment.

4. DIMENSIONAL CONTROLS (SECTION 400).

To Amend Section 400.1 (Table of Intensity Regulations) to add the following (NEW):

Section	Use	Area (Sq. Ft.)	Frontage	Front	Side	Both Sides	Rear	Min. Usable Open	Coverage-Principal Building	Coverage-Accessory Building	Density (Sf/DU)	Max. Height
400.1.4.24	Marijuana Retailer	10,000	50'	10'	10'	20'	20'	---	50%	20%	--	30' and 2 stories
400.1.5.12	Marijuana Cultivator	20,000	100'	10'	15'	30'	20'	--	50%	20%	--	30' and 2 stories
400.1.5.13	Independent Marijuana Testing Laboratory	20,000	100'	10'	15'	30'	20'	--	50%	20%	--	30' and 2 stories
400.1.5.14	Marijuana Product Manufacturer	20,000	100'	10'	15'	30'	20'	--	50%	20%	--	30' and 2 stories
400.1.5.15	Marijuana Research Facility	20,000	100'	10'	15'	30'	15'	--	50%	20%	--	50' and 4 stories
400.1.5.16	Marijuana Transporter	20,000	100'	10'	15'	30'	20'	--	50%	20%	--	30' and 2 stories

5. PARKING REQUIREMENTS (SECTION 500).

To amend Section 500.1 (Table of Offstreet Parking and Loading Regulations) to add the following (NEW):

Section #	Use	Minimum Number of Parking Spaces	Minimum Number of Loading Spaces	Minimum Number of Loading Spaces
500.1.4.28	Marijuana Retailer	4 per 1,000 sq ft of gross floor area	Section 500.3.5	Section 500.3.5
500.1.5.12	Marijuana Cultivator	1.2 per 1,000 sq ft of gross floor area	Section 500.3.5	Section 500.3.5
500.1.5.13	Independent Marijuana Testing Laboratory	1.2 per 1,000 sq ft of gross floor area	Section 500.3.5	Section 500.3.5
500.1.5.14	Marijuana Product Manufacturer	1.2 per 1,000 sq ft of gross floor area	Section 500.3.5	Section 500.3.5
500.1.5.15	Marijuana Research Facility	1.2 per 1,000 sq ft of gross floor area	Section 500.3.5	Section 500.3.5
500.1.5.16	Marijuana Transporter	1.2 per 1,000 sq ft of gross floor area	Section 500.3.5	Section 500.3.5

6. ADMINISTRATION (SECTION 800).

I. To Amend Section 800.6 (Definitions) to add the following definitions (NEW):

Commission: The Massachusetts Cannabis Control Commission, and any successor or other licensing entity or agency with jurisdiction over marijuana licensing in the Commonwealth of Massachusetts.

Community Host Agreement: The Agreement by and between the City of Malden and the proposed Marijuana Establishment that identifies the fees/funds that will be paid to the City by the proposed Marijuana Establishment to be used by the City to mitigate the impacts to the community of the Marijuana Establishment. Community impact fees/funds hereunder are in addition to taxes collected by the City per M.G.L. c. 64N, §3.

Marijuana: In accordance with Chapter 94C of the Massachusetts General Laws, all parts of any plant of the genus Cannabis, 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; however, excluding, 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. Marijuana also includes Marijuana Products. Marijuana is expressly defined to exclude Marijuana for Medical Use as defined herein this Ordinance.

Marijuana for Medical Use. Marijuana that is designed and restricted for use by, and for the benefit of, qualifying patients in the treatment of debilitating medical conditions in accordance with Chapter 369 of the Acts of 2012 and 105 CMR 725.000 Implementation of an Act for the Humanitarian Medical Use of Marijuana, as regulated by Medical Marijuana Treatment Center per this Ordinance.

Independent Marijuana 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 signatory to the International Laboratory Accreditation 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 regulations promulgated by the Commission.

Marijuana Cultivator: An entity licensed by the Commission to cultivate, process, and package Marijuana, to deliver Marijuana to Marijuana Establishments, and to transfer Marijuana to other Marijuana Establishments, but not to consumers.

Marijuana Establishment: A Marijuana Cultivator, Independent Marijuana Testing Laboratory, Marijuana Product Manufacturer, Marijuana Research Facility, Marijuana Retailer or Marijuana Transporter. Marijuana Establishment is specifically and expressly defined to exclude a Marijuana Social Consumption Establishment, Medical Marijuana Treatment Center, and any other type of licensed Marijuana-related businesses. A Marijuana Establishment may not be classified as any other use in this Ordinance. A Marijuana Establishment must be the principal use of the property and may be accessory only to another type of Marijuana Establishment at the same property and shall be prohibited as an accessory use to any other use. Any Marijuana Establishment use, whether principal or accessory, shall require a special permit in accordance with Section 300.20 and other applicable provisions of this Ordinance.

Marijuana Product Manufacturer: An entity licensed by the Commission to obtain, manufacture, process, and package Marijuana, or Marijuana Products, to deliver Marijuana and Marijuana Products to Marijuana Establishments, and to transfer Marijuana and Marijuana Products to other Marijuana Establishments, but not to consumers.

Marijuana Products: Products that have been manufactured and contain Marijuana or an extract of 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 for Medical Use as defined herein this Ordinance is expressly excluded from this definition.

Marijuana Research Facility: An entity that cultivates, purchases or otherwise acquires Marijuana for the purpose of conducting research regarding Marijuana Products.

Marijuana Retailer: An entity licensed by the Commission to purchase marijuana and Marijuana Products from Marijuana Establishments and to sell-marijuana and Marijuana Products to Marijuana Establishments and/or to consumers.

Marijuana Social Consumption Establishment: An entity that sells Marijuana or Marijuana Products for consumption or use on the premises where sold.

Marijuana Transporter: An entity which transports Marijuana and/or Marijuana Products to, from and/or between Marijuana Establishments, however, expressly excluding transportation, deliveries or other form of transfer to consumers, which are expressly prohibited, including but not limited to home

deliveries or transportation, deliveries or other form of transfer to, from and/or between any other property except a Marijuana Establishment.

II. To Amend Section 800.6 (Definitions) to amend the following existing definitions as follows:

Convenience Store: To add the following language: “Convenience stores are expressly prohibited from any retail sale of Marijuana or Marijuana Products.”

General Retail Sales: To delete “general;” and to add the following language: “specifically excluding any Marijuana Establishment and Marijuana Social Consumption Establishment.

Light Manufacturing: To add the following language: “specifically excluding any Marijuana Establishment and Marijuana Product Manufacturer.”

Medical Marijuana Treatment Centers: to add the following language:

“Marijuana Establishments are specifically excluded.”

“Medical Marijuana Treatment Center may also be known as a Registered Marijuana Dispensary.”

Research & Development: to add the following language: “specifically excluding any Marijuana Establishment, Independent Marijuana Testing Laboratory and Marijuana Research Facility.”

Warehouse: to add the following language: “specifically excluding any Marijuana or Marijuana Products.”