39C - MARIJUANA OVERLAY DISTRICT

1. Purpose

The purpose of the Marijuana Overlay District (MOD) is to provide for the placement and regulation of Marijuana related uses as authorized pursuant to State regulations with a goal of minimizing potential adverse impacts on adjacent property owners, neighborhoods, and the town in general.

2. Definitions

2.1 Registered Marijuana Dispensaries: Entity and facility registered under 105 CMR 725.100 that acquires, cultivates, possesses, processes, transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers.

2.2 Marijuana Establishment: A marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana related business. Does not include Registered Marijuana Dispensaries.

2.3 Marijuana Product: 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 of consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

3. Authority and Establishment

3.1 The Planning Board shall be the Special Permit and Site Plan Review Granting Authority for uses in the MOD.

3.2 The boundaries of the MOD are shown on the Zoning Map on file with the Town Clerk.

3.3 Within the MOD all requirements of the underlying districts remain in effect, except where these regulations provide an alternative to such requirements. 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, then the provisions of the MOD shall control.
4. Special Permit and Site Plan Review Administration and Procedures

4.1 All proposals for any marijuana related facility within the MOD are required to obtain both Special Permit and Site Plan Review approval.

4.2 Special Permit and Site Plan Applicants for Registered Marijuana Dispensaries see Section 6.

4.3 Special Permit and Site Plan Applicants for Marijuana Establishments see Section 7.

4.4 The Planning Board shall act as Special Permit and Site Plan Review Granting Authority for the MOD, following the procedures for Special Permits specified in sections 34-1A.1.A.4, 5, 6, 9, 12, 13, 14, 15, 16 and 17, of this Zoning Bylaw and Site Plan Review under section 40.

5. Severability

If any provision of this by-law shall be found invalid for any reason, such invalidity shall be construed as narrowly as possible, and the balance of the Section shall be deemed to be amended to the minimum extent necessary, so as to secure the purposes thereof, as set forth in Section 1 hereof.

6. REGISTERED MARIJUANA DISPENSARIES (MEDICAL MARIJUANA)

Applicants seeking approval to operate a Registered Marijuana Dispensaries (RMD) within the MOD shall proceed under the following regulations:

6.1. Use Regulations

Registered Marijuana Dispensaries are allowed only within the set boundaries of the MOD.

6.2. Host Agreement

Prior to application with the Planning Board applicants shall negotiate a host agreement with the Board of Selectmen.

6.3 Application

In addition to the materials required under Section 34-1A.1.A of the Zoning By-Law, the application for a Special Permit RMD shall include:

6.3.1 Disclosure Statement - A notarized statement signed by the organization’s Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers and directors, shareholders, partners,
members, managers, directors, officers or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of all such responsible individual persons for such entity.

6.3.2 Description of Activities - A narrative describing the type and scale of all activities that will take place on the proposed site, including, but not limited to on-site sales of marijuana or marijuana infused products, off-site deliveries, distribution of educational materials, and other programs or activities.

6.3.3 Floor Plans - a floor plan of the premises of the proposed RMD that identifies the square footage available and describes the functional areas of the RMD.

6.3.4 Site Plans – A plan or plans depicting all proposed development on the property as required under Section 40 of this bylaw.

6.3.5 Service Area - A map and narrative describing the area proposed to be served by the RMD and the anticipated number of clients that will be served within that area. This description shall indicate where any other RMD exists or have been proposed within the expected service area.

6.3.6 Transportation Analysis - a quantitative analysis, prepared by a qualified transportation specialist acceptable to the Planning Board, modeling the expected origin and frequency of client and employee trips to the site, the expected modes of transportation used by clients and employees, and the frequency and scale of deliveries to and from the site.

6.3.7 Context Map – a map depicting all lots and land uses within a 500-foot radius of the premises.

6.3.8 Building Elevations and Signage – Architectural drawings of all exterior building facades and all proposed signage, specifying materials and colors to be used.

6.3.9 Registration Materials: Copies of registration materials issued by the Massachusetts Department of Public Health (DPH) for the purpose of seeking registration, to confirm that all information provided to the Planning Board is consistent with the information provided to the Massachusetts Department of Public Health: 1. Its registration as an RMD; 2. Proposed waste disposal procedures; 3. A description of any waivers from DPH regulations issued to the RMD.
6.3.10 Letters from the Police and Fire Departments indicating that they have reviewed the application materials and approve the safety and security measures of the RMD.

6.3.11 Executed host agreement.

6.4. **Dimensional Regulations**

Dimensional Regulations are governed by the underlying zoning or applicable overlay district.

6.5. **Special Permit Criteria**

In granting a Special Permit for a RMD, in addition to the general criteria for issuance of a Special Permit as set forth in section 34-1A.1 of this Zoning By-Law, the Planning Board shall find that the following criteria are met:

6.5.1 The building or buildings in which RMD activities take place shall not be located within, on the same lot as, or on a lot immediately adjacent to a licensed pharmacy or within buildings that contain any pharmacy, medical doctor offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana, which exist as of the effective date of this amendment to the Zoning By-Law.

6.5.2 The RMD shall establish policies and procedures to ensure that no marijuana is smoked, eaten or otherwise consumed or ingested on the Premises.

6.5.3 The hours of operation shall be set by the Planning Board, but in no event shall a RMD be open to the public, nor shall any sale or other distribution of marijuana occur upon the Premises or via delivery from the Premises, between the hours of 8:00 p.m. and 8:00 a.m.

6.5.4 The RMD meets all of the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations.

6.5.5 The Premises have been designed to be compatible with other buildings in the area and to mitigate any adverse visual or design impacts that might result from required security measures and restrictions on visibility into the building’s interior.

6.5.6 The RMD provides a secure indoor waiting area for individuals and clients.
6.5.7 The site is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the site using all modes of transportation, including drivers, pedestrians, bicyclists and public transportation users.

6.5.8 Traffic generated by client trips, employee trips, deliveries to and from the RMD, and parking and queuing especially during peak periods at the RMD, shall not create a substantial adverse impact on nearby residential uses.

6.6. **Special Permit Conditions**

The Planning Board shall impose conditions reasonably appropriate to improve site design, traffic flow, public safety, air quality, and 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 RMD, the Planning Board shall include the following conditions in any Special Permit granted under this Section:

6.6.1 Hours of Operation, including dispatch of home deliveries.

6.6.2 The Special Permit shall be limited to the current Applicant and shall lapse if the permit holder ceases operating the RMD.

6.6.3 The Special Permit shall lapse upon the expiration or termination of the Applicant’s registration by DPH.

6.6.4 The permit holder shall provide to the Building Commissioner, Police and Fire Departments, and the Board of Health, 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.

6.6.5 The designated contact person(s) shall notify in writing the Police and Fire Departments, Building Commissioner, Board of Health, and the Planning Board within a minimum twelve (12) hours following a violation, a potential violation, or any attempts to violate any applicable law, or any criminal, potential criminal, or attempted criminal activities as a RMD permitted under this Section.

6.6.6 The designated representatives shall file an annual report (annually from the issuance of a Certificate of Occupancy) with the Office of Community Development providing a copy of all current applicable state licenses for the RMD and to demonstrate continued compliance with the conditions of the Special Permit.
6.6.7 An RMD licensed after July 1, 2017 shall not convert to a Marijuana Establishment without following the Special Permit and Site Plan Review procedures outlined in Section 7.

Any future town referendum vote to ban the recreational use of marijuana in the General Bylaws will determine which of the following Zoning Bylaw sections are approved.

If a referendum to ban the recreational use of marijuana is held and is passed by voters, the following bylaw is to take effect:

7. **MARIJUANA ESTABLISHMENTS (RECREATIONAL)**

7.1. **Use Regulations**

Marijuana Establishments as defined are prohibited in all zones and within the boundaries of the Town of Hull.

If no referendum to ban the recreational use of marijuana is held, or if a referendum is held but fails to pass, or if a referendum is passed to set a maximum number of Marijuana Establishments, the following bylaw is to take effect:

7. **MARIJUANA ESTABLISHMENTS (RECREATIONAL)**

Applicants seeking approval to operate a Marijuana Establishment within the MOD shall proceed under the following regulations:

7.1. **Use Regulations**

Marijuana Establishments are allowed only within the set boundaries of the MOD.

7.2. **Host Agreement**

7.2.1 Prior to application with the Planning Board applicants shall negotiate a host agreement with the Board of Selectmen as provided for under MGL Chapter 94G Section 3.

7.2.2 This host agreement shall include language that gives the Planning Board the ability to restrict signage to the standards outlined in the Special Permit Criteria section below.

7.3. **Application**

In addition to the materials required under Section 34-1A.1.A of the Zoning By-Law, the application for a Special Permit shall include:
7.3.1 Disclosure Statement - A notarized statement signed by the organization’s Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers and directors, shareholders, partners, members, managers, directors, officers or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of all such responsible individual persons for such entity.

7.3.2 Description of Activities - A narrative describing the type and scale of all activities that will take place on the proposed site, including, but not limited to on-site sales of marijuana products, off-site deliveries, distribution of educational materials, and other programs or activities.

7.3.3 Cannabis Control Commission (CCC) Compliance – A statement outlining how the proposed project complies with CCC regulations and process for approval.

7.3.4 Floor Plans - a floor plan of the premises of the proposed establishment that identifies the square footage available and describes the functional areas of the establishment.

7.3.5 Site Plans – A plan or plans depicting all proposed development on the property as required under Section 40 of this bylaw.

7.3.6 Transportation Analysis - a quantitative analysis, prepared by a qualified transportation specialist acceptable to the Planning Board, modeling the expected origin and frequency of client and employee trips to the site, the expected modes of transportation used by clients and employees, and the frequency and scale of deliveries to and from the site.

7.3.7 Context Map – a map depicting all lots and land uses within a 1000 foot radius of the Premises.

7.3.8 Building Elevations– Architectural drawings of all exterior building facades specifying dimensions, materials and colors to be used.

7.3.9 Signage - Drawings of all proposed signage specifying location, illumination, dimensions, materials and colors to be used and details of sign construction.

7.3.10 Executed host agreement.
7.4. **Dimensional Regulations**

Dimensional Regulations are governed by the underlying zoning or applicable overlay district.

7.5. **Special Permit Criteria**

7.5.1 The Marijuana Establishment meets all of the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations.

7.5.2 The location of Marijuana Establishments shall be a minimum distance of 1000 ft from the location of another Marijuana Establishment measured from the two closest points on the lots where these establishments are to be located.

7.5.3 The Marijuana Establishment shall not emit any odor that is determined by the Planning Board to cause a public nuisance.

7.5.4 The Marijuana Establishment shall only sell its products to consumers within an enclosed structure. There shall be no “drive through windows” or openings of any kind allowing the purchase of Marijuana Products to consumers outside of an enclosed structure.

7.5.5 The Marijuana Establishment shall be of a minimum square footage to provide for an occupancy permit where all customers at any given time could locate within the enclosed structure.

7.5.6 **Design Standards**

7.5.6.1 Special Permits to approve a Marijuana Establishment use require that design standards identified in 39B Nantasket Beach Overlay Section 11 be incorporated into new and existing building design to the satisfaction of the Planning Board.

7.5.6.2 The Premises have been designed to be compatible with other buildings in the area and to mitigate any adverse visual or design impacts that might result from required security measures.

7.5.7 Traffic generated by client trips, employee trips, deliveries to and from the Marijuana Establishment, and parking and queuing especially during peak periods at the Marijuana Establishment, shall not create a substantial adverse impact on nearby residential uses.
7.5.8 Signage/Lighting

The Planning Board may waive the requirements under 7.5.8.1-7.5.8.3 if a finding is made that the sign is not more detrimental to the neighborhood and it is compatible with the building location and design.

7.5.8.1 There shall be a maximum of one sign per Marijuana Establishment.

7.5.8.2 Signs shall be limited to three (3) square feet in area.

7.5.8.3 Signage is limited to wall signs lying flush with a building façade. Signage within façade windows is prohibited.

7.5.8.4 Use of images of marijuana, related paraphernalia, and colloquial references to cannabis and marijuana, or its use is prohibited from use in any signage.

7.5.8.5 A Marijuana Establishment shall not display on the exterior of the facility advertisements for marijuana, any brand name, sales information or prices.

7.5.8.6 Marijuana and/or any associated products shall not be displayed or clearly visible to a person from the exterior of an establishment.

7.5.8.7 No signs shall flash, rotate, and be animated, be motorized or move or be designed to move by any means, either in whole or in part. This includes LED scrolling signs or any other means of messaging.

7.5.8.8 The number of colors in the sign shall be limited to three and shall be muted in tone.

7.5.8.9 Illumination

a. External signage shall not be illuminated except for a period of 30 minutes before sundown until closing
b. Signage shall not be internally lit.
c. Any signage illumination shall be from external means with only white light.
d. Neon signage is prohibited.
e. No flashing or colored lighting is allowed to be used in conjunction with this use.
7.6 **Special Permit Conditions**

The Planning Board shall impose conditions reasonably appropriate to improve site design, traffic flow, public safety, air quality, and 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 RMD, the Planning Board shall include the following conditions in any Special Permit granted under this Section:

7.6.1 The Special Permit shall lapse within five years of its issuance. If the permit holder wishes to renew the Special Permit, an application to renew the Special Permit must be submitted at least 120 days prior to the expiration of the Special Permit.

7.6.2 The design of the building, façade and signage shall be constructed exactly as approved by the Planning Board. Any deviations from the approved plan shall be approved by the Board or the Special Permit shall be void.

7.6.3 The Special Permit shall be limited to the current Applicant and shall lapse if the permit holder ceases operating the Marijuana Establishment.

7.6.4 No marijuana is to be smoked, eaten or otherwise consumed or ingested on the premises.

7.6.5 All Marijuana Establishments will be subject to the maximum local tax allowed by state law.

7.6.6 Any Marijuana Establishment that the Planning Board determines has become a public nuisance due to odor or continuous or excessive cueing outside the establishment may be found in violation of the Special Permit.