

12.12.190 A MARIJUANA ESTABLISHMENT

Secondary to the January 29, 2026 Land Court decision in the matter Benevolent Botanicals LLC & 926 Eastern Avenue LLC v. City of Malden, Zoning Ordinance MCC 12.12.190 has been ruled invalidated and is currently being reviewed by the Rules and Ordinance Committee for appropriate amendments.

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, parking requirements, and buffer zones of this Ordinance. A variance shall be required to grant relief from any noncompliance with dimensional controls, parking requirements, and buffer zones 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 and/or parking requirements will not be more detrimental to the neighborhood; and if the City Council makes the finding that any creation or increase in violations of dimensional controls and/or parking requirements will not be more detrimental to the neighborhood, then any new or increased violations of dimensional controls and parking requirements may be allowed by the special permit granted by the City Council and shall not require a variance.
- 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:
 - a. 75 feet of a Substance Abuse Treatment Center, as defined by this Ordinance;
 - b. 500 feet of a public or private school providing education in kindergarten, or Grades 1- 12;

- c. 75 feet of any residential use;
- d. 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;
- e. 75 feet of any religious facility; and
- f. 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 Mass. Gen. Laws ch 44 § 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:

- 1. The special permit is non-transferable and non-assignable.
- 2. The Marijuana Establishment shall design and implement a Security Plan approved by the Malden Police Chief and Malden Cannabis Licensing and Enforcement Commission.
- 3. Consumption of Marijuana and/or Marijuana Products is prohibited at or within 500 feet of a Marijuana Establishment.
- 4. Smoking or burning of Marijuana and/or Marijuana Products is prohibited on the premises of a Marijuana Establishment.
- 5. 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.
- 6. Any outside storage of any kind is prohibited.
- 7. Any outside display of any kind is prohibited.

8. The Marijuana Establishment shall incorporate odor control technology and provisions, and ensure that emissions do not violate Mass. Gen. Laws ch 111 § 31C, including but not limited to those specified for odors.
9. Prior to issuance of any final occupancy permit pursuant to a special permit granted hereunder, the Marijuana Establishment shall submit copies of the following licenses and approvals:
 - a. A fully executed Community Host Agreement with the City of Malden, as defined herein this Ordinance;
 - b. Any required license and/or approvals issued by the Malden Cannabis Licensing and Enforcement Commission; and
 - c. Any required license and/or approvals issued by the Malden Board of Health.
10. 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 facade 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.
6. A non-refundable special permit application fee of \$750.00.

HISTORY

Amended by Ord. [49-20](#) on 2/11/2020

Amended by Ord. [317-22](#) Amends MCC 12.12.190.H.2 on 11/2/2022

Amended by Ord. [318-22](#) Amends MCC 12.12.190.H.9 on 11/2/2022

Amended by Ord. [315-22](#) Amends MCC 12.12.190.A and 12.12.190.B on 1/4/2023