Section 10.10. Adult Use Cannabis Establishments.

10.10.01 **Purpose.** The purpose of this section is to regulate the time, place and manner of cannabis establishments. The zoning will serve to preserve the character of the community and create a place for the public to responsibly have access to legal cannabis while mitigating community impact. This ordinance should serve as a guide that will support the public’s right to access legal cannabis, protect the public health, safety, and well-being and expand new growth for the tax base.

10.10.02 **Scope.** This section 10.10 relates only to Cannabis Establishments authorized by General Laws, 94G, and not to medical cannabis treatment centers authorized by General Laws, 94I; the location and operation of which is governed locally by Section 10.9 of these ordinances, nor to cannabis-related businesses not required to be licensed by 94G, except as otherwise provided for herein.

10.10.03 **Definitions.**

For the purpose of this section the word cannabis is used in place of marijuana as found in General Laws, 94G, and 935 CMR 500, except where any potential conflict in terms appears the state regulations and purpose shall prevail.

**Adult on-site cannabis social consumption operator:** Means a Cannabis Retailer licensed to purchase cannabis and cannabis products from a cannabis establishment and to sell cannabis and cannabis products on its premises only to consumers or allow consumers to consume cannabis and cannabis products on its premises only. Note this term is not defined in 935 CMR 500.

**Cannabis Cultivation:** Means the use of land and/or buildings for planting, tending, improving, harvesting, processing and packaging, the preparation and maintenance of soil and other media and promoting the growth of cannabis by a cannabis cultivator, micro-business, research facility, craft marijuana cultivator cooperative, registered marijuana dispensary or other entity licensed by the Commission for cannabis cultivation. Such use is not agriculturally exempt from zoning. Note this term is not defined in 935 CMR 500.

**Cannabis Cultivator:** Means an entity licensed to cultivate, process and package cannabis, to transfer cannabis to other Cannabis Establishments, but not to consumers. A Craft Cannabis Cooperative is a type of Cannabis Cultivator.

**Cannabis Establishment:** Means a Cannabis Cultivator, Craft Marijuana Cooperative, Cannabis Product Manufacturer, Cannabis Retailer, Independent Testing Laboratory, Cannabis Research Facility, Cannabis Transporter, Cannabis Membership Club, or any other type of licensed cannabis-related business, except a medical marijuana treatment center.

**Cannabis Membership Club:** Means an organization, club, lodge, other private grounds (non-profit and private) allowing on-site consumption of cannabis or marijuana products, but not operating as a licensed marijuana social consumption operator or where no sales occurs. Note this term is not defined in 935 CMR 500.

**Cannabis Products:** Means cannabis or marijuana and its products unless otherwise indicated. These include products that have been manufactured and contain cannabis or an extract from cannabis or marijuana or an extract from cannabis or 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.

**Cannabis Product Manufacturer:** Means an entity licensed to obtain, manufacture, process and package cannabis or marijuana products and to transfer these products to other Cannabis Establishments, but not to consumers.
Cannabis Retailer: Means an entity licensed to purchase and transfer cannabis or marijuana product from Cannabis Establishments and to sell or otherwise transfer this product to Cannabis Establishments and to consumers. Retailers are prohibited from delivering cannabis or marijuana products to consumers; and from offering cannabis or marijuana products for the purposes of onsite social consumption on the premises of a Cannabis Establishment.

Cannabis Transporter: Means an entity, not otherwise licensed by the Commission, that is licensed to purchase, obtain, and possess cannabis or marijuana product solely for the purpose of transporting, temporary storage, sale and distribution to Cannabis Establishments, but not to consumers. Cannabis Transporters may be an Existing Licensee Transporter or Third Party Transporter.

Commission: Means the Massachusetts Cannabis Control Commission established by c. 10, § 76, or its designee. The Commission has authority to implement the state marijuana laws, which include, but are not limited to, St. 2016, c. 334 as amended by St. 2017, c.55, c. 94G, and 935 CMR 500.000.

Community Host Agreement: Means an agreement, pursuant to General Laws, 94G, Section 3(d), between a Cannabis Establishment and a municipality setting forth additional conditions for the operation of a Cannabis Establishment, including stipulations of responsibility between the parties and up to a 3% host agreement revenue sharing. Note this term is not defined in 935 CMR 500.

Craft Cannabis Cooperative: Means a Cannabis Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, process, package and brand cannabis or marijuana products to transport marijuana to Cannabis Establishments, but not to consumers.

Easthampton Equity Applicant: Means an entity meeting at least one of the following criteria:

a. Qualification as an Economic Empowerment Applicant, as defined by 935 CMR 500.101(1) (e). For purposes of this Ordinance, an entity may qualify as an Economic Empowerment Applicant by either (1) certification by the Commonwealth of Massachusetts Cannabis Control Commission (CCC), as provided by 935 CMR 500.101(1)(e); or (2) certification by the Planning Board that the entity meets the criteria specified in 935 CMR 500.101(1)(e)(2)(a-f). Any entity seeking certification by the Planning Board as an Economic Empowerment Applicant under this Ordinance shall submit, together with any application for a Special Permit, documentation sufficient, in the discretion of the Planning Board, to establish such status.

b. Social Equity Program participant in the CCC’s Social Equity Program, as established by 935 CMR 500.105(17). Any entity seeking qualification as an Easthampton Equity Applicant under this ordinance shall submit, together with any application for a special permit, documentation of their participation in said Program.

c. Eligibility as a Massachusetts Supplier Diversity Program (SDP) partner, having been duly certified or recognized by the Massachusetts Operational Services Division’s Supplier Diversity Office, VetBiz, or the United States Department of Veterans Affairs as one or more of the following:
   a. Minority Business Enterprise (MBEs)
   b. Women Business Enterprise (WBES)
   c. Service-Disabled Veteran Business Enterprise (SDVOBES)
   d. Veteran Business Enterprise (VBEs)
   e. Lesbian, Gay, Bisexual, and Transgender Business Enterprise (LGBTBEs)
f. Disability-Owned Business Enterprise (DOBEs)

g. Majority of ownership (51% or greater) is held by individuals who have resided in Easthampton for a continuous duration of at least 5 years preceding the entity’s application.

**Hemp Cultivation**: Means the cultivation of hemp. Shall require a Site Plan Approval from the Planning Board and comply with all applicable sections herein, except that the use may be exempt from the licensing requirements of 935 CMR 500. Note this term is not defined in 935 CMR 500.

**Independent Testing Laboratory**: Means a laboratory licensed by the Commission and:

- Accredited to the International Organization for Standardization 17025 (ISO/IEC 17025:2017) by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Cooperation mutual recognition arrangement or that is otherwise approved by the commission;
- Independent financially from any Medical Marijuana Treatment Center (RMD), Marijuana Establishment or licensee for which it conducts a test; and
- Qualified to test cannabis or marijuana in compliance with 935 CMR 500.000.

**Medical Marijuana Treatment Center Registered Marijuana Dispensary (“RMD”)**: Means a not-for-profit entity registered under 105 CMR 725.100: Registration of RMD’s, that acquires, cultivates, possesses, processes (including development of related products such as edible cannabis or marijuana products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing cannabis or marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of cannabis or marijuana for medical use.

**Microbusiness**: Means a co-located Cannabis Establishment that can be either a Tier 1 Marijuana Cultivator or Product Manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Cannabis Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Cannabis Establishments.

**Non-Equity Applicant**: Means any entity not qualifying as an Easthampton Equity Applicant.

**Process or Processing**: Means to harvest, dry, cure, trim and separate parts of the cannabis or marijuana plant by manual or mechanical means, except it shall not include manufacture as defined in 935 CMR 500.002.

**Research Facility**: Means an entity licensed to engage in research projects.

### 10.10.04 Place

10.10.4.1 Cannabis Establishment shall be located within 350 feet of pre-existing public or private school providing education in kindergarten or any of grades 1 through 12, in operation at the time of application for a special permit or site plan approval. Distance shall be measured in a straight line from the nearest point of the property line in question to the nearest point of the property line where the marijuana establishment is or will be located. In any case where the measurement is determined to be in question, the Planning Board may require verification of distances by a Registered Land Surveyor.
10.10.4.2 A Cannabis Establishment is permitted by Special Permit in Highway Business (HB), Downtown Business (DB), Mixed-Use / Mill Industrial (MI) and industrial (I) zoning districts. Refer to Table 5-1, Easthampton Table of Use Regulations. In the Highway Business (HB) and Downtown Business (DB), any Cannabis Establishment other than retail must be located within an existing building(s) and comply with the requirements of Section 10.5 of the Zoning Ordinance.

10.10.4.3 Except in the MI and DB districts, no Cannabis Establishment shall be located within a building containing residential units, including transient housing and group housing.

10.10.4.4 Eight (8) Cannabis Retailer Special Permits shall be allowed. Five (5) of the eight (8) Cannabis Retailer Special Permits will be available to all applicants, regardless of classification. The remaining three (3) Cannabis Retailer Special Permits shall be exclusively available to Easthampton Equity Applicants.

10.10.4.5 For Non-Equity Applicants, Special Permit applications shall be considered in the order in which the Planning Department receives a completed Special Permit application and confirmation that a completed license application has been received by the Commission. For Easthampton Equity Applicants, Special Permit applications will be considered in the order in which the Planning Department receives a completed Special Permit application, which Special Permit Application may occur prior to any application to the Commission. Easthampton Equity Applicants applying for a non-equity special permit will also be considered in the order in which the Planning Department receives a completed Special Permit application.

Special Permit applications by an Easthampton Equity Applicant shall include a cover letter detailing (a) the category under which they are applying, (b) a summary of how the applicant(s) meet the criteria, and (c) appropriate accompanying documentation to demonstrate how the applicant(s) meet the criteria for equity application. Ownership documentation shall include the information required by the Commission pursuant to 935 CMR 500.104 (1) (b). The Planning Board may require additional information be submitted as part of the application process.

10.10.4.6 If the City Council amends this Ordinance such that additional Cannabis Retail Special Permits are authorized, those additional Special Permits must be made available in such a way that no Non-Equity Special Permits are available, until such time as the number of Easthampton Equity Special Permits available equals the number of Non-Equity Cannabis Retail Special Permits available. This process may also occur by reapportioning surrendered non-equity special permits. Thereafter, no additional Cannabis Retail Special Permits shall be made available to Non-Equity Applicants unless a corresponding number of Special Permits are made available to Easthampton Equity Applicants.

10.10.4.7 No Cannabis Retailer shall be located within 200 feet of another Cannabis Retailer, except within the MI zoning district. Distance shall be measured by a straight line from the nearest point of the property line of the existing Cannabis Retailer to the nearest point of the property line where the Cannabis Retailer is or will be located. In any case, where the measurement is determined to be in question, the Planning Board may require verification of distances by a Registered Land Surveyor.

10.10.4.8 No Cannabis Establishment shall be permitted to operate from a moveable, mobile or transitory location.
10.10.5  **Time and Manner**

10.10.5.1  No cannabis shall be smoked, eaten or otherwise consumed or ingested on the premises, except as may be allowed in a Cannabis Membership Club. All Cannabis Establishments permitted under this section shall comply with all state and local laws, rules and regulations governing the smoking of tobacco.

10.10.5.2  **Odor:** No Cannabis Establishment shall allow the escape of noxious odors or gases. They shall incorporate odor control technology and provisions, and ensure that emission do not violate 111, Section 31 C.

10.10.5.3  **Signage:** All signage shall comply with the requirements of 935 CMR 500, and Section 10.0 of this zoning ordinance.

10.10.5.4  **Hours:** Cannabis Retailers shall be open to the public no earlier than 10:00 AM and no later than 11:00 PM.

10.10.5.5  **Visual Impact:** Cannabis plants, products, and paraphernalia shall not be visible from outside the building in which the Cannabis Establishment is located and shall comply with the requirements of 935 CMR 500. No outside storage is permitted. Any artificial screening device erected to eliminate the view from the public way shall also be subject to a vegetative screen and the Planning Board shall consider the surrounding landscape and view shed to determine if an artificial screen would be out of character with the neighborhood.

10.10.5.6  **Nuisance:** Cannabis Establishment create nuisance conditions in parking areas, sidewalks, streets and areas surrounding the premises and adjacent properties. “Nuisance” includes, but is not limited to, disturbances of the peace, public consumption of cannabis, excessive pedestrian or vehicular traffic, illegal drug activity under State or local law, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises, excessive citation for violations of State or local traffic laws and regulations, queuing of patrons (vehicular or pedestrian) in or other obstructions of the public or private way (sidewalks and streets).

10.10.5.7  **Home Occupation:** Cannabis Establishments are not permitted as a Home Occupation, as defined in Section 10.4 in the Easthampton Zoning Ordinance.

10.10.5.8  **Security:** Every application for a Special Permit for the operation of a Cannabis Establishment shall include a security plan describing all security measures. This should include site security, security for the transportation of cannabis and cannabis products. Safety plans should mitigate any potential harm to the employees and the public including ensuring all customers are at least 21 years of age.

10.10.6  **Adult On-Site Social Consumption.** Intentionally blank. Reserved for future use.

10.10.7  **Other**

10.10.7.1  **Community Host Agreement:** No Special Permit shall be granted without the applicant having first executed Community Host Agreement with the City of Easthampton.

10.10.7.2  **Community Outreach Meeting:** No Special Permit application shall be deemed complete by the Planning Department until a Community Outreach Meeting in accordance with 935 CMR 500 has occurred.

10.10.7.3  **State Law:** Cannabis Establishment operations shall conform at all times to General Laws, c. 94G, and regulations issued thereunder.
10.10.7.4  License requirements:

10.10.7.4.1 For any Non-Equity Applicant, the applicant shall submit proof that applicant’s application to the Commission has been deemed complete pursuant to 935 CMR 500.102. Copies of the complete application, to the extent allowed by law, shall be provided as integral component of the application to the Planning Board and no Special Permit application shall be deemed complete by the Planning Department until such information is provided.

10.10.7.4.2 An Easthampton Equity Applicant, may apply for and be granted a Special Permit from the Planning Board prior to having submitted an application to the Commission. No Special Permit shall be granted by the Planning Board to a non-equity applicant without the Cannabis Establishment first having been issued a Provisional License from the Commission pursuant to 935 CMR 500.

10.10.7.4.3 Any Special Permit granted to an Easthampton Equity Applicant shall lapse if the applicant has not submitted a completed application for a retail license to the Commission within one year of the filing of the Special Permit with the City Planner. Any requests for renewals or extensions of a Special Permit must be submitted to the Planning Board prior to the expiration date of the Special Permit, together with a written explanation of the entity’s failure to submit a completed application to the Commission. Renewals or extensions shall be granted or denied on a discretionary basis. Any Special Permit granted to an Easthampton Equity Applicant shall lapse if the Commission, upon the applicant’s timely submission of a completed application, does not issue a provisional retail license as provided by 935 CMR 500.102.

10.10.7.4.4 An Easthampton Equity Special Permit shall lapse upon any change in the ownership or control of holder of an Easthampton Equity Special Permit. The new owner shall provide proof of meeting equity criteria for new special permit application as outlined in section 10.10.4.6. And must submit a new special permit application to the planning board.

10.10.7.4.5 Except as otherwise provided herein, no Special Permit shall be granted by the Planning Board without the Cannabis Establishment first having been issued a Provisional License from the Commission pursuant to 935 CMR 500.

10.10.7.4.6 No person shall operate a Cannabis Establishment without having a license in good standing from the Commission.

10.10.7.5 Energy Use: All Cannabis Cultivators shall submit an energy use plan to the Planning Board to demonstrate best practices for energy conservation. The energy use plan shall include an electrical system overview, proposed energy demand, ventilation system and air quality, proposed water system and utility demand.

10.10.7.6 Line Queue Plan: Any application shall contain a line queue plan to ensure that the movement of pedestrian and/or vehicular traffic along the public right of ways will not be unreasonably obstructed.

10.10.7.7 Traffic Impact Statement: Any Cannabis Establishment open to the general public shall submit a detailed Traffic Impact Statement in accordance with Section 7.4104 of this Ordinance.

10.10.7.8 Parking: Parking shall be in accordance with Section 10.1 (off-street parking and loading regulations) and Table 10.3 (off-street parking regulations).
10.10.7.9  **Permitting:** The Planning Board shall be the Special Permit Granting Authority. The application requirements and procedures shall be conducted pursuant to Section 12.7, Special Permits of the Easthampton Zoning Ordinance.

10.10.7.10  **Waivers:** The applicant shall be required to submit specific information regarding any waivers from 935 CMR 500.000 granted by the Commission. The Planning Board shall approve or disapprove said waivers based on the following Commission criteria in 935.CMR.500:

10.10.7.10.1  Compliance would cause undue hardship to the requestor;
10.10.7.10.2  If applicable, the requestor’s non-compliance does not jeopardize the health or safety of any patient or the public;
10.10.7.10.3  If applicable, the requestor has instituted compensating features that are acceptable to the planning board; and
10.10.7.10.4  The requestor provides to the Planning Board written documentation, in a form and manner determined by the planning board, supporting its request for a waiver.

10.10.7.11  **Hemp:** The cultivation of industrial hemp, as same is regulated by the Massachusetts Department of Agricultural Resources pursuant to General Laws, Chapter 128, Sections 116-123, shall require a Site Plan Approval from the Planning Board and comply with all applicable sections herein, except that the use may be exempt from the licensing requirements of 935 CMR 500. Use of land or buildings for hemp processing and/or product manufacture shall be subject to such zoning controls as apply to other (non-cannabis) processing and product manufacture operations.

10.10.7.12  **Notice of Enforcement Order:** Within twenty-four (24) hours of receipt of notice of it, a Cannabis Establishment shall file with the Mayor, Health Agent and the Building Commissioner any summary cease and desist order, cease and desist order, quarantine order, suspension order, revocation order, order limiting sales, deficiency statement, plan of correction, notice of a hearing, notice of any other administrative process or legal action, denial of a license, denial of a renewal of a license, or final action issued by a state agency (including, but not limited to, the Commission and Massachusetts Department of Public Health) regarding the Cannabis Establishment, the Cannabis Control Commission license, or the Department of Public Health Certificate of Registration.

10.10.7.13  **Annual Inspection:** Any operating Cannabis Establishment within the City shall be inspected annually by the Building Inspector, or their designee(s), to ensure compliance with this Section and with any conditions imposed by the Planning Board as a condition of the Special Permit approval.

10.10.8  **Severability:** If any provision of this Section 10.10 is found to be invalid by a court of competent jurisdiction, the remainder of this Section 10.10 shall not be affected but shall remain in full force. The invalidity of any provision of this Section 10.10 shall not affect the validity of the remainder of this zoning ordinance.