

**ORDINANCE OF THE
TOWN OF MIDDLETOWN, RHODE ISLAND**

**AN ORDINANCE AMENDING THE TOWN CODE OF THE
TOWN OF MIDDLETOWN**

TITLE XV: LAND USE

NOW THEREFORE, BE IT ORDAINED AS FOLLOWS:

FIRST: The Town Code, Chapter 152, entitled “Zoning Code”, Article 7, is amended by adding the following new Section 727:

Section 727 Marijuana Related Uses

Section

- 727 (A) Legislative Findings and Intent
- 727 (B) Definitions
- 727 (C) Collection Box Permit
- 727 (D) Application for a Permit
- 727 (E) Requirements for a Permit
- 727 (F) Term of Permit and Renewal of Permit
- 727 (G) Revocation of Permit, Removal of Collection Boxes and Liability
- 727 (H) Appeals
- 727 (I) Penalty and Remedies

A. Legislative Findings and Intent.

(1) The Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act, R.I.G.L. § 21-28.6-1 et seq., has been enacted by the Rhode Island General Assembly (the “Act”)

(2) The Act provides that the growing of medical marijuana by duly licensed patients and caregivers is permitted in all zoning districts, and that two (2) or more qualifying “Cardholders” may cooperatively cultivate marijuana in residential or non-residential locations.

(3) The Act further provides for the licensing of “Compassion Centers” that act as dispensaries for the cultivation, manufacture, delivery, and sale of medical marijuana to licensed patients and caregivers.

(4) Duly licensed patients are not persons with a disability as defined in the Americans with Disabilities Act U.S. Code § 12101 ("ADA"), and are not entitled to protection under the ADA.

(5) It is anticipated that the Rhode Island General Assembly may ultimately enact legislation legalizing the recreational use of marijuana. Recreational use of marijuana is a matter of personal choice, as with any other recreational drug such as alcohol and nicotine, and the Town of Middletown considers the protection of the public's health, safety, and general welfare of paramount concern in regulating this use. The Town of Middletown wishes to be prepared for such an eventuality by adopting zoning ordinance amendments to address the issues posed by recreational uses.

(6) The Town of Middletown recognizes the needs of patients requiring care through the use of medical marijuana consistent with the health, safety, and general welfare of the community at large, but must balance those needs with the reality that the cultivation of marijuana without the proper inspections and permits, or compliance with applicable Fire and Building codes, threatens the public's health, safety, and general welfare.

(7) Ensuring that marijuana-related businesses are located and operated in a manner that minimizes any adverse impacts thereof is necessary to protect the public health, safety, and general welfare of all residents and visitors.

(8) Marijuana-related businesses, including cultivation facilities, manufacturing facilities, testing facilities, compassion centers, and retail marijuana stores, have serious adverse secondary impacts. These secondary impacts, which pose a threat to the public's health, safety, and general welfare, include increased crime, illegal sales of marijuana to and use of marijuana by minors and others without medical need, the use of marijuana in public areas, and adverse impacts on neighboring businesses and properties, including odor complaints, traffic, and decreased property values.

(9) The Town Council finds and determines, after careful consideration and evaluation of the potential adverse secondary impacts associated with Marijuana-Related Businesses, including compassion centers, and retail marijuana stores, that such land uses adversely affect the public health, safety, and welfare of the Town and its inhabitants. The Town Council therefore finds and determines that no suitable location exists within the Town for these particular Marijuana-Related Businesses.

(10) Ensuring that facilities used for the cultivation and testing of medical marijuana are properly inspected, permitted, and in compliance with applicable Fire and Building codes, is necessary to protect the public health, safety, and welfare of all Town residents and visitors.

(11) The Town Council intends, by the enactment of this ordinance, to protect the health, safety, and welfare of all residents and visitors by ensuring that facilities used for the cultivation and testing of medical marijuana in Town are properly inspected, permitted, and in compliance with applicable Fire and Building codes.

B. Definitions.

As used in this section, the following terms shall have the meanings indicated:

CARDHOLDER means a person who has been registered or licensed with DOH or DBR pursuant to the Act and possesses a valid registry identification card or license as further defined in 230-RICR-80-05-1 § 1.1.1.A.7.

CAREGIVER CULTIVATION means marijuana cultivation for medical use only by a single registered caregiver cardholder, as defined in R.I.G.L. § 21-28.6-1 et. seq.

COMPASSION CENTER means, as defined in R.I.G.L. § 21-28.6-3, a not-for-profit entity registered under R.I.G.L. § 21-28.6-12 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies or dispenses marijuana, and or related supplies and education materials, to patient cardholders or their registered caregiver, cardholder or authorized purchaser.

MARIJUANA CULTIVATION CENTER means any entity that, under state law, may acquire, possess, cultivate, manufacture, deliver, transfer, transport, or supply marijuana, medical or otherwise, to a registered compassion center, or other entity authorized to dispense marijuana.

MARIJUANA EMPORIUM means any establishment, facility or club, whether operated for-profit or nonprofit, or any commercial unit, at which the sale, distribution, transfer, or use of marijuana, medical or otherwise, takes place. This shall include without limitation any so-called "vape lounge," "vapor lounge," or any other establishment at which marijuana, medical or otherwise, is consumed in any form. This shall not include a Compassion Center or Marijuana Cultivation Center regulated and licensed by the State of Rhode Island, as defined herein.

MARIJUANA-RELATED BUSINESS means a Compassion Center, Marijuana Cultivation Center, Marijuana Emporium, Marijuana Store, or Marijuana Testing Provider, as defined herein.

MARIJUANA-RELATED USE means a Compassion Center, Marijuana Cultivation Center, Marijuana Emporium, Marijuana Store, Marijuana Testing Provider, Caregiver Cultivation, Patient Cultivation, Residential Cooperative Cultivation, or Nonresidential Cooperative Cultivation as defined herein.

MARIJUANA STORE means any retail establishment at which the sale or use of marijuana, medical or otherwise, takes place. This shall not include a Compassion Center regulated and licensed by the State of Rhode Island, as defined herein.

MARIJUANA TESTING PROVIDER means any entity that, under state law, may perform independent testing of marijuana or marijuana products, medical or otherwise.

NONRESIDENTIAL COOPERATIVE CULTIVATION means two or more cardholders who cooperatively cultivate medical marijuana in indoor, nonresidential locations, subject to the restrictions set forth in R.I.G.L. § 21-28.6-14 and this section.

PATIENT CULTIVATION means indoor marijuana cultivation by a single registered patient cardholder for medical use only, as defined in R.I.G.L. § 21-28.6-1 et. seq.

RESIDENTIAL COOPERATIVE CULTIVATION means two or more cardholders who cooperatively cultivate medical marijuana in indoor, residential locations, subject to the restrictions set forth in R.I.G.L. §21-28.6-14 and this section.

C. Use regulations; special use permit required.

(1) Compassion Centers, Marijuana Emporiums, and Marijuana stores are prohibited in all zoning districts.

(2) Marijuana Cultivation Centers are permitted in the Light Industrial and Light Industrial Traffic Sensitive zoning districts, upon the grant of a special use permit.

(3) Marijuana Testing Providers are permitted in the Office Park zoning district upon the grant of a special use permit.

(4) A special permit for a Marijuana Cultivation Center or a Marijuana Testing Provider may be granted if all the following standards have been met:

(a) Application.

- (1) Submission of a complete application for a special use permit pursuant to this section with the legal name and address of the Marijuana Cultivation Center or Marijuana Testing Provider; a copy of the articles of incorporation or organization of the Marijuana Cultivation Center or Marijuana Testing Provider; and the name, address, and date of birth of each principal officer and board member of the Marijuana Cultivation Center or Marijuana Testing Provider.
- (2) A site plan depicting all existing and proposed buildings, parking spaces, driveways, service areas, and other existing uses. The site plan shall show the distances between the proposed use and the boundary of the nearest residential zoning district and the property line of all other abutting uses. The site plan submitted shall identify all lighting on the property and demonstrate that all lighting will comply with the standards set forth below.

(b) Findings.

- (1) That the requested use at the proposed location will not adversely affect the health, safety, or general welfare of the neighborhood or Town of Middletown;
- (2) That the requested use at the proposed location will not adversely affect the use of any property used for school, public or private, park, playground, play field, youth center, licensed day-care center, or other location where groups of minors regularly congregate;
- (3) That the requested use at the proposed location incorporates buffers that fully protect nearby residential uses from any adverse impact; and
- (4) That the exterior appearance of the structure and grounds shall comply with the Commercial Development Design Standards contained in Article 5 of

the Rules and Regulations Regarding the Subdivision and Development of Land, as applicable.

(c) Location.

- (1) Any structure containing Marijuana Cultivation Centers shall not be located within:
 - a. One hundred feet (100') of the nearest residential zoning district or the lot line of a residential use within a nonresidential zoning district; or
 - b. Two hundred feet (200') of the nearest house of worship, park, playground, play field, youth center, licensed day-care center, or other location where groups of minors regularly congregate;
 - c. One thousand feet (1,000') of the nearest school, public or private;
- (2) Any structure containing Marijuana Testing Providers shall not be located within:
 - a. One hundred feet (100') of the nearest residential zoning district or the lot line of a residential use within a nonresidential zoning district; or
 - b. Two hundred feet (200') of the nearest house of worship, school, public or private, park, playground, play field, youth center, licensed day-care center, or other location where groups of minors regularly congregate;
- (3) The distances specified above shall be measured by a straight line from the nearest property line of a residential zoning district or a residential use within a nonresidential zoning district to the structure in which a Marijuana Cultivation Center or Marijuana Testing Provider is to be located.

(d) Lighting.

- (1) Lighting shall adequately illuminate a Marijuana Cultivation Center and a Marijuana Testing Provider, their immediate surrounding area, any accessory uses, including storage areas, parking lots, the facility's front facade, and any adjoining public sidewalk.
- (2) No portion of the site shall be illuminated between the hours of 10:00 p.m. and 8:00 a.m. by lighting that is visible from the exterior of the facility, except such lighting as is reasonably utilized for security. Lighting necessary for security shall consist solely of motion-sensor lights and avoid adverse impacts on properties surrounding the lot on which the facility is located. All exterior light sources shall comply with the International Dark Sky Association. Perimeter fencing shall be surrounded with lights capable of illuminating all sides of the fence for at least 20 feet from the fence. Such lights must be motion sensing for use during restricted hours.

- (3) All exterior lighting should be fully shielded, directed downward and hooded so as not to cast light off the property onto neighboring properties or skyward

(e) Security.

- (1) A Marijuana Cultivation Center and a Marijuana Testing Provider shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and shall insure that each location has an operational security alarm system.
- (2) A Marijuana Cultivation Center and a Marijuana Testing Provider shall have a digital video surveillance system with a minimum camera resolution of 1280x720 pixels (HD ready or standard HD). Cameras shall record continuously 24 hours per day and at a minimum of 15 frames per second (FPS). The physical media or storage device on which surveillance recordings are stored shall be secured in a manner to protect the recording from tampering or theft. Surveillance recordings shall be kept for a minimum of 90 days. The video surveillance system shall always be able to effectively and clearly record images of the area under surveillance. Each camera shall be permanently mounted and in a fixed location. Each camera shall be placed in a location that allows the camera to clearly record activity occurring within 20-feet of all points of entry and exits at a Marijuana Cultivation Center and Marijuana Testing Provider, and assure the clear and certain identification of any person and activities in all areas required to be filmed. Areas that shall be recorded on the video surveillance system include, but are not limited to, the following:
 - a. Areas where marijuana goods are weighed, packed, stored, loaded and unloaded for transportation, prepared, or moved within a Marijuana Cultivation Center and a Marijuana Testing Provider;
 - b. Limited-access areas;
 - c. Security rooms;
 - d. Areas storing a surveillance-system storage device with at least one camera recording the access points to the secured surveillance recording area; and
 - e. Entrances and exits to a Marijuana Cultivation Center and a Marijuana Testing Provider, which shall be recorded from both indoor and outdoor vantage points.
- (3) All exterior portions of a Marijuana Cultivation Center and a Marijuana Testing Provider shall be adequately illuminated as to make discernible the faces and clothing of persons utilizing the space.
- (4) Exterior mounted devices at Marijuana Cultivation Center and a Marijuana Testing Provider are prohibited, including security bars, grates, grills, barricades, and similar devices. The use of wrought iron spears and barbed wire (concertina and straight) are also prohibited.

- (5) A Marijuana Cultivation Center and a Marijuana Testing Provider shall ensure that the limited-access areas can be securely locked using commercial-grade, nonresidential door locks in accordance with the approved security plan. A Marijuana Cultivation Center and a Marijuana Testing Provider shall also use commercial-grade, nonresidential locks on all points of entry and exit to the Marijuana Cultivation Center and a Marijuana Testing Provider in accordance with its approved security plan, which plan shall be included with the application for a special permit.
- (6) A Marijuana Cultivation Center and a Marijuana Testing Provider shall maintain an alarm system in accordance with its approved security plan, which plan shall be included with the application for a special permit.
- (7) A Marijuana Cultivation Center and a Marijuana Testing Provider shall only permit authorized individuals to enter the limited access areas of their facility. Authorized individuals include individuals employed by the Marijuana Cultivation Center or a Marijuana Testing Provider as well as any outside vendors, contractors, labor representatives, or other individuals who have a bona fide business reason for entering the limited-access area. An individual who is not an authorized individual for purposes of entering the limited-access areas shall not enter the limited-access area at any time for any reason. An individual in the limited-access area who is not employed by the Marijuana Cultivation Center or a Marijuana Testing Provider shall be escorted by individuals employed by the Marijuana Cultivation Center or the Marijuana Testing Provider at all times within the limited-access area. An individual who enters the limited-access areas shall be at least 21 years of age. A Marijuana Cultivation Center and a Marijuana Testing Provider shall maintain a log of all authorized individuals that enter the limited-access area and are not employees. A Marijuana Cultivation Center and a Marijuana Testing Provider shall not receive consideration or compensation for permitting an individual to enter the limited-access area.
- (f) Odor.
- (1) A Marijuana Cultivation Center and a Marijuana Testing Provider shall be properly ventilated and the exhaust air filtered to neutralize the odor from marijuana so that the odor cannot be detected by a person with a normal sense of smell at the exterior of the Marijuana Cultivation Center and a Marijuana Testing Provider or on any adjoining property. No operable windows or exhaust vents shall be located on the building facade that abuts a residential use or zone. Exhaust vents on rooftops shall direct exhaust away from residential uses or zones.
- (2) A Marijuana Cultivation Center and a Marijuana Testing Provider shall have an Odor Control Plan including:
- a. Facility Information
 - i. Name of facility
 - ii. Name, phone number, and email of facility owner

- iii. Name, phone number, and email of facility operator or licensee, and any authorized designees
- iv. Facility physical address
- v. Facility mailing address (if different from physical address) f. Facility type
- vi. Facility hours of operation
- vii. Description of facility operations
- viii. Emergency contact information
- ix. Business license application number(s) and/or business file number(s) (if applicable)
- x. Air permit and permit number (if applicable)

b. Facility Odor Emissions Information

- i. Facility floor plan with a facility floor plan, with locations of odor-emitting activities and emissions specified. Relevant information may include, but is not limited to, the location of doors, windows, ventilation systems, and odor sources. If the owner or operator of a Marijuana Cultivation Center and a Marijuana Testing Provider believes that certain information contained in its odor control plan is confidential, it should clearly mark all information as such.
- ii. Description of the odor-emitting activities or processes that take place at the facility, including the sources of those odors, and the locations from which they are emitted, and phases of odor-emitting activities, with the times at which odors may be most prevalent.

c. Odor Mitigation Practices

- i. For each odor-emitting source/process of the Odor Control Plan, specify the administrative and engineering controls the facility implements or will implement to control odors, including, but not limited to:

1. Administrative Controls

- a. Procedural activities such as building management responsibilities in isolating odor-emitting activities from other areas of the buildings through closing doors and windows.
- b. Staff training procedures describing the organizational responsibilities and the staff members who will be trained about odor control; the specific administrative and engineering activities that the training will encompass; and the frequency, duration, and format of the training.
- c. Recordkeeping systems and forms with a description of the records that will be maintained such as records of purchases of replacement

carbon, performed maintenance tracking, documentation and notification of malfunctions, scheduled and performed training sessions, and monitoring of administrative and engineering controls. Examples of facility recordkeeping forms should be included as appendices to the Odor Control Plan.

2. Engineering Controls

- a. The best control technology for marijuana cultivation facilities is carbon filtration.
- b. Engineering controls shall meet at least one of the following:
 - i. Are consistent with accepted and available industry-specific best control technologies designed to effectively mitigate odors for all odor sources.
 - ii. Have been reviewed and certified by a Professional Engineer or a Certified Industrial Hygienist as sufficient to effectively mitigate odors for all odor sources.
 - iii. Have been approved by the Rhode Island Department of Environmental Management as sufficient to effectively mitigate odors for all odor sources.
- c. Components of engineering controls shall include, but is not limited to, technical system design, a description of technical processes and an equipment maintenance plan.
- d. The system design should describe the odor control technologies that are installed and operational at the facility (e.g., carbon filtration) and to which odor-emitting activities, sources, and locations they are applied (e.g., bud room exhaust; testing room) and describe critical design factors and criteria, with supporting calculations presented as appropriate (e.g., desired air exchanges per hour required to treat odorous air from specific areas, odor capture mechanisms, exhaust flow rates, rates of carbon adsorption consumption).
- e. The operational processes should describe the activities being undertaken to ensure the odor mitigation system remains functional, the frequency with which such activities are performed, and the personnel responsible.
- f. The maintenance plan should describe the maintenance activities that are performed, the frequency with which such activities are performed, and the personnel responsible. The activities

should serve to maintain the odor mitigation systems and optimize performance.

d. Parking.

- i. All uses permitted under this section shall comply with the off-street parking and loading requirements and regulations of this chapter.

D. Patient Cultivation.

Patient Cultivation shall be permitted in all residential, commercial and industrial zoning districts; provided however, that Patient Cultivation shall not be allowed unless all of the following criteria has been met:

(1) Patient Cultivation shall only be allowed at the patient cardholder's primary residence. If the Patient Cardholder does not own the subject property, the owners of the subject property shall provide written acknowledgment and approval of the proposed use, which shall be appropriately notarized prior to review and approval by the Town.

(2) The Patient Cardholder shall apply for the appropriate approvals and inspections by the Fire Chief. The Fire Chief shall approve the application for permits pursuant to R.I.G.L. § 23-28.1 et seq. All permits applied for in furtherance of the Act shall be sealed and kept confidential by the Fire Chief and not subject to review by any party other than the Cardholder pursuant to 230-RICR-80-05-1 § 1.9.4.

(3) The Patient Cardholder shall apply for a zoning certificate, and the Patient Cardholder or a licensed contractor shall apply for all appropriate zoning, building, electrical, mechanical and plumbing permits as required by the Rhode Island State Building Code. The Building Official shall approve the application for permits pursuant to R.I.G.L. § 23-27-3. All permits applied for in furtherance of the Act shall be sealed and kept confidential by the Building Official and are not subject to review by any party other than the Patient Cardholder.

(4) In addition to the requirements above, the Patient Cardholder shall demonstrate to the Building Official that the following requirements have been met:

- (a) That the area used for growing is secured by locked doors;
- (b) That the area used for growing has two means of egress;
- (c) That the area used for growing shall not be within 10 feet of a heating or other ignition source such as an electric, propane, natural gas or oil-fired furnace or heater or as required per manufacturer specifications of such source;
- (d) That the area used for growing shall have proper ventilation to mitigate the risk of mold;
- (e) That the area used for growing shall have carbon filters installed to reduce odors;

- (f) That smoke alarms/detectors are installed in accordance with the State Fire Code and/or to the satisfaction of the Fire Department.

(5) Zoning certificates, Fire Department inspection and/or review, or building/trade permits, are not required for patient cardholders cultivating marijuana by natural means that do not make modifications to existing electrical, mechanical or plumbing services in their place of primary residence in a residential zoning district.

(6) Patient Cultivation possession limits shall be as stated in the Rhode Island General Laws.

(7) The use of butane, propane or other solvents used for the purposes of marijuana extraction shall be strictly prohibited in all districts.

E. Caregiver Cultivation

Caregiver Cultivation shall be permitted in all residential, commercial and industrial zoning districts, but shall not be permitted in any multifamily dwellings of three (3) or more residential units. Additionally, Caregiver Cultivation shall not be allowed unless each of the following criteria has been met:

(1) If the Caregiver Cardholder does not own the subject property, the owner(s) of the subject property shall provide written acknowledgment and approval of the proposed use, which shall be appropriately notarized.

(2) The Caregiver Cardholder shall apply for the appropriate approvals and inspections by the Fire Chief. The Fire Chief shall approve the application for permits pursuant to R.I.G.L. §23-28.1 et seq. All permits applied for in furtherance of the Act shall be sealed and kept confidential by the Fire Chief and are not subject to review by any party other than the cardholder.

(3) The Caregiver Cardholder shall apply for a zoning certificate, and the caregiver cardholder or a licensed contractor shall apply for all appropriate zoning, building, electrical, mechanical and plumbing permits as required by the Rhode Island State Building Code. The Building Official shall approve the application for permits pursuant to R.I.G.L. § 23-27-100.01 et seq. All permits applied for in furtherance of the Act shall be sealed and kept confidential by the Building Official and are not subject to review by any party other than the cardholder pursuant to 230-RICR-80-05-1 § 1.9.4.

(4) In addition to the requirements above, the Caregiver Cardholder shall demonstrate to the Building Official that the following requirements have been met:

- (a) That the area used for growing is secured by locked doors;
- (b) That the area used for growing has two means of egress;
- (c) That the area used for growing shall not be within 10 feet of a heating or other ignition source such as an electric, propane, natural gas or oil-fired furnace or heater or as required per manufacturer specifications of such source;

- (d) That the area used for growing shall have proper ventilation to mitigate the risk of mold;
- (e) That the area used for growing shall have carbon filters installed to reduce odors;
- (f) That smoke alarms/detectors are installed in accordance with the State Fire Code and to the satisfaction of the Fire Chief.

(5) Caregiver Cultivation possession limits shall be as stated in the Rhode Island General Laws.

(6) The use of butane, propane or other solvents used for the purposes of marijuana extraction shall be strictly prohibited in all districts.

F. Residential Cooperative Cultivation.

Residential Cooperative Cultivation, as defined under this section, shall be permitted in all residential zoning districts, but only upon the issuance of a special use permit. Additionally, such special use permit shall not be granted unless each of the following standards have been met:

(1) A property containing a Residential Cooperative Cultivation use shall not be located closer than 500 feet to where any place of religious worship, preschool, elementary or secondary school, day-care/child-care center, athletic field or playground is located.

(2) A Patient Cardholder shall only cooperatively cultivate in one location.

(3) No single location shall have more than one cooperative cultivation. For the purpose of this section, location means one structural building, not units within a structural building.

(4) The cooperative cultivation shall not be visible from the street or other public areas.

(5) A written acknowledgement of the limitation of the right to use and possess marijuana for medical purposes in Rhode Island, that is signed by each cardholder, shall be prominently displayed on the premises.

(6) The property owner shall apply for the appropriate approvals and inspections by the Fire Chief. The Fire Chief shall approve the application for permits pursuant to R.I.G.L. § 23-28.1 et seq. All permits applied for in furtherance of the Act shall be sealed and kept confidential by the Fire Chief and are not subject to review by any party other than the cardholder pursuant to 230-RICR-80-05-1 § 1.9.4.

(7) The property owner shall apply for a zoning certificate, and the Caregiver Cardholder or a licensed contractor shall apply for all appropriate zoning, building, electrical, mechanical and plumbing permits as required by the Rhode Island State Building Code. The Building Official shall approve the application for permits pursuant to R.I.G.L. § 23-27-100.01 et seq. All permits applied for in furtherance of the Act shall be sealed and kept confidential by the Building

Official and are not subject to review by any party other than the cardholder pursuant to 230-RICR-80-05-1 § 1.9.4.

(8) A Residential Cooperative Cultivation must have displayed prominently on the premises an affidavit by a licensed electrician that the cultivation has been inspected and complies with any applicable state laws and Town of Middletown housing and zoning codes.

(9) The location of the Cooperative Cultivation must be reported to the Division of State Police by the applicant for the special use permit.

(10) In addition to the requirements above, the cooperative shall demonstrate to the Building Official that the following requirements have been met:

- (a) That the area used for growing is secured by locked doors;
- (b) That the area used for growing has two means of egress;
- (c) That the area used for growing shall not be within 10 feet of a heating or other ignition source such as an electric, propane, natural gas or oil-fired furnace or heater or as required per manufacturer specifications of such source;
- (d) That the area used for growing shall have proper ventilation to mitigate the risk of mold;
- (e) That the area used for growing shall have carbon filters installed to reduce odors;
- (f) That smoke alarms/detectors are installed in accordance with the State Fire Code and/or to the satisfaction of the Fire Department.

(11) Residential Cooperative Cultivation possession limits shall be as stated in the Rhode Island General Laws.

(12) The use of butane, propane or other solvents used for the purposes of marijuana extraction shall be strictly prohibited in all districts.

G. Nonresidential Cooperative Cultivation.

Nonresidential Cooperative Cultivation shall be prohibited in all zoning districts except the Light Industrial and Light Industrial Traffic Sensitive zoning districts, and only upon the issuance of a special use permit. Additionally, such special use permit shall not be granted unless each of the following standards have been met:

(1) A property containing medical marijuana and cultivated by a Nonresidential Cooperative Cultivation, shall not be located closer than 500 feet to where any place of religious worship, preschool, elementary or secondary school, day-care/child-care center, athletic field or playground is located.

- (2) A Cardholder shall only cooperatively cultivate in one location.
- (3) No single location shall have more than one Cooperative Cultivation. For the purpose of this section, location means one structural building, not units within a structural building.
- (4) Identification of the location of a Nonresidential Cooperative Cultivation location shall be limited to a directional sign only.
- (5) A written acknowledgement of the limitation of the right to use and possess marijuana for medical purposes in Rhode Island, that is signed by each Cardholder, shall be prominently displayed on the premises.
- (6) The property owner shall apply for the appropriate approvals and inspections by the local Fire Chief. The Fire Chief shall approve the application for permits pursuant to R.I.G.L. §23-28.1 et seq. All permits applied for in furtherance of the Act shall be sealed and kept confidential by the Fire Chief and are not subject to review by any party other than the cardholder pursuant to 230-RICR-80-05-1 § 1.9.4.
- (7) The property owner shall apply for a zoning certificate, and the Caregiver Cardholder or a licensed contractor shall apply for all appropriate zoning, building, electrical, mechanical and plumbing permits as required by the Rhode Island State Building Code. The Building Official shall approve the application for permits pursuant to R.I.G.L. § 23-27-100.01 et seq. All permits applied for in furtherance of the Act shall be sealed and kept confidential by the Building Official and are not subject to review by any party other than the cardholder.
- (8) A Nonresidential Cooperative Cultivation must have displayed prominently on the premises documentation from the Town of Middletown that the location and the cultivation has been inspected by the Middletown building and zoning official and the City/Town Fire Chief and is in compliance with any applicable state or municipal housing and zoning codes
- (9) The location of the Cooperative Cultivation must be reported to the Division of State Police by the applicant for the special use permit.
- (10) In addition to the requirements above, the cooperative shall demonstrate to the Building Official that the following requirements have been met:
- (a) That the area used for growing is secured by locked doors;
 - (b) That the area used for growing has two means of egress;
 - (c) That the area used for growing shall not be within 10 feet of a heating or other ignition source such as an electric, propane, natural gas or oil-fired furnace or heater or as required per manufacturer specifications of such source;
 - (d) That the area used for growing shall have proper ventilation to mitigate the risk of mold;

(e) That the area used for growing shall have carbon filters installed to reduce odors;

(f) That smoke alarms/detectors are installed in accordance with the State Fire Code and/or to the satisfaction of the Fire Department.

(11) Nonresidential Cooperative Cultivation possession limits shall be as stated in the Rhode Island General Laws.

(12) The use of butane, propane or other solvents used for the purposes of marijuana extraction shall be strictly prohibited in all districts.

H. Enforcement.

(1) All unpermitted preexisting cultivation shall be required to comply with this section.

(2) No use permitted under this section shall be allowed a freestanding accessory sign.

(3) All uses permitted under this section shall comply fully with all licensing requirements of the Town of Middletown and laws of the State of Rhode Island.

(5) Any person or organization found to be in violation of this section shall be subject to penalties set forth in Section 316 of this Chapter.

SECOND: Section 602 - Schedule of District Regulations - Uses and Districts is amended by adding uses to the use table as follows:

ZONING DISTRICTS	R-60	R-40	R-30	R-20	R-10	RM	GB	LB	OB	LI	OP	OS	P	MT
* * *														
Compassion Center	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Marijuana Emporium	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Marijuana Store	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Marijuana Cultivation Center	N	N	N	N	N	N	N	N	N	S	N	N	N	N
Non-Residential Cooperative Cultivation	N	N	N	N	N	N	N	N	N	S	N	N	N	N
Residential Cooperative Cultivation	S	S	S	S	S	S	N	N	N	N	N	N	N	S
Patient Cultivation	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y
Caregiver Cultivation	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y
Marijuana Testing Provider	N	N	N	N	N	N	N	N	N	N	S	N	N	N

THIRD: This ordinance shall take effect upon adoption and its provisions shall supersede any inconsistent or contrary provision in any other ordinance.

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DRAFT

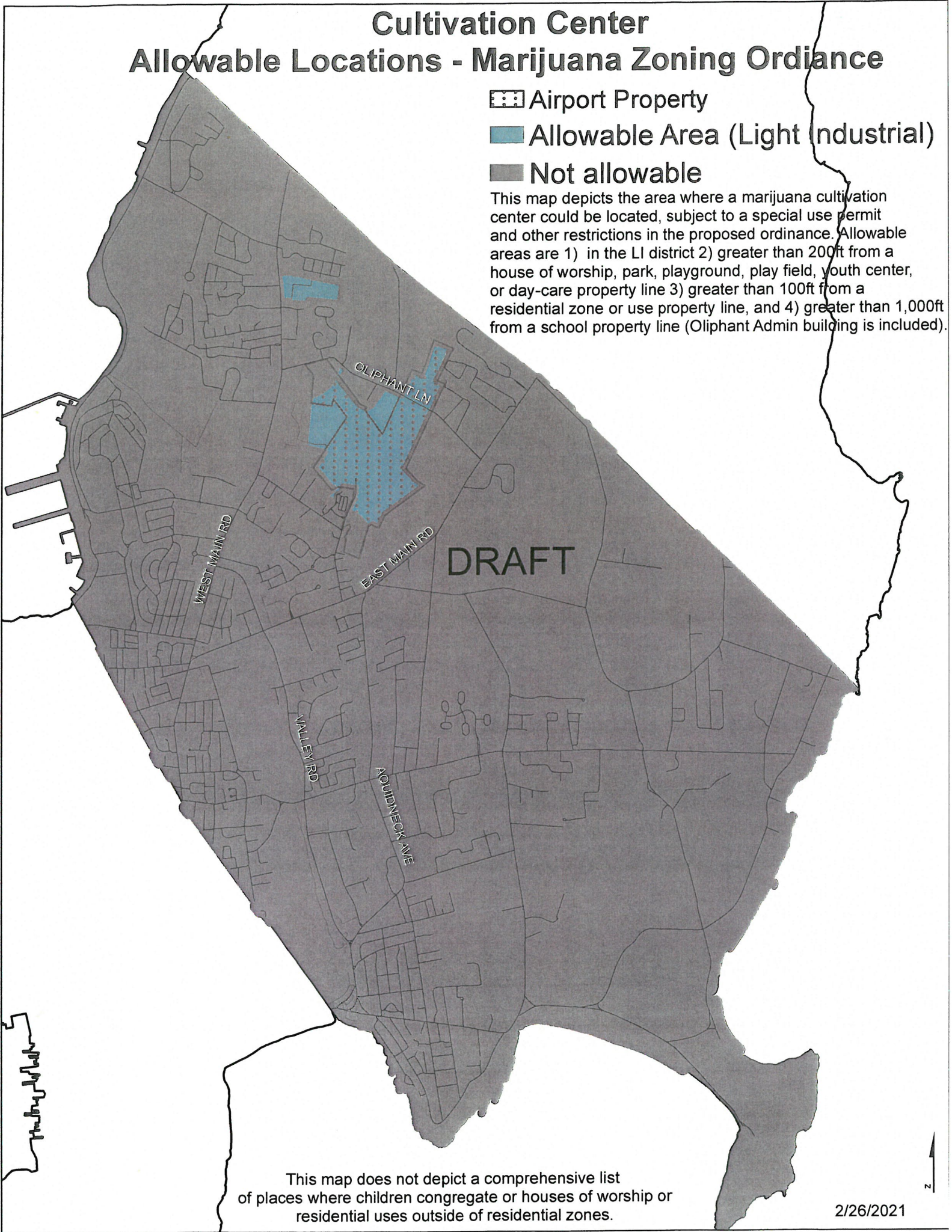
Cultivation Center Allowable Locations - Marijuana Zoning Ordinance

 Airport Property

 Allowable Area (Light Industrial)

 Not allowable

This map depicts the area where a marijuana cultivation center could be located, subject to a special use permit and other restrictions in the proposed ordinance. Allowable areas are 1) in the LI district 2) greater than 200ft from a house of worship, park, playground, play field, youth center, or day-care property line 3) greater than 100ft from a residential zone or use property line, and 4) greater than 1,000ft from a school property line (Oliphant Admin building is included).



This map does not depict a comprehensive list of places where children congregate or houses of worship or residential uses outside of residential zones.

2/26/2021



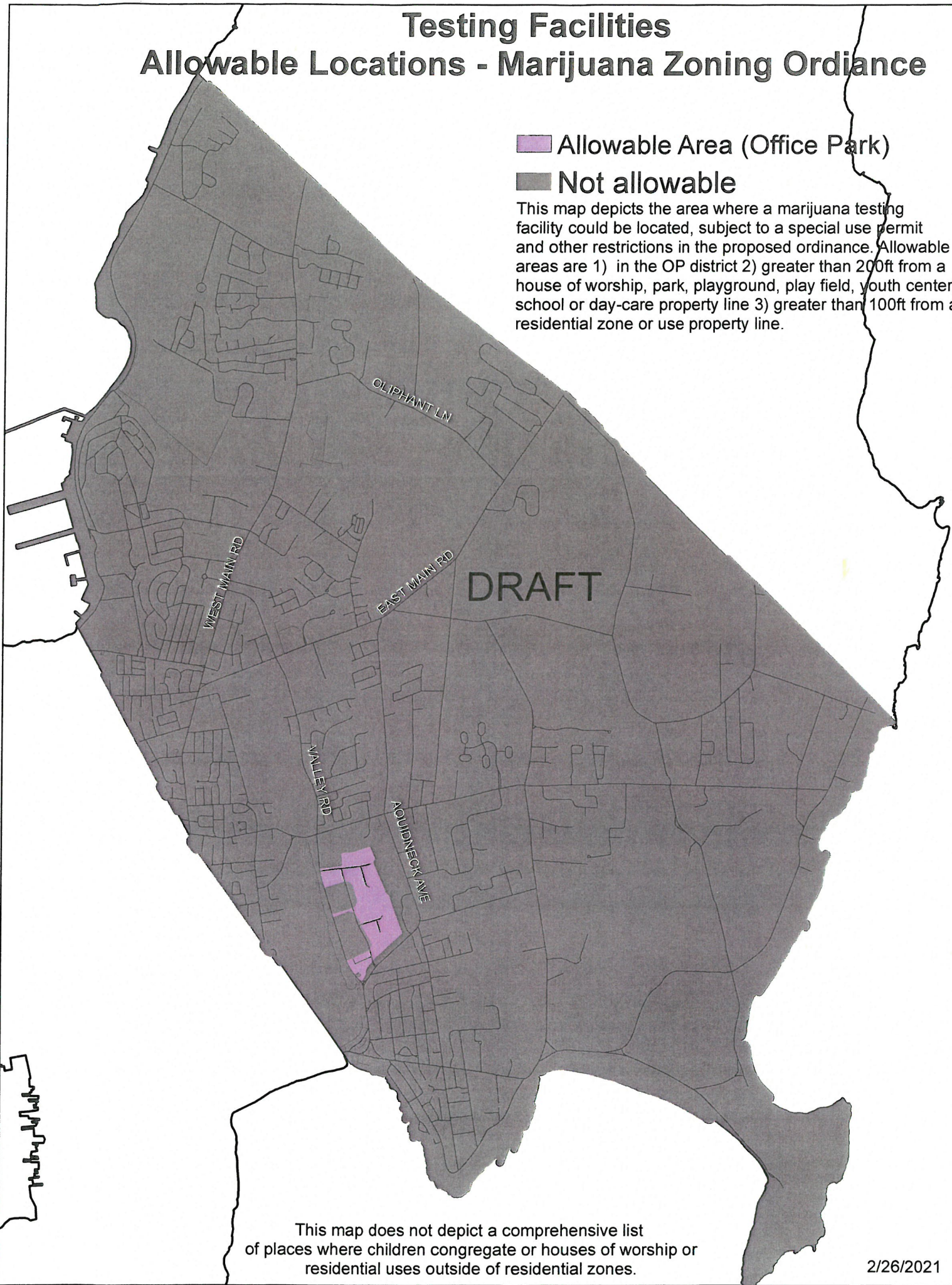
Testing Facilities

Allowable Locations - Marijuana Zoning Ordinance

 Allowable Area (Office Park)

 Not allowable

This map depicts the area where a marijuana testing facility could be located, subject to a special use permit and other restrictions in the proposed ordinance. Allowable areas are 1) in the OP district 2) greater than 200ft from a house of worship, park, playground, play field, youth center, school or day-care property line 3) greater than 100ft from a residential zone or use property line.






This map does not depict a comprehensive list of places where children congregate or houses of worship or residential uses outside of residential zones.

2/26/2021

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Testing Facilities

Allowable Locations - Marijuana Zoning Ordinance

-  Buildings
-  Allowable Area (Office Park)
-  Not allowable

This map depicts the area where a marijuana testing facility could be located, subject to a special use permit and other restrictions in the proposed ordinance. Allowable areas are 1) in the OP district 2) greater than 200ft from a house of worship, park, playground, play field, youth center, school or day-care property line 3) greater than 100ft from a residential zone or use property line.

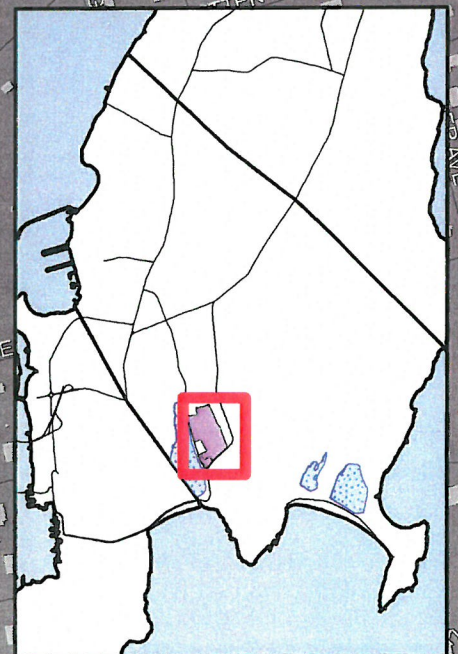
2/26/2021

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500 250 0 500
Feet

This map does not depict a comprehensive list of places where children congregate or houses of worship or residential uses outside of residential zones.





Sources: Town of Middletown, RIGIS. Author: RL



Cultivation Center

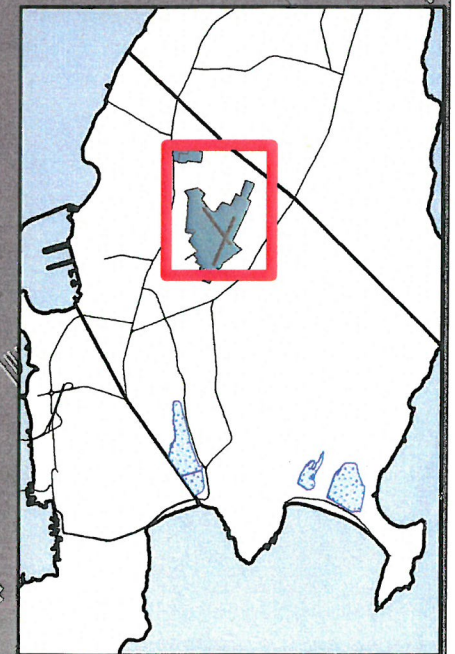
Allowable Locations - Marijuana Zoning Ordinance

2/26/2021

-  Buildings
-  Airport Property
-  Allowable Area (Light Industrial)
-  Not allowable

This map depicts the area where a marijuana cultivation center could be located, subject to a special use permit and other restrictions in the proposed ordinance. Allowable areas are 1) in the LI district 2) greater than 200ft from a house of worship, park, playground, play field, youth center, or day-care property line 3) greater than 100ft from a residential zone or use property line, and 4) greater than 1,000ft from a school property line (Oliphant Admin building is included).

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Feet
1,000 500 0 1,000

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Sources: Town of Middletown, RIGIS. Author: RL



Town of Middletown Planning Department

350 East Main Rd., Middletown RI 02842 (401) 849-4027

To: Hon. Robert J. Sylvia, President
Town Council Members

From: Paul A. Croce, Chairman
Middletown Planning Board

Date: February 25, 2021

Re: Recommended Zoning Ordinance amendment – Marijuana related uses

During a special public workshop meeting held on February 24, 2021, the Planning Board voted unanimously to recommend that the Town Council approve amendments to the Middletown Zoning Ordinance, Town Code Chapter 152, Article 7 to address marijuana related uses (attached).

The Planning Board was charged by the Town Council to develop ordinance amendments to provide appropriate regulation of such uses, particularly in light of anticipated legalized sale and use of recreational marijuana, currently under consideration by the Rhode Island General Assembly. The Board established a subcommittee of members to work with the Town Solicitor and legal/planning consultant Dwight Merriam to draft the amendments. Following several publicly posted meetings, the subcommittee completed the draft that was presented and approved during the meeting on February 24th. This meeting was also publicly posted and advertised in the newspaper and via the Town's website and social media accounts.

In summary, if adopted, the proposed amendments will result in the following:

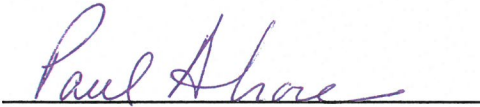
1. Prohibit compassion centers, marijuana emporiums, and marijuana stores in all zoning districts
2. Allow by special use permit, marijuana cultivation centers in the Light Industrial (LI) zoning district
3. Allow by special use permit, marijuana testing providers in the Office Park (OP) zoning district
4. Require that cultivation centers and testing providers be more than 200ft from house of worship, school, park, playground, play field, youth center, or day-care property lines; and more than 100ft from residential zone or use property lines (see attached map).
5. Require certain standards for exterior lighting, facility security, and odor control measures
6. Allow for patient cultivation by right in residential, commercial, and industrial zoning districts subject to state and local requirements
7. Allow for caregiver cultivation by right in residential, commercial, and industrial zoning districts subject to state and local requirements
8. Allow residential cooperative cultivation by special use permit in all residential zoning districts subject to state and local requirements

9. Allow for non-residential cooperative cultivation by special use permit only in the Light Industrial district subject to state and local requirements

In making its recommendation the board made the following findings:

- (1) The proposed amendment is generally consistent with the Middletown Comprehensive Community Plan, including the goals and policies statement, the implementation program, and all other applicable elements of the comprehensive plan; and
- (2) This recommendation is made in recognition and consideration of each of the applicable purposes of zoning, as presented in § 45-24-30 RIGL

Thank you for your consideration of this recommendation. Please contact me if you have any questions regarding this matter.

A handwritten signature in blue ink, reading "Paul A. Croce", is written over a horizontal line.

Paul A. Croce, Chairman
Middletown Planning Board

cc. Town Solicitor
Town Clerk