

- (b) That the design and location of the tower and supporting facilities shall not have adverse visual effects on the environment to the extent feasible and that the design of the tower meets all the design criteria of the by-law.
- (c) That the supporting facilities meet the dimensional and design requirements of Section 572, the conditions required of all telecommunications towers and facilities required by Section 574 and other requirements of this Section 570.

At the discretion of the Board of Appeals, it may elect to conduct its review of the Application in two hearings: (a) a hearing to determine whether the findings required by Section 577.2(a) may be found; and, (b) a hearing as to whether the findings required by Section 577.2(b) and (c) may be found.

577.3 The Board of Appeals shall also establish the following Special Permit standard conditions:

- (a) that the telecommunications tower and facility be adequately maintained, including camouflage elements;
- (b) that any subsequently installed telecommunications facilities not substantially described in the initial application pursuant to Section 577.1(a) must be reviewed by the Board of Appeals at least 30 days before installation, such review to be a minor modification of the Site Plan, not requiring further notice or hearings;
- (c) That if construction of the telecommunications tower has not substantially begun, the Special permit shall expire two years from the later of: (i) the date of issuance of the special permit by the Board of Appeals; or (ii) the conclusion of all available and actively pursued appeals arising from the special permit application or issuance of the special permit.

580 ADULT USE ESTABLISHMENTS

No Adult Use Establishment shall be located less than 500 feet from the boundary of a Residential–Agricultural District.

585 MEDICAL MARIJUANA AND ADULT USE MARIJUANA ESTABLISHMENTS

585.1 Purpose

- (a) (a). To provide for the placement of Marijuana Establishments and RMDs in appropriate places and under conditions in accordance with the provisions of Massachusetts General Law Chapters 94G and 94I.
- (b) To minimize the adverse impacts of Marijuana Establishments and RMDs on adjacent properties, residential neighborhoods, schools and other sensitive land uses.
- (c) To regulate the siting, design, placement, security, safety, monitoring, modification, and discontinuance of Marijuana Establishments and RMDs.

585.2 Applicability

- (a) No Marijuana Establishment or RMD shall be established except in compliance with the provisions of this Bylaw.
- (b) If any provision of this Section or the application of any provision of this Bylaw is held invalid, the remainder of this Section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Section are severable.

585.3 General requirements and conditions for all Marijuana Establishments and RMDs

- (a) The hours of operation of Marijuana Establishments shall be set by the Berlin Zoning Board of Appeals, acting as the special permit granting authority.
- (b) No Marijuana Establishment or RMD shall be located within 500 feet of the property boundary line of any lot in use as a public or private pre-school, primary or secondary school, junior college, college, licensed day-care center, church, library, park, playground, or other Marijuana Establishment or RMD. Distance shall be measured in a straight line from the nearest point of the property boundary line in question to the nearest point of the property boundary line where the Marijuana Establishment or RMD will be located.
- (c) On-site consumption of marijuana and marijuana products, as either a primary or accessory use, shall be prohibited at all Marijuana Establishments and RMDs unless permitted by a local ballot initiative process, as allowed by M.G.L. c.94G §3(b). The prohibition of on-site social consumption shall include private social clubs or any other establishment which allows for social consumption of marijuana or marijuana products on the premises, regardless of whether the product is sold to consumers on site.
- (d) No Marijuana Establishment or RMD shall be located inside a building containing residential units, including transient housing such as motels and dormitories, or inside a movable or mobile structure such as a van or truck, with the exception of vehicles used in the licensed transportation of marijuana and marijuana products
- (e) Marijuana Establishment or RMD shall be located within a permanent building and may not be located in a trailer, cargo container, or other similar nonpermanent, movable enclosure.
- (f) Marijuana Retailers and RMDs engaged in retail dispensing of medical marijuana shall not be permitted to have drive-through service.
- (g) No outside storage of marijuana, related supplies or promotional materials is permitted.
- (h) All Marijuana Establishments and RMDs shall be ventilated in such a manner that no:
 - a. Pesticides, insecticides, or other chemicals or products used in cultivation or processing are dispersed into the outside atmosphere.
 - b. Odor from marijuana can be detected by a person with a normal sense of smell at the exterior of the Marijuana Establishment or RMD or at any adjoining use or property.

585.4 Special Permit and Site Plan Approval Requirements

A Marijuana Establishment or RMD shall only be allowed by special permit from the special permit granting authority in accordance with Section 1220 of the Zoning By-law and site plan approval in accordance with Section 1230 of the Zoning By-law, subject to the following statements, regulation, requirements, conditions and limitations.

- 1. No special permit for any Marijuana Establishment or RMD shall be issued without site plan approval first having been obtained from the special permit granting authority, as provided for in Section 1230 Site Plan Review. In addition to the standards set forth herein, the site plan must meet all dimensional, parking, landscaping, and signage requirements within this Bylaw.
- 2. A special permit for a Marijuana Establishment or RMD shall be limited to one or more of the following uses that shall be prescribed by the special permit granting authority:
 - a. Marijuana Cultivator
 - b. Marijuana Product Manufacturer
 - c. Marijuana Retailer
 - d. Independent Testing Laboratory
 - e. Marijuana Research Facility
 - f. Marijuana Transporter
 - g. Registered Marijuana Dispensary
 - h. Any other type of licensed marijuana-related business

3. In addition to the application requirements set forth above, a special permit application for a Marijuana Establishment or RMD shall include the following:
 - a. The name and address of owner(s) of the Marijuana Establishment or RMD
 - b. Copies of all required provisional licenses or certificates of registration issued to the applicant by the Cannabis Control Commission and any other applicable regulatory agencies
 - c. Evidence of the applicant's right to use the site of the Marijuana Establishment or RMD for the proposed use, such as a purchase and sale agreement, deed, owner's authorization, or lease
 - d. A letter from the Town of Berlin Police Chief, or designee, acknowledging receipt and approval of the Marijuana Establishment or RMD security plan, including lighting, fencing, gate and alarms. The special permit granting authority shall only require submission of those portions of the security plan into the public record which are not otherwise confidential
 - e. All Marijuana Cultivators and RMDs engaged in cultivation operations shall submit a resource use plan to the Zoning Board of Appeals outlining planned practices for use of energy, water, waste disposal and other common resources and to ensure there will be no undue damage to the natural environment. The Resource Plan, if applicable, shall include an electrical system overview, proposed energy demand and proposed electrical demand off-sets, ventilation system and air quality, proposed water system and utility demand.
 - f. The applicant shall submit a traffic circulation plan for the site to ensure the safe movement of pedestrian and/or vehicular traffic on site. A traffic impact and access study shall be required for all Marijuana Retailers and RMD retail operations. The study shall be based on standard traffic engineering guidelines developed by the Massachusetts Environmental Protection Act (MEPA). The Zoning Board of Appeals may waive the requirement of a traffic impact study if, in the opinion of the Planning Board, a traffic impact study is not necessary to ensure safe movement of pedestrian or vehicular traffic on site.
 - g. All application requirements for Site Plan Review as specified in Section 1230 of this By-Law shall apply unless certain requirements are waived by the special permit granting authority as non-applicable to the particular applicant.
4. Mandatory findings. All site plan review and special permit determinations shall be conducted on a case-by-case basis, taking into consideration (i) the particular form of Marijuana activity proposed; (ii) the site location (including proximity of abutters, schools, sensitive natural habitat or historic resources; (iii) traditional uses of the site and their similarity to or difference from the proposed activities; and (iv) the intensity of the proposed activities, including impacts on neighbors and the environment. The special permit granting authority shall not issue a special permit for a Marijuana Establishments unless it finds that:
 - a. The Marijuana Establishment or RMD is designed to minimize any adverse impacts on abutters and other parties in interest, as defined in MGL c. 40A, Section 11.
 - b. The applicant has satisfied all the conditions and requirements as set forth herein and has received a provisional certificate of registration or license from the Cannabis Control Commission.
5. A special permit granted under this section shall have a term limited to the duration of the applicant's ownership of the premises as a Marijuana Establishments. Special permits may be transferred only with the approval of the special permit granting authority in the form of an amendment to the special permit after submission of all information required.

585.5 Abandonment or discontinuance of use.

- 1) A special permit shall lapse if not exercised within one year of issuance

- 2) A Marijuana Establishment or RMD shall be required to remove all material, plants, equipment and other paraphernalia within six months of ceasing operations.

590 LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC

591 Purpose

The purpose of this bylaw is to promote the creation of new large-scale ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

591.1 Applicability

This section applies to large-scale ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

592 General Requirements

The following requirements are common to all solar photovoltaic installations.

592.1 Compliance with Laws and Regulations

The construction and operation of all large scale solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.

592.2 Building Permit and Building Inspection

No large scale solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

592.3 Fees

The application for a building permit for a large scale solar photovoltaic installation must be accompanied by the fee required for a building permit.

592.4 Site Plan Review

Ground-mounted large scale solar photovoltaic installations with 250 kW or larger of rated nameplate capacity shall undergo site plan review prior to construction, installation or modification as provided in this section.

592.4.1 General

All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts.

592.4.2 Required Documents

Pursuant to the site plan review process, the project proponent shall provide the following documents:

(a) A site plan showing:

- i. Property lines and physical features, including roads, for the project site;
- ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;