

## **SECTION 6E. MEDICAL MARIJUANA OVERLAY DISTRICT**

*Note: §6E was adopted under Article 12 at the 2014 Annual Town Meeting.*

### **6E.1 Purpose**

The purpose of the Medical Marijuana Overlay District (MMOD) is to provide for the placement of Registered Marijuana Dispensaries (RMD), as they are authorized pursuant to state regulations set forth at 105 CMR 725.000, Implementation of an Act for the Humanitarian Medical Use of Marijuana, in locations suitable for lawful medical marijuana facilities and to minimize adverse impacts of RMDs on adjacent properties, residential neighborhoods, schools, playgrounds and other locations where minors congregate by regulating the siting, design, placement, security, and removal of RMDs.

### **6E.2 Authority and Establishment**

The Planning Board shall be the Special Permit Granting Authority for a Registered Marijuana Dispensary.

The boundaries of the MMOD are shown on the Zoning Map on file with the Town Clerk and include the underlying Local Business II and General Business Districts. Within the MMOD, all requirements of the underlying districts remain in effect, except where these regulations provide an alternative to such requirements. Land within the MMOD may be used either for a RMD, in which case the requirements set forth in this Section shall apply or a use allowed in the underlying district, in which case the requirements of the underlying district shall apply. If the provisions of the MMOD are silent on a zoning regulation, the requirements of the underlying district shall apply. If the provisions of the MMOD conflict with the requirements of the underlying district, the requirements of the MMOD shall control.

Besides the zoning districts listed above, RMDs shall be allowed, subject to the provisions of this Section 6E, within the Belmont Uplands District. RMDs shall not be allowed within the McLean or the Cushing Square Overlay Districts.

### **6E.3 Use Regulations**

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

## 6E.4 Physical and Locational Requirements

- a. All aspects of the RMD must take place at a fixed location within a fully enclosed building (including, but not limited to, loading, refuse and service areas), or in the case of cultivation within a locked, limited access area in compliance with CMR 725.15(B)(1)(c), and shall not be visible from the ground outside the enclosure. Outside storage of marijuana, related supplies, or educational materials is prohibited. Notwithstanding the foregoing, all areas, in which the sales of marijuana products take place, must be visible through appropriate windows from public places.
- b. All buildings housing RMDs shall be ventilated in such a manner that:
  - i. Pesticides, insecticides or other chemicals or products used in the cultivation or processing shall not be dispersed into the outside atmosphere; and,
  - ii. Odor from marijuana or its processing shall not be detected at the exterior of the RMD building or at any adjoining use or property.
- c. Signage determined to be sufficient by the Planning Board shall be displayed in plain sight of clients at the entrance of the RMD facility stating that 'Registration Card Issued by the MA Department of Public Health Required' in text two inches in height.
- d. RMD facilities may not be located within 300 feet of the following uses, but only if the uses exist as of the effective date of this amendment to the Zoning By-Law:
  1. A dwelling unit;
  2. School, including a public or private elementary or secondary school, or licensed child care facility;
  3. Playground, public park, athletic field, or building used for athletic activities and events; or,
  4. Library, public swimming pool or similar facility in which minors congregate.
- e. The distance under this Section is measured in a straight line from the nearest point of the lot line of the protected uses identified in Section 6E.4 d. to the nearest point of the building in which the RMD is located.

## 6E.5 Application

In addition to the materials required under Section 7.4.4 of the Zoning By-Law, the application for a Special Permit RMD shall include:

- a. 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;
- b. 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 cultivating and processing of

- marijuana or marijuana infused products, on-site sales, off-site deliveries, distribution of educational materials, and other programs or activities;
- c. 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, including areas for any preparation of marijuana-infused products;
  - d. Site Plans – A plan or plans depicting all proposed development on the property, including the dimensions of the building, the layout of parking, the location of pedestrian and vehicular points of access and egress, the location and design of all loading, refuse and service facilities, the location, type and direction of all outdoor lighting on the site, and any landscape design;
  - e. 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;
  - f. 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;
  - g. Context Map – a map depicting all lots and land uses within a 500 foot radius of the Premises, including but not limited to all of the protected uses identified in Section 6E.4 e. above;
  - h. Building Elevations and Signage – Architectural drawings of all exterior building facades and all proposed signage, specifying materials and colors to be used;
  - i. Registration Materials: Copies of registration materials issued by the Massachusetts Department of Public Health 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; and,
  - j. 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.

## **6E.6 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 7.4.3 of this Zoning By-Law, the Planning Board shall find that the following criteria are met:

- 1. The RMD is located to serve an area that currently does not have reasonable access to medical marijuana, or if it is proposed to serve an area that is already served by other RMD, it has been established by the Massachusetts Department of Public Health that supplemental service is needed.

2. 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.
3. 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.
4. The RMD provides a secure indoor waiting area for individuals and clients.
5. 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. 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.

### **6E.7 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:

- a. Hours of Operation, including dispatch of home deliveries.
- b. 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.
- c. The Special Permit shall be limited to the current Applicant and shall lapse if the permit holder ceases operating the RMD.
- d. The Special Permit shall lapse upon the expiration or termination of the Applicant's registration by DPH.
- e. The permit holder shall provide to the Inspector of Buildings, Chiefs of the 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.
- f. The designated contact person(s) shall notify in writing the Police and Fire Departments, Inspector of Buildings, 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.
- g. 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.

## **6E.8 Exemption from RMD Special Permit Requirement**

RMDs that demonstrate that they are protected pursuant to the agricultural exemption under G.L. c.40A §3 are not required to obtain a Special Permit, but shall apply for Site Plan Approval pursuant to Section 7.3 of the Zoning By-Law.

## **6E.9 Severability**

If any provision of this Section 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 6E.1.

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