

MEDICAL CANNABIS DISPENSARIES IN THE COMMONWEALTH OF MASSACHUSETTS

Report prepared by
Americans for Safe Access

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Safe Access in Massachusetts

A report prepared by Americans for Safe Access

BACKGROUND

To address the need for safe and affordable access to medical marijuana, voters in Massachusetts approved Question 3 in November of 2012 by over 63%. Twenty states and the District of Columbia have now adopted medical marijuana laws in the United States. Beginning with California in 1996, voters have passed initiatives in ten of those states—Alaska, Arizona, Colorado, Maine, Massachusetts, Michigan, Montana, Nevada, Oregon, and Washington—plus the District of Columbia. Beginning with Hawaii in 2000, state legislatures have followed suit, with elected officials in Connecticut, Delaware, Illinois, Maryland, New Hampshire, New Jersey, New Mexico, Rhode Island, and Vermont taking action to protect patients from criminal penalty.

The Massachusetts medical marijuana law was written to be the basis of the safest medical marijuana system in the country. The hallmark of this law is substantial state regulation to allow patients with a doctor's recommendation safe access to medical marijuana while including safeguards to prevent misuse of the program. The specifics on how the medical marijuana program will operate will be determined when the state Department of Public Health (DPH) issues regulations, which are to be complete by May 1, 2013. Americans for Safe Access (ASA) urges municipalities to wait until then before considering any policies related to the new law, including zoning for Registered Marijuana Dispensaries.

This report is meant to help inform policy makers as they work to implement the Massachusetts medical marijuana law. It addresses several questions related to regulated distribution systems such as Massachusetts' "Registered Marijuana Dispensaries" (RMDs). It demonstrates that when effectively regulated, treatment centers are:

- benefiting patients by providing safe access in a supportive environment,
- helping revitalize neighborhoods by improving public safety, reducing crime, and bringing new customers to surrounding businesses, and
- committed to following local laws and being good neighbors.

WHAT IS A REGISTERED MEDICAL MARIJUANA DISPENSARY?

An RMD is a location where medical marijuana patients who have received a doctor's recommendation and registered with the state may purchase their medicine. RMDs are also called medical marijuana dispensaries.

The initiative lays the necessary framework for the implementation of a well-controlled

medical marijuana dispensary system. Some provisions in the law that will facilitate this include:

- requiring that RMDs operate as nonprofits under Massachusetts law,
- capping the state-wide limit on treatment centers to 35 across the state, with no more than five per county,
- requiring DPH to establish a rigorous application and registration process,
- authorizing DPH to set licensing fees and schedules to ensure the program is revenue neutral, and
- requiring all RMD employees to register with the state, while excluding anyone who has been convicted of a drug felony from working at an RMD.

TIMELINE FOR IMPLEMENTATION

January 1, 2013—The new medical marijuana law is effective. Patients with a physician's recommendation are protected by the law for possessing medical marijuana, but have no legal venue to purchase their medicine until RMDs are approved by DPH.

By May 1, 2013—DPH is required to write regulations regarding how patients can apply for a medical marijuana registration card, and nonprofit organizations can apply for treatment center registrations.

By January 2014—After regulations are written, the state will have up to eight months to issue registrations to at least 14 but no more than 35 RMDs, with a minimum of one but not more than five issued in each county.

DISPENSARIES, COMMUNITIES, AND REGULATION

In recent years, medical marijuana dispensaries have emerged in various parts of the country as community-based solutions for patient access to medicine. From Portland, Maine to Denver, Colorado to Seattle, Washington, dispensaries are no longer a uniquely California phenomena, although due to the relative newness of dispensaries elsewhere, the greatest depth of experience with medical marijuana dispensary regulation is in California. When considering that experience, it is important to keep in mind that Massachusetts' medical marijuana law is much stricter than those in California, Colorado, and many other medical marijuana states.

The experience of cities and towns in California demonstrates that when dispensaries are tightly regulated they have a positive effect on neighborhoods. The Massachusetts law starts with significant regulations at the state level that are absent in California. A rigorous statewide application process for RMDs seeking registrations is just one provision found in Massachusetts but not California. Capping the number of authorized RMDs is another.

Maine and Rhode Island chose an approach similar to Massachusetts by putting in place a rigorous licensing process, placing strict limits on the number of dispensaries that will ultimately be licensed by the state, and requiring the state to regulate dispensaries on

an ongoing basis. However, dispensaries have only recently opened in Maine and “compassion centers,” as dispensaries are called in Rhode Island, have not yet opened.

The California law that was passed by voter initiative over fifteen years ago did not include provisions to address dispensary operation, so as it became clear that dispensaries play a crucial role in providing safe access, municipalities had to step forward and craft dispensary regulations on their own. In Massachusetts, the law’s emphasis on high levels of state regulation will create a more ordered environment for implementing safe access statewide. Communities in the Commonwealth can expect that many parameters set by local governments in California will be addressed by regulations that are issued at the state level here. Even though the two laws are very different, the experience of the many local jurisdictions in California that have passed dispensary regulations provides the best picture of how the law may be implemented here, the difference being that regulations in Massachusetts will be set out by the state and will apply across the whole Commonwealth.

ASA does not oppose local regulation of medical treatment centers, but it believes that the most sensible course for municipalities is to allow the state to promulgate regulations governing the operation of RMDs before considering action at the local level. While placing limits on RMD operation now may seem like the safest course of action, passing local restrictions that were hastily adopted without full consideration of all relevant factors runs the risk of harming communities by placing unforeseen burdens on vulnerable patients and impeding their physician-recommended medical therapy.

WELL-REGULATED DISPENSARIES ARE GOOD NEIGHBORS

The experience of California reveals that medical marijuana dispensaries are typically positive additions to the neighborhoods in which they locate, bringing additional customers to neighboring businesses and reducing crime in the immediate area. Like any new business that serves a different customer base than the existing businesses in the area, dispensaries increase the revenue of other businesses simply because new people are coming to access services, increasing foot traffic past other establishments. In many communities, the opening of a dispensary has helped revitalize an area. While patients tend to opt for dispensaries that are close and convenient, particularly since travel can be difficult, many patients will travel to dispensary locations in parts of town they would not otherwise visit.

They have been a responsible neighbor and vital organization to our diverse community. Since their opening, they have done an outstanding job keeping the building clean, neat, organized and safe. In fact, we have had no calls from neighbors complaining about them, which is a sign of respect from the community. In Berkeley, even average restaurants and stores have complaints from neighbors.

—Kris Worthington, longtime councilmember in Berkeley, California
commenting on dispensaries there.

Local government has a responsibility to the medical needs of its people, even when it's not a politically easy choice to make. We have found it possible to build regulations that address the concerns of neighbors, local businesses, law enforcement and the general public, while not compromising the needs of the patients themselves. We've found that by working with all interested parties in advance of adopting an ordinance while keeping the patients' needs foremost, problems that may seem inevitable never arise.

—Oakland, California City Councilmember Nancy J. Nadel,
in an open letter to her colleagues.

The immediately neighboring businesses have been uniformly supportive or neutral. There have been no complaints either about establishing it or running it.

—Mike Rotkin, councilmember and former mayor of Santa Cruz, California
said about the dispensary that opened in his city.

DISPENSARIES DO NOT ATTRACT CRIME

Some opponents have erroneously suggested that dispensaries are magnets for criminal activity and other undesirable behavior, which poses a problem for the community. But the experience of those cities with dispensary regulations says otherwise. Crime statistics and the accounts of local officials indicate that crime is consistently reduced by the presence of a dispensary.

The presence of a dispensary in the neighborhood can actually improve public safety and reduce crime. Most dispensaries take security for their members and staff more seriously than most businesses. Security cameras are often used both inside and outside the premises, and security guards are often employed to ensure safety. Both cameras and security guards serve as a general deterrent to criminal activity and other problems on the street. Those likely to engage in such activities tend to move to a less-monitored area, thereby ensuring a safe environment not only for dispensary members and staff but also for neighbors and businesses in the surrounding area.

Typical of California ordinances is Oakland's, which limits the number of dispensaries that may be licensed and requires them to develop a security plan that must be reviewed by the city police department and the city administrator. Other communities in California have followed suit with similar provisions. In Massachusetts, the state will set such regulations so localities can benefit from the best practices and lessons learned from other medical marijuana states.

Studies on Dispensaries and Crime

The absence of any connection between dispensaries and increased local crime can be seen in data from Los Angeles, San Diego, Denver, and Colorado Springs. After reviewing a study he commissioned, Los Angeles Police Chief Charlie Beck observed that, "banks are more likely to get robbed than medical marijuana dispensaries," and that the claim that dispensaries attract crime "doesn't really bear out."

In San Diego, where some officials alleged there was increased crime associated with dispensaries, an examination of city police reports by a local paper, the *San Diego CityBeat*, found that as of late 2009 the number of crimes in areas with dispensaries was frequently lower than it was before the dispensary opened or, at worst, stayed the same.

A 2009 analysis of robbery and burglary rates at medical marijuana dispensaries conducted by the Denver, Colorado Police Department at the request of the Denver City Council found that the robbery and burglary rates at dispensaries were lower than area banks and liquor stores and on par with those of pharmacies. Specifically, the report found a 16.8 percent burglary and robbery rate for dispensaries, equal to that of pharmacies. That's lower than the 19.7 percent rate for liquor stores and the 33.7 percent rate for banks, the analysis found.

A 2010 analysis by the Colorado Springs Police Department found that robbery and burglary rates at area dispensaries were on par with those of other businesses.

The areas around the dispensaries may be some of the safest areas of Oakland now because of the level of security, surveillance, etc...since the ordinance passed.

—Oakland city administrator Barbara Killey, responsible for the ordinance regulating dispensaries.

Officials in Santa Rosa have had a similar experience. After an ordinance requiring treatment centers to implement security measures was enacted the city noticed:

...a decrease in criminal activity. There certainly has been a decrease in complaints. The city attorney says there have been no complaints either from citizens or from neighboring businesses.

—former Santa Rosa Mayor Jane Bender.

WHY DIVERSION OF MEDICAL MARIJUANA IS TYPICALLY NOT A PROBLEM

One of the concerns of public officials is that dispensaries make possible or even encourage the resale of marijuana on the street. But cities where dispensaries are well regulated have not encountered such problems. In addition to being monitored by law enforcement, dispensaries universally have strict rules about how members are to behave in and around the facility. Many have “good neighbor” trainings for their members that emphasize sensitivity to the concerns of neighbors, and all dispensaries absolutely prohibit the resale of marijuana. Anyone violating that prohibition is typically banned from any further contact with the dispensary.

Beyond regulations that will be enacted by DPH, the Massachusetts medical marijuana law creates a new felony for anyone who defrauds the medical marijuana system for profit. If marijuana is falsely obtained for personal use or non-medical purposes, the offender will be facing two-and-a-half years in a House of Correction. Anyone who obtains marijuana by defrauding the medical marijuana system for distribution will face

up to five years in state prison. A person who now faces a mere civil fine could be facing a criminal conviction and a jail sentence. This is one of the measures in the Massachusetts law to help prevent diversion of medical marijuana that is not seen in other states.

[D]ispensaries themselves have been very good at self policing against resale because they understand they can lose their permit if their patients resell.

—Oakland's city administrator for the regulatory ordinance there.

[P]eople feel safer when they're walking down the street. The level of marijuana street sales has significantly reduced.

—Oakland's legislative analyst, Lupe Schoenberger.

DISPENSARIES PROVIDE MANY BENEFITS TO THE SICK AND SUFFERING

Safe and legal access to medical marijuana is the reason dispensaries have been created by patients and caregivers around the nation. For many people, dispensaries remove significant barriers to obtaining medical marijuana. Patients in urban areas with no space to cultivate marijuana, those without the requisite gardening skills to grow their own, and, most critically, those who face the sudden onset of a serious illness or who have suffered a catastrophic illness—all tend to rely on dispensaries as a compassionate, community-based solution as a preferable alternative to potentially dangerous illicit market transactions.

After more than 16 years of existence, dispensaries are proving to be an asset to the communities they serve, as well as the larger community in which they operate. Research shows that once effective regulations are in place, dispensaries are typically viewed favorably by public officials, neighbors, businesses, and the community at large, and that regulatory ordinances can and do improve an area, both socially and economically.

Dispensaries across the nation are helping revitalize neighborhoods by reducing crime and bringing new customers to surrounding businesses. They improve public safety by increasing the security presence in neighborhoods, reducing illicit market marijuana sales, and ensuring that any criminal activity gets reported to the appropriate law enforcement authorities.

More importantly, dispensaries benefit the community by providing safe access for those who have the greatest difficulty getting the medicine their doctors recommend: the most seriously ill and injured. Many dispensaries also offer essential services to patients, such as help with food and housing.

California public officials in both urban and rural communities have been outspoken in praise of the dispensary regulatory schemes they enacted and the benefits to the patients and others living in their communities.

With the passage of the initiative, patients in Massachusetts are joining the over 1 million patients from other medical marijuana states who finally have safe access to their medicine. The law in Massachusetts will alleviate the suffering of thousands of patients here suffering with paralysis, multiple sclerosis, cancer, HIV/AIDS, ALS, and other debilitating diseases.

Policy makers in the Commonwealth have a chance to create the safest and most innovative medical marijuana program in the country, one that will become a model for other states seeking to provide relief to medical marijuana patients. Significant state regulation included in the law will facilitate this.

When designing regulations, it is crucial to remember that at its core this is a health-care issue, requiring the involvement and leadership of local departments of public health. A pro-active healthcare-based approach can effectively address problems before they arise, and communities can design methods for safe, legal access to medical marijuana while keeping the patients' needs foremost.

—Nathan Miley, Alameda County supervisor,
former Oakland City Council member.

ABOUT THIS REPORT

This report was produced by Americans for Safe Access (ASA). ASA is the largest national member-based organization of patients, medical professionals, scientists, and concerned citizens promoting safe and legal access to marijuana for therapeutic use and research. ASA works in partnership with state, local and national legislators to overcome barriers and create policies that improve access to marijuana for patients and researchers. ASA has more than 50,000 active members with chapters and affiliates in all 50 states.

Learn more about ASA at AmericansForSafeAccess.org.

APPENDIX

While the Massachusetts Department of Public Health was developing the state's medical cannabis regulations, Massachusetts Attorney General Martha Coakley's office issued several opinions regarding the right of municipalities to regulate, ban, or impose temporary moratoriums on RMDs in their jurisdiction. The text of these decisions can be found in the pages following the summary below.

On March 13, 2013, the AG's office issued an opinion stemming from the Town of Wakefield's by-law to ban RMDs from the town. The opinion held that outright bans are in conflict with the law that was approved by voters, and therefore outright bans are prohibited. However, towns may adopt zoning by-laws to regulate the location of RMDs within a town.

In a separate opinion also issued on March 13, 2013, the AG's office approved a by-law from the Town of Burlington which allows the town to impose a temporarily moratorium on RMDs within the town until a specified date (June 30, 2014). The moratorium is permitted because its purpose is to determine local regulation that may need to be addressed following the issuance of state-wide regulations by DPH later in 2013.

Town of Wakefield decision

Local bans on dispensaries are prohibited, reasonable local zoning permitted

On March 13, 2013, the Office of the Attorney General for the Commonwealth of Massachusetts issued decision on changes to the bylaws of the Town of Wakefield. Wakefield was seeking to ban medical marijuana dispensaries within the town. The decision held that towns may not impose bans on medical marijuana dispensaries. In the 10-page letter, the AG explains that bans on dispensaries would conflict with Chapter 369 of the Acts of 2012, "An Act for the Humanitarian Medical Use of Marijuana," approved by 63% of voters as Question 3 in November 2012.

The letter describes the both proposed ban and the Act itself. The proposed ban would have prohibited dispensaries in any zoning area within the town. The AG's office notes that the Act requires the state to issue registrations to at least one dispensary per county, and that if DPH has determined that there are not enough dispensaries to meet the needs of patients, it can adjust the first-year cap of 35 dispensaries to allow for more. Additionally, the letter points out that the Act is silent on local zoning.

Ultimately, the AG decision found that if one town were allowed to impose bans on dispensaries, any other town could do the same, which could result in a county including no towns that would allow dispensaries. Because of that prospect, the letter states that the legislative purpose of Act (to provide at least one dispensary per county) could not be served if bans were allowed.

In addition to prohibiting towns from imposing bans, the decision also found the towns may set forth reasonable zoning regulations for dispensaries. Such regulations must not be "clearly arbitrary and unreasonable, having no substantial relation to the public health, safety, morals or general welfare."

Link to Wakefield letter:

<http://www.mass.gov/ago/docs/municipal/wakefield-6601.pdf>

Town of Burlington decision

Temporary moratoriums permitted

On the same day as the Wakefield decision prohibiting towns from banning dispensaries, the Office the Attorney General issued a separate decision that approved bylaw changes proposed by the town of Burlington, allowingfor temporary moratorium on dispensaries. Article 5 of the bylaws created a moratorium on dispensaries in Burlington extending through June 30, 2014.

The AG's office determined that temporary moratoriums are permitted under the Act because they are "consistent with the Town's authority to 'impose reasonable time limitations on development, at least where those restrictions are temporary and adopted to provide controlled development while the municipality engages in comprehensive planning studies.'" (citing) *Sturges v. Chilmark*, 380 Mass. 246, 252-253 (1980)." In other words, because medical marijuana is a new arena for local officials, it is reasonable for them to take additional time to become familiar with this issue in general and appropriate local regulation. such as reasonable zoning requirements that do not conflice with DPH regulations.

There does not appear to be a definitive list of towns and cities that have imposed moratoriums on dispensaries; however, according to Ludlow Selectmen Chairman William Rooney there are 130 cities and towns as of October 2013 that have adopted a temporary moratorium on medical marijuana dispensaries. The Boston Herald, reported the number of moratoriums to be closer to 80.

Link to Burlington letter:

<http://www.mass.gov/ago/docs/municipal/burlington-6619a.pdf>

Town of Canton decision

Setting an end date for temporary moratoriums

The third landmark decision letter issued by the Office of the Attorney General was sent to the Town of Canton on September 12, 2013. Canton had approved a set of bylaws that contained two periods of moratorium on dispensaries. The letter approved the moratorium period for July 1, 2013 through June 30, 2013, but rejected the second period from July 1, 2013 through June 30, 2015.

The moratorium extending through June 30, 2014 was approved because it was consistent with the moratorium that approved in the Burlington decision letter, meaning that was a reasonable amount of time for the Town to study the law and regulations. However, the AG's office stated that the moratorium running through June 30, 2015 was not permitted because "it does not presently appear to be tied to a legitimate planning process." The AG's office went on to state that while no high court in Massachusetts has defined "reasonable time limitations," it could see no reasonable purpose to allow moratoriums to extend beyond December 31, 2014.

While the AG's office set December 31, 2014 as the current deadline for moratorium, it did leave the door open to allow Towns to pass moratorium extending in 2015 if come mid-2014 it appears that such moratorium would serve a reasonable purpose tied to a legitimate planning need. Otherwise, moratoriums that extend into 2015 would likely be deemed unconstitutional.

Link to Canton letter:

<http://town.canton.ma.us/clerks/AG/2013/2013%20AG%20letter.pdf>

Recommendations for Towns

Examining the Act and DPH Regulations are essential.

Moratoriums only delay the issue.

Passing sensible zoning rules is an eventuality.

Zoning rules may not create de facto bans.

While several towns in Massachusetts have elected to impose temporary moratoriums on dispensaries, other towns have decided to embrace dispensaries and approve zoning rules on where they may be established within the town. Some towns, particularly those that are run by largely volunteer officials, may need more time to study the issue of medical marijuana before creating sensible zoning rules; however, many towns have already shown that there is little need to delay creating sensible local regulations..

The towns of Norwell and Randolph were among the very first towns to expressly permit dispensaries by creating special zoning areas. According to "The Planning Board wanted to be proactive by considering what is in the best interest of the town now," said Lauren Moreau, Freetown's planning technician. "By adopting a moratorium, we'd just have to address the same issue in 12 months."

WRONG-- Framingham had a good proposal but it was shot down at town meeting.

Other towns, such as Deerfield and Greenfield have yet to adopt specific zoning rules for dispensaries, but have taken the affirmative step of voting down bylaw changes that would impose bans. Officials in these towns have taken the time to examine the Act and the DPH regulations and have recognized there is a strong and sensible framework for towns to permit dispensaries in a reasonable manner. As Greenfield Town Councilor Marian Keller said, "the voters have voted to legalize medical marijuana and its use , the state has created extensive regulations around it, and there are residents in this town and in this county who are in dire need from the benefits of medical marijuana."

Towns would be wise to follow the example set by Greenfield, Deerfield, Norwell and Randolph. The AG decision on the proposed Canton has given towns a 19-month window for them to study the Act and the DPH regulations, and to create sensible zoning rules for their respective towns. The four towns listed above needed only a fraction of that time to come to a decision that not only is consistent with the voter approved Act, but is one that will not needlessly delay the ability of patients in Massachusetts from having safe and legal access to their physician recommended medical therapy. Towns that are considering imposing moratorium must seriously consider how much time they truly need to sufficiently become familiar with the Act and DPH regulations because unnecessary delays harm the wellness of patients who can benefit from medical marijuana.

When a town decides to move forward with creating zoning rules for dispensaries, it should consider the needs and physical ability of patients before imposing rules simply to keep medical marijuana dispensaries out of the public's field of vision. For example, municipal officials may feel that it would be appropriate to place all medical marijuana retail dispensary locations (as opposed to cultivation facilities) in industrial zones. However, industrial zones are often far removed from public transportation, and may present other physical challenges that keep patients from having reasonable access to local dispensaries. On the other hand, when it comes to a separate cultivation facility for a dispensary, it may be more practical to limit such facilities to industrial zones. Towns should keep in mind that dispensaries may have both their cultivation and retail distribution sites within a single location; therefore, in those cases it would not be practical to limit cultivation facilities to industrial zones.

An additional factor to consider when a town is drafting zoning rules for dispensaries is that they must be certain that the rules do not create a de facto ban within the town. Zoning rules that leave few or no available locations for a medical marijuana dispensary or cultivation location will likely run afoul of the AG's decision on the Wakefield ban. That decision held that no town can impose bans on dispensaries because if one town did it, every town in a county could do so as well, which would be in violation of the voter-approved Act. Therefore, if a town imposed zoning rules that make it practically impossible for a dispensary to open up within the town, every other town in the county could impose similarly restrictive zoning. That means the sum total of town zoning rules in a given county could impose a de facto ban on dispensaries. Instead town officials should reach out to medical marijuana patients in their local area to see to what their needs are when it comes to physically having access to retail dispensary services. This approach will help town officials consider both the needs of patients and the greater community before restricting patient access to physician recommended medicine.

SAMPLE LOCAL BYLAWS

MEDICAL MARIJUANA DISPENSARY AND CULTIVATION CENTER

1. Purpose and Intent.

The purpose of this By-law is to provide appropriate zoning regulations for Medical Marijuana Treatment Centers and to establish overlay districts for Registered Marijuana Dispensary (RMD) uses that comply with state law and regulations.

The intent of this section is to:

- a. Establish specific zoning standards and regulations for a RMD;
- b. Protect the public health, safety and welfare of NAME OF TOWN residents and the community; and
- c. Provide site design standards and permitting requirements for a RMD.

2. Definitions

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

Terms Not Defined

Any terms not defined in this Section but defined elsewhere in the Town By-laws, Building and Board of Health Regulations or Commonwealth of Massachusetts laws and regulations shall have the meanings given therein to the extent the same are not inconsistent with this Section.

3. Applicability

- a. All RMD activities shall require a special permit from the Planning Board.
- b. A RMD shall be located within a Business District (B), Light Manufacturing District (M-1), and/or General Manufacturing (M) zoning district.

4. Separation of Use

- a. Requirements An RMD shall not be allowed or permitted upon any parcel or any portion of which is at the time of establishment within:

- i. 1,000 feet from a parcel on which another RMD has been established; and
- ii. 500 feet from a parcel containing a school, licensed registered daycare facility, playground, park, recreation center or youth center.

The distance between the RMD and uses referenced herein, shall be measured in a straight line, without regard for intervening structures, from any parcel line of the real property on which the RMD is located, to the nearest point on a parcel line of the real property, referenced herein.

b. Residential Use and Residential Zoning District

No marijuana or marijuana based products shall be sold or grown or cultivated, interior or exterior to a residential dwelling unit, residential use, or mixed-use residential building or within a residential zoning district except if a hardship certificate is granted by the Department of Public Health according to 105 CMR 725.035.

5. Design Standards, Off-street Parking and Loading Requirements

a. Site Plan Review

An RMD shall require site plan review and shall comply with the regulations of Section IV.I. of this Zoning By-law.

b. Basic Requirements

An RMD shall be designed and constructed in accordance with the requirements of the underlying zoning district and with the requirements of all applicable provisions of the Zoning By-Law including Section IV.K. Highway Overlay District Regulations for site layout.

c. Off-street Parking

i. Off-street parking facilities for an RMD shall conform to all regulations and design standards set forth in Section IV.B. of the Zoning By-law.

a). A standalone dispensary facility shall be considered as a "Other personal, consumer and retail services" occupancy type for the purpose of parking space count.

b). A standalone cultivation facility shall be considered as a "Wholesale or non-retail business, warehouse or other storage facility" occupancy type for the purpose of parking space count.

c). A joint dispensary and cultivation center shall be considered as a "R&D establishment, manufacturing, industrial service, or extractive industry"

occupancy type for the purpose of parking space count.

d. Premises Requirements

i. Building Area

- a). A standalone dispensary facility shall not exceed 3,000 gross square feet for client dispensary and consultation area.
- b). A standalone cultivation facility shall not exceed 40,000 gross square feet.
- c). A joint dispensary and cultivation facility shall not exceed 45,000 gross square feet.
- d). A RMD must be located in a permanent building and may not be located in a trailer, cargo container or motor vehicle.
- e). The RMD shall be of adequate interior space to accommodate all activities inside the building so as not to have outside patient queuing on sidewalks, parking areas, or other areas outside the building.

ii. Physical Appearance

- a). Marijuana, marijuana-infused products, or associated products shall not be displayed or clearly visible to a person from the exterior of the RMD.
- b). A RMD shall not display on the exterior of the facility advertisements for marijuana or any brand name, and may only identify the building by the registered name.
- c). A RMD shall not utilize graphics related to marijuana or paraphernalia on the exterior of the RMD or the building in which the RMD is located.

iii. Drive-thru:

- a). An RMD may not have a drive-thru service.

iv. Waste Disposal:

- a). The disposal of waste shall comply with 105 CMR 725.105(J).
- b). Outdoor storage of waste shall be screened with a locking fence.

6. Openness of Premises

Any and all distribution, possession, storage, display, sales or other distribution of marijuana shall occur only within the restricted interior area of the RMD. Therefore, the RMD shall be designed and constructed such that no area or portion where marijuana is processed or stored is visible from the exterior; however, the entrance shall be fully visible from the public street or building frontage.

7. RMD Storage Requirements

All requirements for storage of Medical Marijuana and products shall be in compliance with 105 CMR 725.105(D).

8. Cultivation, Acquisition and Distribution Requirements

Cultivation of medical marijuana, marijuana-infused products, or associated products shall follow the regulations set forth in 105 CMR 725.105(B).

9. Operating License Required

A Department of Public Health Registration and Compliance Certificate shall be required for the operation of an RMD within the Town of NAME OF TOWN.

10. Additional Conditions, Limitations, and Safeguards

- a. **Waivers** The Planning Board retains the jurisdiction to grant a waiver for requirements and standards specified within this Section III.P.
- b. **Entitlement or vested rights to permitting** No person shall be deemed to have any entitlement or vested rights to permitting under this By-law by virtue of having received any prior permit from the Town including, by way of example only, any zoning permit or any wholesale food manufacturer's license. In order to lawfully operate a RMD, a person must qualify for and obtain a special permit in accordance with the requirements of this By-law.
- c. **Conflict of Laws** In the event of any conflict between the provisions of this By-law and any other applicable state or local law, the stricter provision, as deemed by the Zoning Enforcement Officer, shall control.