

Medical Marijuana
Overlay District by Law

1. Establishment:

The Medical Marijuana Overlay District (“MMOD”) is established as an overlay district. The MMOD shall extend along Rt-2 from State mile marker 29.5 on the West end of the Village to Town line West and State mile marker 31.0 on the East end of the village to the Town line East, and shall have a depth of 1/8th of a mile extending northerly from the northern boundary of RT-2 and 1/8th of a mile extending southerly from the southern boundary of RT-2 . No part of the village shall be part of the MMOD Overlay District. The MMOD is further shown on the town zoning map on file with the Town Clerk.

Within the MMOD, all requirements of the underlying district remain in effect, except where these regulations provide an alternative to such requirements. Land within the MDOD may be used either for (1) a Registered Marijuana Dispensary (“RMD”), in which case the requirements set forth in this section shall apply; or (2) 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.

2. Purpose:

To Provide for the placement of RMDs, in accordance with the Humanitarian Medical Use of Marijuana Act, G.L. c.94C, App. §1-1, et seq., in locations suitable for lawful medical marijuana facilities and to minimize adverse impacts of RMDs on adjacent properties, residential neighborhoods, historic districts, schools, playgrounds and other locations where minors congregate by regulating the setting, design, placement, security, and removal of RMDs.

3. Definitions:

Where not expressly defined in the Zoning Bylaws, terms used in the MMOD Bylaw shall be interpreted as defined in the Humanitarian Medical Use of Marijuana Act, G.L. c.94C, App. §1-1, et seq. and the Department of Public Health Regulations promulgated there under, 105 CMR 725.001, et seq., and otherwise by their plain language.

a. Registered Marijuana Dispensary: also known as a Medical Marijuana Treatment Center, means a not-for-profit entity registered under 105 CMR 725.100 et seq., that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana-infused products (“MIPs”), tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing 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.

Location:

A. RMDs may be permitted in the MMOD pursuant to a Special Permit.

B. RMDs may not be located within **[300]** feet of the following.

(1) School, including a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university;

(2) Child Care Facility;

(3) Library;

(4) Playground;

(5) Public Park;

- (6) Youth center;
- (7) Public swimming pool;
- (8) Video arcade facility; or
- (9) Similar facility in which minors commonly congregate.
- (10) Place of worship

C. The distance under this section is measured in a straight line from the nearest point of the property line of the protected uses identified in Section 4.b. to the nearest point of the property line of the proposed RMD.

D. The distance requirement may be reduced by twenty-five percent or less, but only if:

(1) The applicant demonstrates that the RMD would otherwise be effectively prohibited Within the municipality;

(2) The applicant demonstrates that the RMD will employ adequate security measures to prevent diversion of medical marijuana to minors who are not qualifying patients pursuant to 105 CMR 725.004.

5. Procedure:

The Planning Board shall be the Special Permit Granting Authority (SPGA) for a RMD special permit.

Application:

In addition to the materials required under **(Article 11, Special Regulations, and Section 23)** in the town land use performance standards, an application requires the following:

(1) A copy of its registration as an RMD from the Massachusetts Department of Public Health (“DPH”);

(2) a detailed 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 MIPs;

(3) detailed site plans that include the following information:

(a) Compliance with the requirements for parking and loading spaces, for lot size, frontage, yards and heights and coverage of buildings, and all other provisions of this Bylaw;

(b) Convenience and safety of vehicular and pedestrian movement on the site and for the location of driveway openings in relation to street traffic;

(c) Convenience and safety of vehicular and pedestrian movement off the site, if vehicular and pedestrian traffic off-site can reasonably be expected to be substantially affected by on-site changes;

(d) Adequacy as to the arrangement and the number of parking and loading spaces in relation to the proposed use of the premises, including designated parking for home delivery vehicle(s), as applicable;

(e) Design and appearance of proposed buildings, structures, freestanding signs, screening and landscaping; and

(f) Adequacy of water supply, surface and subsurface drainage and light.

(4) a description of the security measures, including employee security policies, approved by DPH for the RMD;

(5) a copy of the emergency procedures approved by DPH for the RMD;

(6) a copy of the policies and procedures for patient or personal caregiver home delivery approved by DPH for the RMD;

(7) a copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between RMDs approved by DPH;

(8) a copy of proposed waste disposal procedures; and

(9) a description of any waivers from DPH regulations issued for the RMD.

A. The Planning Board shall refer copies of the application to the Building Department, Fire Department, Police Department, Board of Health, the Conservation Commission, the

Highway Department. These boards/departments shall review the application and shall submit their written recommendations. Failure to make recommendations within 35 days of referral of the application shall be deemed lack of opposition.

B After notice and public hearing and consideration of application materials, consultant reviews, public comments, and the recommendations of other town boards and departments, the Planning Board may act upon such a permit.

6. Special Permit Conditions :

The Planning Board shall impose conditions reasonably appropriate to improve site design, traffic flow, public safety, protect water quality, air quality, and significant environmental resources, 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 Bylaw:

a. Hours of Operation, including dispatch of home deliveries.

b. The permit holder shall file a copy of any Incident Report required under 105 CMR 725.110(F) with the Building Inspector and the Planning Board within 24 hours of creation by the RMD. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations.

c. The permit holder shall file a copy of any summary cease and desist order, cease and desist order, quarantine order, summary suspension order, order limiting sales, notice of a hearing, or final action issued by DPH or the Division of Administrative Law Appeals, as applicable, regarding the RMD with the Building inspector and The Planning Board within 48 hours of receipt by the RMD.

d. The permit holder shall provide to the Building Inspector and the Chief of the Police Department, 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.

e. 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.

f. The special permit shall be limited to the current applicant and shall lapse if the permit holder ceases operating the RMD.

g. The special permit shall lapse upon the expiration or termination of the applicant's registration by DPH.

h. The permit holder shall notify the Building Inspector and the Planning Board in writing within 48 hours of the cessation of operation of the RMD or the expiration or termination of the permit holder's registration with DPH.

7. Exemption from RMD Special Permit Requirement:

No use shall be allowed in the MMOD which creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.

8. Severability:

The provisions of this Bylaw are severable. If any provision, paragraph, sentence, or clause of this Bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Bylaw.