



TOWN MEETING

ARTICLE: 34 - Registered Marijuana Dispensaries

To see if the Town will vote to amend the Zoning Bylaw to define and/or regulate the location, use, acquisition, commercial and home cultivation, processing, transfer, transport, sale, distribution, and/or dispensing of medical marijuana and to define and regulate Registered Marijuana Dispensaries in the Town as authorized under 105 CMR 725: Implementation of an Act for the Humanitarian Medical Use of Marijuana; or to make any similar or other changes to the Zoning Bylaw which would have the same or substantially the same purpose; or take any other action relative thereto.

MOTION: 1

That the Zoning Bylaw be amended, as follows, to define and regulate Registered Marijuana Dispensaries in the Town, establishing regulations for the location, operation, and permitting of such uses, thereby reasonably allowing such uses as authorized under the *Act for the Humanitarian Medical Use of Marijuana* and Massachusetts Department of Public Health regulations 105 CMR 725.000: *Implementation of an Act for the Humanitarian Medical Use of Marijuana*; the following amendments shall not be effective until July 1, 2014 and Section XVIG, *Temporary Moratorium on Medical Marijuana Treatment Centers*, of the Zoning Bylaw shall not be rescinded until such date.

- **By amending Section IA., Definitions, of the Zoning Bylaw, to add the following term and definition in alphabetical order:**

Registered Marijuana Dispensary - A not-for-profit entity and use registered under 105 CMR 725.100, and previously known as a Medical Marijuana Treatment Center, which may acquire, cultivate, possess, process (including development of related products such as edible Marijuana-Infused Products ("MIPs"), tinctures, aerosols, oils, or ointments), transfer, transport, sell, distribute, dispense, and/or administer marijuana, products containing marijuana, related supplies, and/or educational materials to registered qualifying patients or their personal caregivers. Also referred to herein as "RMD" or "RMDs". Not to include non-medical dispensaries.

- **By additionally amending Section IA., Definitions, of the Zoning Bylaw, by deleting the definition of the term "Special Permit Granting Authority" and inserting the following definition therefor:**

1 Zoning Board of Appeals except as otherwise designated by this
2 Zoning Bylaw for the granting of special permits. For the review and
3 issuance of special permits for Registered Marijuana Dispensaries, as
4 allowed by this Bylaw and established in Section XXV, B., 5., b., the
5 Board of Selectmen shall act as the Special Permit Granting Authority.
6 For the purposes of SECTION XIVB. FLOOD PLAIN OR WATERSHED
7 PROTECTION DISTRICTS., SECTION XIVE. WATER SUPPLY PROTECTION
8 DISTRICTS., and SECTION XVIA. PROJECT APPROVAL., the Planning
9 Board shall act as the Special Permit Granting Authority for subdivision
10 applications processed under the provisions of the Subdivision Control
11 Law (Chapter 41, Sections 81K - GG M.G.L.) and for approval of
12 projects of significant impact. When the Planning Board is acting as
13 Special Permit Granting Authority, the chairman may call upon the
14 associate member to sit on the Board for the purposes of acting on an
15 application, in the case of absence, inability to act, or conflict of
16 interest on the part of any member, or in the event of a vacancy on
17 the Board. The provisions for filling the position of associate member
18 shall be governed by Article 45 of the Town Bylaws.

- 19
- 20 ▪ **By amending Section II., *Single Residence Districts, A., 8., b., of the Zoning***
21 ***Bylaw, by inserting the following language (not to include the quotation***
22 ***marks) between the words “purpose” and “provided”:***

23
24 “, not to include Registered Marijuana Dispensaries,”

- 25
- 26 ▪ **By amending Section IX., *Administrative and Professional Districts, A., 2., of***
27 ***the Zoning Bylaw, by deleting the subsection in its entirety and inserting the***
28 ***following therefor:***

29

- 30 2. Administrative offices, clerical offices, statistical offices, professional
31 offices, establishments for research and development, including
32 light manufacturing incidental to such research and development,
33 and any additional use for which a special permit may be obtained
34 in accordance with SECTION XXV. after the determination by the
35 Special Permit Granting Authority that the proposed use is similar to
36 one or more of the uses specifically authorized by this SECTION IX.
37 also, in connection therewith, the parking of motor vehicles and
38 such other accessory uses as are customary. Registered Marijuana
39 Dispensaries shall be allowed with the issuance of a special permit
40 in accordance with SECTION XXV and subject to additional
41 provisions included therein.

- 42
- 43 ▪ **By amending Section IX., *Administrative and Professional Districts, of the***
44 ***Zoning Bylaw, by adding a subsection “C.”, as follows, to ensure clarity and***
45 ***the continuation of existing regulations due to the preceding alteration:***

1
2 C. All uses shall be subject to conformity with the following
3 requirements:

- 4
5 1. No building or other structure shall be erected or placed on a
6 lot containing less than forty thousand (40,000) square feet in
7 area.
8
9 2. No building or addition to any building shall be erected or
10 placed on a lot which will result in the covering by buildings of
11 more than 20% of the lot area.
12
13 3. No building or structure other than accessory buildings shall be
14 located within fifty (50) feet of any property boundary line
15 abutting a public or private way or within fifty (50) feet of any
16 other property boundary line. No accessory buildings may be
17 erected within thirty (30) feet of any such property boundary
18 lines.
19
20 4. Off-street parking shall be provided in accordance with
21 SECTION XXI.
22
23 5. PROJECT APPROVAL. The provisions of SECTION XVIA. PROJECT
24 APPROVAL. shall apply.
25
26 6. FLOOR AREA RATIO: The maximum floor area ratio as defined in
27 SECTION IA. DEFINITIONS. shall be 0.30.

- 28
29 ▪ **By amending Section IXB., Lower Falls Village Commercial District, B., 9., of**
30 **the Zoning Bylaw, by adding an item “c.” as follows:**

31
32 c. Registered Marijuana Dispensaries

- 33
34 ▪ **By amending Section IXC., Wellesley Square Commercial District, A., 13., of**
35 **the Zoning Bylaw, by adding an item “k.” as follows:**

36
37 k. Registered Marijuana Dispensaries

- 38
39 ▪ **By amending Section XI., Business Districts, A., 13., of the Zoning Bylaw, by**
40 **adding an item “k.” as follows:**

41
42 k. Registered Marijuana Dispensaries

- 43
44 ▪ **By amending Section XIII., Industrial Districts, A., 11., of the Zoning Bylaw, by**
45 **adding an item “c.” as follows:**

1
2 c. Registered Marijuana Dispensaries
3

- 4 ▪ **By amending the Zoning Bylaw by deleting Section XVIG, *Temporary***
5 ***Moratorium on Medical Marijuana Treatment Centers, in its entirety, and any***
6 ***reference thereto.***
7
8 ▪ **By amending Section XXV., *Special Permit Granting Authority, B., of the***
9 ***Zoning Bylaw, by adding an item “6.” as follows:***

10
11 6. Registered Marijuana Dispensaries
12

- 13 a. Purpose - The purpose of this subsection is to regulate the
14 siting, design, placement, security, safety, monitoring, and
15 modifications of Registered Marijuana Dispensaries (“RMDs”)
16 within the Town of Wellesley to ensure that such uses are
17 operated in a manner consistent with the overall health,
18 welfare and safety of the Town in compliance with Chapter
19 369 of the Acts of 2012, *An Act for the Humanitarian Medical*
20 *Use of Marijuana*, and 105 CMR 725.000: *Implementation of*
21 *an Act for the Humanitarian Medical Use of Marijuana*, and to
22 minimize the adverse impacts of RMDs on adjacent
23 properties, residential neighborhoods, schools and other
24 places where children congregate, and other land uses
25 potentially incompatible with said RMDs.
26
27 b. Compatibility with State Laws - These regulations pertaining to
28 RMDs are not intended to supersede state laws and/or
29 regulations, including but not limited to Chapter 369 of the
30 Acts of 2012, *An Act for the Humanitarian Medical Use of*
31 *Marijuana*, and 105 CMR 725.000: *Implementation of an Act*
32 *for the Humanitarian Medical Use of Marijuana*; rather, these
33 regulations shall take precedence where they are more
34 stringent, and where a matter is not addressed herein,
35 compliance with 105 CMR 725.000 shall be required. Terms
36 used herein not defined within the Zoning Bylaw shall be as
37 defined in 105 CMR 725.000.

38
39 c. Applicability and Authority
40

41 i. Applicability:

- 42
43 (1) No RMD use shall commence unless permitted by the
44 issuance of a special permit as authorized by this
45 Section and subsection.

1
2 (2) No special permit for an RMD use shall be issued
3 unless the use is located in one of the zoning districts
4 established within the Zoning Bylaw specifically
5 authorizing such use.
6

7 (3) The establishment and operation of RMDs shall be
8 subject to continued compliance with all special
9 permits, including any conditions thereof, the
10 provisions of this Section and subsection, any other
11 applicable requirements of the Zoning Bylaw, and
12 local and state laws and regulations.
13

14 (4) The commercial cultivation, production, processing,
15 assembly, packaging, retail or wholesale sale, trade,
16 distribution or dispensing of marijuana is prohibited
17 unless permitted as an RMD as required and
18 authorized by the Zoning Bylaw.
19

20 (5) Nothing in this Bylaw shall be construed to supersede
21 federal and state laws governing the sale and
22 distribution of narcotic drugs.
23

24 ii. Authority: The Special Permit Granting Authority is
25 empowered to review and take action on special permit
26 applications for Registered Marijuana Dispensaries
27 consistent with the procedures established in subsection C.
28 of this Section; the Special Permit Granting Authority may
29 deny, grant, or grant with conditions all such applications.
30

31 d. General Regulations - All RMDs shall be subject to the
32 following conditions and limitations:
33

34 i. Location:
35

36 (1) No special permit for an RMD shall be granted where
37 such use would be located within 500 feet of a:
38

39 a. Public or private elementary school, middle
40 school, or high school;
41

42 b. Child care facility, including family daycare
43 homes, daycare centers, and/or nursery schools;
44 or
45

1 c. Any establishment catering to or providing
2 services primarily intended for minors, as
3 determined by the Special Permit Granting
4 Authority.
5

6 (2) The 500 foot distance shall be measured in a straight
7 line from the nearest point of the structure within
8 which the RMD would operate (from the nearest point
9 of the exterior of the tenant space if the RMD is
10 located in a structure occupied by multiple tenant
11 spaces), to the nearest point of any property on
12 which a public or private elementary school, middle
13 school, or high school is located, or to the nearest
14 point of any structure containing or associated with
15 other uses noted above.
16

17 (3) The commencement of one or more of the above
18 uses within 500 feet of a proposed RMD location
19 during the review of a special permit application for
20 an RMD (beginning on the date of submittal),
21 following the issuance of a special permit, or following
22 the commencement of the RMD use shall not
23 invalidate the RMD use, the special permit issued
24 therefor, or the ability to renew any unexpired or
25 unrevoked special permit.
26

27 ii. Configuration and Operation:
28

29 (1) An RMD shall be located in, and conduct all
30 operations within, an enclosed building; this shall not
31 prohibit operations involving the delivery or receiving
32 of permitted goods and products, which may involve
33 transfer to or from a motor-vehicle outside of an
34 associated building.
35

36 (2) All publicly accessible entrances shall be visible from
37 a public way.
38

39 (3) Drive-through windows and/or any interactions or
40 sales to customers within vehicles are prohibited.
41

42 (4) No RMD shall be located inside a building containing
43 residential dwelling units, including transient housing,
44 group housing, hotels, motels, lodging houses, and/or
45 dormitories.

- 1
2 (5) The hours of operation of RMDs shall be set by the
3 Special Permit Granting Authority, but in no event
4 shall an RMD be open to the public, performing
5 deliveries, and/or otherwise operating between the
6 hours of 8:00 PM and 8:00 AM; there shall be no
7 exemptions to the prohibited hours of operation for
8 emergencies.
9
- 10 (6) No person under the age of eighteen (18) shall be
11 permitted on the premises of the RMD unless he or she
12 is a qualified patient or primary caregiver, or is
13 accompanied by a parent or legal guardian.
14
- 15 (7) No marijuana shall be smoked, ingested, or otherwise
16 consumed on the premises of an RMD; the term
17 "premises" includes all buildings, accessory structures,
18 parking lots or parking areas, walks and/or other
19 immediate surroundings located on the same
20 lot/parcel as the RMD use.
21
- 22 (8) All RMDs shall be ventilated in such a manner that no
23 pesticides, insecticides or other chemicals or products
24 used in cultivation or processing are dispersed into the
25 outside atmosphere, and so that no odor from
26 marijuana or its processing can be detected by a
27 person with an unimpaired and otherwise normal
28 sense of smell at the exterior of the RMD or at any
29 adjoining use or property.
30

31 iii. Signage:

- 32
- 33 (1) All signs associated with RMDs shall comply with 105
34 CMR 725.000 and Section XXIIA, *Signs*.
35
- 36 (2) All special permit applications for RMDs shall include a
37 proposed exterior sign package, which may be
38 included as a condition of issuance of the special
39 permit.
40
- 41 (3) For every publicly accessible entrance there shall be
42 at least one (1) sign that includes the language
43 "Registration card issued by the MA Department of
44 Public Health required" with a minimum text height of
45 two (2) inches.

1
2 (4) Temporary signs and standard informational signs, as
3 defined in Section XXIIA, *Signs*, shall be prohibited.
4

5 iv. Security:
6

7 (1) RMDs shall provide the Wellesley Police Department,
8 Inspector of Buildings and the Special Permit Granting
9 Authority with the names, phone numbers and email
10 addresses of all management staff and keyholders to
11 whom one can provide notice if there are operating
12 problems associated with the establishment; this
13 information shall be updated when staff of the RMD
14 changes.
15

16 (2) No operator and/or employee of an RMD shall have
17 been convicted of any felony under state or federal
18 law.
19

20 (3) Trash dumpsters shall be locked and enclosed by a
21 screening enclosure so as not to be accessible to the
22 public.
23

24 (4) The exterior grounds, including the parking lot and
25 landscaped areas, shall be lighted in such a manner
26 that all areas are clearly visible at all times during
27 business hours; all light fixtures shall have full cut off
28 shields.
29

30 (5) The RMD shall be equipped with, and the operators of
31 such RMD shall maintain in working order at all times,
32 burglary/robbery alarms.
33

34 (6) A video surveillance system in compliance with 105
35 CMR 725.000 shall be installed and maintained; the
36 system shall monitor all areas that may contain
37 marijuana, parking lot areas, main building entrances
38 and exits, and any and all transaction areas for the
39 dispensing of marijuana.
40

41 (7) Procedures and protocols for the delivery and
42 transport of marijuana and MIPs shall be in
43 compliance with 105 CMR 725.000 and approved by
44 the Chief of Police.
45

1 e. Procedures and Findings

2
3 i. Procedures: In addition to the procedures established in
4 subsection C. of this Section, special permits issued for RMDs shall
5 be:

6
7 (1) Limited to the current applicant and shall lapse if the permit
8 holder ceases operation of the RMD; and

9
10 (2) Renewed annually.

11
12 ii. Findings: In addition to determining compliance with the above
13 General Regulations, all other applicable Sections of the Zoning
14 Bylaw, and the applicable Special Use Permit Standards
15 contained in subsection D. of this Section, the Special Permit
16 Granting Authority in their review of any special permit
17 application for an RMD shall find that the proposed Registered
18 Marijuana Dispensary:

19
20 (1) Meets a demonstrated local and regional need
21 based on the proximity of other RMDs serving the
22 Town's qualifying patients;

23
24 (2) Meets all other applicable requirements of the Zoning
25 Bylaw and the permitting requirements of all
26 applicable agencies of the Commonwealth of
27 Massachusetts and the Town of Wellesley, and will
28 otherwise comply with all applicable state and local
29 laws and regulations;

30
31 (3) Is designed to minimize any adverse visual or
32 economic impacts on abutters and other parties in
33 interest;

34
35 (4) Provides a secure indoor waiting area for patients;

36
37 (5) Provides adequate pick up/drop off area;

38
39 (6) Provides adequate security measures to ensure that
40 no individual participants will pose a threat to the
41 health or safety of other individuals, and that the
42 storage and/or location of cultivation of marijuana is
43 adequately secured in enclosed, locked facilities;
44 and
45

1 (7) Adequately addresses issues of vehicular and
2 pedestrian traffic, circulation, parking and queuing,
3 especially during peak periods at the RMD.
4

5 f. Severability - The provisions of this subsection (6. Registered
6 Marijuana Dispensaries) are severable. If any provision, paragraph,
7 sentence, or clause of this Section, or the application thereof to any
8 person, establishment, or circumstances, shall be held invalid, such
9 invalidity shall not affect the other provisions or application of this
10 Section or the Zoning Bylaw.
11

- 12 ▪ **By amending Section XXV., *Special Permit Granting Authority, C., 2.*, of the**
13 **Zoning Bylaw, by deleting the subsection in its entirety and inserting the**
14 **following therefor:**
15

16 2. All but one of the members of the Planning Board or Board of
17 Selectmen, when serving as Special Permit Granting Authority,
18 consents thereto; and
19
20
21
22

23 Approved:

Date

Moderator's Signature

Sponsor's Signature