

## NOTICE OF PUBLICATION OF ATM 2014 AMENDMENTS to the TOWN BYLAW AND ZONING BYLAW

The Town of Wellesley shall henceforth publish amendments to the Town Bylaw and Zoning bylaw by way of a pamphlet and post said pamphlet in each precinct and on the bulletin board of the Town Hall and on the website for the Town of Wellesley ([www.wellesleyma.gov](http://www.wellesleyma.gov)) (MGL Chapter 40 Section 32).

### Town Bylaw Amendments

- Article 3 (STM April 2014) amending Town Bylaw Article 19.19 Licensing authority of Board of Selectmen for retail sale of wine and malt beverages.

### Zoning bylaw Amendments

- Article 34 (ATM 2014) amending Zoning Bylaw to Regulate Marijuana Dispensaries

### Article 3 (STM April 2014)

Town Bylaw Article 19 Board of Selectmen, Section 19 as amended

NEW paragraph in bold

19.19. Licensing Board. The Selectmen shall serve as the licensing board for the Town under those statutes granting licensing powers to boards of selectmen.

**In granting of licenses for the sale of wines and malt beverages not to be drunk on the premises as authorized by c. 14 of the Acts of 2014 and as approved by the voters, the Selectmen shall limit such licenses to food stores and specialty food stores, said terms to be defined by the Selectmen in regulations adopted by the Selectmen after a public hearing.**

### Article 34 ATM 2014- Registered Marijuana Dispensaries Regulation and Permitting

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and Section XVIG, *Temporary Moratorium on Medical Marijuana Treatment Centers*, of the Zoning Bylaw shall not be rescinded until such date.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:**

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

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

“, not to include Registered Marijuana Dispensaries,”

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

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

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

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

1. No building or other structure shall be erected or placed on a lot containing less than forty thousand (40,000) square feet in area.
2. No building or addition to any building shall be erected or placed on a lot which will result in the covering by buildings of more than 20% of the lot area.
3. No building or structure other than accessory buildings shall be located within fifty (50) feet of any property boundary line abutting a public or private way or within fifty (50) feet of any other property boundary line. No accessory buildings may be erected within thirty (30) feet of any such property boundary lines.
4. Off-street parking shall be provided in accordance with SECTION XXI.

5. PROJECT APPROVAL. The provisions of SECTION XVIA. PROJECT APPROVAL. shall apply.
  6. FLOOR AREA RATIO: The maximum floor area ratio as defined in SECTION IA. DEFINITIONS. shall be 0.30.
- **By amending Section IXB., *Lower Falls Village Commercial District, B., 9.*, of the Zoning Bylaw, by adding an item "c." as follows:**
    - c. Registered Marijuana Dispensaries
  - **By amending Section IXC., *Wellesley Square Commercial District, A., 13.*, of the Zoning Bylaw, by adding an item "k." as follows:**
    - k. Registered Marijuana Dispensaries
  - **By amending Section XI., *Business Districts, A., 13.*, of the Zoning Bylaw, by adding an item "k." as follows:**
    - k. Registered Marijuana Dispensaries
  - **By amending Section XIII., *Industrial Districts, A., 11.*, of the Zoning Bylaw, by adding an item "c." as follows:**
    - c. Registered Marijuana Dispensaries
  - **By amending the Zoning Bylaw by deleting Section XVIG, *Temporary Moratorium on Medical Marijuana Treatment Centers*, in its entirety, and any reference thereto.**
  - **By amending Section XXV., *Special Permit Granting Authority, B.*, of the Zoning Bylaw, by adding an item "6." as follows:**
    6. Registered Marijuana Dispensaries
      - a. Purpose - The purpose of this subsection is to regulate the siting, design, placement, security, safety, monitoring, and modifications of Registered Marijuana Dispensaries ("RMDs") within the Town of Wellesley to ensure that such uses are operated in a manner consistent with the overall health, welfare and safety of the Town in compliance with Chapter 369 of the Acts of 2012, *An Act for the Humanitarian Medical Use of Marijuana*, and 105 CMR 725.000: *Implementation of an Act for the Humanitarian Medical Use of Marijuana*, and to

minimize the adverse impacts of RMDs on adjacent properties, residential neighborhoods, schools and other places where children congregate, and other land uses potentially incompatible with said RMDs.

b. Compatibility with State Laws - These regulations pertaining to RMDs are not intended to supersede state laws and/or regulations, including but not limited to Chapter 369 of the Acts of 2012, *An Act for the Humanitarian Medical Use of Marijuana*, and 105 CMR 725.000: *Implementation of an Act for the Humanitarian Medical Use of Marijuana*; rather, these regulations shall take precedence where they are more stringent, and where a matter is not addressed herein, compliance with 105 CMR 725.000 shall be required. Terms used herein not defined within the Zoning Bylaw shall be as defined in 105 CMR 725.000.

c. Applicability and Authority

i. Applicability:

- (1) No RMD use shall commence unless permitted by the issuance of a special permit as authorized by this Section and subsection.
- (2) No special permit for an RMD use shall be issued unless the use is located in one of the zoning districts established within the Zoning Bylaw specifically authorizing such use.
- (3) The establishment and operation of RMDs shall be subject to continued compliance with all special permits, including any conditions thereof, the provisions of this Section and subsection, any other applicable requirements of the Zoning Bylaw, and local and state laws and regulations.
- (4) The commercial cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of marijuana is prohibited unless permitted as an RMD as required and authorized by the Zoning Bylaw.

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

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

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

i. Location:

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

a. Public or private elementary school, middle school, or high school;

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

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

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

(3) The commencement of one or more of the above uses within 500 feet of a proposed RMD location

during the review of a special permit application for an RMD (beginning on the date of submittal), following the issuance of a special permit, or following the commencement of the RMD use shall not invalidate the RMD use, the special permit issued therefor, or the ability to renew any unexpired or unrevoked special permit.

ii. Configuration and Operation:

- (1) An RMD shall be located in, and conduct all operations within, an enclosed building; this shall not prohibit operations involving the delivery or receiving of permitted goods and products, which may involve transfer to or from a motor-vehicle outside of an associated building.
- (2) All publicly accessible entrances shall be visible from a public way.
- (3) Drive-through windows and/or any interactions or sales to customers within vehicles are prohibited.
- (4) No RMD shall be located inside a building containing residential dwelling units, including transient housing, group housing, hotels, motels, lodging houses, and/or dormitories.
- (5) The hours of operation of RMDs shall be set by the Special Permit Granting Authority, but in no event shall an RMD be open to the public, performing deliveries, and/or otherwise operating between the hours of 8:00 PM and 8:00 AM; there shall be no exemptions to the prohibited hours of operation for emergencies.
- (6) No person under the age of eighteen (18) shall be permitted on the premises of the RMD unless he or she is a qualified patient or primary caregiver, or is accompanied by a parent or legal guardian.
- (7) No marijuana shall be smoked, ingested, or otherwise consumed on the premises of an RMD; the term "premises" includes all buildings, accessory structures,

parking lots or parking areas, walks and/or other immediate surroundings located on the same lot/parcel as the RMD use.

- (8) All RMDs shall be ventilated in such a manner that no pesticides, insecticides or other chemicals or products used in cultivation or processing are dispersed into the outside atmosphere, and so that no odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the RMD or at any adjoining use or property.

iii. Signage:

- (1) All signs associated with RMDs shall comply with 105 CMR 725.000 and Section XXIIA, *Signs*.
- (2) All special permit applications for RMDs shall include a proposed exterior sign package, which may be included as a condition of issuance of the special permit.
- (3) For every publicly accessible entrance there shall be at least one (1) sign that includes the language "Registration card issued by the MA Department of Public Health required" with a minimum text height of two (2) inches.
- (4) Temporary signs and standard informational signs, as defined in Section XXIIA, *Signs*, shall be prohibited.

iv. Security:

- (1) RMDs shall provide the Wellesley Police Department, Inspector of Buildings and the Special Permit Granting Authority with the names, phone numbers and email addresses of all management staff and keyholders to whom one can provide notice if there are operating problems associated with the establishment; this information shall be updated when staff of the RMD changes.
- (2) No operator and/or employee of an RMD shall have

been convicted of any felony under state or federal law.

- (3) Trash dumpsters shall be locked and enclosed by a screening enclosure so as not to be accessible to the public.
- (4) The exterior grounds, including the parking lot and landscaped areas, shall be lighted in such a manner that all areas are clearly visible at all times during business hours; all light fixtures shall have full cut off shields.
- (5) The RMD shall be equipped with, and the operators of such RMD shall maintain in working order at all times, burglary/robbery alarms.
- (6) A video surveillance system in compliance with 105 CMR 725.000 shall be installed and maintained; the system shall monitor all areas that may contain marijuana, parking lot areas, main building entrances and exits, and any and all transaction areas for the dispensing of marijuana.
- (7) Procedures and protocols for the delivery and transport of marijuana and MIPs shall be in compliance with 105 CMR 725.000 and approved by the Chief of Police.

e. Procedures and Findings

- i. Procedures: In addition to the procedures established in subsection C. of this Section, special permits issued for RMDs shall be:
  - (1) Limited to the current applicant and shall lapse if the permit holder ceases operation of the RMD; and
  - (2) Renewed annually.
- ii. Findings: In addition to determining compliance with the above General Regulations, all other applicable Sections of the Zoning Bylaw, and the applicable Special Use Permit Standards contained in subsection D. of this Section, the Special Permit

Granting Authority in their review of any special permit application for an RMD shall find that the proposed Registered Marijuana Dispensary:

- (1) Meets a demonstrated local and regional need based on the proximity of other RMDs serving the Town's qualifying patients;
- (2) Meets all other applicable requirements of the Zoning Bylaw and the permitting requirements of all applicable agencies of the Commonwealth of Massachusetts and the Town of Wellesley, and will otherwise comply with all applicable state and local laws and regulations;
- (3) Is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest;
- (4) Provides a secure indoor waiting area for patients;
- (5) Provides adequate pick up/drop off area;
- (6) Provides adequate security measures to ensure that no individual participants will pose a threat to the health or safety of other individuals, and that the storage and/or location of cultivation of marijuana is adequately secured in enclosed, locked facilities; and
- (7) Adequately addresses issues of vehicular and pedestrian traffic, circulation, parking and queuing, especially during peak periods at the RMD.

- f. Severability - The provisions of this subsection (6. Registered Marijuana Dispensaries) are severable. If any provision, paragraph, sentence, or clause of this Section, 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 Section or the Zoning Bylaw.
- **By amending Section XXV., *Special Permit Granting Authority, C., 2.*, of the Zoning Bylaw, by deleting the subsection in its entirety and inserting the following therefor:**

2. All but one of the members of the Planning Board or Board of Selectmen, when serving as Special Permit Granting Authority, consents thereto; and

Bylaw amendments approved by the Attorney general.

Claims of invalidity of the amendments to the Town Bylaws or Zoning Bylaw by reason of any defect in the procedure of adoption or amendment may only be made within ninety (90) days of the date of posting, said posting date being June 19, 2014 and said deadline **being September 17, 2014**. Copies of the Town Bylaws may be examined and obtained at the Town Clerk's Office, Town Hall, 525 Washington Street, Wellesley, MA 02482, or reviewed on-line at [www.wellesleyma.gov](http://www.wellesleyma.gov) .

Town Bylaws so amended shall become effective September 17, 2014 and Zoning Bylaws so amended shall become effective as of the date of the town meeting vote April 16, 2014.