



TOWN MEETING

1 **ARTICLE:** 34 - Registered Marijuana Dispensaries
2

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

11
12 **MOTION:** 1
13

14 That the Zoning Bylaw be amended, as follows, to define and regulate
15 Registered Marijuana Dispensaries in the Town, establishing regulations for the
16 location, operation, and permitting of such uses, thereby reasonably allowing
17 such uses as authorized under the *Act for the Humanitarian Medical Use of*
18 *Marijuana* and Massachusetts Department of Public Health regulations 105 CMR
19 *725.000: Implementation of an Act for the Humanitarian Medical Use of*
20 *Marijuana*; the following amendments shall not be effective until July 1, 2014
21 and Section XVIG, *Temporary Moratorium on Medical Marijuana Treatment*
22 *Centers*, of the Zoning Bylaw shall not be rescinded until such date.

- 23
24 ▪ **By amending Section IA., Definitions, of the Zoning Bylaw, to add the**
25 **following term and definition in alphabetical order:**
26

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

- 37
38 ▪ **By additionally amending Section IA., Definitions, of the Zoning Bylaw, by**
39 **deleting the definition of the term "Special Permit Granting Authority", ~~and~~**

1 ~~the definition thereof, in its entirety~~ and inserting the following definition
2 therefor:

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

- 23
24 ▪ **By amending Section II., *Single Residence Districts, A., 8., b.,* of the Zoning**
25 **Bylaw, by inserting the following language (not to include the quotation**
26 **marks) between the words “purpose” and “provided”:**

27
28 “, not to include Registered Marijuana Dispensaries,”

- 29
30 ▪ **By amending Section IX., *Administrative and Professional Districts, A., 2.,* of**
31 **the Zoning Bylaw, by deleting the subsection in its entirety and inserting the**
32 **following therefor:**

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

1 in accordance with SECTION XXV and subject to additional
2 provisions included therein.

- 3
4 **▪ By amending Section IX., *Administrative and Professional Districts*, of the**
5 **Zoning Bylaw, by adding a subsection “C.”, as follows, to ensure clarity and**
6 **the continuation of existing regulations due to the preceding alteration:**

7
8 C. All uses shall be subject to conformity with the following
9 requirements:

- 10
11 1. No building or other structure shall be erected or placed on a
12 lot containing less than forty thousand (40,000) square feet in
13 area.
14
15 2. No building or addition to any building shall be erected or
16 placed on a lot which will result in the covering by buildings of
17 more than 20% of the lot area.
18
19 3. No building or structure other than accessory buildings shall be
20 located within fifty (50) feet of any property boundary line
21 abutting a public or private way or within fifty (50) feet of any
22 other property boundary line. No accessory buildings may be
23 erected within thirty (30) feet of any such property boundary
24 lines.
25
26 4. Off-street parking shall be provided in accordance with
27 SECTION XXI.
28
29 5. PROJECT APPROVAL. The provisions of SECTION XVIA. PROJECT
30 APPROVAL. shall apply.
31
32 6. FLOOR AREA RATIO: The maximum floor area ratio as defined in
33 SECTION IA. DEFINITIONS. shall be 0.30.

- 34
35 **▪ By amending Section IXB., *Lower Falls Village Commercial District, B., 9.*, of**
36 **the Zoning Bylaw, by adding an item “c.” as follows:**

37
38 c. Registered Marijuana Dispensaries

- 39
40 **▪ By amending Section IXC., *Wellesley Square Commercial District, A., 13.*, of**
41 **the Zoning Bylaw, by adding an item “k.” as follows:**

42
43 k. Registered Marijuana Dispensaries
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- 1 ▪ **By amending Section XI., *Business Districts, A., 13.*, of the Zoning Bylaw, by**
2 **adding an item “k.” as follows:**

3
4 k. Registered Marijuana Dispensaries

- 5
6 ▪ **By amending Section XIII., *Industrial Districts, A., 11.*, of the Zoning Bylaw, by**
7 **adding an item “c.” as follows:**

8
9 c. Registered Marijuana Dispensaries

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11 ▪ **By amending the Zoning Bylaw by deleting Section XVIG, *Temporary***
12 ***Moratorium on Medical Marijuana Treatment Centers*, in its entirety, and any**
13 **reference thereto.**

- 14
15 ▪ **By amending Section XXV., *Special Permit Granting Authority, B.*, of the**
16 **Zoning Bylaw, by adding an item “6.” as follows:**

17
18 6. Registered Marijuana Dispensaries

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20 a. Purpose - The purpose of this subsection is to regulate the
21 siting, design, placement, security, safety, monitoring, and
22 modifications of Registered Marijuana Dispensaries (“RMDs”)
23 within the Town of Wellesley to ensure that such uses are
24 operated in a manner consistent with the overall health,
25 welfare and safety of the Town in compliance with ~~the~~
26 Chapter 369 of the Acts of 2012, *An Act for the Humanitarian*
27 *Medical Use of Marijuana*, and 105 CMR 725.000:
28 *Implementation of an Act for the Humanitarian Medical Use*
29 *of Marijuana*, and to minimize the adverse impacts of RMDs
30 on adjacent properties, residential neighborhoods, schools
31 and other places where children congregate, and other land
32 uses potentially incompatible with said RMDs.

33
34 b. Compatibility with State Laws - These regulations pertaining to
35 RMDs are not intended to supersede state laws and/or
36 regulations, including but not limited to Chapter 369 of the
37 Acts of 2012, *An Act for the Humanitarian Medical Use of*
38 *Marijuana*, and 105 CMR 725.000: *Implementation of an Act*
39 *for the Humanitarian Medical Use of Marijuana*; rather, these
40 regulations shall take precedence where they are more
41 stringent, and where a matter is not addressed herein,
42 compliance with 105 CMR 725.000 shall be required. Terms
43 used herein not defined within the Zoning Bylaw shall be as
44 defined in 105 CMR 725.000.

1
2 c. Applicability and Authority
3

4 ~~1.~~ i. Applicability:
5

6 e. (1) No RMD use shall commence unless permitted by
7 the issuance of a special permit as authorized by this
8 Section and subsection.
9

10 b. (2) No special permit for an RMD use shall be issued
11 unless the use is located in one of the zoning districts
12 established within the Zoning Bylaw specifically
13 authorizing such use.
14

15 e. (3) The establishment and operation of RMDs shall be
16 subject to continued compliance with all special
17 permits, including any conditions thereof, the provisions
18 of this Section and subsection, ~~and~~ any other
19 applicable requirements of the Zoning Bylaw, and local
20 and state laws and regulations.
21

22 e. (4) The commercial cultivation, production, processing,
23 assembly, packaging, retail or wholesale sale, trade,
24 distribution or dispensing of marijuana is prohibited
25 unless permitted as an RMD as required and authorized
26 by the Zoning Bylaw.
27

28 e. (5) Nothing in this Bylaw shall be construed to supersede
29 federal and state laws governing the sale and
30 distribution of narcotic drugs.
31

32 ~~2.~~ ii. Authority: The Special Permit Granting Authority is
33 empowered to review and take action on special permit
34 applications for Registered Marijuana Dispensaries
35 consistent with the procedures established in subsection C.
36 of this Section; the Special Permit Granting Authority may
37 deny, grant, or grant with conditions all such applications.
38

39 d. General Regulations - All RMDs shall be subject to the
40 following conditions and limitations:
41

42 ~~1.~~ i. Location:
43

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

3
4 ~~i.~~ a. Public or private elementary school, middle
5 school, or high school;

6
7 ~~ii.~~ b. Child care facility, including family daycare
8 homes, daycare centers, and/or nursery schools; or

9
10 ~~iii.~~ c. Any establishment catering to or providing services
11 primarily intended for minors, as determined by the
12 Special Permit Granting Authority.

13
14 ~~b.~~ (2) The 500 foot distance shall be measured in a straight
15 line from the nearest point of the structure within which
16 the RMD would operate (from the nearest point of the
17 exterior of the tenant space if the RMD is located in a
18 structure occupied by multiple tenant spaces), to the
19 nearest point of any property on which a public or
20 private elementary school, middle school, or high school
21 is located, or to the nearest point of any structure
22 containing or associated with other uses noted above.

23
24 ~~e.~~ (3) The commencement of one or more of the above
25 uses within 500 feet of a proposed RMD location during
26 the review of a special permit application for an RMD
27 (beginning on the date of submittal), following the
28 issuance of a special permit, or following the
29 commencement of the RMD use shall not invalidate the
30 RMD use, the special permit issued therefor, or the ability
31 to renew any unexpired or unrevoked special permit.

32
33 ~~2.~~ ii. Configuration and Operation:

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35 ~~e.~~ (1) An RMD shall be located in, and conduct all
36 operations within, an enclosed building; this shall not
37 prohibit operations involving the delivery or receiving of
38 permitted goods and products, which may involve
39 transfer to or from a motor-vehicle outside of an
40 associated building.

41
42 ~~b.~~ (2) All publicly accessible entrances shall be visible from
43 a public way.

44

1 e. ~~(3)~~ Drive-through windows and/or any interactions or
2 sales to customers within vehicles are prohibited.

3
4 e. ~~(4)~~ No RMD shall be located inside a building containing
5 residential dwelling units, including transient housing,
6 group housing, hotels, motels, lodging houses, and/or
7 dormitories.

8
9 e. ~~(5)~~ The hours of operation of RMDs shall be set by the
10 Special Permit Granting Authority, but in no event shall
11 an RMD be open to the public, performing deliveries,
12 and/or otherwise operating between the hours of 8:00
13 PM and 8:00 AM; there shall be no exemptions to the
14 prohibited hours of operation for emergencies.

15
16 f. ~~(6)~~ No person under the age of eighteen (18) shall be
17 permitted on the premises of the RMD unless he or she is
18 a qualified patient or primary caregiver, or is
19 accompanied by a parent or legal guardian.

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21 g. ~~(7)~~ No marijuana shall be smoked, ingested, or otherwise
22 consumed on the premises of an RMD; the term
23 “premises” includes all buildings, accessory structures,
24 parking lots or parking areas, walks and/or other
25 immediate surroundings located on the same lot/parcel
26 as the RMD use.

27
28 h. ~~(8)~~ All RMDs shall be ventilated in such a manner that no
29 pesticides, insecticides or other chemicals or products
30 used in cultivation or processing are dispersed into the
31 outside atmosphere, and so that no odor from
32 marijuana or its processing can be detected by a
33 person with an unimpaired and otherwise normal sense
34 of smell at the exterior of the RMD or at any adjoining
35 use or property.

36
37 3. ~~iii.~~ Signage:

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39 e. ~~(1)~~ All signs associated with RMDs shall comply with 105
40 CMR 725.000 and Section XXIIA, *Signs*.

41
42 b. ~~(2)~~ All special permit applications for RMDs shall include
43 a proposed exterior sign package, which may be
44 included as a condition of issuance of the special

1 permit.

2
3 e. (3) For every publicly accessible entrance there shall be
4 at least one (1) sign that includes the language
5 "Registration card issued by the MA Department of
6 Public Health required" with a minimum text height of
7 two (2) inches.

8
9 e. (4) Temporary signs and standard informational signs, as
10 defined in Section XXIIA, *Signs*, shall be prohibited.

11
12 4. iv. Security:

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14 e. (1) RMDs shall provide the Wellesley Police Department,
15 Inspector of Buildings and the Special Permit Granting
16 Authority with the names, phone numbers and email
17 addresses of all management staff and keyholders to
18 whom one can provide notice if there are operating
19 problems associated with the establishment; this
20 information shall be updated when staff of the RMD
21 changes.

22
23 b. (2) No operator and/or employee of an RMD shall have
24 been convicted of any felony under state or federal
25 law.

26
27 e. (3) Trash dumpsters shall be locked and enclosed by a
28 screening enclosure so as not to be accessible to the
29 public.

30
31 e. (4) The exterior grounds, including the parking lot and
32 landscaped areas, shall be lighted in such a manner
33 that all areas are clearly visible at all times during
34 business hours; all light fixtures shall have full cut off
35 shields.

36
37 e. (5) The RMD shall be equipped with, and the operators
38 of such RMD shall maintain in working order at all times,
39 burglary/robbery alarms.

40
41 f. (6) A video surveillance system in compliance with 105
42 CMR 725.000 shall be installed and maintained; the
43 system shall monitor all areas that may contain
44 marijuana, parking lot areas, main building entrances

1 and exits, and any and all transaction areas for the
2 dispensing of marijuana.

3
4 ~~g.~~ (7) Procedures and protocols for the delivery and
5 transport of marijuana and MIPs shall be in compliance
6 with 105 CMR 725.000 and approved by the Chief of
7 Police.

8
9 e. Procedures and Findings

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11 ~~1.~~ i. Procedures: In addition to the procedures established in
12 subsection C. of this Section, special permits issued for RMDs shall
13 be:

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15 ~~a.~~ (1) Limited to the current applicant and shall lapse if the
16 permit holder ceases ~~operating~~ operation of the RMD; and

17
18 ~~b.~~ (2) Renewed annually.

19
20 ~~2.~~ ii. Findings: In addition to determining compliance with the above
21 General Regulations, all other applicable Sections of the Zoning
22 Bylaw, and the applicable Special Use Permit Standards
23 contained in subsection D. of this Section, the Special Permit
24 Granting Authority in their review of any special permit
25 application for an RMD shall find that the proposed Registered
26 Marijuana Dispensary:

27
28 ~~a.~~ (1) Meets a demonstrated local and regional need
29 based on the proximity of other RMDs serving the Town's
30 qualifying patients;

31
32 ~~b.~~ (2) Meets all other applicable requirements of the
33 Zoning Bylaw and the permitting requirements of all
34 applicable agencies of the Commonwealth of
35 Massachusetts and the Town of Wellesley, and will
36 otherwise comply with all applicable state and local
37 laws and regulations;

38
39 ~~c.~~ (3) Is designed to minimize any adverse visual or
40 economic impacts on abutters and other parties in
41 interest;

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43 ~~d.~~ (4) Provides a secure indoor waiting area for patients;

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e. (5) Provides adequate pick up/drop off area;

f. (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

g. (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

Approved:

Moderator's Signature

Date

Sponsor's Signature