

Section 7.9, Registered Medical Marijuana Dispensaries **(Proposed)**

A. Purpose: To provide for the placement of Registered Marijuana Dispensaries (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 siting, design, placement, security, and removal of RMDs.

B. Definitions: where not expressly defined in the Wales Zoning Bylaws, terms used in this Section 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 thereunder, 105 CMR 725.01, et seq., and otherwise by their plain language.

C. Site Plan Review: Site Plan Review, for purposes of this Section of the by-law are Sections 3.0.4.4, 3.0.4.5, 3.0.4.6. and 3.0.4.7*

D. Special Permit Granting Authority: For purposes of Section 7.9 the Planning Board is the Special Permit Granting Authority with provision for Appeals regarding placement of RMDs to the Zoning Board.

E. Location

1. RMDs may be permitted by-right with Site Plan Review, Section 7.9;C.
2. RMDs may not be located within 500 feet of the following:

- (a) School, including a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university;
- (b) Licensed Child Care Facility;
- (c) Library;
- (d) Playground open to the public;
- (e) Public Park;
- (f) Youth center;
- (g) Public swimming pool;
- (h) Video arcade facility; or
- (i) Similar facility in which minors commonly congregate

3. 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 Sections 2.0 and 3.0 to the nearest point of the proposed RMD's primary structure (i.e., the primary structure related to a proposed RMD must be 500 feet from the property line of a protected use).

4. The distance requirement may be reduced to no less than 300 feet by Special Permit, under this Section 7.9, but only if:

- (a) The applicant demonstrates that the RMD would otherwise be effectively prohibited within the applicable zoning district;
- (b) 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.

F. Procedure: Site Plan Review is required for all RMD applications in accordance with Section 7.9;C (i.e. Site Plan Review is required for this use even when there is no new construction or expansion of structures or parking areas).

1. Application: In addition to the materials required under Section 3.0 all applications for RMDs shall include:

- (a) A copy of its registration as an RMD from the Massachusetts Department of Public Health ("DPH");
- (b) 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;
- (c) A description of the security measures, including employee security policies, approved by DPH for the RMD;
- (d) A copy of the emergency procedures approved by DPH for the RMD;
- (e) A copy of the policies and procedures for patient or personal caregiver home-delivery approved by DPH for the RMD;
- (f) A copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between RMDs approved by DPH;
- (g) A copy of proposed waste disposal procedures; and
- (h) A description of any waivers from DPH regulations issued for the RMD.

2. Copies of the application shall be referred to other Town Departments. In addition, a copy shall be referred to the Police Department and Fire Department.

G. Conditions on RMDs: 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 permit granted under this Bylaw:

- 1. Hours of Operation, including dispatch of home deliveries.
- 2. The permit holder shall file a copy of any Incident Report required under 105 CMR 725.110(F) with the Zoning Enforcement Officer and the SPGA 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.

3. 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 Zoning Enforcement Officer and SPGA within 48 hours of receipt by the RMD.

4. The permit holder shall provide to the Zoning Enforcement Officer and 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.

5. The permit shall lapse within five (5) years of its issuance. If the permit holder wishes to renew the permit, an application to renew the permit must be submitted at least 120 days prior to the expiration of the permit.

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

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

8. The permit holder shall notify the Zoning Enforcement Officer and 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.

H. RMDs that demonstrate that they are protected pursuant to the agricultural exemption under G.L. c.40A §3 shall apply for Site Plan Approval under this by-law.

I. Prohibition Against Nuisances: No use shall be allowed under this Section 7.9 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.

J. 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.

*No current site plan review procedure exists as one by-law except as those in the sections listed.