

Order # 898

70-15-6

5/20/2015

XI-D (21) Registered Marijuana Dispensary (RMD) and Off-Site Medical Marijuana Dispensary (OMMD)

- 1) **Purpose:** To provide for the placement of registered Marijuana Dispensaries (RMDs) and Off-Site Medical Marijuana Dispensaries (OMMD), 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 and OMMDs 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 and OMMDs.
- 2) **Definitions:** where not expressly defined in the Ordinance, terms used in this section of the ordinance 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 (DPH) Regulations promulgated thereunder, 105 CMR 725.001, et seq., and otherwise by their plain language.
 - a. Marijuana-Infused Product (MIP) (as defined in 105 CMR 725.004): A product infused with marijuana that is intended for use or consumption including but not limited to edible products, ointments, aerosols, oils, and tinctures. These products when created or sold by a RMD or OMMD, shall not be considered a food or a drug as defined in M.G.L. c. 94, s. 1.
 - b. Registered Marijuana Dispensary (RMD): A not-for-profit entity registered under 105 CMR 725.000, also known as a Medical Marijuana Treatment Center, that acquires, cultivates, possesses, processes (including development of related products such as edible 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 dispersing, cultivation, and preparation of marijuana.
 - i. The cultivation and processing of medical marijuana, including the production of MIPs, in accordance with these regulations, is considered to be a manufacturing use and is not agriculturally exempt from zoning.
 - c. Off-Site Medical Marijuana Dispensary (OMMD): A Registered Marijuana Dispensary that is located off-site from the cultivation/processing facility (and controlled and operated by the same registered and approved not-for-profit entity which operates an affiliated RMD) but which serves only to dispense the processed marijuana, related supplies and educational materials to registered qualifying patients or their personal caregivers in accordance with the provisions of 105 CMR 725.00

3) **Additional Requirements/Conditions:** In addition to the standard requirements for a Special Permit the following shall also apply to all Registered Marijuana Dispensaries (RMD) and Off-Site Medical Marijuana Dispensaries (OMMD):

a. Use:

- i. Neither a RMD nor an OMMD may sell any products other than marijuana, including MIPs and marijuana seeds, and other products such as vaporizers that facilitate the use of marijuana for medical purposes in accordance with 105CMR (N)(7)725.105
- ii. Consumption of marijuana on the premises or grounds of any RMD or OMMD is prohibited in accordance with 105CMR (N)(8)725.105

b. Location

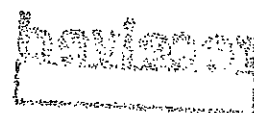
- i. No RMD or OMMD facility shall be sited within a radius of five hundred feet (500') of a foot of a school, daycare center, or any facility in which children commonly congregate in accordance with 105 CMR 725.110(A)(14)
- ii. No RMD or OMMD facility shall be located within five hundred (500) feet of a residence, a building containing residences, (including commercial residential uses such as hotels, motels, lodging houses, etc.) or a residential zoning district or the Conservancy District (CN) Zone.
- iii. No RMD or OMMD facility shall be located inside a building containing residential units, including transient housing such as lodging houses, motels and dormitories.
- iv. If the proposed RMD or OMMD is located on a separate parcel from the protected uses identified in this section then the distance under this section is measured in a straight line from the nearest point of each property line of the protected uses identified in this Section to the nearest point of the property line of the proposed RMD or OMMD.
- v. If the proposed RMD or OMMD is located on the same parcel as the protected uses identified in this section then the distance under this section is measured in a straight line from the nearest point of the building housing the protected uses identified in this Section to the nearest point of the building housing the proposed RMD or OMMD.

4) **Special Permit Granting Authority:** The Community Development Board shall be the Special Permit Granting Authority (SPGA) for a RMD and OMMD special permit.

- 5) **Application:** In addition to the materials required in Section XI Special Permits, the applicant shall include:
- a. Application in a form and manner as set forth in the Rules and Regulations of the Community Development Board.
 - b. The name and address of each owner of the RMD or OMMD facility/operation;
 - c. A copy of the RMD Certificate of Registration from the Massachusetts Department of Public Health ("DPH");
 - d. Evidence that the applicant has site control and right to use the site for a RMD or OMMD facility in the form of a deed or valid purchase and sales agreement or, in the case of a lease, a notarized statement from the property owner and a copy of the lease agreement.
 - e. A detailed floor plan of the premises that identifies the square footage available and describes the functional areas of the RMD or OMMD, including areas for any preparation of MIPS;
 - f. Design and appearance of proposed buildings, structures, freestanding signs, screening and landscaping, and lighting.
 - g. A copy of the operational plan for the cultivation of marijuana, including a detailed summary of policies and procedures for cultivation of marijuana including a detailed summary of policies and procedures for cultivation approved by Department of Public Health (DPH).
 - h. If the RMD intends to produce MIPS, a description of the types and forms of MIPS that the RMD intends to produce, and the methods of production as approved by DPH.
 - i. A copy of the detailed written operating procedures required by 105 CMR 725.105 (A) approved by DPH which shall include but no be limited to provisions for:
 - i. Security measures in compliance with 105 CMR 725.110
 - ii. Employee security policies, including personal safety and crime prevention techniques,
 - iii. A description of the RMD's or OMMD's hours of operation and after-hours information which shall be made available to law enforcement officials.
 - iv. Storage of marijuana in compliance with 105 CMR 725.105(d)

- v. Emergency procedures including disaster plan with procedures to be followed in case of fire or other emergencies;
- vi. Written policies and procedures for the production and distribution of marijuana which shall include but not be limited to:
 - 1. Policies and procedures for patient or personnel caregiver home delivery
 - 2. Policies and procedures for the transfer, acquisition, or sale of marijuana between RMDs and OMMDs.
- j. A description of any waivers from DPH regulations issued for the RMD.
- k. The SPGA shall refer copies of the application to the Building Department, Fire Department, Police Department, Board of Health, the Conservation Commission, and the Engineering 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.
 - l. After notice and public hearing and consideration of application materials, consultant reviews, public comments, and the recommendations of other town boards and departments, the SPGA may act upon such a permit.
- 6) Special Permit Conditions on RMDs: The SPGA shall impose conditions reasonably appropriate to improve site design, traffic flow, and 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.
- 7) 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.
- 8) The special permit shall be issued for an initial period of five years of its issuance. If there are no violations and/or breaches of the conditions of the Special Permit during that time frame, the Special Permit shall be automatically renewed.
- 9) The special permit shall be limited to the current applicant and shall lapse if the permit holder ceases operating the RMD.
- 10) The special permit shall lapse upon the expiration or termination of the applicant's registration by DPH.

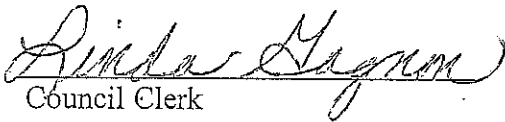
- 11) The permit holder shall notify the Zoning Enforcement Officer and SPGA in writing within 48 hours of the cessation of operation of the RMD or the expiration or termination of the permit holder's registration with DPH.
- 12) Exemption from RMD Special Permit Requirement: RMDs that demonstrate that they are protected pursuant to the agricultural exemption under G.L. c.40A §3 are not required to obtain a special permit, but shall apply for Site Plan Approval pursuant to Section XII of the Zoning Ordinance.
- 13) Prohibition Against Nuisances: No use shall be allowed which creates a nuisance 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.
- 14) Severability: The provisions of this Ordinance are severable. If any provision, paragraph, sentence, or clause of this Ordinance 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 Ordinance.




ORDER #890

First Read: April 22, 2014
Adopted: June 15, 2015
Effective: Immediately

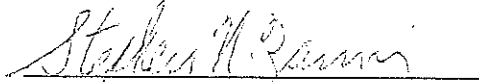
I do hereby certify that at a meeting of which a quorum was present,
the foregoing ordinance was adopted by the Methuen City Council by a unanimous vote
on June 15, 2015.


Council Clerk


Ronald Marsan, Council Chair

Approved under MHRC Sec. 3-6

Date: 7/2/15

Approved: 
Stephen N. Zanni, Mayor