

## **8.9. REGISTERED MEDICAL MARIJUANA FACILITIES**

**A. Purposes.** The purposes of this Section are to address possible adverse public health and safety consequences and impacts on the quality of life of the Town of Medway related to the passage of Chapter 369 of the Acts of 2012; provide for the limited establishment of a Registered Medical Marijuana Facility (RMMF) in an appropriate place and under strict conditions in accordance with Chapter 369 of the Acts of 2012, and 105 CMR 725.000; minimize the adverse impacts of a RMMF on adjacent properties, residential neighborhoods, schools, playgrounds and other land uses potentially incompatible with such a facility; regulate the siting, design, placement, security, safety, monitoring, modification, and removal of RMMFs; and limit the overall number of RMMFs in the community to what is essential to serve the public necessity.

### **B. Applicability.**

1. The commercial cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of Marijuana for Medical Use is prohibited unless permitted as a RMMF under this Section 8.9.
2. No RMMF shall be established except in compliance with the provisions of this Section 8.9.
3. Nothing in this Section 8.9 shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.

**C. Definitions.** As used in this Section, the following terms shall have the following meanings:

**Marijuana:** The same substance defined as “marijuana” under 105 CMR 725.004.

**Marijuana for Medical Use:** Marijuana that is designated and restricted for use by, and for the benefit of, Qualifying Patients as defined in 105 CMR 725.004.

**Registered Medical Marijuana Facility (RMMF):** Shall mean a not-for-profit entity, as defined by Massachusetts law only, registered by the Massachusetts Cannabis Control Commission under 105 CMR 725.000 that acquires, cultivates, possesses, processes (including development of related products such as food, 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 registered personal caregiver as determined by 105 CMR 725.000. (Amended.777~~2~~86).

**D. Eligible Locations for Registered Medical Marijuana Facilities.** Registered Medical Marijuana Facilities may be allowed by special permit from the Planning and Economic Development Board in the following zoning districts, provided the facility meets the requirements of this Section:

**Retail RMMF**

**Non-Retail RMMF**

Business Industrial (BI)

East Industrial (EI)

West Industrial (WI)

**E. General Requirements and Conditions for all Registered Marijuana Dispensaries 1.**

All RMMFs shall be contained within a permanent building or structure. No RMMF shall be located inside a building containing residential units or inside a movable or mobile structure such as a van, trailer, cargo container or truck. (Amended. ~~17975~~).

2. Size standards: (Amended. ~~777271~~).

a. A standalone retail RMMF shall not exceed 3,500 sq. ft. for product display, client dispensary, and patient consultation area.

b. The RMMF shall be of adequate interior space to accommodate all activities inside the building so as not to have outside patient queuing on sidewalks, in parking areas, or in other areas outside the RMMF.

3. A RMMF shall not be located in a building that contains any medical doctors' offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana.

4. The hours of operation of RMMFs shall be set by the Planning and Economic Development Board, but in no event shall the on-site retail sale or dispensing of medical marijuana and/or related products to customers occur between the hours of 8:00 PM and 8:00 AM. (Amended. ~~777072~~).

**5. Locational Criteria:**

a. A retail RMMF shall not be located on a lot within 500 feet of any lot with a residence, existing public or private school serving students in grades K-12, private educational entity that provides instruction to children and youth in an ongoing organized basis, licensed registered childcare facility, library, religious facility, playground, public park, ball field, recreation center, halfway house or similar facility, drug or alcohol rehabilitation facility, or another retail RMMF which sells,

distributes dispenses or administers marijuana, products containing marijuana or related supplies to qualifying patients and registered caregivers.

b. A non-retail RMMF shall not be located within 500 feet of any lot with an existing public or private school serving students in grades K-12.

c. The distance requirement may be reduced by the Planning and Economic Development Board if the applicant demonstrates that the RMMF would otherwise be effectively prohibited from locating within the municipality and that adequate security measures will be employed to prevent the diversion of medical marijuana to minors who are not qualifying patients.

d. The distance between properties shall be calculated by direct measurement in a straight line without regard for intervening structures from the nearest property line of the land used as noted above to the nearest property line of the land on which the RMMF is to be located. (Amended. ~~08774~~).

6. No smoking, burning or consumption of any product containing marijuana or marijuana-infused products shall be permitted on the premises of a RMMF.

7. A RMMF may not have a drive-through service.

#### **F. Signage.**

1. Signage for the RMMF shall include the following language: »Registration.card. issued.by.the.MA.Cannabis.Control.Commission.required; .(Amended.777~~2~~86).

2. The required text for a sign for a RMMF shall be a minimum of two inches in height.

3. No permitted RMMF shall use any advertising material or graphics that are misleading, deceptive, or false, or designed to appeal to minors.

4. A RMMF shall not display on the exterior of the facility any advertisement for medical marijuana or any brand name.

5. Off-site signage or advertising in any form, including billboards shall not be allowed.

**G. Contact Information.** The RMMF shall provide the Medway Police Department, Building Commissioner and the Planning and Economic Development Board with the names, telephone numbers and email addresses of all management staff and key holders to whom the Town can provide notice if there are operating problems associated with the establishment.

**H. Prohibition against Nuisances.** No RMMF shall create a nuisance to abutters or to the surrounding area, or create 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.

**I. Openness of Premises.**

1. Any and all cultivation, distribution, possession, storage, display, sales or other distribution of medical marijuana shall occur only within the restricted interior area of the RMMF.
2. The RMMF shall be designed and constructed such that no area or portion where marijuana is processed or stored is visible from the exterior of the building.
3. The front of the building which shall include the public entrance to the RMMF shall be fully visible from the public street or building frontage.
4. Marijuana, marijuana infused products, and products that facilitate the use of medical marijuana shall not be displayed or clearly visible to a person from the exterior of the RMMF.

**J. Special Permit Requirements.**

1. A RMMF shall only be allowed by special permit from the Planning and Economic Development Board in accordance with G.L. c. 40A, §9, subject to the following statements, regulations, requirements, conditions and limitations.
2. A RMMF is subject to site plan review by the Planning and Economic Development Board pursuant to Section 3.5, which shall be coordinated with the special permit process.
3. A special permit for a RMMF shall be limited to one or more of the following uses that shall be prescribed by the Planning and Economic Development Board:
  - a. Cultivation of Marijuana for Medical Use (horticulture);
  - b. Processing and packaging of Marijuana for Medical Use, including marijuana that is in the form of smoking materials, food products, tinctures, oils, aerosols, ointments, and other marijuana infused products;
  - c. Retail sale or distribution of Marijuana for Medical Use to Qualifying Patients or Registered Personal Caregivers; (Amended. ~~1~~87~~7~~4).

d. Retail sale of products that facilitate the use of marijuana for medical purposes and of patient educational materials.

4. The RMMF special permit application shall include the following:

- a. The name and address of each owner of the facility;
- b. Copies of all required licenses and permits issued for the RMMF to the applicant by the Commonwealth of Massachusetts and any of its agencies;
- c. Evidence of the Applicant's right to use the site of the RMMF for the RMMF, such as a deed or lease;
- d. A statement under oath disclosing all of the applicant's owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of the owners of such entities until the disclosure contains the names of individuals;
- e. A certified list of all parties in interest entitled to receive notice of the hearing for the special permit application, taken from the most recent tax list of the town and certified by the Town Assessor;
- f. A detailed site plan that includes the following information:
  - i. A detailed floor plan of the premises of the proposed RMMF that identifies the square footage available and describes the functional areas of the facility including but not limited to sales, storage, cultivation, processing, food preparation, etc.
  - ii. Proposed security measures for the RMMF, including lighting, fencing, gates and alarms, etc., to ensure the safety of qualifying patients, their caregivers, and facility employees and to protect the premises from theft.
- g. A copy of the policies/procedures for the transfer, acquisition, or sale of medical marijuana between approved RMMF's in compliance with 105 CMR 725.105(B)(2).
- h. A copy of the policies/procedures for patient or personal caregiver home-delivery.
- i. A comprehensive noise mitigation plan prepared by a qualified acoustical consultant (whose qualifications include Institute of Noise Control Engineering (INCE) board certification or equivalent experience). (Added. **17975**).
- j. A comprehensive odor control, abatement and mitigation plan prepared by a certified environmental engineer or certificated environmental professional with demonstrated experience in the area of marijuana odor mitigation. (Added. **17975**).

## 5. Procedures.

a. The special permit application and public hearing procedure for a RMMF shall be in accordance with Section 3.4 and G.L. c. 40A, § 9.

b. Mandatory Findings. The Planning and Economic Development Board shall not grant a special permit for a RMMF unless it finds that:

i. The RMMF is designed to minimize any adverse visual or economic impacts; (Amended.77\_7~~2~~86).

ii. The RMMF demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations; and

iii. The applicant has satisfied all of the conditions and requirements of this Section and Section 3.4 of this Zoning Bylaw.

**6. Conditions.** In granting a special permit under this Section 8.9, the Planning and Economic Development Board shall impose conditions, limitations, and safeguards that are reasonably appropriate to:

a. Improve site design, traffic flow, and public safety;

b. Protect water quality, air quality and significant environmental resources;

c. Preserve the character of the surrounding area.

These conditions, limitations, and safeguards may address but are not limited to:

d. Hours of operation

e. Landscaping and site amenities

f. Requirements for noise and odor mitigation measures and monitoring (Added.1\_79\_7~~5~~).

**K. Annual Reporting.** Each RMMF permitted under this Zoning Bylaw shall as a condition of its special permit file an annual report with the Planning and Economic Development Board, the Building Commissioner, the Health Agent, and the Police Chief no later than January 31st of each year, providing a copy of all current applicable state licenses for the RMMF and/or its owners and demonstrate continued compliance with the conditions of the special permit.

**L. Duration of Special Permit.** A special permit granted under this Section 8.9 shall remain exclusively with the applicant which shall be the owner or lessee of the premises described

in the application. The special permit shall terminate automatically on the date the applicant alienates that title or leasehold interest in the premises.

**M. Abandonment or Discontinuance of Use.** A RMMF shall be required to remove all material, plants, equipment and other paraphernalia:

1. Prior to surrendering its state issued licenses or permits; or
2. Within six months of ceasing operations; whichever comes first.

**N. Other Permits and Approvals.** Receipt of a special permit from the Planning and Economic Development Board for a RMMF does not preclude an applicant from having to secure other required local permits from other Town boards or departments, including but not limited to the Board of Health, Conservation Commission, or the Department of Public Works. (Amended.77\_70\_88).

(Section.415amended.18774changing.the.term.Registered.Marijuana.Dispensary.(RMD).to.Registered.Medical.Marijuana.Facility.(RMMF).throughout;Amended.148689).

## **8.10. RECREATIONAL MARIJUANA**

**A. Purposes.** The purposes of this Section are to address possible adverse public health and safety consequences and impacts on the quality of life of the Town of Medway related to the passage of Chapter 5 of the Acts of 2017 regarding recreational marijuana; provide for the limited establishment of a Recreational Marijuana Establishment (RME) in an appropriate place and under strict conditions in accordance with Chapter 5 of the Acts of 2017; minimize the adverse impacts of a RME on adjacent properties, residential neighborhoods, schools, playgrounds and other land uses potentially incompatible with such a facility; regulate the siting, design, placement, security, safety, monitoring, modification, and removal of RMEs; and limit the overall number of RMEs in the community to what is essential to serve the public necessity.

### **B. Applicability.**

1. The commercial cultivation, production, processing, assembly, packaging, wholesale sale, trade, or distribution of Marijuana for Recreational Use is prohibited unless permitted as a RME under this Section 8.10.
2. No RME shall be established except in compliance with the provisions of this Section 8.10.
3. Nothing in this Section 8.10 shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.

**C. Definitions.** As used in this Section, the following terms shall have the following meanings:

**Marijuana:** The same substance defined as “marijuana” under Chapter 5 of the Acts of 2017

**Recreational Marijuana Establishment (RME):** See definition in Section 2.

**Recreational Marijuana Retailer:** See definition in Section 2

**Recreational Marijuana Social Consumption Establishment:** See definition in Section 2.

**D. Eligible Locations for Recreational Marijuana Establishments.** Recreational Marijuana Establishments may be allowed by special permit from the Planning and Economic Development Board in the following zoning districts, provided the facility meets the requirements of this Section:

1. East Industrial (renamed from Industrial I. on 7/7/2019).
2. West Industrial (renamed from Industrial III. on 7/7/2019).

**E. General Requirements and Conditions for all Recreational Marijuana Establishments**

1. All RMEs shall be contained within a permanent building or structure. No RME shall be located inside a building containing residential units or inside a movable or mobile structure such as a van, trailer, cargo container or truck. (Amended 7/7/2019).
2. A RME shall not be located in a building that contains any medical doctors' offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana.
3. The hours of operation of RMEs shall be set by the Planning and Economic Development Board.
4. No RME shall be located on a lot within 500 linear feet of any lot of an existing public or private school serving students in grades K-12.
  - a. The distance requirement may be reduced by the Planning and Economic Development Board if the applicant demonstrates that the RME would otherwise be effectively prohibited from locating within the municipality and that adequate security measures will be employed to prevent the diversion of medical marijuana to minors who are not qualifying patients.



b. The distance between properties shall be calculated by direct measurement in a straight line without regard for intervening structures from the nearest property line of the land used as noted in E. 4. above to the nearest property line of the land on which the RME is to be located.

5. No smoking, burning or consumption of any product containing marijuana or marijuana-infused products shall be permitted on the premises of a RME.

6. A RME may not have a drive-through service.

**F. Signage.**

1. No permitted RME shall use any advertising material or graphics that are misleading, deceptive, or false, or designed to appeal to minors.

2. A RME shall not display on the exterior of the facility any advertisement for marijuana or any brand name.

3. Off-site signage or advertising in any form, including billboards shall not be allowed.

**G. Contact Information.** The RME shall provide the Medway Police Department, Building Commissioner and the Planning and Economic Development Board with the names, telephone numbers and email addresses of all management staff and key holders to whom the Town can provide notice if there are operating problems associated with the establishment.

**H. Prohibition against Nuisances.** No RME shall create a nuisance to abutters or to the surrounding area, or create 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.

**I. Openness of Premises.**

1. Any and all cultivation, distribution, possession, storage, or display of recreational marijuana shall occur only within the restricted interior area of the RME.

2. The RME shall be designed and constructed such that no area or portion where marijuana is processed or stored is visible from the exterior of the building.

3. The front of the building which shall include the public entrance to the RME shall be fully visible from the public street or building frontage.

4. Marijuana and marijuana infused products shall not be displayed or clearly visible to a person from the exterior of the RME.

**J. Special Permit Requirements.**

1. RME shall only be allowed by special permit from the Planning and Economic Development Board in accordance with G.L. c. 40A, §9, subject to the following statements, regulations, requirements, conditions and limitations.

2. A RME is subject to site plan review by the Planning and Economic Development Board pursuant to Section 3.5, which shall be coordinated with the special permit process.

3. A special permit for a RME shall be limited to one or more of the following uses that shall be prescribed by the Planning and Economic Development Board:

a. Cultivation of Marijuana (horticulture)

b. Manufacturing, processing and packaging of marijuana for recreational use and the delivery and transport of marijuana and marijuana products to other RMEs, but not to consumers

c. Independent testing laboratory

4. Recreational Marijuana Retailers and Recreational Marijuana Social Establishments are not allowed by right or special permit anywhere in Medway.

5. The RME special permit application shall include the following:

a. The name and address of each owner of the facility;

b. Copies of all required licenses and permits issued for the RME to the applicant by the Commonwealth of Massachusetts and any of its agencies;

c. Evidence of the Applicant's right to use the site of the RME for the RME, such as a deed or lease;

d. A statement under oath disclosing all of the applicant's owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of the owners of such entities until the disclosure contains the names of individuals;

- e. A certified list of all parties in interest entitled to receive notice of the hearing for the special permit application, taken from the most recent tax list of the town and certified by the Town Assessor;
- f. A detailed site plan that includes the following information:
  - i. A detailed floor plan of the premises of the proposed RME that identifies the square footage available and describes the functional areas of the facility including but not limited to sales, storage, cultivation, processing, food preparation, etc.
  - ii. Proposed security measures for the RME, including lighting, fencing, gates and alarms, etc., to ensure the safety of qualifying patients, their caregivers, and facility employees and to protect the premises from theft.
- g. A copy of the policies/procedures for delivery service.
- h. A comprehensive noise mitigation plan prepared by a qualified acoustical consultant (whose qualifications include Institute of Noise Control Engineering (INCE) board certification or equivalent experience). (Added. 17975).
- i. A comprehensive odor control, abatement and mitigation plan prepared by a certified environmental engineer or certificated environmental professional with demonstrated experience in the area of marijuana odor mitigation. (Added. 17975).

## **6. Procedures.**

- a. The special permit application and public hearing procedure for a RME shall be in accordance with Section 3.4 and G.L. c. 40A, § 9.
- b. Mandatory Findings. The Planning and Economic Development Board shall not grant a special permit for a RME unless it finds that:
  - i. The RME is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in G.L. c. 40A, § 11;
  - ii. The RME demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations; and

iii. The applicant has satisfied all of the conditions and requirements of this Section and Section 3.4 of this Zoning Bylaw.

**7. Conditions.** In granting a special permit for an RME under this Section 8.10, the Planning and Economic Development Board shall impose conditions, limitations, and safeguards that are reasonably appropriate to:

- a. Improve site design, traffic flow, and public safety;
- b. Protect water quality, air quality and significant environmental resources;
- c. Preserve the character of the surrounding area.

These conditions, limitations, and safeguards may address but are not limited to:

- d. Hours of operation
- e. Landscaping and site amenities
- f. Requirements for noise and odor mitigation measures and monitoring (Added. 1  
79 7 5).

**K. Annual Reporting.** Each RME permitted under this Section 8.10 shall as a condition of its special permit file an annual report with the Planning and Economic Development Board, the Building Commissioner, the Health Agent, and the Police Chief no later than January 31st of each year, providing a copy of all current applicable state licenses for the RME and/or its owners and demonstrate continued compliance with the conditions of the special permit.

**L. Duration of Special Permit.** A special permit granted under this Section 8.10 shall remain exclusively with the applicant which shall be the owner or lessee of the premises described in the application. The special permit shall terminate automatically on the date the applicant alienates that title or leasehold interest in the premises.

**M. Abandonment or Discontinuance of Use.** A RME shall be required to remove all material, plants, equipment and other paraphernalia:

- a. Prior to surrendering its state issued licenses or permits; or
- b. Within six months of ceasing operations; whichever comes first.

**N. Other Permits and Approvals.** Receipt of a special permit from the Planning and Economic Development Board for a RME does not preclude an applicant from having to secure other required local permits from other Town boards or departments, including but

not limited to the Board of Health, Conservation Commission, or the Department of Public Works. (Amended.77\_70\_88).

(Section.476.was.amended.in.its.entirety.1\_87\_74)