

## 7.10 MARIJUANA FACILITIES

**7.10.1 Purpose.** It is recognized that the nature of the substance cultivated, processed, tested and/or sold by marijuana establishments have operational characteristics that require they be sited in such a way as to ensure the health, safety, and general well-being of the public. The imposition of reasonable safeguards and regulation of the time, place and manner of marijuana establishments is necessary to advance these purposes.

Subject to the provisions of this Zoning Ordinance, Massachusetts General Laws Chapters 40A, 94G, and 941, and the rules and regulations of the Cannabis Control Commission, marijuana establishments will be permitted to do business within the City of Holyoke that meet state regulations as established by the Cannabis Control Commission.

Nothing in this section shall be interpreted as regulating the growing, processing or fabrication of products that are not regulated as a controlled substance by the Massachusetts Cannabis Control Commission. Nothing in this section shall be interpreted as regulating businesses that do not bring cannabis or products containing delta-9-tetrahydrocannabinol onto their site.

**7.10.2 Marijuana Establishments-Definitions.** The following will be defined subcategories of marijuana establishments:

**Marijuana Establishments (ME).** A use operated by an entity duly licensed by the Cannabis Control Commission in accordance with state law, that is authorized to engage in the licensed cannabis industry pursuant to a provisional or final license issued by the Cannabis Control Commission. Marijuana Establishments include a Marijuana Manufacturing Establishment (MME), Medical Marijuana Dispensary (MMD), Recreational Marijuana Retail Establishment (RMRE), and Marijuana Testing Facility (MTF).

**Marijuana manufacturing establishment (MME):** A use operated by an entity duly licensed as a Marijuana Cultivator (Indoor or Outdoor), Craft Marijuana Cooperative, Marijuana Microbusiness, Medical Marijuana Treatment Center and/or Marijuana Product Manufacturer by the Cannabis Control Commission in accordance with M.G.L. c.940, and pursuant to all other applicable state laws and regulations, that cultivates, possesses, processes (including development of related products such as, but not limited to, food, tinctures, aerosols, oils, or ointments), transfers or transports marijuana or products containing marijuana.

The cultivation and processing of marijuana in accordance with this definition is considered to be a manufacturing use and is not agriculturally exempt from zoning.

**Medical marijuana dispensary (MMD):** A use operated by an entity duly licensed as a Medical Marijuana Treatment Center by the Cannabis Control Commission in accordance with M.G.L. c. 941, and pursuant to all other applicable state laws and regulations, also to be known as a medical marijuana treatment center, that that sells, distributes, dispenses, delivers, or administers marijuana, products containing marijuana, or related supplies specifically for medical purposes.

**Recreational marijuana retail establishment (RMRE):** A use operated by an entity duly licensed by the Cannabis Control Commission in accordance with M.G.L. c. 940, and pursuant to all other applicable state laws and regulations, that sells, distributes, dispenses, delivers, administers or allows for the on-site consumption of marijuana, products containing marijuana, or related supplies for retail sales for non-medical purposes.

**Marijuana testing facility (MTF):** An entity duly licensed by the Cannabis Control Commission in accordance with M.G.L. c. 940, and pursuant to all other applicable state laws and regulations, that tests marijuana and marijuana products, including certification for potency and the presence of contaminants. An MTF includes Independent Testing Laboratories and Standards Laboratories.

**7.10.3 Applicability.** This section applies to all marijuana establishments, which include: Marijuana manufacturing establishments (MME), medical marijuana dispensaries (MMD), recreational marijuana retail establishments (RMRE) and marijuana testing facilities (MTF) and any other Marijuana Establishment (ME) otherwise subject to the provisions of Section 1.2 of the Zoning Ordinance.

### 7.10.4 Permitted districts

- a. IG Zones: any and all types of marijuana establishments may be allowed in the IG zones by special permit of the City Council.

## 7.10.5 Operational requirements

### 1. Use:

- a. Marijuana establishments may only use their designated square footage for the purposes of operating such an establishment, as encompassed in this section.
- b. No marijuana shall be smoked, eaten or otherwise consumed or ingested within the premises.
- c. Public facing operations may not occur within the hours of 11:00 p.m. to 8:00 a.m. For the purposes of this provision, public facing operations shall mean all public access, sales, and servicing to and from the facility, including deliveries.
- d. MME may operate for 24 hours.

### 2. Physical requirements:

- a. All aspects of marijuana establishment must take place at a fixed location within a fully enclosed building.
- b. No outside storage is permitted.
- c. No MMD or RMRE shall have a gross floor area in excess of 5,000 square feet.
- d. Ventilation - all marijuana establishments shall be ventilated in such a manner that no:
  - i. Pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere.
  - ii. No odor from marijuana cultivation, processing or consumption can be detected by a person with an unimpaired and otherwise normal sense of smell at any adjoining use or adjoining property to the marijuana establishment.
- e. All signage shall comply with 935 CMR500.105(4), Cannabis Control Commission regulations and Section 6.4 "Signs."

### 3. Location:

- a. A MME shall not be located in buildings that contain any residential units, including transient housing such as hotels, motels and dormitories.
- b. Any RMRE shall not be located within 500 feet of any pre-existing public or private school providing education in pre-kindergarten, kindergarten, or any grades 1 through 12. Any other ME shall not be located within 200 feet of any pre-existing public or private school providing education in pre-kindergarten, or any grades 1 through 12.

For purposes of this section, measurements between a ME and a School shall be done in a straight line from the geometric center of the ME public entrance to the geometric center of the nearest school entrance, unless there is an impassable barrier within those 500/200 feet, in which case it shall be measured by the shortest publicly-accessible pedestrian travel path from the geometric center of the ME entrance to the geometric center of the nearest school entrance.

### 4. Issuance/transfer/discontinuance of use:

- a. A special permit shall be valid only for the registered entity to which the approval was issued and only for the site on which the marijuana establishment has been authorized.
- b. A special permit shall be non-transferable and shall have a term limited to the applicant's ownership or control of the premises as a marijuana establishment.
- c. Permitted marijuana establishments shall file an annual report to the City Clerk's office no later than January 31st, providing a copy of all current applicable State licenses for the establishment and/or its owners and demonstrating continued compliance with the conditions of the special permit.
- d. A special permit shall lapse if the applicant ceases operation for a period of 180 days of the marijuana

establishment and/or if the applicants' registration by department of public health or licensure by the Cannabis Control Commission has been revoked, expires, is terminated, is transferred to another controlling entity or is relocated to a new site.

- i. The applicant shall notify the Zoning Enforcement Officer and City Clerk in writing within 48 hours of such lapse, cessation, discontinuance, or expiration.

e. A marijuana establishment shall be required to remove all material, plants, equipment and other paraphernalia upon registration or licensure revocation, expiration, termination, transfer to another controlling entity or relocation to a new site and any other cessation of operation as regulated by the department of public health or the Cannabis Control Commission. Such removal will be in compliance with 105 CMR 725.105 (J), (O) and regulations from the CCC.

#### **7.10.6 Application procedure and requirements.**

- 1. Pre-application meeting.** An applicant for a Marijuana facility must attend a pre-application meeting set up in cooperation with the Planning Department. The applicant shall provide adequate information to describe the nature, scope and site of the proposed development, a brief narrative and basic layout plan.
- 2. Special Permit Application requirements:** An application for a City Council special permit shall include the following:
  - a. Two (2) original application forms and a designer's certificate.
  - b. Ten (10) full sets of the plans drawn to scale at a plan size no larger than 24" x 36" (reviewing Departments), and five (5) copies of reduced size plans (Ordinance Committee), preferably 11"X17". Plans shall be prepared by a registered surveyor, engineer or architect and shall include the names and addresses of the record owner(s) and design professional(s) and include their signatures and seals.
  - c. A digital (pdf) file of the plans and all other required submittal materials shall be submitted at the time of submission.
- 3. Narrative Contents (a-i):** A description of all activities to occur on site, including but not limited to the following, as applicable: (1) cultivating and processing of marijuana and marijuana infused products (MIPs), (2) on-site sales, (3) delivery of marijuana and related products to off-site facilities, (4) off-site direct delivery to patients, (5) distribution of educational materials, and other programs or activities. A separate narrative shall be provided for each activity and labeled as such.
  - a. The name and address of each owner of the marijuana establishment.
  - b. Copies of all required registrations, licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the establishment.
  - c. Evidence that the applicant has site control and right to use the site for a marijuana establishment 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.
  - d. A notarized statement signed by the marijuana establishment organization's chief executive officer and corporate attorney disclosing all of its designated owners, including officers, directors, partners, managers, 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 all such responsible individual persons.
  - e. A description of all activities to occur on site, including but not limited to: cultivating and processing of marijuana and marijuana infused products (MIPs), on-site sales, delivery of marijuana and related products to off-site facilities, off-site direct delivery, distribution of educational materials, and other programs or activities.
  - f. A written notice from the Chief of Police shall be submitted to the City Clerk stating that an acceptable security plan has been reviewed and approved. The security plan shall include the location and details of all security measures for the site, including but not limited to lighting, fencing, gates, waste disposal,

alarms and similar measures ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity. This plan is submitted to the Chief of Police only and is not submitted as part of the application.

**g.** A Development Impact Statement containing all the information required under Section 10.1.6(1) of the Zoning Ordinance (a-i). A Traffic Impact Statement containing all of the information required under Section 10.1.6(2) of the Zoning Ordinance (a-i).

**h.** A special permit fee in the amount of \$500.00 made out to the City of Holyoke.

**i.** The cost of publication for any and all required public notices shall be borne by the applicant.

**4. Marijuana Establishment Site Plan Application Requirements:** An application for Marijuana Establishment Site Plan Review application shall include the information set forth in section 7.10.6.2 above. In addition, it shall include a site plan prepared by a Massachusetts registered architect, landscape architect, professional engineer or other appropriate design professional. The site plan shall include the following components and information:

**a. Locus Plan.** A locus plan showing the entire proposed development and its relation to existing areas, buildings and roads for a distance of 300 feet from the boundaries of the proposed development or such other distance as may be approved or required by the city council. The plan shall also show all contiguous land owned by the applicant or by the owner of the property which is the subject of the application.

**b. Survey Plan.** A current survey plan of the entire parcel signed and sealed by a registered surveyor; historic surveys older than 10 years, or those that there are known metes and bound alterations or discrepancies, will not be accepted.

**c. Improvements Plan.** A plan depicting all existing and proposed buildings, driveways or roads, parking areas, service areas, sally ports, refuse collection areas, sidewalks, paths, landscaping, and etc.

**d. Photometric Plan** (aka photometric analysis, photometric lighting study). A survey of the site illustrating the proposed lighting solution by light level (foot candles, fc) for any new lighting to be installed at the proposed facility, including associated pole and fixture details.

**e. Building Plan.** A detailed floor plan showing square footages (sf) for each use/room within the marijuana establishment.

**f. Elevation Plan.** Building elevation plans showing all elevations of all proposed buildings and structures and indicating the type and color of materials to be used on all facades including the dimensions of the building. Window treatments shall be included. Each elevation shall be labeled with its corresponding compass direction. The plan shall also include the location, dimension, height and characteristics of proposed signs. Images of elevations may be substituted where there are no proposed alterations.

**g. Details.** Detail sheets including, but not limited to, pavement markings, lighting fixtures, fencing, dumpster enclosures, sally port(s), signage (temporary and permanent), and any site improvements included in plans a- f above.

**h. A Revision List** will be required for all revisions to plans and/or narratives.

#### **5. Review Procedures:**

**a. Special Permit.** Upon receipt of a complete application, the city clerk shall forward a copy for review and comment to building department, fire department, police department, engineering department, water department, board of health, planning board; and the stormwater authority and conservation commission if applicable. The departments shall review the application and provide comments back to the City Council within 21 calendar days. City Council shall, if needed, confer with the appropriate committee for review and comment. Should the Applicant provide revised plans and revision list to the City Clerk on a day between their original complete submission day, and the day of their first public hearing, the 21-day review period will restart from that date

**b. Marijuana Facility Site Plan Review.** Upon receipt of a complete application, the Planning Board will review the application under the procedures set forth for Section 10.0 **MAJOR SITE PLAN REVIEW** of the Holyoke Zoning Ordinance and any relevant provisions of M.G.L. Ch. 40A.

**6. New Construction:** In cases of new construction, in addition to the requirements of this section, see Section 10.0 **MAJOR SITE PLAN REVIEW** of the Holyoke Zoning Ordinance. The applicant may need to file with the Stormwater Authority, a stormwater management permit application, per the stormwater regulations.

#### **7.10.7 Findings.**

1. In addition to the standard findings for a special permit under Section 9.3.2, the City Council must also find all the following:
  - a. That the marijuana establishment is designed to minimize any adverse impacts on abutters and other parties in interest.
  - b. That the marijuana establishment 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.
  - c. That the applicant has satisfied all of the conditions and requirements of this section and other applicable sections of this appendix.
  - d. That the marijuana facility project meets a demonstrated need of the community.
  - e. That the marijuana establishment provides adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of marijuana product is adequately secured.
  - f. That the marijuana establishment adequately addresses issues of traffic demand, circulation flow, parking and queuing, particularly at peak periods at the establishment, and its impact on neighboring uses.

#### **7.10.8 Enforcement**

Any violation of this section shall be enforced in accordance with Section 9.1 of the Zoning Ordinance.