

CITY OF NEWTON
IN BOARD OF ALDERMEN
PROGRAMS AND SERVICES COMMITTEE AGENDA

WEDNESDAY, FEBRUARY 19, 2014

7:45 PM
Room 222

ITEMS SCHEDULED FOR DISCUSSION:

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#50-14 HIS HONOR THE MAYOR requesting authorization to transfer the sum of one hundred thousand dollars (\$100,000) from FY2015 Budget Reserve to a Health & Human Services Mental Health Services Account for the purpose of developing and implementing a Risk Identification and Suicide Intervention Program with Riverside Community Care and other appropriate organizations. [02/10/14 @ 6:47 PM]

Clerk's Note: The following item will be for discussion and update only:

#398-13 ALD. BAKER & DANBERG requesting a discussion of a possible ordinance, regulations or otherwise, to complement zoning regulation of any licensed Registered Marijuana Dispensaries to respond to any secondary impacts so as to make the operation of such dispensaries as successful as possible. [10/28/13 @ 10:00 AM]

#144-12 ALD. HESS-MAHAN proposing to repeal the time restrictions for filing special permit applications/site plan reviews for Major Projects during July and August in Article X Section 5 of the Rules and Orders of the Board of Aldermen.

The location of this meeting is handicap accessible and reasonable accommodations will be provided to persons requiring assistance. If you need a special accommodation, please contact the Newton ADA Coordinator, Joel Reider, at least two days in advance of the meeting: jreider@newtonma.gov . or 617-796-1145. For Telecommunications Relay Service dial 711.

ITEMS NOT YET SCHEDULED FOR DISCUSSION:**REFERRED TO PROG. & SERV. AND PUBLIC SAFETY & TRANS COMMITTEES**

- #410-13 ALD. JOHNSON, ALBRIGHT AND LINSKY requesting discussion with the Parks & Recreation, Police, Fire and Law Departments regarding options to decrease vandalism at the Albemarle Park (Halloran Recreation Complex) before April, 2014 [11/12/13 @ 4:15 PM]

REFERRED TO FINANCE AND APPROPRIATE COMMITTEES

- #403-13 HIS HONOR THE MAYOR submitting the FY15-FY19 Capital Improvement Plan and Long Range Projection pursuant to section 5-3 of the Newton City Charter. [10/21/13 @ 9:59 AM]

REFERRED TO FINANCE AND PROGRAMS & SERVICES COMMITTEE

- #402-13 ALD. FULLER, GENTILE, RICE and LINSKY requesting a Home Rule Petition to amend Article 9 of the Charter to clarify that Neighborhood Area Councils shall maintain and control their own financial accounts and records, independent of City finances; and to further clarify that such independent financial accounts and records shall remain subject to City audit. [10/28/13 @ 10:18 AM]
- #399-13 ALD. LINSKY, HESS-MAHAN, ALBRIGHT, CROSSLEY, DANBERG, BLAZAR, LAREDO & SCHWARTZ requesting to re-charge a task force to devise recommendations as to best practices and/or potential regulatory approaches to achieve improvements regarding the use of leaf blowers in the City of Newton. [10/28/13 @ 7:01 PM]
- #397-13 ALD. SANGIOLO on behalf of the URBAN TREE COMMISSION, proposing amendments to the Tree Preservation Ordinance. [10/28/13 @ 2:46 PM]
- #200-13 ALD. JOHNSON requesting a discussion with the Parks & Recreation Department and the Department of Public Works to establish a process for managing the placement and removal of City, for-profit, and non-profit signs advertising events. [05/28/13 @ 9:26 AM]
- #199-13 ALD. JOHNSON AND SANGIOLO requesting an update from the School Committee and School Department regarding the request from the Board of Aldermen to reduce the family cap on activity fees. [05/20/13 @ 11:05 PM]
- #95-13(2) THE PROGRAMS & SERVICES COMMITTEE requesting an update from the Health Care Advisory Committee. [09/12/13 @ 9:49AM]
- #34-13 ALD. DANBERG, ALBRIGHT, BLAZAR, RICE, LINSKY AND CROSSLEY requesting a prohibition on polystyrene-based disposable food or beverage containers in the City of Newton if that packaging takes place on the premises of food establishments within the City. [01/03/13 @ 11:01 AM]

#334-12 ALD. SWISTON AND LINSKY requesting a discussion with the Licensing Board regarding the licensing and permit requirements for non-profit organizations. [10/10/12 @ 3:52 PM]

REFERRED TO FINANCE AND APPROPRIATE COMMITTEES

#257-12 RECODIFICATION COMMITTEE recommending (1) review of the Fees, Civil Fines/Non-Criminal Disposition contained in Chapter 17 LICENSING AND PERMITS GENERALLY and Chapter 20 CIVIL FINES/NON-CRIMINAL DISPOSITION CIVIL FINES to ensure they are in accordance with what is being charged and (2) review of the acceptance of G.L. c. 40 §22F, accepted on July 9, 2001, which allows certain municipal boards and officers to fix reasonable fees for the issuance of certain licenses, permits, or certificates.

REFERRED TO PROG & SERV, PUB. FAC., ZAP, AND FINANCE COMMITTEES

#256-12 ALD. HESS-MAHAN, SANGIOLO & SWISTON proposing an ordinance promoting economic development and the mobile food truck industry in the City of Newton. [08/06/12 @4:46 PM]

#254-12(2) THE PROGRAMS & SERVICES COMMITTEE recommending an ordinance to ban single-use plastic bags at certain retail establishments in the City of Newton. [01/10/14 @ 3:36 PM]

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#254-12 (3) PROGRAMS & SERVICES COMMITTEE proposing an ordinance to require a fee, charged to consumers, for the use of paper bags at certain retail establishments in the City of Newton. [01/10/14 @ 3:36 pm]

#229-12 RECODIFICATION COMMITTEE recommending a review and possible amendment to the *Board of Aldermen Rules & Orders 2012-2013* relative to review of draft ordinances by the Law Department.

#145-12 ALD JOHNSON requesting a review by the Solicitor's office as to what constitutes "reorganization" per our City Charter. [05/16/12 @ 10:24PM]

REFERRED TO PROG. & SERV AND PUBLIC FACILITIES COMMITTEES

#36-12 ALD. CROSSLEY & FULLER requesting Home Rule legislation or an ordinance to require inspections of private sewer lines and storm water drainage connections prior to settling a change in property ownership, to assure that private sewer lines are functioning properly and that there are no illegal storm water connections to the city sewer mains.

A) Sewer lines found to be compromised or of inferior construction would have to be repaired or replaced as a condition of sale;

B) Illegal connections would have to be removed, corrected, and re-inspected in accordance with current city ordinances and codes, as a condition of sale.

[01/24/12 @ 8:07 AM]

REFERRED TO PROG & SERV, PUB. FACIL. AND FINANCE COMMITTEES

#312-10 ALD. LENNON, LAPPIN, SCHNIPPER, SANGIOLO requesting a discussion with the School Committee on its plans to address space needs in the Newton public schools. [10/27/10 @ 11:07 AM]

Respectfully Submitted,

Amy Mah Sangiolo

#50-14

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(617) 796-1100

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TDD/TTY
(617) 796-1089

E-mail
swarren@newtonma.gov



SETTI D. WARREN
MAYOR

City of Newton, Massachusetts
Office of the Mayor

February 10, 2014

Honorable Board of Aldermen
Newton City Hall
1000 Commonwealth Avenue
Newton Centre, MA 02459

Ladies and Gentlemen:

I write to request that your Honorable Board docket for consideration a request to transfer the sum of \$100,000 from FY15 Budget Reserve to Acct # 0150123-530218- for the purpose of developing and implementing a Risk Identification and Suicide Intervention Program with Riverside Community Care and other appropriate organizations.

As you know, the City of Newton has experienced the tragic loss of three young lives this year. The intent of this request is to work in partnership with Riverside Community Care to help students, school staff, parents, and community members understand and recognize the potential warning signs of depression or despair and to hopefully prevent further tragedies from occurring within our community.

Thank you for your consideration of this matter.

Sincerely,

Setti D. Warren
Mayor

RECEIVED
Newton City Clerk
2014 FEB 10 PM 6:47
DAVID A. OLSON, CMC
Newton, MA 02459

1000 Commonwealth Avenue Newton, Massachusetts 02459

www.newtonma.gov



DEDICATED TO COMMUNITY EXCELLENCE

CITY OF NEWTON
IN BOARD OF ALDERMEN

ORDINANCE NO. A-35

December 2, 2013

BE IT ORDAINED BY THE BOARD OF ALDERMEN
OF THE CITY OF NEWTON AS FOLLOWS:

That the Revised Ordinances of Newton, Massachusetts, 2012, as amended, be and are hereby further amended relative to Chapter 30 as follows:

Add the following new section:

Sec. 30-36. Registered Marijuana Dispensaries.

(a) *Purpose.* The purpose of this section is to provide for the limited establishment of registered marijuana dispensaries ("RMD") within the City as they are authorized pursuant to state regulations set forth in 104 CMR 725.000. Since RMDs are strictly regulated and will be limited in number by the Massachusetts Department of Public Health, the intent of this section is to permit RMDs where there is access to regional roadways and public transportation, where they may be readily monitored by law enforcement for health and public safety purposes, and where they will not adversely impact the character of residential neighborhoods and business districts.

(b) *RMD uses not allowed as-of-right.* RMD uses are not included within the definition of retail sales or services, agriculture, or any other lawful business permitted as of right or by special permit as provided in Chapter 30.

(c) *RMD uses allowed by special permit.* Use of land, buildings or structures for RMDs shall be allowed only by special permit pursuant to section 30-24 in the following districts, subject to the requirements and criteria of this section: Business 2; Business 5; and Mixed Use 1.

(d) *Minimum criteria and limitations on approval.*

(1) An RMD shall not be located within a radius of five hundred (500) feet from a school, daycare center, preschool or afterschool facility or any facility in which minors commonly congregate, or from a house of worship or religious use, but may be located within a lesser distance if the board of aldermen finds that the RMD is sufficiently buffered such that these facilities or uses will not be adversely impacted by the RMD's operation. Such distance shall be measured in a straight line from the nearest property line of the proposed RMD to the nearest property line of the facility.

(2) An RMD shall be properly registered with the Massachusetts Department of Public Health pursuant to 105 CMR 725.100 and shall comply with all applicable state and local public health regulations, public safety code regulations and all other applicable state and local laws, ordinances, rules and regulations. No building permit or certificate of occupancy shall be issued for an RMD that is not properly registered with the Massachusetts Department of Public Health. The RMD shall file copies of its initial certificate of registration and each annual renewal certificate with the clerk of the board of aldermen within one week of issuance, and shall immediately notify said clerk if its registration is not renewed or is revoked. The RMD shall provide the Newton police department with the names and contact information for all management staff and shall immediately notify the police department of any changes.

(3) A special permit granted by the board of aldermen authorizing the establishment of an RMD shall be valid only for the registered entity to which the special permit was issued, and only for the site on which the RMD has been authorized by the special permit. If the registration for the RMD is revoked, transferred to another controlling entity, or relocated to a different site, a new special permit shall be required prior to the issuance of a certificate of occupancy.

(4) An RMD shall be located only in a permanent building and not within any mobile facility. All sales shall be conducted either within the building or by home delivery to qualified clients pursuant to applicable state regulations.

(5) An RMD shall conform to the dimensional requirements applicable to the zoning district in which it is located.

(6) An RMD shall be subject to the number of parking stalls required in section 30-19(d)(10) unless a lesser or greater number of stalls is required by the board of aldermen based on the transportation analysis provided by the applicant

(7) All signage shall conform to the requirements of 105 CMR 725.105(L) and to the requirements of section 30-20 of these ordinances. No graphics, symbols or images of marijuana or related paraphernalia shall be displayed or clearly visible from the exterior of an RMD. The board of aldermen may impose additional restrictions on signage to mitigate impact on the immediate neighborhood.

(8) The RMD's hours of operation shall not adversely impact nearby uses. The board of aldermen may, as a special permit condition, limit the hours of operation of an RMD to mitigate any adverse impact on nearby uses.

(e) *Special permit application and procedure*

The procedural and application requirements of section 30-24 shall apply. In addition to the procedural and application requirements of section 30-24(a), (b) and (c), an application for special permit shall include, at a minimum, the following information:

- (1) *Description of Activities:* A narrative providing information about the type and scale of all activities that will take place on the proposed site, including but not limited to cultivating and processing of marijuana or marijuana infused products (MIP's), on-site sales, off-site deliveries, distribution of educational materials, and other programs or activities.
 - (2) *Service Area:* A map and narrative describing the area proposed to be served by the RMD and the anticipated number of clients that will be served within that area. This description shall indicate where any other RMDs exist or have been proposed within the expected service area.
 - (3) *Transportation Analysis:* A quantitative analysis, prepared by a qualified transportation specialist acceptable to the director of planning and development and the director of transportation, modeling the expected origin and frequency of client and employee trips to the site, the expected modes of transportation used by clients and employees, and the frequency and scale of deliveries to and from the site.
 - (4) *Context Map:* A map depicting all properties and land uses within a minimum one thousand (1,000) foot radius of the proposed site, whether such uses are located in Newton or within surrounding communities, including but not limited to all educational uses, daycare, preschool and afterschool programs. The context map shall include the measured distance to all uses described in section 30-36 (d)(1).
 - (5) *Registration Materials:* Copies of registration materials issued by the Massachusetts Department of Public Health and any materials submitted to that department for the purpose of seeking registration, to confirm that all information provided to the board of aldermen is consistent with that provided to the Massachusetts Department of Public Health.
- (f) *Special Permit Criteria.* In granting a special permit for a Registered Marijuana Dispensary, in addition to finding that the general criteria for issuance of a special permit as set forth in section 30-24(d) of this ordinance are met, the board of aldermen shall find that the following criteria are met:
- (1) The RMD is located to serve an area that currently does not have reasonable access to medical marijuana, or if it is proposed to serve an area that is already served by another RMD, it has been established by the Massachusetts Department of Public Health that supplemental service is needed.
 - (2) The site is located at least five hundred (500) feet distant from a school, daycare center, preschool or afterschool facility or any facility in which minors commonly congregate, or from a house of worship or religious use, or the site is located at a lesser distance if the board of aldermen finds that the site is sufficiently buffered such that these facilities or uses will not be adversely impacted by the RMD's operation.

(3) The site is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the site, whether driving, bicycling, walking or using public transportation.

(4) Traffic generated by client trips, employee trips, and deliveries to and from the RMD shall not create a significant adverse impact on nearby uses.

(5) Loading, refuse and service areas are designed to be secure and shielded from abutting uses.

(6) The building and site have been designed to be compatible with other buildings in the area and to mitigate any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior.

(7) The building and site are accessible to persons with disabilities.

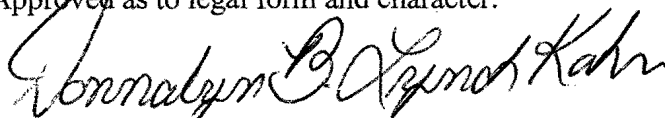
(8) The site is accessible to regional roadways and public transportation.

(9) The site is located where it may be readily monitored by law enforcement and other code enforcement personnel.

(10) The RMD's hours of operation will have no significant adverse impact on nearby uses.

(g) *Severability.* If any portion of this section is ruled invalid, such ruling will not affect the validity of the remainder of the section.

Approved as to legal form and character:

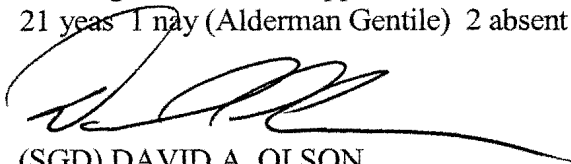


DONNALYN B. LYNCH KAHN
City Solicitor

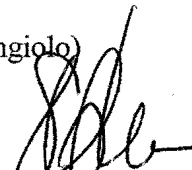
Under Suspension of Rules

Readings Waived and Approved

21 yeas 1 nay (Alderman Gentile) 2 absent (Aldermen Fischman and Sangiolo)



(SGD) DAVID A. OLSON
City Clerk



(SGD) SETTI D. WARREN
Mayor

Date: 12/16/15

#398-13

To access the DPH Application for the Registered Marijuana Dispensary proposed for Newton, go to:

<http://www.mass.gov/eohhs/gov/departments/dph/programs/hcq/medical-marijuana/>

Choose Phase 2 Application Materials, then scroll down to Garden Remedies.

The document is 240 pages.

**A REGULATION TO ENSURE SAFE ACCESS TO MEDICAL MARIJUANA
IN THE CITY OF BOSTON**

Whereas, Massachusetts voters approved the legal cultivation, processing, distribution, sale and use of marijuana for medical purposes through Chapter 369 of the Acts of 2012, An Act for the Humanitarian Medical Use of Marijuana; and

Whereas, nothing in that Act or its implementing regulations at 105 CMR 725 supersedes Massachusetts law prohibiting the possession, cultivation, transport, distribution, or sale of marijuana for nonmedical purposes; and

Whereas; the prevention of the illegal sale and use of marijuana, particularly by the city’s youth, is a public health priority; and

Whereas; Registered Marijuana Dispensaries and similar clinics in other jurisdictions have been found to present unique and challenging threats to public health and safety; and

Whereas, the state regulation at 105 CMR 725.600 allows for lawful local oversight and regulation, including fee requirements; and

Whereas, reasonable and effective local oversight of the cultivation, processing, distribution, sale and use of marijuana for medical purposes is needed to protect community health and safety while ensuring legitimate patient access;

Therefore, in furtherance of its mission to protect, promote, and preserve the health and well-being of all Boston residents, particularly the most vulnerable, and pursuant to the authority granted to it under M.G.L. c 111 § 31, the Board of Health enacts a Regulation to Ensure Safe Access to Medical Marijuana in the City of Boston as follows:

I. GUIDELINES

1. The Boston Public Health Commission (“Commission”) may issue guidelines for the implementation of these regulations, including but not limited to definitions of terms used in these regulations and in the guidelines. In the event of a conflict between these regulations and the guidelines, as either may be amended, the regulations shall control.

II. PERMITTING

1. Any proposed Registered Marijuana Dispensary (“RMD”) shall obtain an Operating Permit in the form and manner prescribed by the Office of Environmental Health of Boston Public Health Commission, as may be further set forth in the Guidelines.
2. In order to support execution of responsibilities set forth in this regulation, an annual Operating Permit fee shall be assessed in an amount that shall be set by the Boston Public

Health Commission's Executive Director ("Executive Director") and may be amended at the discretion of the Executive Director.

3. The RMD operator shall post the Operating Permit in a clear and conspicuous manner.
4. No Dispensary Agent shall sell or otherwise distribute marijuana or marijuana products within the city of Boston without first obtaining a Dispensary Agent Permit issued annually by the Commission. For purposes of this regulation, Dispensary Agent will include board member, director, employee, executive, manager, or volunteer of a Registered Marijuana Dispensary, who is at least 21 years of age and who has received approval from the state under 105 CMR 725.030. Employee includes a consultant or contractor who provides on-site services to a Registered Marijuana Dispensary related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of marijuana.
5. As part of the Permit application process, the applicant will be provided with this regulation. Each applicant is required to sign a statement declaring that the applicant has read said regulation.
6. Each applicant is required to provide proof by means of a valid government-issued photographic identification containing the bearer's date of birth that the applicant is 21 years old or older.
7. Each applicant is required to provide proof of a current Dispensary Agent registration, issued by the Commonwealth of Massachusetts, before a Permit can be issued.
8. In order to support execution of responsibilities set forth in this regulation, a Dispensary Agent Permit fee shall be assessed in an amount that shall be set by the Executive Director and may be amended at the discretion of the Executive Director.
9. All Dispensary Agent and Operating Permits expire annually on December 31st and shall be valid for a maximum term of one year, renewable annually on January 1st.
10. No permit issued under this regulation may be transferred to any other person or entity.

III. REQUIREMENTS AND PROHIBITIONS

1. The cultivation, processing, distribution, sale and use of marijuana for medical purposes shall be conducted in compliance with all laws, ordinances, regulation or policies applicable to similar activities. This shall include, but not be limited to compliance with Food Service Health Permit requirements, Weights and Measures requirements, Regulations for the Control of Noise in the City of Boston, Public Nuisance Properties Ordinance, Clean Air Works Workplace Smoking and E-Cigarette Regulation, and any and all requirements associated with zoning and permitting.
2. In no instance shall an Operating Permit be issued to any RMD that is within a radius of five hundred feet of a school, daycare center, or any facility in which children commonly congregate.
3. The cultivation, processing, distribution, or sale of marijuana for medical purposes shall not exempt any person or entity from complying with all state and local laws, ordinances,

regulation and policies. Violation of any other such law shall constitute a violation of this regulation and be subject to the fines and penalties described herein. Nothing in this Regulation gives any immunity under federal law or poses an obstacle to federal enforcement of federal law.

4. The issuance of an Operating Permit under this regulation shall be conditioned on Registration approval by the Massachusetts Department of Public Health as required by state law and regulation. Any revocation of an RMD's state registration shall result in an automatic suspension of that RMD's Operating Permit.
5. RMDs shall submit a security plan for review to the Boston Public Health Commission detailing all security measures taken to ensure patient and community safety and eliminate unauthorized access to the premises. The Boston Public Health Commission may issue guidelines or other procedure setting forth specific security requirements. Unless specified by any other state or local requirement or agreement as to the hours of operation of a RMD, the Executive Director, in consultation with Boston Police Department, City of Boston Inspectional Services Department, neighborhood associations, community organizations and residents, may set limitations on the hours of operation of any RMD.
6. Each RMD must hold an annual community meeting to provide abutters and community residents with an opportunity to comment on the RMD's operating practices, policies and plans.
7. RMDs must offer a secure patient or personal caregiver home delivery system that serves every address within Boston's city limits and provides patient or personal caregiver home delivery service to any patient or personal caregiver residing in the city of Boston who suffers a physical incapacity to access transportation as described by 105 CMR 725.035(A)(2).
8. A RMD shall submit a plan for review to the Boston Public Health Commission detailing its plans to provide reduced cost or free marijuana to patients with documented verified financial hardship as required by 105 CMR 725.100(A)(6). If said plan is deemed insufficient to ensure adequate patient access, no Operating Permit shall be issued.
9. The Executive Director may set further limitations on signage and advertising of RMDs, and may require the distribution of educational materials. Signage limitations may include, but need not be limited to those set forth in 105 CMR 725(105)(L), including restrictions on the use of images related to marijuana or marijuana paraphernalia, size and visibility of marijuana displays from outside a RMD. Educational materials to be distributed may include a "patients' bill of rights" along with information on addiction and treatment resources.
10. A RMD may not sell any products other than marijuana. For purposes of this subsection, "marijuana" may include Marijuana Infused Products, marijuana seeds, and other products that facilitate the use of marijuana for medical purposes, such as vaporizers.

RMDs may not sell any tobacco product, or other nicotine delivery product, including e-cigarette cartridges or liquids that contain nicotine.

11. RMDs shall submit data and reports to the Boston Public Health Commission in a form and manner determined by the Executive Director.
12. The issuance or renewal of an Operating Permit may be conditioned up the approval of any plan or compliance with this Regulation or any guideline or requirement issued under the authority of this Regulation.
13. Issuance and maintaining a Dispensary Agent Permit shall be conditioned on an applicant's ongoing compliance with current Commonwealth of Massachusetts requirements and policies regarding marijuana sales.
14. A Dispensary Agent Permit will not be renewed if the Permit Holder has failed to comply with any corrective action plan and/or has not satisfied any outstanding Permit suspensions.
15. Dispensary Agents must present their state Registration Card and Dispensary Agent Permit to any law enforcement official or municipal agent who questions the agent concerning their marijuana-related activities.
16. Inhaling, exhaling, burning or carrying any lighted or vaporized substance in any manner or form, including marijuana used for medical or any other purpose in a workplace shall constitute a violation of this regulation and shall be subject to the fines and penalties stated in the Clean Air Works Workplace Smoking and E-Cigarette Use Regulation.

IV. ENFORCEMENT AND PENALTIES

1. Authority to inspect RMDs for compliance and to enforce this regulation shall be held by the Boston Public Health Commission, its subsidiary programs or designees, the City of Boston Inspectional Services Department, and the Boston Police Department.
2. Any person may register a complaint under this Regulation to initiate an investigation and enforcement with the Boston Public Health Commission, its subsidiary programs or designees. Unscheduled compliance inspections shall be conducted at a minimum of three inspections annually.
3. Any fines or fees collected under this regulation shall be used for the administration and enforcement of this regulation and/or for any activities incidental to the regulation of medical marijuana.
4. It shall be the responsibility of the RMD Occupancy Permit holder and/or individual in charge of the RMD to ensure compliance with all applicable sections of this regulation. Any RMD found to be in violation of any of the provisions of these regulations may receive a written warning citation, Operating Permit suspension, Dispensary Agent Permit suspension, Operating Permit revocation, or Dispensary Agent revocation. For any violation, the Commission or its designee may order the RMD permit holder appear for a hearing and/or enter into a corrective action plan to address any and all violations and prevent future violations.

5. No provision, clause or sentence of this section of this regulation shall be interpreted as prohibiting the Boston Public Health Commission or a City of Boston department or agency from suspending or revoking any license or permit issued by and within the jurisdiction of such department or agency for repeated or egregious violations of this regulation.
6. Boston Public Health Commission may file a complaint in any court of competent jurisdiction and/or pursue any other remedy as warranted by law to enforce the provisions of this regulation.

V. APPEALS

1. Any RMD Operating Permit holder, Dispensary Agent, or any person or entity charged with violation of any provision of this regulation shall receive a citation from a designated agent of the Commission. Such citation and any subsequent hearing notification shall be deemed a Notice of Action within the meaning of 801 CMR 1.02(6).
2. Unless waived, the Commission shall conduct an Administrative Hearing before a designated hearing officer and in accordance with procedures approved by the Commission's Executive Director, to determine the facts of the violation, the appropriate corrective action measures, term of suspension, if any, and/or issue a permit revocation order.
3. Any RMD Operating Permit holder, Dispensary Agent, or any person or entity cited for violation of this regulation wishes to appeal the findings or rulings of the Hearing Officer he/she shall file a written appeal, and any supporting memoranda and documents, within twenty-one (21) days of the date the Hearing Officer's decision is issued. The Commission shall file any response to the appeal within fifteen (15) days of the date of receipt of the appeal is filed.
4. The Commission's Executive Director or his/her designee shall review the appeal and may hear oral argument. The Executive Director or his/her designee shall make a written finding and recommendation. The Executive Director's decision shall be the final decision of the Commission.
5. Failure to comply with any corrective action plan, suspension or revocation, shall result in automatic suspension of the permit.

VI. RETALIATION

1. No person, retailer, or employer shall discharge, refuse to hire, refuse to serve or in any manner retaliate or take any adverse action against any employee, applicant, customer or person because such employee, applicant, customer or person takes any action in furtherance of the enforcement of this regulation or exercises any right conferred by this regulation.

VII. SEVERABILITY

1. If any provision, clause, sentence, paragraph or word of this Regulation or the application thereof to any person, entity or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this article which can be given effect without the invalid provisions or application and to this end the provisions of this Regulation are declared severable.

VIII. EFFECTIVE DATE

1. This regulation shall take effect immediately upon passage by the Board of Health.

AUTHORITY

M.G.L. c. 111, 31; M.G.L. c. 111, App. §§2-1, 2-3, 2-6(b) and 2-6(j), 2-7(a)(1) and 2-7(a)(15).



Town of Brookline

Massachusetts

Patrick J. Ward, Town Clerk

Town Hall, 1st Floor
333 Washington Street
Brookline, MA 02445-6899
(617) 730-2010 Fax (617) 730-2043

ARTICLE 6 – SUBMISSION #2

TOWN OF BROOKLINE OFFICE OF THE TOWN CLERK

December 4, 2013

To Whom It May Concern:

I, Patrick J. Ward, Town Clerk of the Town of Brookline, duly qualified and acting as such and having custody of the records, hereby certify that the following action was taken under Article #6, at the Special Town Meeting called for Tuesday, November 19, 2013 at 7:00 P.M., and dissolved on Wednesday, November 20, 2013 at 9:34 P.M.

VOTED: that the Town amend the General By-Laws by adding the following article:

ARTICLE 8.34 REGISTERED MARIJUANA DISPENSARY (RMD) LICENSES

Section 8.34.1 PURPOSE

The purpose of this By-Law is to prevent and minimize any possible adverse public health and safety consequences that could result from the establishment of Registered Marijuana Dispensaries (“RMDs”) within the Town pursuant to Chapter 369 of the Acts of 2012, “An Act for the Humanitarian Medical Use of Marijuana” (the “Act”), while at the same time recognizing the purpose of the Act to make medical marijuana available to qualifying patients.

Section 8.34.2 LICENSE

No person shall operate an RMD within the Town unless licensed to do so by the Board of Selectmen (“Board”). An RMD license shall be valid for a term of one year from the first day of January.

Each day of operation without an RMD license shall constitute a separate violation.

An RMD license shall be subject to the RMD's compliance with Massachusetts and Town laws, by-laws, regulations, and codes, including, but not limited to, 105 C.M.R. 725, the Town's Zoning By-Law, and any Town regulations adopted pursuant to this By-Law.

Section 8.34.3 REGULATIONS

The Board may issue regulations for the implementation of this By-Law.

Section 8.34.4 APPLICATIONS FOR NEW OR RENEWED RMD LICENSES

The Board shall specify the process and forms to be used by applicants for new and renewed RMD licenses. The Board or its designee may inspect an RMD and affiliated vehicles prior to the issuance of an RMD license or renewal of a license. All areas of an RMD and all RMD records may be subject to inspection consistent with applicable law.

The Board may, to the extent permitted under applicable law (including any Town regulations promulgated hereunder), consider whether an applicant for a license is a suitable and responsible license candidate and other aspects of the application as may be necessary to implement the purposes of this By-Law. An applicant's non-compliance with Massachusetts and Town laws, by-laws, regulations, and codes, including, but not limited to, 105 C.M.R. 725, the Town's Zoning By-Law, and any Town regulations adopted pursuant to this By-Law, may be cause for denial of an application for a new or renewed RMD license.

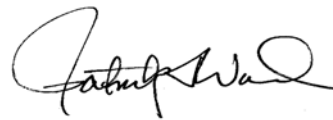
Section 8.34.5 IMPLEMENTATION

This By-Law shall not be implemented in a manner that conflicts or interferes with the Act or with 105 C.M.R. 725.

The above vote, taken under Article #6, on Tuesday, November 19, 2013, was PASSED BY A COUNTED VOTE OF 210 IN FAVOR AND 4 OPPOSED, was so declared by the Moderator and is so recorded.

A TRUE COPY.

ATTEST:



Patrick J. Ward
Town Clerk

(Seal)



Town of Brookline

Massachusetts

Patrick J. Ward, Town Clerk

Town Hall, 1st Floor
333 Washington Street
Brookline, MA 02445-6899
(617) 730-2010 Fax (617) 730-2043

**ARTICLE #17
FORM #2
SUBMISSION #2**

**TOWN OF BROOKLINE
OFFICE OF THE TOWN CLERK**

June 12, 2013

To Whom It May Concern:

I, Patrick J. Ward, Town Clerk of the Town of Brookline, duly qualified and acting as such and having custody of the records, hereby certify that the following actions were taken under Article #17 at the Annual Town Meeting called for Tuesday, May 28, 2013 at 7:00 P.M. and dissolved on Thursday, May 30, 2013 at 11:16 P.M.

VOTED: That the Town add to the Zoning By-Law in Section 2.13, "M" Definitions, a #1 for "Medical Marijuana Treatment Center" as follows:

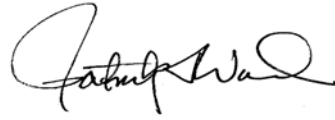
- 1. MEDICAL MARIJUANA TREATMENT CENTER—Any medical marijuana treatment center, as defined under state law as a Massachusetts not-for-profit entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers, which is properly licensed and registered by the Massachusetts Department of Public Health pursuant to all applicable state laws and regulations.**

To further see if the Town will amend Sec. 4.07, Table of Use Regulations, by adding a new use, Use #20B, and by adding a reference to such use in Use #21 (new language in **bold**) :

| Principal Uses | Residence | | | | | Business | | | Ind. |
|--|-----------|----|----|----|----|----------|-----|------|------|
| | S | SC | T | F | M | L | G | O | I |
| <p>20B. Medical marijuana treatment center</p> <p>* It is the intent of the Department of Planning and Community Development to submit to Town Meeting an amendment to this use category at or before the 2014 annual Town Meeting in order to regulate or restrict this use in accordance with the State regulations. The restrictions on use contained herein are effective only until such amendments to this use become effective or, if Town Meeting fails to pass such amendments, until June 30, 2014. Temporarily restricting this use will allow the Town to review the regulations governing these facilities that will be promulgated by the Massachusetts Department of Public Health on or about May 1, 2013, and allow the Town to enact zoning provisions, consistent with the State regulations, setting forth the allowed locations, dimensional, parking and other requirements applicable to medical marijuana treatment centers.</p> | No | No | No | No | No | No | No | No | No |
| <p>21. Business, professional, or governmental office other than Use 20, and 20A and 20B.</p> <p>*Provided no commodities are kept for sale on the premises.</p> | No | No | No | No | No | Yes | Yes | Yes* | Yes |

The above vote, taken under Article #17, on Thursday, May 30, 2013, was PASSED BY A COUNTED VOTE OF 140 IN FAVOR AND 3 OPPOSED, was so declared by the Moderator and is so recorded.

ATTEST:

A handwritten signature in black ink, appearing to read "Patrick J. Ward". The signature is fluid and cursive, with the first name "Patrick" being the most prominent.

Patrick J. Ward
Town Clerk

(Seal)



Town of Brookline

Massachusetts

Patrick J. Ward, Town Clerk

Town Hall, 1st Floor
333 Washington Street
Brookline, MA 02445-6899
(617) 730-2010 Fax (617) 730-2043

ARTICLE 7 – SUBMISSION #2

TOWN OF BROOKLINE OFFICE OF THE TOWN CLERK

December 4, 2013

To Whom It May Concern:

I, Patrick J. Ward, Town Clerk of the Town of Brookline, duly qualified and acting as such and having custody of the records, hereby certify that the following action was taken under Article #7, at the Special Town Meeting called for Tuesday, November 19, 2013 at 7:00 P.M., and dissolved on Wednesday, November 20, 2013 at 9:34 P.M.

VOTED: that the Town amend the Brookline Zoning By-Law as follows:

Amending Section 2.13.1, “M” Definitions, “Medical Marijuana Treatment Center” as follows: (new language in bold)

1. MEDICAL MARIJUANA TREATMENT CENTER – Any Medical Marijuana Treatment Center, **to be known as a Registered Marijuana Dispensary (RMD)**, as defined under state law as a Massachusetts not-for-profit entity 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 qualifying patients or their personal caregivers, which is properly licensed and registered by the Massachusetts Department of Public Health pursuant to all applicable state laws and regulations.

And amending Sec. 4.07, Table of Use Regulations, Use #20B, by changing the use name from Medical Marijuana Treatment Centers, to Registered Marijuana Dispensary, and change the use columns as follows (new language in bold):

| Principal Uses | Residence | | | | | Business | | | Ind. |
|---|-----------|----|----|----|----|----------|----------------------|----------------------|----------------------|
| | S | SC | T | F | M | L | G | O | I |
| <p>20B. Registered Marijuana Dispensary (RMD)*</p> <p>* To be eligible for a special permit under Use 20 B, the requirements under Sec. 4.12, Registered Marijuana Dispensary, shall be met.</p> | No | No | No | No | No | No | No SP* | No SP* | No SP* |

And creating a new Sec 4.12, Registered Marijuana Dispensary (RMD with the following requirements: (new language in bold):

Sec. 4.12 - Registered Marijuana Dispensary (RMD)

1. Purpose

The intent of this section is to ~~establish~~ **allow** RMDs in appropriate locations and under strict safeguards to mitigate any possible adverse public health and safety consequences related to the establishment of RMDs in the Town of Brookline, in conformity with Chapter 369 of the Acts of 2012 (Question # 3 on the November 6, 2012 ballot).

If any provisions of this section shall be held to be invalid, those provisions shall be severable and the remaining sections shall be valid.

2. General Restrictions

An RMD shall:

- a. Have a valid license or permit as may be required by law, including 105 CMR 725 and the Town By-Law, and comply with all state provisions.
- b. Be located more than 500 feet from an elementary or secondary school, public or private, as measured from lot boundary to lot boundary.
- c. Not be located in a building that contains a day care center.
- d. Not have direct access from a public way to the portion of the RMD where marijuana or related products or supplies are dispensed.
- e. Have signage that conforms to the state regulations, is not internally illuminated, and is approved by the Brookline Planning Board under Article VII of the Brookline Zoning By-Law.

- f. **Require that if an RMD cultivates marijuana in Brookline, it shall be in an entirely enclosed building for security purposes.**
- g. **Submit a detailed description of security measures for the RMD, such as lighting, fencing, gates, and alarms, etc., that comply with the requirements of 105 CMR 725, to ensure the safety of persons and protect the premises from theft.**

3. Submittal Requirements prior to issuance of a Building Permit for an RMD

The following information shall be provided to the Building Department:

- a. **The name and address of each owner of the RMD.**
- b. **Copies of any required licenses and permits relating to the operation of the RMD, or, if an application for a required license or permit is pending, a copy of the application.**
- c. **Evidence of the Applicant’s right to use the proposed site as an RMD, such as a deed or lease.**
- d. **If the Applicant is a business organization, a statement disclosing all of its 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/trustees of such entities by listing the individuals’ names and addresses.**

4. Submittal Requirements prior to issuance of a Certificate of Occupancy for an RMD

The following information shall be provided to the Building Department:

- a. **Proof that the Brookline Police Department has been provided with the name, phone numbers and email addresses of all management staff, and persons with access to the facility when it is closed, to enable contact if operating problems should arise.**
- b. **Proof that the Brookline Police Department has approved the proposed security measures and that all security measures have been installed or implemented.**

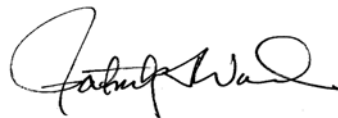
And amending Sec 6.02.5, Off-Street Parking Space Regulations by adding “20B” to the list of Retail and Office uses after “20A” in the first sentence: (new language in bold):

5. Retail and Office uses of land or structures shall include Uses 18, 20, 20A, 20B, 21, 26, 27, 29, 31-33 inclusive, 35-39 inclusive, 41, 58, and 59 as listed in Article IV.

The above vote, taken under Article #7, on Tuesday, November 19, 2013, was PASSED, AS AMENDED, WITH A TWO-THIRDS VOTE REQUIRED, BY A COUNTED VOTE OF 208 IN FAVOR AND 7 OPPOSED, was so declared by the Moderator and is so recorded.

A TRUE COPY.

ATTEST:



Patrick J. Ward
Town Clerk

(Seal)