

TOWN OF PALMER
MARIJUANA ESTABLISHMENTS AND REGISTERED MARIJUANA
DISPENSARIES ZONING ORDINANCE

Adopted 9/17/18

Article XXIV - §171-124 – MARIJUANA ESTABLISHMENTS AND RMDS

A. PURPOSE

- (1) To regulate the siting, design, placement, security, safety, monitoring, modification, and removal of Marijuana Establishments and Registered Marijuana Dispensaries in the Town of Palmer.
- (2) To minimize adverse impacts of Marijuana Establishments and Registered Marijuana Dispensaries on adjacent properties, residential neighborhoods, , historic structures and features, and other land uses potentially incompatible with said facilities.

B. APPLICABILITY

- (1) The commercial cultivation, production, processing, assembly, packaging, retail sale, distribution, and dispensing of marijuana is prohibited in Palmer unless permitted as a Marijuana Establishment or RMD in compliance with the provisions of this Section.
- (2) Marijuana Establishments and Registered Marijuana Dispensaries are not a form of agriculture, horticulture, or floriculture for purposes of the Zoning Ordinance.

C. DEFINITIONS

Independent Testing Laboratory: a laboratory that is licensed by the Cannabis Control Commission and is: (i) accredited to the most current International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Cooperation mutual recognition arrangement or that is otherwise approved by the Cannabis Control Commission; (ii) independent financially from any medical marijuana treatment center or any licensee or marijuana establishment for which it conducts a test; and (iii) qualified to test marijuana in compliance with regulations promulgated by the Cannabis Control Commission.

Marijuana Cultivator: an entity licensed to cultivate, process, and package marijuana, to deliver marijuana to marijuana establishments, and to transfer marijuana to other marijuana establishments, but not to consumers.

Marijuana Establishment: marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business.

Marijuana Product Manufacturer: an entity licensed to obtain, manufacture, process, and package marijuana/marijuana products, to deliver marijuana and marijuana products to marijuana

establishments, and to transfer marijuana and marijuana products to the other marijuana establishments, but not to consumers.

Marijuana Products: products that have been manufactured and contain marijuana or an extract of marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils, and tinctures.

Marijuana Retailer: an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments to consumers.

Medical Marijuana Treatment Center: An entity registered under 105 CMR 725.100 that acquires, cultivates, possesses, processes (including development of related products), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers.

Other Type of Licensed Marijuana-Related Business: a licensed marijuana establishment other than a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, or marijuana retailer.

Registered Marijuana Dispensary (RMD): A use registered or licensed by the Massachusetts Department of Public Health, Cannabis Control Commission, or other state body pursuant to all other applicable state laws and regulations, also to be known as a Medical Marijuana Treatment Center, 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 personal caregivers. An RMD shall explicitly include facilities which cultivate and process medical marijuana, and which may also dispense and deliver medical marijuana and related products. An RMD may be located off-site from the cultivation/processing facility (and controlled and operated by the same registered and approved entity which operates an affiliated RMD) but which serves only to dispense processed marijuana, related supplies and educational materials to registered qualifying patients or their personal caregivers.

Special Permit Granting Authority (SPGA): The Palmer Planning Board is hereby designated the SPGA to grant special permits for proposed Marijuana Establishments and RMDs in compliance with the provisions of this Section.

D. ELIGIBLE LOCATIONS FOR MARIJUANA ESTABLISHMENTS AND RMDS

Marijuana Cultivators, Marijuana Product Manufacturers, Independent Testing Laboratory, any Other Type of Licensed Marijuana-Related Business, and RMDs shall be allowed by special permit in the Industrial A, Industrial B Districts and in the Urban Renewal Industrial Park (URIP). Marijuana Retailers and RMDs only dispensing (not cultivating or processing), shall be allowed by special permit in the Highway Business Districts. Marijuana Establishments and RMDs are not allowed in any Residential District, the General and Neighborhood Business Districts and the Village Centers Districts I-IV.

E. LIMITATION ON NUMBER OF MARIJUANA ESTABLISHMENTS

The maximum number of Marijuana Retailers in the Town of Palmer shall be limited to three (3) at any one time.

F. DESIGN STANDARDS AND SITING REQUIREMENTS

- (1) Marijuana Establishments and RMDs shall comply with all applicable state laws and regulations.
- (2) All aspects of Marijuana Establishments and RMDs relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies or educational materials shall take place at a fixed location within a fully enclosed permanent building and may not be located in a trailer, cargo container, motor vehicle or other similar non-permanent enclosure.
- (3) No outside storage is allowed except as permitted under Site Plan Review.
- (4) No odor from marijuana cultivation, processing, manufacturing, or retail may be noxious or cause a nuisance, a danger to public health, or impair public comfort and convenience. Marijuana Establishments and RMDs shall incorporate odor control technology and provisions, and ensure that emissions do not violate MGL Chapter 111, Section 31C, including but not limited to those specified for odors.
- (5) Signage shall conform to Article XVII, §171-94 Signs, of the Town of Palmer's Zoning ordinance and requirements of State laws and regulations governing such facilities including 935 CMR 500.105 (4).
- (6) Marijuana, marijuana products, associated supplies, and/or promotional/advertising materials shall not be displayed or visible to a person from the exterior of a Marijuana Establishment or RMD.
- (7) The hours of operation of Marijuana Establishments and RMDs shall be determined by the SPGA as a condition of the special permit.
- (8) No Marijuana Establishment or RMD shall be located within a radius of five hundred (500) feet of the property boundary line of any lot in use as a public or private school providing education in kindergarten or any of grades 1-12 or day-care center. The 500-foot distance shall be measured in a straight line from property boundary line to property boundary line of the proposed Marijuana Establishment or RMD established at the time the application is received by the SPGA.
 - a. The distance requirement may be reduced by up to twenty-five percent (25%) by Special Permit if the applicant can adequately demonstrate the following:
 - 1] The Marijuana Establishment or RMD would otherwise be effectively prohibited within the municipality.
 - 2] The Marijuana Establishment or RMD will employ specific security measures to prevent diversion of marijuana to minors and further minimize, through design, any

adverse impacts on abutters and other parties in interest, as defined in M.G.L Chapter 40A, Section 11.

- (9) Marijuana Establishments and RMDs shall provide the Palmer Police Department, applicable Fire Department, Building Inspector and the SPGA with the names, phone numbers and email addresses of all management staff and key holders who can be contacted if there are operating problems associated with the Marijuana Establishment or RMD.
- (10) Marijuana Establishments and RMDs shall not have drive-thru service.
- (11) Marijuana Establishments and RMDs shall not be located within a building containing residential units.
- (12) No smoking, burning, vaping or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a Marijuana Establishment or RMD with the exception of product testing performed at an Independent Testing Laboratory or as a use allowed per state regulations and approved by the SPGA.
- (13) Notwithstanding any provision of the Zoning Ordinance to the contrary, a Marijuana Establishment and an RMD may be located within the same building.

G. SPECIAL PERMIT APPLICATION REQUIREMENTS

- (1) Marijuana Establishments and RMDs shall meet the requirements set forth in Palmer's Zoning Ordinance under §171-28 Special permits; §171-29 Site plan approval process; and this section. In addition, a special permit application for Marijuana Establishments and RMDs shall include the following:
 - a. The name and address of each owner of the Marijuana Establishment or RMD.
 - b. Copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the Marijuana Establishment or RMD, including the Cannabis Control Commission and Department of Public Health, and any required license from the Town of Palmer.
 - c. Evidence that the applicant has site control and the right to use the site for a Marijuana Establishment and/or RMD 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. Details showing all proposed exterior security measures for the premises, including lighting, fencing, gates and alarms, etc., which seek to ensure the safety of employees, patrons, and residents, and to protect the premises from theft and other criminal activity. A letter from the Town of Palmer Police Chief, or designee, acknowledging review and approval of the security plan for the Marijuana Establishment or RMD shall be submitted with the application. To the extent allowed by law, all such documents shall be confidential.

- e. A description of all activities to occur on site, including all provisions for the delivery of Marijuana Products to and/or from the premises.
 - f. A Waste Disposal Plan which provides details for disposal of the waste materials in compliance with 935 CMR 500.105 (12).
 - g. Details of the ventilation system.
 - h. A Line Queue Plan to ensure the movement of pedestrian and/or vehicular traffic along the public right of ways.
 - i. Upon written request from the applicant, the SPGA may waive the submission of such information, or parts thereof, as may not be necessary for the consideration of the application. The SPGA's waiver decision shall be set forth in the written Special Permit decision.
- (2) A special permit granted under this Section shall run with the applicant and shall be non-transferrable to another owner or operator without an amendment to the special permit with all application information required in accordance with this Section and a noticed public hearing.

H. PROHIBITION AGAINST NUISANCES

No Marijuana Establishment or RMD shall create a nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.

I. ABANDONMENT OR DISCONTINUANCE OF USE

- (1) A special permit granted under this Section shall lapse if not exercised within twelve (12) months of issuance.
- (2) Marijuana Establishments and RMDs shall be required to remove all material, plants, equipment and other paraphernalia prior to surrendering its state issued licenses or permits or within six (6) months of ceasing operations; whichever comes first.

J. SEVERABILITY

The provisions of this Section are severable. If any provision, paragraph, sentence, or clause of this Section 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 Section.