

- (3) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Special Permit Granting Authority may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
- (4) Applicants for utility-scale wind facilities shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal or failure to maintain, in the event the town must maintain or remove the facility and remediate the landscape, in an amount and form determined to be reasonable by the Special Permit Granting Authority, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the applicant. Such surety will not be required for municipally or state- owned facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

#### 8.11.12 Abandonment

Absent notice of a proposed date of decommissioning or written note of extenuating circumstances, the wind facility shall be considered abandoned when the facility fails to operate for more than one year without the written consent of the Special Permit Granting Authority. If the applicant fails to remove the facility in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the facility.

### **Section 8.12 Medical Marijuana Overlay District**

- 8.12.1 Establishment: The Medical Marijuana Overlay District (“MMOD”) is established as an overlay district. The boundaries of the MMOD are shown on the Zoning Map on file with the Town Clerk and are described below. Within the MMOD, all requirements of the underlying district(s) remain in effect, except where these regulations provide an alternative to such requirements. Land within the MDOD may be used either for (1) a Registered Marijuana Dispensary (“RMD”), in which case the requirements set forth in this section shall apply; or (2) a use allowed in the underlying district, in which case the requirements of the underlying district shall apply. If the provisions of the MMOD are silent on a zoning regulation, the requirements of the underlying district shall apply. If the provisions of the MMOD conflict with the requirements of the underlying district, the requirements of the MMOD shall control.
- 8.12.2 Purpose: To provide for the placement of RMDs, in accordance with the Humanitarian Medical Use of Marijuana Act, M.G.L. c.94C, App. §1-1, et seq., in locations suitable for lawful medical marijuana facilities and to minimize adverse impacts of RMDs on adjacent properties, residential neighborhoods, historic districts, schools, playgrounds and other locations where minors congregate by regulating the siting, design, placement, security, and removal of RMDs.
- 8.12.3 Boundaries: Boundaries of the MMOD are shown on the Zoning Map and shall include the following parcels as identified on the FY 2014 Assessor’s Zoning Map: Map 77 Parcels 3, 12, 13, 14, & 17.

8.12.4 Definitions: where not expressly defined in the Zoning Bylaws, terms used in the MMOD Bylaw shall be interpreted as defined in the Humanitarian Medical Use of Marijuana Act, M.G.L. c.94C, App. §1-1, et seq. and the Department of Public Health Regulations promulgated thereunder, 105 CMR 725.001, et seq., and otherwise by their plain language.

Registered Marijuana Dispensary: also known as a Medical Marijuana Treatment Center, means a not-for-profit entity registered under 105 CMR 725.100, that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana-infused products (“MIPs”), tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, preparation, sale and distribution of marijuana.

8.12.5 Location:

(1) RMDs may be permitted in the MMOD pursuant to a Special Permit.

(2) RMDs may not be located within 500 feet of the following:

- a) School, including a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university;
- b) Child Care Facility;
- c) Library;
- d) Playground;
- e) Public Park;
- f) Youth center;
- g) Public swimming pool;
- h) Video arcade facility; or
- i) Similar facility in which minors commonly congregate.

(3) The distance under this section is measured in a straight line from the nearest point of the property line of the protected uses identified in Section 8.12.5 (2). to the nearest point of the property line of the proposed RMD.

8.12.6 Procedure:

(1) The Planning Board shall be the Special Permit Granting Authority (SPGA) for a RMD special permit.

(2) The minimum lot size for the location of an RMS within the Overlay District is one acre.

(3) Application: In addition to the materials required under Section 10.3 the applicant shall include:

- a) The name and address of each owner of the facility/operation;
- b) Evidence that the Applicant has site control and the right to use the site for a facility in the form of a deed or valid purchase and sale agreement, or, in the case of a lease, a

notarized statement from the property owner and a copy of the lease agreement;

- c) A copy of its registration as an RMD from the Massachusetts Department of Public Health (“DPH”);
  - d) A detailed floor plan of the premises of the proposed RMD that identifies the square footage available and describes the functional areas of the RMD, including areas for any preparation of MIPs;
  - e) Detailed site plans that include the following information:
    - i. Compliance with the requirements for parking and loading spaces, for lot size, frontage, yards and heights and coverage of buildings, and all other provisions of this Bylaw;
    - ii. Convenience and safety of vehicular and pedestrian movement off the site, if vehicular and pedestrian traffic off-site can reasonably be expected be substantially affected by on-site changes;
    - iii. Adequacy as to the arrangement and the number of parking and loading spaces in relation to the proposed use of the premises, including designated parking for home delivery vehicle(s), as applicable;
    - iv. Design and appearance of proposed buildings, structures, freestanding signs, screening and landscaping; and
    - v. Adequacy of water supply, surface and subsurface drainage and light.
    - vi. A description of the security measures, including employee security policies, approved by DPH for the RMD;
    - vii. A copy of the emergency procedures approved by DPH for the RMD;
    - viii. A copy of the policies and procedures for patient or personal caregiver home-delivery approved by DPH for the RMD;
    - ix. A copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between RMDs approved by DPH;
    - x. A copy of proposed waste disposal procedures; and
    - xi. A description of any waivers from DPH regulations issued for the RMD.
- (4) The SPGA shall refer copies of the application to the Building Department, Fire Department, Police Department, Board of Health, the Conservation Commission, and the Department of Public Works. These boards/departments shall review the application and shall submit their written recommendations. Failure to make recommendations within 35 days of referral of the application shall be deemed lack of opposition.

- (5) After notice and public hearing and consideration of application materials, consultant reviews, public comments, and the recommendations of other town boards and departments, the SPGA may act upon such a permit.
- (6) Special Permit Conditions on RMDs: The SPGA shall impose conditions reasonably appropriate to improve site design, traffic flow, public safety, protect water quality, air quality, and significant environmental resources, preserve the character of the surrounding area and otherwise serve the purpose of this section. In addition to any specific conditions applicable to the applicant's RMD, the SPGA shall include the following conditions in any special permit granted under this Bylaw:
- a) The hours of operation shall be set by the Special Permit Granting Authority, but in no event shall a facility be open to the public, nor shall any sale or other distribution of marijuana occur upon the premises or via delivery from the premises, between the hours of 8:00 p.m. and 8:00 a.m.
  - b) No Medical Marijuana Facility shall have a gross floor area of less than 2,500 square feet or in excess of 20,000 square feet.
  - c) An RMD shall not be located in buildings that contain any medical doctor offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana.
  - d) No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of an RMD.
  - e) Signage for the RMD shall include the following language: "No marijuana or marijuana-related products shall be sold or consumed on the premises of this facility. The required text shall be a minimum of two inches in height."
  - f) All aspects of an RMD relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at a fixed location within a fully enclosed building and shall not be visible from the exterior of the business.
  - g) Ventilation – all facilities shall be ventilated in such a manner that:
    - i. No pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere; and
    - ii. No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the RMD or at any adjoining use or property.
  - h) The permit holder shall file a copy of any Incident Report required under 105 CMR 725.110(F) with the Zoning Enforcement Officer and the SPGA within 24 hours of creation by the RMD. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations.

- i) All Special Permit holders for uses under this section shall provide the Police Department, Fire Department, Building Commissioner, Board of Health, and Special Permit Granting Authority with the names, phone numbers, mailing and email addresses of all management staff and key-holders, including a minimum of two (2) operators or managers of the facilities identified as designated contact persons to whom notice should be made if there are operating problems associated with any use under this section. All such contact information shall be updated as needed to keep it current and accurate.
  - j) The permit holder shall file a copy of any summary cease and desist order, cease and desist order, quarantine order, summary suspension order, order limiting sales, notice of a hearing, or final action issued by DPH or the Division of Administrative Law Appeals, as applicable, regarding the RMD with the Zoning Enforcement Officer and SPGA within 48 hours of receipt by the RMD.
  - k) The special permit shall lapse upon the expiration or termination of the applicant's registration by DPH.
  - l) The permit holder shall notify the Zoning Enforcement Officer and SPGA in writing within 48 hours of the cessation of operation of the RMD or the expiration or termination of the permit holder's registration with DPH.
- 8.12.7 Prohibition Against Nuisances: No use shall be allowed in the RMD which creates 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.
- 8.12.8 Annual Reporting: Each RMD permitted under this Bylaw shall, as a condition of its special permit, file an annual report to and appear before the Special Permit Granting Authority and the Town Clerk no later than January 31<sup>st</sup>, providing a copy of all applicable state licenses for the Facility and/or its owners and demonstrate continued compliance with the conditions of the Special Permit.
- 8.12.9 The special permit shall be limited to the current applicant and shall lapse if the permit holder ceases operating the RMD.
- 8.12.10 Severability: The provisions of this Bylaw are severable. If any provision, paragraph, sentence, or clause of this Bylaw 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 Bylaw.