

## SECTION III – PRINCIPAL USE SECTION

3.0 SCHEDULE OF USE REGULATIONS

TABLE I – WESTHAMPTON SCHEDULE OF USE REGULATIONS					
BYLAW NUMBER	LAND USE CLASSIFICATION	STANDARDS & CONDITIONS	ZONING DISTRICT		
			AR	FPD	WS
	<u>BUSINESS USES</u>				
3.078	Registered Marijuana Dispensary (RMD)	See Section 5.10	SP/PB/SPA	N	N
3.079	Off-Site Medical Marijuana Dispensary (OMMD)	See Section 5.10	SP/PB/SPA	N	N

## SECTION V – SPECIAL REGULATIONS

5.10 REGISTERED MARIJUANA DISPENSARY (RMD) and OFF-SITE MEDICAL MARIJUANA DISPENSARY (OMMD)5.100 Purposes

It is recognized that the nature of the substance cultivated, processed, and/or sold by medical marijuana treatment centers and off-site medical marijuana dispensaries may have objectionable operational characteristics and should be located in such a way as to ensure the health, safety, and general well-being of the public as well as patients seeking treatment. The specific and separate regulation of Registered Marijuana Dispensaries (hereafter referred to as a RMD) as Medical Marijuana Treatment Centers and Off-site Medical Marijuana Dispensary (hereafter referred to as an OMMD) facilities is necessary to advance these purposes and ensure that such facilities are not located within close proximity of minors and do not become concentrated in any one area within the Town of Westhampton.

Subject to the provisions of this Zoning Bylaw, Chapter 40A of the Massachusetts General Laws, and 105 CMR 725.000, Registered Marijuana Dispensaries and Off-site Medical Marijuana Dispensaries will be permitted to provide medical support, security, and physician oversight that meet or exceed state regulations as established by the Massachusetts Department of Health (hereafter referred to as MDPH).

5.101 Additional Requirements/Conditions

In addition to the standard requirements for uses permitted By-right or requiring a Special Permit or Site Plan Approval, the following shall also apply to all Registered Marijuana Dispensaries and Off-Site Medical Marijuana Dispensaries:

- a. Use:
  - i. RMD and OMMD facilities may only be involved in the uses permitted by its definition and may not include other businesses or services.
  - ii. No marijuana shall be smoked, eaten or otherwise consumed or ingested within the premises.
  - iii. The hours of operation shall be set by the Special Permit Granting Authority, but in no event shall an RMD or OMMD facility be open to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises, between the hours of 8:00 p.m. and 8:00 a.m.
- b. Physical Requirements:
  - i. All aspects of the use/facility 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.
  - ii. No outside storage is permitted.
  - iii. No OMMD Facility shall have a gross floor area in excess of 2,500 square feet.
  - iv. Ventilation – all RMD and OMMD facilities shall be ventilated in such a manner that no:
    - 1. Pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere, and
    - 2. 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 medical marijuana business or at any adjoining use or property.
  - v. Signage shall be displayed on the exterior of the RMD and OMMD facility's entrance in plain sight of clients stating that "Registration Card issued by the MA Department of Public Health required" in text two inches in height.
- c. Location:
  - i. No RMD and OMMD facility shall be located on a parcel which is within five hundred (500) feet (to be measured in a straight line from the nearest points of each property line) of parcel occupied by:
    - 1. a public or private elementary, junior high, middle, vocational or high school, college, junior college, university or child care facility or any other use in which children commonly congregate in an organized ongoing formal basis, or
    - 2. another RMD or OMMD facility
  - ii. No RMD or OMMD facility shall be located inside a building containing residential units, including transient housing such as motels and dormitories.
- d. Reporting Requirements.
  - i. All Special Permit and Site Plan Approval holders for an RMD or OMMD facility shall provide the Police Department, Fire Department, Building

Commissioner/Inspector and the Special Permit Granting Authority with the names, phone numbers and email addresses of all management staff and key-holders, including a minimum of two (2) operators or managers of the facility identified as contact persons to whom one can provide notice if there are operating problems associated with the establishment. All such contact information shall be updated as needed to keep it current and accurate.

- ii. The local Building Commissioner/Inspector, Board of Health, Police Department, Fire Department and Special Permit Granting Authority (in cases where a Special permit or Site Plan Approval was granted) shall be notified in writing by an RMD or OMMD facility owner/operator/ manager:
    - 1. A minimum of 30 days prior to any change in ownership or management of that facility
    - 2. A minimum of 12 hours following a violation or potential violation of any law or any criminal or potential criminal activities or attempts of violation of any law at the RMD or OMMD.
  - iii. Permitted RMD and OMMD facilities shall file an annual report to and appear before the Special Permit Granting Authority no later than January 31st, providing a copy of all current applicable state licenses for the facility and/or its owners and demonstrate continued compliance with the conditions of the Special Permit.
  - iv. The owner or manager is required to respond by phone or email within twenty-four hours of contact by a town official concerning their RMD or OMMD at the phone number or email address provided to the Town as the contact for the business.
- e. Issuance/Transfer/Discontinuance of Use
- i. Special Permits/Site Plan Approvals shall be issued to the RMD Operator
  - ii. Special Permits/Site Plan Approvals shall be issued for a specific site/parcel
  - iii. Special Permits/Site Plan Approvals shall be non-transferable to either another RMD Operator or site/parcel
  - iv. Special Permits/Site plan Approvals shall have a term limited to the duration of the applicant's ownership/control of the premises as a RMD or OMMD, and shall lapse:
    - 1. If the permit holder ceases operation of the RMD, and/or
    - 2. The permit holder's registration by MDPH expires or is terminated
  - v. The permit holder shall notify the Zoning Enforcement Officer and Special Permit Granting Authority in writing within 48 hours of such lapse, cessation, discontinuance or expiration.
  - vi. An RMD or OMMD facility shall be required to remove all material, plants equipment and other paraphernalia prior to surrendering its state Registration or ceasing its operation.
    - 1. Prior to the issuance of a Building Permit for a RMD or OMMD the applicant is required to post with the Town Treasurer a bond or other form of financial security acceptable to said Treasurer in an amount set by the Planning Board. The amount shall be sufficient to cover the costs of the town removing all materials, plants, equipment and other paraphernalia if the applicant fails to do so. The Building Inspector shall give the applicant 45 days' written notice in advance of taking such action. Should the

applicant remove all materials, plants, equipment and other paraphernalia to the satisfaction of the Building Inspector prior to the expiration of the 45 days written notice, said bond shall be returned to the applicant.

#### 5.102 Application Requirements

In addition to the standard application requirements for Special Permits and Site Plan Approvals, such applications for an RMD or OMMD facility shall include the following:

- a. The name and address of each owner of the RMD or OMMD facility/operation;
- b. A copy of its registration as an RMD from the Massachusetts Department of Public Health or documentation that demonstrates that said RMD or OMMD facility, and its owner/operators, qualify and are eligible to receive a Certificate of Registration and meet all of the requirements of a RMD in accordance with 105 CMR 725.000 of the Massachusetts Department of Public Health.
- c. Evidence that the Applicant has site control and right to use the site for a RMD or OMMD facility 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 RMD or OMMD organization's Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers, directors, shareholders, partners, members, 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. In addition to what is normally required in a Site Plan, details showing all exterior proposed security measures for the RMD or OMMD including lighting, fencing, gates and alarms, etc. ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity.
- f. A detailed floor plan identifying the areas available and functional uses (including square footage)
- g. All signage being proposed for the facility.
- h. A traffic study to establish the RMD or OMMD impacts at peak demand times.
- i. A Management Plan including a description of all activities to occur on site, including all provisions for the delivery of medical marijuana and related products to OMMDs or off-site direct delivery to patients.

#### 5.103 Findings

In addition to the standard Findings for a Special Permit or Site Plan Approval the Special Permit Granting Authority must also find all the following:

- a. That the RMD or OMMD facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest.;
- b. That the RMD or OMMD facility 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

- c. That the applicant has satisfied all of the conditions and requirements of this Section and other applicable Sections of this Bylaw/Ordinance;
- d. That the RMD or OMMD project meets a demonstrated need
- e. That the RMD or OMMD facility 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 cultivation is adequately secured.
- f. That the RMD or OMMD facility adequately addresses issues of traffic demand, circulation flow, parking and queuing, particularly at peak periods at the facility, and its impact on neighboring uses.

## **SECTION VII - DEFINITIONS**

Off-Site Medical Marijuana Dispensary (OMMD) – A Registered Marijuana Dispensary that is located off-site from the cultivation/processing facility (and controlled and operated by the same registered and approved not-for-profit entity which operates an affiliated RMD) but which serves only to dispense the processed marijuana, related supplies and educational materials to registered Qualifying Patients or their personal caregivers in accordance with the provisions of 105CMR 725.00.

Registered Marijuana Dispensary (RMD): A use operated by a not-for-profit entity registered and approved by the MA Department of Public Health on accordance with 105 CMR 725.00, and 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. A RMD, shall explicitly include facilities which cultivate and process medical marijuana, and which may also dispense and deliver medical marijuana and related products.

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