

(Draft) Registered Marijuana Facilities and Cultivation Sites (Draft)

SECTION ____. REGISTERED MARIJUANA FACILITIES (RMF) AND MARIJUANA CULTIVATION SITES (MCS)

Purpose

The purpose of this Section __ is to allow the siting, development and operation of Registered Medical, Recreational and/or Hybrid Marijuana Facilities (RMFs) and Marijuana Cultivation Sites (MCSs) in the Town of Ware in order to 1.) enable individuals with a debilitating medical condition, for which medical marijuana is a viable treatment, to have access to registered marijuana facilities consistent with state law, the Humanitarian Medical Use of Marijuana Act, G.L. c. 94C, App. 1-1 – Chapter 369 of the Acts of 2012, and the Department of Public Health Regulations, 105 CMR 725, and 2.) to allow for the orderly siting of establishments for the retail sale of marijuana and marijuana products.

Intent

It is the intent of Section ____ to protect public health and safety; to regulate the siting, design, and safety of Registered Medical, Recreational and Hybrid Marijuana Facilities (RMFs) and Marijuana Cultivation Sites (MCSs); to minimize adverse impacts on abutting properties; to provide adequate separation from schools, parks, and other areas where children commonly congregate in an organized, ongoing, formal basis; and to provide for site security to deter crime and uphold the safety of surrounding neighborhoods.

Definitions

Registered Marijuana Dispensary (RMD): A use operated by an entity registered and approved by the MA Department of Public Health in accordance with 105 CMR 725.000, 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.

Medical Marijuana Establishment: a business where the possession, sale, distribution, dispensing and administration of medical marijuana and products containing medical marijuana is authorized.

Recreational Marijuana Establishment: a business where the possession, sale, distribution, dispensing and administration of recreational marijuana and products containing and/or associated to recreational marijuana (e.g., aerosols, art, clothing, food, jewelry, literature, oils or ointments, tinctures, etc.) is authorized.

Hybrid Marijuana Establishment: a business where the combined sale of both medical and recreational marijuana and products containing and/or associated to legalized marijuana use is authorized.

Marijuana Cultivation Site: a business where the cultivation, possession, processing (including development of related products such as food, tinctures, aerosols, oils, or ointments), warehousing, distribution, transferring and transporting of marijuana and products containing marijuana is authorized.

___ Special Permit and Site Plan Approval Required

Registered Medical, Recreational, and Hybrid Marijuana Facilities and/or Marijuana Cultivation Sites require a Special Permit and Site Plan Approval. In addition to the requirements in Article 7 – Administration, Section 7.2, Special Permits, and Section 7.4, Site Plan Review, the provisions of this Section ___ shall apply to Registered Medical, Recreational, and Hybrid Marijuana Facilities (RMFs) and Marijuana Cultivation Sites (MCSs).

1. Host Community Agreement: Applicants shall submit a proposed Host Community Agreement that describes the measures the Applicant intends to take to mitigate potential negative impacts on the Town and abutting neighborhood from the Registered Medical, Recreational and Hybrid Marijuana Facility and/or Marijuana Cultivation Site.

___ Separation

No Registered Medical, Recreational and Hybrid Marijuana Facility and/or Marijuana Cultivation Site may be located closer than three hundred feet (300') of a facility used, at the time of the first notice of the public hearing, for a park, playground, elementary, middle or high school, or state-licensed child day care center. This measurement shall be the distance between the Registered Medical, Recreational and Hybrid Marijuana

Facility and/or Marijuana Cultivation Site and the front entrance of the building in question. Such uses shall not be prohibited from locating within three hundred feet (300') of a Registered Medical, Recreational and Hybrid Marijuana Facility and/or a Marijuana Cultivation Site, nor shall a Registered Medical, Recreational and Hybrid Marijuana Facility and/or Marijuana Cultivation Site become nonconforming under the Zoning Bylaw if a park, playground, elementary, middle or high school, or state-licensed child day care center later locates within three hundred feet (300') of a preexisting Registered Medical, Recreational and Hybrid Marijuana Facility and/or Marijuana Cultivation Site.

___ Security Plan

In addition to the submission requirements for Special Permit and Site Plan Review, the application shall include a Security Plan designed to deter crime and protect the public safety. The Plan may include measures such as locks, gates, cameras, alarms, fences, lighting, and monitoring protocols. The Ware Police Chief, or his/her designee, may recommend changes to the Security Plan and the Town of Ware Planning Board will incorporate the Chief's recommendations in the Special Permit decision to the fullest extent practicable.

___ Standards Applicable to Registered Medical, Recreational and Hybrid Marijuana Facilities and/or Marijuana Cultivation Sites

1. An applicant shall possess a Certification of Registration from the Commonwealth of Massachusetts Department of Public Health as a Registered Marijuana Dispensary and shall comply with the Department's regulations at all times.
2. The siting, development, and operation of Registered Medical, Recreational, and/or Hybrid Marijuana Facilities shall be allowed by Special Permit and Site Plan Approval in the Downtown Commercial (DTC), Mill Yard (MY) and Highway Commercial (HC) zoning districts. Marijuana Cultivation Sites are to be allowed by Special Permit and Site Plan Approval in the Mill Yard (MY), Commercial Industrial (CI) and Industrial (I) zoning districts.
3. The proposed plan shall conform to §7.2, Special Permits, §7.4, Site Plan Review, and to those zoning districts per §4.2, Use Table, where these uses are allowed.
4. The proposed plan shall provide urban design and landscaping elements to harmonize the proposed project with abutting uses so as to protect and enhance the aesthetics and architectural look and character of the surrounding vicinity.

5. The use shall not generate outside odors from marijuana use and/or production of marijuana products.
6. The proposed plan shall refer to §6.5, Signage, for the installation, type, number and size considerations of signs, as applicable.
7. Hours of operation shall be between 8:00 AM and 8:00 PM Monday thru Sunday.
8. Noise shall comply with the Noise Policy of the Commonwealth of Massachusetts Department of Environmental Protection and Division of Air Quality regulations, 310 CMR 7.10, and any local noise abatement bylaw. A noise source violates the noise regulation if the source: a.) Increases the broadband sound level by more than 10 dB(A) above ambient, or b.) Produces a "pure tone" condition – when any octave band center frequency sound pressure level exceeds the two adjacent center frequency sound pressure levels by 3 decibels or more. These criteria are measured both at the property line of the Registered Medical, Recreational, and Hybrid Marijuana Facility and/or Marijuana Cultivation Site and at the nearest inhabited dwelling unit. "Ambient" is defined as the background A-weighted sound level that is exceeded 90% of the time, measured during equipment operating hours.
9. The Town of Ware Planning Board may require a traffic study that includes an analysis of parking demand to justify the number of proposed parking spaces.
10. A Special Permit granted under this Section ___ shall be personal to the applicant and shall lapse if the applicant no longer is the holder of the Certification of Registration from the Commonwealth of Massachusetts Department of Public Health as a Registered Marijuana Dispensary. A change of the registrant shall require submission of a new Special Permit application.