



CITY OF MELROSE
In Board of Aldermen

August 21, 2017

AN ORDER
2017-129

Amend the Revised Zoning Ordinances, Chapter 235 for Registered Marijuana Dispensary Regulations as set forth herein

Offered by Mayor Robert J. Dolan

BE IT ORDAINED

by the Board of Aldermen of the City of Melrose, that the Melrose Revised Zoning Ordinances, Chapter 235 Zoning be, and hereby are amended as follows:

Amending the following sections:

Section 235-5, Definitions:

Section 235-16.1 Site Plan Review

Section 235-17 Table of Use and Parking Regulations:

Section 235-61 Special Permit Granting Authorities:

Add new Section:

Section 235-73.3 Registered Marijuana Dispensaries

as delineated in the attached text.

The same be, and hereby is passed.

August 21, 2017
In the Board of Aldermen
Ordained Roll Call:
9 Yea, 0 Nay
Mary-Rita O'Shea, Clerk

Passed August 21, 2017
Donald L. Conn, Jr., President
Board of Aldermen

Approved August 23, 2017
Robert J. Dolan
Mayor

CITY OF MELROSE

Registered Marijuana Dispensary Zoning Amendment

March 28, 2017

Revised June 26, 2017

Approved August 21, 2017

Registered Marijuana Dispensary Zoning Amendment

Section 235-5, Definitions:

Delete the definition “Medical Marijuana Treatment Center” (see Order 2013-44) and add new definition “Registered Marijuana Dispensary”:

REGISTERED MARIJUANA DISPENSARY: A not-for-profit entity and use registered under 105 CMR 725.100, and previously known as a Medical Marijuana Treatment Center, which may acquire, cultivate, possess, process (including development of related products such as edible Marijuana-Infused Products (MIPs), tinctures, aerosols, oils, or ointments), transfer, transport, sell, distribute, dispense, and/or administer marijuana, products containing marijuana, related supplies, and/or educational materials to registered qualifying patients or their personal caregivers. A Registered Marijuana Dispensary does not include non-medical dispensaries.

Section 235-16.1, Site Plan Review:

Amend Section 235-16.1.B by adding subparagraph (5):

(5) The provisions of this section shall not apply to Registered Marijuana Dispensaries which require a special permit from the Planning Board pursuant to Section 235-73.3.

Section 235-17, Table of Use and Parking Regulations:

Amend the Table of Use and Parking Regulations in Section 235-17 by adding “27. Registered Marijuana Dispensary” after “26. Towers” to the list of uses as follows:

	SR	SR-A	SR-B	UR-A	UR-B	UR-C UR-D	BA BA-1	BA-2	BB BB-1	BC	BD	I	I-A	Parking Code
Registered Marijuana Dispensary (See Article XI, Section 235-73.3) ⁵	-	-	-	-	-	-	-	-	S	-	-	S	-	G

Further amend the Table of Use and Parking Regulations by adding Footnote 5:

5. The Special Permit for Registered Marijuana Dispensaries is only applicable in the I District and the BB District and expressly excluded from the BB-1 District.

Section 235-61, Special Permit Granting Authorities:

Amend Section 235-61.B by adding subparagraph (6):

(6) Special permits as prescribed for in Section 235-73.3 for registered marijuana dispensaries.

Section 235-73.3, Registered Marijuana Dispensaries

Add new Section 235-73.3, Registered Marijuana Dispensaries:

A. Purpose

- (1) To allow for the establishment of Registered Marijuana Dispensaries (RMD) as they are authorized pursuant to state regulations set forth at 105 CMR 725.000, Implementation of an Act for the Humanitarian Medical Use of Marijuana.
- (2) To minimize the adverse impacts of RMDs on adjacent properties, residential neighborhoods, schools and other places where children congregate, and other land uses potentially incompatible with said facilities.
- (3) To regulate the siting, design, placement, security, safety, monitoring, modification, and removal of RMDs.

B. Applicability

- (1) The provisions of this section shall be applicable to all RMDs, unless it meets the requirements for an agricultural exemption under MGL c. 40A, §3.
- (2) Nothing in this section shall be construed to supersede any state or federal laws or regulations governing the sale and distribution of narcotic drugs.

C. General Requirements and Conditions for all Registered Marijuana Dispensaries

(1) Location and Operation

- a. An RMD shall be located in, and conduct all operations within, an enclosed, permanent building.
- b. An RMD shall be limited to 5,000 square feet of gross floor area.
- c. All publicly accessible entrances shall be visible from a public way.
- d. Drive-through windows and/or any interactions or sales to customers within vehicles are prohibited.
- e. RMDs shall not be located inside a building containing residential dwelling units, including transient housing, group housing, hotels, motels, lodging houses, and/or dormitories.
- f. An RMD shall not be sited within a radius of 500 feet from a school, daycare center, or any facility in which children commonly congregate. The 500 foot distance shall be measured in a straight line from the nearest point of the facility in question to the nearest point of the RMD.
- g. Hours of Operation of RMDs shall be set by the Special Permit Granting Authority, but in no event shall an RMD be open to the public, performing deliveries, and/or otherwise operating between the hours of 8:00PM and 8:00AM.
- h. There shall be no smoking, burning, or consumption of any product containing marijuana or marijuana-related products on the premises, including all buildings, accessory structures, parking lots or parking areas, walks and/or immediate surroundings located on the same lot/parcel as the RMD.
- i. All RMDs shall be ventilated in such a manner that no pesticides, insecticides or other chemicals or products used in cultivation or processing are dispersed into the outside

atmosphere, and so that 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.

(2) Signage

- a. All signs associated with RMDs shall comply with 105 CMR 725.000 and Article VII, Signs, of this Zoning Ordinance.
- b. Signs shall only identify the establishment by its registered name.
- c. Signs shall not utilize graphics related to marijuana or paraphernalia on the exterior of the building in which the RMD is located.
- d. At every publically accessible entrance, there shall be at least one sign that includes the language "Registration card issued by the MA Department of Public Health required". The required text shall be a minimum of two inches in height.
- e. Signs shall not be illuminated after closing. Neon and flashing signage is prohibited.

(3) Security

- a. RMDs shall provide the Melrose Police Department and Building Commissioner with the names, phone numbers, and email addresses of all management staff and key holders to whom one can provide notice if there are operating problems associated with the establishment and update that list whenever there is any change in management staff or key holders.
- b. Solid waste dumpsters or other waste containers shall be locked and enclosed by a screening enclosure so as not to be accessible to the public.
- c. Landscaping elements must be non-obtrusive. The placement of landscaping elements for the RMD must ensure landscaping elements including trees, bushes, and other foliage, do not allow for a person or persons to conceal themselves at night.
- d. The exterior grounds, including the parking lot and landscaped areas, shall be lighted in such a manner that all areas are clearly visible at all times during business hours.

- D. Special Permit. For RMD Special Permits, the Planning Board is the Special Permit Granting Authority. The Planning Board may grant a special permit for an RMD in the BB and I Zoning Districts if the Board finds that the proposal satisfies the purposes set forth in Subsection A(1) through (3) above, the General Requirements and Conditions for all RMDs in Subsection C above, the findings in Section 235-63 of the Zoning Ordinance, and the following statements, regulations, requirements, conditions, and limitations.

(1) Applications.

- a. Applications for a Special Permit shall include the following:
 - i. The name and address of each owner of the establishment and property owner.
 - ii. Evidence of the Applicant's right or intended right to use the site for the establishment, such as an executed or draft deed or lease.
 - iii. If the Applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, trustees 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 of such entities until the disclosure contains the names of individuals.

- iv. A narrative describing 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, on-site sales, off-site deliveries, distribution of educational materials, and other programs or activities.
 - v. A floor plan of the proposed RMD that identifies square footage available and describes the functional areas of the RMD, including areas for any preparation of marijuana-infused products.
 - vi. A site plan depicting the proposed development on the property, including the dimensions of the building, the layout of parking, the location of pedestrian and vehicular points of access and egress, the location and design of all loading, refuse and service facilities, the location, type and direction of all outdoor lighting on the site, and any landscape design.
 - vii. Architectural drawings of all exterior building facades and all proposed signage, specifying materials and colors to be used.
 - viii. Proposed security measures for the RMD, including lighting, fencing, video monitoring, gates and alarms, etc, to ensure the safety of persons and to protect the premises from theft.
 - ix. Traffic impact analysis including 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.
 - x. Copies of registration materials for all required licenses and permits issued to the Applicant by the Commonwealth of Massachusetts and any of its agencies for the RMD.
 - xi. Letters from the Police Department and Board of Health indicating that the application materials were reviewed and safety and security measures of the RMD are adequate.
 - xii. Any other information requested by the Planning Board that will allow fair and full consideration of the special permit request.
- (2) The Office of Planning and Community Development (OPCD) will distribute a set of the application materials to the Police Chief, Health Director, and Building Commissioner for review. OPCD will provide notice of receipt of an application to the City Engineer, Fire Chief, Conservation Commission, City Solicitor, Board of Aldermen, and Mayor. All departments shall report their comments, conditions, remedial measures and recommendations, in writing, to the Planning Board within 30 days.
- (3) Findings. In addition to the findings required by Section 235-63, the Planning Board shall not issue a Special Permit for an RMD unless it finds that:
- a. The RMD meets a demonstrated local and regional need based on the proximity of other RMDs serving the City's qualifying patients;
 - b. The RMD is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest;
 - c. The RMD meets all other applicable requirements of the Zoning Ordinance and the permitting requirements of all applicable agencies of the Commonwealth of Massachusetts and the City of Melrose, and will otherwise comply with all applicable state and local laws and regulations;
 - d. The RMD provides a secure indoor waiting area for patients;

- e. The RMD is designed to provide convenient, safe, and secure access and egress for clients and employees;
 - f. The RMD addresses issues of vehicular and pedestrian traffic, circulation, parking and queuing, especially during peak periods at the RMD; and
 - g. The RMD provides adequate security measures to ensure that no individual participants will pose a threat to the health or safety of other individuals, and that the storage and/or location of cultivation of marijuana is adequately secured in enclosed, locked facilities.
- (4) Conditions. The Planning Board may impose conditions reasonably appropriate to improve site design, traffic flow, public safety, air quality, and preserve the character of the surrounding area and otherwise serve the purpose of this Section.
- E. Annual Reporting. Each RMD permitted shall as a condition of its special permit file an annual report to the Special Permit Granting Authority, the Board of Health, the Building Commissioner, the Police Department, and the City Clerk no later than January 31st, providing a copy of all current applicable state licenses for the RMD and/or demonstrate continued compliance with 105 CMR 725.000 as well as the conditions of the Special Permit.
- F. Abandonment or Discontinuance of Use.
- (1) A Special Permit granted under this section shall have a term limited to the duration of the Applicant's operation of the premises as an RMD.
- (2) An RMD shall be required to remove all material, plants, equipment, and other paraphernalia:
- a. If any required permit or license is revoked or suspended by the issuing authority;
 - b. Prior to surrendering its state licenses or permits; or
 - c. Within six months of ceasing operations; whichever comes first.