



Ward Councillors

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Peter M. McGinn, Ward 2
James Moutsoulas, Ward 3
Edward R. Charest, Ward 4
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Barry C. Sinewitz, Ward 6

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Michael V. Garabedian
Thomas L. Gould
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Anne M. Manning-Martin
Thomas P. Walsh

Clerk of Council

Timothy E. Spanos

City Council

Stenographer

Allyson Danforth, RPR

City Hall
24 Lowell Street

978-538-5900
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PEABODY CITY COUNCIL

Notice is hereby given that the **PLANNING BOARD AND CITY COUNCIL of the CITY OF PEABODY** will conduct a **JOINT PUBLIC HEARING** on **THURSDAY EVENING, MAY 25, 2017**, at 7:30 P.M., in Frank L. Wiggin Auditorium, City Hall, 24 Lowell Street, Peabody, MA in accordance with the provisions of Chapter 40A, Section 5 of the Massachusetts General Laws **TO CONSIDER AMENDING THE ZONING ORDINANCE OF THE CITY OF PEABODY** as follows:

BE IT ORDAINED by the City Council of the City of Peabody as follows:

SECTION ONE: That the Zoning Ordinance of the City of Peabody entitled, City of Peabody Zoning Ordinance Adopted April 28, 2011 and amended through December 8, 2016 is hereby further amended as follows:

By deleting Section 1.7.2 under Prohibited Uses, the following language:
Operating a medical marijuana treatment facility and dispensary to produce such in the city is not an allowed use in any zoning district.

And by adding the following new Section 6.13 Entitled Medical Marijuana Facilities as follows:

6.13.1 Purpose.

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 challenging 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.

Subject to the provisions of this Zoning Ordinance, 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 State regulations as established by the Massachusetts Department of Public Health (DPH).

6.13.2 Definitions.

Registered Marijuana Dispensary (RMD): A use operated by a not-for-profit 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.





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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.

Off-Site Medical Marijuana Dispensary (OMMD) – A 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 105 CMR 725.00.

6.13.3 Applicability.

This Section applies to all Registered Marijuana Dispensaries (RMD) and Off-site Medical Marijuana Dispensaries (OMMD) proposed to be constructed under 105 CMR 725.000.

6.13.4 Permitted District.

Medical Marijuana Treatment Center/Registered Marijuana Dispensary (RMD) and Off-Site Medical Marijuana Dispensary (OMMD): in BR1 that is sited east of US RT 1 and south of the access ramp from US RT 95 / RT128 – south to US RT 1 south.

6.13.5 Operational Requirements.

1) Use:

- a) RMD and OMMD facilities may only be involved in the uses permitted by its definition and may not include other businesses or services within their designated square footage.
- b) No marijuana shall be smoked, eaten or otherwise consumed or ingested within the premises.
- c) 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 except to an OMMD, between the hours of 8:00 p.m. and 8:00 a.m.

2) Physical Requirements:

- a) 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.
- b) No outside storage is permitted.
- c) No OMMD Facility shall have a gross floor area in excess of 5,000 square feet.
- d) Ventilation – all RMD and OMMD facilities shall be ventilated in such a manner that no:
 - i) 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 medical marijuana business or at any adjoining use or property.
- e) 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. All other signage shall comply with 105 CMR 725.00 and Section 11.7 "Signs."





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3) Location:

- a) An RMD or OMMD facility shall not be located in buildings that contain any pharmacy, medical doctor offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana.
- b) An RMD or OMMD facility shall not be located in buildings that contain any residential units, including transient housing such as hotels, motels and dormitories.

4) Issuance/Transfer/Discontinuance of Use:

- a) A special permit shall be valid only for the registered entity to which the approval was issued and only for the site on which the RMD or OMMD has been authorized.
- b) A special permit shall be non-transferable and shall have a term limited to the applicant's ownership or control of the premises as an RMD or OMMD.
- c) Permitted RMD and OMMD facilities shall file an annual report to the City Council no later than January 31st, providing a copy of all current applicable state licenses for the facility and/or its owners and demonstrating continued compliance with the conditions of the special permit.
- d) A special permit shall lapse if the applicant ceases operation of the RMD or OMMD and/or if the applicants' registration by DPH has been revoked, expires, is terminated, is transferred to another controlling entity or is relocated to a new site.
 - i) The applicant shall notify the Zoning Enforcement Officer and City Council in writing within 48 hours of such lapse, cessation, discontinuance or expiration.
- e) An RMD or OMMD facility shall be required to remove all material, plants, equipment and other paraphernalia in compliance with 105 CMR 725.105 (J), (O) prior to expiration of its DPH registration or immediately following revocation or voiding of its DPH registration, or upon ceasing its operation.

6.13.6 Application Procedure and Requirements.

- 1) *Application Requirements:* An application for a special permit shall include the following:
 - a) The name and address of each owner of the RMD or OMMD facility/operation.
 - b) Copies of all required registrations, licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the facility.
 - 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 owners, including officers, directors, partners, 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) A description of all activities to occur on site, including but not limited to: cultivating and processing of marijuana and marijuana infused products (MIPs),



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on-site sales, delivery of medical marijuana and related products to OMMDs, off-site direct delivery to patients, distribution of educational materials, and other programs or activities.

- f) A written notice from the Chief of Police shall be submitted to the City Council stating that an acceptable Security Plan has been reviewed and approved. The Security Plan shall include the location and details of all security measures for the site, including but not limited to lighting, fencing, gates, waste disposal, alarms and similar measures ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity.
 - g) Details of all proposed exterior security measures for the RMD or OMMD facility.
- 2) *Site Plan:* The special permit application shall include a Site Plan prepared by a Massachusetts registered Architect, Landscape Architect, Professional Engineer or other appropriate design professional. The site plan shall include the following components and information:
- a) **Locus Plan.** A locus plan showing the entire proposed development and its relation to existing areas, buildings and roads for a distance of 300 feet from the boundaries of the proposed development or such other distance as may be approved or required by the City Council. The plan shall also show all contiguous land owned by the applicant or by the owner of the property which is the subject of the application.
 - b) **Improvements Plan.** A plan depicting all existing and proposed buildings, driveways or roads, parking areas, service areas, refuse collection areas, sidewalks, paths, landscaping etc.
 - c) **Building Plan.** A detailed floor plan showing square footages for each use within the RMD or OMMD.
 - d) **Details.** Detail sheets including, but not limited to, pavement markings, lighting fixtures, fencing, dumpster enclosures, signage (temporary and permanent), and any site improvements included in plans (a) – (c) above.
- 3) *Review Procedure:* upon receipt of an application, the City Clerk shall forward a copy for review and comment to Building Department, Fire Department, Police Department, Public Services Department, Board of Health, Planning Board and Conservation Commission if applicable. The Departments shall review the application and provide comments back to the City Council within twenty-one (21) calendar days.
- 4) Applicant must also apply to the Planning Board pursuant to Section 12 SITE PLAN REVIEW of this ordinance comply with said section and Section 13 DEVELOPMENT IMPACT REVIEW.





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6.13.7 Findings.

- 1) In addition to the standard Findings for a Special Permit under Section 4 and GLc 40A, §9, the City Council must also find all the following:
 - a) That the RMD or OMMD facility is designed to minimize any adverse 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.
 - c) That the applicant has satisfied all of the conditions and requirements of this Section and other applicable Sections of this 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.

6.13.8 Enforcement.

Any violation of this Section shall be enforced in accordance with Section 15.1 of the Zoning Ordinance.

[INSERT MAP]

SECTION TWO: All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION THREE: This ordinance shall take effect as provided by law.

PEABODY CITY COUNCIL
COUNCILLOR JOEL D. SASLAW
CITY COUNCIL PRESIDENT

Timothy E. Spanos
City Clerk

Weekly News
May 4th and May 11th, 2017



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The RED line encloses the area of the §6.13.4 Permitted Uses

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