

# **Regulation of the Framingham Board of Health Regulating the Sale of Medical Marijuana**

## **1.00 Statement of Purpose**

The purpose of these regulations is to complement the Commonwealth's regulations governing the cultivation, processing, sale and use of medical marijuana under 105 CMR 725.00 to allow for local enforcement, protect public health and welfare, and ensure that Registered Marijuana Dispensary (RMD) environments are controlled to meet the requirements set forth by the Town of Framingham's Board of Health. The Massachusetts Department of Public Health (DPH) regulations at 105 CMR 725.00 are not preemptive of local board of health authority.

## **2.00 Authority**

This regulation is promulgated pursuant to the authority granted to the Framingham Board of Health by Massachusetts General Laws Chapter 111, Section 31 that "Boards of Health may make reasonable health regulations".

## **3.00 Definitions**

Any terms not defined in this Section but defined elsewhere in the Town By-laws, Building Department and Board of Health Regulations or Commonwealth of Massachusetts laws and regulations shall have the same meanings given therein to the extent the same are not inconsistent with these Regulations.

For the purpose of this regulation, the following words shall have the following meanings:

Blunt Wrap: Any tobacco product manufactured or packaged as a wrap or as a hollow tube made wholly or in part from tobacco that is designed or intended to be filled by the consumer with loose tobacco or other fillers.

Board of Health: The Town of Framingham Board of Health.

Business Agent: An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

Card Holder: A registered qualifying patient, a personal caregiver, or a dispensary agent of a RMD who has been issued and possesses a valid registration card.

Cultivation Registration: A certificate issued by the Massachusetts Department of Public Health that confirms that a RMD has met all requirements pursuant to the Act and 105 CMR 725.00 and is registered by the Massachusetts Department of Public Health.

Dispensary Agent: a board member, director, employee, manager or volunteer of a RMD, who is at least 21 years of age. Employee includes a consultant or contractor who provides on-site services to a RMD related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of marijuana.

Dispensary Agent Permit: A permit issued by the Board of Health, to be renewed annually, which permits an eligible person to be employed at a RMD.

Dispensary Agent Permit Holder: Any person engaged in the sale of marijuana who is a Dispensary Agent is required to apply for a Dispensary Agent Permit pursuant to these regulations prior to being eligible for employment in a RMD and shall be a permit holder.

E-Cigarette: Any electronic nicotine and/or marijuana delivery product composed of a mouthpiece, heating element, and battery and/or electronic circuits that provides a vapor of liquid nicotine to the user, or relies on vaporization of solid nicotine or any liquid. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name.

Enclosed, Locked Area: A closet, room, greenhouse, or other indoor or outdoor area equipped with locks or other security devices, that is accessible only to dispensary agents, registered qualifying patients, or personal caregivers.

Hardship Cultivation Registration: A registration issued to a qualifying patient under the requirements of 105 CMR 725.035.

Marijuana: All parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; and resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination. [MGL Ch. 94C, §1, "Marijuana"]

Marijuana-Infused Product (MIP): A product infused with marijuana that is intended for use or consumption, including but not limited to edible products, ointments, aerosols, oils, and tinctures. These products, when created or sold by a RMD, shall not be considered a food or a drug as defined in M.G.L. c. 94, s. 1.

Medical Marijuana Treatment Center: A not-for-profit entity registered under 105 CMR 725.100, to be known as a Registered Marijuana Dispensary (RMD), that acquires, cultivates, possesses, processes (including development of related products such as edible 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) dispensing, cultivation, and preparation of marijuana.

Nicotine Delivery Product: Any manufactured article or product made wholly or in part of a tobacco substitute or containing nicotine that is expected or intended for human consumption, but not including a product approved by the United States Food and Drug Administration for sale as a tobacco use cessation or harm reduction product or for other medical purposes and which is being marketed and sold solely for that approved purpose. Nicotine delivery products include, but are not limited to, e-cigarettes.

Non-Residential Roll-Your-Own (RYO) Machine: A mechanical device made available for use (including to an individual who produces rolled marijuana products solely for the individual's own personal consumption or use) that is capable of making rolled marijuana products. RYO machines located in private homes used for solely personal consumption are not Non-Residential RYO machines.

Personal Caregiver: A person registered by the Massachusetts Department of Public Health, who is at least 21 years old, who has agreed to assist with a registered qualifying patient's medical use of marijuana, and is not the registered qualifying patient's certifying physician. An employee of a hospice provider, nursing, or medical facility or a visiting nurse, personal care attendant, or home health aide providing care to a qualifying patient may serve as a personal caregiver, including to patients under 18 years of age as a second caregiver.

Personal Caregiver Permit: A permit issued by the Board of Health, to be renewed annually, to each Personal Caregiver.

Personal Caregiver Permit Holder: Any Personal Caregiver is required to apply for a Personal Caregiver Permit through the Board of Health pursuant to these regulations prior to being eligible to serve as a Personal Caregiver and shall be a permit holder.

Personal Caregiver Cultivation Permit: issued by the Board of Health, to be renewed annually, that permits a Personal Caregiver to cultivate medical marijuana within the Town of Framingham.

Personal Caregiver Cultivation Facility Permit: issued by the Board of Health, to be renewed annually, that permits a Personal Caregiver Cultivator to operate within the Town of Framingham.

Personal Caregiver Cultivation Permit Holder: Any Personal Caregiver that is required to apply for a Personal Caregiver Permit through the Board of Health pursuant to these regulations prior to being eligible to serve as a Personal Caregiver and shall be a permit holder.

RMD Operating Permit: A permit issued by the Board of Health, to be renewed annually, that permits a RMD to operate.

RMD Operating Permit Holder: Any person engaged in the operation of a RMD, or his or her business agent, shall apply for and receive a RMD Operating Permit pursuant to this regulation and be a permit holder.

Self-Service Display: Any display from which customers may select a marijuana product without assistance from a Dispensary Agent or store personnel.

Sixty-Day Supply: The amount of marijuana, or equivalent amount of marijuana in marijuana infused products, that a registered qualifying patient would reasonably be expected to need over a period of 60 calendar days for his or her personal use, which is ten ounces, subject to 105 CMR 725.010(I).

Smoking: The lighting of a cigar, cigarette, pipe, blunt or other tobacco/marijuana product or possessing a lighted cigar, cigarette, pipe, blunt or other tobacco or non-tobacco product designed to be combusted and inhaled.

Vending Machine: Any automated or mechanical self-service device, which upon insertion of money, tokens or any other form of payment, dispenses or makes marijuana products.

#### **4.00 Registered Marijuana Dispensary**

##### 4.01 Registered Marijuana Dispensary Operating Permit and Dispensary Agent Permit

Any proposed RMD shall obtain a RMD Operating Permit in the form and manner prescribed by the Board of Health, as set forth herein. Any proposed Dispensary Agent shall obtain a Dispensary Agent Permit in the form and manner prescribed by the Board of Health, as set forth herein.

4.01.1 No Dispensary Agent or person shall sell or otherwise distribute marijuana or marijuana products within the Town of Framingham without first obtaining a Dispensary Agent Permit issued annually by the Board of Health. No Dispensary Agent shall sell or otherwise distribute marijuana or marijuana products within the Town of Framingham outside of a RMD that has obtained a RMD Operating Permit. Only RMDs with a permanent, non-mobile location in Framingham, meeting any zoning restrictions, are eligible to apply for a RMD Operating Permit to maintain a supply of marijuana or marijuana products at the specified location in Framingham. Personal Caregivers who cultivate medical marijuana in the Town of Framingham shall comply with regulations set forth in Section 5.00 herein.

4.01.2 In order to support the execution of its responsibilities set forth herein, an annual RMD Operating Permit fee shall be assessed in an amount that shall be set by the Board of Health.

4.01.3 In order to support the execution of its responsibilities set forth herein, a Dispensary Agent Permit fee shall be assessed in an amount that shall be set by the Board of Health. A person applying for a Dispensary Agent Permit shall submit to the Board of Health a valid government-issued photographic identification card and the application submitted to DPH. Personal Caregivers who cultivate medical marijuana in the Town of Framingham shall comply with regulations set forth in Section 5.00 herein.

- 4.01.4 As part of the RMD Operating Permit application process, the applicant will submit to the Board of Health the detailed summary of operating policies and procedures for the RMD as submitted with their Phase II application per 105 CMR 725.00, including, but not limited to, detailed floor plan, provisions for security, prevention of diversion, storage of marijuana, transportation of marijuana, inventory procedures, procedures for quality control and testing of products for potential contaminants, procedures for maintaining confidentiality as required by law, personnel policies, dispensing procedures, record-keeping procedures, plans for patient education, and any plans for patient or Personal Caregiver home-delivery.
- 4.01.5 As part of the RMD Operating Permit application process, the applicant will be provided with a copy of this regulation. Each applicant is required to sign a statement declaring that the applicant has read said regulation and that the applicant is responsible for instructing any and all Dispensary Agents who will be responsible for sales.
- 4.01.6 Each applicant is required to provide proof of a current RMD registration, issued by the Commonwealth of Massachusetts, before a Dispensary Agent Permit and/or RMD Operating Permit can be issued by the Board of Health.
- 4.01.7 The issuance and maintaining a RMD Operating Permit and/or Dispensary Agent Permit shall be conditioned on an applicant's ongoing compliance with current Commonwealth of Massachusetts requirements and policies regarding marijuana sales.
- 4.01.8 No RMD Operating Permit Holder shall allow any Dispensary Agent to sell marijuana or marijuana infused products until such Dispensary Agent reads this regulation and state laws regarding the sale of marijuana and signs a statement, a copy of which will be placed on file in the office of the RMD Operating Permit Holder, that he/she has read this regulation and applicable State Building Code and Department of Public Health Regulations on Medical Marijuana.
- 4.01.9 A RMD Operating Permit is non-transferable. A new owner of a RMD must apply for a new RMD Operating Permit. No new RMD Operating Permit will be issued unless and until all outstanding penalties incurred by the previous RMD Operating Permit Holder are satisfied in full.
- 4.01.10 Dispensary Agents must present their Dispensary Agent Permit to any law enforcement official or Board of Health agent who questions the Dispensary Agent concerning their marijuana-related activities.
- 4.01.11 Each RMD Operating Permit Applicant shall provide written consent from the property owner to operate a RMD in said property. A copy shall be submitted to the Board of Health as part of the RMD's application.

- 4.01.12 Dispensary Agents must display their RMD Operating Permit, DPH Registration Card(s), and Dispensary Agent employee authorization cards within a common area of the RMD in a conspicuous place.
- 4.01.13 No RMD is permitted to sell alcohol or tobacco products and must not be in possession of either a tobacco sales permit or a liquor license issued by the Town of Framingham.
- 4.01.14 No RMD is permitted to hold a food service permit and/or a Common Victualler license issued by the Town of Framingham for on-premises food consumption.
- 4.01.15 RMDs who wish to produce edible MIPs at their RMD must receive Board of Health approval for food processing and preparation facilities after floor plan review.
- 4.01.16 A separate RMD Operating Permit shall be required for each retail establishment selling marijuana and/or marijuana products for each location within the Town of Framingham.
- 4.01.17 The cultivation, processing, distribution or sale of marijuana for medical purposes shall not exempt any person or entity from complying with all state and local laws, ordinances, regulations and policies.
- 4.01.18 The cultivation, processing, distribution or sale of marijuana for medical purposes shall not exempt any person or entity from complying with all state and local laws, ordinances, regulations and policies. Nothing in this Regulation gives any immunity under federal law or poses an obstacle to federal enforcement of federal law.
- 4.01.19 The issuance of a RMD Operating Permit under this Regulation shall be conditioned on Registration approval by the Massachusetts Department of Public Health as required by state law and regulation. Any revocation of an RMD's state registration shall result in an automatic suspension of that RMD's Operating Permit in the Town of Framingham.
- 4.01.20 A RMD Operating Permit Holder shall submit a copy of all DPH inspection reports to the Board of Health within five business days of the report date.
- 4.01.21 Issuance and maintenance of a RMD Operating Permit shall be conditioned on an applicant's consent to periodic inspections by the Board of Health to ensure compliance with this regulation and the safety of public health.
- 4.01.22 A RMD Operating Permit Holder agrees to maintain a closed-circuit camera system that records all sales transactions. Any recording from the previous 24-hour period must be provided to any law enforcement official or Board of Health agent who requests such recording.

- 4.01.23 A RMD shall submit to the Board of Health for review its plans to provide reduced cost or free marijuana to patients with documented verified financial hardship as required by 105 CMR 725.100(A)(6).
- 4.01.24 A RMD Operating Permit will not be renewed if the RMD Operating Permit Holder has failed to pay all fines issued and the time period to appeal the fines has expired and/or has not satisfied any outstanding RMD Operating Permit suspensions.
- 4.01.25 All RMD Operating Permits and Dispensary Agent Permits expire annually on December 31<sup>st</sup> and shall be valid for a maximum term of one year, renewable annually on January 1<sup>st</sup>.

#### 4.02 Registered Marijuana Dispensary Requirements

- 4.02.1 No RMD will be open for business before 8:00 a.m. or later than 8:00 pm daily.
- 4.02.2 No RMD shall be located within a residential dwelling or mixed-use structure where people reside.
- 4.02.3 A RMD shall have a functioning sprinkler system, which shall be inspected by the Framingham Fire Department; and shall comply with applicable State Building and Fire Codes.
- 4.02.4 Required Signage: The RMD Operating Permit Holder shall conspicuously post signage indicating that the entry to persons not possessing a valid Registration Card is prohibited. Such notice must be posted in such a manner as to be readily seen by a person entering the RMD. Such notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4) feet or greater than nine (9) feet from the floor. All notices shall be at least forty-eight (48) square inches, must use a least two (2) contrasting colors.
- 4.02.5 RMDs must offer a secure patient or personal caregiver home delivery system that serves every address within Framingham's town limits and provides patient or Personal Caregiver home delivery service to any patient or Personal Caregiver residing in the Town of Framingham who requires home cultivation or suffers from a physical incapacity to access transportation as described by 105 CMR 725.035(A)(2).
- 4.02.6 For RMDs that cultivate medical marijuana, the cultivation and processing facility shall not adversely affect the health or safety of the nearby residents or businesses by creating dust, glare, heat, noise, noxious gases, materials, processes, products or wastes. Growing areas shall be within a self-contained structure, with a 1-hour firewall assembly made of green board, well ventilated with odor control, and shall not create humidity or mold issues within the establishment.
- 4.02.7 All retail sales of medical marijuana must be face-to-face between the Dispensary Agent and the Card Holder and occur at the RMD location, unless patient or Personal Caregiver requires home delivery as outlined herein.

4.02.8 RMDs within the Town of Framingham shall not be serviced by drive-thru windows.

4.02.9 No person shall distribute, or cause to be distributed, any free samples of marijuana or marijuana products. **All** means, instruments or devices that allow for the redemption of marijuana or marijuana products are prohibited.

4.02.10 A RMD is prohibited from using self-service displays.

4.02.11 A RMD is prohibited from using vending machines.

#### 4.03 Security

4.03.1 The Framingham Police Department Rules and Regulations regarding Security Alarms and Systems shall be followed; where this section overlaps the stricter shall be enforced. The Town of Framingham Police Department must have full control capability over the camera operation and over all other remote access service equipment.

#### 4.04 Disposal of Waste

##### 4.04.1 Minimum Requirements for Disposal of Medical Marijuana Waste

4.04.1.1 RMD waste must be made unusable prior to leaving a registered facility's secured storage and management area.

4.04.1.2 RMD waste shall be rendered unusable through the following methods:

4.04.1.2.1 By grinding and incorporating the medical marijuana waste with non-consumable, solid wastes listed below such that the resulting mixture is at least fifty percent non - marijuana waste: paper waste, plastic waste, cardboard waste, food waste, grease or other compostable oil waste, anaerobic composition, or other compost activators, other wastes approved by the Board of Health that will render the medical marijuana waste unusable, or soil.

4.04.1.2.2 By incorporating the medical marijuana waste with non-consumable, recyclable solid wastes: grease or other compostable oil waste, anaerobic composition, or other compost activators, or other wastes approved by the Board of Health that will make the medical marijuana waste unusable.

4.04.1.2.3 After the medical marijuana waste is made unusable, the solid waste shall be:

- Disposed of as a solid waste at a solid waste site and disposal facility that has a Certificate of Designation from the local governing body and that is approved by Department of Environmental Protection or the State of Massachusetts, or
- Deposited at a compost facility that has a Certificate of Designation from the Department of Public Health and Environment and approved by the Department of Environmental Protection or the State of Massachusetts.



## **5.00 Marijuana Sales by Individuals**

5.00.1 The sale of marijuana by any person outside of a RMD, or who is not a Card Holder, is prohibited and shall be punishable in accordance with applicable state and local laws.

5.00.2 The use of marijuana by persons who are not registered qualifying patients, including Personal Caregivers who are Card Holders, shall be punishable in accordance with applicable state and local laws.

### 5.01 Personal Caregivers

A registered qualifying patient may designate up to two Personal Caregivers. If the registered qualifying patient has been granted a hardship cultivation registration, the Personal Caregiver(s) may cultivate marijuana on behalf of the registered qualifying patient at only one location registered with the Board of Health as described in Section 5.01. Cultivation pursuant to a hardship cultivation registration by a Personal Caregiver constitutes consent for such inspections of the cultivation site in accordance with 105 CMR 725.020.

#### 5.01.1 Hardship Cultivation

5.01.1.1 A registered qualifying patient shall designate up to two Personal Caregivers as outlined in 105 CMR 725.020 who shall be required to register with the Board of Health if they will be cultivating their own marijuana.

5.01.1.2 Personal Caregivers who cultivate within the Town of Framingham shall be subject to annual cultivation inspections conducted by the Board of Health

5.01.1.3 Personal Caregivers who cultivate marijuana within the Town of Framingham on behalf of a registered qualifying patient shall obtain a Personal Caregiver Cultivation Permit from the Board of Health.

#### 5.01.2 Registration of a Personal Caregiver Cultivation

5.01.2.1 Personal Caregivers who cultivate in the Town of Framingham shall submit a copy of the documents provided to the State Department of Public Health as outlined in 105 CMR 725.020(A) to the Board of Health.

5.01.2.2 Personal caregivers are required to update application information annually along with the appropriate fee as required by the Board of Health.

5.01.2.3 Personal Caregivers who cultivate medical marijuana in the Town of Framingham shall apply for a Personal Caregiver Cultivation Permit with the Board of Health.

5.01.2.4 Personal Caregivers who cultivate medical marijuana in the Town of Framingham shall comply with the regulations set forth in Section 5.01.3 herein.

### 5.01.3 Personal Caregiver Cultivation Facility Permit Regulations

5.01.3.1 Marijuana cultivation by a Personal Caregiver within the Town of Framingham occurring inside a residential structure shall be fully enclosed and secure and shall not exceed 50 square feet, regardless of how many qualified patients or Personal Caregivers reside at the premises.

5.01.3.2 Marijuana cultivation by a Personal Caregiver within the Town of Framingham occurring inside a non-residential structure shall be in a fully enclosed, secure structure and shall not exceed 100 square feet, regardless of how many qualified patients or Personal Caregivers reside at or utilize the premises.

5.01.3.3 The residential structure shall remain at all times a residence, with legal and functioning cooking, sleeping and sanitation facilities with appropriate means of ingress and egress. These rooms shall not be used for marijuana cultivation where such cultivation will prevent those rooms' primary use for cooking of meals, sleeping and bathing.

5.01.3.4 Cultivation of medical marijuana shall only take place on impervious surfaces.

5.01.3.5 Medical marijuana cultivation area, whether in a fully enclosed and secure structure or inside a residential structure, shall not be accessible to persons under 18 years of age or to any person other than the Personal Caregiver or Cultivation Permit Holder.

5.01.3.6 Written consent of the property owner to cultivate medical marijuana within the residential structure shall be obtained and shall be kept on the premises, and available for inspection by the Board of Health, its subsidiary programs or designees, the Framingham Building Department and the Framingham Police Department.

5.01.3.7 A portable fire extinguisher that complies with the regulations and standards adopted by the State Fire Marshal and applicable law, shall be kept in the fully enclosed and secure structure used for cultivation. If cultivation occurs in a residential structure, a portable fire extinguisher shall be kept in the same room as where the cultivation occurs.

5.01.3.8 Personal Caregiver Cultivation Facilities shall have a functioning sprinkler system and inspected by the Framingham Fire Department prior to cultivation of medical marijuana.

5.01.3.9 Personal Caregiver Cultivation Facilities, including those under the hardship cultivation registration found in 105 CMR 725.035 shall comply with the State Building Code 780 CMR.

## **6.00 Removal and Closure of a Registered Marijuana Dispensary or Personal Caregiver Growing Establishment**

### 6.01 Abandonment

6.01.1 A RMD or Personal Caregiver Cultivation Facility shall be considered abandoned when the facility ceases cultivation activities for more than one year. If the RMD Operating Permit Holder or Personal Caregiver Cultivator Permit Holder fails to remove the cultivation facility in accordance with the requirements herein within 150 days of abandonment or the proposed date of decommissioning the facility, the Town may, upon obtaining any required court order or warrant, enter the property and physically remove the cultivation installations, structures, equipment, security equipment and any accessories related to marijuana cultivation at the expense of the RMD Operating Permit Holder or the Personal Caregiver Cultivation Permit Holder.

### 6.02 Removal Procedure

Any RMD or Personal Caregiver Cultivation Facility, which is proposed to be closed or discontinued, shall be cleaned to a condition prior to the establishment of the facility. The RMD Operating Permit Holder or Personal Caregiver Cultivation Permit Holder shall clean the facility no more than 150 days after the date of abandonment or the proposed date of de-commissioning the facility. The RMD Operating Permit Holder or Personal Caregiver Cultivation Permit Holder shall notify the Board of Health by certified mail of the intended date to close or discontinue cultivation.

### 6.03 Closure or Discontinued Cultivation

6.03.1 All cultivation installations, structures, equipment, security equipment and any accessories directly related to cultivation activities shall be removed from the facility and properly disposed of by the RMD Operating Permit Holder or Personal Caregiver Cultivation Permit Holder.

6.03.2 Disposal of all solid and hazardous waste shall be in accordance with local, state and federal waste disposal regulations.

### 6.04 Financial Security

A RMD Operating Permit Holder or Personal Caregiver Cultivation Permit Holder shall provide a non-cancellable surety bond or other form of surety approved by the Board of Health to cover the cost of removal, closure and/or clean-up in the event the Town must remove, close and/or clean-up a RMD or

cultivation facility after obtaining any required court order or warrant. The amount and form of the surety bond or other form of surety shall be determined by the Board of Health, but in no event shall exceed more than 150 percent of the cost of removal, closure and/or clean-up. The RMD Operating Permit Holder or Personal Caregiver Cultivation Permit Holder shall submit a fully inclusive estimate of the costs associated with the removal, closure and/or clean-up, prepared by a qualified Hazardous Waste Remediation Contractor. The amount shall include a mechanism for calculating increased removal, closure and/or clean-up costs due to inflation.

## **7.00 Marijuana Possession**

7.01 A Card Holder must present his or her Registration Card to any law enforcement official who questions the patient or caregiver regarding his or her possession or use of marijuana.

7.02 A Card Holder must not possess an amount of marijuana that exceeds his/her sixty-day supply.

7.03 Growing marijuana is prohibited except for those possessing a valid Hardship Cultivation Registration issued by the Commonwealth of Massachusetts or by a RMD.

## **8.00 Marijuana Use**

8.01 The smoking of any marijuana is prohibited in locations governed by the Massachusetts Smoke-Free Workplace Law (MGL Ch. 270 §22) and by any local laws or regulations that further ban smoking.

8.02 The use of marijuana by all persons, including Card Holders, is prohibited in public schools, on public school grounds and on public school buses.

8.03 The use of marijuana is prohibited in all public locations and shall not be used in places where tobacco is prohibited.

## **9.00. Fee Structure**

Personal Caregiver  
\$50, annually

Hardship Cultivation Permit/Personal Caregiver Cultivation Permit  
\$100, annually

Dispensary Agent Permit  
\$100, annually

Initial Personal Caregiver Cultivation Facility  
\$500

Personal Caregiver Cultivation Facility  
\$200, annually

Registered Marijuana Dispensary Operating Permit  
\$500, annually

Initial Registered Marijuana Dispensary Operating Permit  
\$2,000

## **10.00 Enforcement**

- 10.01 Enforcement of this regulation shall be by the Board of Health or its designated agent(s).
- 10.02 Any resident who desires to register a complaint pursuant to the regulation may do so by contacting the Board of Health or its designated agent(s).
- 10.03 Authority to inspect RMD for compliance and to enforce this regulation shall be held by the Board of Health.
- 10.04 Any person may register a complaint under this Regulation to initiate an investigation and enforcement with the Board of Health. Unscheduled compliance inspections may be conducted .
- 10.05 It shall be the responsibility of the RMD Operating Permit Holder, Dispensary Agent Permit Holder, Personal Caregiver Permit Holder and/or Personal Caregiver Cultivation Permit Holder to ensure compliance with all applicable sections of this regulation.
- 10.06 Any RMD Operating Permit Holder, Dispensary Agent Permit Holder, Personal Caregiver Permit Holder and/or Personal Caregiver Cultivation Permit Holder found to be in violation of any of the provisions of these regulations may receive a written warning citation, suspension, or Permit revocation. For any violation, the Board of Health or its designee may order the RMD Operating Permit Holder, Dispensary Agent Permit Holder, Personal Caregiver Permit Holder or Personal Caregiver Cultivation Permit Holder to appear for a hearing and/or enter into a corrective action plan to address any and all violations and prevent future violations.
- 10.07 No provision, clause or sentence of this section of this regulation shall be interpreted as prohibiting the Board of Health from suspending or revoking any license or permit issued by and within the jurisdiction of such. The Board of Health may file a complaint in any court of competent jurisdiction and/or pursue any other remedy as warranted by law to enforce the provisions of this regulation.

## **11.00 Violations**

11.01.1 Violations of these regulations shall be punishable as follows:

11.01.1.1 In the case of a first violation, a fine of up to three hundred dollars (\$300.00).

- 11.01.1.2 In the case of a second violation within twenty-four months of the date of a prior violation, a fine of up to three hundred dollars (\$300.00) and the RMD Operating Permit, Dispensary Agent Permit, Personal Caregiver Permit or Personal Caregiver Cultivation Permit Holder shall be suspended for seven consecutive business days.
- 11.01.1.3 In the case of three or more violations within a twenty-four month period, a fine of up to three hundred dollars (\$300.00) and the RMD Operating Permit, Dispensary Agent Permit, Personal Caregiver Permit or Personal Caregiver Cultivation Permit Holder shall be suspended for thirty consecutive business days.
- 11.01.2 Refusal to cooperate with inspections pursuant to this regulation shall result in the suspension of the RMD Operating Permit, Dispensary Agent Permit, Personal Caregiver Permit or Personal Caregiver Cultivation Permit Holder for thirty consecutive business days.
- 11.01.3 In addition to the monetary fines set above, any RMD Operating Permit Holder, Dispensary Agent Permit Holder, Personal Caregiver Permit Holder or Personal Caregiver Cultivation Permit Holder who engages in the sale or distribution of marijuana or marijuana products while his or her RMD Operating Permit, Dispensary Agent Permit, Personal Caregiver Permit or Personal Caregiver Cultivation Permit is suspended shall be subject to the suspension of all Permit issued pursuant to this regulation for thirty consecutive business days.
- 11.01.4 The Board of Health shall provide notice of the intent to suspend a RMD Operating Permit, Dispensary Agent Permit, Personal Caregiver Permit or Personal Caregiver Cultivation Permit which notice shall contain the reasons therefor and establish a time and date for a hearing which date shall be no earlier than seven days after the date of said notice. The RMD Operating Permit Holder, Dispensary Agent Permit Holder, Personal Caregiver Permit Holder or Personal Caregiver Cultivation Permit Holder shall have an opportunity to be heard at such hearing and shall be notified of the Board of Health's decision and the reasons therefore in writing. After a hearing, the Board of Health shall suspend the RMD Operating Permit, Dispensary Agent Permit, Personal Caregiver Permit Holder or Personal Caregiver Cultivation Permit if the Board of Health finds that a violation of this regulation occurred. For purposes of such suspensions, the Board of Health shall make the determination notwithstanding any separate criminal or non-criminal proceedings brought in court hereunder or under the Massachusetts General Laws for the same offense. All marijuana and marijuana products shall be removed from the retail establishment or cultivation facility upon suspension of the RMD Operating Permit or Personal Caregiver Cultivation Permit. Failure to remove all marijuana and marijuana delivery products shall constitute a separate violation of this regulation.
- 11.01.5 An individual or person who violates Sections 11.00 of this regulation shall be subject to a penalty of \$100 for each violation.

## **12.00 Non-Criminal Disposition**

Whoever violates any provision of this regulation may be penalized in the amount of \$100 by the non-criminal method of disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D or by filing a criminal complaint at the appropriate venue. Each day any violation exists will be deemed to be a separate offense

### **13.00 Additional Conditions, Limitations, and Safeguards**

#### 13.01.1 No Entitlement or vested rights to permitting

No person shall be deemed to have any entitlement or vested rights to permitting under this regulation by virtue of having received any prior permit from the Town including, by way of example only, any zoning permit or any wholesale food manufacturer's license. In order to lawfully operate a RMD, any person must qualify for and obtain a special permit in accordance with the requirements of this By-law.

#### 13.01.2 Conflict of Laws

In the event of any conflict between the provisions of this regulation and any other applicable state or local law, the stricter provision shall control.

#### 13.01.3 Approval by the Massachusetts Department of Public Health

The issuance of an Operating Permit or Cultivation Permit under this regulation shall be conditioned on Registration approval by the Massachusetts Department of Public Health as required by state law and regulations. Any revocation of an RMD's state registration or Personal Caregiver License or Hardship Certificate shall result in an automatic suspension of that RMD's Operating Permit, Personal Caregiver Permit or Personal Cultivation Permit.

### **14.00 Severability**

If any provision of these regulations is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

### **15.00 Effective Date**

This regulation shall take effect by vote of the Board of Health at its regularly scheduled meeting held on January 8, 2014, and is to be in full force and effect immediately upon adoption

This regulation or any portion thereof may be amended, supplemented or repealed from time to time by the Board, with notice as provided by law, on its own motion or by petition.