

*Town of Webster, MA
Tuesday, April 9, 2019*

Chapter 650. Zoning

Article X. Medical Marijuana Facilities

[Added 5-12-2014 ATM, Art. 11]

§ 650-90. Special requirements for medical marijuana facilities.

A. Purpose.

- (1) To provide for the establishment of Medical Marijuana Facilities in appropriate places and under strict conditions in accordance with the Humanitarian Medical Use of Marijuana Act, G.L. c. 94C, App. 1-1, as approved by the voters by the passage of Initiative Petition 11-11 on the November, 2012 state ballot, and the Department of Public Health Regulations, 105 CMR 725.00.
- (2) To minimize the adverse impacts of Medical Marijuana Facilities on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other land uses potentially incompatible with said Facilities.
- (3) To regulate the siting, design, placement, security, safety, monitoring, modification, and removal of Medical Marijuana Facilities.

B. Applicability.

- (1) The commercial cultivation, [unless it meets the requirements for an agricultural exemption under G.L. c. 40A, § 3, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of Marijuana for Medical Use is prohibited unless permitted as a Medical Marijuana Facility under this § **650-90**.
- (2) Nothing in this Bylaw shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.
- (3) If any provision of this Section or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this Section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Section are severable.

C. Definitions.

- (1) Medical Marijuana Facility – Shall mean a "Medical marijuana treatment center" to mean a not-for-profit entity, as defined by Massachusetts law only, registered under this law, 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 qualifying patients or their personal caregivers. These facilities shall be located inside a structure or building.
- (2) Marijuana for Medical Use – Marijuana that is designated and restricted for use by, and for the benefit of, Qualifying Patients in the treatment of Debilitating Medical Conditions as set forth in Citizens Petition 11-11.
- (3) Marijuana – The same substance defined as "marihuana" under Chapter 94C of the Massachusetts General Laws.

D. Eligible Locations for Medical Marijuana Facilities.

- (1) Medical Marijuana Facilities, other than agricultural operations meeting exemption standards under Chapter 40A, Section 3, may be allowed by Special Permit granted by the Webster Board of Selectmen in Zoning District 4, provided the Medical Marijuana Facility shall not be sited within a radius of 500 feet of a school, daycare center, or any facility in which children commonly congregate. The five-hundred-foot distance under this section is measured in a straight line from the nearest point of the facility in question to the nearest point of the building within which the Medical Marijuana Facility is located. The lot on which said Facility is located shall have a minimum lot size of 10 acres.
[Amended 12-8-2014 STM, Art. 11]

E. General Requirements and Conditions for all Medical Marijuana Facilities.

- (1) All non-exempt Medical Marijuana Facilities shall be contained within a building or structure.
- (2) No Medical Marijuana Facility shall have a gross floor area of less than 2,500 square feet or in excess of 25% of total area of the parcel upon which it is located.
[Amended 12-8-2014 STM, Art. 11]
- (3) A Medical Marijuana Facility shall not be located in buildings that contain any medical doctor's offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana.
- (4) The hours of operation of Medical Marijuana Facilities shall be set by the Special Permit Granting Authority, but in no event shall said Facilities be open between the hours of 8:00 p.m. and 6:00 a.m.
[Amended 12-8-2014 STM, Art. 11]
- (5) Each permitted Medical Marijuana Facility shall be permitted for one or more of the uses in Subsection **F(2)**.
[Amended 12-8-2014 STM, Art. 11]
- (6) No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a Medical Marijuana Facility.

- (7) Medical Marijuana Facility shall not be located inside a building containing residential units, including transient housing such as motels and dormitories, or inside a movable or mobile structure such as a van or truck.
- (8) Signage for the Medical Marijuana Facility shall include the following language: "Registration card issued by the MA Department of Public Health required." The required text shall be a minimum of two inches in height.
- (9) Medical Marijuana Facilities shall provide the Police Department, Building Inspector and the Special Permit Granting Authority 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.

F. Special Permit Requirements.

- (1) A Medical Marijuana Facility shall only be allowed by special permit from the Planning Board in accordance with G.L. c. 40A, § 9, subject to the following statements, regulations, requirements, conditions and limitations.
- (2) A special permit for a Medical Marijuana Facility shall be limited to one or more of the following uses that shall be prescribed by the Special Permit Granting Authority:
 - (a) Cultivation of Marijuana for Medical Use (horticulture) except that sites protected under G.L. c. 40A, § 3 shall not require a special permit;
 - (b) Processing and packaging of Marijuana for Medical Use, including Marijuana that is in the form of smoking materials, food products, oils, aerosols, ointments, and other products;
 - (c) Retail sale or distribution of Marijuana for Medical Use to Qualifying Patients;
- (3) In addition to the application requirements set forth in this Bylaw, a special permit application for a Medical Marijuana Facility shall include the following:
 - (a) The name and address of each owner of the facility;
 - (b) Copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the Facility;
 - (c) Evidence of the Applicant's right to use the site of the Facility for the Facility, such as a deed, or lease;
 - (d) If the Applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, 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;
 - (e) A certified list of all parties in interest entitled to notice of the hearing for the special permit application, taken from the most recent tax list of the town and certified by the Town Assessor;
 - (f)

Proposed security measures for the Medical Marijuana Facility, including lighting, fencing, gates and alarms, etc., to ensure the safety of persons and to protect the premises from theft.

- G. **Mandatory Findings.** The Special Permit Granting Authority shall not issue a special permit for a Medical Marijuana Facility unless it finds that:
- (1) The Facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in G.L. c. 40A, § 11;
 - (2) The 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
 - (3) The applicant has satisfied all of the conditions and requirements set forth herein.
- H. **Annual Reporting.** Each Medical Marijuana Facility permitted under this Bylaw shall as a condition of its special permit file an annual report to and appear before the Special Permit Granting Authority and 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.
- I. A special permit granted under this Section shall have a term limited to the duration of the applicant's ownership of, or leasehold interest in, the premises. A special permit may be transferred only with the approval of the Special Permit Granting Authority in the form of an amendment to the special permit with all information required in this Section.
[Amended 12-8-2014 STM, Art. 11]
- J. (Reserved)^[1]
- [1] *Editor's Note: Former Subsection J, which required the property owner to post a bond, was repealed 12-8-2014 STM, Art. 11.*
- K. **Abandonment or Discontinuance of Use.**
- (1) A Special Permit shall lapse if not exercised within one year of issuance.
 - (2) Medical Marijuana Facility shall be required to remove all material, plants equipment and other paraphernalia:
 - (a) Prior to surrendering its state issued licenses or permits; or
 - (b) Within six months of ceasing operations; whichever comes first.