

## 22.70 Marijuana Regulations

*(Adopted: Article 16, May 20, 2019 Annual Town Meeting)*

### A. PURPOSE

The purpose of the marijuana bylaw is to provide for the placement of Recreational Marijuana Establishments (“RME”) and Medical Marijuana Treatment Centers (“MMTC”) in accordance with An Act To Ensure Safe Access to Marijuana, c.55 of the Acts of 2017 (the “Act”), and all regulations which have or may be issued by the Department of Public Health and the Cannabis Control Commission, including, but not limited to 105 CMR 725.00 and 935 CMR 500.00, in locations suitable for such uses, which will minimize adverse impacts of RMEs and MMTCs on adjacent properties, residential neighborhoods, schools, playgrounds and other locations where minors congregate by regulating the siting, design, placement, security, and removal of such uses.

### B. DEFINITIONS

Any term not specifically defined herein shall have the meaning as defined in MGL c.94I, §1 and 105 CMR 725.00 implementing An Act for the Humanitarian Medical Use of Marijuana and MGL c.94G, §1 and the Cannabis Control Commission Regulations 935 CMR 500.00 governing Adult Use Marijuana, as such statutes and regulations may from time to time be amended.

1. "Recreational Marijuana Establishment" (“RME”) shall mean a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business as defined in MGL c.94G, §1 or the Cannabis Control Commission Regulations 935 CMR 500.00. Unless otherwise superseded by state law, for or the purposes of this By-law, an MMTC shall be considered an RME.

2. “Marijuana Retailer” shall mean an entity licensed by the Cannabis Control Commission to purchase and deliver recreational marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer recreational marijuana and marijuana products to marijuana establishments and to consumers, as defined in MGL c.94G, §1 and the Cannabis Control Commission Regulations 935 CMR 500.00 governing Adult Use Marijuana. Unless otherwise superseded by state law, for the purposes of this By-law, an MMTC shall be considered a Marijuana Retailer.

## **C. ELIGIBILITY**

### **USE**

Marijuana Cultivator

Marijuana Product

Manufacturer

Independent Testing

Laboratory

Marijuana Retailer

Other Licensed Recreational

Marijuana Establishment

### **ZONING DISTRICT**

Agricultural/Residential (Min. 5  
Acre Lot)

Industrial

Industrial

General Commercial

Industrial

1. RMEs shall conform to 935 CMR 500.000: Adult Use of Marijuana, in addition to any requirements herein.

2. A Special Permit is required for all RMEs. The special permit granting authority shall be the Planning Board.

3. A Special Permit granted under this section shall have a term limited to the duration of the applicant's ownership or lease of the premises for an RME, as licensed by the applicable Massachusetts licensing authority. Any new license for an existing RME location or transfer of an existing license to a new owner of an RME shall require a new Special Permit pursuant to the Rochester zoning bylaws.

## **D. APPLICABILITY OF REGULATIONS**

1. The cultivation, production, processing, manufacturing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of marijuana is prohibited unless licensed by all applicable Massachusetts licensing authorities and permitted as a RME under this section.

2. The number of recreational Marijuana Retailers shall be limited to no more than two (2) establishments in Rochester, which is greater than 20 per cent of the number of licenses issued within the Town for the retail sale of alcoholic beverages not to be drunk on the premises where sold under MGL c.138 §15 (package store licenses).

3. The number of any type of RMEs, except recreational Marijuana Retailers, shall be limited to not more than two (2) of the same type of RMEs in Rochester.

4. On-site consumption of marijuana products at RMEs, as either a primary or accessory use, shall be prohibited unless permitted by a local ballot initiative process, as allowed by MGL 94G §3(b). The prohibition on on-site social consumption shall include private social clubs or any other establishment which allows for social consumption of marijuana or marijuana products on the premises, regardless of whether the product is sold to consumers on site.

## **E. GENERAL REQUIREMENTS**

1. No RME shall be located within 500 feet, as measured from each lot line of the subject lots, of the following pre-existing uses: K-12 educational use; childcare center; playground; or any establishment where children commonly congregate.

2. Hours of operation for Recreational Marijuana Retailers shall not exceed the Alcoholic Beverages Control Commission (ABCC) maximum hours of operation for liquor licenses not to be drunk on premises pursuant to MGL 138 §15, but may be further limited by conditions of the special permit or Site Plan Review.

3. Marijuana plants, products, and paraphernalia shall not be visible from outside the building in which establishment is located. No outside storage is permitted.

4. No odor may be noxious or cause a nuisance, or impair public comfort and convenience. Marijuana establishments shall incorporate odor control technology and provisions.

5. The Board may require additional conditions and set standards for performance and maintenance upon finding that such action is reasonably necessary to meet the purpose and intent of the Zoning Bylaws.

6. Applicants for an RME shall provide the CCC approved security plan to the Police Chief and Fire Chief for their approval prior to the granting of a Special Permit.

7. Applicants for an RME must apply for Site Plan Review pursuant to the Rochester Zoning By-laws.

8. An approved Host Community Agreement shall be required prior to the filing of an application for a Special Permit and/or Site Plan Review for a RME.