**Regulation of the Dedham Board of Health**

**Restricting the Sale of Marijuana**

1. **Statement of Purpose:**

The purpose of this Regulation is to complement the Humanitarian Medical Use of Marijuana Act G.L. c. 94C, App. 1-1, Chapter 369 of the Acts of 2012 (:the act”) and the Commonwealth’s regulations, 105 CMR 725.00, to allow for local enforcement of dispensaries and to ensure that Registered Marijuana Dispensary (RMD) environments are controlled to meet the requirements set forth by the Town of Dedham’s Board of Health (“the Town” or “Board of Health”) Massachusetts Department of Public Health (DPH) regulation regarding the medical use of marijuana still apply.

Whereas the town of Dedham aims to abide by the goals of this law and ensure that RMD abide by further regulations to ensure the safety of our residents.

Now, therefore it is the intention of the town of Dedham to regulate the sale of marijuana.

**B.** **Authority:**

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

**C. Definitions:**

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

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

Board of Health: Town of Dedham Board of Health and its designated agents.

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.

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 by the DPH.

Cultivation Registration: A registration issued to a Medical Marijuana Treatment Center for growing marijuana for medical use under the terms of state law and regulation, or to a qualified patient or personal caregiver under the terms of state law and regulation.

Cigar: Any roll of tobacco that is wrapped in leaf tobacco or in any substance containing tobacco with or without a tip or mouthpiece not otherwise defined as a cigarette under Massachusetts General Law, Chapter 64C, Section 1, Paragraph 1.

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.

E-Cigarette: Any electronic nicotine delivery product composed of a mouthpiece, heating element, 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.

Employee: Any individual who performs services for an employer.

Employer: Any individual, partnership, association, corporation, trust or other organized group of individuals that uses the services of one (1) or more employees.

Enclosed, Locked Facility: A closet, room, greenhouse, or other area equipped with locks or other security devices, accessible only to dispensary agents, patients, or personal caregivers.

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, including a Marijuana-Infused Product (MIP). [MGL Ch. 94C, §1, “Marihuana”]

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 Registered Marijuana Dispensary, shall not be considered a food or a drug as defined in G.L. c.94 sec. 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) for 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.

Permit: RMD Permit.

Personal Caregiver: A person, registered by the DPH, 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 less than 18 years of age as a second caregiver.

Registration Card: An identification card issued by DPH to a registered qualifying patient, personal caregiver, or dispensary agent. The Registration Card verifies either that a certifying physician has provided a written certification to the qualifying patient and the patient has been registered with the DPH; that a patient has designated the individual as a Personal Caregiver; that a patient has been granted a hardship cultivation registration; or that a Dispensary Agent has been registered with the DPH and is authorized to work at a RMD. The Registration Card allows access into appropriate elements of the DPH- supported, interoperable database in which detailed information regarding certification and possession criteria are stored. The Registration Card identifies for the DPH and law enforcement authorities, those individuals who are exempt from Massachusetts criminal and civil penalties due to their medical use of Marijuana in compliance with 105 CMR 725.00 and the Act.

RMD Permit: Issued by the Town, to be renewed annually, that permits a RMD to operate.

RMD Permit Holder: Any person engaged in the sale of Marijuana or marijuana products who applies for an receives a Permit or any person, or his or her business agent, who is required to apply for a Permit pursuant to these Regulations.

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

Sixty-Day Supply: The amount of marijuana that a qualifying patient would reasonably be expected to need over a period of sixty (60) days for their personal medical use, as defined by DPH.

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

Tobacco Product: Cigarettes, cigars, chewing tobacco, pipe tobacco, bidis, snuff, blunt wraps or tobacco in any of its forms.

Town: Town of Dedham

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.

**D.** **Permit to Operate a Registered Marijuana Dispensary:**

1. No person shall sell or otherwise distribute marijuana or marijuana products within the Town of Dedhamwithout first obtaining a RMD Permit issued annually by the Town. As a condition for application for RMD Permit, the RMD shall provide the Board of Health with evidence that: (a) the RMD has a permanent, non-mobile location in Dedham, such evidence shall include a lease or deed to the property or other evidence acceptable to the Board of Health; and (b) the RMD is in compliance with and/or has obtained all necessary planning/zoning approvals and permits from the Town.
2. As part of the RMD Permit application process, the applicant will be provided with the Board of Health the detailed summary of operating policies and procedures for the RMD as submitted to DPH with their Phase II application in accordance with 105 CMR 725.00, including, but not limited to, detailed floor plan, provisions for security, prevention of diversion, storage of Marijuana and marijuana products, transportation of Marijuana and marijuana products, inventory procedures, procedures for quality control and testing of product 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.
3. As part of the RMD Permit application process, the Town shall provide the applicant with a copy of this Regulation. Each applicant is required to sign a statement declaring that the applicant has read said regulations and that the applicant acknowledges that it is responsible for instructing any and all Dispensary Agents who will be responsible for sales as to the requirements of the Regulation.
4. Each applicant is required to provide proof of a current RMD registration, issued by DPH, before a Permit can be issued.
5. For RMD’s that cultivate 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 modl issue within the establishment.
6. 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 Town.
7. No RMD is permitted to hold a Common Victualler License issued by town for on-premises food consumption.
8. No RMD is permitted to be a Massachusetts lottery dealer.
9. A one-time fee for application is $900.00 and to review the application, regardless of the need for a plan review under Section E, shall be eight hundred dollars ($800.00).
10. The fee for a RMD Permit shall be four hundred dollars ($400.00) annually.
11. A separate Permit is required for each retail establishment selling marijuana and/or marijuana products.
12. Each Permit shall be displayed at the retail establishment in a conspicuous place.
13. No RMD Permit Holder shall allow any Dispensary Agent to sell marijuana or marijuana products until such Dispensary Agent certifies that the agent has read this Regulation and State Law regarding the sale of sale of marijuana and signs a statement, a copy of which will be placed on file in the office of the RMD Permit Holder, that he/she has read the regulations and applicable state laws.
14. Dispensary Agents must present their Registration Card to any Town law enforcement official or Board of Health agent who questions the agent concerning their marijuana-related activities.
15. A RMD Permit is non-transferable. A new owner of a RMD must apply for a new Permit. No new Permit will be issued unless and until all outstanding penalties incurred by the previous License Holder are satisfied in ful.
16. A RMD Permit Holder shall submit a copy of all DPH inspection reports to the Board of Health within five (5) business days of the report date.
17. Issuance and maintaining of a RMD Permit shall be conditioned on an applicant’s consent to unannounced, Board of Health inspections of their retail establishment to ensure compliance with this regulation.
18. Issuance and maintaining a RMD Permit shall be conditioned on an applicant’s consent to provide the Board of Health with copies of the DPH registration card for Dispensary Agents working at the RMD, and to submit any changes in staffing and registration information within five (5) business days of the issuing of new registration card(s).
19. Issuance and maintaining of a RMD Permit shall be conditioned on an applicant’s on-going compliance with current DPH requirements and policies regarding marijuana sales.
20. Issuance and maintaining a RMD Permit shall be conditioned on an applicant’s agreement to maintain a closed-circuit camera system that records all sales transactions and any recording from the previous 24-hour period must be provided to any law enforcement official or municipal agent who requests such recording.
21. A RMD Permit will not be renewed if the RMD 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 Permit suspensions.
22. At any given time, there shall be no more than **one** Licenses issued in Dedham**.**
23. License Holders agree that a RMD will not open for business before 9**:00 a.m.** and shall close no later than **7:00 pm** daily on each day the RMD is open.

**E. Plan Review of Marijuana-Infused Product Facilities**:

1. Applicants who wish to produce edible MIPs at their RMD must, prior to beginning operations, undergo plan review of food processing and preparation facilities with the Board of Health to ensure sanitary food handling conditions and practices, notwithstanding that edible MIPs are not considered a food.

**F.** **Marijuana Sales by Registered Marijuana Dispensary:**

1. No person shall sell marijuana from any location other than at a RMD that possesses a valid RMDE Permit issued by the Town.
2. Required Signage: The owner or other person in charge of a RMD shall conspicuously post signage at all entrances indicating that the entry to persons not possessing a valid Registration Card is prohibited. The signage shall be provided by the Town**.** The sign shall be no smaller than 8.5” by 11” and shall be posted conspicuously in the establishment or other place in such a manner so that they may be readily seen by a person approaching the RMD. Such sign shall directly face the Card Holder 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 signs shall be at least forty-eight (48) square inches in area and must use at least two (2) contrasting colors.
3. Identification: Dispensary Agents shall verify the Registration Card of the Card Holder by means of a valid government-issued photographic identification. No separate identification is required for valid Registration Cards bearing a photograph of the Holder.
4. All retail sales of marijuana must be face-to-face between the Dispensary Agent and the Card Holder and occur at the permitted location, unless the qualifying patient or Personal Caregiver requires home delivery.
5. No person shall distribute, or cause to be distributed, any free samples marijuana or marijuana products. No means, instruments or devices that allow for the redemption of marijuana or marijuana products are prohibited.
6. RMD are prohibited from using self-service displays.
7. RMD are prohibited from using vending machines.
8. RMD are prohibited from using Non-Residential Roll-Your-Own machines.

**G. Marijuana Sales by Individuals:**

1. The sale of marijuana by any person outside of a RMD, including Card Holders, is prohibited and shall be punishable in accordance with applicable state and local laws.
2. The use of marijuana by persons who are not Card Holders, including Personal Caregivers who are Card Holders, shall be punishable in accordance with applicable state and local laws.

**H. Marijuana Possession:**

1. A Card Holder must present his or her Registration Card to any law enforcement official who questions the patient or caregiver regarding use of marijuana.
2. A Card Holder must not possess an amount of marijuana that exceeds his/her sixty-day supply.
3. Growing marijuana is prohibited except for those possessing a valid Cultivation Registration issued by DPH.

**I**. **Marijuana Use:**

1. 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.
2. The use of marijuana by all persons, including Card Holders, is prohibited in public schools, on public school grounds and on public school buses.

**J. Violations:**

1. It shall be the responsibility of the RMD Permit Holder and/or his or her business agent to ensure compliance with all sections of this Regulationpertaining to his or her distribution of marijuana and/or marijuana products. The violator shall receive:
	1. In the case of a first violation, a fine of three hundred dollars ($300.00**)**.
	2. In the case of a second violation within twenty-four (24) months of the date of the current violation, a fine of six hundred dollars ($600.00) and the Permit shall be suspended for seven (7) consecutive business days.
	3. n the case of three or more violations within a twenty-four (24) month period, a fine of nine hundred dollars ($900.00) and the Permit shall be suspended for thirty (30) consecutive business days.
2. Refusal to cooperate with inspections pursuant to this regulationshall result in the suspension of the Permit for thirty (30) consecutive business days.
3. In addition to the monetary fines set above, any RMD Permit Holder who engages in the sale or distribution of marijuana or marijuana products while his or her RMD permit is suspended shall be subject to the suspension of all Dedham -issued permits and licenses for thirty (30) consecutive business days.
4. The Board of Health shall provide notice of the intent to suspend a RMD 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 (7) days after the date of said notice. The RMD Permit or its business agent shall have an opportunity to be heard at such hearing and shall be notified of the Town’s decision and the reasons therefore in writing. After a hearing, the Town shall suspend the RMD Permit if the Town finds that a violation of this Regulation occurred. For purposes of such suspensions, the Town shall make the determination notwithstanding any separate criminal or non-criminal proceedings brought in court hereunder or under the state law for the same offense. All marijuana and marijuana products shall be removed from the retail establishment upon suspension of the RMD Permit. Failure to remove all marijuana and marijuana products shall constitute a separate violation of this Regulation.
5. An individual or person who violates Sections G and H of this Regulation shall be subject to a penalty of $100 for each violation.

**K.** **Non-Criminal Disposition:**

Whoever violates any provision of this regulation may be penalized 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 shall be deemed to be a separate offense.

**L.** **Enforcement:**

Enforcement of this regulation shall be by the Board of Health**.**

Any resident who desires to register a complaint pursuant to the regulation may do so by contacting the Dedham Board of Health or its designated agent(s) and the Board shall investigate.

**M.** **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.

**M.** **Effective Date:**

This regulation shall take effect on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2016.

Town of Dedham Board of Health

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Sara Rosenberg-Scott MD, MPH, Chairperson

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Leanne Jasset B.S.P., RPh, Vice-Chairperson

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Jason Brogan, MSM, Member