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July 15, 2014

Michael P. Seery, Town Clerk
Town of Brookfield
6 Central Street
Brookfield, MA 01506

**RE: Brookfield Annual Town Meeting of June 6, 2014 - Case # 7328
Warrant Article # 25 (Zoning)**

Dear Mr. Seery:

Article 25 – We approve Article 25 from the June 6, 2014 Brookfield Annual Town Meeting.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date that these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were voted by Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,
MARTHA COAKLEY
ATTORNEY GENERAL

Margaret J. Hurley

by: Margaret J. Hurley, Assistant Attorney General
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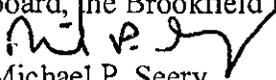
cc: Town Counsel Patricia Cantor

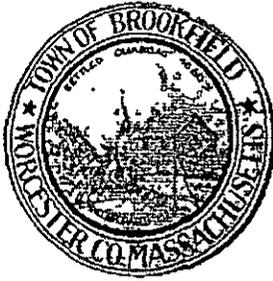


OFFICE OF THE TOWN CLERK
Justice of the Peace and Notary Public
MICHAEL P. SEERY
6 CENTRAL STREET
BROOKFIELD, MA 01506
508-867-2930 EXT.12

August 5, 2014

On Friday June 6, 2014 the Town of Brookfield voted to amend the Town's zoning by-law presented by the Brookfield Planning Board to add Registered Marijuana Dispensary as a permitted use, subject to Special Permit by the Planning Board, through the establishment of a Medical Marijuana Overlay District. The Attorney General approved this by-law on July 15, 2014. To view these by-laws and town meeting action in their entirety please go to public notices at www.mytowngovernment.org, www.brookfieldma.us or the Town Hall exterior bulletin board, the Brookfield Post Office bulletin board and the Merrick Public Library.


Michael P. Seery
Town Clerk



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Submission # 2
Town Meeting Action
Town of Brookfield Special Town Meeting
Friday JUNE 6, 2014

July 8, 2014

This is to certify that at the Special Town Meeting held on Friday June 6, 2014 at the Brookfield Elementary School, article 25 was voted on and approved, the moderator declaring the motion carried with a standing 2/3rds majority, it is as follows:

The Town voted by a standing 2/3rds majority 48 in favor and 1 opposed to amend the Brookfield Zoning By-Law to add Registered Marijuana Dispensary as permitted use, subject to Special Permit by the Planning Board, through the establishment of a Medical Marijuana Overlay District, as follows:

To Section 4.D., Use Regulation Table, add the following, under subsection 6, Commercial and Manufacturing Use:

k. Registered Marijuana Dispensary SP in MMOD To Section 3, Establishment of Districts, subsection A, add the following:

7. Medical Marijuana Overlay District (MMOD)

a. Purpose: the purpose of the Medical Marijuana Overlay District (MMOD) is to provide suitable locations for the placement of Registered Marijuana Dispensaries (RMDs).

b. Intent: the intent of the MMOD is to minimize any adverse impacts of RMDs on public safety and general welfare.

To Section 8, Special Regulations, add the following:

G. Registered Marijuana Dispensaries

1. Purpose: To provide for the placement of Registered Marijuana Dispensaries (RMDs), in accordance with the Humanitarian Medical Use of Marijuana Act, G.L. c.94C, App. §1-1, et seq., in locations suitable for lawful medical marijuana facilities and to minimize adverse impacts of RMDs on adjacent properties, residential neighborhoods, historic districts, schools, playgrounds and other locations where minors congregate, by regulating the siting, design, placement, security, and removal of RMDs.

2. Establishment: The Medical Marijuana Overlay District (MMOD) is established as an overlay district. The boundaries of the MMOD are shown on the Zoning Map on file with the Town Clerk. Within the MMOD, all requirements of the underlying district(s) remain in effect, except where these regulations provide an alternative to such requirements. Land within the MMOD may be used either for (1) a Registered Marijuana Dispensary (RMD), in which case the requirements set forth in this section shall apply; or (2) a use allowed in the underlying district, in which case the requirements of the underlying district shall apply. If the

provisions of the MMOD are silent on a zoning regulation, the requirements of the underlying district shall apply. If the provisions of the MMOD conflict with the requirements of the underlying district, the requirements of the MMOD shall control.

3. Definitions: where not expressly defined in the Zoning Bylaws, terms used in the MMOD Bylaw shall be interpreted as defined in the Humanitarian Medical Use of Marijuana Act, G.L. c.94C, App. §1-1, et seq. and the Department of Public Health Regulations promulgated thereunder, 105 CMR 725.001, et seq., and otherwise by their plain language.

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

4. Location

a. RMDs may be permitted in the MMOD pursuant to a Special Permit.

b. RMD buildings may not be located within 2,500 feet of the following:

(1) School, including a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university;

(2) Child Care Facility;

(3) Library;

(4) Playground;

(5) Public Park;

(6) Youth center;

(7) Public swimming pool;

(8) Video arcade facility; or

(9) Similar facility in which minors commonly congregate.

c. The distance under this section is measured in a straight line from the nearest point of the property line of the protected uses identified in Section 8.G.4.b. to the nearest point of the proposed RMD building.

d. The distance requirement may be reduced by twenty-five percent or less, but only if:

(1) The applicant demonstrates that the RMD would otherwise be effectively prohibited within the Town;

(2) The applicant demonstrates that the RMD will employ adequate security measures to prevent diversion of medical marijuana to minors who are not Qualifying Patients pursuant to 105 CMR 725.004.

5. Procedure: The Planning Board shall be the Special Permit Granting Authority (SPGA) for a RMD special permit.

a. Application: In addition to the materials and fees required under Article V of the Town of Brookfield Rules and Regulations for the Planning Board and Section 12.C.8. of this Bylaw, the applicant shall include:

(1) a notarized copy of its registration as an RMD from the Massachusetts Department of Public Health (DPH);

(2) a detailed floor plan of the premises of the proposed RMD that identifies the square footage available and describes the functional areas of the RMD, including areas for any preparation of Marijuana Infused Products as defined by the DPH;

(3) detailed site plans that include the following information:

(a) Compliance with the requirements for parking and loading spaces, for lot size, frontage, yards and heights and coverage of buildings, and all other provisions of this Bylaw;

(b) Location of all RMD buildings in relation to any protected use properties, as described in Sections 8.G.4.b. and 8.G.4.c.;

- (c) Convenience and safety of vehicular and pedestrian movement on the site and for the location of driveway openings in relation to street traffic;*
- (d) Convenience and safety of vehicular and pedestrian movement off the site, if vehicular and pedestrian traffic off-site can reasonably be expected be substantially affected by on-site changes;*
- (e) Adequacy as to the arrangement and the number of parking and loading spaces in relation to the proposed use of the premises, including designated parking for home delivery vehicle(s), as applicable;*
- (f) Design and appearance of proposed buildings, structures, freestanding and other signs, screening and landscaping; and*
- (g) Adequacy of water supply, surface and subsurface drainage and light.*
- (4) a description of the security measures, including employee security policies, approved by DPH for the RMD;*
- (5) a copy of the emergency procedures approved by DPH for the RMD;*
- (6) a copy of the policies and procedures for Qualifying Patient or Personal Caregiver home delivery approved by DPH for the RMD;*
- (7) a copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between RMDs approved by DPH;*
- (8) a copy of proposed waste disposal procedures; and*
- (9) a description of any waivers from DPH regulations issued for the RMD.*
- b. The Planning Board shall refer copies of the application to the Building Department, Fire Department, Police Department, Board of Health, the Conservation Commission, the Highway Department, Board of Water Commissioners, and the Planning Board. These boards/departments shall review the application and shall submit their written recommendations. Failure to make recommendations within 35 days of referral of the application shall be deemed lack of opposition.*
- c. After notice and public hearing and consideration of application materials, consultant reviews, public comments, and the recommendations of other town boards and departments, the Planning Board may act upon such a permit.*

6. Special Permit Conditions on RMDs: The Planning Board shall impose conditions reasonably appropriate to improve site design, traffic flow, and public safety, protect water quality, air quality, and significant environmental resources, preserve the character of the surrounding area and otherwise serve the purpose of this section. In addition to any specific conditions applicable to the applicant's RMD, the Planning Board shall include the following conditions in any special permit granted under this Bylaw:

- a. Hours of Operation, including dispatch of home deliveries.*
- b. The permit holder shall file a copy of any Incident Report required under 105 CMR 725.110(F) with the Zoning Enforcement Officer and the Planning Board within 24 hours of creation by the RMD. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations.*
- c. The permit holder shall file a copy of any summary cease and desist order, cease and desist order, quarantine order, summary suspension order, order limiting sales, notice of a hearing, or final action issued by DPH or the Division of Administrative Law Appeals, as applicable, regarding the RMD with the Zoning Enforcement Officer and Planning Board within 48 hours of receipt by the RMD.*
- d. The permit holder shall provide to the Zoning Enforcement Officer and Chief of the Police Department, the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder.*
- e. The special permit shall lapse within five years of its issuance. If the permit holder wishes to renew the special permit, an application to renew the special permit must be submitted at least 120 days prior to the expiration of the special permit.*
- f. The special permit shall be limited to the current applicant and shall lapse if the permit holder ceases operating the RMD.*

g. The special permit shall lapse upon the expiration or termination of the applicant's registration by DPH.

h. The permit holder shall notify the Zoning Enforcement Officer and Planning Board in writing within 48 hours of the cessation of operation of the RMD by the permit holder or the expiration or termination of the permit holder's registration with DPH.

7. Exemption from RMD Special Permit Requirement: RMDs that demonstrate that they are protected pursuant to the agricultural exemption under G.L. c.40A §3 are not required to obtain a special permit, but shall apply for Site Plan Approval pursuant to Section 8.C. of this Bylaw.

8. Prohibition Against Nuisances: No use shall be allowed in the MMOD which creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including, but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.

9. Severability: The provisions of this Bylaw are severable. If any provision, paragraph, sentence, or clause of this Bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Bylaw.

And by approving changes to the Zoning Map, Town of Brookfield, that identifies areas in the Medical Marijuana Overlay District

Certified this 8th day of July 2014


Michael P. Seery

Town Clerk

