



**BOARD OF SELECTMEN  
TOWN OF BROOKLINE  
REGISTERED MARIJUANA DISPENSARY (RMD) REGULATIONS  
(As voted: April 24, 2014)**

**1. Purpose; Licensing Authority; Conflicts of Law; Term of License**

The purpose of these regulations is to implement Article 8.34 of the Town's By-Laws entitled "Registered Marijuana Dispensary (RMD) Licenses" and its stated purposes, namely, to prevent and minimize any possible adverse public health and safety consequences that could result from the establishment of Registered Marijuana Dispensaries ("RMDs") within the Town pursuant to Chapter 369 of the Acts of 2012, "An Act for the Humanitarian Medical Use of Marijuana" (the "Act"), while at the same time recognizing the goal of the Act of making medical marijuana available to qualifying patients.

Pursuant to Article 8.34, the Board of Selectmen ("Board") is the licensing authority for RMDs. The Board promulgates these regulations under the authority granted to it by Article 8.34 and 105 CMR Part 725.

RMD licenses issued by the Board shall be valid for a one-year period beginning on January 1. All RMD licenses issued by the Board are subject to and conditioned on compliance with applicable State and local laws, regulations, by-laws and codes, including, but not limited to, these regulations, 105 CMR Part 725.00, the Town of Brookline's By-Laws, the Town of Brookline's Zoning By-Laws, all applicable building, fire prevention, zoning, health and sanitary codes, and any conditions the Board imposes on specific licenses.

Where there is a conflict between State law or regulation and these regulations or a condition on a license, the State provision shall govern. Where there is a conflict between these regulations and a condition on the license, the condition shall govern. The Board reserves the right to modify and supplement these regulations and the conditions on any license after due notice and hearing or the opportunity therefor.

## **2. Definitions; Incorporation By Reference of Amendments to 105 CMR Part 725**

Terms used within these regulations that are also used in 105 CMR Part 725 shall have the definitions contained in 105 CMR Part 725.004.

“DPH” means the Massachusetts Department of Public Health.

Where these regulations reference specific provisions of 105 CMR Part 725, they incorporate by reference any subsequent amendments to those provisions.

## **3. Application for a New or Renewed License**

All applicants for a Town RMD license shall receive all necessary approvals, licenses and permits from DPH pursuant to 105 CMR Part 725.00.

All license applications must contain complete and truthful information. Submission of an application containing material false information may be cause for refusing the application or for suspending, canceling or revoking a license already granted. No application will be accepted for filing by the Board until it is fully complete. Annual license fees shall be payable immediately upon approval of the license by the Board. License fees shall not be prorated and are not refundable.

Application and license fees shall be in an amount established by the Board pursuant to Massachusetts General Laws Chapter 40, Section 22F.

In determining whether or not to grant a request for a new license, the Board may consider the applicant’s demonstrated ability to maintain compliance with 105 CMR Part 725 and these regulations. The Board may also consider the suitability of the applicant and the applicant’s Board Members, Executives, Directors and Managers pursuant to criteria set forth in Article 8.30 of the Town of Brookline By-Laws, the Town’s CORI Policy: Licensing, and 105 CMR Part 725. All RMD Board Members, Executives, Directors, and Managers must be at least 21 years of age. No RMD license applicant, Board Member, Executive, Director or Manager shall have been convicted of a felony drug offense in Massachusetts, the United States, or a military, territorial, or Indian tribal authority.

Prior to issuing a new or renewed license, the Board shall seek advisory reports from the Police Department, Fire Department, Treasurer/Collector, Health Department, Building Department, and Planning Department, as appropriate, and shall hold a hearing on the application.

The Board or its agents may specify the materials to be submitted with an application for a new or renewed license, which may include:

- the applicant’s or licensee’s application to DPH for a new or renewed RMD registration;
- proof that during the license period, the applicant has in effect a general liability insurance policy or an escrow account as required by 105 CMR Part 725.105(Q);

- a diagram of the premises reflecting limited access areas, surveillance areas, walls, partitions, counters, all areas of entry and exit, areas of propagation, vegetation, flowering, processing, production, storage, disposal, and retail sales areas, and any other items and areas as may be specified in 105 CMR Part 725.110(C)(2);
- a description of proposed or current security measures, including but not limited to those required by 105 CMR Part 725.110;
- adequate documentation reflecting DPH's approval or issuance of any registrations, certificates of registrations, permits, or licenses pursuant to 105 CMR Part 725 applicable to the license period;
- proof of a legal right to the licensed premises for the term of the license, such as ownership papers, tenancy documents, or a management contract;
- policies and procedures for patient or personal caregiver home-delivery; and
- a detailed summary of the applicant's or licensee's policies and procedures for the provision of marijuana to registered qualifying patients with verified hardship without charge or at less than the market price and to otherwise meet the requirements of 105 CMR Part 725.100(A)(6).

The applicant's or licensee's failure to comply with any state or local law, regulation, by-law or code may be cause for denial of the application. This includes, but is not limited to, 105 CMR Part 725, the Town's Zoning By-Law, State and local health codes, State Building Code, and State Fire Code. The grounds set forth in 725.405 for denial by DPH of a renewal application shall be grounds for non-renewal of a Town license.

#### **4. Taxes and Charges**

All taxes and charges owed to the Town must be paid on a current basis. The Town may sanction a licensee who fails to do so, pursuant to these regulations and Art. 4.7 of the Town By-Laws.

#### **5. Transfers; Changes in Board Members, Executives, Directors and Managers; Modification of Premises**

No licensee may transfer a license to another person or entity, or transfer the license or operations to another location, without Board approval. An RMD must obtain Board approval for a change to or addition of a Board Member, Executive, Director or Manager, who shall be qualified according to the criteria set forth in Section 3.

Any transfer shall be subject to the terms and conditions of the original license, unless otherwise stipulated by the Board.

A licensee must apply for and obtain the approval of the Board or its designee prior to making any structural change to the premises or change in limited access or surveillance areas. An

application for any such change shall be accompanied by a description, illustration and/or detailed plan describing the proposed change.

## **6. Display of Licenses**

The licensee shall display its license on the premises in a conspicuous place where it can be easily read.

## **7. Manager and Alternate Managers**

No corporation or other legal entity shall be approved for a license unless the entity, by vote of its board of directors as demonstrated by a vote certified by the clerk or secretary of the entity, has appointed a Manager for the licensed premises whom the Board has deemed capable of fulfilling his or her managerial responsibilities as set forth herein. The Manager must be at least 21 years of age and of suitable character. With the approval of the Board or the Board's designee, a corporation or other legal entity may appoint Alternate Managers (who must be at least 21 years of age) to be in charge in the absence of the Manager in number sufficient to meet operational needs, however, the Manager must be on the premises the lesser of either fifty (50) percent of the time the premises are open, or forty (40) hours per week during operational hours. At no time shall the premises be open without a duly-appointed and Board-approved Manager or Alternate Manager in charge. A written record shall be kept which identifies the manager on duty for each shift.

The Manager shall be responsible for the proper supervision and operation of the licensed premises and the licensee's compliance with these regulations, whether present or not. The Manager shall cooperate in all ways with Town Officials in ensuring safe and orderly facilities and operations.

No appointment of a Manager or Alternate Manager shall be effective unless and until approved by the Board.

## **8. Town Inspections and Maintenance of Required Records on Premises**

The Town's authorized inspectional departments may conduct inspections of the licensed premises and of any RMD transportation vehicles in connection with the Town's receipt of an application for a new or renewed license. Records required to be maintained by the licensee pursuant to state or local law, including 105 CMR 725 and these regulations, must be maintained on the licensed premises and made available for inspection upon request. Inspections shall be made on week-days during normal Town business hours. In addition, inspections of the licensed premises may be made at other times (including but not limited to evenings and weekends) to investigate complaints or other concerns. Inspections may include all areas occupied, used or controlled by the licensee and within the structure containing the

licensed premises, in addition to documents required to be maintained by the licensee. Inspections shall be conducted in conformity with applicable federal, state and local law. Facilities requiring re-inspection are subject to applicable re-inspection fees.

#### **9. Security Measures**

A licensee shall have in place security devices, written operating procedures and measures that comply with 105 CMR Part 725, including but not limited to 105 CMR Part 725.110, and that have been approved by the Board or its designee. The Board may condition a new or renewed license on any additional security measures it may deem advisable based on site-specific or other considerations. The licensee shall not make changes to Town-approved security devices and written operating procedures without seeking and obtaining approval for the changes by the Board or its designee.

#### **10. Hours of Operation**

The hours of operation shall be restricted to those set by the Board. The licensee shall not change its hours of operation without Board approval.

#### **11. Limitation Use of Products on Licensed Premises**

Consumption of marijuana and MIPs on the licensed premises is prohibited except as may be consistent with 105 CMR Part 725.105(N)(8) and any requirements by the Department of Public Health.

#### **12. Signage, Marketing and Advertising**

Signage must conform to 105 CMR Part 725.105(L) and the Town's Zoning By-Law and must be approved by the Brookline Planning Board.

#### **13. Required Documentation Available for Inspection**

Licensees must maintain on the premises, and make available for inspection at the request of the Board or its agents, documents reflecting current written operating procedures and other records as may be required by 105 CMR Part 725, including but not limited to Parts 725.105(A) and 725.105(I). The Board or its agents may require the licensee to create written operating procedures and to maintain documentation in addition to and beyond the requirements of 105 CMR Part 725. The Board may condition a new or renewed license on the maintenance of any additional written operating procedures or documentation that it may deem necessary or advisable.

#### **14. Severability**

The provisions of these regulations are severable. If a court of competent jurisdiction declares any section, subsection, paragraph, or provision unconstitutional or invalid, the validity of the remaining provisions shall not be affected.

## **15. Sanctions**

The licensee's violation of these regulations or 105 CMR Part 725, and the existence of any condition set forth in 105 CMR Part 725.405 as establishing sufficient grounds for adverse action by DPH against an RMD, shall be good cause for and may result in the Board's sanction of a license to the extent permitted by law, including, but not limited to, the imposition of additional conditions on a license, a reduction or modification of the licensee's approved hours of operations, or a suspension, non-renewal, revocation, forfeiture, or cancellation of a license. No sanction shall be made except after notice and opportunity for hearing. In determining the appropriate sanction, the Board shall consider all factors it deems relevant, which may include, but are not limited to: the past history of findings of violation(s); the severity of the offense and egregiousness of the facts alleged; the culpability of the licensee and/or its manager(s), employee(s) and agent(s) (including the extent to which it had established and followed procedures to prevent such violations); the extent of any threat to public safety and to the public good; any steps by the licensee to remedy the violation and to prevent any reoccurrence; and any other additional factors deemed relevant by the Board.

In addition, a violation of these regulations may be subject to non-criminal disposition under Article 10.3 of the Town's By-Laws. After providing the licensee with a hearing or reasonable opportunity therefor and the opportunity to cure the violation, the Police Department is authorized to implement and enforce Article 10.3 without further action by the Board with respect to the following regulations:

- Section 6 ("Display of License")
- Section 7 ("Manager and Alternate Managers" (only with respect to the prohibition against conducting business without a duly-appointed and Board-approved Manager or Alternate Manager on site))
- Section 13 ("Required Documentation Available for Inspection")

The Police Department's imposition of a penalty pursuant to Article 10.3 and this Section A.35 shall not prevent or estop the Board from taking other or additional action against the licensee for the same charged violation.