

## **PLANNING BOARD REPORT AND RECOMMENDATION ON PROPOSED MEDICAL MARIJUANA OVERLAY DISTRICT BYLAW**

On December 10, 2014, the Planning Board held a hearing on the proposed Medical Marijuana Overlay District bylaw which will appear on the March, 2015 Special Town Meeting warrant. The Public Hearing was posted as required by law.

On November 6, 2012, the voters of Massachusetts approved the “ACT FOR THE HUMANITARIAN MEDICAL USE OF MARIJUANA” (105 CMR 725). The law went into effect in early 2013; the final regulations went into effect on May 24, 2013. This left little time for cities and towns in the Commonwealth to prepare to receive an application for a medical marijuana dispensary. Of particular concern in a town such as Egremont without business zoning is the effect such a dispensary could have on abutters. Many municipalities, including Egremont, passed moratoriums on granting approval of a facility to allow the state to finalize the rules and regulations, and to allow town boards to assess the possible impacts. Egremont’s temporary moratorium expired on October 31, 2014.

The state law (which can be viewed and downloaded at <http://www.mass.gov/eohhs/docs/dph/regs/105cmr725.pdf>) addresses the registration, certification, operational requirements, security and inspection of Registered Marijuana Dispensaries (RMDs), as well as the application requirements for potential dispensary agents.

State law allows cities and towns to create local zoning bylaws to regulate RMDs. Because towns and villages must allow an RMD, and because Egremont has one zone, with businesses allowed by special permit, this bylaw is proposed as an overlay district on the entire town.

This is the state law definition of an RMD:

Medical Marijuana Treatment Center means 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) of dispensing, cultivation, and preparation of marijuana.

Because Egremont currently has one zone, the General Zone, with business allowed by special permit, the Planning Board looked closely at which RMD uses would be appropriate in our villages and which would be appropriate in a more rural area. By separating the uses, we are able to separate the zoning setbacks and size requirements for each type of dispensary.

Thus, the Planning Board believes a fully functioning RMD, as defined by the Commonwealth, belongs in an area with more space around it, while a Registered Medical Marijuana Dispensary Center (RMDC), defined by the Planning Board as a dispensary and education center only, could fit into our villages.

While state law stipulates that an RMD cannot be sited within a radius of 500 feet of a school, daycare center, or any facility in which children commonly congregate if there is no underlying zoning, the Planning Board recommends that an RMD should be set back from such uses by 1,000 feet. An RMDC, however, because it is not growing or processing marijuana, but only dispensing or educating, may be set back from such uses by 500 feet. Neither of these setbacks would keep an RMD or RMDC from locating in Egremont.

In addition to this separation of uses and setbacks, the proposed bylaw includes the following points in the interests of our town:

- The documents and information required for an applicant to submit for approval to town boards and the police department.
- Sets a maximum size for both an RMD and RMDC.
- Establishes the hours of operation.
- Requires that applicants for licenses must pay for independent consultants, should they be necessary.
- Makes the cost of site and facility clean-up the responsibility of dispensary owners if the license is terminated. They must post a bond to ensure that adequate funds are available if the town has to remove the facility.
- If an RMD surrenders its state-issued licenses or permits, all product shall be removed from the facility prior to surrendering these licenses, or within 48 hours after ceasing operations, whichever is earlier.

For all the above reasons, the Planning Board unanimously recommends this Medical Marijuana Overlay District bylaw be passed.