



City of Holyoke

IN CITY COUNCIL

Introduced by Councilor Rebecca Lisi

Ordered, that the City Council Ordinance Committee hold a joint public hearing with the Planning Board on the creation of zoning ordinances related to recreational marijuana cultivation and production.

In City Council, August 1, 2017. Received and referred to the Ordinance Committee.

In City Council, on December 5, 2017, the Report of Committee received and the Ordinance passed its first reading.

The Ordinance passed its second reading.

The Ordinance was passed to be enrolled.

The Committee has considered the same and find that it is truly and properly enrolled.

Report of Enrollment received.

The Ordinance was passed to be Ordained and Adopted on a call of the roll of the yeas and nays --Yeas 13--Nays 0--Absent 2 (Lopez, Roman).

VETO BY THE MAYOR.

In City Council, on December 19, 2017, Motion was made and seconded to override the Mayor's Veto.

The report of Committee received and Adopted the motion on a call of the roll of the yeas and nays --Yeas 14--Nays 1 (Roman)--Absent 0.

Brenda M. McLee
Clerk

Presented to the Mayor	Mayor's Office
For Approval _____, 20	Holyoke, Mass. _____, 20
	Approved
_____ City Clerk	_____ Mayor



City of Holyoke

IN CITY COUNCIL

Introduced by Councilor Rebecca Lisi

Ordered, that the City Council Ordinance Committee hold a joint public hearing with the Planning Board on the creation of zoning ordinances related to recreational marijuana retail locations.

In City Council, August 1, 2017. Received and referred to the Ordinance Committee.

In City Council, on December 5, 2017, the Report of Committee received and the Ordinance passed its first reading.

The Ordinance passed its second reading.

The Ordinance was passed to be enrolled.

The Committee has considered the same and find that it is truly and properly enrolled.

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Barbara M. McLee
Clerk

Presented to the Mayor	Mayor's Office
For Approval _____, 20	Holyoke, Mass. _____, 20
	Approved
_____ City Clerk	_____ Mayor

IN THE YEAR TWO THOUSAND AND SEVENTEEN

ONE HUNDRED AND THIRTY-FIFTH AMENDMENT TO APPENDIX A OF THE
REVISED CODE OF ORDINANCES OF THE CITY OF HOLYOKE,
MASSACHUSETTS 1997

AN ORDINANCE

Be it ordained by the City Council of the City of Holyoke as follows:

SECTION 1. Appendix A entitled “Zoning” of the Revised Code of Ordinances of the City of Holyoke, Massachusetts, 1997, as amended, is hereby further amended by the following:

DELETING: Section 7-10 in its entirety

ADDING: in its place the following:

7.10 MARIJUANA FACILITIES

7.10.1 Purpose.

It is recognized that the nature of the substance cultivated, processed, tested and/or sold by marijuana establishments have operational characteristics that require they be sited in such a way as to ensure the health, safety, and general well-being of the public. The imposition of reasonable safeguards and regulation of the time, place and manner of marijuana establishments is necessary to advance these purposes.

Subject to the provisions of this Zoning Ordinance, Massachusetts General Laws Chapter 40A, 105 CMR 725.000 and Chapter 94G, marijuana establishments will be permitted to do business within the City of Holyoke that meet state regulations as established by the MA Department of Public Health and Cannabis Control Commission.

Nothing in this Section shall be interpreted as regulating the growing, processing or fabrication of products that are not regulated as a controlled substance by the Massachusetts Cannabis Control Commission and/or the Department of Public Health.

7.10.2 Marijuana Establishments - Definitions

The following will be defined subcategories of Marijuana Establishments:

Marijuana Manufacturing Establishment (MME): A use operated by an entity duly licensed by the Cannabis Control Commission in accordance with M.G.L. c. 94G or by the MA Department of Public Health in accordance with 105 CMR 725.000, and pursuant to all other applicable state laws and regulations, that cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers or transports marijuana or products containing marijuana.

The cultivation and processing of marijuana in accordance with this definition is considered to be a manufacturing use and is not agriculturally exempt from zoning.

Medical Marijuana Dispensary (MMD): A use operated by an entity registered and approved by the MA Department of Public Health in accordance with 105 CMR 725.000, and pursuant to all other applicable state laws and regulations, also to be known as a medical marijuana treatment center, that that sells, distributes, dispenses, or administers marijuana, products containing marijuana, or related supplies specifically for medical purposes. .

Recreational Marijuana Retail Establishment (RMRE): A use operated by an entity duly licensed by the Cannabis Control Commission in accordance with M.G.L. c. 94G, and pursuant to all other applicable state laws and regulations, that sells, distributes, dispenses, administers or allows for the on-site consumption of marijuana, products containing marijuana, or related supplies for retail sales for non medical purposes.

Marijuana Testing Facility (MTF): An entity duly licensed by the Cannabis Control Commission in accordance with M.G.L. c. 94G, and pursuant to all other applicable state laws and regulations, that tests marijuana and marijuana products, including certification for potency and the presence of contaminants.

7.10.3 Applicability

This Section applies to all marijuana establishments, which include: Marijuana Manufacturing Establishments (MME), Medical Marijuana Dispensaries (MMD), Recreational Marijuana Retail Establishments (RMRE) and Marijuana Testing Facilities (MTF).

7.10.4 Permitted Districts

Any and all marijuana establishments may only be allowed in the IG zone by special permit of the City Council

7.10.5 Operational Requirements

1) Use:

- a) Marijuana establishments may only use their designated square footage for the purposes of operating such an establishment, as encompassed in this Ordinance.
- b) No marijuana shall be smoked, eaten or otherwise consumed or ingested within the premises except at RMRE's, as defined.
- c) Operations, including deliveries to and from any marijuana facility, may not occur within the hours of 8:00 p.m. to 8:00 a.m.

2) Physical Requirements:

- a) All aspects of marijuana establishment must take place at a fixed location within a fully enclosed building.
- b) No outside storage is permitted.
- c) No MMD or RMRE shall have a gross floor area in excess of 5,000 square feet.

d) Ventilation – all marijuana establishments shall be ventilated in such a manner that no:

- i) pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere
- ii) no odor from marijuana cultivation, processing or consumption can be detected by a person with an unimpaired and otherwise normal sense of smell at any adjoining use or adjoining property to the marijuana establishment.

e) All signage shall comply with 105 CMR 725.00, Cannabis Control Commission regulations and Section 6.4 “Signs.”

3) Location:

a) A MMD shall not be located in buildings that contain any pharmacy, medical doctor offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana.

b) A marijuana establishment shall not be located in buildings that contain any residential units, including transient housing such as hotels, motels and dormitories.

4) Issuance/Transfer/Discontinuance of Use:

a) A special permit shall be valid only for the registered entity to which the approval was issued and only for the site on which the marijuana establishment has been authorized.

b) A special permit shall be non-transferable and shall have a term limited to the applicant’s ownership or control of the premises as a marijuana establishment.

c) Permitted marijuana establishments shall file an annual report to the City Clerk’s Office no later than January 31st, providing a copy of all current applicable state licenses for the establishment and/or its owners and demonstrating continued compliance with the conditions of the special permit.

d) A special permit shall lapse if the applicant ceases operation for a period of 180 days of the marijuana establishment and/or if the applicants’ registration by Department of Public Health or licensure by the Cannabis Control Commission has been revoked, expires, is terminated, is transferred to another controlling entity or is relocated to a new site. .

- i) The applicant shall notify the Zoning Enforcement Officer and City Clerk in writing within 48 hours of such lapse, cessation, discontinuance or expiration.

e) A marijuana establishment shall be required to remove all material, plants, equipment and other paraphernalia upon registration or licensure revocation, expiration, termination, transfer to another controlling entity or relocation to a new site and any other cessation of operation as regulated by the Department of Public Health or the Cannabis Control Commission. Such removal will be in compliance with 105 CMR 725.105 (J), (O) and regulations from the CCC.

7.10.6 APPLICATION PROCEDURE AND REQUIREMENTS

1) *Application Requirements:* An application for a special permit shall include the following:

- a) The name and address of each owner of the marijuana establishment.
- b) Copies of all required registrations, licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the establishment.
- c) Evidence that the Applicant has site control and right to use the site for a marijuana establishment in the form of a deed or valid purchase and sales agreement or, in the case of a lease a notarized statement from the property owner and a copy of the lease agreement.
- d) A notarized statement signed by the marijuana establishment organization's Chief Executive Officer and corporate attorney disclosing all of its designated owners, including officers, directors, partners, managers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of all such responsible individual persons.
- e) A description of all activities to occur on site, including but not limited to: cultivating and processing of marijuana and marijuana infused products (MIPs), on-site sales, delivery of marijuana and related products to off-site facilities, off-site direct delivery to patients, distribution of educational materials, and other programs or activities.
- f) A written notice from the Chief of Police shall be submitted to the City Clerk stating that an acceptable Security Plan has been reviewed and approved. The Security Plan shall include the location and details of all security measures for the site, including but not limited to lighting, fencing, gates, waste disposal, alarms and similar measures ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity.
- g) Details of all proposed exterior security measures for the marijuana establishment.
- h) A Development Impact Statement containing all the information required under Section 10.1.6 (1) of the Zoning Ordinance.
- i) A Traffic Impact Statement containing all of the information required under Section 10.1.6 (2) of the Zoning Ordinance.
- j) A special permit fee in the amount of \$500.00.

2) *Site Plan:* The special permit application shall include a Site Plan prepared by a Massachusetts registered Architect, Landscape Architect, Professional Engineer or other appropriate design professional. The site plan shall include the following components and information:

- a) **Locus Plan.** A locus plan showing the entire proposed development and its relation to existing areas, buildings and roads for a distance of 300 feet from the boundaries of the proposed development or such other distance as may be approved or required by the City Council. The plan shall also show all contiguous land owned by the applicant or by the owner of the property which is the subject of the application.

b) **Improvements Plan.** A plan depicting all existing and proposed buildings, driveways or roads, parking areas, service areas, refuse collection areas, sidewalks, paths, landscaping etc.

c) **Building Plan.** A detailed floor plan showing square footages for each use within the marijuana establishment.

d) **Details.** Detail sheets including, but not limited to, pavement markings, lighting fixtures, fencing, dumpster enclosures, signage (temporary and permanent), and any site improvements included in plans (a) – (c) above.

3) *Review Procedure:* upon receipt of an application, the City Clerk shall forward a copy for review and comment to Building Department, Fire Department, Police Department, Engineering Department, Water Department, Board of Health, Planning Board and the Stormwater Authority and Conservation Commission if applicable. The Departments shall review the application and provide comments back to the City Council within twenty-one (21) calendar days. City Council shall, if needed, confer with the Public Safety Committee for review and comment.

4) *New construction:* in cases of new construction, in addition to the requirements of this Section, see Section 10.0 SITE PLAN REVIEW of the Holyoke Zoning Ordinance. The Applicant may need to file with the Stormwater Authority, a Stormwater Management Permit Application, per the Stormwater Regulations.

7.10.7 FINDINGS

1) In addition to the standard Findings for a Special Permit under Section 9.3.2, the City Council must also find all the following:

a) That the marijuana establishment is designed to minimize any adverse impacts on abutters and other parties in interest.

b) That the marijuana establishment demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations.

c) That the applicant has satisfied all of the conditions and requirements of this Section and other applicable Sections of this Ordinance.

d) That the marijuana facility project meets a demonstrated need of the community.

e) That the marijuana establishment provides adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of marijuana product is adequately secured.

f) That the marijuana establishment adequately addresses issues of traffic demand, circulation flow, parking and queuing, particularly at peak periods at the establishment, and its impact on neighboring uses.

7.10.8 Enforcement

Any violation of this Section shall be enforced in accordance with Section 9-1 of the Zoning Ordinance.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3. This ordinance shall take effect on the date of passage.

APPROVED AS TO FORM:

A handwritten signature in cursive script, appearing to read "Crystal Barnes", written over a horizontal line.

Crystal Barnes
Assistant City Solicitor

IN THE YEAR TWO THOUSAND AND SEVENTEEN

ONE HUNDRED AND FORTY-FIRST AMENDMENT TO APPENDIX A OF THE REVISED CODE OF ORDINANCES OF THE CITY OF HOLYOKE, MASSACHUSETTS 1997

AN ORDINANCE

Be it ordained by the City Council of the City of Holyoke as follows:

SECTION 1. Section 4-3 entitled "Table of Principal Uses" of Appendix A entitled "Zoning" of the Revised Code of Ordinances of the City of Holyoke, Massachusetts, 1997, as amended, is hereby further amended by the following:

ADDING:


A new line 12 under Exempt & Institutional Uses as shown below.

PRINCIPAL USE	RA	R1	R1A	R2	RM-LD	RM20	RM40	RM60	RO	DR	BL	BC	B	BH	BE	IG	WM	I	P	O	P	S	C	
C. Commercial Uses																								
37. Marijuana Facilities	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	CC	N	N	N	N				

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

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APPROVED AS TO FORM:


 Crystal Barnes
 Assistant City Solicitor