

Special Permit for Registered Medical Marijuana Dispensary Use in Medical Marijuana Overlay Districts

20.701 *Purpose*

The purpose of the Medical Marijuana Overlay Districts is to provide for the limited establishment of Registered Marijuana Dispensaries as they are authorized pursuant to state regulations set forth at 105 CMR 725.000, Implementation of an Act for the Humanitarian Medical Use of Marijuana. Given that Registered Marijuana Dispensaries shall be limited in number and strictly regulated by the Massachusetts Department of Public Health, these zoning regulations intend to permit them where there is access to both regional roadways and public transportation, where they may be readily monitored by law enforcement for health and public safety purposes, and where they will not impact the character of lower-scale residential neighborhoods, business districts and educational institutions.

20.703 *Requirements*

20.703.1 *Use.* Notwithstanding the use limitations of the base zoning district or any other overlay zoning district, a Registered Marijuana Dispensary shall be allowed within the Medical Marijuana Overlay District upon the granting of a special permit by the Planning Board, subject to the requirements set forth in this Section.

20.703.2 *Registration.* All permitted Registered Marijuana Dispensaries shall be properly registered with the Massachusetts Department of Public Health pursuant to 105 CMR 725.100 and shall comply with all applicable state and local public health regulations and all other applicable state and local laws, rules and regulations at all times. No Building Permit or Certificate of Occupancy shall be issued for a Registered Marijuana Dispensary that is not properly registered with the Massachusetts Department of Public Health.

20.703.3 *Limitation of Approval.* A special permit authorizing the establishment of a Registered Marijuana Dispensary shall be valid only for the registered entity to which the special permit was issued, and only for the site on which the Registered Marijuana Dispensary has been authorized by special permit. If the registration for a Registered Marijuana Dispensary has not been renewed or has been revoked, transferred to another controlling entity, or relocated to a different site within the Medical Marijuana Overlay Districts, a new special permit shall be required prior to issuance of a Certificate of Occupancy.

20.703.4 *Building.* A Registered Marijuana Dispensary shall be located only in a permanent building and not within any mobile facility. All sales shall be conducted either within the building or by home deliveries to qualified clients pursuant to applicable state and local regulations.

20.703.5 *Dimensional Requirements.* Except where it is explicitly stated otherwise in this Section 20.700, a Registered Marijuana Dispensary shall conform to the dimensional requirements applicable to non-residential uses within the base and overlay zoning districts.

20.703.6 *Parking and Loading.* Notwithstanding anything to the contrary in Article 6.000 of this Ordinance, the required number of parking and bicycle parking (both long-term and short-term) spaces and the required number of loading bays for a Registered Marijuana Dispensary shall be determined by the Planning Board based on the transportation analysis and other information related to operational and security plans provided by the applicant. Except as set forth above, all parking, bicycle parking and loading facilities shall conform to the requirements set forth in Article 6.000.

20.705 *Special Permit Criteria.* In granting a special permit for a Registered Marijuana Dispensary, in addition to the general criteria for issuance of a special permit as set forth in Section 10.43 of this Ordinance, the Planning Board shall find that the following criteria are met:

- (a) The Registered Marijuana Dispensary is located to serve an area that currently does not have reasonable access to medical marijuana, or if it is proposed to serve an area that is already served by other Registered Marijuana Dispensaries, it has been established by the Massachusetts Department of Public Health that supplemental service is needed.
- (b) The site is located at least five hundred feet distant from a school, daycare center, preschool or afterschool facility or any facility in which children commonly congregate, or if not located at such a distance, it is determined by the Planning Board to be sufficiently buffered from such facilities such that its users will not be adversely impacted by the operation of the Registered Marijuana Dispensary.
- (c) The site is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the site using all modes of transportation, including drivers, pedestrians, bicyclists and public transportation users.
- (d) Traffic generated by client trips, employee trips, and deliveries to and from the Registered Marijuana Dispensary shall not create a substantial adverse impact on nearby residential uses.
- (e) Loading, refuse and service areas are designed to be secure and shielded from abutting uses.
- (f) The building and site have been designed to be compatible with other buildings in the area and to mitigate any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior.

Special Permit for Substantial Building Improvement in Flood Plain Overlay District

20.73 *Applicability.* No structure or building shall be erected, constructed, expanded, substantially improved, or moved and no earth or other materials shall be dumped, filled, excavated, transferred or otherwise altered in the Flood Plain Overlay District unless a special permit is granted by the Planning Board.

20.74 *Procedure.* Application for a special permit shall be made on a form prescribed by the Board. In addition to the information required for the submittal, the applicant shall also present the following:

1. A detailed landscape plan drawn to a scale of one inch equals twenty (20) feet showing the elevation and design of flood water retention systems as required by applicable law;
2. Base flood elevation data, where the base flood elevation is not provided on the FIRM;
3. Certification and supporting documentation by a Massachusetts registered professional engineer demonstrating that such encroachment of the floodway as specified above in Subsection 20.73 shall not result in any increase in flood levels during the occurrence of the 100-year flood;
4. Such other technical information as necessary to permit the Planning Board to make the findings required in Section 20.75 below;
5. Description of the status of the proposal, pursuant to the requirements of the Massachusetts Wetlands Protection Act, before the Cambridge Conservation Commission, including any Order of Conditions or Determination of Applicability issued; and
6. Four (4) copies of all application materials.

20.74.1 Upon receipt of the application and development plans, the Planning Board shall transmit copies of the plans to the Conservation Commission and the City Engineer. Within forty-five (45) days of receipt of the plans, the Conservation Commission and the City Engineer shall review said plans and submit their respective reports and recommendations to the Planning Board. The Planning Board shall not render any decision on an application for a special permit for development in the Flood Plain Overlay District until said reports have been received and considered or until the forty-five (45) day period has expired without the receipt of such report, whichever is earlier.

20.75 *Criteria.* The Planning Board shall grant a Special Permit for development in the Flood Plain Overlay District if the Board finds that such development has met all of the following criteria in addition to other criteria specified in Section 10.43:

1. No filling or other encroachment shall be allowed in Zone A areas or in the floodway which would impair the ability of these Special Flood Hazard Areas to carry and discharge flood waters, except where such activity is fully offset by stream improvements such as, but not limited to, flood water retention systems as allowed by applicable law.

2. Displacement of water retention capacity at one location shall be replaced in equal volume at another location on the same lot, on an abutting lot in the same ownership, on a noncontiguous lot in the same ownership, or in accordance with the following requirements.
3. All flood water retention systems shall be suitably designed and located so as not to cause any nuisance, hazard, or detriment to the occupants of the site or abutters. The Planning Board may require screening, or landscaping of flood water retention systems to create a safe, healthful, and pleasing environment.
4. The proposed use shall comply in all respects with the provision of the underlying zoning district, provisions of the State Building Code, Wetlands Protection Act, and any other applicable laws.
5. Applicants for development in the Alewife area shall be familiar with area-specific and general city-wide land use plans and policy objectives (e.g. *Concord-Alewife Plan, A Report of the Concord Alewife Planning Study, November 2005; Toward a Sustainable Future, Cambridge Growth Policy, 1993, Update, 2007; Section 19.30 - Urban Design Objectives of this Zoning Ordinance*) and shall demonstrate how their plan meets the spirit and intent of such documents in conjunction with the requirements of this Section 20.70 - Flood Plain Overlay District and Section 20.90 – Alewife Overlay Districts 1-6.
6. The requirement of Section 20.74(3) has been met.

General Criteria for Issuance of a Special Permit

10.43 *Criteria.* Special permits will normally be granted where specific provisions of this Ordinance are met, except when particulars of the location or use, not generally true of the district or of the uses permitted in it, would cause granting of such permit to be to the detriment of the public interest because:

- (a) It appears that requirements of this Ordinance cannot or will not be met, or
- (b) traffic generated or patterns of access or egress would cause congestion, hazard, or substantial change in established neighborhood character, or
- (c) the continued operation of or the development of adjacent uses as permitted in the Zoning Ordinance would be adversely affected by the nature of the proposed use, or
- (d) nuisance or hazard would be created to the detriment of the health, safety and/or welfare of the occupant of the proposed use or the citizens of the City, or
- (e) for other reasons, the proposed use would impair the integrity of the district or adjoining district, or otherwise derogate from the intent and purpose of this Ordinance, and
- (f) the new use or building construction is inconsistent with the Urban Design Objectives set forth in Section 19.30. **[SEE FOLLOWING PAGE]**

19.30 Citywide Urban Design Objectives [SUMMARIZED]

Objective	Indicators
New projects should be responsive to the existing or anticipated pattern of development.	<ul style="list-style-type: none"> • Transition to lower-scale neighborhoods • Consistency with established streetscape • Compatibility with adjacent uses • Consideration of nearby historic buildings
Development should be pedestrian and bicycle-friendly, with a positive relationship to its surroundings.	<ul style="list-style-type: none"> • Inhabited ground floor spaces • Discouraged ground-floor parking • Windows on ground floor • Orienting entries to pedestrian pathways • Safe and convenient bicycle and pedestrian access
The building and site design should mitigate adverse environmental impacts of a development upon its neighbors.	<ul style="list-style-type: none"> • Location/impact of mechanical equipment • Location/impact of loading and trash handling • Stormwater management • Shadow impacts • Retaining walls, if provided • Building scale and wall treatment • Outdoor lighting • Tree protection (requires plan approved by City Arborist)
Projects should not overburden the City infrastructure services, including neighborhood roads, city water supply system, and sewer system.	<ul style="list-style-type: none"> • Water-conserving plumbing, stormwater management • Capacity/condition of water and wastewater service • Efficient design (LEED standards)
New construction should reinforce and enhance the complex urban aspects of Cambridge as it has developed historically.	<ul style="list-style-type: none"> • Institutional use focused on existing campuses • Mixed-use development (including retail) encouraged where allowed • Preservation of historic structures and environment • Provision of space for start-up companies, manufacturing activities
Expansion of the inventory of housing in the city is encouraged.	<ul style="list-style-type: none"> • Housing as a component of large, multi-building development • Affordable units exceeding zoning requirements, targeting units for middle-income families
Enhancement and expansion of open space amenities in the city should be incorporated into new development in the city.	<ul style="list-style-type: none"> • Publicly beneficial open space provided in large-parcel commercial development • Enhance/expand existing open space, complement existing pedestrian/bicycle networks • Provide wider range of activities