

TOWN OF UPTON

ANNUAL TOWN MEETING

MAY 3, 2018

RECEIVED

By Kelly A McElreath at 3:14 pm, Apr 26, 2018



TEXT OF WARRANT ARTICLES

ARTICLE 21: MEDICAL MARIJUANA

Section 6.8 Registered Medical Marijuana Dispensaries.

1. Purpose. The purpose of this section is to provide for the limited establishment of registered medical marijuana dispensaries (RMMD) within the Town as they are authorized pursuant to state regulations set forth in 104 CMR 725.000. Since RMMDs are strictly regulated and will be limited in number by the Massachusetts Department of Public Health, the intent of this section is to permit RMMDs where they may be readily monitored by law enforcement for health and public safety purposes, and where they will not adversely impact the character of residential neighborhoods and business districts.
2. RMMD uses not allowed as-of-right. RMMD uses are not included within the definition of retail sales or services, agriculture, or any other lawful business permitted as of right or by special permit.
3. RMMD uses allowed by special permit. Use of land, buildings or structures for RMMDs shall be allowed only by special permit in Commercial and Industrial (C&I) zones.
4. Minimum criteria and limitations on approval.
 - a) An RMMD shall not be located within a radius of five hundred (500) feet from a school, daycare center, preschool or afterschool facility or any facility in which minors commonly congregate, or from a house of worship or religious use, but may be located within a lesser distance if the Planning Board finds that the RMMD is sufficiently buffered such that these facilities or uses will not be adversely impacted by the RMMD's operation. Such distance shall be measured in a straight line from the nearest property line of the proposed RMMD to the nearest property line of the facility.
 - b) An RMMD 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, public safety code regulations and all other applicable state and local laws, ordinances, rules and regulations. No building permit or certificate of occupancy shall be issued for an RMD that is not properly registered with the Massachusetts Department of Public Health. The RMMD shall file copies of its initial certificate of registration and each annual renewal certificate with the Upton Town Clerk within one week of issuance and shall immediately notify said Clerk if its registration is not renewed or is suspended or revoked. The RMMD shall provide the Upton police department with the names and contact information for all management staff and shall immediately notify the police department of any changes.
 - c) A special permit granted by the Planning Board authorizing the establishment of an RMMD shall be valid only for the registered entity to which the special permit was issued, and only for the site on which the RMMD has been authorized by the special permit. If the registration for the RMMD is revoked, transferred to another controlling

entity, or relocated to a different site, a new special permit shall be required prior to the issuance of a certificate of occupancy.

- d) An RMMD 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 delivery to qualified clients pursuant to applicable state regulations.
- e) An RMMD shall conform to the dimensional requirements applicable to the zoning district in which it is located.
- f) An RMMD shall be subject to the number of parking spaces required by the Planning Board.
- g) No graphics, symbols or images of marijuana or related paraphernalia shall be displayed or clearly visible from the exterior of an RMMD. The Planning Board may impose additional restrictions on signage to mitigate impact on the immediate neighborhood.
- h) The RMMD's hours of operation shall not adversely impact nearby uses. The Planning Board, as a special permit condition, may limit the hours of operation of an RMMD to mitigate any adverse impact on nearby uses.

5. Special permit application and procedure. The procedural and application requirements of section 4 of this bylaw and Section 9.3 of the Zoning Bylaw shall apply. In addition to an application for special permit shall include, at a minimum, the following information:

- a) *Description of Activities:* A narrative providing information about the type and scale of all activities that will take place on the proposed site, including but not limited to cultivating and processing of marijuana or marijuana infused products (MIP's), on-site sales, off-site deliveries, distribution of educational materials, and other programs or activities.
- b) *Service Area:* A map and narrative describing the area proposed to be served by the RMMD and the anticipated number of clients that will be served within that area. This description shall indicate where any other RMMDs exist or have been proposed within the expected service area.
- c) *Transportation Analysis:* A quantitative analysis, prepared by a qualified transportation specialist acceptable to the Board, modeling the expected origin and frequency of client and employee trips to the site, the expected modes of transportation used by clients and employees, and the frequency and scale of deliveries to and from the site.
- d) *Context Map:* A map depicting all properties and land uses within a minimum one thousand (1,000) foot radius of the proposed site, whether such uses are located in Upton or within surrounding communities, including but not limited to all educational uses, daycare, preschool and afterschool programs. The context map shall include the measured distance to all uses described in section 4.

- e) Registration Materials: Copies of registration materials issued by the Massachusetts Department of Public Health and any materials submitted to that department for the purpose of seeking registration, to confirm that all information provided to the Town is consistent with that provided to the Massachusetts Department of Public Health.

6. Special Permit Criteria. In granting a special permit for a Registered Medical Marijuana Dispensary, in addition to finding that the general criteria for issuance of a special permit as set forth in section 4 are met, the Planning Board shall find that the following criteria are met:

- a) The RMMD 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 another RMMD, 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 (500) feet distant from any school, daycare center, preschool or afterschool facility or any facility in which minors commonly congregate, or from a house of worship or religious use, or the site is located at a lesser distance if the Planning Board finds that the site is sufficiently buffered such that these facilities or uses will not be adversely impacted by the RMMD's operation.
- 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, whether driving, bicycling, walking or using public transportation.
- d) Traffic generated by client trips, employee trips, and deliveries to and from the RMMD shall not create a significant adverse impact on nearby 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.
- g) The building and site are accessible to persons with disabilities.
- h) The site is located where it may be readily monitored by law enforcement and other code enforcement personnel.
- i) The RMMD's hours of operation will have no significant adverse impact on nearby uses.

7. Severability. If any portion of this section is ruled invalid, such ruling will not affect the validity of the remainder of the section.

ARTICLE 22: MILITARY LEAVE

Article to amend the Personnel Bylaws regarding Military Leave

3. Military Leave

~~The Town will pay the difference between military and regular pay for up to two weeks if the military pay is less than the regular pay.~~

Employees in the service of the armed forces of the Commonwealth or a reserve component of the armed forces of the United States shall be granted a leave of absence consistent with the provisions of G.L. c.59, §33; provided that said employee shall provide notice to the Town Manager and Board of Selectmen as far in advance as is reasonable under the circumstances, and not less than thirty (30) days prior to departure for uniformed service when feasible.

ARTICLE 26: PERSONNEL BY LAW

Article to amend the Personnel Bylaws regarding Screen Physicals

Screening Physical-Pre-Employment Medical Examination

All persons selected for regular full-time and regular part-time labor service employment with the town, after receipt of a conditional offer of employment ~~notice of appointment~~ and prior to the starting date of employment ~~commencement of work~~ each potential regular full time or regular part time employee is required to pass a pre-employment screening physical-shall undergo a medical examination to determine whether the candidate is able to perform the essential functions of the position with or without reasonable accommodation relating to the essential functions of the position. All other positions shall be reviewed by the Personnel Board to determine whether a pre-placement physical is needed. This physical will be conducted at the Town of Upton's expense. The examination shall be at the expense of the town by a physician or medical institution selected or approved by the Town Manager. Individual departments may employ more extensive screening processes as appropriate to the nature of work performed by their department. The examining physician shall advise as to whether or not, in the opinion of the physician, the applicant is able to perform the essential functions and duties of the position with or without reasonable accommodation. If deemed unable to perform the essential functions of the position with or without reasonable accommodations the Town Manager or other appointing authority shall withdraw the conditional offer of employment.

Article to amend the Personnel Bylaws regarding Longevity Payments

H. Seniority Longevity

~~The Town of Upton values long term employees and rewards them with increases in earned vacation time. Longevity bonus payments are also made at every 5th anniversary of their employment. The Town of Upton does not use seniority as a sole basis for promotion, raises, or selection of work assignments~~

This policy applies to all non-represented, non-contracted, full time and part-time benefit eligible employees.

Longevity (also known as Length of Service) in this policy refers to the attainment of a certain amount of Creditable Service in years, as of your Anniversary Date:

- Creditable Service shall be defined as the length of an employee's uninterrupted service to the Town of Upton except for the exclusions below: Approved Leaves of Absence where an employee is also being paid by the Town through available paid time off (such as vacation, sick, personal and compensatory).
- Approved Military leave where and as required by law, for the length of Leave.
- Approved Unpaid FMLA, MMLA and Workers Comp Leave of Absence for up to 12 weeks within a calendar leave.
- Other approved time off where the law requires the approved time to be counted, Personnel Board will make any such determination based on the applicable statute or policy.

Longevity pay to eligible employees is subject to annual funding by Town Meeting.

Longevity payments will be provided to qualifying employee in a lump sum in June annually, such payment to be based on the number of consecutive years of creditable service to the town in positions in accordance with the following schedule.

<u>10 -14 years of service</u>	<u>\$</u>	<u>450.00</u>
<u>15-19 years of service</u>	<u>\$</u>	<u>500.00</u>
<u>20-24 years of service</u>	<u>\$</u>	<u>550.00</u>
<u>25+ years of service</u>	<u>\$</u>	<u>600.00</u>

Part-time regularly scheduled employees who work at least 20 hours per week, are eligible for a pro-rated share of longevity pay based on the following formula:

X= the number of your scheduled weekly hours

$$\frac{X}{40} = Y$$

Y equals the amount of Longevity Pay that equates to years of Creditable Service as defined above.

It is the responsibility of the Department Manager to notify the Town Manager, Finance Committee and all appointing authorities of the payment values that should be used and included in each departments budget.

The Personnel Board is the responsible board for determining any changes (additions, removals, increases or decreases) to the service time(s) which enable an employee to obtain Longevity Pay or the service intervals required to obtain any level of Longevity Pay.

There is no prorated payment made to employees who are separated from Town employment prior to their next Anniversary Date.

[Article to amend the Personnel Bylaws regarding Meritorious Bonus](#)

B. Salary Review

The Town of Upton conducts salary reviews annually to recommend salary increases to the Town on a merit system. Employees' salaries within the salary structure are based on job knowledge and performance.

The policy of the Town of Upton is to grant its personnel salary increases for meritorious work performance on the recommendation of the employee's immediate supervisor and Hiring Authority. These increases are not automatic, nor do they result from tenure. Increases should result in the employee's salary progressing through the salary range in accordance with the performance rating received from his/her evaluation. In preparing a salary adjustment recommendation, consideration should be given to:

1. Employee's performance during entire evaluation period.
2. Position of the employee's salary within the applicable salary range
3. Period of time since the employee's salary was last adjusted²⁹
4. Wage guidelines from the Personnel Board and the Finance Committee

Department Heads will be responsible for recommending salary adjustments to the Personnel Board, the Hiring, Authority, the Finance Committee and ultimately to the Town at town meeting. Salary adjustments will ordinarily be voted at the annual Town meeting and will be effective July 1.

~~The Town's Meritorious Bonus Program allows a Department Head or Hiring Authority to recommend a one-time additional bonus payment to a non-union, non-contract employee whose performance is significantly above expectations. Submissions are made to the Personnel Board in January with the employee's performance evaluation.~~

~~The Personnel Board, in open session, will review all requests in February (or as soon as practicable) and make recommendation(s) to the Board of Selectmen for payment(s) no later than the second pay period following the Selectmen's award.~~

~~Award amounts will take into consideration both the number of hours worked per week and the number of years of service provided to the town. Award amounts may be either a flat amount or a percentage of wages.~~

~~The application and interpretation of this section of the by law is not subject to the grievance procedure described in Section VII-B below.~~

~~Some of the criteria that will be considered during evaluation of the request are:-~~

- ~~* Commendations received~~
- ~~* Self education~~
- ~~* Operational improvements~~
- ~~* Assistance within and across departments~~
- ~~* Consistency of exemplary performance³⁰~~

If the salary adjustment process indicates that the position is currently being paid above the maximum for the current salary grade level, the Department Head should complete and submit to the Personnel Board a request to reevaluate the position under Section V.B. of the Personnel By-law regarding Reclassifications.³¹