

Marijuana Cultivation, Operations and Sales Regulation

Effective September 1, 2016

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ARTICLE I. PURPOSE & SCOPE:

WHEREAS, Massachusetts has approved the legal cultivation, processing, distribution, sale and use of marijuana for medical purposes through Chapter 369 of the Acts of 2012 (the “Act”), an Act for the Humanitarian Medical Use of Marijuana, and;

WHEREAS, this regulation will provide for local oversight and inspection of Registered Marijuana Dispensaries and hardship marijuana cultivation sites within the Town of North Attleborough to ensure the safe and sanitary operation of any such dispensary or hardship cultivation site consistent with public health and safety and;

WHEREAS, the existence of Registered Marijuana Dispensaries or hardship marijuana cultivation sites within the Town of North Attleborough will present the risk of improper diversion and other collateral consequences within the community, and;

WHEREAS, nothing in the Act or its implementing regulation 105 CMR 725.000 et seq. supersedes Massachusetts law prohibiting the possession, cultivation, transport, distribution, sale or diversion of marijuana for non-medical purposes, and;

- The prevention of the illegal sale and use of marijuana, particularly by school-age children, is a public health priority, and;
- Registered marijuana dispensaries and hardship marijuana cultivation sites in other jurisdictions have been found to present unique and challenging threats to public health and safety, and;
- The state regulation at 105 CMR 725.600 allows for lawful local oversight and regulation, including fee requirements, and;

Purpose and Scope – Continued

- Reasonable and effective local oversight of the cultivation, processing, distribution, sale and use of marijuana for medical purposes is needed to protect community health and safety while ensuring legitimate patient access.

NOW THEREFORE, this Board of Health adopts the following regulation under the authority specified in Article II herein in order to regulate safe access to medical marijuana in the Town of North Attleborough.

ARTICLE II. AUTHORITY:

- A. This regulation is promulgated pursuant to the authority granted to the North Attleborough Board of Health by the Massachusetts General Laws Chapter 111, Section 31 that this Board of Health “may make reasonable health regulations” to protect the public health of this community, and;
- B. Chapter 369 of the Acts of 2012, an Act for the Humanitarian Medical Use of Marijuana, and;
- C. Massachusetts Department of Public Health Regulation 105 CMR 725.000 et seq.
 - 1. Massachusetts regulation 105 CMR 725.600(A) requires that registered medical marijuana dispensaries and other registered persons comply with all local rules, regulations, ordinances and bylaws.

ARTICLE III. DEFINITIONS:

- A. Unless otherwise indicated, terms used throughout this regulation shall be defined as they are in 105 CMR 725.004. For the purposes of this regulation, the following words shall have the following meanings:

Act: Chapter 369 of the Acts of 2012, an Act for the Humanitarian Medical Use of Marijuana.

Applicant: Any person who applies to the Board of Health for a license to operate or act as a dispensary agent of a registered marijuana dispensary within the Town of North Attleborough.

Board of Health or Board: The North Attleborough Board of Health, including its officers, assigns and designated agents.

Board of Health Agent or Agent: The Director of Public Health and any town employee designated by the Director, which may include health department staff, law enforcement officers, fire officials, and/or other code enforcement officials.

Business Agent: A dispensary agent who has been designated by the registered marijuana dispensary permit holder to be a manager in charge of the permitted registered marijuana dispensary and its day-to-day operations.

Department, Department of Public Health or MDPH: The Massachusetts Department of Public Health.

Director: The Director of Public Health for the Town of North Attleborough

Dispensary Agent: A board member, officer, director, employee, executive, manager, or volunteer of a registered marijuana dispensary, who is at least 21 years of age, where an employee shall include a consultant or contractor who provides on-site services to a registered marijuana dispensary relative to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of marijuana.

Employer: Any individual, partnership, association, corporation, trust or other organized group of individuals, including the Town of North Attleborough or any agency thereof, which uses the services of one (1) or more employees.

Definitions – Continued

Home Cultivation or Hardship Cultivation Site: A specific location within the Town of North Attleborough that has been registered by the Massachusetts Department of Public Health and permitted by the board of health to grow marijuana for personal consumption.

Home Permit: A board of health permit issued to the holder of a hardship cultivation registration issued by the Massachusetts Department of Public Health pursuant to 105 CMR 725.000 for a specific location within the Town of North Attleborough, which permit must be renewed annually.

Inspection: An official examination, observation, survey or monitoring to determine compliance with the rules, regulations, orders, requirements or conditions of this board of health and/or the Massachusetts Department of Public Health.

License or Permit: The credential granted by the board of health to operate, or to act as a dispensary agent for, a registered marijuana dispensary in the Town of North Attleborough.

Marijuana: The term shall mean all parts of the plant Cannabis Sativa L., whether growing or not; the seeds thereof; and the resin extracted from any part of the plant, as well as; every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term shall also include all marijuana-infused products except where the context clearly indicates otherwise.

Marijuana-Infused Product or MIP: A product infused with marijuana that is intended for use or consumption, including but not limited to edible products, ointments, aerosols, oils and tinctures. These products, when created or sold by a registered marijuana dispensary, shall not be considered a food or a drug as defined in MGL c.94 §1.

Medical Marijuana Treatment Center, Registered Marijuana Dispensary or RMD: A not-for-profit entity registered by the Massachusetts Department of Public Health pursuant to 105 CMR 725.100 that acquires, cultivates, possesses, processes (including the development of related products such as edible marijuana-infused products, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying consumers or their personal caregivers. Unless otherwise specified, these terms shall also refer to the site(s) for the cultivation, preparation, or dispensing of marijuana.

Minor: Any individual who is under the age of eighteen (18).

Non-Residential Roll-Your-Own (or RYO) Machine: A mechanical device made available for use (including to an individual who produces rolled marijuana products solely for that individual's own personal consumption or use) that is capable of making rolled marijuana products. RYO machines located in private homes used solely for personal consumption are not non-residential machines.

Period of Performance: The time period during which violations of a registered marijuana dispensary or home permit are counted. For example, a violation that occurs in July, 2016 will no longer weigh on the registered marijuana dispensary or the home permit holder's record with the board of health after the passage of 36 months from the date of the discipline imposed for that violation. If a board of health hearing on the violation was to occur on July 31, 2016, then the violation will be outside the Period of Performance and no longer considered for further disciplinary action after August 1, 2019.

Permit Holder: Any person registered by the Massachusetts Department of Public Health engaged in the sale or distribution of marijuana or MIP's directly to consumers who applies for and receives a permit to operate a registered marijuana dispensary in the Town of North Attleborough from the board of health or, any individual registered by the Massachusetts Department of Public Health who applies for and receives a dispensary agent license pursuant to this regulation.

Definitions – Continued

Person: Any individual, employer, employee, permit holder, non-profit entity, registered marijuana dispensary manager or owner, or the owner or operator of any operation or establishment engaged in the sale or distribution of marijuana or MIP's directly to consumers.

Qualifying Customer or Customer: A Massachusetts resident 18 years of age or older who has been diagnosed by a Massachusetts-licensed certifying physician as having a debilitating medical condition, or a Massachusetts resident under 18 years of age who has been diagnosed by two Massachusetts-licensed certifying physicians, at least one of whom is board-certified pediatrician or board certified pediatric subspecialist, as having a debilitating medical condition that is also a life-limiting illness, subject to 105 CMR 725.010(J).

Registered or Registration: The designation or process by which the Department confirms that a Person has met all requirements pursuant to the Act and 105 CMR 725.000, and is thereafter registered by said Department.

Registered Marijuana Dispensary or RMD: A Registered Marijuana Dispensary (also known as a Medical Marijuana Treatment Center) is a not-for-profit entity registered under 105 CMR 725.100, 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. The term RMD may also refer, in context, to the site(s) of dispensing, cultivation, and preparation of marijuana by an RMD entity.

RMD Permit: A Registered Marijuana Dispensary Permit, to be renewed annually, which may be issued by the board of health to a non-profit corporation holding a certificate of registration issued by the Massachusetts Department of Public Health pursuant to 105 CMR 725.000 et seq., which permits an RMD to operate within the town.

Self-Service Display: Any display from which customers may select marijuana or a marijuana-infused products without assistance from a dispensary agent.

Town: The Town of North Attleborough and its authorized agents.

Vending Machine: Any automated or mechanical self-service device, which upon insertion of money, tokens or any other form of payment, dispenses or makes marijuana products.

Verified Financial Hardship: An individual's status as a recipient of MassHealth or Supplemental Security Income, or a determination that an individual's income does not exceed 300% of the federal poverty level when adjusted for family size.

Violation: A failure to comply with an operational requirement outlined in this regulation. For this regulation, a violation may range from a failure to comply with specific regulatory requirements of this regulation to something with the potential to jeopardize the primary purposes of this regulation, where non-compliance could divert marijuana to individuals without a documented medical need and/or which could produce significant collateral consequences to this community's health and safety.

Visitor: An individual, other than a personal caregiver as defined by 105 CMR 725.000, accompanying a consumer in need of assistance obtaining access to an RMD.

- B. Capitalized terms-of-art in this regulation have the respective meanings given to them as defined in the foregoing Section A.

ARTICLE IV. PERMITTING:

- A. No Person shall sell, give, display for sale, deliver or otherwise distribute Marijuana or MIP's within the Town except in an RMD licensed by the Board. An RMD Permit may only be issued to a nonprofit corporation which:
 - 1. has a current Certificate of Registration issued by MDPH pursuant to 105 CMR 725.000;
 - 2. has a permanent, non-mobile location in Town approved by MDPH for use as an RMD;
 - 3. is in compliance with all applicable zoning requirements of the Town, and;
 - 4. provides satisfactory documentation of compliance with these requirements to the Board.
- B. The Applicant shall submit to the Board a copy of the operating policies and procedures for the RMD which were submitted to MDPH pursuant to 105 CMR 725.000 and any other relevant MDPH directives, memorandums or notifications.
- C. The Applicant shall sign a statement declaring that the applicant understands that, under this regulation of the Board:
 - 1. All Dispensary Agents are responsible for complying with all local and state regulations pertaining to the operation of the RMD. Specifically, a violation of any provision of 105 CMR 725.000 or other applicable state regulations shall also constitute a violation of this regulation, which may be enforced by the Board, and;
 - 2. The Applicant is responsible for providing instruction and training for Dispensary Agents in all applicable local and state regulations, and;
 - 3. The fact that a Dispensary Agent, vendor, or other person associated with the RMD is unaware of the provisions of 105 CMR 725.000 or this regulation, or lacks understanding of their content, shall not be a defense to any violation, and;
 - 4. The Board and its designated Agents may conduct periodic, unannounced inspections of the RMD premises.
- D. The annual fee for an RMD Permit shall be determined exclusively by the Board, published in its fee schedule, is non-refundable and cannot be pro-rated. All RMD Permits shall expire annually on January 31st, regardless of the year, day or month on which they were initially issued.
- E. Plan reviews (see Article VIII) for the following six components of an RMD operation shall incur separate fees at levels to be determined exclusively by the Board and published in its fee schedule:
 - 1. An initial plan review for an MIP processing or preparation facility.
 - 2. Plan reviews for the safe, secure and sanitary storage, handling and sales of MIP's in an RMD.
 - 3. Plan reviews for trash collection and the safe and sanitary disposal of waste, refuse or damaged marijuana.
 - 4. Plan reviews for emergencies and continuity of operations.
 - 5. Plan reviews for safety and security.
 - 6. Plan reviews for home deliveries.
- F. RMD Permits in good standing may be renewed annually by the Board in its exclusive discretion, upon submission by an RMD of a completed and satisfactory renewal application in such form and manner as shall be required by the Board, and accompanied by payment of such annual fee as shall be determined exclusively by the Board and published in its fee schedule.
 - 1. The Permit Holder shall disclose in its RMD renewal application any material changes from the most recently approved operating policies and procedures of the RMD, including from the plans described in Section E above, and the RMD shall pay the applicable fees for any reviews which the Board deems necessary as a condition of such renewal.
 - 2. As a condition of Permit renewal, the Permit Holder shall demonstrate compliance with any modification required by the Board to the satisfaction of the Board, and shall pay all applicable fees due for any reviews which the Board deems necessary.
 - 3. If a Permit has been suspended by the Board, the RMD shall provide evidence satisfactory to the Board that it will comply with all requirements of the Board and this regulation, and shall pay all applicable fees due for any reviews which the Board deems necessary as a condition of such renewal prior to reinstatement of said Permit.
 - 4. If a Permit has been revoked by the Board, an RMD Permit may be reissued by the Board upon submission of a completely new application, submission of all necessary fees, and a public hearing.

- G. A separate RMD Permit shall be required for each RMD retail establishment selling marijuana or MIP's within the Town.
- H. An RMD shall post its MDPH certificate(s) of Registration and the Board's Permit in a clear and conspicuous manner, readily visible to consumers, inspectors and other individuals who may enter the RMD. Each RMD Permit shall be displayed at the RMD retail establishment in a conspicuous place.
- I. An RMD may not open for business before 8:00 A.M. and shall close no later than 8:00 P.M., on each day the RMD is open. Deliveries from, or on behalf of, the RMD that are made to customers must adhere to the same hours. The hours and days of RMD operation must be posted conspicuously on the front entrance door.
- J. No Dispensary Agent shall cultivate, process, sell or otherwise distribute Marijuana or MIP's within the Town without first obtaining a License to do so, which License must be issued annually by the Board.
 - 1. Individuals seeking to act as a Dispensary Agent within this Town shall first obtain a License to do so from the Board in such form or manner as may be prescribed by the Board.
 - 2. Each Applicant for a Dispensary Agent License shall be required to provide proof by means of a valid government-issued photographic identification containing the bearer's date of birth that the Applicant is 21 years old or older.
 - 3. Each Applicant shall be required to provide proof of current Dispensary Agent Registration issued by the MDPH before a License can be issued by the Board.
 - 4. No Applicant for a Dispensary Agent License with a record of a felony conviction, or misdemeanor conviction for a drug-related offense, shall be granted a License by the Board.
 - 5. Each application for a Dispensary Agent License shall be accompanied by a non-refundable annual fee set by the Board and published in its fee schedule.
 - 6. All Dispensary Agent Licenses shall expire annually on January 31st, shall be valid for a maximum term of one year, and shall be renewable annually on February 1st.
 - 7. No license Holder shall allow any Dispensary Agent to sell marijuana or marijuana products until such Dispensary Agent reads this regulation and signs a statement, a copy of which shall be kept on file in the office of the License Holder, that he or she has read this regulation.
- K. No License or Permit issued pursuant to this regulation is transferable. A new owner of an RMD must apply for a new license. No new License or Permit will be issued unless and until all outstanding penalties incurred by the previous License holder have been satisfied in full.
- L. No License or Permit issued pursuant to this regulation shall be renewed if the Permit Holder has failed to pay any outstanding fines or fees, failed to pay all applicable federal, state and Town taxes required under law, or failed to satisfy any other penalties or conditions lawfully imposed by the Town.
- M. Acceptance of an RMD Permit constitutes an agreement by the Permit Holder that its RMD will adhere to the practices, policies, and procedures described or submitted with its application, as well as all relevant laws, state and local regulations, and any conditions imposed by this Board as part of the Permit process.

ARTICLE V. INSPECTIONS AND COMPLIANCE

- A. Issuance and retention of a RMD Permit shall be conditioned on the RMD Permit Holder's ongoing consent to periodic, unannounced inspections of the RMD premises by the Board or its designated Agents acting in an official capacity, including any law enforcement officer. Further, a Permit Holder consents to abide by all the provisions of 105 CMR 725.300 with respect to inspections and any related sections, including but not limited to, those that refer to "deficiency statements" and "plans of correction."
- B. Any person may register a specific complaint with the Board under this regulation and request that the Board initiate an investigation and enforce compliance with this regulation.

Inspections and Compliance – continued

- C. A designated Business Agent shall be on the RMD premises at all times that the RMD is open for business.
- D. Dispensary Agents must present their MDPH Registration card upon request of any Agent of the Board acting in an official capacity.
- E. The RMD shall provide the Board and the North Attleborough Police Department with an updated telephone list through which a Business Agent may be reached in person on a 24 hour basis.
- F. Issuance and retention of an RMD Permit shall be conditioned on the RMD Permit Holder's ongoing consent to provide the Board with copies of MDPH Registration cards for all Dispensary Agents working at the RMD, the names of all Business Agents of the RMD, and the submission of any changes in staffing or registration information within five (5) business days of said changes. The notification of information about staffing and registration changes may be submitted to the Board in either paper copy via courier or certified mail or electronically in a verified/e-signed PDF format.
- G. An RMD Permit Holder shall conduct both Criminal Offender Record Information (CORI) and Sex Offender Registry Information (SORI) checks on all Applicants for the positions of Dispensary Agent and Business Agent and shall report the results of each inquiry within 5 business days of its receipt to the North Attleborough Police Department. Such checks shall be conducted in all states in which each Applicant has worked or resided within the last ten (10) years.
- H. Issuance and retention of a RMD Permit shall be conditioned upon the RMD Permit Holder's ongoing consent to provide the Board with updated copies of all RMD operational documents including, but not limited to, copies of staffing plans, training protocols, audit results, security assessments (subject to appropriate redaction), and any similar documents. Updated submissions shall be electronically sent to the Board monthly in a verified/e-signed PDF format.
- I. No RMD Permit Holder shall allow any disorder, disturbance, or illegality of any kind to take place in, on, or around the licensed premises. The term "illegality" includes, but is not limited to, any violation of 105 CMR 725.000 and related directives, memoranda or notifications and, any violation of this regulation promulgated by the Board. The Permit Holder shall be responsible for any disorder, disturbance or illegality of any kind whether present or not.
- J. Failure or refusal of an RMD or Home Permit Holder to cooperate with the Board or its Agents shall be considered a serious violation of this regulation subject to suspension or revocation of said Permit.

ARTICLE VI. RMD RECORDS RETENTION

- A. An RMD Permit Holder shall notify the Board verbally and in writing within 24 hours of a visit to the premises, or of a request for information, by any representative of MDPH acting in an official capacity. The RMD Permit Holder shall provide the Board with any reports, correspondence, emails or other information from MDPH on demand or, in any case, within five (5) business days following receipt by the RMD.
- B. Video surveillance shall conform to the requirements of 105 CMR 725.110(D) and any other related regulations, directives, memorandums or notifications from MDPH. In addition, as conditions of issuing or maintaining its RMD Permit, the Board may require an RMD to provide other reasonable safety, security and surveillance systems (e.g., an off-site backup system). Furthermore, the RMD must allow for immediate viewing of video surveillance records by the Board or its designated Agents upon request. A copy of a requested recording shall be provided as soon as practicable to these officials. All video records shall be retained for a minimum of 90 days. Furthermore, as soon as the RMD is aware of any video record that might relate to a criminal, civil or administrative investigation or legal proceeding of any kind, the RMD shall not alter or destroy that recording without the written permission of both the Director and the Chief of Police for the Town of North Attleborough.

RMD Records Retention - continued

- C. Issuance and retention of an RMD Permit shall be conditioned upon maintaining all records outlined in 105 CMR 725.105(I) and any other applicable MDPH regulations, directives, memorandum and notifications, along with any other documents reasonably required or requested by the Board in writing. Following closure of an RMD, all records must be kept for at least two (2) years at the expense of the RMD in a form and location acceptable to the Board. Moreover, as a condition of issuing and retaining an RMD Permit, the Board may reasonably require that a new owner of a RMD retain the records generated by the previous RMD at the same address and at the expense of the new RMD.

ARTICLE VII. RMD RESTRICTIONS

- A. For RMDs that cultivate Marijuana, the cultivation and processing facility shall not adversely affect the health or safety of the nearby residents or businesses by creating dust, glare, heat, noise, nuisance odors, or noxious gases, materials, processes, products and wastes. Growing areas shall be within a self-contained, locked structure, with a 1-hour firewall assembly made of green board or other construction specifically approved by the Town's building inspector, well ventilated with odor control, and shall not create humidity or mold issues within the establishment.
- B. No RMD shall be permitted to sell or distribute alcoholic beverages or tobacco products and may not hold either a tobacco sales permit or a liquor license.
- C. No RMD shall be permitted to hold a Common Victualler license for on-premises food consumption.
- D. No RMD shall be permitted to be a Massachusetts lottery dealer or to engage in any gaming activities.

ARTICLE VIII. PLAN REVIEWS

- A. The issuance or renewal of an operating Permit may be conditioned upon the approval of any plan or compliance with this regulation or any guideline or requirement of the Board issued under the authority of this regulation.
- B. Plan Reviews for Off-Site Cultivation/MIP Preparation:
 - 1. An applicant who wishes to sell edible MIPs at an RMD must, prior to beginning operations, undergo a plan review of any MIP processing and preparation facilities, regardless of their location, for any MIP that will, at some point, be delivered, distributed, produced, sold, or stored within the Town. The Board and its designated Agents will conduct the plan review, which may include a facilities inspection at the expense of the applicant in order to ensure safe, clean and sanitary handling and processing conditions and appropriate operating practices.
- C. Plan Reviews for MIP Storage and Handling at RMD Retail Locations:
 - 1. An applicant who wishes to sell edible MIPs at a RMD must, prior to beginning operations, undergo a plan review of all MIP storage, handling, and sale locations within the RMD. The Board and its designated Agents will conduct the plan review, which may include a facilities inspection at the expense of the applicant in order to ensure safe, clean and sanitary handling and processing conditions and appropriate operating practices consistent with the requirements of 105 CMR 590.000, the State Sanitary Code Chapter X–Minimum Sanitation Standards for Food Establishments.
 - 2. The requirements of 105 CMR 590.000 include specific actions to prevent the growth of bacteria. Clostridium botulinum is a bacterium whose spores are present on plant material and in soil. Spores are present in many plant material extractions and can survive cooking/pasteurization temperatures. These spores can spontaneously germinate (grow into bacteria) given the right conditions/substrate, and the bacteria produced can manufacture a powerful toxin which can cause severe illness or death.
 - 3. Except during preparation, cooking, or cooling, an RMD selling MIP's shall maintain Time & Temperature Control for Safety (TCS) items at 5°C (41°F) or less to prevent the growth of bacteria. This shall apply, unless specifically permitted by the Board or its designated Agents, to all:

- a. Marijuana extractions and concentrates intended for non-smoking oral consumption (i.e. eating and drinking);
 - i. If a Marijuana extraction, concentrate, or infusion has been continuously refrigerated and is then added as an ingredient into baked goods that have a low water activity, such as most cookies and brownies, these baked products may be considered shelf-stable if explicitly reviewed and permitted by the Board or its designated Agents.
 - ii. If an extracted Marijuana concentrate is immediately infused into a 190/200 proof alcohol with no additional ingredients (including flavorings or other additives) and the tincture is homogenous, then the growth of *C. botulinum* spores may have been prevented. Homogenous 190/200 proof alcohol tinctures may be safe to store outside of refrigerated temperatures if explicitly reviewed and permitted by the Board or its Agents.
- b. Infusions made from those extractions, such as infused oils, butters, honey, etc., and;
- c. Foods that have such infusions/extractions as an ingredient.
- d. Board approvals for any variance requested from the clean, safe and sanitary storage requirements outlined above will be based upon:
 - i. Review of an RMD's written policies and procedures that are followed to make the product(s);
 - ii. Use of control measures described above; and
 - iii. Any other scientific evidence submitted by the manufacturer from a certified laboratory or process authority that demonstrates the safety of the product in question. For example:
 - (a) pH and/or water activity testing conducted by an accredited laboratory;
 - (b) three samples from separate batches must be tested; and
 - (c) all samples must meet the criteria for a non-potentially hazardous food as described in the supplementary tables of the most current FDA Food Code.
- e. At any time, the Board or its Agents may require an RMD to submit a Hazard Analysis and Critical Control Points (HACCP) plan before approving the RMD's MIP distribution plan.
- f. Photos or images of food shall not be allowed on MIP product labels.
- g. All MIP's must be contained in an opaque package.
- h. If a MIP is identified on its label using a common food name (i.e. Brownie, Honey, Chocolate, Chocolate Chip Cookie, Green Tea, etc.), the phrase "MEDICAL MARIJUANA" must be written before the common food name. This phrase must be as easy to read as the common food name (i.e. same font size).
- i. Only generic food names may be used to describe MIP's (e.g. using "Snickerdoodle" to describe a Marijuana-infused cinnamon cookie shall be prohibited).
- j. All MIPs must be labeled with the following:
 - i. A batch number and sequential serial number, plus a bar code when used, identifying the batch associated with the product's manufacturing and processing;
 - ii. A statement that the product has been tested for contaminants, that there were no adverse findings, and the date of the product's testing in accordance with 105 CMR 725.105(C)(2);
 - iii. The date of product's manufacture date and a "Best by", "Use by", or expiration date;
 - iv. The net weight of Medical Marijuana and the THC level in the MIP, or the net weight of Medical Marijuana and the THC level contained per dose/serving if the MIP is not a single serving/dose);
 - v. A list of ingredients as well as the cannabinoid profile of the Marijuana contained within the MIP;
 - vi. A warning if nuts or other known allergens are contained in the product;
 - vii. Directions for use of the product, if relevant;
 - viii. The statement "For Medical Use Only"; and
 - ix. The statement, including capitalization: "This product has not been analyzed or approved by the FDA. There is limited information on the side effects of using this product, and there may be associated health risks. Do not drive or operate machinery when under the influence of this product. **KEEP THIS PRODUCT AWAY FROM CHILDREN.**"

D. Plan Reviews for the Safe and Secure Disposal of Waste, Refuse, or Damaged Marijuana, MIP's or etc.:

An Applicant for a RMD Permit shall develop a plan for the safe and secure storage and disposal of any waste, refuse, or damaged Marijuana, MIPs, and related products. Such plan will be based upon the requirements outlined in 105 CMR 725.105(J) and will be subject to review and approval by the Board and its designated Agents prior to the RMD beginning operations.

E. Plan Reviews for Emergencies and Continuity of Operations:

In accordance with emergency planning requirements specified in 105 CMR 725.105(A)(9) and similar to the responsibilities outlined in the *Risk Management and Continuous Quality Improvement* section of the Guidelines for the Accreditation of Opioid Treatment Programs which are authorized in 42 CFR 8.12(c), an applicant for a RMD Permit shall develop an emergency management program to ensure the safety of its staff and customers and a mechanism by which to ensure the continuity of its operations in response to inclement weather, man-made emergencies and supply chain disruptions, or discipline (including permit suspension) which result in the RMD being unable to provide Medical Marijuana or MIP's to patients with a documented medical need. Such a program shall include:

1. A detailed emergency operations plan and a process by which the RMD staff will be trained on that plan, including the testing of their knowledge of it via drills and exercises. The emergency operations plan will:
 - a. Include a set of contact procedures for the RMD's staff, customers, and community partners in the event of an emergency;
 - b. Specify a process for contacting Dispensary Agents on a 24-hour, 7-day-a-week basis through a telephone answering service or a similar service provider; and
 - c. Include protocols for the maintenance of life safety equipment (fire extinguishers and AEDs, for example) and the training of staff on the proper use of the same;
2. A detailed continuity of operations plan for the emergency administration of marijuana and MIP's in response to inclement weather, man-made emergencies, supply chain disruptions, or discipline (including permit suspension under these regulations) which result in the RMD being unable to provide medical marijuana and MIPs to patients with a documented medical need. This continuity of operations plan shall:
 - a. Include provisions for the notification of patients in the event that inclement weather, man-made emergencies, supply chain disruptions, or discipline under these regulations might result in a temporary disruption to medication supply; and
 - b. Include formal contractual arrangements to fulfill patient orders for Medical Marijuana and MIP's in the face of service disruption; these plans will specify order fulfillment and delivery arrangements with at least two (2) RMDs that are not otherwise affiliated with the Applicant. Such a plan will be subject to review and approval by the Board or its designated Agents prior to the RMD beginning operations, and at least annually thereafter.

F. Plan reviews for Safety and Security:

1. In accordance with the criteria specified in 105 CMR 725.110, *Security Requirements for Medical Marijuana Treatment Centers*, an Applicant for a RMD Permit shall develop a comprehensive security plan. Such a plan shall be subject to review and approval by the Director, the North Attleborough Chief of Police, and the North Attleborough Fire Chief prior to beginning RMD operations, and at least semi-annually thereafter.
2. RMD's shall submit a security plan to the Board for review with each Permit application and renewal detailing all security measures taken to ensure individual and community safety and to eliminate unauthorized access to the RMD. The Board may issue guidelines for additional safety and security requirements from time to time to further enhance the public health and safety of the community. Unless specified by any other state or local requirements or agreement with respect to the hours of operation of an RMD, the Board, in consultation with the North Attleborough Police Department, neighborhood associations, community organizations and/or Town residents, may set individual limitations on the hours of operation of any RMD Licensed hereunder.

G. Home Delivery Plan Reviews:

1. Each RMD licensed hereunder shall submit a home delivery plan for review with each Permit application and renewal. Home delivery plans shall offer secure Customers or personal caregivers a plan capable of providing home delivery services to every bona fide address within the Town, including those above or below street level, as well as to any Customer or personal caregiver residing within the Town who suffers a physical incapacity or lack of access to transportation as described by 105 CMR 725.035(A)(2).
 - a. Each RMD shall provide the Board with the make, model, registration number and ownership of each vehicle used in its Marijuana home delivery system.

H. Establishing “Reasonable Amounts” of Free or Reduced Cost Product:

1. In accordance with the criteria specified in 105 CMR 725.100(A)(6), an Applicant for an RMD Permit shall develop and submit a plan to establish a baseline “reasonable amount” of Marijuana to be provided annually at reduced cost or free to Qualifying Customers with documented verifiable financial hardship(s), including such data as the Board shall deem sufficient to support such a plan.

ARTICLE IX: MARIJUANA SALES

- A. No person or organization shall sell Marijuana or MIP’s from any location in Town other than at an RMD that possesses a valid RMD Permit from the Board.
- B. An RMD shall conspicuously post a sign on the exterior of its establishment and at each of its entrances, indicating that entry to persons who do not possess either a valid Registration card or a personal caregiver Registration card is prohibited. Such signs shall be made of durable material no less than 324 square inches in size, remain unobstructed, secured to the building at a height of no less than four (4) feet nor greater than seven (7) feet from the ground, and consistently maintained in good condition.
- C. RMD Dispensary Agents shall verify the Registration card or personal caregiver Registration card of the each Qualifying Customer in accordance with the procedures outlined in 105 CMR 725.000 and any other directives, memorandums or notifications from MDPH. In addition, an RMD shall verify the Registration card for each and every Qualifying Customer or personal caregiver, on each and every occasion that the Customer or personal caregiver enters the RMD, without exception.
- D. All retail sales of Marijuana and MIP’s must be face-to-face between the Dispensary Agent and the card holder or personal caregiver on the premises of the RMD, unless the card holder or personal caregiver is the proper recipient of home delivery in accordance with all applicable MDPH regulations.
- E. No person shall:
 1. Distribute, or cause to be distributed, any free samples of Marijuana or MIP’s; or
 2. Accept or redeem, offer to accept or redeem, or cause or hire any person to accept or redeem, or offer to accept or redeem, through any coupon or other method, any Marijuana or MIP’s for less than the listed or non-discounted price; or
 3. Sell Marijuana or MIP’s through any discounts (e.g., "buy-two-get-one-free") or otherwise provide any Marijuana or MIP’s for less than the listed or non-discounted price in exchange for the purchase of any other product.
- F. The provisions of Article IX E. shall not prohibit the dispensing of free or discounted Marijuana or MIP’s to card holders whose ability to pay for a product deemed medically necessary is limited by demonstrable financial hardship.
- G. RMDs are prohibited from using Self-Service Displays, Vending Machines and Non-Residential Roll-Your Own machines.

- H. An RMD and its Dispensary Agents are prohibited, in accordance with restrictions outlined in 105 CMR 725.105(K) and (L), from providing:
1. Any statement, design, representation, picture, or illustration that encourages or represents the use of Marijuana for any purpose other than to treat debilitating medical conditions or related symptoms;
 2. Any statement, design, representation, picture, or illustration that encourages or represents the recreational use of Marijuana;
 3. Any statement, design, representation, picture, or illustration related to the safety or efficacy of Marijuana unless supported by substantial evidence or substantial clinical data with reasonable scientific rigor as determined exclusively by the Board or its designated Agents; or
 4. Any statement, design, representation, picture, or illustration portraying anyone under 18 years of age.
- I. An RMD, in accordance with restrictions outlined in 105 CMR 725.105(K) and (L) must adhere to the following marketing and advertising requirements:
1. An RMD may develop and use a logo for labeling, signage, and other materials, but that logo may not contain medical symbols, images of Marijuana and Marijuana-related paraphernalia, or colloquial references to cannabis and Marijuana. Likewise, a RMD may not offer for sale or as a promotional gift any items which contain symbols of, or references to, Marijuana or MIPs, including the logo of the RMD.
 2. An RMD may only identify its building/RMD location by the RMD's registered name, and shall not display advertisements for Marijuana or any brand names, nor utilize graphics related to Marijuana or Marijuana-related paraphernalia on the building.
 3. Beyond the signage and other advertising limitations set forth in 105 CMR 725.105(L), the Board may set further limitations upon an RMD's signage and other advertising materials including, but not limited to, restrictions on the use of images related to Marijuana and/or Marijuana paraphernalia, and the size and visibility of Marijuana displays from outside an RMD.
 4. RMD external signage shall not be illuminated except for a period of 30 minutes before sundown until closing, and shall comply in all other respects with Sections VI. G & Q of the Town of North Attleborough Zoning By-Laws which regulate signage advertising. Neon signage is prohibited at all times.
 5. No Marijuana, MIPs, Marijuana-related paraphernalia or other related products shall be visible or displayed in such a way as to be seen from the exterior of a RMD. Within the RMD, one sample of each Marijuana strain and each MIP may be displayed in a transparent and locked case.
 6. Inside an RMD, all Marijuana which is not displayed in accordance with state and local restrictions (as outlined in 105 CMR 725.105(L)(10) and in Article IX H. above) shall be stored in a locked, access-controlled space in a limited access area during non-business hours. This access-controlled space shall be inaccessible to any persons other than Dispensary Agents, MDPH Agents, the Board and its designated Agents acting in an official capacity.
 7. An RMD shall provide a catalogue and a printed list of the prices, strains and THC levels of Marijuana and MIP's available at the RMD to registered Qualifying Customers and personal caregivers upon request, but it cannot advertise its prices for Marijuana or MIP's. The RMD shall submit, and thereafter maintain, current copies of said catalogue and printed price list to/with the Board.
- J. If, during the course of an inspection or compliance check at an RMD cultivation/production site, mold, infestation, or other disease(s) affecting the Marijuana plants is observed, then the Board or its designated Agents may order the segregation and/or destruction of all such plants (and such surrounding plants as the Board or its designated Agents may deem appropriate in their exclusive discretion) in order to prevent a threat to the public health.

ARTICLE X: HOME CULTIVATION

- A. Marijuana cultivation or processing of any kind is prohibited within the Town without an RMD Permit or Home Permit issued by the Board.

Home Cultivation – continued

- B. Prior to any home cultivation taking place within the Town, even by a qualifying patient or caregiver under 105 CMR 725.000, the respective individual must obtain a Home Permit from the Board. Cultivation that takes place without an RMD or Home Permit is outside the coverage of the Act and is subject to prosecution as a crime under M.G.L. c.94C.
- C. Upon application to the Board, a Home Permit shall be granted if:
1. The Board determines that the Applicant does not have access to an RMD by any of the following:
 - a. public or private transportation, or;
 - b. a caregiver with transportation, or
 - c. the RMD's delivery service will not deliver to the Applicant or the Applicant's caregiver's primary address.
 2. The Board determines that the Applicant has a verified financial hardship (defined in 105 CMR 725.004 as enrollment in either MassHealth or Supplemental Security Income) or that an individual's income does not exceed 300% of the federal poverty level (adjusted for family size) and does not have access to an RMD willing to provide the Applicant with Marijuana at no or an affordable cost.
- D. Applicants who fail to meet the above described hardship standard will not receive a Home Permit and will be informed by the Board in writing that:
1. Marijuana cultivation is prohibited in Town without a RMD Permit or Home Permit;
 2. Any such cultivation is outside the coverage of the Act, and;
 3. Any such cultivation is subject to prosecution as a crime under M.G.L. c. 94C.
- E. Subject to the provisions of Article X sections C and D, the Board may issue a Home Permit authorizing cultivation activities at a specified address within the Town, provided that the Applicant:
1. Submits to a pre-approval inspection by the Board or its designated Agents, which may include law enforcement officers, fire officials and/or building inspectors, to ensure that the location specified in the application meets all of the requirements of this regulation, and;
 2. Meets all the requirements for home cultivation contained in 105 CMR 725.000 and any related directives, memorandums or notifications. These include, but are not limited to, an enclosed, locked space, not viewable from a public location, in which cultivation and storage takes place in accordance with public health and safety requirements as determined by the Board, and;
 3. Meets all applicable local regulations within the Town including, but not limited to, fire, safety and building code provisions, and;
 4. If not the property owner, the Applicant shall demonstrate that the public or private property owner of the specified address has been notified, and the Applicant has obtained from that owner consent to any alteration of the property's fixtures or structure, including agreement concerning any increased utility costs likely to result from cultivation activities; and
 5. Grows only enough Marijuana to maintain a sixty (60) day supply, which MDPH has determined to be ten (10) ounces. The Board or its Director may specifically designate the number and type of plants that can be possessed at any time by the Applicant in order to meet this standard; and
 6. Submits to reasonable inspections by the Board or its designated Agents, which may include law enforcement officers, fire officials and/or building inspectors to ensure compliance with all of the requirements in this regulation; and
 7. Agrees that a Home Permit only allows for the cultivation and processing of Marijuana without the use of any fire, heat source, or gas, except for cooking on a conventional stove originally supplied with the dwelling; and
 8. Agrees that a Home Permit does not allow any method for processing Marijuana that presents a risk of explosion or other property damage by any means.
- F. All Home Permits expire on January 31st annually, regardless of the year or day and month on which there were issued.
- G. If the Board determines that the conditions to achieve a hardship standard permitting a Home Permit for Marijuana cultivation no longer exist, the Board may, after notice and opportunity to be heard, revoke a Home Permit and disallow cultivation of Marijuana in the home setting of the affected person or persons.

- H. If, during the course of an inspection or compliance check at a Home Permit site, mold, infestation, or other diseases affecting the Marijuana plants is observed, the Board or its designated Agents may order the segregation and/or destruction of all such plants as well as such surrounding plants as the Board or its designated Agents deem appropriate in their exclusive discretion, in order to prevent a threat to the public health of the Town.

ARTICLE XI. REQUIREMENTS AND PROHIBITIONS:

- A. The cultivation, processing, distribution, sale and use of Marijuana or MIP's for medical purposes shall be conducted in compliance with all state and local laws, ordinances, regulations and policies including, but not limited to, this regulation and such other regulations as the Board may from time to time enact.
- B. In no instance shall a Permit be issued to any RMD that is within a radius of five hundred feet of a school, daycare center, house of worship or any similar facility in which children commonly congregate.
- C. The cultivation, processing, distribution, or sale of Marijuana for medical purposes shall not exempt any Person or entity from complying with all state and local laws, ordinances, regulations or policies. Violation of any other such law shall constitute a violation of this regulation and be subject to the fines and penalties described herein.
- D. The Board's issuance of an operating Permit under this regulation shall be conditioned upon Registration approval by the Department as required by state law and regulation. Any revocation of an RMD's MDPH Registration thereafter shall result in an automatic and simultaneous revocation of the RMD's operating Permit issued by the Board.
- E. Each RMD Licensed hereunder shall hold an annual community meeting to provide RMD abutters and Town residents with an opportunity to comment on the RMD's operating practices, policies, and plans.
- F. The Board may require RMD's to distribute various educational materials including, but not limited to, a "Patient's Bill of Rights", information on addiction, and lists of treatment resources.
- G. An RMD may not sell any products other than Marijuana, which for purposes of this subsection shall include MIP's, Marijuana seeds and other products that facilitate the use of Marijuana for medical purposes, such as vaporizers.
- H. Issuance and maintaining of a Dispensary Agent License shall be conditioned on an applicant's on-going compliance with current Commonwealth of Massachusetts requirements and policies regarding Marijuana sales.
- I. A Dispensary Agent's License will not be renewed if the Permit Holder has failed to comply with a corrective action plan of the Board or of any federal or state agency with regulatory authority over the Agent's RMD.
- J. No Dispensary Agent convicted of a felony or drug-related misdemeanor offense shall be Licensed by the Board.
- K. Dispensary Agents must present their state registration card and Dispensary Agent License to any law enforcement official or municipal agent who questions the Agent concerning their Marijuana-related activities.
- L. Inhaling, exhaling, burning or carrying any lighted or vaporized substance in any manner or form, including Marijuana used for medical or any other purpose in any workplace, including an RMD, shall constitute a violation of this regulation subject to the fines and penalties herein.

ARTICLE XII. VIOLATIONS AND PENALTIES:

- A. It shall be the responsibility of the Permit Holder, or his/her operator or Business Agent, to ensure compliance with this regulation pertaining to the sale, distribution, delivery and/or sampling of Marijuana and MIP's.

Violations and penalties - continued

- B. Without regard to the suspension, revocation and penalty provisions of the Permit Policy of the Board effective July 1, 2008 and Article XXI, Section 3 of the Town Bylaws, Permit Holders who violate this regulation shall incur a fine of **\$300.00** and **REVOCAION** of his/her Permit(s) to operate an RMD or similar operation where Marijuana or MIP's have been found to be given away, offered for sale, displayed for sale, delivered or otherwise distributed. Said revocation shall be for a minimum period of twelve (12) months from the date of the Board's finding, without exception.
- C. In addition to the penalties set forth above, any Permit Holder whom the Board determines has engaged in the sale or distribution of Marijuana or MIP's at a second RMD or operation licensed by the Board while his/her Permit is revoked in another RMD or operation shall be subject to revocation of ALL of his/her Permits within the Town for twelve (12) months from the date of the second violation, without exception.
- D. Each calendar day on which a violation occurs shall be considered a separate offense.

ARTICLE XIII. GROUNDS FOR REVOCATION OR REFUSAL TO RENEW A PERMIT:

- A. Certain grounds by themselves, shall constitute full and adequate grounds for revocation or refusal to renew a License of Permit issued by the Board, including, but not limited to:
 - 1. Any actions sufficiently serious to indicate that, in the sole discretion of the Board, an imminent health hazard exists or the health or safety of the public is at risk;
 - 2. Failure to comply with this regulation;
 - 3. Failure to allow agents of the Board to conduct inspections;
 - 4. Attempts to obstruct, evade or impede the work of duly authorized agents of the Board;
 - 5. Continuing to conduct RMD operations when the Permit to do so has been revoked, and;
 - 6. Such other just and sufficient cause(s) as the Board may determine would render the Permit Holder unfit to continue providing RMD services in the Town.

ARTICLE XIV. REVOCATION OF A PERMIT:

- A. If the Board determines that an RMD has given away, offered to sell, displayed for sale, delivered or otherwise distributed Marijuana or MIP's, it shall provide the Permit Holder with notice of intent to revoke its Permit(s) consistent with this regulation and the Permit Policy of the Board, effective July 1, 2008.
- B. A Permit Holder so notified of the Board's intention to revoke or refuse to renew a License or Permit shall have seven (7) business days after receipt of such written notice in which to request a hearing.
- C. If the Board, after a hearing and in its sole discretion, shall determine that a License or Permit shall be revoked or not renewed consistent with this regulation and the Permit Policy of the Board, effective July 1, 2008, the Board shall issue a written decision within twenty (20) business days which contains a summary of the testimony and evidence considered and the reasons for the decision.
- D. If a Permit Holder fails to request a hearing in writing within the ten (10) business days following receipt of the Board's notice of intent to revoke its License(s) or Permit(s), the Board may impose its revocation order immediately thereafter.

ARTICLE XV. RELIEF:

Except as in Article XIV. D above, any Permit Holder aggrieved by the final decision of the Board to revoke one or more Licenses or Permits consistent with this regulation and the Permit Policy of the Board, effective July 1, 2008, may seek relief in a court of competent jurisdiction in the Commonwealth within twenty (20) business days of the receipt of said final decision.

ARTICLE XVI. ENFORCEMENT:

The provisions of this regulation shall be enforced by the Board and its employees, assigns and Agents, including any law enforcement officer acting in an official capacity.

ARTICLE XVII. EXEMPTIONS & EXCEPTIONS:

There shall be zero tolerance for violations of this regulation. As there are no exemptions to this regulation that will not result in undue hazard to the public health and safety of the community, there shall be no exceptions to the penalties proscribed for violation(s) of this regulation.

ARTICLE XVIII. SEVERABILITY:

If any provision contained in this regulation is deemed invalid for any reason, it shall be severed and shall not affect the validity of the remaining provisions.

ARTICLE XIX. EFFECTIVE DATE:

This regulation was adopted by the Board at a legally posted and regularly scheduled meeting held on August 23, 2016 to become effective September 1, 2016, following publication of a summary in a newspaper of general circulation in the Town.

By the North Attleborough Board of Health:

Donald M. Bates, Chairman

John J. Donohue, Jr., Member

Jonathan D. Maslen, Member