

CITY OF MARLBOROUGH MEETING POSTING

Meeting Name: City Council Urban Affairs Committee Meeting

Date: June 10, 2014

Time: 5:30 PM

Location: City Council Chamber, 2nd Floor, City Hall, 140 Main Street

Agenda Items to be addressed:

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2014 JUN -4 P 12: 20

04-07-2014 – **Order No. 14-1005761**: Application for Special Permit from Mark Donahue of Fletcher Tilton on behalf of Chick-Fil-A, Inc. to construct and operate an approximate 4,876 square foot single story building with drive-thru service restaurant at 230 Boston Post Rd. West.

-PUBLIC HEARING MAY 19, 2014

-REFER TO URBAN AFFAIRS

05-05-2014 – **Order No. 13/14-1005247E**: Proposed Zoning Ordinance, Medical Marijuana Treatment Centers.

-PUBLIC HEARING JUNE 2, 2014

-REFER TO PLANNING BOARD

-REFER TO URBAN AFFAIRS

THE LISTING OF TOPICS THAT THE CHAIR REASONABLY ANTICIPATES WILL BE DISCUSSED AT THE MEETING IS NOT INTENDED AS A GUARANTEE OF THE TOPICS THAT WILL HAVE BEEN DISCUSSED. NOT ALL TOPICS LISTED MAY IN FACT BE DISCUSSED, AND OTHER TOPICS NOT LISTED MAY ALSO BE BROUGHT UP FOR DISCUSSION TO THE EXTENT PERMITTED BY LAW.

The public should take due notice that the Marlborough City Council may have a quorum in attendance due to Standing Committees of the City Council consisting of both voting and non-voting members. However, members attending this duly posted meeting are participating and deliberating only in conjunction with the business of the Standing Committee.

Electronic devices, including laptops, cell phones, pagers, and PDAs must be turned off or put in silent mode upon entering the City Council Chamber, and any person violating this rule shall be asked to leave the chamber. Express authorization to utilize such devices may be granted by the President for recordkeeping purposes.



IN CITY COUNCIL

Marlborough, Mass., APRIL 28, 2014

ORDERED:

That the **Public Hearing** set for May 5, 2014, on the Application for Special Permit from Mark Donahue of Fletcher Tilton on behalf of Chick-Fil-A, Inc. to construct and operate an approximate 4,876 square foot single story building with drive-thru service restaurant at 230 Boston Post Rd. West, Order No. 14-1005761, be and is herewith **CONTINUED UNTIL MAY 19, 2014.**

ADOPTED

ORDER NO. 14-1005761A



IN CITY COUNCIL

APRIL 7, 2014

Marlborough, Mass., _____

ORDERED:

That there being no objection thereto set **MONDAY, MAY 5, 2014** as date for a **PUBLIC HEARING** on the Application for Special Permit from Mark Donahue of Fletcher Tilton on behalf of Chick-Fil-A, Inc. to construct and operate an approximate 4,876 square foot single story building with drive-thru service restaurant at 230 Boston Post Rd. West, be and is herewith refer to **URBAN AFFAIRS COMMITTEE AND ADVERTISE.**

Ninety days after public hearing is 08/03/14 which falls on a Sunday, therefore 08/04/14 would be considered the 90th day.

ADOPTED

ORDER NO. 14-1005761

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City of Marlborough Legal Department

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RECEIVED
DONALD V. RIDER, JR.
CITY CLERK'S OFFICE
CITY SOLICITOR
CITY OF MARLBOROUGH

2014 MAY - 1 P 1:01

CYNTHIA M. PANAGORE GRIFFIN
ASSISTANT CITY SOLICITOR

ELLEN M. STAVROPOULOS
PARALEGAL

May 1, 2014

*UA
Pamela Burr
ADU
P.H
6/2/14*

Patricia A. Pope
President
Marlborough City Council

RE: Proposed Zoning Ordinance -
Medical Marijuana Treatment Centers

Dear President Pope and Members:

By Order No. 13-1005247D, the Council on June 17, 2013 enacted a temporary moratorium regarding medical marijuana treatment centers in Marlborough. The moratorium expires on June 30, 2014. In the meantime, my office has received inquiries from several councilors about the status of medical marijuana regulations that have been promulgated by the Commonwealth. In light of those regulations, and at your request and with the assistance of Councilor Robey, I am submitting for the Council's consideration a proposed zoning ordinance amendment regarding the regulation of those centers. It largely tracks an earlier version that had been prepared for you and Councilor Elder, discretionarily allowing such centers to be located in the CA, LI and I zoning districts by special permit.

Thank you for your attention to this matter.

Very truly yours,

Donald V. Rider, Jr.
City Solicitor

Enclosure



IN CITY COUNCIL

Marlborough, Mass.,

MAY 5, 2014

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ORDERED:

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING SUBMITTED FOR ITS OWN CONSIDERATION CHANGES IN THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, TO FURTHER AMEND CHAPTER 650, NOW ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY ADDING THERETO AS FOLLOWS:

1. Section 650-17, entitled "Table of Uses," is hereby amended by adding to said section a new business use entitled, "Medical Marijuana Treatment Center," which shall be regulated, as follows:

RR	A1	A2	A3	RB	RC	B	CA	LI	I
N	N	N	N	N	N	N	SP	SP	SP

2. A new Section 650-32, entitled "MEDICAL MARIJUANA TREATMENT CENTERS," is hereby added, as follows:

650-32 MEDICAL MARIJUANA TREATMENT CENTERS

- A. Subject to the provisions of this Zoning Ordinance, Chapter 40A of the Massachusetts General Laws and 105 CMR 725.000 promulgated by the Commonwealth of Massachusetts Department of Public Health, the City of Marlborough Zoning Ordinance will not prohibit the location of a center for medical marijuana treatment within the City of Marlborough, but will instead regulate such centers. A Medical Marijuana Treatment Center should provide medical support, security, oversight by a physician, and standards that meet or exceed 105 CMR 725.000. These Centers should not compete to provide streamlined care to patients and should not provide a location for patients to wait for treatment in the vicinity of children. Therefore, to ensure that these Centers are located in such a way as to not pose a direct threat to the health or safety of either qualifying patients or the public at large, the provisions of this section will apply to all such Centers.
- B. For purposes of this chapter, the following definitions shall apply:



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ORDERED:

1. CERTIFYING PHYSICIAN means a Massachusetts licensed physician (Medical Doctor or Doctor of Osteopathy) who certifies that, in his or her professional opinion, the potential benefits of the medical use of marijuana would likely outweigh the health risks for a qualifying patient.
2. DEBILITATING means causing weakness, cachexia, wasting syndrome, intractable pain, or nausea, or impairing strength or ability, and progressing to such an extent that one or more of a patient's major life activities is substantially limited.
3. DEBILITATING MEDICAL CONDITION shall mean cancer, glaucoma, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), hepatitis C, amyotrophic lateral sclerosis (ALS), Crohn's disease, Parkinson's disease, and multiple sclerosis (MS), when such diseases are debilitating, and other debilitating conditions as determined in writing by a qualifying patient's certifying physician.
4. HARDSHIP CULTIVATION REGISTRATION means a registration issued to a registered qualifying patient under the requirements of 105 CMR 725.035.
5. MARIJUANA shall mean all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination. The term also includes MIPs except where the context clearly indicates otherwise.



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ORDERED:

6. MARIJUANA-INFUSED PRODUCT (MIP) means 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 Medical Marijuana Treatment Center, shall not be considered a food or a drug as defined in M.G.L. c. 94, § 1.
7. MEDICAL MARIJUANA TREATMENT CENTER shall refer to the site(s) of dispensing, cultivation, and preparation of marijuana; shall mean a not-for-profit entity registered under 105 CMR 725.100 and known thereunder as a registered marijuana dispensary (RMD), that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana-infused products (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; and shall be subject to the regulations under Section 650-32 of this ordinance.
8. MEDICAL USE OF MARIJUANA shall mean the acquisition, cultivation, possession, processing (including development of related products such as Marijuana-Infused Products (MIPs) that are to be consumed by eating or drinking, tinctures, aerosols, oils, or ointments), transfer, transport, sale, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.
9. PERSON shall mean an individual or a non-profit entity.
10. PERSONAL CAREGIVER shall mean a person, registered by the Department, who is at least 21 years old, who has agreed to assist with a registered qualifying patient's medical use of marijuana, and is not the registered qualifying patient's certifying physician. An employee of a hospice provider, nursing, or medical facility or a visiting nurse, personal care attendant, or home health aide providing care to a qualifying patient may serve as a personal caregiver, including to patients under 18 years of age as a second caregiver.



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ORDERED:

11. QUALIFYING PATIENT shall mean 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 a 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).
 12. REGISTERED QUALIFYING PATIENT means a qualifying patient who has applied for and received a registration card from the Commonwealth of Massachusetts Department of Public Health.
 13. REGISTRATION CARD means an identification card issued by the Commonwealth of Massachusetts Department of Public Health to a registered qualifying patient, personal caregiver, or dispensary agent. The registration card verifies either that a certifying physician has provided a written certification to the qualifying patient and the patient has been registered with the Department; that a patient has designated the individual as a personal caregiver; that a patient has been granted a hardship cultivation registration; or that a dispensary agent has been registered with the Department and is authorized to work at a Medical Marijuana Treatment Center.
- C. In such zoning districts where a Special Permit is required for a Medical Marijuana Treatment Center, the Special Permit Granting Authority shall grant the Special Permit only upon its written determination that any adverse effects of the proposed use will not outweigh its beneficial impacts to the City or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this Ordinance, the determination shall include consideration of each of the following:
1. Social, economic, or community needs which are served by the proposal;
 2. Traffic flow and safety, including parking and loading;
 3. Adequacy of utilities and other public services;



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ORDERED:

4. Neighborhood character and social structures;
5. Impacts on the natural environment;
6. Potential fiscal impact, including impact on City services, tax base, and employment; and
7. The ability for the Center to:
 - a. meet a demonstrated need;
 - b. provide a secure indoor waiting area for clients;
 - c. provide an adequate pick-up/drop-off area;
 - d. provide adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals; and
 - e. adequately address issues of traffic demand, parking, and queuing, especially at peak periods at the Center, and its impact on neighboring uses.

The Special Permit Granting Authority may require the applicant to provide a traffic study, at the applicant's expense, to establish the impacts of the peak traffic demand.

D. A Medical Marijuana Treatment Center shall not be located:

1. within five thousand (5,000) feet of another Medical Marijuana Treatment Center, as measured in a straight line from the nearest point of the proposed Center to the nearest point of the existing Center;
2. within five thousand (5,000) feet of a Narcotic Detoxification and/or Maintenance Facility, as defined in and regulated by the zoning ordinance of the City of Marlborough, and as measured in a straight line from the nearest point of the proposed Center to the nearest point of the existing Facility; nor,
3. within one thousand (1,000) feet of:
 - a. a school (as defined in § 517-2 of the Code of the City of Marlborough, as amended) located within the City of Marlborough;
 - b. a recreational facility (as defined in § 517-2 of the Code of the City of Marlborough, as amended); or
 - c. a park (as defined in § 517-2 of the Code of the City of Marlborough, as amended).



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ORDERED:

- d. an elderly housing facility (as defined in § 517-2 of the Code of the City of Marlborough, as amended); or
 - e. a retirement community (as defined in § 650-5 of the Zoning Ordinance of the City of Marlborough, as amended) located within the City of Marlborough.
- E. Nothing contained in Chapter 412 of the Code of the City of Marlborough, as amended, prohibiting the smoking, ingesting, or other use or consumption of marijuana in any place accessible to the public, shall be construed as applying to the medical use of marijuana inside a Medical Marijuana Treatment Center.
3. The effective date of these amendments shall be the date of their passage.

Be and is herewith **REFER TO URBAN AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE PUBLIC HEARING FOR JUNE 2, 2014**

ADOPTED

ORDER NO. 13/14-1005247E