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**TOWN OF GILL PLANNING BOARD  
PROPOSED MEDICAL MARIJUANA ZONING BYLAW**

**I. AMEND SECTION 2C, TABLE OF USE REGULATIONS, AS FOLLOWS:**

**C. Table of Use Regulations**

No building or structure shall be erected or land used except as permitted in this section and all other sections of this Zoning Bylaw. Only one principal structure or use may be allowed on a lot by right. Additional principal structures or uses may be allowed if a Special Permit is granted by the Zoning Board of Appeals.

The words and symbols employed in the following use regulations schedule shall have the following meaning:

Yes, the use is permitted by right in that Zoning District

No, the use is not permitted in that Zoning District

SP, the use may be permitted if a Special Permit is granted by the Zoning Board of Appeals

Any use not expressly permitted by right or by Special Permit shall be prohibited. Uses allowed by right or Special Permit must meet the regulations for signage (Section 2F), parking (Section 14) and the other requirements set forth in these Zoning Bylaws.

		R	R-A	VC	VR
1.	Residential Uses				
a.	Detached, Single-Family Dwelling	Yes	Yes	Yes	Yes
b.	Two-Family Dwelling or Conversion of a Single-Family Home to a Two-Family Dwelling	Yes	Yes	Yes	Yes
c.	Three-Family Dwelling or Conversion of a Single-Family Home or Two-Family Home to a Three-Family Dwelling	SP	SP	SP	SP
d.	Multi-Family Dwelling with up to 6 housing units	SP	SP	SP	No
e.	Accessory Apartment	Yes	Yes	Yes	Yes
f.	Trailer Park or Mobile Home	SP	SP	No	No
2.	Municipal Uses	Yes	Yes	Yes	SP
3.	Religious Uses	Yes	Yes	Yes	Yes
4.	Educational Uses				
a.	Exempt from Zoning by M.G.L. Chapter 40, Section 3	Yes	Yes	Yes	Yes

**TOWN MEETING VERSION**

5-4-15

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		R	R-A	VC	VR
b.	Not exempt from Zoning by M.G.L. Chapter 40, Section 3	SP	SP	SP	SP
5.	Recreational Uses	SP	SP	SP	SP
6.	Agricultural Uses				
a.	Agricultural Uses on a lot of less than 5 acres	SP	Yes	Yes	SP
b.	Display and Sale at Roadside Stand of Agricultural Products	Yes	Yes	Yes	Yes
c.	Agricultural Uses on a lot with 5 acres or more	Yes	Yes	Yes	Yes
7.	Commercial Uses				
a.	Home-Based Business, Cottage Industry, or General Contractor which meets the criteria of Section 2H	Yes	Yes	Yes	Yes
b.	Home-Based Business, Cottage Industry, or General Contractor, other	SP	SP	SP	SP
c.	Scientific Research or Development as described in M.G.L. Chapter 40A, Section 9	SP	SP	SP	No
d.	Restaurants, Drive-through	No	No	No	No
e.	Restaurants, Other	No	SP	SP	No
f.	Inns	SP	SP	Yes	SP
g.	Hotels/Motels	No	No	SP	No
h.	Transportation Terminal	No	No	SP	No
i.	Retail Stores with 2,500 square feet or less of enclosed floor area	SP	SP	Yes	SP
j.	Retail Stores with greater than 2,500 square feet but no more than 10,000 square feet of enclosed floor area with or without drive through facilities such as pharmacies	No	No	SP	No
k.	Automobile Sales	No	SP	SP	No
l.	Automobile Service Station, Repair Garage	No	SP	SP	No
m.	Kennel, Veterinary Hospital	No	SP	SP	No
n.	Bank with or without drive through facilities, business office or professional office with a building no more than 5,000 square feet of enclosed floor area	No	SP	Yes	SP
o.	Stand-alone Automated Teller Machine (ATM)	No	No	SP	No
p.	Tourist Homes - Bed and Breakfast	SP	SP	Yes	SP

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		R	R-A	VC	VR
	q. Commercial Uses not listed above, other than retail uses, where the physical appearance, operation, parking requirements and traffic impacts resemble a use permitted (Y or SP) above and which will not have a detrimental impact on adjacent or nearby uses	No	No	SP	No
	<b>Industrial Uses</b>				
8.	a. Sawmills and Woodmills				
	b. Public Utilities:	SP	SP	SP	No
	I. [ <del>Solar,</del> ] Wind, or Hydro-Electric Generating				
	II. Other Non-nuclear Electric Generating Facilities	SP	SP	SP	No
	III. Transmission Lines Substations & Switchyards	No	No	SP	No
	IV. Large-Scale Ground-Mounted Solar Electric Installations greater than 15 kW up to 250 kW that meet the requirements of Section 23 <sup>1</sup>	SP	SP	SP	No
	V. Large-Scale Ground-Mounted Solar Electric Installations greater than 250 kW that meet the requirements of Section 23	SP	SP	SP	SP
	c. Commercial radio, television, microwave or other transmitting or receiving towers	SP	SP	SP	N
	d. Light Industry	No	SP	SP	No
	e. Printing & Publishing	No	SP	SP	No
	f. Warehousing, bulk storage, and self-storage	No	SP	SP	No
	<b>g. <i>Registered Marijuana Dispensary (RMD) with no more than 2,500 square feet of enclosed floor area<sup>2</sup></i></b>	<del>No</del>	<del>No</del>	<del>SP</del>	<del>No</del>

*1 – Large-Scale Ground-Mounted Solar Electric Installation greater than 15 kW up to 250 kW that meet the requirements of Section 23 that are located in the Solar Overlay District are allowed By-Right (Yes) but are subject to Site Plan Review.*

***2 – Registered Marijuana Dispensaries (RMDs) must meet the requirements of Section 25 and are subject to Site Plan Review under Section 24.***

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**II. AMEND SECTION 3, DIMENSIONAL SCHEDULE, AS FOLLOWS:**

Districts	Minimum Lot Area in square feet <sup>a,d</sup>	Minimum Lot Frontage in feet	Yard Dimensions			Maximum Height in feet	Maximum Lot Coverage <sup>b</sup>
			Front in feet	Side in feet	Rear in feet		
<b>Village Residential<sup>c</sup> (VR)</b>	10,890 (1/4 acre)	100	20	10	10	35	50%
<b>Residential (R)</b>	87,120 (2 acres)	200	50	30	30	35	50%
<b>Residential – Agriculture (R-A)</b>	87,120 (2 acres)	200	50	30	30	35	30%
<b>Village Commercial (VC)<sup>e</sup></b>	43,560 (1 acre)	150	20	25	25	35	70%

<sup>a</sup> For a residential dwelling with three or more housing units, an additional 21,780 square feet (1/2 acre) of lot area for each housing unit after the first two is required for the minimum lot size (e.g. in the Residential District, for a four-family dwelling, the minimum lot size is 130,680 square feet (3 acres) (130,680= 87,120 + 21,780 +21,780)).

<sup>b</sup> Lot Coverage – The area of a lot occupied by structures, walkways, drives, parking or other impervious or semipervious surfaces.

<sup>c</sup> The front yard dimension may be determined by the setback of existing structures on adjacent parcels where these setbacks are less than the minimum front yard dimension required by this Bylaw.

<sup>d</sup> Minimum Lot Area sizes may be reduced for Conservation Developments according to the requirements of Section 6.

<sup>e</sup> ***No Registered Marijuana Dispensary shall be sited within a radius of three hundred (300) feet of a school, daycare center, park or playground, or any location where children commonly congregate, the 300 foot distance to be measured in a straight line from the nearest point of the facility in question to the nearest point of the proposed RMD.***

**III. INSERT THE FOLLOWING NEW DEFINITIONS INTO SECTION 17, DEFINITIONS:**

***MARIJUANA-INFUSED PRODUCT (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 (RMD), as defined by Massachusetts law, shall not be considered a food or a drug as defined in M.G.L. c. 94, s. 1.***

***REGISTERED MARIJUANA DISPENSARY (RMD): A not-for-profit entity registered and approved by the MA Department of Public Health in accordance with 105 CMR 725.100, also to be known as a Medical Marijuana Treatment Center, 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. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and/or preparation of marijuana and related products.***

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#### IV. AMEND SECTION 24B, PROJECTS REQUIRING SITE PLAN REVIEW, AS FOLLOWS

##### B. Projects Requiring Site Plan Review

Site Plan Review by the Zoning Board of Appeals is required for the following:

1. Commercial, industrial, municipal, and institutional developments or redevelopments of more than 2,500 square feet of enclosed floor area;
2. Multi-family residential developments or redevelopment of an existing structure for four or more dwelling units on a single lot.
3. Uses having ten (10) or more off-street parking spaces; or the expansion of an existing parking lot by ten (10) or more spaces or 2,000 or more square feet.
4. Residential uses, commercial uses or mixed use developments locating on a Flag Lot pursuant to Section 5 of the Zoning Bylaws.
5. Common Driveways pursuant to Section 2G.
6. Large-Scale Ground-Mounted Solar Electric Installations greater than 15 kW.
7. ***Registered Marijuana Dispensaries (see Section 25).***

#### V. AMEND SECTION 24C, PROCEDURE, SUBSECTION 2, AS FOLLOWS:

2. The Reviewing Board shall obtain with each submission a deposit sufficient to cover any expenses connected with the public hearing and review of the plans. The Reviewing Board has the right to retain a Registered Professional Engineer ***or other expert consultant(s)*** to advise the Reviewing Board on any or all aspects of the site plan. The costs of ~~***this engineering study***~~ ***such expert consultant reviews*** ~~***will***~~ ***shall*** be borne by the applicant.

**VI. ADD A NEW SECTION 25, REGISTERED MARIJUANA DISPENSARIES, AS FOLLOWS *[all new text]*:****SECTION 25: REGISTERED MARIJUANA DISPENSARIES****A. Purpose**

1. The purpose of this section is to provide for the orderly placement of Registered Marijuana Dispensaries (RMDs), in accordance with the Humanitarian Medical Use of Marijuana Act, M.G.L. c.94C, App. §1-1, et seq., in areas where such a facility is not inconsistent with the neighborhood character, to minimize adverse impacts of RMDs on adjacent properties and Town services, and to ensure the health, safety, and general well-being of the public as well as of patients seeking treatment.
2. RMDs, for purposes of this bylaw, are considered to be an industrial use due to the scale and scope of their operations.

**B. Procedures and Application Requirements**

In accordance with the purpose of this section as stated above in Section 25A and with the general purpose of these bylaws outlined in Section 1, Registered Marijuana Dispensaries (RMDs) shall only be allowed in the Village Commercial District with a Special Permit from the Zoning Board of Appeals (pursuant to the requirements of Section 2D, Special Permit Guidelines, herein) and following Site Plan Review by the Zoning Board of Appeals (pursuant to the requirements of Section 24, Site Plan Review, herein, in its entirety). In addition, the following specific provisions shall apply for the review and permitting of RMDs.

1. Applicant shall submit a copy of its registration as an RMD from the Massachusetts Department of Public Health or documentation that demonstrates that said RMD, and its owner/operators, qualify and are eligible to receive a Certificate of Registration and meet all of the requirements of an RMD in accordance with 105 CMR 725.000 of the Massachusetts Department of Public Health. An applicant shall provide evidence that it is so certified (at least provisionally), and shall submit to the Zoning Board of Appeals all materials associated with its application to the Department of Public Health for such certification, with such redactions as necessary to protect confidential information therein.
2. Applicant shall submit evidence that they have site control and the right to use the site for an RMD, in the form of a deed or valid purchase and sales agreement or, in the case of a lease, a notarized statement from the property owner and a copy of the lease agreement.
3. Applicant shall submit documentation of security measures to be implemented, including security lighting and measures to mitigate negative impacts on abutting properties.
4. Applicant shall submit documentation of estimated sewer and water usage and provide evidence that such capacity is available.
5. Applicant shall submit a list of any hazardous materials proposed to be located on the site in excess of household quantities and a plan to prevent their release to the environment as appropriate.

**C. Special Conditions**

1. No RMD shall be sited within a radius of three hundred (300) feet of a school, daycare center, park or playground, or any location where children commonly congregate, the 300 foot distance to be measured in a straight line from the nearest point of the facility in question to the nearest point of the proposed RMD.
2. RMDs shall only be engaged in the uses permitted by its definition and may not include other businesses or services.
3. No RMD shall be located inside a building containing any other uses; RMDs (including cultivation, production and/or dispensary locations) shall be stand-alone facilities used for that purpose only.
4. Buildings where RMDs operate shall be compatible in style and scale with those in the surrounding neighborhood.
5. No marijuana or MIPs shall be smoked, eaten or otherwise consumed or ingested within the premises.
6. The hours of operation shall be set by the Special Permit Granting Authority, but in no event shall an RMD be open to the public, and no sale or other distribution of marijuana and/or MIPs shall occur upon the premises or via delivery to or from the premises, between the hours of 8:00 p.m. and 9:00 a.m.
7. RMDs shall be located in such a way as to minimize impacts on prime farmland soils.
8. RMD owner/operators seeking a Special Permit and/or Site Plan Approval are encouraged to negotiate a Payment in Lieu of Taxes (PILOT) agreement with the Town of Gill. Such an agreement would be presumed by the Zoning Board of Appeals to have a positive impact on Town finances for purposes of the Special Permit Guidelines established in Section 2.D.7, herein.
9. 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 been revoked, transferred to another controlling entity, or relocated to a different site, a new Special Permit and Site Plan Review shall be required prior to issuance of a Certificate of Occupancy.
10. Special Permits and/or Site Plan Approvals shall have a limited term related to the duration of the applicant's ownership/control of the premises as an RMD, and shall expire:
  - a. If the permit holder ceases operation of the RMD for at least 6 months, or
  - b. The permit holder's registration by MDPH expires or is terminated.
11. The permit holder shall notify the Zoning Enforcement Officer and Special Permit Granting Authority in writing within 48 hours of such lapse, cessation, discontinuance or expiration.

**D. Administration**

The Special Permit Granting Authority may adopt and from time to time amend regulations for the submission and approval of Special Permits and Site Plans for RMDs, including the fee schedule for applications.