

# Exhibit D

## ZONING ORDINANCE AMENDMENT

### THE TOWN OF SMITHFIELD HEREBY ORDAINS:

Section 1. A new Section 4.4.L. shall be added to the Smithfield Zoning Ordinance as follows:

#### **ARTICLE 4 - USE REGULATIONS**

##### **§4.4.L. Medical Marijuana.**

A. Definitions. As used in this section, the following terms shall have the meanings indicated. Any terms not defined herein shall be defined by reference to RIGL § 21-28.6-3.

CARDHOLDER -- means a qualifying patient or a primary caregiver who has registered with the Rhode Island Department of Health and has been issued and possesses a valid registry identification card.

CAREGIVER CULTIVATION -- means marijuana cultivation for medical use only by a single registered caregiver cardholder, as defined in RIGL Chapter 21-28.6.

COMPASSION CENTER -- means a not-for-profit corporation subject to the provisions of RIGL Chapter 7-6, and registered under RIGL § 21-28.6-12 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies or dispenses marijuana, and/or related supplies and educational materials, to patient cardholders and/or their registered caregiver cardholder, who have designated it as one of their primary caregivers.

COMPASSION CENTER CARDHOLDER -- means a principal officer, board member, employee, volunteer, or agent of a compassion center who has registered with the Rhode Island Department of Health and has been issued and possesses a valid registry identification card.

MARIJUANA STORE -- means any profit or non-profit retail establishment at which the sale or use of marijuana, medical or otherwise, takes place, including without limitation a so-called "Vape Lounge" or "Vapor Lounge". This shall not include a Compassion Center regulated and licensed by the State of Rhode Island, as defined herein.

NON-RESIDENTIAL COOPERATIVE CULTIVATION -- means two or more cardholders who cooperatively cultivate marijuana in a non-residential zoning district subject to the restrictions set forth in RIGL § 21-28.6-14 and this section.

PATIENT CULTIVATION -- means marijuana cultivation by a single registered patient cardholder for medical use only, as defined in RIGL Chapter 21-28.6.

RESIDENTIAL COOPERATIVE CULTIVATION -- means two or more cardholders who cooperatively cultivate marijuana in a residential zoning district subject to the restrictions set forth in RIGL § 21-28.6-14 and this section.

B. Purpose.

It is the intent of this section to regulate the cultivation and distribution of medical marijuana as allowed by the Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act (See RIGL 21-28.6-1 et seq.) Should a provision of this section conflict with any other provision of the Zoning Ordinance, the provision of this section shall be controlling.

C. General Prohibition.

Unless specifically authorized by this section, all growing or cultivation of marijuana is prohibited within the boundaries of the Town of Smithfield.

D. Patient Cultivation.

Patient cultivation, if permitted in the applicable zoning district, shall not be allowed unless each of the following criteria has been met:

(1) Patient cultivation shall only be allowed at the Patient Cardholder's primary residence. If the Patient Cardholder does not own the subject property, the owner(s) of the subject property shall provide written acknowledgment and approval of the proposed use which shall be appropriately notarized prior to review by the Zoning Official.

(2) The Patient Cardholder shall apply for all appropriate approvals and inspections with the Smithfield Fire Department. The Fire Department shall review the application for permits pursuant to RIGL 23-28.1 et seq. All permits applied for hereunder and documents associated therewith shall be confidential in accordance with the federal Health Insurance Portability and Accountability Act and RIGL § 21-28.6-6(k).

(3) The Patient Cardholder shall apply for a Zoning Certificate, and the Patient Cardholder or a licensed contractor shall apply for all appropriate Zoning, Building, Electrical, Mechanical and Plumbing Permits as required by the Rhode Island State Building Code. The Building Official shall review applications for permits pursuant to RIGL 23-27-100.01 et seq. The application for a Zoning Certificate shall include, at a minimum, the following documentation:

- (a) A detailed and accurate narrative description of the proposed cultivation operation;
- (b) Proof of registration with the Rhode Island State Police if required by State law;
- (c) Proof of approval of the proposed project by the Smithfield Bureau of Fire Prevention;
- (d) Building plans signed and stamped by a Rhode Island licensed architect or engineer, including project certification if required by Section 128.0 of the Rhode Island State Building Code; and
- (e) Evidence of approved sewer or ISDS service.

All permits applied for hereunder and documents associated therewith shall be confidential in accordance with the federal Health Insurance Portability and Accountability Act and RIGL § 21-28.6-6(k).

(4) In addition to the requirements above, the Patient Cardholder shall demonstrate to the Building Official that the following requirements have been met:

- (a) That the area used for growing is secured by locked doors;
- (b) That the area used for growing has two (2) means of egress;
- (c) That the area used for growing shall not be within ten (10) feet of a heating or other ignition source such as an electric, propane, natural gas or oil fired furnace or heater, or such larger distance as may be required by manufacturer specifications;
- (d) That the area used for growing shall have proper ventilation to mitigate the risk of mold;
- (e) That the area used for growing shall have carbon filters installed to reduce odors and that proper measures are to be employed to prevent odors from reaching neighboring properties; and
- (f) That smoke alarms/detectors are installed in accordance with the State Fire Code and/or to the satisfaction of the Fire Department.

(5) Possession Limits: Since it is the intent of the Town of Smithfield to limit Patient Cultivation to the amount of marijuana that the Patient reasonably needs for personal medical use, and to prevent any excess marijuana from being sold or otherwise distributed to third parties, Patient Cultivation possession limits shall be as follows:

Possession Limits: Patient Cultivation possession limits shall be as follows:

	Mature Plants	Immature Plants (Seedlings) and Unusable Marijuana	Usable Marijuana
Patient Cardholder	2 plants	2 plants	2.5 Ounces

E. Caregiver Cultivation.

Caregiver Cultivation, as defined in this section, shall be prohibited in all Zoning Districts.

F. Cooperative Cultivation.

- (1) Residential Cooperative Cultivation, as defined in this section, shall be prohibited in all Zoning Districts.
- (2) Non-Residential Cooperative Cultivation, as defined in this section, shall be prohibited in all Zoning Districts.

G. Compassion Centers.

Compassion center uses, as established under RIGL § 21-28.6-1 et seq. shall be prohibited in all zoning districts in Smithfield except in the Industrial zone and the Highway Commercial zone and only upon the grant of a Special Use Permit in accordance with § 10.8 of

the Zoning Ordinance. Additionally, such Special Use Permit shall not be granted unless each of the following standards has been met:

- (1) The application for a Special Use Permit pursuant to this section shall provide the legal name and address of the compassion center, a copy of the articles of incorporation of the compassion center, and the name, address and date of birth of each principal officer and board member of the compassion center.
- (2) In addition to the findings required by § 10.8 of the Zoning Ordinance, the Special Use Permit shall not be granted unless the Zoning Board of Review makes the following additional findings:
  - (a) That the requested use at the proposed location will not adversely affect neighboring properties;
  - (b) That the requested use at the proposed location will not adversely affect the use of any property used for a public or private school, park, playground, play field, youth center, licensed day-care center, or other location where groups of minors regularly congregate;
  - (c) That the requested use at the proposed location is sufficiently buffered in relation to any residential area in the immediate vicinity so as not to adversely affect said area; and
  - (d) That the exterior appearance of the structure will be consistent with the exterior appearance of structures already constructed or under construction within the immediate neighborhood, so as to prevent the diminishment or impairment of property values within the neighborhood.
- (3) Location.
  - (a) No Compassion Center shall not be located within:
    - (1) One thousand feet of the nearest residential zoning district, or one thousand feet of the lot line of a residence which is a nonconforming use in a nonresidential zone in existence as of the effective date of this section; or
    - (2) One thousand five hundred feet of the nearest house of worship, public or private school, park, playground, play field, youth center, licensed day-care center, or other location where groups of minors regularly congregate; or
    - (3) Two thousand feet of any other compassion center or cooperative cultivation site; or
    - (4) One thousand feet of any of the Smithfield Town lines.
  - (b) The distances specified above shall be measured by a straight line from the nearest property line of the premises on which the proposed compassion

center use is to be located to the nearest boundary line of a residential zoning district or to the nearest property line of any of the other designated uses set forth above.

(4) Hours of operation.

- (a) The proposed compassion center hours of operation shall be limited to 8:00 a.m. to 8:00 p.m.

(5) Lighting.

- (a) Lighting shall adequately illuminate the compassion center, its immediate surrounding area, any accessory uses, including storage areas, the parking lots, the compassion center's front facade, and any adjoining public sidewalk.
- (b) Lighting shall be hooded or oriented so as to deflect light away from adjacent properties.

(6) Security.

- (a) The proposed Compassion Center shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and shall insure that each location has an operational surveillance system and security alarm system.

(7) Parking.

- (a) All uses permitted under this section shall comply with the off-street parking and loading requirements and regulations as set forth in the Zoning Ordinance.

(8) Signage .

- (a) No Compassion Center shall be allowed a free-standing accessory sign. All signage and advertising for a Compassion Center shall comply with all applicable provisions of the Zoning Ordinance. In addition, no signage or advertising shall use the word "marijuana" or "cannabis" or any other word, phrase or symbol commonly understood to refer to marijuana unless such word, phrase or symbol is immediately preceded by the word "medical" in type and font that is at least as readily discernible as all other words, phrases or symbols on the sign. Such signage and advertising must clearly indicate that the products and services are offered only for medical marijuana patients and primary caregivers.

(9) No Compassion Center shall be established prior to approval of a Special Use Permit therefor by the Zoning Board of Review with the technical advice specified in Section 10.9 of the Zoning Ordinance. The site plan shall depict all existing and proposed buildings, parking spaces, driveways, service areas and other open uses. In addition to all other restrictions defined in this section, the site plan shall show the distances between the proposed use and the boundary of the nearest residential zoning district and the property line of all other abutting uses.

- (10) After approval of the Special Use Permit, Land Development Review shall be conducted by the Planning Board.
- (11) As a condition of the approval of a Special Use Permit, the Compassion Center must satisfy all the requirements set forth in Subsections D.(2), (3), and (4) of this section.
- (12) Possession Limits: Compassion Center possession limits shall be as follows unless a lesser limit is otherwise stated in the Rhode Island General Laws.

Compassion Center	Inventory of seedlings, plants and usable marijuana limited to reflect the projected needs of registered qualifying patients.
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H. Marijuana Extraction.

The use of butane, propane or other solvents used for the purposes of marijuana extraction shall be strictly prohibited in all zoning districts.

I. Odor Containment.

It shall be a violation of this section if any odor from a Patient Cultivation or Compassion Center is detected by a person outside the boundaries of the lot on which the cultivation is conducted.

J. Enforcement

- (1) Any person or organization found to be in violation of this section shall be subject to enforcement in accordance with the major violation provisions of Section 10.6 of the Zoning Ordinance. The Town may pursue its enforcement remedies hereunder either in the Smithfield Municipal Court or in a State court of appropriate jurisdiction.
- (2) All unpermitted pre-existing cultivations must comply with the requirements of this section.
- (3) All uses permitted under this section shall comply fully with all licensing requirements of the Town of Smithfield and laws of the State of Rhode Island.

Section 2. Section 4.3 of Article 4 - Use Regulations -- Table of Uses -- is hereby amended by adding thereto the following:

### 4.3 TABLE OF USES

P=Permitted by RIGHT S=Use Permitted by SPECIAL USE PERMIT N= Use Not Permitted

Zoning	ZONING DISTRICTS													
	R-200	R-80	R-Med	R-20	R-20M	MU	V	C	HC	LI	I	PC	PD	PCD-B
<b>L. MEDICAL MARIJUANA</b>														
1. Patient Cultivation	P	P	P	P	N	N	N	N	N	N	N	N	N	
2. Caregiver Cultivation	N	N	N	N	N	N	N	N	N	N	N	N	N	
3. Residential Cooperative Cultivation	N	N	N	N	N	N	N	N	N	N	N	N	N	
4. Non-Residential Cooperative Cultivation	N	N	N	N	N	N	N	N	N	N	N	N	N	
5. Compassion Center	N	N	N	N	N	N	N	N	S	N	S	N	N	
6. Marijuana Store	N	N	N	N	N	N	N	N	N	N	N	N	N	

Section 3. This Ordinance Amendment shall take effect upon passage.

ZONING ORDINANCE AMENDMENT  
SPONSORED BY:

ZONING ORDINANCE AMENDMENT  
APPROVED AS TO FORM:

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Paul A. Santucci  
Town Council President

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Edmund L. Alves, Jr.  
Town Solicitor