



COMMUNITY AND ECONOMIC DEVELOPMENT

Martha White, Town Administrator

Kimie Errickson, Director

BUILDING

PLANNING

ZONING

CONSERVATION

October 6, 2017

RE:

Recreational Marijuana State Regulation Update

On Tuesday, October 3rd, I attended a workshop/seminar called “Implementing the Revised Marijuana Statute – What Municipal Officials Need to Know Now!” sponsored by the Massachusetts Municipal Lawyers Association and the Massachusetts Municipal Association. The seminar provided some very useful information regarding key items of the “Regulation and Taxation of Marijuana Act” – often referred to as the law regulating the use of recreational marijuana - that are most pertinent to municipalities as we navigate through the formulating of appropriate regulations for recreational marijuana.

The seminar included a discussion panel comprised of Attorney George Hall, Jr. from Anderson & Kreiger, LLP; Margaret Hurley, Director of the Municipal Law Unit at the Attorney General’s Office; and Jeffrey Bagg, Principal Planner with the Central MA Regional Planning Commission.

This memo is to provide a brief overview of some of the items that I felt were most interesting and applicable to the discussions we’ve been having in Natick regarding both Medical and Recreational Marijuana facilities. These include:

The law **allows/permits** municipalities to regulate Recreational Marijuana establishments for the following items:

- Time, place and manner of the establishment
- Limit the number of establishments within Town, so long as the limit is not below 20% of the number of licenses issued in the municipality for retail sale of alcoholic beverages
- Establish reasonable regulations on signage, so long as such regulations are not more restrictive than regulations for retail sale establishments of alcoholic beverages
- Provide for a civil penalty for violations – i.e. monetary fines, but not criminal penalties
- Restrict licensed cultivation, processing and manufacturing of marijuana that is a “public nuisance”

The law **does not allow/permit** municipalities to regulate recreational marijuana establishments for the following items:

- Establishing criminal penalties for violating the law
- Restricting the transportation of marijuana or marijuana products
- Permit the local Board of Health to impose regulations (this will likely be debated – but is the current interpretation of the law)

- Restrict the conversion of a medical marijuana facility to a recreational marijuana facility – if/where an existing medical facility is operating/located, such facility must be allowed to convert to a recreational facility
- Place location controls on recreational marijuana facilities different than controls for medical marijuana facilities – i.e. where medical facilities are allowed to locate per zoning recreational facilities must also be allowed

The law **requires a “vote of the voters”** – i.e. a ballot question – for the following items:

- On premises consumption and how such consumption is to be regulated within the municipality
- Limits on the number of recreational marijuana facilities to an amount below 20% of the number of licenses issued in the municipality for retail sale of alcoholic beverages
- Limits on the number of recreational marijuana facilities to a number fewer than is allowed for medical marijuana facilities within the community.
- Prohibit one or more type of marijuana establishments

Some key open ended questions for consideration:

- Whether a Temporary Moratorium is enough to prohibit an existing Medical Marijuana facility from be allowed to convert to a Recreational Marijuana facility. Ms. Hurley cautioned all municipalities to not rely on a Temporary Moratorium from preventing an existing Medical Marijuana facility from converting to a Recreational Marijuana facility, even if there is a “Host Community Agreement” in place preventing such conversion. The State Law and/or the Cannabis Control Commission may override the local moratorium.
- Whether municipalities are allowed to regulate the various forms of marijuana and marijuana related products – hemp, edibles, whole plant sales, accessories, etc.
- Whether municipalities are permitted to regulate “craft cultivation”, such as home growers associations (think microbrewers who may sell their product but make it at home)
- The panel warned communities to expect existing host community agreements with Medical Marijuana establishments to be challenged once the new Recreational Marijuana law goes into effect within a community.

Additional discussion was held in regards to items municipalities should consider if/when crafting a local bylaw (zoning bylaw is recommended) seeking to regulate recreational marijuana establishments – such as parking, queuing of patrons exterior to the facility, buffers from abutting uses, crafting/requiring a host community agreement, etc. As the Town advances the discussion regarding recreational marijuana and if/how to regulate this use, these items will be useful to consider.