

# AN ACT TO ENSURE SAFE ACCESS TO MARIJUANA

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**KP** | LAW



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# AN ACT TO ENSURE SAFE ACCESS TO MARIJUANA

- On November 8, 2016, Massachusetts voters approved (53% in favor) Question 4 legalizing the adult use of marijuana and marijuana establishments (Chapter 334 of the Acts of 2016).
- On July 28, 2017, Governor Baker signed the General Court's revised law on the subject, "An Act to Ensure Safe Access to Marijuana" (the "Act"), adopted as Chapter 55 of the Acts of 2017.



# PERSONAL USE OF NON-MEDICAL MARIJUANA

Personal use  
of marijuana  
not subject to  
municipal  
regulation:

- **Public possession of 1 ounce or less of marijuana**
  - 21 years or older
- **Home growth**
  - Up to 10 ounces of marijuana for personal use
  - Any marijuana produced on premises produced by not more than 6 marijuana plants
  - Up to 12 plants if multiple growers on the premises
- **Give away/Transfer to other consumers up to 1 ounce**
  - No remuneration
  - Not advertised to public
  - 21 or older
- **Possession and manufacturing of marijuana accessories**
  - Persons 21 years of age or older may also possess or manufacture marijuana accessories or sell such accessories to a person 21 years of age or older.

# PERSONAL USE OF NON-MEDICAL MARIJUANA

## Limitations on personal use of marijuana:



- **Visibility**
  - Cultivation and processing marijuana plants may not be visible from a public place.
- **Security**
  - Marijuana or marijuana products exceeding 1 ounce within the person's place of residence must be secured by a lock.
- **Public Consumption**
  - No person shall consume marijuana in a public place or smoke marijuana where smoking tobacco is prohibited.
  - The term "public place" is not defined in the Act; may include areas both privately and publicly owned to which the public have rights of access by invitation, either express or implied.
- **Open Container**
  - Open containers of marijuana or marijuana products are prohibited in the passenger area of any motor vehicle.

# TYPES OF LICENSED ADULT USE MARIJUANA

## Types of Adult-Use Marijuana Establishments as defined in G.L. c.94G, s.1

- Marijuana Establishment means:
  - "Marijuana cultivator"
  - "Marijuana retailer"
  - "Marijuana product manufacturer"
  - "Independent testing laboratory"
  - Any other type of licensed marijuana-related business
  - NOT a Medical Marijuana Treatment Center



# OTHER TYPES OF LICENSED ADULT USE MARIJUANA

## Additional types of Licensed Marijuana Establishments

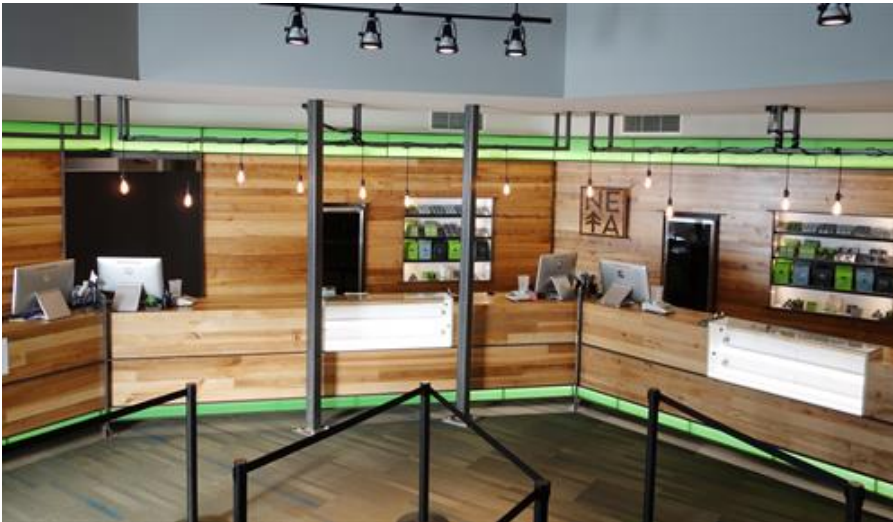
- Craft Marijuana Cultivator Cooperative
- Microbusiness
- Third party transporter
- Existing Licensee Transporter





# TYPES OF MARIJUANA ESTABLISHMENTS

## Examples of Current Medical Marijuana Retail Locations



# TYPES OF MARIJUANA ESTABLISHMENTS

## Existing Medical Marijuana Retail Location





# TYPES OF LICENSED MEDICAL USE MARIJUANA

## Medical Use Marijuana licensed by the Department of Public Health (105 CMR 725.00)

- Medical Marijuana Treatment Center (or RMD)
  - Each RMD is licensed (registered) to cultivate, process and retail its own marijuana under a single license
  - DPH will continue to regulate medical-use marijuana in the short-term under its existing regulatory scheme, 105 CMR 725
  - Transfer of oversight and regulation of medical-use marijuana to the Cannabis Control Commission will occur on or before December 31, 2018.



# THE CANNABIS CONTROL COMMISSION

- Five member Cannabis Control Commission (“CCC”) has been given comprehensive oversight for all adult use and medical use marijuana
- CCC is charged with implementing and enforcing statewide regulations addressing the following:
  - public health issues, including product labeling, advertising and potency
  - Industry issues, including cultivation, distribution, transportation and seed-to-sale tracking
  - Market participation for communities, including women, minorities, veterans and growing cooperatives
  - Licensing
  - Inspections
  - Enforcement



# CURRENT TIMELINE

August 1, 2017  
– Cannabis  
Advisory Board  
*(Already in  
place)*

- Appointment of a 25-member Cannabis Advisory Board, with members appointed by a variety of officials and organizations, charged with making recommendations on guidelines, rules and regulations for the recreational use of marijuana.

September 1,  
2017 – Cannabis  
Control  
Commission  
*(Already in  
place)*

- Appointment of a five-member CCC, by the Governor, Attorney General and Treasurer.

Steven J. Hoffman, Chairman  
Jennifer Flanagan  
Britte McBride  
Kay Doyle  
Shaleen Title

# CURRENT TIMELINE

March 15, 2018 – CCC Adoption of Regulations	<ul style="list-style-type: none"><li>• Adoption of regulations, guidelines and protocols by the CCC for the issuance of licenses for recreational marijuana establishments.</li><li>• <i>Final Regulations voted on March 6, 2018 – official publication March 23, 2018</i></li></ul>
April 1, 2018 – Acceptance of License Applications Begins	<ul style="list-style-type: none"><li>• Acceptance of applications by the CCC for recreational marijuana licenses not later than April 1.</li></ul>
June 1, 2018 – License Issuance	<ul style="list-style-type: none"><li>• The CCC may begin issuing licenses, prioritizing applications under statutory criteria. The CCC must approve or deny applications within 90 days.</li></ul>

# CURRENT CCC TIMELINE

<b>April 1, 2018</b>	<ul style="list-style-type: none"><li>• Begin certification application for “priority applicants,” which include Medical Marijuana Treatment Centers and “Economic Empowerment Applicants”</li></ul>
<b>April 15, 2018</b>	<ul style="list-style-type: none"><li>• Begin accepting license applications from certified “priority applicants.” All license types available.</li></ul>
<b>May 1, 2018</b>	Open applications for: <ul style="list-style-type: none"><li>• Cultivation</li><li>• Microbusiness</li><li>• Craft cooperatives</li><li>• Independent Testing Laboratories</li><li>• Laboratory Agents</li></ul>
<b>June 1, 2018</b>	Open applications for: <ul style="list-style-type: none"><li>• Retail</li><li>• Product manufacturers</li><li>• Transport</li></ul>

# LIMITATION OR PROHIBITION

Pursuant to G.L. c.94G, §3, a municipality may prohibit or limit recreational marijuana establishments by bylaw or ordinance with respect to the following:

prohibit the operation of **one or more types** of marijuana establishments

limit the number of marijuana retailers **to fewer than 20 percent** of the number of retail off-premises alcoholic beverage licenses issued under G.L. c.138 by the municipality

limit the number of any type of marijuana establishment to **fewer than the number of medical marijuana treatment centers** registered to engage in the same type of activity in the municipality.



# LIMITATION OR PROHIBITION - PROCESS

If a municipality voted against Question 4, a prohibition or limitation may be adopted simply by bylaw/ordinance through vote of the local legislative body

- This special provision will expire on December 31, 2019, after which the two-step process requiring both a ballot question and legislative approval of a bylaw will apply to all municipalities.

## ARTICLE 20. AMEND ZONING BYLAW, ARTICLE 7000, DEFINITIONS, AND SECTION 2230 (APPENDIX A), TABLE OF PRINCIPAL USE REGULATIONS

**To see if the Town will vote to amend the Town's Zoning Bylaw by adding the following new definitions to Article 7000 in alphabetical order:**

- **"Marijuana Cultivator"**, an entity licensed by the Commonwealth of Massachusetts to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.
- **"Marijuana Establishment"**, a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business as defined in General Laws chapter 94G section 1.
- **"Marijuana Product Manufacturer"**, an entity licensed by the Commonwealth of Massachusetts to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.
- **"Marijuana Products"**, products that have been manufactured and contain marijuana or an extract from marijuana, including, but not limited to concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures as defined by the Commonwealth of Massachusetts.
- **"Marijuana retailer"**, an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

**And by amending Section 2230 (Appendix A), Table of Principal Use Regulations, by inserting as a principal use under C. Commercial uses, the following use: 28. "Marijuana Establishment", and placing an "N" in the column for each district on the Table of Principal Use Regulations.**

# ZONING MORATORIA

## Zoning Moratoria

- A zoning moratorium, imposing a temporary limit on the ability of applicants to locate marijuana establishments within a municipality, may be a powerful tool available to municipalities to allow additional time to plan for regulation of marijuana uses.
- Sudbury has a moratorium in place until June 30, 2018.
- Once the moratorium expires, if no ban is in place, marijuana establishments may seek to locate under existing zoning use classifications

# ZONING BYLAWS/ORDINANCES

## Time , Place and Manner

- Municipalities may regulate the “time, place and manner” of marijuana establishment operations and impose reasonable safeguards.
- May include special permit or site plan review
- May include creation of overlay districts

## May not be “unreasonably impracticable.”

- *“the measures necessary to comply” may not subject licensees to “unreasonable risk or require such a high investment of risk, money, time or any other resource or asset that a reasonably prudent businessperson would not operate a marijuana establishment.” (G.L. c.94G, s.1)*

## Existing Use Classifications

- A proposed marijuana-related may be regulated under an existing use classifications.
- *Municipalities may not interpret prohibitory bylaws/ordinances as excluding marijuana establishments*

## Local licensing

- CCC regulations provide that a municipality may implement its own licensing process/fees provided it does not conflict with state law.

# ZONING BYLAWS/ORDINANCES

Ordinances and bylaws may also:

- restrict licensed cultivation, processing and manufacturing of marijuana that is a “public nuisance,”
- establish restrictions on public signs related to marijuana establishments, provided the standard is not more restrictive than those applied to retail establishments selling alcoholic beverages within a municipality
- establish a civil penalty for violation of an ordinance or bylaw
- Establish a buffer zone

Bylaws/Ordinances may not bar the transportation of marijuana or marijuana products

Standard practices for adoption of zoning ordinances or bylaws will apply (G.L. c.40A, sec.5)

# ON-SITE SOCIAL CONSUMPTION

## Petition for Question on State Ballot to Social Consumption

### Requirements:

Petition of not fewer than 10 percent of the number of the voters of the city or town voting at the state election preceding the filing of the petition (G.L. c.94G, s.3(b))

- The ballot question must be presented to the voters of the city or town at the next biennial state election to allow the consumption of marijuana and marijuana products on the premises where they are sold.
- Petition must conform to provisions of General Laws relating to initiative petitions at the municipal level
- Likely requirement will be for petition to be filed with the Secretary of the Commonwealth no later than the first Wednesday in August.
- This is the ONLY procedure whereby a municipality can allow social consumption



# QUESTIONS?



# CONTACT INFORMATION

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