



Town of Barnstable
Town Council & Board of Health
Joint Workshop on Marijuana

MUNICIPAL REGULATION OF
MARIJUANA FOR ADULT USE

March 22, 2018

TIMELINE FOR IMPLEMENTATION OF MARIJUANA FOR ADULT USE.

- **November 8, 2016**
Question 4 Passed Statewide;
Defeated in Barnstable by
vote of: 12,432 *Yes* and
13,463 *No*
- **April 27, 2017**
Barnstable Town Council
Adopts Temporary
Moratorium through
12/31/2018 on the
cultivation, manufacture,
sale and distribution of
recreational marijuana and
associated activities
- **July 28, 2017**
Governor signs Chapter 55
of the Acts of 2017

TIMELINE FOR IMPLEMENTATION OF MARIJUANA FOR ADULT USE

- August 1, 2017 Appointment of the Cannabis Advisory Board
- Sept. 1, 2017 Appointment of Cannabis Control Commission
- Dec. 22, 2017 Announcement of Draft Regulations
- Feb. 5- 15, 2018 Public Hearings
- Feb. 15, 2018 End of Public Comment

TIMELINE FOR IMPLEMENTATION OF MARIJUANA FOR ADULT USE

- **March 7, 2018** Final Regulations Approved
- **March 23, 2018** Anticipated date the final regulations will be published in the Massachusetts Register
- **April 1, 2018** Applications Scheduled to be Accepted

TYPES OF LICENSED MARIJUANA ESTABLISHMENTS

- MARIJUANA CULTIVATORS
 - Tiers of Cultivators
 - Craft Marijuana Cooperative
- MARIJUANA PRODUCT MANUFACTURER
- MARIJUANA RETAILER
- MARIJUANA TRANSPORTER
- MARIJUANA RESEARCH FACILITY
- LABORATORIES
- MICROBUSINESS
- SOCIAL CONSUMPTION AND DELIVERY-**DELAYED FOR FURTHER STUDY**

MUNICIPAL LEGISLATIVE OPTIONS

Complete Ban of Marijuana Establishments for Adult Use, pursuant to G.L. c. 94G §3:

- Because Barnstable voted against Question 4 on November 8, 2016, the Town Council can adopt a complete ban. Only available until December 31st, 2019.
- Attorney General's Office recommends local legislative action by both a zoning and general ordinance.

MUNICIPAL LEGISLATIVE OPTIONS

Limit Number of Marijuana Establishments Rather Than Institute Complete Ban

- Limit the number of marijuana retailers to fewer than 20 percent of the number of retail off-premises alcoholic beverage licenses issued by the municipality under G.L. c. 138. In Barnstable, 20 percent translates into five licenses.
- Prohibit one or more types of marijuana establishments.
- Limit the number of any type of marijuana establishment to fewer than the number of medical marijuana treatment centers registered in the municipality to engage in the same type of activity.

Options only available until December 31st, 2019.

LOCAL REGULATION

- In General: Pursuant to G.L. Ch.94G, §3 municipalities :
 - Can regulate the time, place and manner of marijuana establishment operations.
 - Can impose reasonable safeguards on such operations, provided that such ordinances do not render operations “unreasonably impracticable.”
 - Can restrict licensed cultivation, processing and manufacturing of marijuana that is a “public nuisance.”
 - Can establish restrictions on public signs related to marijuana establishments.

LOCAL REGULATION

- Can establish a civil penalty for violation of an ordinance.
- Standard practices for the adoption of zoning ordinances apply so can either be regulated in an existing zoning districts or through the creation of an overlay district as the Town did with the Medical Marijuana;
- Can establish local licensing procedures as long as long as those requirements do not conflict with either the statute, G.L. c. 94G *et seq.* or the regulations promulgated thereunder, 935 CMR 500.00 *et seq.*
- Can't bar the transportation of marijuana or marijuana products.

Examples of Types of Regulations that May be Contained in Ordinances

- *Buffer Zone:* Under state law, a marijuana establishment may not be located within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12. Municipalities may adopt an ordinance to reduce that distance requirement.
- *Signage:* A municipality may regulate, by ordinance, signage regarding marijuana-related uses, but the ordinance may not impose a standard more restrictive than those applied to retail establishments selling alcoholic beverages within the municipality.
- *Hours of Operation:* A municipality may reasonably limit hours of operation.
- *Security:* A municipality may require a security plan to be reviewed by public safety officials

AGRICULTURAL USE EXEMPTION

- **Marijuana Related uses Not “Agriculture”**

Chapter 351 of the Acts of 2016 included an amendment to the Zoning Act, G.L. c.40A, §3 which states that the “growing, cultivation, distribution or dispensation of marijuana” does not qualify for the agricultural exemption under the Zoning Act

- **This does not apply to cultivation of Industrial hemp**

The Act now expressly adds that municipalities are not precluded “from establishing zoning bylaws or ordinances which allow commercial marijuana growing and cultivation on land used for commercial agriculture, aquaculture, floriculture, or horticulture”

PERSONAL USE OF NON-MEDICAL 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 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

State Statutory Restrictions

- **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 or 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

STATE LICENSING IF TOWN ALLOWS MARIJUANA ESTABLISHMENTS

- The Cannabis Control Commission is required by law to engage in a licensing process for marijuana establishments. During the application process, applicants will be required to demonstrate that they have held a community outreach meeting within the past six months and that they have executed a Host Community agreement with the municipality. Once the application is complete, the municipality will be notified and given an opportunity to confirm and that their proposed location is compliant with local ordinances and regulations at the time the application was completed.