

# NON-MEDICAL ADULT USE MARIJUANA REGULATION

# 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 BY NOT MORE THAN 6 MARIJUANA PLANTS
  - UP TO 12 PLANTS IF MULTIPLE GROWERS LIVE AT THE RESIDENCE
- GIVE AWAY/TRANSFER TO OTHER CONSUMERS UP TO 1 OUNCE
  - NO REMUNERATION/EXCHANGE OF FUNDS
  - NOT ADVERTISED TO THE PUBLIC
  - 21 YEARS 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

# TYPES OF LICENSED NON-MEDICAL ADULT USE MARIJUANA

TYPES OF NON-MEDICAL ADULT-USE MARIJUANA ESTABLISHMENTS AS  
DEFINED IN G.L. c.94G, s.1

- **MARIJUANA ESTABLISHMENT MEANS:**
  - “MARIJUANA RETAILER”
  - “MARIJUANA PRODUCT MANUFACTURER”
  - “MARIJUANA CULTIVATOR”
  - “INDEPENDENT TESTING LABORATORY”
  - ANY OTHER TYPE OF LICENSED MARIJUANA RELATED BUSINESS
  - NOT** A MEDICAL MARIJUANA TREATMENT CENTER

# OTHER TYPES OF LICENSED NON-MEDICAL ADULT USE MARIJUANA

ADDITIONAL TYPES  
OF LICENSED  
MARIJUANA  
ESTABLISHMENTS

- CRAFT MARIJUANA CULTIVATOR COOPERATIVE
- MICRO BUSINESS
- THIRD PARTY TRANSPORTER
- EXITING LICENSEE TRANSPORTER

# TYPES OF MARIJUANA ESTABLISHMENTS

## MARIJUANA RETAILER

AN ENTITY AUTHORIZED TO:

- PURCHASE AND DELIVER MARIJUANA AND MARIJUANA PRODUCTS FROM MARIJUANA ESTABLISHMENTS.
- DELIVER, SELL AND TRANSFER TO MARIJUANA ESTABLISHMENTS **AND TO CONSUMERS.**
- MAY BE CO-LOCATED WITH A MEDICAL MARIJUANA TREATMENT CENTER.

# TYPES OF MARIJUANA ESTABLISHMENTS

## MARIJUANA PRODUCT MANUFACTURER

AN ENTITY AUTHORIZED TO:

- OBTAIN
- MANUFACTURE
- PROCESS; AND
- PACKAGE MARIJUANA AND MARIJUANA PRODUCTS

MARIJUANA PRODUCT MANUFACTURERS MAY ALSO DELIVER MARIJUANA AND MARIJUANA PRODUCTS TO OTHER MARIJUANA ESTABLISHMENTS, BUT NOT TO CONSUMERS.

# TYPES OF MARIJUANA ESTABLISHMENTS

## MARIJUANA CULTIVATOR

AN ENTITY LICENSED TO:

- CULTIVATE MARIJUANA,
- PROCESS AND PACKAGE MARIJUANA,
- TRANSFER MARIJUANA TO OTHER MARIJUANA ESTABLISHMENTS,  
**BUT NOT CONSUMERS.**

A CRAFT MARIJUANA COOPERATIVE IS A TYPE OF MARIJUANA CULTIVATOR.

# TYPES OF MARIJUANA ESTABLISHMENTS

## MARIJUANA CULTIVATOR

EACH LICENSEE (EXCEPT A CRAFT MARIJUANA COOPERATIVE) , MAY HAVE UP TO 3 CULTIVATION LICENSES; THE TOTAL CANOPY AUTHORIZED BY THE LICENSES ADDED TOGETHER MAY NOT EXCEED 100,000 SQUARE FEET.

TIER 1: UP TO 5,000 SQUARE FEET

TIER 2: 5,001 TO 10,000 SQ. FT.

TIER 3: 10,001 TO 20,000 SQ. FT.

TIER 4: 20,001 TO 30,000 SQ. FT.

TIER 5: 30,001 TO 40,000 SQ. FT.

TIER 6: 40,001 TO 50,000 SQ. FT.

TIER 7: 50,001 TO 60,000 SQ. FT.

TIER 8: 60,001 TO 70,000 SQ. FT.

TIER 9: 70,001 TO 80,000 SQ. FT.

TIER 10: 80,001 TO 90,000 SQ. FT.

TIER 11: 90,001 TO 100,000 SQ. FT.

- TO EXPAND PRODUCTION, LICENSEE MUST DEMONSTRATE IT HAS SOLD 85% OF ITS PRODUCT CONSISTENTLY OVER THE SIX MONTHS PRECEDING THE APPLICATION FOR EXPANDED PRODUCTION
- THE COMMISSION MAY REDUCE THE LICENSEE'S MAXIMUM CANOPY TO A LOWER TIER IF THE LICENSEE SOLD LESS THAN 70% OF WHAT IS PRODUCED.

# TYPES OF MARIJUANA ESTABLISHMENTS

## CRAFT MARIJUANA CULTIVATOR COOPERATIVE

- MUST BE MASSACHUSETTS RESIDENTS
- ORGANIZED AS A LIMITED LIABILITY COMPANY, LIMITED LIABILITY PARTNERSHIP, OR COOPERATIVE CORPORATION
- LICENSED TO CULTIVATE, OBTAIN, MANUFACTURE, PROCESS, PACKAGE AND BRAND MARIJUANA AND/OR MARIJUANA PRODUCTS
- MAY TRANSPORT TO MARIJUANA ESTABLISHMENTS, BUT NOT TO CONSUMERS.
- ONLY ONE CRAFT MARIJUANA CULTIVATOR COOPERATIVE LICENSE PER BUSINESS ENTITY
  - NOT LIMITED IN THE NUMBER OF CULTIVATION LOCATIONS IT MAY OPERATE
  - LIMITED TO CULTIVATION 100,000 SQUARE FEET OF CANOPY.
  - THE COOPERATIVE MAY ALSO CONDUCT ACTIVITIES AUTHORIZED FOR MARIJUANA PRODUCT MANUFACTURERS AT UP TO THREE LOCATIONS.

# TYPES OF MARIJUANA ESTABLISHMENTS

## MARIJUANA RESEARCH FACILITY

- AN ACADEMIC INSTITUTION, NON-PROFIT CORPORATION OR DOMESTIC CORPORATION OR ENTITY AUTHORIZED TO DO BUSINESS IN THE COMMONWEALTH OF MASSACHUSETTS.
- MAY CULTIVATE, PURCHASE OR OTHERWISE ACQUIRE MARIJUANA FOR THE PURPOSE OF CONDUCTING RESEARCH REGARDING MARIJUANA AND MARIJUANA PRODUCTS.
- A RESEARCH FACILITY MAY NOT SELL MARIJUANA CULTIVATED UNDER ITS RESEARCH LICENSE.

# TYPES OF MARIJUANA ESTABLISHMENTS

## INDEPENDENT TESTING LABORATORY

- ACCREDITED BY A THIRD-PARTY ACCREDITING BODY OR THAT IS OTHERWISE APPROVED BY THE CANNABIS CONTROL COMMISSION;
- INDEPENDENT FINANCIALLY FROM ANY MEDICAL MARIJUANA TREATMENT CENTER (RMD), MARIJUANA ESTABLISHMENT OR LICENSEE FOR WHICH IT CONDUCTS A TEST; AND
- QUALIFIED TO TEST CANNABIS OR MARIJUANA IN COMPLIANCE WITH 935 CMR 500.160 AND M.G.L. c.94C, s.34

## STANDARDS TESTING LABORATORY

- AN ENTITY THAT WOULD OTHERWISE QUALIFY TO BE AN INDEPENDENT TESTING LABORATORY BUT INSTEAD PERFORMS BLING TESTS TO VERIFY THE RESULTS OF AN INDEPENDENT TESTING LABORATORY AT THE REQUEST OF THE CANNABIS CONTROL COMMISSION.

# TYPES OF MARIJUANA ESTABLISHMENTS

## **MARIJUANA TRANSPORTER**

AN ENTITY MAY ONLY TRANSPORT MARIJUANA OR MARIJUANA PRODUCTS WHEN SUCH TRANSPORTATION IS NOT ALREADY AUTHORIZED UNDER A MARIJUANA ESTABLISHMENT LICENSE IF IT HAS A MARIJUANA TRANSPORTER LICENSE.

## **THIRD PARTY TRANSPORTER**

DOES NOT HOLD ANOTHER MARIJUANA ESTABLISHMENT LICENSE AND IS NOT REGISTERED AS A REGISTERED MARIJUANA DISPENSARY PURSUANT TO 105 CMR 725.000

## **EXISTING LICENSEE TRANSPORTER**

A MARIJUANA ESTABLISHMENT THAT CONTRACTS WITH OTHER MARIJUANA ESTABLISHMENTS TO TRANSPORT THEIR MARIJUANA AND MARIJUANA PRODUCTS TO OTHER ESTABLISHMENTS.

# MUNICIPAL ROLE IN LICENSING BY THE CANNABIS CONTROL COMMISSION

AS PART OF THE CCC LICENSE APPLICATION UNDER THE FINAL REGULATIONS APPLICANTS WILL BE REQUIRED TO:

Conduct a “Community Outreach Hearing”

Enter into a Host Community Agreement

Certify compliance with local zoning, including buffer zone requirements

# COMMUNITY IMPACT MEETING

**935 CMR 500.00 REQUIRES AN APPLICANT TO HOLD A COMMUNITY OUTREACH MEETING WITHIN SIX (6) MONTHS PRIOR TO SUBMISSION OF LICENSE APPLICATION TO THE CCC**

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MEETING MUST BE ADVERTISED AT LEAST SEVEN (7) CALENDAR DAYS PRIOR TO DATE OF HEARING

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## NOTICE

COPY OF MEETING NOTICE FILED WITH THE TOWN CLERK, PLANNING BOARD, CONTRACTING AUTHORITY FOR THE MUNICIPALITY, LOCAL LICENSING AUTHORITY FOR ADULT USE MARIJUANA (IF APPLICABLE)

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COPY OF MEETING NOTICE MUST BE SENT TO ABUTTERS

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## CONTENT OF HEARING

DISCUSSIONS OF TYPE(S) OF MARIJUANA ESTABLISHMENT TO BE LOCATED AT PROPOSED ADDRESS

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SECURITY INFORMATION

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STEPS TAKEN BY APPLICANT TO PREVENT DIVERSION TO MINOR

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PLAN FOR POSITIVE COMMUNITY IMPACT

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INFORMATION TO DEMONSTRATE LOCATION WILL NOT BE A NUISANCE

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REQUIREMENT FOR Q&A FROM COMMUNITY MEMBERS TO REPRESENTATIVES OF MARIJUANA ESTABLISHMENT

# HOST COMMUNITY AGREEMENTS

## HOST COMMUNITY AGREEMENT

THE ACT REQUIRES THAT BOTH NON-MEDICAL ADULT USE MARIJUANA ESTABLISHMENTS AND MEDICAL MARIJUANA TREATMENT CENTERS ENTER INTO A HCA WITH THE HOST COMMUNITIES AND ALLOWS FOR A “COMMUNITY IMPACT FEE”

- ❑ THE COMMUNITY IMPACT FEE MUST BE “REASONABLY RELATED TO THE COST IMPOSED UPON THE MUNICIPALITY BY THE OPERATION OF THE MARIJUANA ESTABLISHMENT OR MEDICAL MARIJUANA TREATMENT CENTER
- ❑ THE COMMUNITY IMPACT FEE SHALL NOT AMOUNT TO MORE THAN 3 PERCENT OF THE GROSS SALES OF THE MARIJUANA ESTABLISHMENT OR MEDICAL MARIJUANA TREATMENT CENTER OR BE EFFECTIVE FOR LONGER THAN 5 YEARS.”
- ❑ THE MUNICIPALITY IS REQUIRED TO DOCUMENT ITS COSTS
- ❑ APPLICANT MUST CERTIFY TO THE CCC THAT IT HAS ENTERED INTO A HCA AS PART OF THE APPLICATION PROCESS

# ZONING BYLAW COMPLIANCE

APPLICANTS MUST SUBMIT TO THE CCC DOCUMENTATION THAT A PROPOSED SITE IS COMPLIANT WITH THE BYLAWS IN EFFECT AT THE TIME OF APPLICATION.



ONCE AN APPLICATION FILED WITH CCC IS DEEMED COMPLETE, THE CCC WILL NOTIFY THE MUNICIPALITY



THE MUNICIPALITY HAS 60 DAYS FROM THE DATE OF CORRESPONDENCE FROM CCC TO NOTIFY THE CCC THAT THE APPLICANT IS NOT IN COMPLIANCE WITH LOCAL BYLAWS



IF NO COMMUNICATION IS SENT FROM THE MUNICIPALITY, THE APPLICANT WILL BE DEEMED IN COMPLIANCE

# ZONING BYLAW

## 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 APPROVAL
- MAY INCLUDE CREATION OR 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 BUSINESS MAY BE REGULATED UNDER AN EXISTING USE CLASSIFICATION.
- MUNICIPALITIES MAY NOT INTERPRET PROHIBITORY BYLAWS 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.

# 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, S.3 WHICH STATES THAT THE “GROWING, CULTIVATION, DISTRIBUTION OR DISPENSATION OF MARIJUANA” DOES NOT QUALIFY FOR THE AGRICULTURAL EXEMPTION UNDER THE ZONING ACT.
- ❑ 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.”

# ZONING BYLAW

## 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 APPLIES TO RETAIL ESTABLISHMENTS SELLING ALCOHOLIC BEVERAGES WITHIN A MUNICIPALITY
- ESTABLISH A CIVIL PENALTY FOR VIOLATION OF A BYLAW
- ESTABLISH A BUFFER ZONE

## BYLAWS MAY NOT BAR THE TRANSPORTATION OF MARIJUANA OR MARIJUANA PRODUCTS.

STANDARD PRACTICES FOR ADOPTION OF ZONING BYLAWS WILL APPLY (G.L. C.40A, S.5)

# ZONING BYLAW

## BUFFER ZONE REQUIREMENTS

UNDER THE ACT, 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 (MEASURED FROM LOT LINES OF THE IMPACTED PROPERTIES).

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MUNICIPALITIES MAY ADOPT A BYLAW THAT REDUCES OR INCREASES THE AFOREMENTIONED DISTANCE REQUIREMENT.

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NOTE: THIS BUFFER IS LESS RESTRICTIVE THAN THE DEFAULT BUFFER ZONE IMPOSED BY THE DEPARTMENT OF PUBLIC HEALTH ON MEDICAL MARIJUANA TREATMENT CENTERS:

“ABSENT LOCAL SITING REQUIREMENTS, MMTCS SHALL NOT BE SITED WITHIN A RADIUS OF FIVE HUNDRED FEET OF A SCHOOL, DAYCARE CENTER, OR ANY FACILITY ON WHICH CHILDREN COMMONLY CONGREGATE.”

105 CMR 725.110(A)(14)

# LIMITATION OR PROHIBITION

PURSUANT TO G.L. C.94G, S.3, A MUNICIPALITY MAY PROHIBIT OR LIMIT RECREATIONAL MARIJUANA ESTABLISHMENTS BY BYLAW 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-PREMISE ALCOHOL 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 IN FAVOR** OF QUESTION 4 ON NOVEMBER 8,2016 [I.E., A MAJORITY OF VOTERS CASTING BALLOTS VOTED “YES” ON THE QUESTION], **THEN TWO VOTES MUST BE TAKEN** BEFORE PROHIBITING OR LIMITING BYLAW CAN BE EFFECTIVE:

1. IT MUST BE APPROVED BY THE VOTERS BY BALLOT AT AN ANNUAL OR SPECIAL ELECTION, **AND**
2. THE BYLAW MUST BE APPROVED BY THE LOCAL LEGISLATIVE BODY (TOWN MEETING)

# BALLOT PROCEDURES FOR LIMITATION/PROHIBITION

CHAPTER 94G, §3 PROVIDES  
THE GENERAL FORM FOR A  
BALLOT QUESTION.

- ❑ THE QUESTION MUST INCLUDE THE ENTIRE PROPOSED BYLAW.
- ❑ BALLOT MUST INCLUDE A BRIEF SUMMARY PREPARED BY TOWN COUNSEL MAKING CLEAR THE NUMBER AND TYPES OF MARIJUANA ESTABLISHMENTS THAT WILL BE PERMITTED TO OPERATE.

PER G.L. C.54, S.42C, A CITY OR TOWN MUST RECEIVE NOTICE OF THE BALLOT QUESTION, WITH THE FULL LEGISLATIVE TEXT AND COUNSEL SUMMARY, NO LESS THAN 35 DAYS PRIOR TO THE DATE OF THE ELECTION

THE BYLAW APPROVED BY BALLOT MUST BE THE SAME AS THAT APPROVED BY THE LOCAL LEGISLATIVE BODY. (ATTORNEY GENERAL DECISION MILFORD 01.09.18)