

*Town of Weymouth
Massachusetts*

Robert L. Hedlund
Mayor

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MEMORANDUM

18 002

TO: TOWN COUNCIL
CC: TED LANGILL, CHIEF OF STAFF
JOSEPH CALLANAN, TOWN SOLICITOR
FROM: ROBERT L. HEDLUND, MAYOR
RE: MEASURE PROHIBITING COMMERCIAL MARIJUANA
DATE: JANUARY 11, 2018

RECEIVED
TOWN OF WEYMOUTH
TOWN CLERKS OFFICE
2018 JAN 11 AM 10:36

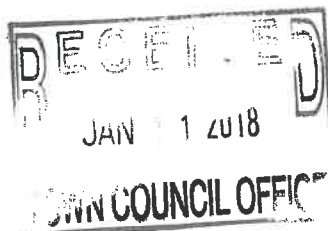
To see if the Town will amend the Town of Weymouth Ordinances in the following manner:

SECTION 1. Section 9-700 of chapter 9 of the Town of Weymouth Ordinances is hereby amended by striking out in the title the word "Medical".

SECTION 2. Chapter 9 of the Town of Weymouth Ordinances is hereby amended by inserting after section 9-701 the following new section:

9-702 Regulation of commercial marijuana

Consistent with General Laws chapter 94G sec. 3(a)(2)(i), all types of non-medical "marijuana establishments" as defined in General Laws chapter 94G, section 1, including all marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers or any other type of licensed marijuana-related businesses, shall be prohibited. Non-medical marijuana establishments are facilities regulated by chapter 94G, but not regulated by chapter 94I.



Referral Dte. _____ PH Dte. _____
Comm. Referral _____ TC Vote _____
Comm. Vote _____ TC Vote Dte. _____
Comm. Vote Dte. _____

SECTION 3. Chapter 120 of the Town of Weymouth Ordinances is hereby amended by inserting after section 120-106.3 the following new section:

120-106.4 Regulation of commercial marijuana

Consistent with General Laws chapter 94G, § 3(a)(2)(i), all types of non-medical “marijuana establishments” as defined in General Laws chapter 94G, section 1, including marijuana cultivators, independent testing laboratories, marijuana product manufacturers, marijuana retailers or any other types of licensed marijuana related businesses, shall be prohibited in all zoning districts. Non-medical marijuana establishments are facilities regulated by chapter 94G, but not regulated by chapter 94I.

SECTION 4. This ordinance shall take effect on the date of passage.

*Legal Notice and Public Hearing Required

*Town of Weymouth
Massachusetts*

Joseph Callanan
Town Solicitor

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jcallanan@weymouth.ma.us
(781) 682-3503



Robert L. Hedlund
Mayor

Town of Weymouth
75 Middle Street
Weymouth, Massachusetts 02189

MEMORANDUM

TO: MAYOR ROBERT L. HEDLUND
CC: TOWN COUNCIL
FROM: JOSEPH CALLANAN, TOWN SOLICITOR
**SUBJECT: MEMORANDUM IN SUPPORT OF MEASURE PROHIBITING
COMMERCIAL MARIJUANA**
DATE: JANUARY 12, 2018

This measure proposes banning commercial marijuana in the Town of Weymouth. The measure pertains only to commercial marijuana activity, not personal recreational marijuana use nor medically prescribed marijuana use.

History of Legalizing Recreational Marijuana Use

On November 8, 2016, the people approved Question 4 on the statewide election ballot, the Regulation and Taxation of Marijuana Act. A "Yes" vote supported legalizing marijuana. The Town narrowly rejected Question 4 by a 50.26% (NO)/ 49.74% (YES) vote, a margin of merely 151 votes.

Question 4 took effect statewide, as to personal marijuana use, on December 15, 2016. Under the new law, individuals at least 21 years old may use, grow, and possess marijuana. Individuals may now possess under ten ounces of marijuana inside their homes and under one ounce in public. The new law also allows people to grow up to six marijuana plants in their homes. The proposed measure, even if passed, would not change these portions of the law.

History of Legalizing Medical Marijuana Use

The regulation of medical marijuana similarly arose from an initiative petition, but four years earlier. On November 6, 2012, the people approved Question 3 on the statewide election ballot, the Act for the Humanitarian Medical Use of Marijuana. A "Yes" vote supported legalizing the

medical use of marijuana for qualifying individuals. The Town approved Question 3 by a 59.17% (YES)/ 40.82% (NO) vote, a margin of nearly 5,000 votes.

This law regulates the cultivation, distribution, possession, and use of marijuana for medical purposes. The Massachusetts Department of Public Health (DPH) issued regulations, 105 CMR 725.000, to carry out the medical marijuana law.

The Town initially passed in March 2013 a moratorium on the opening and operation of medical marijuana dispensaries. *Ordinances*, § 120-130, *et seq.* The Town later in July 2014 passed an ordinance regulating how registered medical marijuana dispensaries (RMD) may operate in Town. *Ordinances*, § 9-701.

The ordinance allows the Town to grant only one RMD license located in one of the three RMD zoned locations. The permitted locations must be within a Limited Industrial District I-1 zone and more than 500 feet from a school, day care facility, library, park, playground, or other facility where children commonly congregate.

To date, no registered medical marijuana dispensaries operate in the Town and no Mayor has issued a letter of support or no opposition, a key initial step in operating a registered medical marijuana dispensary. This measure makes no changes to the Town's ordinances related to medical marijuana dispensaries.

Legalizing Commercial Marijuana Sales

Question 4 initially delayed implementation of the legal sale of commercial marijuana, which the Legislature further delayed until July 1, 2018, at the earliest.

The initiative created a regulatory structure, including the Cannabis Control Commission, intended to oversee at the state-level marijuana legalization and licensure of firms that seek to commercially grow, manufacture, test, and sell marijuana products. This commission will play a similar role to the state's Department of Public Health's regulation of medical marijuana or the Alcoholic Beverage Control Commission's regulation of alcohol.

Timeline for Future Commercial Marijuana Sales

Question 4 and later legislative amendments, such as chapter 55 of the Acts of 2017, established the following timeline to enact the law:

- **December 15, 2016:** Portions of Question 4, the Regulation and Taxation of Marijuana Act, initially took effect.
- **July 28, 2017:** The State Treasurer made appointments for the Cannabis Control Commission.
- **August 4, 2017:** The Governor made appointments for the Cannabis Advisory Board.
- **December 21, 2017:** The Cannabis Control Commission issued 107 pages of draft regulations, 935 CMR 500.000, regulating the adult use of marijuana.

- **March 15, 2018 (now):** The commission will adopt final regulations and procedures for enforcing laws about licensing and regulating marijuana establishments.
- **April 1, 2018 (now):** The commission will begin accepting applications for marijuana testing facility licenses and for experienced marijuana establishment operator licenses. Marijuana establishment operators would apply for one marijuana cultivator license, one marijuana product manufacturer license, and one marijuana retailer license.
- **July 1, 2018 (now):** Marijuana establishments may sell recreational marijuana. If fewer than 75 registrations for operating medical marijuana treatment centers are issued on April 1, 2018, the commission will accept applications from all applicants for marijuana retailer, marijuana product manufacturer, and marijuana cultivator licenses. No more than 75 licenses will be issued for each license type. If any applicants are not issued a license even though they meet the requirements, the commission would first issue licenses to qualified applicants who sent in registration applications for operating medical marijuana treatment centers to the Department of Public Health by October 1, 2015. Then the commission would issue licenses by lottery.
- **October 1, 2018:** The deadline for the commission to accept applications from all applicants for marijuana retailer licenses or for marijuana product manufacturer licenses.
- **October 1, 2019:** The commission will begin accepting applications from all applicants for marijuana cultivator licenses.

Connection Between Regulation of Commercial Marijuana and Medical Marijuana

The regulation of medical marijuana and commercial marijuana is separate and independent. Very little interaction or overlap exists.

The Town never licensed a RMD to operate. An operator would need a letter of support or non-opposition from the Mayor, and Mayor Hedlund has yet to issue any such letters.

Local Control of Commercial Marijuana

Question 4 allows municipalities to regulate the sale of marijuana on certain premises and adopt several types of ordinances. For example, municipalities may enact ordinances in the following way:

- Ban some or all categories of marijuana establishments;
- Govern the time, place, and manner of a marijuana establishment;
- Limit the number of marijuana establishments in a city or town;
- Restrict the licensed cultivation, processing, and manufacturing of marijuana that could be considered a “public nuisance”;
- Create standards for public signs related to marijuana establishments; and
- Describe consequences for violating marijuana related ordinances.

This measure seeks to ban all categories of commercial marijuana establishments.

If the Town were to take no action, commercial marijuana establishments, once registered and approved by the state, may open in Weymouth as early as July 2018.

Proposed Measure Prohibiting Commercial Marijuana Sales

The least appealing possibility of taking no action would surrender control over commercial marijuana sales to a state board that has written only draft regulations. This choice seems irresponsible.

This measure would ban commercial marijuana establishments. The measure would leave unchanged existing ordinances related to medical marijuana. The measure would continue to allow personal, recreational use of marijuana in a resident's home.

Under the revised law, General Laws, chapter 94G, § 3(a)(2), the Mayor and the Town Council may choose to allow and regulate commercial marijuana establishments by licensing and zoning. For any municipality that voted *against* Question 4 in the 2016 election, which Weymouth did, the law no longer requires a ballot question.

An ordinance in these communities adopted by the legislative body may regulate commercial marijuana establishments. This provision of the law will expire on December 31, 2019, after which the more common two-step process requiring a ballot question and legislative approval will apply to all municipalities.

Recreational Marijuana Use Allowed by the Proposed Measure

The measure would not end all provisions of Question 4 that permit recreational use of marijuana. The measure would only ban the sale of marijuana in Town.

The following personal use of recreational marijuana will remain permitted, even if the measure were adopted:

- Persons 21 years of age or older may possess two ounces or less of marijuana. G.L. c. 94C, § 32L;
- Within a person's "primary residence," a person may possess up to 10 ounces of marijuana and any marijuana produced on the premises for personal use by not more than six marijuana plants. If there is more than one grower at the residence, there may be up to 12 plants cultivated on the premises;
- A person may give away or transfer without "remuneration" to a person age 21 years or older up to one ounce of marijuana, of which no more than five grams may be in the form of marijuana concentrate, provided that such transfer is not advertised or promoted to the "public.";

- A person 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.

The following limitations imposed by the Act on personal use of recreational marijuana remain including the following:

- The cultivation and processing of personal marijuana plants may not be visible from a public place;
- Owners of marijuana or marijuana products exceeding one ounce within the person's place of residence must secure the marijuana product with a lock;
- No person may consume marijuana in a public place or smoke marijuana where smoking tobacco is prohibited; and
- No person may allow open containers of marijuana or marijuana products in the passenger area of any motor vehicle.

Therefore, I would recommend the proposed measure banning all categories of commercial marijuana establishments.

A "Yes" vote on the proposed measure would **prohibit** all commercial business related to marijuana, including marijuana cultivation, marijuana testing facilities, marijuana product manufacturing, marijuana retailers, or any other type of license marijuana related businesses.

A "No" vote on the proposed measure would **allow** commercial marijuana establishments. A successful "No" vote would then require passage of additional licensing and zoning ordinances for commercial marijuana sales prior to July 2018 to exercise any local control.