

70-17-5



# City of Methuen, Massachusetts

OFFICE OF THE CITY COUNCIL

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Order #920

## ZONING BYLAW AMENDMENT/RECREATIONAL MARIJUANA MORATORIUM

The City votes to amend the City's Zoning Bylaws by adding a new section XI-D (22), **TEMPORARY MORATORIUM ON RECREATIONAL MARIJUANA ESTABLISHMENTS**, which would provide as follows; and further to amend the Table of Contents to add Section XI-D (22), "**Temporary Moratorium on Recreational Marijuana Establishments.**"

### Section XI-D (22) (1) PURPOSE

By vote at the State election on November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, processing, distribution, possession and use of marijuana for recreational purposes (G.L. c. 94G, "Regulation of the Use and Distribution of Marijuana Not Medically Prescribed"). Effective December 15, 2016, the law allowed certain personal use and possession of marijuana, and further requires the Cannabis Control Commission to issue regulations regarding the licensing of commercial marijuana activities on or before March 15, 2018, and subsequently, to accept license applications for commercial operations beginning on April 1, 2018. Non-medical Marijuana Establishments as defined by G.L. c. 94 are not otherwise contemplated or addressed under the present Zoning Bylaw. The regulations to be promulgated by the Cannabis Control Commission may provide important guidance on aspects of local regulation of Recreational Marijuana Establishments, as well as details on how the City may further restrict commercial sales of recreational marijuana by local ballot questions. Moreover, the regulation of recreational marijuana raises novel legal, planning and public safety issues, potentially necessitating time to study and consider study and consider the regulation of Recreational Marijuana Establishments and address such issues, as well as to address the potential impact of the aforementioned State regulations on local zoning; and to undertake a planning process to consider amending the Zoning Bylaw regarding regulation of Recreational Marijuana Establishments. The City intends to adopt a temporary moratorium on the use of land and structures in the City for Recreational Marijuana Establishments so as to allow the City sufficient time to engage in a planning process to address the effects of such structures and uses in the City and to adopt provisions of the Zoning Bylaw in a manner consistent with sound land use planning goals and objectives.

### Section XI-D (22) (2) DEFINITIONS

"**Recreational Marijuana Establishment**" shall mean a non-medical "marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business."

"**Marijuana**" or "**Marihuana**", all parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including

tetrahydrocannabinol as defined in section 1 of chapter 94C of the General Laws; provided that "Marijuana" shall not include: (1) The mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; (2) Hemp; or (3) The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

"**Marijuana Accessories**", equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body.

"**Marijuana Products**", products that have been manufactured and contain marijuana or an extract from marijuana, including 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.

"**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.

#### **Section XI-D (22)(3) TEMPORARY MORATORIUM**

For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the City hereby adopts a temporary moratorium on the use of land or structures for Marijuana Retail Sale (which includes dispensing, processing, and cultivation activities, and other related activities to the sale, storage and distribution of marijuana for non-medical use and the operation of a marijuana establishment for non-medical use). The moratorium shall be in effect through November 1, 2018 or 6 months after the effective date of the Cannabis Control Commission regulations, whichever is greater. During the moratorium period, the City shall undertake a planning process to address the potential impacts of recreational marijuana in the City, consider the regulations of the Cannabis Control Commission regarding recreational Marijuana and related uses, and shall consider adopting new Zoning Bylaws to address the impact and operation of Marijuana Retail Sale (which includes dispensing, processing, and cultivation activities, and other related activities to the sale, storage and distribution of marijuana for non-medical use and the operation of a marijuana establishment for non- medical use).

#### **Section XI-D (22) (4) SEVERABILITY**

The provisions of this by-law are severable. If any provision, paragraph, sentence, or clause of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw." Or take any action related thereto.

Order #920

First Read: July 10, 2017  
Adopted: September 5, 2017  
Effective: October 5, 2017

I do hereby certify that at a meeting of which a quorum was present, the foregoing ordinance was adopted by the Methuen City Council by a unanimous vote on September 5, 2017.

  
Council Clerk

  
Jamie Atkinson, Council Chair

Approved under MHRC Sec. 3-6

Date: 9-19-17

Approved:

  
Stephen N. Zanni, Mayor

TD-17-5



**City of Methuen, Massachusetts**  
Department of Economic & Community Development  
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Methuen, Massachusetts 01844  
Telephone (978) 983-8560 Fax (978) 983-8976

Stephen N. Zanni  
Mayor

William J. Buckley  
Director

**Memorandum**

To: James Atkinson, Chairman, City Council

From: Joseph Leone, Chairman, Community Development Board

Date: August 10, 2017

Re: Proposed Zoning Ordinance Amendment: Section XI-D (22) Temporary Moratorium on Recreational Marijuana Establishments

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At their regularly scheduled meeting held on August 9, 2017 the Community Development Board **voted unanimously to recommend favorable action** to add Section XI-D (22) Temporary Moratorium on Recreational Marijuana Establishments of the Comprehensive Zoning Ordinance of the City of Methuen with the minor proposed language changes attached to this recommendation.

If you have any questions or need additional information please do not hesitate to contact me.

**received**  
8/17/17



## **COMPREHENSIVE ZONING ORDINANCE AMENDMENT- TEMPORARY MORATORIUM ON RECREATIONAL MARIJUANA ESTABLISHMENTS**

The City votes to amend the City's Comprehensive Zoning Ordinance by adding a new Section XI-D (22), **TEMPORARY MORATORIUM ON RECREATIONAL MARIJUANA ESTABLISHMENTS**, that would provide as follows, and further to amend the Table of Contents to add Section XI-D (22), **"Temporary Moratorium on Recreational Marijuana Establishments."**

### **Section XI-D (22) (1) PURPOSE**

By vote at the State election on November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, processing, distribution, possession and use of marijuana for recreational purposes (G.L. c. 94G, "Regulation of the Use and Distribution of Marijuana Not Medically Prescribed"). Effective December 15, 2016, the law allowed certain personal use and possession of marijuana, and further requires the Cannabis Control Commission to issue regulations regarding the licensing of commercial marijuana activities on or before March 15, 2018, and subsequently, to accept license applications for commercial operations beginning on April 1, 2018.

A "Recreational Marijuana Establishment", as defined in G.L. c. 94G, sec. 1, is not otherwise contemplated or addressed under the present Comprehensive Zoning Ordinance. The regulations to be promulgated by the Cannabis Control Commission may provide important guidance on aspects of local regulation of Recreational Marijuana Establishments, as well as details on how the City may further restrict commercial sales of recreational marijuana by local ballot questions. Moreover, the regulation of recreational marijuana raises novel legal, planning and public safety issues, necessitating time to study and consider the regulation of Recreational Marijuana Establishments and address such issues, as well as to address the potential impact of the aforementioned State regulations on local zoning; and to undertake a planning process to consider amending the Comprehensive Zoning Ordinance regarding regulation of Recreational Marijuana Establishments.

The City intends to adopt a temporary moratorium on the use of land and structures in the City for Recreational Marijuana Establishments so as to allow the City sufficient time to engage in a planning process to address the effects of such structures and uses in the City and to adopt provisions of the Comprehensive Zoning Ordinance in a manner consistent with sound land use planning goals and objectives.

### **Section XI-D (22) (2) DEFINITIONS**

**"Manufacture"**, to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

**"Marijuana"** or **"Marihuana"**, all parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C of the General Laws; provided that "Marijuana" shall not include: (1) The mature stalks of the plant, fiber produced

from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; (2) Hemp; or (3) The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

**"Marijuana Accessories"**, equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body.

**"Marijuana Cultivator"**, an entity licensed 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 Product Manufacturer"**, an entity licensed 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 establishment, but not to consumers.

**"Marijuana Products"**, products that have been manufactured and contain marijuana or an extract from marijuana, including 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.

**"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.

**"Marijuana Testing Facility"**, an entity licensed to test marijuana and marijuana products, including certification for potency and the presence of contaminants.

**"Process" or Processing"**, to harvest, dry, cure, trim and separate parts of the marijuana plant by manual or mechanical means, except it shall not include manufacture as defined above.

**"Recreational Marijuana Establishment"** shall mean a non-medical Marijuana Cultivator, Marijuana Testing Facility, Marijuana Product Manufacturer, Marijuana Retailer or any other type of licensed marijuana-related business."

### **Section XI-D (22)(3) TEMPORARY MORATORIUM**

For the reasons set forth above and notwithstanding any other provision of the Comprehensive Zoning Ordinance to the contrary, the City hereby adopts a temporary moratorium on both (a) the use of land or structures for Recreational Marijuana Establishments and any other uses related to recreational marijuana and (b) the submission of any applications

for any permits related thereto. The moratorium shall be in effect through November 1, 2018 or 6 months after the effective date of the Cannabis Control Commission regulations, whichever is greater. During the moratorium period, the City shall undertake a planning process to address the potential impacts of recreational marijuana in the City, consider the regulations of the Cannabis Control Commission regarding Recreational Marijuana Establishments and other related uses, and shall consider adopting new Zoning Ordinances in response to these new issues.

**Section XI-D (22) (4) SEVERABILITY**

The provisions of this ordinance are severable. If any provision, paragraph, sentence, or clause of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.”

Or take any action related thereto.