

Understanding and implementing the Adult Use of Marijuana Law in Central Mass and beyond

Kay Doyle, Cannabis Control Commissioner

Katherine Laughman, Esq., KP Law

Joseph Laydon, Grafton Town Planner

Jeffrey Bagg, Central MA Regional Planning Commission

Worcester State University

February 2, 2018

Primary goals of session

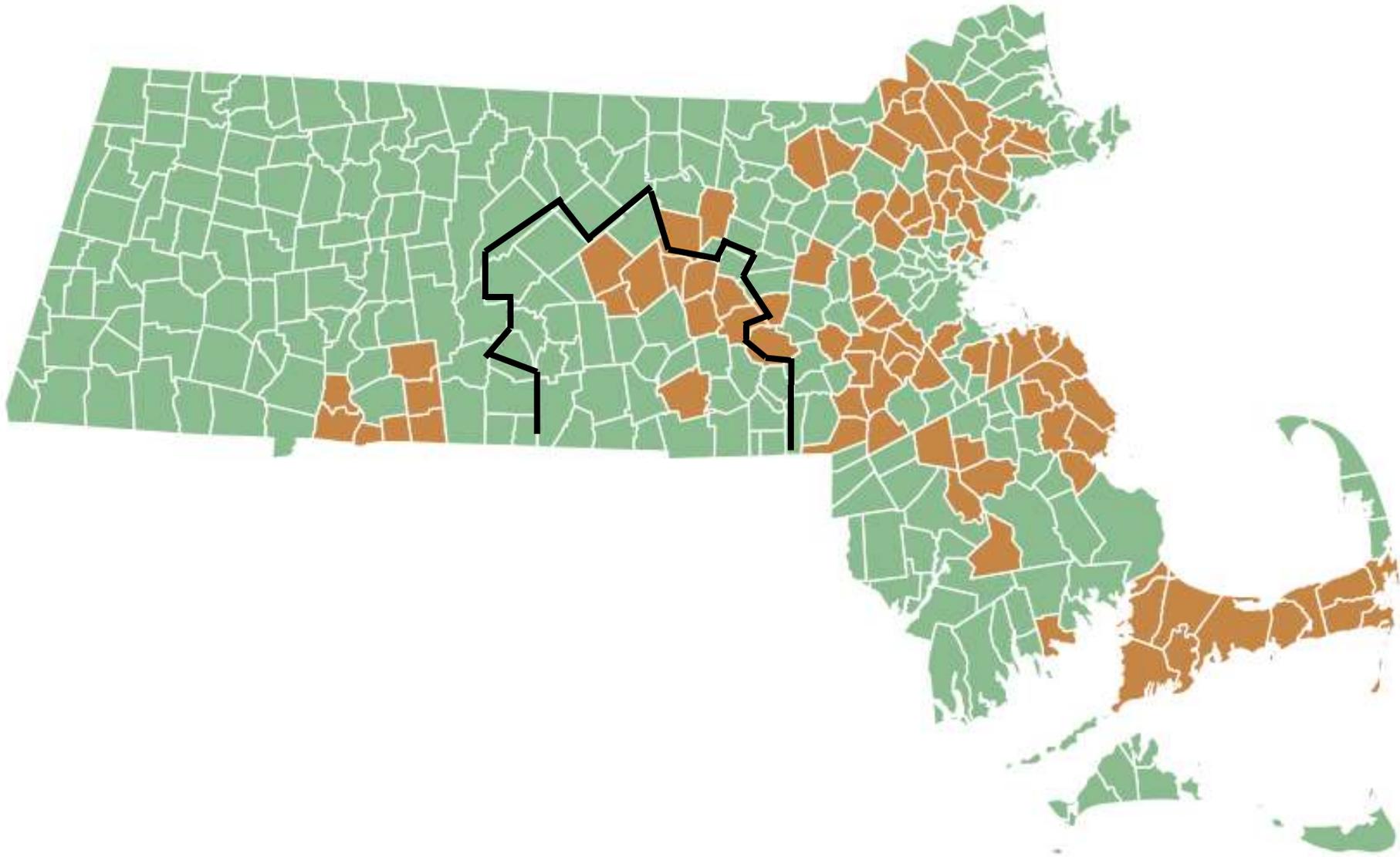
Provide municipal officials with comprehensive overview of law, evolution of regulations, and municipal next steps

Educate municipal officials and provide technical assistance to allow them to conduct their own public outreach

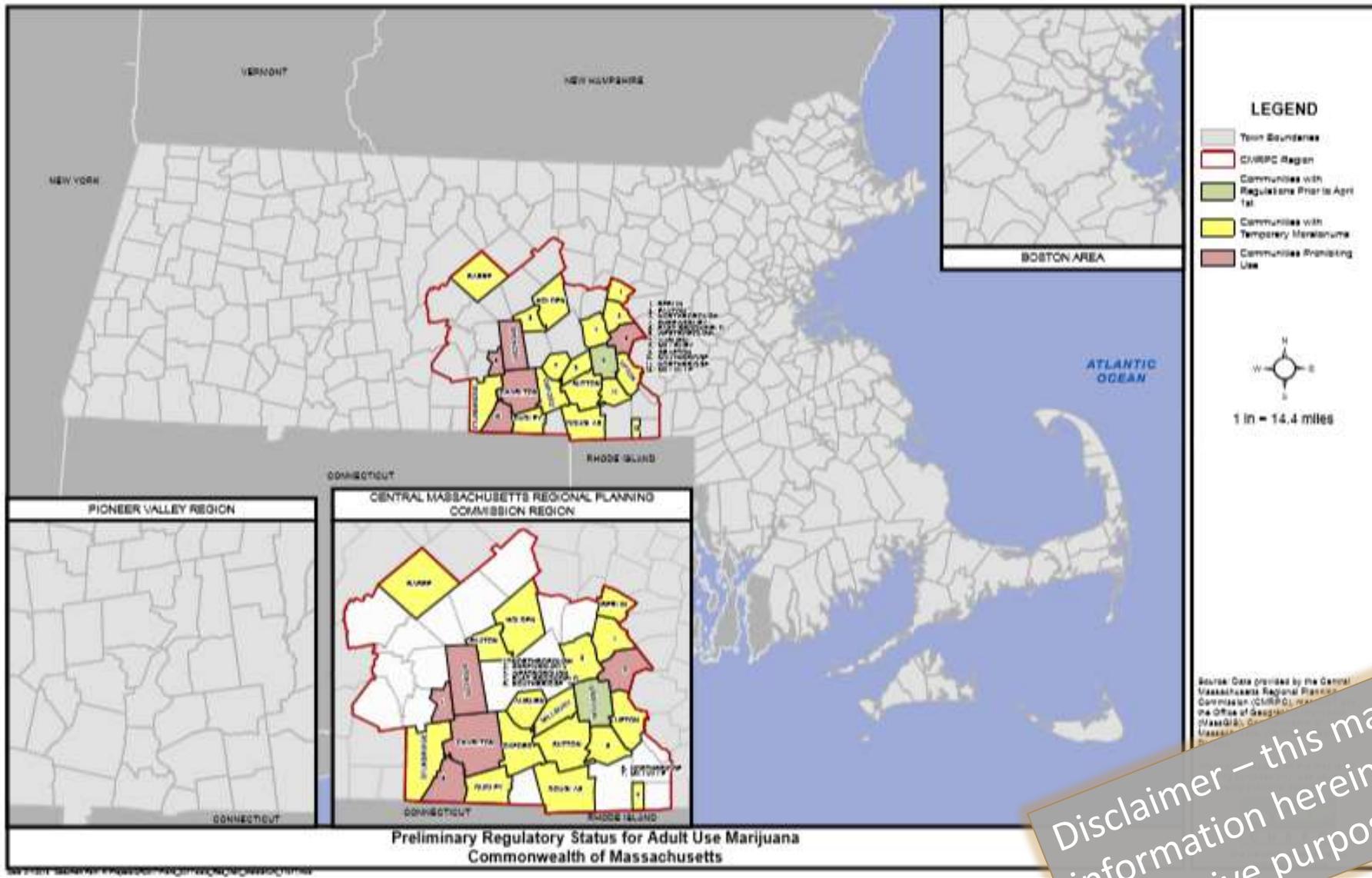
Assess and highlight fundamental questions facing municipalities; prepare municipal officials for final opportunity for input on draft regulations

Begin to explore and identify key next steps

Worcester State University
February 2, 2018



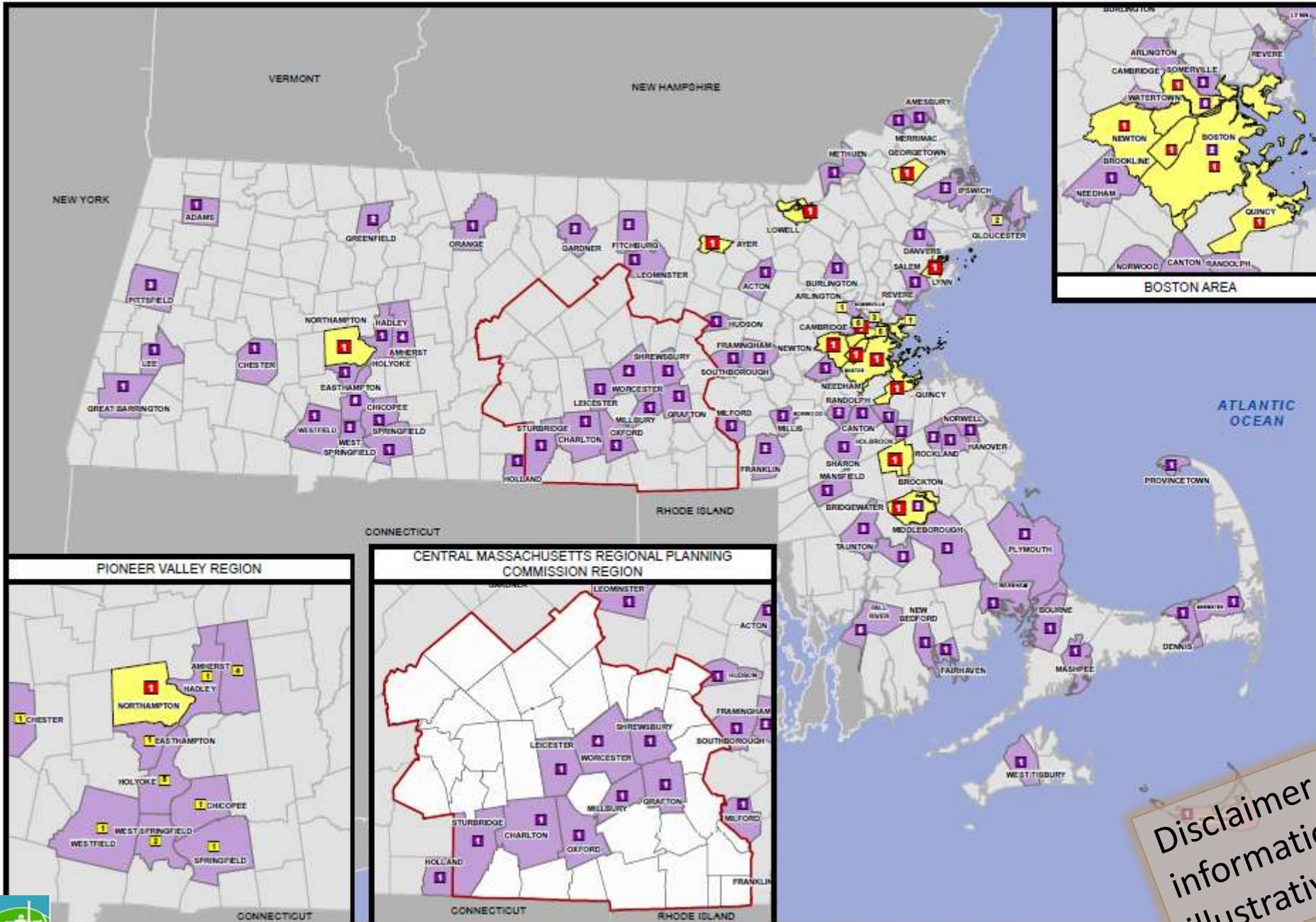
Question 4 results



Disclaimer – this map and the information herein is for illustrative purposes only

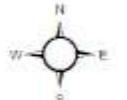
Preliminary Regulatory Status in Central Mass

	Registered Marijuana Dispensary (RMD) (in alphabetical order)	Submitted Application of Intent	Add'l Info Requested for Application of Intent	Invited to Submit MOP*	Submitted MOP*	Add'l Info Requested for MOP*	Invited to Submit Siting Profile	Submitted Siting Profile	Add'l Info Requested for Siting Profile	Proposed Dispensary Location (2015 Applicants submit proposed retail locations at Siting Profile phase)	PCR* Issued	FCR* Issued	Approved to Sell
APPLICATIONS RECEIVED BETWEEN 6/29/2015 AND 9/22/2017													
127	MA Compassionate Patient Care Corp.	9/30/15	10/23/15	11/19/15	Application Expired								
128	Massachusetts Medical Care Solutions, Inc.	3/10/17		4/5/17	5/22/17	6/2/17							
129	Massachusetts Patient Foundation, Inc.	6/29/15		8/13/15	8/17/15	10/16/15	12/14/15	6/1/16	6/29/16, 8/11/16, 9/22/16	Arlington	10/10/16		
130	Massachusetts Patient Foundation, Inc.	6/29/15		8/13/15	8/17/15	10/16/15	12/14/15	11/2/16	11/10/16, 12/1/16	Holyoke	12/9/16		
131	Massachusetts Patient Foundation, Inc.	6/29/15		8/13/15	8/17/15	10/16/15	12/14/15	11/21/16	12/1/16	Holyoke	12/9/16		
132	Massachusetts Safe Access, Inc.	9/22/17											
133	MassMedicum, Corp.	6/29/15		8/13/15	9/30/15	12/3/15	5/17/16	10/27/16	11/9/16, 12/9/16, 12/14/16, 12/15/16	Amherst	12/15/16		
134	MassMedicum, Corp.	6/29/15		8/13/15	9/30/15	12/3/15	5/17/16	11/22/16	11/9/16, 12/9/16, 12/14/16, 12/15/16	Holbrook	12/15/16		
135	Mayflower Botanicals, Inc.	8/14/15		9/4/15	10/22/15	12/17/15	3/28/16	7/7/16	7/15/16, 2/22/17, 3/20/17	Holland	3/24/17		
136	Mayflower Medicinals, Inc.	5/26/17		7/7/17	8/24/17	9/15/17							
137	Mayflower Medicinals, Inc.	6/29/15		8/13/15	9/15/15	11/10/15	2/9/16	6/14/16	6/29/16, 7/26/16	Boston	8/12/16		



LEGEND

- Town Boundaries
- CMRPC Region
- RMD's with Provisional Certificate of Registrations prior to 7/1/2017
- Dispensing
- All Others



1 in = 14.4 miles

RMD (Registered Marijuana Dispensary) data provided by the Massachusetts Department of Health.
RMD data current as of 9/18/2017

Disclaimer – this map and the information herein is for illustrative purposes only

RMD applicants achieving "accreditation status" under Chapter 55 of the Acts of 2017 Commonwealth of Massachusetts

Some fundamental questions...

Temporary moratoriums – will they stand up?

Local licensing – is it back on the table as a regulatory tool?

“Existing” RMD conversions – are they subject to moratoriums; will they be automatic?

Host Community Agreements – how to set them up/contents/negotiation?

Outdoor cultivation/ agriculture – what will it really look like?

Social Consumption – how will this be initiated; when; what will it look like?

Special event licensing – will 1 day, 3 day, and BYOC be included in the final regulations?

Top 10 municipal action items

Create an internal point of contact – must be knowledgeable (or become knowledgeable) of regulatory process and steps to coordinate with applicant on a variety of matters

Create a municipal timeline - including town meeting and elections (identify and document all known steps and associated deadlines)

Create a municipal working group – mix of town staff and elected/appointed officials. Ideally one member of the following: Board of Selectman, Planning Board, Zoning Board of Appeals and Town Manager/Administrator, Finance Director, Police Chief, Fire Chief, Health official

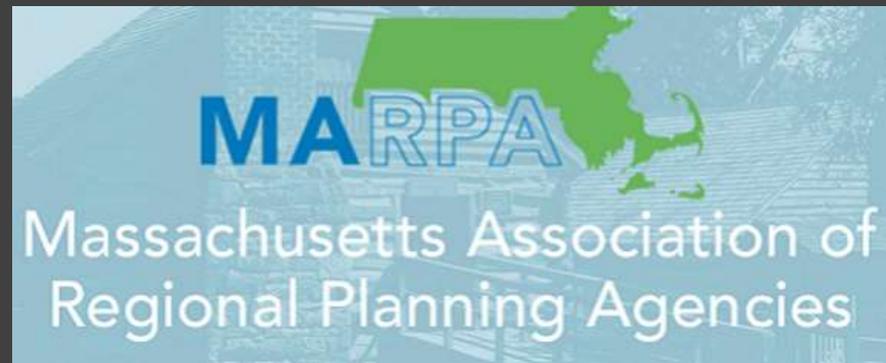
Top 10 municipal action items

Consider and identify municipal costs/Track staff hours and activities – this appears to be an expense potentially suitable for a Host Community Agreement

Evaluate and prepare Zoning Bylaws - Encourage and support Planning Board (and/or planning staff) to conduct assessments of existing zoning and other conditions; inventory of efforts in surrounding communities; establish an outreach plan and schedule in advance of Town Meeting

Identify and enumerate key actions and responsibilities - Specifically around organizing, scheduling, and procedures for “Community Outreach Hearing”, such as application form, fee, process, and responsible party for hearing and Host Community Agreement process

Technical Assistance & Resources



www.massmarpa.org/recreational-marijuana





*Disclaimer – this document is for illustrative purposes only; municipalities should consult with Town Counsel

Municipalities that voted NO in November can...

Create a zoning bylaw, via the Legislative Body (i.e. Town Meeting for a town or City Council for a city) for the following:

- Temporary moratorium through December 2018*
- Prohibit all or some types of uses
- Restrict the number of establishments to greater or less than 20% of package store licenses
- Regulate the “time, place, or manner” of one or more types of uses

Municipalities that voted YES in November can...

Create a zoning bylaw, via the Legislative Body (i.e. Town Meeting for a town or City Council for a city) for the following:

- Temporary moratorium through December 2018*
- Restrict the number of establishments to greater than 20% of package store licenses
- Regulate the “time, place, or manner” of one or more types of uses

Limit or prohibit one or more uses, via a ballot vote (i.e. a “vote of the voters”, do the following:

- Prohibit all or some types of uses
- Restrict the number of establishments to less than 20% of package store licenses

● Certain municipal actions, such as prohibition (via combined ballot vote and Zoning Bylaw) are grandfathered. However, other variations or single actions should be reviewed for consistency with the revised law.

Some general municipal scenarios

Towns with a temporary moratorium (or pending)

Towns without a temporary moratorium

Towns with an RMD applicant holding a Provisional or Final Certificate from DPH

Towns with an RMD bylaw but with no applicants having sought letter of non-opposition

Towns with no RMD bylaw (must determine permissive or restrictive bylaw and/or may only be able to rely on existing retail definition)

Do you have an existing medical marijuana bylaw?

It can serve as a basis for a “time, place, and manner” and a discussion about preferred locations for recreational marijuana uses.

However, there are some notable differences to consider:

- Potential increase in the number of uses:
 - No longer restricted to non-profit
 - Reduction in licensing fees from ~\$90,000 to \$5,000
 - No need to determine a use meets a “demonstrated need”
 - Zoning Bylaws and subsequent permit decisions must not be “unreasonably impracticable
 - Expect an increase in potential customers (i.e. demand) than anticipated for RMD’s:
 - Parking needs may not fit typical retail calculations (2.5 per 1,000 sq. ft.)
 - Dispensary size/occupancy, queuing lines outside of building
 - Later hours of operation
 - Zoning Bylaws for recreational uses should identify full municipal and CCC process (including Host Community Agreements) and land use permitting should be final local discretionary process
-

Do you have a Registered Medical Marijuana Treatment Center with a Provisional, Final, Letter of Non-opposition, Host Community Agreement?

During a moratorium, consideration should be given to the following (but not limited to) factors:

- Discuss/create a “time, place, and manner” bylaw to regulate the existing use type approved.
- Establish other regulations and/or permitting requirements for other use types. Towns that voted “no” may be able to prohibit use types via a bylaw whereas town’s that voted “yes” must allow and regulate. Town’s that voted “yes” may wish to consider prohibition on a use-by-use basis (e.g. allow cultivation but not retail)
- May require re-negotiation of host community agreement per statute.

“govern the time, place and manner of marijuana establishment operations and of any business dealing in marijuana accessories, except that zoning ordinances or by-laws shall not operate to: (i) prevent the conversion of a medical marijuana treatment center licensed or registered not later than July 1, 2017 engaged in the cultivation, manufacture or sale of marijuana or marijuana products to a marijuana establishment engaged in the same type of activity under this chapter”.

AN ACT TO ENSURE SAFE ACCESS TO MARIJUANA

Katherine D. Laughman, Esq.

Prepared for the

Central Massachusetts Regional Planning Commission

February 2, 2018

KP | LAW



THE LEADER IN PUBLIC SECTOR LAW
ATTORNEYS AT 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.
- The Act also makes changes to the Medical Use of Marijuana Program, which was established by Chapter 369 of the Acts of 2012, "An Act for the Humanitarian Medical Use of Marijuana," following the passage of Ballot Question 3 in the 2012 general election.



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 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 cultivator"
- "Marijuana retailer"
- "Marijuana product manufacturer"
- "Independent testing laboratory"
- Any other type of licensed marijuana-related business



TYPES OF LICENSED ADULT USE MARIJUANA

Additional types of Licensed Marijuana Establishments

(Draft CCC Regs 935 CMR
500.005)

- Craft Marijuana Cultivator Cooperative
- Microbusiness
- Retail (brick and mortar)
- Retail (delivery only)
- Third party transporter
- Existing Licensee Transporter
- Social Consumption – Primary Use
- Social Consumption – Mixed Use



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 effective 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)

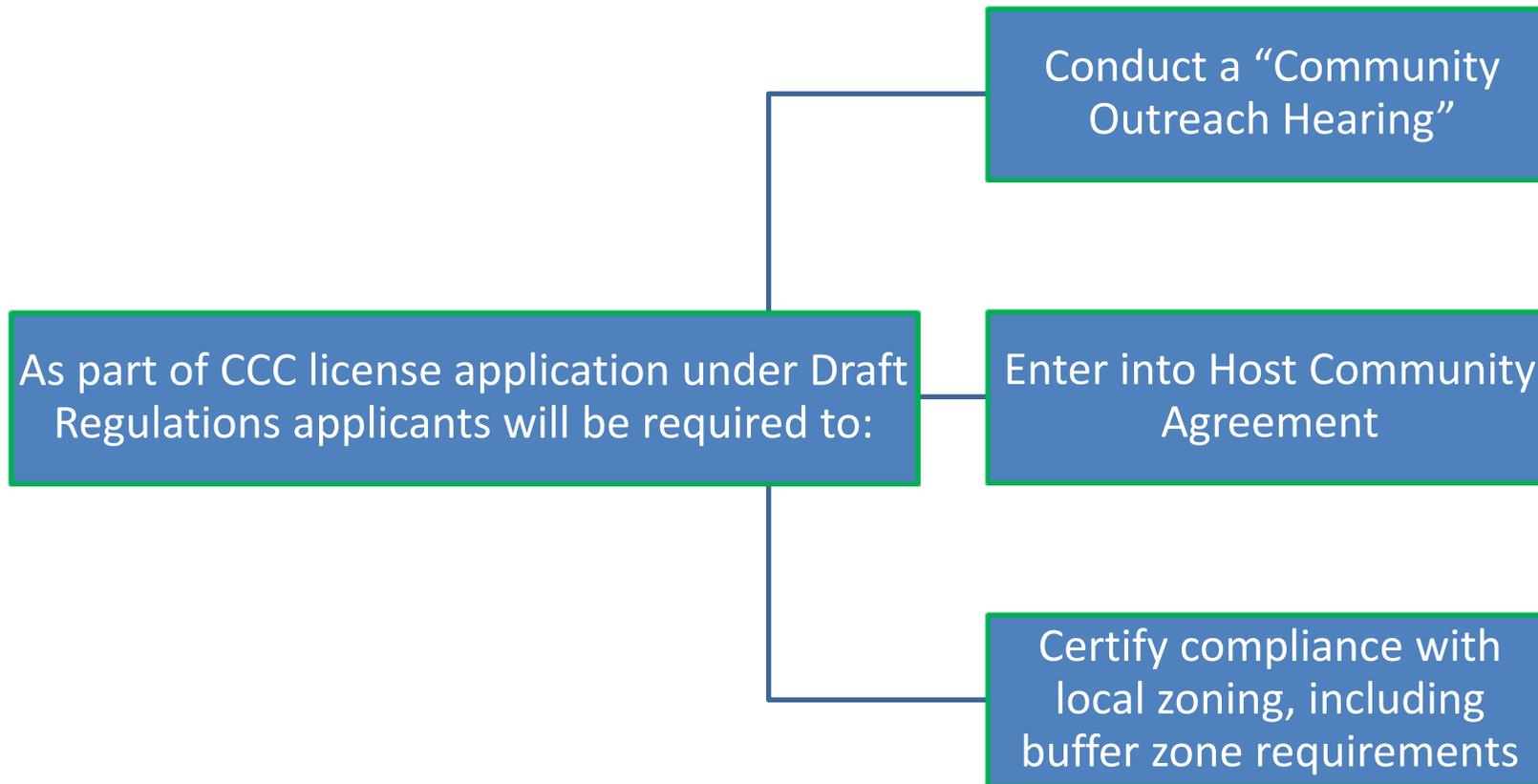
- Appointment of a five-member CCC, by the Governor, Attorney General and Treasurer.

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">• Adoption of regulations, guidelines and protocols by the CCC for the issuance of licenses for recreational marijuana establishments.• <i>Draft regulations were approved on December 21, 2017</i> |
| April 1, 2018 – Acceptance of License Applications Begins | <ul style="list-style-type: none">• Acceptance of applications by the CCC for recreational marijuana licenses not later than April 1. |
| June 1, 2018 – License Issuance | <ul style="list-style-type: none">• The CCC may begin issuing licenses, prioritizing applications under statutory criteria. The CCC must approve or deny applications within 90 days. |
-

MUNICIPAL ROLE IN LICENSING BY THE CANNABIS CONTROL COMMISSION



COMMUNITY IMPACT MEETING

Draft CCC Regulations require an Applicant to hold a Community Outreach Meeting within six (6) months prior to submission of license application to CCC

Notice

Hearing must be advertised at least seven (7) calendar days prior to date of hearing

Copy of hearing notice filed with town or city clerk, planning board, contracting authority for the municipality, local licensing authority for adult use marijuana (if applicable)

Copy of hearing notice must be sent to abutters

Content of Hearing

Discussions of type(s) of Marijuana Establishment to be located at proposed address

Security information

Steps taken by Applicant to prevent diversion to minors

Plan for positive community impact

Information to demonstrate location will not be a nuisance

Requirement for Q&A from community members to representatives of Marijuana Establishment

HOST COMMUNITY AGREEMENTS

Host Community Agreements

The Act requires that both recreational marijuana establishments and medical marijuana treatment centers enter into a HCA with host communities and allows for a “community impact fee.”

- The community impact fee must be “reasonably related to the costs imposed upon the municipality by the operation of the marijuana establishment or medical marijuana treatment
- The community impact fee shall not amount to more than 3 per cent of the gross sales of the marijuana establishment or medical marijuana treatment center or be effective for longer than 5 years.”
- The Act does not expressly preclude renegotiation of a HCA at the end of the initial five year term.
- The municipality is required to document its costs.
- Applicant must certify to the CCC that it has entered into a HCA as part of application to CCC.

ZONING BYLAW/ORDINANCE COMPLIANCE

Applicants must submit to the CCC documentation that a proposed site is compliant with the bylaws/ordinances *in effect* at the time of the application, including compliance with buffer zone requirements



Once application filed with CCC is deemed complete, the CCC will notify the municipality



The municipality has 60 days from date of correspondence from CCC to notify the CCC that the applicant is not in compliance with local ordinance/bylaw



If no communication is sent from the municipality, the Applicant will be deemed in compliance

ZONING BYLAWS/ORDINANCES

Municipalities may regulate the “time, place and manner” of marijuana establishment operations and impose reasonable safeguards

Ordinances and bylaws 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)*

Municipalities may determine that a proposed marijuana-related use falls under an existing use authorized by its bylaws or ordinances

- *Municipalities may not interpret prohibitory bylaws/ordinances as excluding marijuana establishments*

Draft CCC regulations state 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)

ZONING BYLAWS/ORDINANCES

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.

Municipalities may adopt an ordinance or bylaw that reduces that distance requirement

NOTE: This buffer is less restrictive than the default buffer zone imposed by DPH 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 in which children commonly congregate.”

105 CMR 725.110(A)(14)

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 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 a prohibiting or limiting bylaw/ordinance can be effective:

- (1) it must be approved by the voters by ballot at an annual or special election, **and**
- (2) the ordinance or bylaw must be approved by the local legislative body.

BALLOT PROCEDURES FOR LIMITATION/PROHIBITION

Chapter 94G, §3 provides the general form for a ballot question.

- The question must include the entire proposed bylaw or ordinance
- Ballot must include brief summary prepared by City Solicitor/Town Counsel making clear the number and types of marijuana establishments that will be permitted to operate.

Pursuant to G.L. c.54, §42C, a City or Town Clerk must receive notice of the ballot question, with the full legislation text and counsel summary, no less than 35 days prior to the date of the election.

The bylaw or ordinance approved by ballot must be the same as that approved by the local legislative body. (See AG Decision – Milford 1/9/18)

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.

FORM OF BYLAW TO LIMIT OR PROHIBIT

Zoning v. General Legislation



- The language in the Act is ambiguous with respect to whether a bylaw or ordinance implementing a prohibition or limitation must be zoning or general in nature.
- The Attorney General has approved both general and zoning bylaws prohibiting adult use marijuana establishments, but has advised that a zoning bylaw should be adopted.
- Given the lack of clarity on this issue, municipalities may wish to consider adopting both a general and a zoning bylaw imposing a prohibition/limitation.

CONVERSION OF MEDICAL MARIJUANA TREATMENT CENTERS

Zoning bylaws/ordinances shall not prohibit the conversion of a medical marijuana treatment center licensed or registered not later than July 1, 2017 that is engaged in the cultivation, manufacture or sale of marijuana or marijuana products to a marijuana establishment for adult use engaged in the same type of activity. G.L. 94G, s.3(a)(1)

- Questions to ask:
 - Has an applicant for a MMTC obtained a provisional or final certificate of registration no later than July 1 2017?
 - Does the municipality intend to regulate (instead of prohibit) adult use marijuana?
- If the answer is “yes” to both questions, the municipality must allow adult use of the same type in the location of the licensed MMTC.

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.

ON-SITE SOCIAL CONSUMPTION



Under draft CCC regulations, on-site social consumption establishments will be licensed as a sub-category of retail use.



Two categories of social consumption licenses

- Primary use – more than 50% of proceeds from sale of marijuana
- Mixed use – less than 50% of proceeds from sale of marijuana



Municipalities that allow for retail sales may specify in their zoning that social consumption is prohibited as a separate use (absent a citizen petitioned ballot vote).

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.
- The Attorney General has approved moratoria in many municipalities through December 31, 2018.
- Approximately one-third of the municipalities in the Commonwealth have imposed a moratorium or some form of prohibition to date.

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.”]



LOCAL TAX OPTION



- The Act created a new Chapter 64N of the General Laws setting tax rates for the sale of recreational marijuana products.
- Section 3 allows cities and towns to impose a local sales tax on the “sale or transfer of marijuana or marijuana products by a marijuana retailer operating within the city or town” up to 3% of the total sales price, an increase from the previous 2%.
- If a municipality has already accepted §3, a new vote of the legislative body will be required in order to increase a sales tax rate up to 3%.

MEDICAL-USE MARIJUANA

The Act also makes a number of significant changes to the regulation of medical-use marijuana including the following:

- The eventual repeal of chapter 369 of the Acts of 2012, “An Act for the Humanitarian Medical Use of Marijuana.”
- The adoption of a new Chapter 94I – “Medical Use of Marijuana.”
- The transfer of the oversight and regulation of medical-use marijuana to the CCC
- The continuation of the Department of Public Health regulating medical-use marijuana in the short-term under its existing regulatory scheme, 105 CMR 725, until the transfer of oversight and regulation is complete.
 - This transfer must occur on or before December 31, 2018.



QUESTIONS?



CONTACT INFORMATION

Katherine D. Laughman, Esq.

KP Law, P.C.

101 Arch Street, 12th Floor

Boston, MA 02110

(617) 556-0007

klaughman@k-plaw.com





Cannabis Control Commission

Central Mass Regional Planning Commission

Draft Regulations 935 CMR 500

**Commissioner Kay Doyle
Cannabis Control Commission**



Cannabis Control Commission

Draft Regulations, 935 CMR 500

Public Hearing Schedule

Monday, February 5, 2018

8:30-11:00 AM

Berkshire Community College
K111 Lecture Hall
1350 West Street
Pittsfield, MA

2:00-5:00 PM

Leslie Philips Theater
Holyoke Community College
303 Homestead Avenue
Holyoke, MA

Tuesday, February 6, 2018

9:00-12:00 PM

Public Hearing Room
Barnstable Town Hall
367 Main Street
Hyannis, MA

10:00-1:00 PM

Franklin Regional Council of
Governments
William B. Allen Community Room
12 Olive Street
Greenfield, MA

2:00-5:00 PM

UMass School of Law
Rooms 231-232
333 Faunce Corner Rd
Dartmouth, MA 02747



Cannabis Control Commission

Draft Regulations, 935 CMR 500

Public Hearing Schedule

Wednesday, February 7, 2018

9:00-12:00 PM

Worcester Public Library
Saxe Room
3 Salem Square
Worcester, MA 01608

2:00-5:00 PM

North Shore Community College
Math/Science Bldg Rm 119
1 Ferncroft Road
Danvers, MA 01923

Thursday, February 8, 2018

1:00-4:00 PM

McCormack Building
One Ashburton Place
21st Floor
Boston, MA 02108



Cannabis Control Commission

Draft Regulations, 935 CMR 500

Public Hearing Schedule

Friday, February 9, 2018

10:30-1:30 PM

West Tisbury Public Library
1042 State Road
West Tisbury, MA 02575

Tuesday, February 13, 2018

6:00-8:30 PM

Bolling Municipal Building
2300 Washington St, 2nd Floor
Roxbury, MA 02119



Cannabis Control Commission

Draft Regulations, 935 CMR 500

Public Comment Information

All are encouraged to submit written comments *by email* to CannabisCommission@State.MA.US or *by mail* to 101 Federal Street, 13th Floor, Boston, MA 02110.

Written comments must be submitted by 5:00 p.m. on February 15, 2018.

Please note that transcribed comments from public hearings and written comments may be disclosed in response to a public records request.



Cannabis Control Commission

Draft Regulations, 935 CMR 500

Marijuana Cultivator: A marijuana cultivator may cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.

Tier 1: up to 1,000 square feet of canopy;

Tier 2: 1,001 to 5,000 square feet of canopy;

Tier 3: 5,001 to 10,000 square feet of canopy;

Tier 4: 10,001 and over square feet of canopy.





Cannabis Control Commission

Draft Regulations, 935 CMR 500

Craft Marijuana Cultivator Cooperative

- Massachusetts residents;
- Limited liability company, limited liability partnership, or another business structure approved by the Commission;
- Authorized to cultivate, obtain, manufacture, process, package and brand marijuana and marijuana products to deliver marijuana to marijuana establishments;
- Not authorized to deliver consumers unless they get a separate retail license;
- A business may only have one craft marijuana cultivator cooperative license.





Cannabis Control Commission

Draft Regulations, 935 CMR 500

Types of Marijuana Establishments



Marijuana Product Manufacturer: an entity authorized 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.



Cannabis Control Commission

Draft Regulations, 935 CMR 500

Marijuana Retailer: an entity authorized 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.

Storefront Retailer: A marijuana retailer that provides a retail location accessible to consumers 21 years of age or older or in possession of a registration card demonstrating that the individual is a registered qualifying patient with the Medical Use of Marijuana Program, if the retail store is co-located with a medical marijuana treatment center.

Delivery-Only Retailer: A marijuana retailer that does not provide a retail location accessible to the public, but is authorized to deliver directly from a marijuana cultivator facility, Craft Marijuana Cultivator Cooperative facility, marijuana product manufacturer facility, or micro-business.



Cannabis Control Commission Draft Regulations, 935 CMR 500

Marijuana Retailer: Example of Current Medical Use of Marijuana Retail Location





Cannabis Control Commission Draft Regulations, 935 CMR 500

Marijuana Retailer: Example of Current Medical Use of Marijuana Retail Location

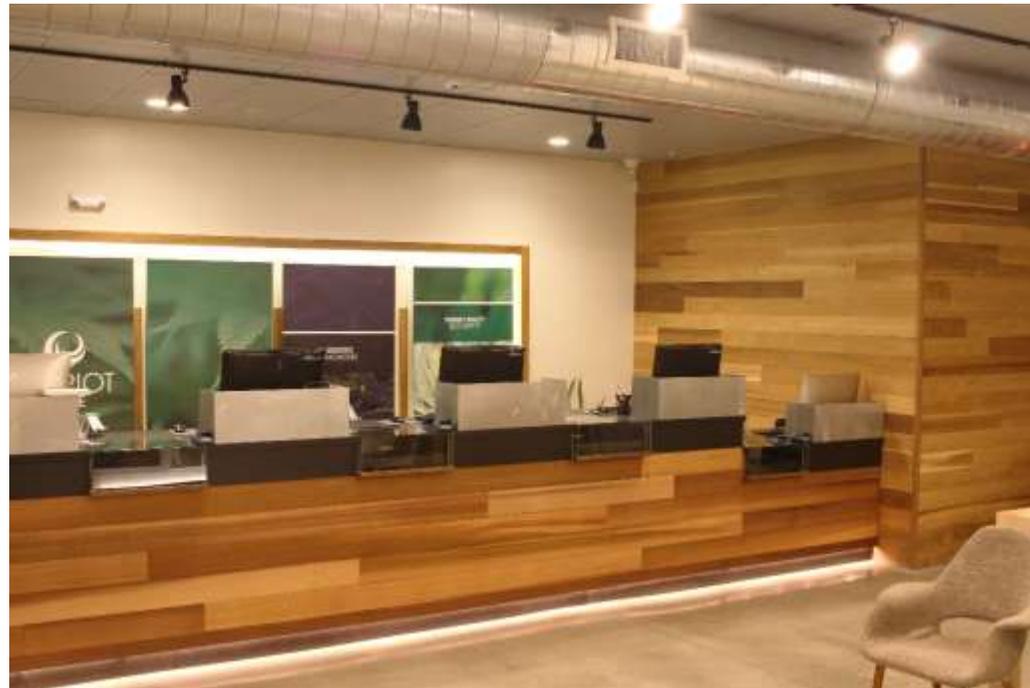




Cannabis Control Commission

Draft Regulations, 935 CMR 500

Marijuana Retailer: Example of Current Medical Use of Marijuana Retail Location





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Draft Regulations, 935 CMR 500

Types of Marijuana Establishments

Marijuana Social Consumption Establishment: A marijuana social consumption establishment may purchase marijuana from licensed marijuana establishments and sell single servings of marijuana to consumers for consumption on the premises.

Primary Use: A primary use marijuana social consumption license shall be required for any commercial enterprise for which 51% or more of average monthly revenue is derived from the sale of marijuana products to be consumed on the premises (e.g. cannabis café).





Cannabis Control Commission

Draft Regulations, 935 CMR 500

Types of Marijuana Establishments

Marijuana Social Consumption Establishment: A marijuana social consumption establishment may purchase marijuana from licensed marijuana establishments and sell single servings of marijuana to consumers for consumption on the premises.

Mixed Use: A mixed use marijuana social consumption license shall be required for any commercial enterprise for which the consumption of marijuana is a secondary or shared purpose to a non-cannabis business purpose (e.g. massage studio that uses cannabis-infused lotion).





Cannabis Control Commission

Draft Regulations, 935 CMR 500

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.

A marijuana research facility may cultivate, purchase or otherwise acquire marijuana for the purpose of conducting research regarding marijuana and marijuana products.

Any research involving humans must be authorized by an Institutional Review Board.

A marijuana research facility may not sell marijuana cultivated under its research license, but may also hold a marijuana retailer license.





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Draft Regulations, 935 CMR 500

Types of Marijuana Establishments

Independent Testing Laboratory: an entity that does not hold any other type of marijuana establishment license and is properly accredited to perform tests in compliance with the stringent requirements of the Department of Public Health protocols for testing marijuana and marijuana products.

Standards Testing Laboratory: an entity that would otherwise qualify to be an independent testing laboratory but instead performs blind tests to verify the results of an independent testing laboratory at the request of the Commission.





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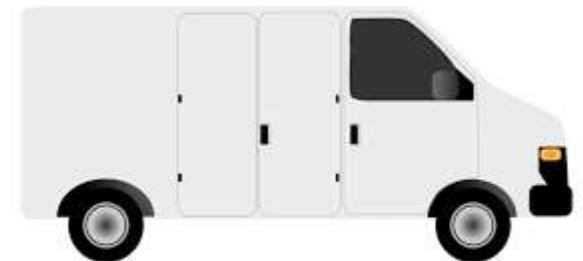
Draft Regulations, 935 CMR 500

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 is licensed as a Marijuana Transporter:

Third Party Transporter: An entity registered to do business in Massachusetts that does not hold another marijuana establishment license pursuant to 935 CMR 500.050 and is not registered as a registered marijuana dispensary pursuant to 105 CMR 725.000.

Existing Licensee Transporter: A Marijuana Establishment that wishes to contract with other marijuana establishments to transport their marijuana and marijuana products to other marijuana establishments.





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Draft Regulations, 935 CMR 500

Types of Marijuana Establishments

Marijuana Micro-Business: A microbusiness is a co-located Tier 1 or Tier 2 marijuana cultivator, marijuana product manufacturer, and marijuana delivery service.

A microbusiness licensee shall not have an ownership stake in any other marijuana establishment and a majority of its executives or members must have been residents of Massachusetts for no less than 12 months prior to application is eligible to apply for a micro-business license.

Application fees and license fees for marijuana micro-businesses shall be set at 50% of the combined sum of the application fees and license fees for each of the following activities in which the licensee engages: cultivation, manufacturing, delivery.





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Draft Regulations, 935 CMR 500

State Licensing Process Overview

Application of Intent

- Incorporation
- Capital
- Bond
- Property Interest
- *Municipal Information*
- Positive Impact on DIA

Background Check

- All executives, managers, persons or entities with direct or indirect authority over the management policies, cultivation or security operations
- Fingerprint check
- Nationwide civil & criminal

Management and Operations Profile

- Certificate of Good Standing with SoS and DOR
- Business Plan
- Operating Policies and Procedures
- Training Plan



Cannabis Control Commission

Draft Regulations, 935 CMR 500

Licensing Process Overview

Priority Applicants:

- Priority RMD Applicant means a registered marijuana dispensary with a final or provisional certificate of registration in good standing with the Department of Public Health or Commission, as applicable.
- Economic Empowerment Applicant means an applicant who meet certain criteria demonstrating experience in or business practices that promote economic empowerment in communities disproportionately impacted by high rates of arrest and incarceration for offenses under chapter 94C.



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Draft Regulations, 935 CMR 500

Background Check Overview

Background Check Packet includes:

- A CORI check form;
- Requirement for fingerprinting that enables a multi-state criminal history check;
- Narrative information from individuals listed on the application as executives, members, close associates or managers.





Cannabis Control Commission

Draft Regulations, 935 CMR 500

Background Check Overview

Mandatory Disqualifications:

- Applicants with Open or Unresolved Criminal Proceedings at the time of application but excluding solely marijuana-related proceedings under M.G.L. c. 94C, §34;
- Applicants with Open or Unresolved Marijuana Business-Related violations in MA or in another jurisdiction that have been unresolved for 6 months or the nature of which would necessarily result in a determination of unsuitability;
- Failure to register as a sex offender.

Statutory Restriction: convictions for solely marijuana-related offenses are NOT to be a disqualifier for licensure.





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Draft Regulations, 935 CMR 500

Operations Overview: Handling Marijuana

- All marijuana and marijuana products must be handled in compliance with sanitary requirements.
- All marijuana and marijuana products must be tested in compliance with the testing protocols established by the Department of Public Health.



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Draft Regulations, 935 CMR 500

Operations Overview: Security Overview

- Cultivators, marijuana product manufacturers, independent laboratories and research facilities must restrict access to only authorized employees and visitors;
- Visitors must be logged;
- Marijuana and marijuana products must be stored in limited access areas;
- 24 hour video surveillance is required;
- Must be alarmed;
- Must remain operational even if power loss;
- Must be sufficiently lit to allow readable image to be captured;
- All inventory must be tracked on the interoperable system set by the Commission;
- Security plan filed with local law enforcement.





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Draft Regulations, 935 CMR 500

Operations Overview: Security Overview

Access to Retail Stores

- Retailers must check government issued ID to demonstrate someone is 21 years of age or older before allowing anyone access to marijuana establishment for adult use.
- For co-located medical marijuana dispensaries and adult use marijuana establishments, retailers must check government issued ID to demonstrate someone is 21 years of age OR check that someone has a DPH Program ID card showing they are a patient and a government ID showing they are 18 years of age or older.





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Draft Regulations, 935 CMR 500

Operations Overview: Security Overview

Access to Social Consumption Locations or Areas

- Retailers must check government issued ID to demonstrate someone is 21 years of age or older before allowing anyone access to a location for social consumption or an area in a marijuana establishment used for social consumption.
- Only employees 21 years and older may handle marijuana.





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Draft Regulations, 935 CMR 500

Operations Overview: Security Overview

- Marijuana for medical use and marijuana for adult use needs to be virtually separated in the tracking system and physically separated at retail stores and for delivery.
- Delivery must comply with strict protocols, including ID check;
 - Non-descript vehicle;
 - Two marijuana establishment agents with the vehicle;
 - GPS tracking;
 - Secure, integrated storage; and
 - Recordkeeping requirements.





Cannabis Control Commission

Draft Regulations, 935 CMR 500

Operations Overview: Advertising & Marketing

Permitted Practices

- CAN have logo, but logo CAN'T use medical symbols, images of marijuana, related paraphernalia, and colloquial references to cannabis and marijuana are prohibited from use in this logo;
- Sponsorship of a charitable, sporting or similar event, but marketing limit to audience expected to be 85% 21 years and older according to data;
- Locked display cases inside each establishment;
- Any marketing shall include statement "Please Consume Responsibly" and at least 2 other warnings from menu of choices;
- All marketing must include warning developed by DPH.





Cannabis Control Commission

Draft Regulations, 935 CMR 500

Operations Overview: Advertising & Marketing

Prohibited Practices

- Deceptive, false, misleading, untrue, or misleading marketing;
- No TV, radio, internet or other electronic communication, billboard or other outdoor advertising, or print publication unless at least 85 per cent of the audience is reasonably expected to be 21 years of age or older as determined by data;
- Using statements, designs, representations, pictures or illustrations that portray anyone less than 21 years of age;
- mascots, cartoons, brand sponsorships and celebrity endorsements deemed to appeal to a person less than 21 year of age;
- false or misleading statements concerning other licensees and the conduct and products of such other licensees;
- promotional items prohibited by the Commission, including, but not limited to, giveaways, coupons, or “free” or “donated” marijuana;
- Representations of safety, curative or therapeutic effects, other than

DRAFT--FOR DISCUSSION PURPOSES ONLY





Cannabis Control Commission

Draft Regulations, 935 CMR 500

Operations Overview: Advertising & Marketing

Prohibited Practices

- Installation of any neon signage or any illuminated external signage that fails to comply with all local ordinances and requirements;
- Installation of any external signage that is illuminated beyond the period of 30 minutes before sundown until closing;
- Use of vehicles equipped with radio or loud speakers;
- the use of radio or loud speaker equipment in any Marijuana Establishment for advertising;
- Advertising, marketing, and branding at, or in connection with, a charitable, sporting or similar event, unless at least 85 per cent of the audience is reasonably expected to be 21 years of age or older, as determined by data;
- Operation of any website of a Marijuana Establishment that fails to verify that the entrant is at least 21 years of age;
- Use of unsolicited pop-up advertisements on the internet;

DRAFT--FOR DISCUSSION PURPOSES ONLY





Cannabis Control Commission

Draft Regulations, 935 CMR 500

Operations Overview: Advertising & Marketing

Prohibited Practices

- Marketing in or on public or private vehicles, at bus stops, taxi stands, transportation waiting areas, train stations, airports, or other similar transportation venues, including, wrapping vehicles;
- Marketing marijuana or marijuana products, on clothing, cups, drink holders, apparel
- ~~Signs or other promotional materials, advertising signs or banners, sporting equipment, novelties and products displayed from the exterior or interior of any licensed premises wherein marijuana products are not regularly and usually kept for sale;~~
- Marketing price of marijuana or marijuana products, except they can have list in store and on website;
- Display of marijuana or marijuana products so as to be clearly visible to a person from the exterior of a Marijuana Establishment;
- Any marketing that fails to contain a health warning by DPH;
- Improper or objectionable nature, including obscene or suggestive statements.





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Draft Regulations, 935 CMR 500

Operations Overview: Labeling

Comprehensive labelling requirements, including:

- Requirements specified for type of product;
- Name and contact information of creator;
- Cannabinoid profile, as well as ingredients;
- Warning re: allergen;
- DPH warning;
- Graphic symbol indicating product contains marijuana and that it is dangerous to children;
- Serving size;
- Batch and serial number;
- Confirmation of testing;
- Directions for use.



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Draft Regulations, 935 CMR 500

Operations Overview: Packaging

Comprehensive packaging requirements:

- Certified by independent third party to be child-resistant;
- Resealable;
- Opaque, plain design;
- No neon colors;
- No resemblance to existing non-marijuana consumer products;
- No designs, brands or names typically marketed to minors;
- No symbols or celebrities that are commonly used to market products to minors;
- No images of minors; or
- No words that refer to products that are commonly associated with minors or marketed by minors.





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Draft Regulations, 935 CMR 500

Operations Overview: Packaging

Comprehensive packaging requirements:

- Products with multiple servings must say “INCLUDES MULTIPLE SERVINGS”;
- Consumer must be able to easily perform the division into single servings;
- Edible Marijuana Products in a solid form shall be easily and permanently scored to identify individual servings;
- If a product is unable to be easily and permanently scored to identify individual servings, the it shall be packaged in a single serving size;
- Packaging for marijuana product beverages shall be packaged solely in a single serving size. Multiple serving marijuana product beverages are strictly prohibited for sale;
- Each single serving of an Edible MIP contained in a multiple-serving package shall be marked, stamped or otherwise imprinted with a symbol or easily recognizable mark issued by the Commission that indicates that the single serving is a Marijuana Product;
- Serving size shall be determined by the processor but in no instance shall an individual serving size of any MARIJUANA PRODUCT contain more than five (5) milligrams of delta-nine-tetrahydrocannabinol (Δ 9-THC).





Cannabis Control Commission

Draft Regulations, 935 CMR 500

Operations Overview: Equity Program

- **Training**

- Management, recruitment and employee trainings;
- Accounting and sales forecasting;
- Tax prediction and compliance;
- Legal compliance;
- Business plan creation and operational development;
- Marijuana industry best practices; and
- Assistance with identifying or raising funds or capital

- **Eligibility**

- Documented residency in a disproportionately impacted community for 5 out of past 10 years;
- MA residency for 12 months and you, spouse or child has drug-related conviction





Cannabis Control Commission

Draft Regulations, 935 CMR 500

Operations Overview: Training

- **Training**

- Marijuana establishment agents must have 8 hours of training per year;
- 2 hours must be Responsible Vendor Training, mandatory for staff handling marijuana, voluntary for others
- Responsible Vendor Training Core Curriculum:
 - Discussion concerning marijuana's effect on the human body. Training shall include:
 - Marijuana's physical effects based on type of marijuana product;
 - Diversion prevention and prevention of sales to minors.
 - Acceptable forms of Identification. Training shall include:
 - Other key state laws and rules affecting owners, managers, and employees.
 - Such other areas of training determined by the Commission to be included in a responsible vendor training program.





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Draft Regulations, 935 CMR 500

Operations Overview: Inspections & Enforcement

Inspections:

- Regularly scheduled;
- Unscheduled;
- Secret Shopper Program;
- Cooperation required.

Enforcement:

- Cease & Desist Order;
- Limitation of Sales;
- Quarantine;
- Suspension;
- Revocation;
- Fines.





Cannabis Control Commission

Draft Regulations, 935 CMR 500

Operations Overview: Leadership Program

Leadership Rating Criteria

Social Justice Leader:

- 1% of the marijuana establishment's gross revenue is donated to the technical assistance fund; and
- Licensee has conducted 50 hours of educational seminars targeted to residents of areas of disproportionate impact in one or more of the following: marijuana cultivation, marijuana product manufacturing, marijuana retailing, or marijuana business training.

Local Employment Leader:

- 51% or more of the licensee's employees have been a Massachusetts resident for 12 months or more, as determined by the Commission;
- 51% or more of the licensee's executives have been a Massachusetts resident for 12 months or more, as determined by the Commission.





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Draft Regulations, 935 CMR 500

Operations Overview: Leadership Program

Leadership Rating Criteria

Energy and Environmental Leader:

- Licensee has met or exceeded its energy and environmental impact goals for its registration period; and
- Licensee has consistently complied with best management practices for energy use, waste disposal and environmental impact.

Compliance Leader:

- All licensee employees have completed all required trainings for their positions within ninety days of hire;
- Licensee has not been issued a written deficiency statement;
- Licensee has not been the subject of a cease and desist order or a quarantine order;
- Licensee has not had its license suspended; and
- Licensee has met all timelines required by the Commission.





Cannabis Control Commission

Draft Regulations, 935 CMR 500

Thank you!

Email:

Katharine.doyle@state.ma.us

Website

<https://www.mass.gov/orgs/cannabis-control-commission>

Twitter

@MA_Cannabis

Implementation of Adult Use of Marijuana in Grafton

CMRPC Seminar: Understanding and implementing the adult
use of marijuana in Central Mass and Beyond.



How it all began.

Large turnout prompts reschedule of marijuana dispensary meeting

Grafton News | on January 07, 2016



The Board of Selectmen Tuesday night. Richard Price photo.

Meetings,
Articles, Social
Media, Town
Meeting

Adopted
Medical
Marijuana
By-law, then
Temp
Moratorium.



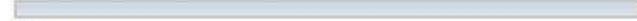
A screen shot of the triangle of land highlighted on Nature's Remedy's modified site plan for its proposed medical marijuana dispensary. GGTV image.

Do you support Question 4, legalizing recreational marijuana in Massachusetts?

Yes (72%, 69 Votes)



No (27%, 26 Votes)



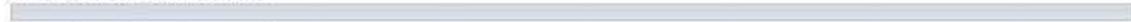
Unsure (1%, 1 Votes)



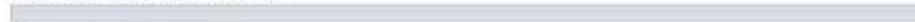
Total Voters: **96**

Do you think medical marijuana dispensaries should be zone restricted away from homes and schools?

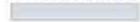
No (52%, 99 Votes)



Yes (42%, 80 Votes)



Unsure (6%, 12 Votes)



Total Voters: **191**

While Grafton approved Ballot 52% to 48%, Public Opinion of Marijuana was Harder to Gauge.

While Grafton approved Ballot 52% to 48%, Support was strong once a specific a location was identified

A nonprofit business is seeking to develop a marijuana grow facility & dispensary at CenTech Park. Is this a good location?

Yes (78%, 50 Votes)

No (14%, 9 Votes)

Unsure (8%, 5 Votes)

Total Voters: **64**

Is Centech Park a good spot for a medical marijuana facility?

Yes (83%, 67 Votes)

No (14%, 11 Votes)

Unsure (4%, 3 Votes)

Total Voters: **81**

A second medical marijuana business is vying in Centech Park. Do you support this?

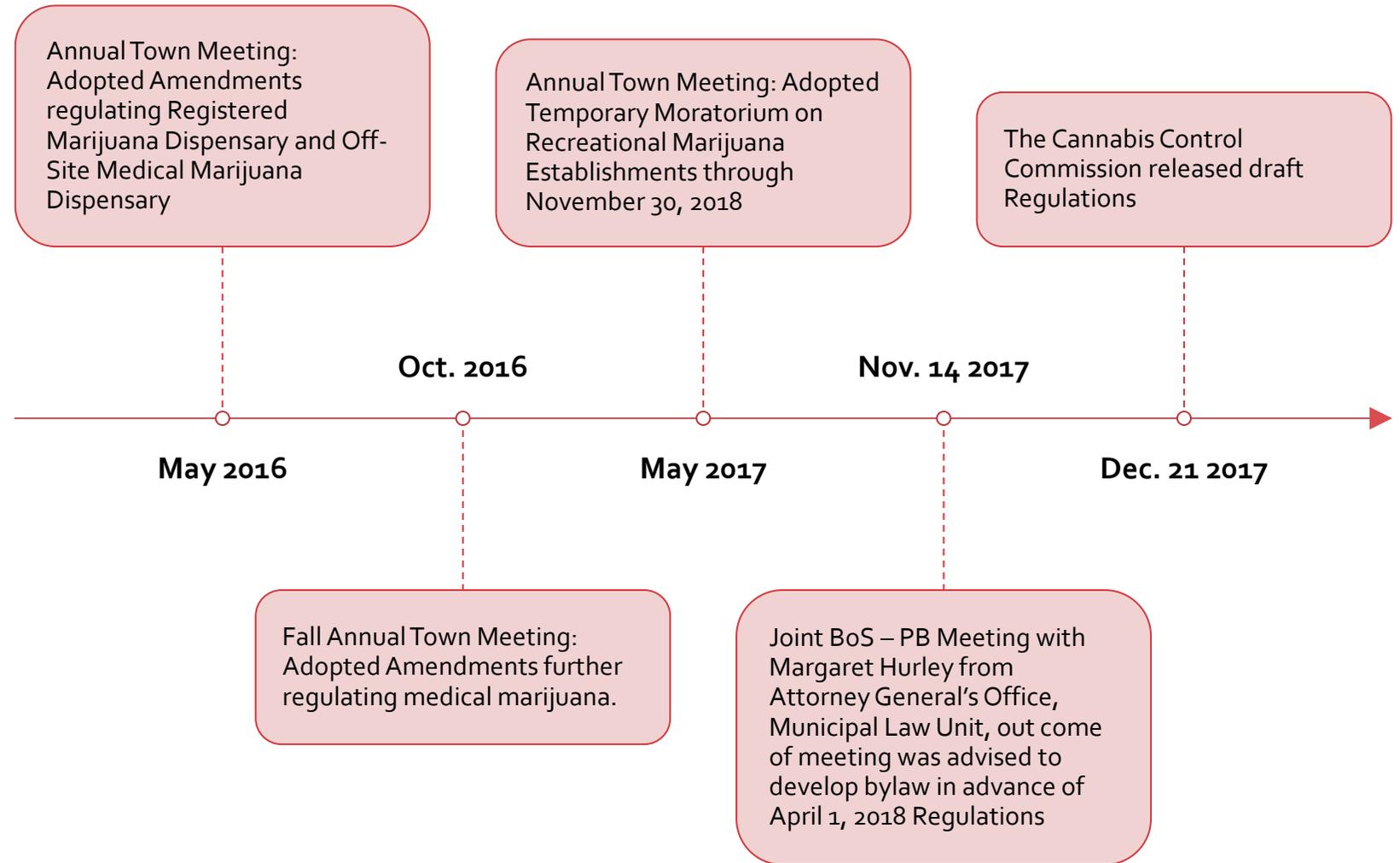
Yes (80%, 37 Votes)

No (20%, 9 Votes)

Unsure (0%, 0 Votes)

Total Voters: **46**

Grafton's Timeline



Articles for Consideration at February 12, 2018 Special Town Meeting

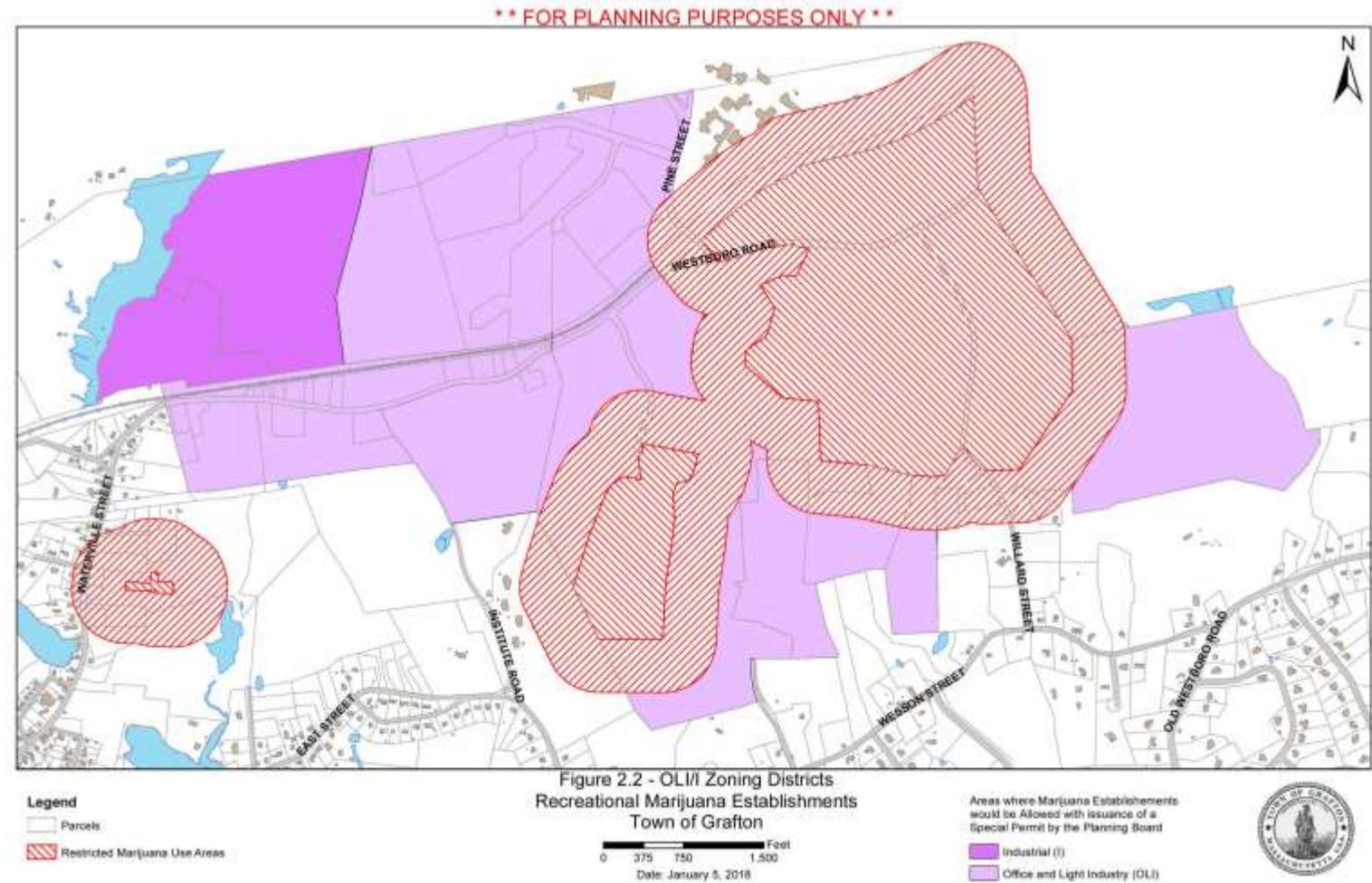
- **ZBL 2018-1:** Article adding new ZBL Section 5.10 entitled “Medical Marijuana and Marijuana and associated edits to definitions in Section 2 and special permit criteria in Section 1.5.5.
- **ZBL 2018-2:** Article adding marijuana uses as a special permit uses within Industrial (I) and Office Light Industrial Districts (OLI).
- **ZBL 2018-3:** Article adding Marijuana Retailer as a special permit use within Community Business (CB) District.
- **ZBL 2018-4:** Article adding Marijuana Retailer as a special permit use within Neighborhood Business (NB) District.
- **ZBL 2018-5:** Article adding Marijuana Retailer as a special permit use within Village Mixed Use (VMU) District.

ZBL 2018-1 Adopt new Medical Marijuana and Marijuana Establishment Bylaw

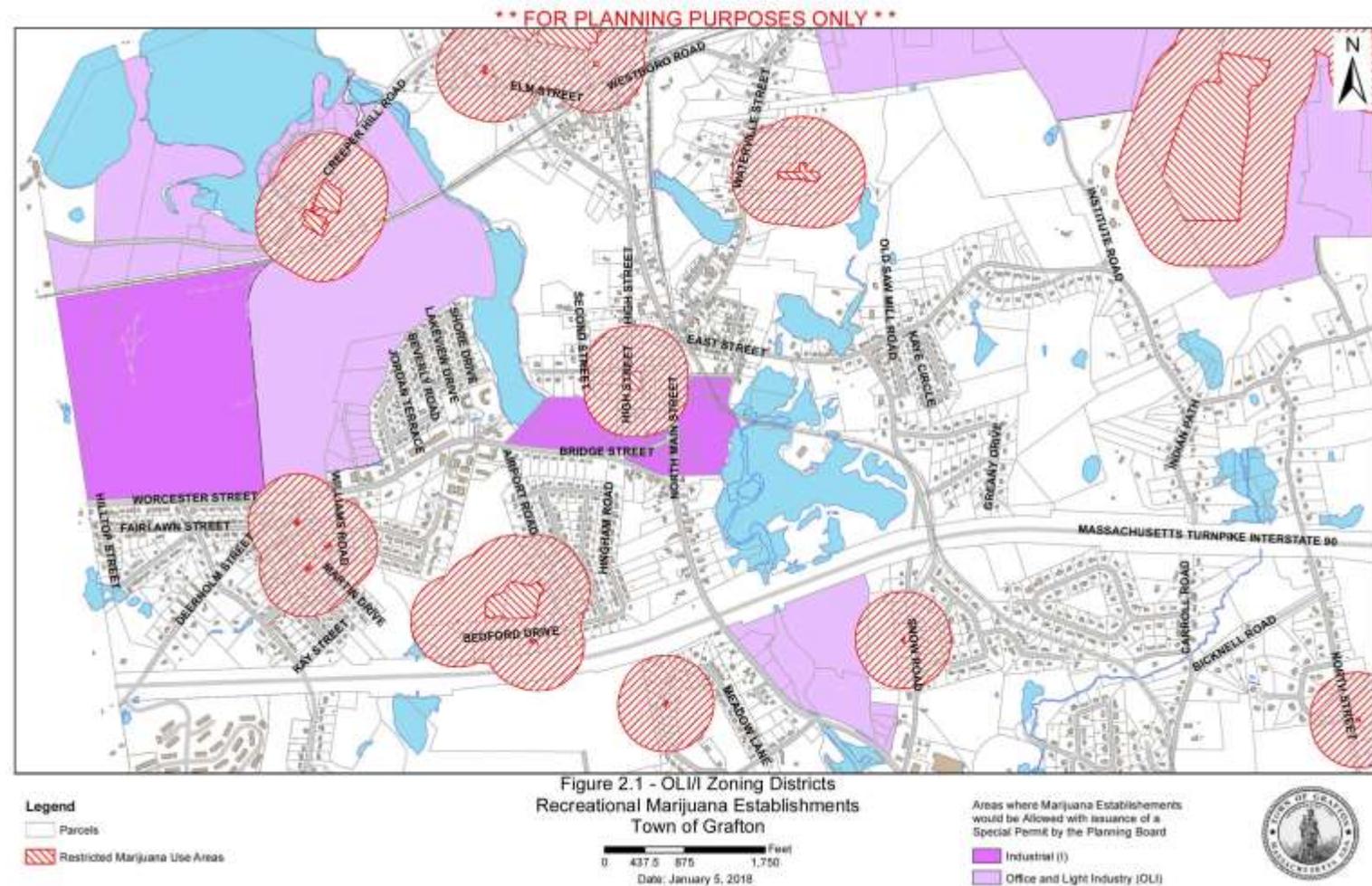
Proposed bylaw includes language as follows:

- Establishes definitions for Marijuana Establishments
- Establishes Application Requirements
- Establishes hours of operation and consumption on site
- Establishes Location and Physical Requirements such as no outside storage, all activities within enclosed buildings, and no odors from marijuana or its processing
- Establishes Restrictions such as 500 foot buffer from other establishments, schools, daycares, parks, playgrounds, libraries
- Establishes findings for approvals
- Amends existing Medical Marijuana regulations which were incorporated into the bylaw.

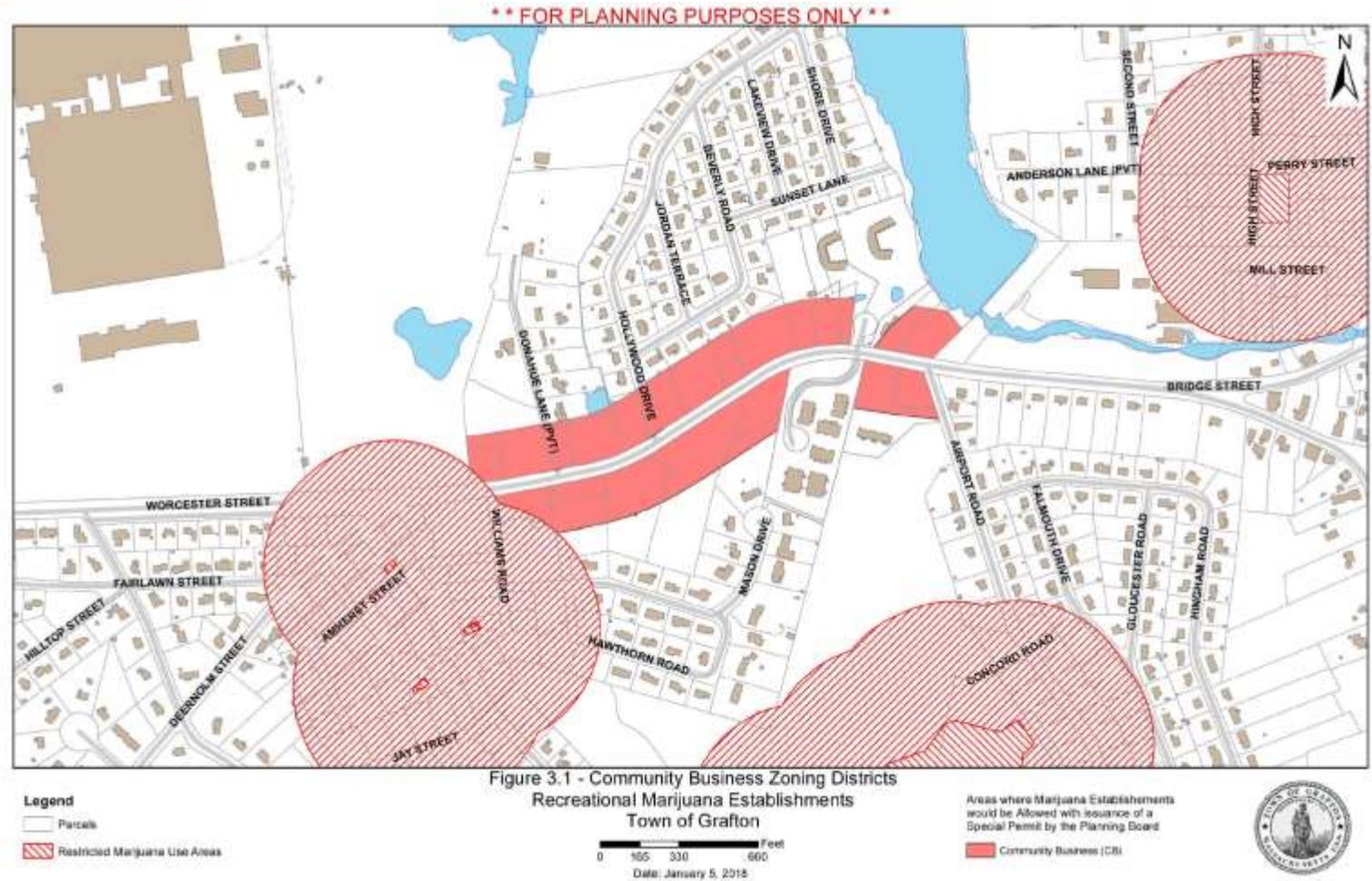
ZBL 2018-2 Add Marijuana Establishments as Special Permit Use in OLI and I Districts



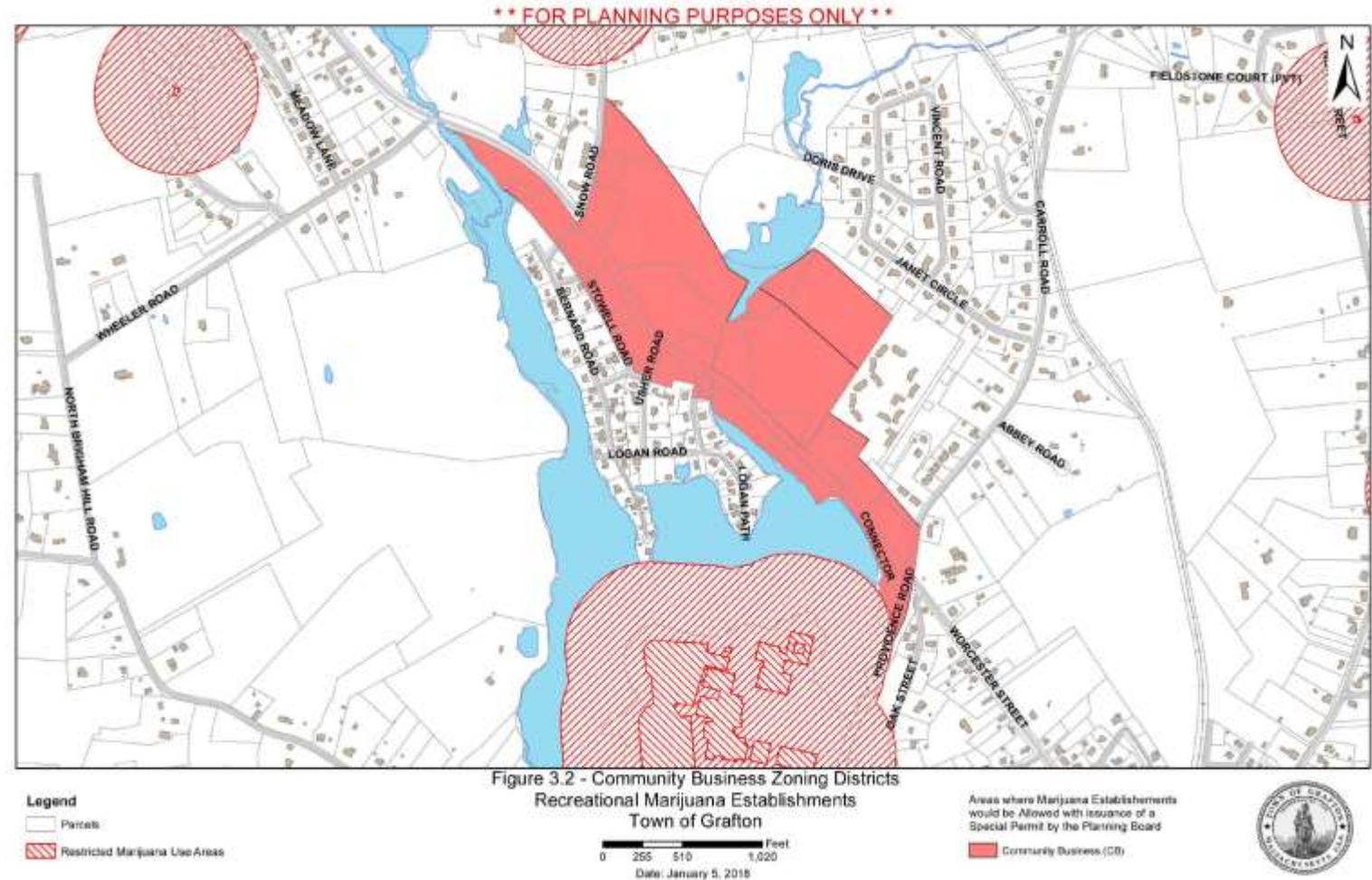
ZBL 2018-2 Add Marijuana Establishments as Special Permit Use in OLI and I Districts



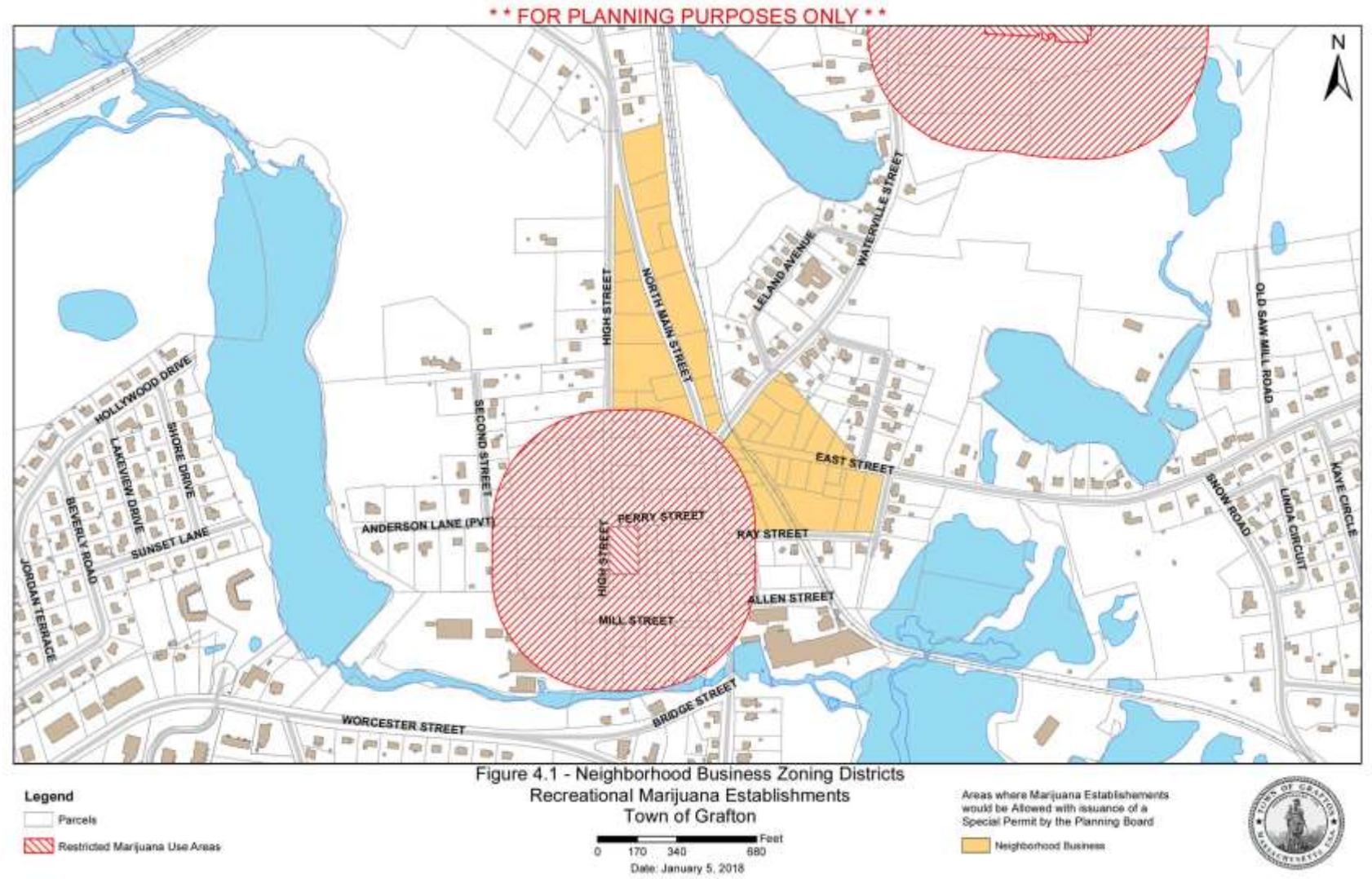
ZBL 2018-3 Add Marijuana Retailers as Special Permit Use in Community Business (CB) Districts



ZBL 2018-3 Add Marijuana Retailers as Special Permit Use in Community Business (CB) Districts



ZBL 2018-4 Add Marijuana Retailers as Special Permit Use in Neighborhood Business (NB) Districts



ZBL 2018-4 Add Marijuana Retailers as Special Permit Use in Neighborhood Business (NB) Districts

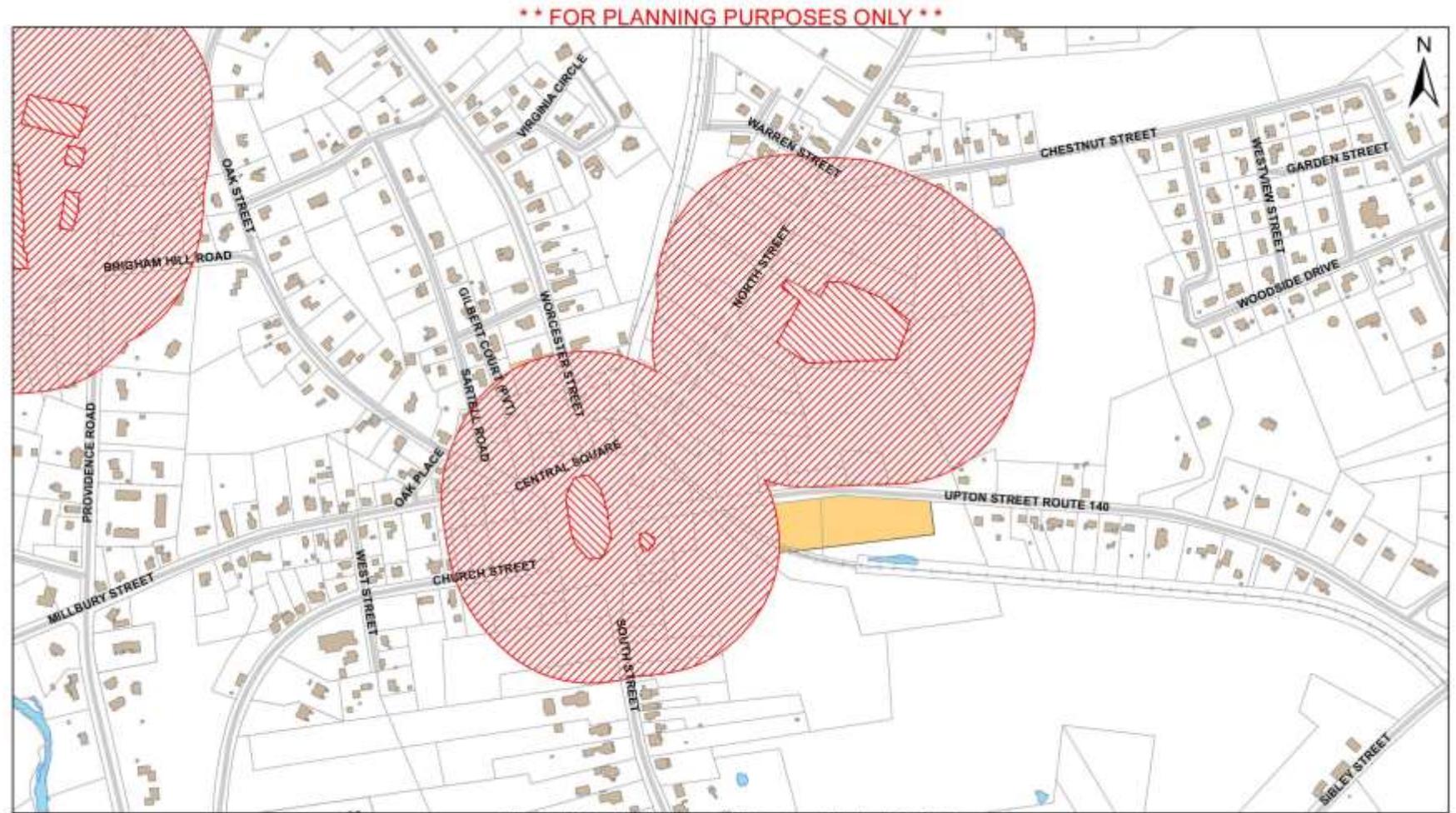
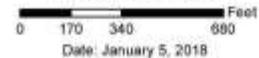


Figure 4.2 - Neighborhood Business Zoning Districts
Recreational Marijuana Establishments
Town of Grafton

Legend

- Parcels
- Restricted Marijuana Use Areas

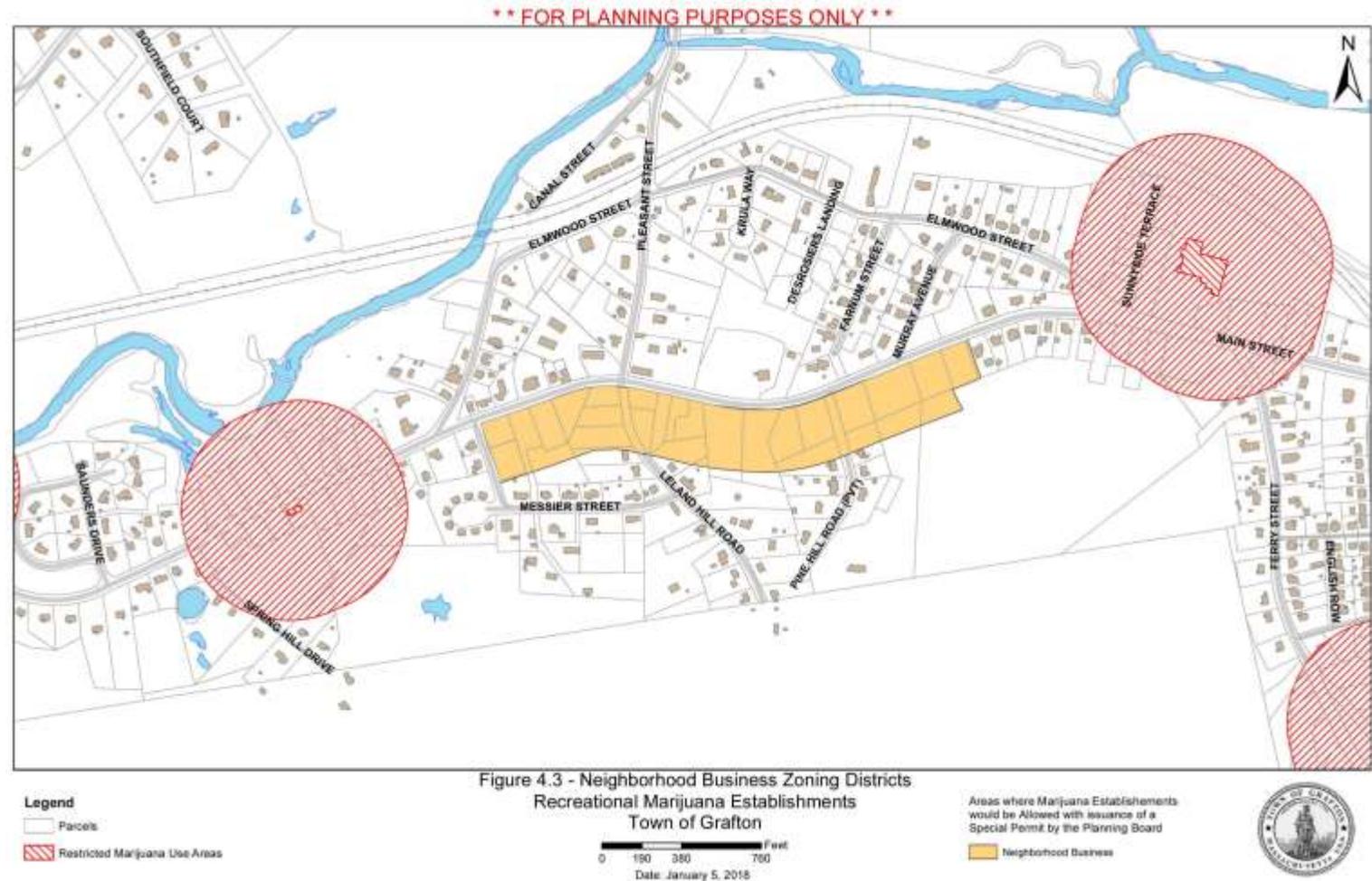
- Areas where Marijuana Establishments
would be Allowed with issuance of a
Special Permit by the Planning Board
- Neighborhood Business



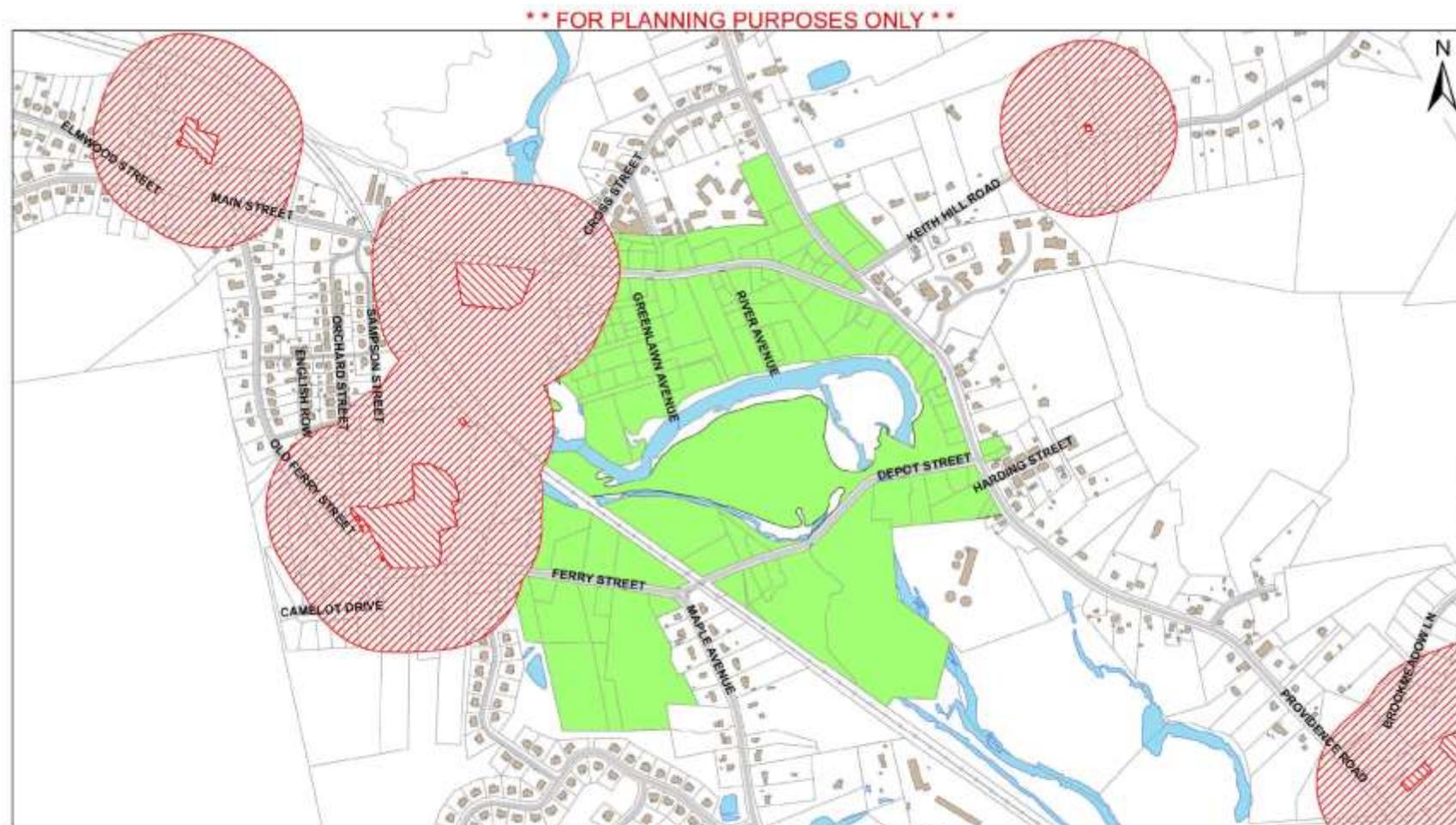
Date: January 5, 2018



ZBL 2018-4 Add Marijuana Retailers as Special Permit Use in Neighborhood Business (NB) Districts



ZBL 2018-5 Add Marijuana Retailers as Special Permit Use in Village Mixed Use (VMU) District



Legend

- Parcels
- Restricted Marijuana Use Areas

Figure 5.0 - Village Mixed Use Zoning District
Recreational Marijuana Establishments
Town of Grafton

0 255 510 1,020 Feet
Date: January 5, 2018

- Areas where Marijuana Establishments would be Allowed with issuance of a Special Permit by the Planning Board
- Village Mixed Use



Work Continues

- Expanded Definitions and Use Types
- Local Permitting Process and CCC Licensing
- Special Permit vs State Law (reasonableness vs unreasonableness)

Questions

