



Franklin Regional Council of Governments

Recreational Marijuana Municipal Roles and Responsibilities Workshop Notes

Speaker: Margaret Hurley, Municipal Law Division Chief, Mass AGO @ FRCOG 9/7/17

Current Status: The Cannabis Control Commission and Cannabis Advisory Board have been appointed. CCC is meeting in September to begin the issuance of the regulations. Good outcomes of the legislation: Some funds set aside for public health, charge to commission to study how to increase involvement of local agriculture.

Next steps:

- In 2018, March 15 CCC must publish regulations. If not done by July 1, 2018, then medical MJ centers can start selling it on July 2.
- April 1 license applications can be submitted. License filed with CCC, they notify community. Up to the community to communicate to CCC about any local ordinances or zoning bylaws or regulations that would prohibit the application.
- CCC will rank the applications
- Bylaws that would impact the placement of a facility in town have to have legal effect by April 1, 2018, including approval by AGO (90 days, but they will try to get to it ASAP). Upshot: Planning Boards need to get started right now.
 - This date could change if CCC changes it in the regulations or the legislature changes it
 - If a town revisits zoning and approves revised bylaws later (such as at the Spring Annual Town Meeting) and no one applies until later, it is fine.
- Licensing MAY begin on June 1 2018.
- Your town will know if someone is applying, because they need a host agreement
- Prior Medical MJ law repealed and it was rolled into the CCC. If you have medical MJ, expect they will start selling.
- Compromise legislation has a grandfathering provision. If your town already took votes based on the State law passed in November, whatever you did before July 1, is fine.
- Taxes – local tax rate have been increased. Local acceptance provision, so need to do that vote soon. Moratoria will likely be respected by the CCC until they are over.
 - They will consider moratoria that go into 2019, though they have not yet.
 - She recommends if your moratorium expires before the AG approves the bylaw, you can call a Special Town Meeting and extend the moratorium for a few months to cover that time.

Planning process issues:

- Definition of commercial marijuana is so broad they think you should do anything prohibiting you want to do through zoning, not just a general bylaw.
- Bylaws that limit the # of establishments below the threshold (fewer than 20 percent of the number of alcohol licenses issued within the town), and bylaws that completely ban retail establishments, only need to get both town meeting approval and a ballot vote if the town voted in favor of commercial marijuana at the state wide ballot in November of 2016. Towns that voted against commercial marijuana need only get town meeting approval.
- In the case above, ballot vote and bylaw vote language MUST be the same. No amendments at Town Meeting to the language! The language has to be the same, but do not have to be in a certain order. –

The ban or limit would not have lawful effect until the town gets both town meeting approval and ballot approval. (But the AG also need to approve the bylaw)

- Re: advertising. Communities can regulate – signage at facility, for example. What is not clear – billboards, online advertising, etc. Question: can we regulate the types of signs? Like no leaves. Federal case included the Reed v. Gilbert. “cities and towns can adopt reasonable regulations but if the CCC is less restrictive, the town cannot pass regulations stronger than those that regulate alcohol signs”)
- The food inspection issue: With medical marijuana, edibles were not food. How can we get ready? Seed to Stem will be regulated by the CCC, inspected, etc.. Local BOHS will likely be able to regulate and inspect. Starting to work on draft BOH regulations is probably a good idea.

Other important municipal concerns:

- Public Consumption is not legal. Towns have the ability to regulate or prohibit smoking in public . Do not need to amend it, it will automatically include MJ. You would have to amend smoking bans to include eating MJ if you wanted to.
- Possession of MJ in vehicles is unlawful, similar to open container law.
- Agriculture – language was added in December to establish that “agricultural uses” does not include growing, distribution, etc.. of MJ. Compromise bill added “but a town can adopt a bylaw to allow for commercial growing on land zoned for agriculture”
- Question: If a town gave a letter of support for the medical facilities, could they rescind the letters? Answer: whole other process will now be in place. Medical MJs will now need a host community agreement.
- Private landowner can prohibit possession and use
- Towns and State can prohibit possession and use on their property.
- All employers: Check your employment policies. Clarify medical and recreational marijuana standards.
- If anyone is selling now, the Criminal Division at the AGO will be involved. The AGO’s Consumer Protection Division will handle the labeling.
- In order to prohibit marijuana cafes all communities (regardless of how they voted on the ballot question) need to do a ballot vote at the next biennial state election.

Things that will be addressed in the CCC regulations:

- The CCC regulations will make it clear for example, whether the host agreement has to be in place before they apply or whether they open.
- Not clear from statute whether towns or BOHs can license. The CCC regulations will address.
- If a town votes to ban commercial sales, it will likely NOT affect the current Medical MJ facilities. She doubts it.
- What if a town has issued a special permit for a facility? Will the new deadlines pre-empt it? They have approved both special permits for medical MJ and commercial MJ. Possibly the CCC will address this.
- What if towns want to know where the CCC is headed, so they know if they want to be more or less restrictive with their town regulations? Answer: there will be a public hearing process.
- Questions: can commercial home delivery be regulated locally? CCC regulations will address. Likely towns cannot impinge on that.

Helpful Links as of 9/7/17:

MA Courts: <http://www.mass.gov/courts/case-legal-res/law-lib/laws-by-subj/about/marijuana.html>

Attorney General’s Muni Law Division: <http://www.mlu.ago.state.ma.us/>

MA Regional Planning Agencies Resource Page: www.Massmarpa.org/recreational-marijuana