

North Adams Retail Marijuana Zoning Working Group

The North Adams Retail Marijuana Zoning Working Group will conduct a public hearing on Wednesday, January 24, 2018 at 6:30 P.M. in the City Council chambers of City Hall. The purpose of this hearing is to receive community input on a draft retail marijuana ordinance. Anyone interested in obtaining additional information may do so by contacting the Office of Community Development at 662-3000 (x 3025).

Agenda

1. Welcome and purpose of hearing
2. Review proposed retail marijuana ordinance
3. Public comments/questions (please state your name and address/organization for the record, so that your comments can be recorded in the public hearing minutes).

NOTE: the working group also will accept written comments until 12:00 P.M. Wednesday, January 31, 2018. Please email all comments to lbernstein@northadams-ma.gov, or bring them to the Office of Community Development (City Hall - 10 Main Street)

Thank you.
Larysa Bernstein, Office of Community Development

ADD THE FOLLOWING TO THE END OF SECTION [10, SPECIAL REGULATIONS] - AS A NEW SECTION [10.12]

§[10.12]. Licensed Marijuana Establishments.

A. Purpose. The purpose of this section is to provide for the placement of Licensed Marijuana Establishments in suitable locations in the City of North Adams in recognition of and in accordance with “The Regulation and Taxation of Marijuana Act,” G.L. c. 94G, [to minimize potential adverse impacts of marijuana establishments.] The specific purpose of this section is to safeguard the built environment by permitting compliance with state law in a manner consistent with community and neighborhood concerns, while also ensuring that those entities permitted to operate a licensed marijuana establishment, as defined herein, comply with all of the provisions of Chapter 334 of the Acts of 2016.

B. Definitions.

CRAFT MARIJUANA COOPERATIVE – a marijuana cultivator comprised of residents of the commonwealth organized as a limited liability company or limited liability partnership under the laws of the commonwealth, or an appropriate business structure as determined by the Cannabis Control Commission, and that is licensed to cultivate, obtain, manufacture, process, package and brand marijuana and marijuana products to deliver marijuana or Marijuana Establishments but not to consumers.

INDEPENDENT TESTING LABORATORY - a laboratory that is licensed by the commission and is: (i) accredited to the most current International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the commission; (ii) independent financially from any medical marijuana treatment center or any licensee or marijuana establishment for which it conducts a test; and (iii) qualified to test marijuana in compliance with 935 CMR 500.160 and M.G.L. c.94C, § 34.

LICENSED MARIJUANA ESTABLISHMENT (LME) – a marijuana cultivator, testing laboratory, marijuana product manufacturer, marijuana retailer, or any other type of licensed marijuana-related business.

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 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 establishments but not consumers.

MARIJUANA MICRO-BUSINESS – a marijuana establishment that is licensed to act as a: licensed marijuana cultivator in an area less than 5,000 square feet; licensed marijuana product manufacturer, and licensed marijuana delivery service in compliance with the operating procedures for each such license.

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.

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MARIJUANA RESEARCH FACILITY – an entity licensed to engage in research projects by the Cannabis Control Commission.

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 retailers may be in the form of a storefront or a social consumption establishment.

C. Designated Locations for Marijuana Establishments. The locations designated by the City of North Adams where an LME may be sited are as follows:

- 1) Marijuana cultivation facilities, manufacturing facilities, craft marijuana cooperatives or marijuana micro-businesses may be sited in the I-1, I-2 and I-P zone districts as shown on the Zoning Map, pursuant to G.L. c. 40A, §4, upon the approval of a Special Permit and Site Plan, as per Sections 12.3 and 12.4, respectively, of the Zoning Ordinance.
- 2) Marijuana retail establishments (including social consumption establishments), testing laboratories or research facilities may be sited in the CA-1, CA-2, CB-1, CB-2, CC-1, CC-2, CP-1, I-1, I-2 and I-P zone districts as shown on the Zoning Map, pursuant to G.L. c. 40A, §4, upon the approval of a Special Permit and Site Plan, as per Sections 12.3 and 12.4, respectively, of the Zoning Ordinance.
- 3) All LME's must be set back at least five hundred feet (500') from any school, daycare facility or similar facility where minors congregate. Said facilities shall include, but not be limited to, playgrounds, youth services programs, day care centers, youth sports facilities, dance schools and gymnastic schools. Distances shall be measured by a straight line between the nearest structure of the said facility and the LME building. Outdoor facilities or structures, such as playgrounds, shall be considered part of the facility where minors congregate. For example, a playground would be measured from the edge of the playground to the nearest point of the LME building.
- 4) LME's are prohibited in the R-1, R-1A, R-2, R-3, RU-1, AH-1 and AP-1 zone districts within the City of North Adams.

D. Designated Number of Marijuana Establishments.

- 1) The total number of all LME's may not exceed fifty percent (50%) of the number of licensed package and liquor stores within the City.
- 2) In the event that the number of licensed packaged liquor stores within the City decreases, any LME, if then exceeding fifty percent (50%) as noted in Subsection D.1, may remain in operation.
- 3) There shall be no restrictions on the number of any particular type of establishment permitted within the City, other than as regulated in Subsection D.1.

E. Special Permit Required. No LME shall be operated or expanded without first obtaining a Special Permit from the City of North Adams Special Permit Granting Authority in accordance with this Section 12.3 of the Zoning Ordinance.

- 1) The Special Permit Granting Authority for any LME shall be the Planning Board.
- 2) A special permit shall only be valid for use by the Applicant and will become null and void upon the sale or transfer of the license of an LME or change in the location of the business.

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- 3) In the event that the Commonwealth's licensing authority suspends the license or registration of a marijuana establishment, the Special Permit shall be so suspended by the City until the matter is resolved to the satisfaction of said licensing authority.
 - 4) The special permit shall be considered null and void if meaningful construction has not begun on the project within 2 years of obtaining said permit, as determined by the Building Inspector.
- F. Site Plan Review. Applications to operate or expand an LME shall be subject to Section 12.4 of the Zoning Ordinance. The site plan shall be submitted in conjunction with the Special Permit application and joined to the final approval for the Special Permit.
- G. General Requirements.
- 1) Outside storage. No outside storage of marijuana, marijuana products, related supplies, or educational materials is permitted.
 - 2) Visibility of activities. All activities of any LME shall be conducted indoors.
 - 3) Paraphernalia. Devices, contrivances, instruments and paraphernalia for inhaling or otherwise consuming marijuana, including, but not limited to, rolling papers and related tools, water pipes, and vaporizers may be lawfully sold at a marijuana retailer. No retail marijuana, marijuana products, or paraphernalia shall be displayed or kept in a retail marijuana store so as to be visible from outside of the licensed premises.
 - 4) Hours of operation. Operating hours of a marijuana retail establishment shall be consistent with the regulations for "Alcoholic Liquors," G.L. c. 138, unless determined otherwise by the Special Permit Granting Authority. There shall be no hourly restrictions on any other type of LME, unless imposed by the Special Permit Granting Authority as part of site plan approval.
 - 5) On-site consumption of marijuana. The use, consumption, ingestion or inhalation of marijuana or marijuana products shall only be permitted at social consumption establishments and research facilities, within the confines of the building. On-site consumption is prohibited on or within the premises of any other LME.
 - 6) Sale of alcohol. LME's are prohibited from selling alcoholic beverages.
- H. Design Requirements. The following are required for all proposed operations of an LME, consistent with Subsection C.
- 1) Permanent location. Each LME and any part of its operation, including but not limited to, cultivation, processing, packaging, and sales, shall be operated from a fixed location within a fully enclosed building. No marijuana establishment shall be permitted to operate from a moveable, mobile, or transitory location.
 - 2) Signage. All signage must comply with the regulations set forth in Section 7, "Sign Regulations".
 - 3) Lighting. Outdoor light levels shall not exceed one (1) foot-candle along property lines, nor ten (10) foot-candles for any location on the property. Any light poles, new or existing, may not exceed eighteen (18) feet in overall height. All outdoor light fixtures must be shielded and aimed down in order to prevent light trespass onto adjacent properties. The Special Permit Granting Authority may modify this requirement if, upon recommendation by the Police Chief, it is required for adequate safety and security.
 - 4) Landscaping. The proposed site shall provide landscaping to harmonize the LME with abutting uses. Landscaping shall be provided as per the requirements listed in Section 6.7.3, "Parking lot landscaping". Trees and shrubs may be clustered.

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Landscaping must consist of native, non-invasive plant species. The Special Permit Granting Authority may modify or waive this requirement.

- 5) Parking. Off-street parking must be provided for any LME as specified in Section 6.4, “Off-Street Parking Requirements”.
 - 6) Drive through facilities. LME’s are prohibited from installing an on-site drive through facility.
 - 7) Fencing. Fencing may be required if determined necessary by the Police Chief or the Planning Board. The location, height and type of fencing may be determined by the Planning Board as a condition of the Special Permit approval. In no instance shall barbed-wire fencing be permitted.
 - 8) Waste Disposal. There shall be no outdoor storage of waste, including dumpsters, for any marijuana retailer. All waste generated shall be secured indoors, to be serviced by a professional janitorial company, or medical waste company.
- I. Filing Requirements. Applications to permit an LME must be submitted to the Building Inspector, or their designee(s). Such applications for LME’s shall include the following:
- 1) Site Plan. A site plan shall be submitted that includes all information required per Section 12.4.5, “Site Plan”, and must also include the following:
 - a. The names, mailing addresses, phone numbers, email addresses, and signatures of the applicant, owner, and operator.
 - b. Physical address (if one exists), and the map, lot, and block number of the proposed site.
 - 2) Security Plan. A security plan shall be submitted, to ensure the safety of employees, patrons, and the public to protect the premises from theft or other criminal activity. The security plan shall be reviewed and approved by the local Police Chief, or their designee. The Security Plan shall include the following:
 - a. An interior floorplan (including secured areas, windows, doors, etc.)
 - b. Exterior lighting
 - c. Fencing (if any)
 - d. Gates (if any)
 - e. Alarms
 - f. Any other security measures as requested by the Police Chief.
 - 3) Traffic Study. The Planning Board may require a traffic study that includes an analysis of traffic generation, circulation, and off-street parking demand to determine sufficient parking and optimum configuration for site ingress and egress.
 - 4) State License. A copy of the license or registration as an LME from the Massachusetts Cannabis Control Commission or documentation that demonstrates that said facility and its owner/operators qualify and are eligible to receive a Certification of Registration and meet all of the requirements of an LME in accordance with the regulations adopted by the Commission, as amended.
 - 5) Proof of Site Control. Evidence that the Applicant has site control and the right to use the site for an LME in the form of a deed, valid lease, or purchase & sale agreement or a notarized statement from the property owner certifying the Applicant has firm site control.
- J. Discontinuance of Use. Any LME under this Section shall be required to remove all material, plants, equipment, and other paraphernalia in compliance with regulations established by the Cannabis Control Commission within thirty (30) days after the expiration or voiding of its license.

K. No City liability; indemnification.

- 1) The Applicant and all licensees waive and release the City, its elected officials, employees, and agents from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of the LME owners, operators, employees, clients, or customers for a violation of state or federal laws, rules, or regulations.
- 2) The Applicant, in receiving approvals issued pursuant to this chapter, and all licensees, jointly and severally, if more than one, agree to indemnify, defend and hold harmless the City, its elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other loss of any kind whatsoever, arising out of or in any manner connected with the operation of the LME that is subject of the approval/license.

L. Annual Inspection.

- 1) Any operating LME within the City shall be inspected annually by the Building Inspector, or their designee, to ensure compliance with this Section 10.12 and with any conditions imposed by the Planning Board as a condition of the Special Permit approval.
- 2) The first annual inspection shall be more than one (1) year after beginning operation, but before two (2) years of beginning operation.

M. Other laws remain applicable.

- 1) Business License Required. At all times while a permit is in effect the licensee shall possess a valid license.
- 2) To the extent that the state has adopted or adopts in the future any additional or stricter law or regulation governing the cultivation, manufacturing, testing or retail of marijuana or marijuana products, the additional or stricter regulation shall control the LME in the City. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this chapter, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder.
- 3) Any LME may be required to demonstrate, upon demand by law enforcement officers of the City of North Adams and/or the local licensing authority, the source and quantity of any marijuana found upon the licensed premises are in full compliance with any applicable state law or regulation.
- 4) The issuance of any license pursuant to this chapter shall not be deemed to create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the cultivation, possession, sale, distribution, or use of marijuana.
- 5) Prior to the issuance of a Special Permit, the LME must have entered into a Host Community Agreement (HCA) with the City. If, upon review by the City Council, the LME is found to not be fully in compliance with the HCA, the Special Permit and/or the local license may be suspended or rescinded.

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ADD THE FOLLOWING TO APPENDIX A (USE REGULATION SCHEDULE): RETAIL, SALES AND COMMERCIAL USES – WHOLESALE, UTILITIES, TRANSPORTATION AND INDUSTRIAL USES

Principal Uses		Zone																
		R-1	R-1A	R-2	R-3	RU-1	AH-1	CA-1	CA-2	CB-1	CB-2	CC-1	CC-2	CP-1	I-1	I-2	I-P	AP-1
Retail, Service and Commercial Uses																		
48	<i>Marijuana Retailer (including social consumption establishments)</i>	NP	NP	NP	NP	NP	NP	SP-P	SP-P	SP-P	SP-P	SP-P	SP-P	SP-P	SP-P	SP-P	SP-P	NP
Wholesale, Utilities, Transportation and Industrial Uses																		
67	<i>Marijuana Testing Laboratory</i>	NP	NP	NP	NP	NP	NP	SP-P	SP-P	SP-P	SP-P	SP-P	SP-P	SP-P	SP-P	SP-P	SP-P	NP
68	<i>Marijuana Research Facility</i>	NP	NP	NP	NP	NP	NP	SP-P	SP-P	SP-P	SP-P	SP-P	SP-P	SP-P	SP-P	SP-P	SP-P	NP
69	<i>Marijuana Product Manufacturer</i>	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	SP-P	SP-P	SP-P	NP
70	<i>Craft Marijuana Cooperative</i>	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	SP-P	SP-P	SP-P	NP
71	<i>Marijuana Micro-Business</i>	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	SP-P	SP-P	SP-P	NP
72	<i>Marijuana Cultivator</i>	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	SP-P	SP-P	SP-P	NP

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