



## City of New Bedford

### Department of Planning, Housing & Community Development

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## STAFF REPORT

REPORT DATE

July 5, 2018

PLANNING BOARD MEETING

July 11, 2018

### ZONING FOR MARIJUANA ESTABLISHMENTS AND MEDICAL MARIJUANA TREATMENTS CENTERS

**Proposal:** Adoption by City Council of an ordinance amendment to Chapter 9, Comprehensive Zoning, Section 4900A, inserting new sections (Sections 4110B 4180B) that would allow state-licensed marijuana establishments and medical marijuana treatment centers to operate in the City of New Bedford in accordance with applicable state laws and regulations. The Planning Board's recommendation in this matter is requested by the Council.

**Overview:** In the November 2016 general election, Massachusetts voters approved a law regulating the cultivation, processing, distribution, possession and use of marijuana for recreational purposes. Regulations governing the licensing of commercial activities for such purposes will be generated by the Commonwealth's "Cannabis Control Commission" (CCC). Cities have the right to enact zoning bylaws for themselves to regulate the time, place and manner of recreational marijuana under the existing law. However, there is no opportunity for cities like New Bedford to weigh in with the CCC on the awarding of licenses, if the applicant is in compliance with local zoning.

In 2017, the New Bedford City Council established a special Committee on Licensing and Zoning for Cannabis. The Committee has been working with various City Departments in developing zoning bylaws to regulate the location and permitting process for cultivation, manufacturing, testing, and retail sale of marijuana in New Bedford.

In 2017, the state established, and Governor Baker signed, legislation governing Recreational Marijuana into law as Chapter 55 of the Acts of 2017 and codified at Mass General Laws Part I, Title XV, Chapter 94 G.

At its April 12, 2017 meeting, the Planning Board was asked to consider a temporary moratorium to afford the city time to develop the proposal before you now. In a unanimous vote, the Planning Board voted *"to recommend to the City Council that the City of New Bedford establish a temporary moratorium on recreational marijuana establishments."* Subsequent to this recommendation, however, the City Council did not vote to impose the temporary moratorium. In light of this, the City Council Special Committee on Licensing and Zoning for Cannabis began meeting to discuss the development of regulations.

On December 21, 2017, the CCC filed a first draft of regulations for the purpose of implementing the legal adult use of marijuana. The draft, 935 CMR 500.000, was finalized on March 23, 2018 and established procedures to begin licensing marijuana establishments (including marijuana retailers) as early as June 2018.

At its March 18, 2018 meeting, the Planning Board was asked to again consider a moratorium. In a unanimous vote, the Planning Board voted *“to recommend to the City Council that the City of New Bedford establish a temporary moratorium on recreational marijuana establishments.”* This time the moratorium was favorably acted upon by the City Council and as a result, the moratorium will be in place until September 30, 2018 or until such time an ordinance is adopted.

#### **Ordinance Summary**

The City of New Bedford’s zoning ordinance does not specifically address non-medical marijuana land uses nor does it provide for facilities engaged in the production and/or sale of recreational marijuana. Because of this, and in light of the impending reality that such facilities may look to locate in New Bedford, it is important to decide the “where, how, and to what extent” such facilities will be allowed within the city.

The proposed ordinance has been drafted to allow state-licensed marijuana establishments and medical marijuana treatment centers to operate in the City of New Bedford in accordance with applicable state laws and regulations. The ordinance is intended to do so by:

- ▣ Minimizing the adverse impacts that marijuana establishments and medical marijuana treatment centers might have on adjacent properties, residential neighborhoods, dwellings, schools, substance abuse treatment centers, churches, and other sensitive land uses;
- ▣ Providing standards for the placement, design, siting, safety, security, and monitoring.
- ▣ The city, in accordance with state law, will adopt the option limiting the number of marijuana retailers to no less than twenty (20%) of the number of "off-premises" alcohol licenses allotted to the City which, would limit the number of marijuana establishments to eight (8).

#### **Proposed Location Requirements and Restrictions**

Marijuana Establishments and Medical Marijuana Treatment Centers shall only be located in Industrial Districts A (IA), B (IB), and C (IC). Under the proposed ordinance, no Marijuana Establishment or Medical Marijuana Treatment Center shall be located within 500 feet of any public or private school providing education in kindergarten or any grades 1 through 12, licensed daycare center, nursery school, preschool, building operated as part of the campus of any private or public institution of higher learning, playground, park, public library, church, substance abuse treatment facility, marijuana establishment, or medical marijuana treatment center; or within 200 feet of any dwelling or dwelling unit.

#### **Proposed Operational Requirements and Restrictions**

The draft ordinance stipulates that hours of operation for any marijuana establishment or medical marijuana treatment center dispensing to the public cannot be open between the hours of 7 p.m. and 10 a.m., Monday –Sunday. Drive-through services will not be allowed, nor will on-site consumption, including at social clubs where marijuana is not sold to consumers on site, and no outside storage. In addition, the proposed ordinance provides that proper ventilation be developed to ensure that no odor from marijuana or its processing can be detected by a person with an unimpaired sense of smell. Similarly, the proposed draft cites that no pesticides, insecticides, or other chemicals be dispersed into atmosphere.

#### **Special Permit**

In order to operate, Marijuana Establishments and Medical Marijuana Treatment Centers must first obtain a Special Permit from the Planning Board which would act as the Special Permit Granting Authority for this use. Special Permits may be conditioned upon on the proposer’s site and operational plans, traffic and transportation analysis plans, security plans, odor control plans, emergency response plan, and the proposed host community agreement.

**For Board Consideration**

The introduction of the sale of recreational marijuana has been decided by the Commonwealth's electorate; its governance relative to awarding licensing for recreational marijuana establishments will be determined by the CCC. Because it is the City of New Bedford's responsibility to impose reasonable safeguards regulating the time, place and manner of such establishments within the city, it is critical that New Bedford adopt a strong ordinance to ensure clarity and consistency. The Planning Board is now responsible for offering its recommendation to this end to the City Council.