

Public Meetings  
Seeking input and comments on policy for adult use (recreational) marijuana establishments  
In the City of Somerville

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The City of Somerville will host two public meetings as follows:

- April 12, 2018 at the Somerville Police Station
- April 19, 2018 at the VNA community room

as a part of the City's effort to establish policies for marijuana establishments in Somerville

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### **Background**

Adult Use, or "recreational" marijuana was approved by the voters of Massachusetts in 2016, with the anticipation that the industry would be running in 2018. Each community in Massachusetts is tasked with creating a regulatory system for marijuana establishments, or to ban it outright. In Somerville, we are seeking to create a regulatory system for marijuana businesses. This follows an effort in 2012-2018 to pursue medical marijuana in Somerville.

### **Medical Marijuana**

It has been 5 ½ years since the voters in Massachusetts approved medical marijuana establishments. The industry started slowly, and for some it was more slowly than they expected. Nonetheless, as of March 2018, there are 22 medical marijuana dispensaries (called RMD's in the industry) operating in 21 different communities. To date, Somerville is the only community in the Commonwealth with more than one operating RMD.

### **RMDs: Letters of Non-Opposition**

RMDs at the state level were only permitted to operate after being granted a 'letter of non-opposition' or 'letter of support' from the local government. Soon after state regulations were established for RMDs, over 15 different entities expressed interest in opening in Somerville. As with all communities, the Mayor could choose the entities to get a certificate. To facilitate this process, the Mayor created a staff-level committee with three members (planning director, health director, and deputy police chief) to select RMDs for Somerville. The mayor accepted this recommendation and submitted a letter of non-opposition for each selected entity. The committee selected five recommended establishments and the Mayor issued letters to those five establishments. One withdrew their request for a special permit and one was unsuccessful at securing a lease. Two of the other three have opened and a third is under construction.

## RMDs: Local Zoning

At the local level, Somerville established zoning to permit RMDs in a specific overlay district. The overlay district is located through major thoroughfares and squares in the City, including Davis Square and Union Square as well as along Broadway and around Assembly Square. Within the overlay district, an RMD with a letter of non-opposition can request to operate by securing a special permit. Either the Planning Board or ZBA conducts the special permit review, depending on the zoning district in which the RMD is located.

## RMDs: Host Agreements

Each RMD has signed the same community host agreement. Unlike some other communities, that chose their dispensaries based upon who was willing to provide the most lucrative host agreement, Somerville established a balanced agreement and required all interested dispensaries to agree to this same agreement. The original agreement dedicated 4% of gross profits (with certain minimums in early years) to drug education and treatment programs in Somerville. The agreement has since been amended, in 2017, after the state legislature amended the marijuana statutes and limited host agreements to 3% of profits. The Somerville agreements are now set at 3%, the state maximum.

The Somerville agreements also indicate that each RMD will not seek to convert to an adult-use marijuana establishment without agreeing to go through any process established by the City. Based upon this, a dispensary seeking to expand to adult-use marijuana cannot 'skip the line'. The reason for this is simple: Somerville selected the location and operations of these dispensaries based upon them being medical establishments – essentially operating like pharmacies. The operators agreed that this was the circumstance under which they would be operating. While the state law permits these establishments faster reviews for state licenses (a regulation established after the Somerville host agreements were signed), the City believed it was important to have the community conversation about any change in use prior to any conversion occurring.

## **Adult Use (Recreational) Marijuana**

### Ballot Question

Adult-Use marijuana was approved in Massachusetts in a 2016 ballot question. The question was approved with 53.6% statewide and 73.6% of ballots cast in Somerville voting in the affirmative.

### Legislative Review

After the ballot question was approved, the legislature made changes in the regulation to address concerns about how the industry would operate. These changes included:

- Establishing how cities and towns could opt out of having adult-use marijuana establishments in their communities. Communities that voted against the ballot question could ban them through a local legislative vote. Those that supported the ballot question could only ban them through a local city or town-wide vote.
- Establishing how RMDs could convert. The ballot question restricted local governments from outright rejecting a new adult-use establishment in the same 'area' where an RMD is operating. The state legislation removed this provision, but permitted RMDs to get an earlier start in state permitting and restricted local governments from using zoning to prohibit the change in use from RMD to adult-use facility.
- The legislation provided the direction for the appointment of the Cannabis Control Commission (CCC) at the state level, their appointments and how they would establish state regulations.

### Regulations for Adult-use Marijuana

The CCC was appointed in 2017 and issued final regulations on March 15, 2018 after an extensive public review/comment period. Most of these regulations discuss how the state can license facilities, fees, testing, transportation, etc. But, there are a few key elements of the regulations that are relevant to Somerville as we seek to create our own local regulatory process:

1. Communities that do not ban adult-use marijuana may accept a certain calculation of the number of entities that can operate in that community. The requirement is based upon the number of package stores in Somerville. Somerville's number is most likely seven.
2. The "letter of non-opposition" process does not exist, but selected organizations are supposed to have a completed host agreement.
3. The City can also enact a 3% local option tax on adult-use marijuana.
4. Cities can regulate through local zoning, through local licensing or both:
  - a. Zoning allows the City regulate time, place and manner of an operation.
  - b. Licensing allows the City to determine if the organization, and their leadership are able to meet standards set by the City
5. The host agreement permits local collection of a fee, but it is capped at 3% of gross sales and cannot be effective for longer than 5 years.
6. Municipality gets 60 days to confirm any state application is consistent with municipal laws

### **Questions for Somerville**

Through this local regulatory process, Somerville has to answer the following key questions:

- a. How do we establish zoning for adult-use marijuana?
  - a. Where do we allow it?
    - i. We could use the same overlay as medical marijuana

- ii. We could establish a different overlay district
  - iii. We could permit it in specific underlying zoning districts (i.e. all business districts)
- b. What is the review process?
  - i. We can permit it by-right (no zoning review of individual applications)
  - ii. We can permit it by special permit (ZBA or Planning Board can accept or reject, and can add reasonable conditions to approvals)
  - iii. We can permit it by 'design and site plan review' (there will be public hearings and the Planning Board or ZBA can add reasonable conditions but must approve the use)
  - iv. We can also add design review and/or neighborhood meetings to this process
  - v. The state also requires a neighborhood meeting – we can specify when this occurs in the process
- b. Should there also be a local licensing process?
  - a. Do we need a local license?
    - i. Note: While zoning looks at location and the nature of the establishment, local licensing can look at the character of the license holder, and provide some priority for different types of licenses.
  - b. Who would do local licensing?
    - i. If the City does a local license, the city staff recommends that it be managed by the Board of Health.
  - c. Do we limit the number of licenses?
    - i. This may be a way for us to limit the city to the a certain number of establishments, as long as it is at least as many as are required by state law.
    - ii. We could set a higher limit if we do
  - d. Do we set up rules / guidelines / requirements stricter than state standards?
    - i. At a minimum, staff recommends criteria for the license, so that it is based on a reasonable review of items that are important to the community (i.e. character of applicant; local or small-business ownership; etc.)
- c. What information is needed in a zoning or licensing application?
  - a. We anticipate that a zoning application will include the items in a typical site plan or special permit application.
  - b. We can also require the items required by the state (list them)
  - c. Is there anything more?
- d. Special categories:
  - a. Do we provide advanced help to RMDs? (do they become dual-operators)
  - b. Do we provide advanced help to disadvantaged applicants? Craft Co-ops? Economic empowerment apps? Microbusiness? Social equity apps? Etc.
  - c. Do we also permit research facilities and/or laboratories? If so, under what conditions?

- d. Does it make sense to regulate commercial growing? Will this even be possible in a City like Somerville?
- e. Can a business selling marijuana products also sell other products?
  - a. Can they sell snacks; beverages; tobacco
  - b. Do we permit the sale of drug paraphernalia in these facilities? Separate from these facilities?
- f. Do we want to enact the local 3% options tax? (FYI: The administration intends to submit this request soon)
- g. Do we limit signs? We cannot limit sign messages. We can limit the size and technology for signs, but may not be permitted to limit marijuana signs any more than other signs in the same district.
- h. Do we establish rules for record keeping? Should all records provided to the state shall also be available to city?
- i. Do we establish energy use / renewable energy standards? Can these be greater than state requirements? How can in-state energy sources be used to support this program?
- j. Is there a value in encouraging the use of an 'organic' product? Do we require it?