



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

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April 24, 2017

Barbara Stats, Town Clerk
Town of North Reading
235 North Street
North Reading, MA 01864

**Re: North Reading Special Town Meeting of March 13, 2017 - Case # 8274
Warrant Articles # 1, 2, 3, 4 and 6 (Zoning)**

Dear Ms. Stats:

Articles 1, 2, 3, 4 and 6 - We approve these Articles, and the map amendments related to Article 2, from the North Reading Special Town Meeting of March 13, 2017. We will return the approved map by regular mail. Our comments on Article 6 are detailed below.

Article 6 – Article 6 proposes to amend the Town’s zoning by-laws to add to the existing Article VIII (“Use Regulations”) a new Section 200-36.1 “Prohibited Uses,” as follows:

In the Town of North Reading, the following uses are prohibited in all zoning districts:

- A. **Recreational marijuana establishments.** Consistent with MGL c. 94G, § 3(a)(2), all types of marijuana establishments as defined in MGL c. 94G, § 1(j), including marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers or any other types of licensed marijuana-related businesses, but not to include registered marijuana dispensaries as defined by Article XXIV, Registered Marijuana Dispensaries, of this Zoning Bylaw.

We approve this text because it is consistent with Chapter 334 of the Acts of 2016, as amended by Chapter 351 of the Acts of 2016 (“Marijuana Act”). Specifically, the Marijuana Act authorizes municipalities to adopt “ordinances and by-laws that impose reasonable safeguards on the operation of marijuana establishments” including “an ordinance or by-law by a vote of the voters of that city or town” to “prohibit the operation of 1 or more types of marijuana establishments within the city or town.” G.L. c. 94G, § 3 (a) (2). The amendments adopted under Article 6 qualify as a by-law to prohibit the operation of one or more types of marijuana establishments in the Town.

We note that the Town has also placed the proposed prohibition on the ballot for the Town's May 2, 2017 election, as follows:

Shall the Town prohibit the operation of all types of marijuana establishments as defined in G.L. 94G, Section 1, including marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers or any other type of licensed marijuana related businesses within the Town of North Reading?

It is not clear from the text of the state law whether a prohibition on marijuana establishments must be made by by-law vote, or town ballot vote, or both. *See* G.L. c. 94G, § 3(a) (2). However, we approve the Town's by-law amendment adopted under Article 6 because it is consistent with G.L. c. 94G, § 3(a) (2), and otherwise does not conflict with the laws or Constitution of the Commonwealth, (*see Bloom v. Worcester*, 363 Mass. 136, 154 (1973)). The Town should consult with Town Counsel regarding how to proceed in the event the town ballot question is not approved by the voters.¹

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

MAURA HEALEY
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Margaret J. Hurley

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cc: Town Counsel Darren Klein

¹ This Office has no role in approving the text of town ballot votes.