



Massachusetts Municipal Association

## **MMA BEST PRACTICES SERIES**

*Recommendations for Effective Local Government Administration and Management from MMA Policy Committees*

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### **MMA Policy Committee on Municipal and Regional Administration Best Practice Recommendation: Recreational Marijuana Strategy**

**BEST PRACTICE:** Adopt a strategy for addressing issues regarding recreational marijuana in your community. Early planning and action will be vital to ensuring effective outcomes.

In 2016, voters approved a ballot question legalizing the sale of recreational marijuana in Massachusetts, and in 2017 the Legislature refined the law to integrate the administrative, procedural and policy issues. The result is that commercial cannabis operations will begin later this year. The law provides that – unless communities take action locally – cities and towns must allow a certain number of recreational marijuana facilities (a minimum of 20 percent of the number of “package store” liquor licenses issued by the community). For cities and towns looking to enact a ban or to limit the number of recreational facilities below 20 percent of the number of “package store” liquor licenses, local officials need to keep in mind that the Cannabis Control Commission (CCC) is mandated by law to begin accepting applications on April 1, 2018.

The Office of the Attorney General has recommended that cities and towns act as quickly as possible on the local decision-making process. Given ambiguity in the law, it is recommended that cities and towns enact both a zoning and a general bylaw if they wish to limit or prohibit recreational sales. When considering prohibition, cities and towns can differentiate between the types of facilities prohibited. For instance, they may ban recreational shops while allowing for cultivation.

Municipalities that choose not to pursue prohibition of recreational sales or other facilities are still advised to pursue and implement proactive zoning policies prior to the date that license applications can first be submitted to the CCC. Although the state will not issue licenses until June 1, 2018, adopting zoning changes by April 1 will minimize the possibility that the changes would impact applications pending before the CCC.

Municipalities have the right to zone for location of cannabis facilities, as well as determining the “time, place, and manner of operations.” This can include time of operations, advertising, and zoning locations. Those communities wishing to create distinct zoning locations or districts for either recreational facilities or cultivation facilities, separate from existing allowances for commercial and agricultural activities, are encouraged to act as quickly as possible.

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Many communities in Massachusetts have enacted a temporary moratorium because their planning process, the timing of Town Meeting or municipal council sessions, or other factors would make it difficult to navigate through all of the zoning or local approval steps by April 1 or June 1. This is an option that communities should weigh if their process would extend beyond the state's licensing cycle.

As part of the planning process, local governments are now required under Chapter 94G of the General Laws to complete a Host Community Agreement. This requirement now extends to existing Registered Medical Dispensaries, as well. The CCC plans to provide templates for host agreements. This will include the community impact agreement, not to exceed 3 percent of gross sales. Cities and towns that wish to enact the local sales tax must accept Section 3 of Chapter 94G by a vote of the local legislative body. Once approved, a new vote will be required to change the initially approved rate.

For all of these actions, communities should consult closely with their legal counsel throughout the process.

**Resources:**

- Cannabis Control Commission: [www.mass.gov/orgs/cannabis-control-commission](http://www.mass.gov/orgs/cannabis-control-commission)
- Chapter 55 of the Acts of 2017 – An Act to Ensure Safe Access to Marijuana: [malegislature.gov/Laws/SessionLaws/Acts/2017/Chapter55](http://malegislature.gov/Laws/SessionLaws/Acts/2017/Chapter55)