

Harwich Planning Board Legal Notice
Proposed Zoning Amendment

In accordance with the provisions of MGL c.40A §5, the Harwich Planning Board will hold a public hearing on Tuesday, January 23, 2018 no earlier than 6:30 pm in the Donn B. Griffin Room, Harwich Town Hall, 732 Main Street, Harwich, to consider amendments to the Harwich Zoning Codes:

ARTICLE: XX - Zoning Bylaw Article TEMPORARY MORATORIUM ON SALE AND DISTRIBUTION OF RECREATIONAL MARIJUANA

To see if the Town will vote to amend the Town's Zoning Bylaw, "Article XXII, Temporary Moratorium on the Sale and Distribution of Recreational Marijuana" as follows:

§325-134 Purpose

Paragraph A: add in the second sentence within the parenthesis after "Acts of 2016", the following "and thereafter, on July 28, 2017 by Chapter 55 of the Acts of 2017"

Paragraph B: Within the first sentence replace the phrase "a permitted use in the Town," with "specifically addressed in the Zoning Bylaw" and delete in its entirety the last sentence.

§325-135 Definitions

Add a new definition for "Marijuana Establishment" as follows: "A marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business."

Change "Marijuana Testing Facility" to "Independent Testing Laboratory" and keep the existing definition language.

§325-136 Temporary moratorium

In the second sentence, change "July 30, 2018 to "December 31, 2018"

In the third sentence, delete ", by ballot measure,"

Any person interested or wishing to be heard on these zoning proposals should appear at the time and place designated. The full text for the proposed amendments can be found on the Town Website <http://www.harwich-ma.gov/planning-board>, and in the Community Development and Town Clerk Offices at Town Hall, at the address noted above, during normal business hours.

Lawrence Brophy, Chair

Cape Cod Chronicle Print Dates: 1/4/18, 1/11/18

PLEASE NOTE:

On the following pages please find the existing zoning bylaw with proposed amendments/changes shown.

New text is shown in **bold underline** and deleted text is shown in ~~strike-through~~.

ARTICLE XXII. Temporary Moratorium on the Sale and Distribution of Recreational Marijuana

§ 325-134. Purpose.

A. By vote at the state election on November 8, 2016, the voters of the commonwealth approved a law regulating the cultivation, distribution, possession and use of marijuana for recreational purposes. The law took effect on December 15, 2016, and (as amended on December 30, 2016; Chapter 351 of the Acts of 2016 **and thereafter, on July 28, 2017 by Chapter 55 of the Acts of 2017**) requires a Cannabis Control Commission to issue regulations regarding the licensing of commercial activities by March 15, 2018, and begin accepting applications for licenses on April 1, 2018.

B. Currently under the Zoning Bylaw, nonmedical marijuana establishments (hereinafter a "recreational marijuana establishment") as defined in MGL c. 94G, § 1, are not ~~a permitted use in the Town~~, **specifically addressed in the Zoning Bylaw** and any regulations promulgated by the State Cannabis Control Commission are expected to provide guidance to the Town in regulating recreational marijuana establishments. ~~Further, the Act establishes a provision that involves ballot action by the Town whereby the Town may, by ballot, determine whether it will prohibit recreational marijuana establishments within the Town.~~

C. The regulation of recreational marijuana establishments and marijuana retailers raise novel and complex legal, planning, and public safety issues, and the Town needs time to study and consider the regulation of recreational marijuana establishments and address such issues, as well as to address the potential impact of the state regulations on local zoning and to undertake a planning process to consider amending the Zoning Bylaw regarding regulation of recreational marijuana establishments and other uses related to the regulation of recreational marijuana. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for recreational marijuana establishments so as to allow the Town sufficient time to engage in a planning process to address the effects of such structures and uses in the Town and to adopt provisions of the Zoning Bylaw in a manner consistent with sound land use planning goals and objectives.

§ 325-135. Definitions.

MANUFACTURE — To compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

MARIJUANA ACCESSORIES — Equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body.

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 to consumers.

MARIJUANA ESTABLISHMENT — ~~A marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business.~~ **A marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business.**

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 to consumers.

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.

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 TESTING FACILITY~~ **INDEPENDENT TESTING LABORATORY** — An entity licensed to test marijuana and marijuana products, including certification for potency and the presence of contaminants.

§ 325-136. Temporary moratorium.

For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for recreational marijuana establishments. The moratorium shall be in effect through ~~June 30, 2018~~ **December 21, 2018**. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of recreational marijuana in the Town, consider the Cannabis Control Commission's regulations regarding recreational marijuana establishments and related uses, determine whether the Town shall, ~~by ballot measure~~, restrict any, or all, recreational marijuana establishments and shall consider adopting new provisions of the Zoning Bylaw to address the impact and operation of recreational marijuana establishments and related uses.

§ 325-137. Severability.

The provisions of this bylaw are severable. If any provision, paragraph, sentence, or clause of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.