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**PLANNING AND COMMUNITY**  
**DEVELOPMENT DEPARTMENT**

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**MEMORANDUM**

DATE: October 15, 2018  
TO: HONORABLE CITY COUNCIL  
CC: Planning Board  
FROM: Aaron Clausen, Planning Director  
Emily Hutchings, Associate Planner  
SUBJECT: Proposed Amendments to the City of Beverly Zoning Ordinance

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The Department of Planning and Development, with support from the Mayor's Office and Solicitor's Office, as well as the Municipal Inspections/Building Department, Health Department, Police Department, Fire Department, and Engineering Department, has proposed Amendments to the City of Beverly Zoning Ordinance (Chapter 300) designed to respond to the legalization of recreational marijuana and the need to create regulations for marijuana-related uses (hereby referred to as marijuana establishments). This package of Zoning Ordinance Amendments address the uses of marijuana retailers, medical marijuana treatment centers (or registered marijuana dispensaries), and industrial marijuana-related uses such as cultivators, product manufacturers, research facilities, testing laboratories, and others.

This memorandum is intended to provide (1) a summary of the proposed amendments for marijuana establishments; and (2) and description of objectives and reasoning for the development of the proposed amendments. Please find enclosed with this memo the proposed zoning amendment, and a map highlighting the zoning districts for which Marijuana Establishments would be allowed, in conjunction with proposed buffer areas.

Note that the map enclosed is for informational purposes only and is not an official City zoning map. Please also note that the enclosed map may not show all schools, daycare facilities, and pre-schools that are currently certified with the State or may be certified in the future.

**I. SUMMARY OF AMENDMENTS FOR MARIJUANA ESTABLISHMENTS**

Marijuana establishments refer to any marijuana-related use as defined by the Commonwealth of Massachusetts and the Cannabis Control Commission (CCC), which have been adopted under 935 CMR 500 (Adult Use of Marijuana). The proposed zoning amendments include the addition of marijuana-related definitions within Section 300-5 (Definitions) within the Beverly Zoning Ordinance, creates new use categories for Marijuana Establishments and identifying which existing zoning districts they will be allowed by Special permit, and finally establishes a new section under Article XVII; Sale and Distribution of Recreational Marijuana. The proposed section with new zoning regulations is Section 300-122 Marijuana Establishments.

The proposed definitions include the following:

- Cannabis or Marijuana
- Cannabis or Marijuana Accessories
- Cannabis Control Commission or CCC
- Co-located Marijuana Operation
- Craft Marijuana Cooperative
- Hemp
- Independent Testing Laboratory
- Marijuana Cultivator
- Marijuana Establishment
- Marijuana Product
- Marijuana Product Manufacturer
- Marijuana Research Facility
- Marijuana Retailer
- Marijuana Transporter
- Medical Marijuana Treatment Center, also known as a Registered Marijuana Dispensary (RMD)
- Microbusiness

The following table describes where Marijuana Establishments will be permitted by Special Permit:

CG (General Commercial) District	1. Marijuana Retailer 2. Medical Marijuana Treatment Center or Registered Marijuana Dispensary (RMD)
CC (Central Business) District	1. Marijuana Retailer 2. Medical Marijuana Treatment Center or Registered Marijuana Dispensary (RMD)
IR and IR Overlay (Restricted Industrial) District	1. Craft Marijuana Cooperative 2. Independent Testing Laboratory 3. Marijuana Cultivator 4. Marijuana Product Manufacturer 5. Marijuana Retailer 6. Marijuana Research Facility 7. Marijuana Transporter 8. Medical Marijuana Treatment Center or Registered Marijuana Dispensary (RMD) 9. Microbusiness

IG (General Industrial) District	<ol style="list-style-type: none"> <li>1. Craft Marijuana Cooperative</li> <li>2. Independent Testing Laboratory</li> <li>3. Marijuana Cultivator</li> <li>4. Marijuana Product Manufacturer</li> <li>5. Marijuana Retailer</li> <li>6. Marijuana Research Facility</li> <li>7. Marijuana Transporter</li> <li>8. Medical Marijuana Treatment Center or Registered Marijuana Dispensary (RMD)</li> <li>9. Microbusiness</li> </ol>
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Section 300-122 introduces placement and performance standards for Marijuana Establishments. The intent of this section is to ensure the appropriate location and performance of Marijuana Establishments in order to minimize impacts on the community. The ordinance therefore contains the following subsections:

- *Purpose* – Defines the section and emphasizes the City’s goal of encouraging the responsible development and location of Marijuana Establishments and limiting any undue impact on adjacent or neighboring uses.
- *Applicability* – Section applies to all Marijuana Establishments, specifies that all Marijuana Establishments require a Special Permit from the Zoning Board of Appeals
- *General Provisions* – Describes requirements regarding licensure and Special Permits.
- *General Requirements* – Discusses regulations including the following:
  - Dimension, height, setback, and lot coverage requirements
  - Buffers to apply to Marijuana Retailers and Medical Marijuana Treatment Centers (RMD):

Schools K-12	500 feet
State-licensed Childcare Facilities (daycare, preschools, afterschool facilities)	500 feet
Public libraries	500 feet
Public parks and playgrounds	300 feet

- The buffer requirements will not apply to all other buffer requirements that apply to Marijuana Retailers or Medical Marijuana Treatment Centers (RMD).

An additional buffer between Marijuana Retailers or Medical Marijuana Treatment Centers as follows:

- 2,000-foot buffers between other Marijuana Retailers or Medical Marijuana Treatment Centers (i.e. one Marijuana Retailer or RMD could not locate within 2,000 feet of another Marijuana Retailer or RMD)
- Marijuana Establishments must be within permanent, fully enclosed buildings without drive-up or window services
- Hours of operation
- *Performance Standards* – Discusses standards set for Marijuana Establishments, including:
  - Odor
  - Waste Disposal
  - Noise
  - Light/Visual Impacts
  - Parking
  - Security
  - Emergency Response
  - Energy and Environmental Standards
- *Application Requirements* – Describes all required plans consistent with Performance Standards, and states that the ZBA will distribute plans to relevant departments (Police, Engineering, etc.) for review and comment.
- *Special Permit Criteria* – Marijuana Establishments must meet all permitting requirements of applicable agencies in addition to meeting the proposed General Requirements and Performance Standards for Marijuana Establishments.
- *Waiver of Buffer Requirements through Special Permit* – The ZBA may reduce or waive buffers if the Marijuana Establishment is sufficiently separated by a natural or manmade physical barrier that effectively limits access to the Marijuana Establishment, and the Marijuana Establishment is not readily visible from the buffered use.
- *Modifications* – Any modification of an application shall be reviewed by the ZBA
- *Prohibition against Nuisances* – No activity may occur that creates a public nuisance.
- *Violation* – Any violation shall be subject to a \$300 fine for each day the violation continues.
- *Severability*

## **II. DESCRIPTION OF OBJECTIVES AND REASONING FOR PROPOSED AMENDMENTS**

### Background

The Commonwealth of Massachusetts legalized recreational marijuana in 2016. Over 54% of Beverly residents who voted on the issue voted “Yes” to legalize recreational marijuana. As noted during the public meeting on this issue several weeks ago, voter turnout when this issue was on the

ballot was nearly 80%. Due to the fact that the majority of Beverly voted to legalize recreational marijuana, it is now the City's responsibility to create appropriate zoning regulations for marijuana establishments.

The City currently has a moratorium on marijuana establishments that will end on December 31, 2018, by which time permanent zoning regulations must be in place. The moratorium was approved by the City Council June, 2017 to provide the City adequate time to research best practices, await regulations and licensing process as promulgated by the Massachusetts Cannabis Control Commission (CCC), and proposed zoning regulations that will facilitate effective land use management of Marijuana Establishments. The City may also limit the number of marijuana retailers to 20% of licenses for liquor stores, and impose a local tax of 3% of retail sales. As you know two orders have been submitted for the City Council to adopt these provisions along with the proposed zoning amendment.

#### Zoning Ordinance: Key Elements

The proposed amendments limit marijuana retailers and RMDs to major commercial zoning districts (the Central Business "CC" District and General Commercial "CG" District) and industrial districts (General Industrial "IG" District and Restricted Industrial "IR" District), and impose buffer areas around schools, libraries, childcare facilities, and parks, as well as between other marijuana retailers and RMDs. These regulations ensure that marijuana retailers and RMDs may be established in appropriate locations that are located in zoning districts and commercial areas defined by regional serving retail and commercial uses.

The CCC regulations have created a buffer requirement preventing the location of marijuana establishments from being located within 500 feet of a pre-existing public or private school that provides kindergarten or grades one through twelve (12). The regulations go on to say that Municipalities may reduce this distance if appropriate. The proposed zoning amendment enhances buffer protections from existing land uses that are frequented by children by including a 500 foot buffer between marijuana retail establishments and RMDs of 500 feet from daycare, preschool or afterschool facility, or a Beverly owned public library. An Additional buffer of 300' around City park, playground and/or recreational area.

The proposed zoning amendment introduces a 2,000 foot buffer requirement between marijuana retailers or RMDs provided that the buffer does not apply to Co-located operations as allowed by CCC regulations. This buffer requirement seeks to prevent marijuana retailers and RMDs from being clustered in any single area of the City, and therefore promoting geographic distribution of these uses.

The Commonwealth of Massachusetts and CCC have already developed extensive requirements for marijuana establishments. Marijuana Establishments must be licensed through the CCC, follow stringent security, advertising, and signage regulations, follow a community outreach process with a public meeting, and enter into a Host Community Agreement with the municipality where they will locate. State law also prohibits consuming marijuana in public places or smoking marijuana where

smoking tobacco is prohibited, onsite social consumption, and delivery of marijuana products to consumers.

The proposed amendments build on the state regulations and impose performance standards for marijuana establishments, and establish a review and approval process that will ensure proposed marijuana establishments will be located in areas and include measures to mitigate negative impacts on the community. All marijuana establishments require a Special Permit through the Zoning Board of Appeals. With the assistance of City departments, the ZBA evaluates whether each marijuana establishment meets the performance standards. The proposed amendments also include a section that allows the ZBA to reduce or waive buffer requirements if marijuana retailers or RMDs can prove that the location is appropriately separated from a pre-existing use such as a childcare facility. The proposed amendments allow marijuana establishments to responsibly locate within the City of Beverly in a manner that will protect the health, safety and general welfare of the public.