

Zoning Issues Related To Recreational Marijuana Establishments

Wayland Planning Board
May 2018





Steps taken so far in Wayland regarding Adult Use of Marijuana Regulations; potential impacts and options to explore

1. Established working group: Julia Junghanns (Health Director), Sarkis Sarkisian (Town Planner), Lea Anderson (Chair BoS), Sarah Greenaway (Youth Advisory Committee member), Jason Verhoosky (Director of Youth and Family Services), John Schuler (Chair BoH), Ira Montague (Planning Board member), Pat Swanick (Chief of Police), Jane Purser (Wayland Cares, Program Coordinator), Geoff Larsen (Building Commissioner) Beth klein (Town Clerk)
2. Meetings of the working group so far: April 24, April 30., May 14, and May 21, 2018
3. Town of Lincoln Pot Forum presented by the Selectmen's Marijuana Study Committee April 25, 2018; attended by Julia Junghanns (Health Director) and Sarah Greenaway (member of Youth Advisory Committee). Information gathered from the forum is being added to the town website including a video of the forum.
4. Steps taken; Board of Health meeting on May 7th, presentation by Town Planner and discussion with representative of Youth Advisory Committee. May 8th, Planning Board presentation and discussion.
5. Create and provide a forum on Marijuana for June 5th save the date
6. Follow up meeting of the working group .
7. Update Board of Selectmen May 23rd.



Topics to be covered tonight

1. **Timeline of Massachusetts laws** governing “recreational marijuana” and “marijuana establishments”
2. **Status of recreational marijuana in Wayland**
3. **Actions the Town** may take to regulate recreational marijuana
4. **Zoning amendments the Town could make to regulate** the number and/or type, or the “time, place and manner” of operation of marijuana establishments
5. **Public input**
6. Discussion of **next steps**



Timeline of Legalization in MA and Wayland

2008, Nov. Decriminalization of marijuana in MA

The Massachusetts Sensible Marijuana Policy Initiative decriminalized the possession of <1 oz. of marijuana only punishable by fine of \$100.

State election: YES: 53% NO: 37%
Wayland voters: YES: 69% (5577) NO: 29.8% (2435) BLANK: 1.9% (156)

2012, Nov. Medical marijuana legalized in MA

MGL Ch. 369, An Act for the Humanitarian Medical use of Marijuana, permitted medical marijuana up to 60-day supply for patients with state registration card.

Note: Communities were not permitted to prohibit registered marijuana dispensaries.

Note: Federal gov't still lists marijuana as Sched. 1 controlled substance with no medical value.

State election: YES: 63% NO: 37%
Wayland voters: YES: 62.6% (5199) NO: 33.4% (2778) BLANK: 3.9% (330)

2016, Nov. Recreational marijuana legalized in MA

Chapter 334 of the Acts of 2016 and MGL Ch. 94G *Regulation of the Use and Distribution of Marijuana Not Medically Prescribed*

State election: YES: 53.6% NO: 46.4%
Wayland voters: YES: 49.5% (4268) NO: 48.6% (4189) BLANK: 1.7% (151)

2016, Dec. Legislature delays implementation of Recreational Marijuana Act

Chapter 351 of the Acts of 2016 revises the Act



Timeline of Legalization in MA & Wayland (cont'd)

- 2017, April** **Wayland Annual Town Meeting rejects temporary moratorium**
 on Registered Marijuana Dispensaries to allow time for:
- the State Department of Public Health to finalize the regulations,
 - the Town to study the potential impacts on health, safety, and welfare; and
 - the Town to develop appropriate regulations for use.
- First vote:* YES: 63.6% (159) NO: 36.4 % (91) *motion does not pass by 2/3*
Second vote: YES: 62.9% (185) NO: 37.1% (109) *motion does not pass by 2/3*
- 2017, July** **Massachusetts legislature passes comprehensive revision of Act**
 (Chapter 55 of the Acts of 2017)
- 2017, Nov.** **Wayland Special Fall Town Meeting accepts temporary moratorium**
through December 31, 2018
- Vote:* YES: 85.0% (549) NO: 15 % (97) *motion passes by 2/3*
- 2018, Mar.** **Cannabis Control Commission ("CCC") finalizes regulations**
- 2018, April** **Applications scheduled to be accepted by CCC**
- 2018, June** **CCC will begin issuing licenses**



Focus on Recreational Marijuana

Recreational Marijuana was legalized in Massachusetts in 2016 by Chapter 334 of the Acts of 2016 and MGL Ch. 94G Regulation of the Use and Distribution of Marijuana Not Medically Prescribed. Chapter 334 of the Acts of 2016 was replaced by chapter 55 of the Acts of 2017.

Recreational Marijuana is overseen by:

- The Cannabis Control Commission (the “Commission” or “CCC”), a new state agency. The CCC’s primary responsibilities include:
 - Promulgating regulations. The CCC has put in place “Final Regulations”
 - Licensing Marijuana Establishments
- Local communities have some authority to regulate recreational marijuana:
 - General bylaws,
 - Zoning bylaws and
 - Health regulations.



Recreational Marijuana Definitions (Act)

“Marijuana” or “Marihuana”

- All parts of any plant of the genus *Cannabis*, the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol;
- provided, however, that “marijuana” shall not include: (i) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; (ii) hemp; or (iii) the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

“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 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.



Recreational Marijuana Definitions (cont'd)

"Marijuana establishment"

- A marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business.

"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 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 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.



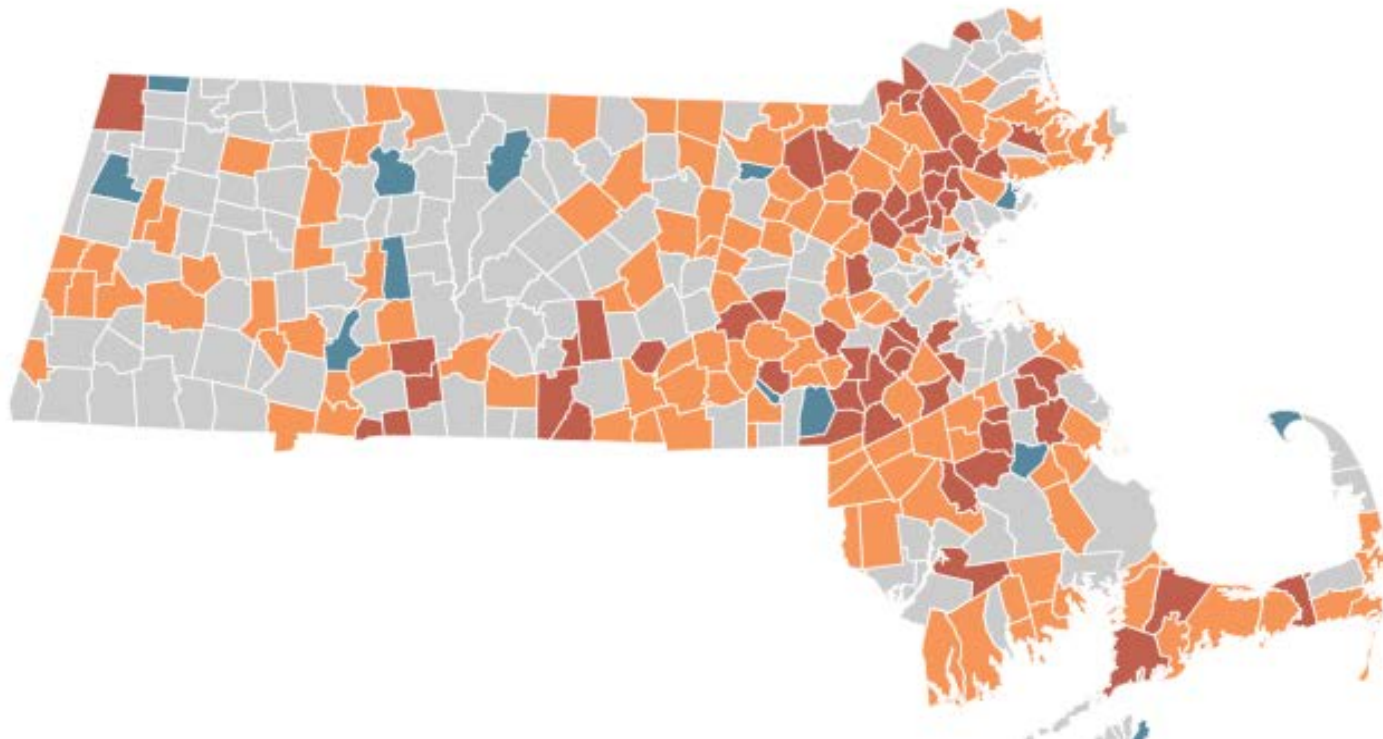
Status of Marijuana Establishments in Wayland

- **Personal use** (with many limitations) is as of right
- **Temporary moratorium on recreational Marijuana Establishments**
 - Adopted at 2017 Fall Town Meeting
 - In effect **through Dec. 31, 2018**
 - There were many unknowns as to how marijuana establishments would operate in Massachusetts
 - Many communities adopted moratoria
- **Now CCC regulations are final**
 - Information on licensing of marijuana establishments



Actions taken by other towns

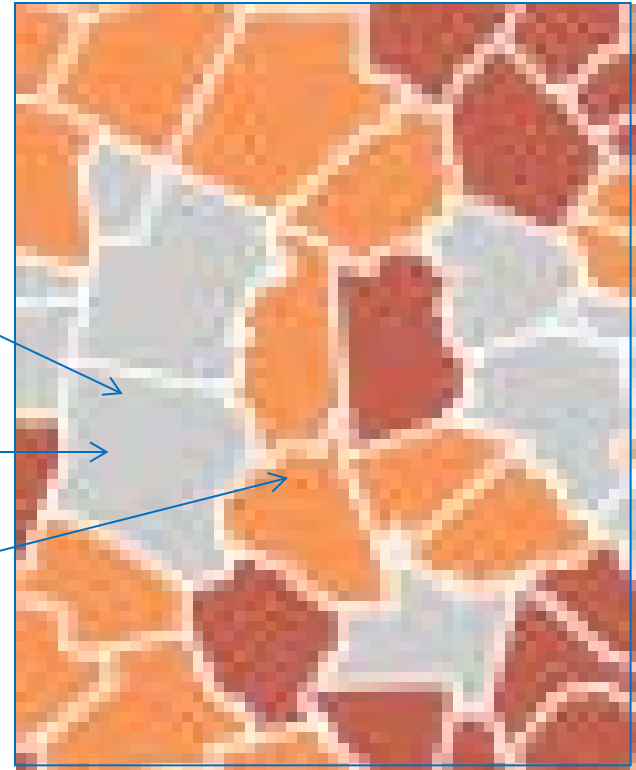
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Establishments in other towns

- **Medical marijuana establishments**
- **Recreational marijuana sales establishments**
- **Accessory sales establishments**





Actions Wayland could take to limit or regulate Marijuana Establishments

Action	Caveat	Mechanism
Take no action - is that all types of licensed marijuana establishments would be allowed to locate under existing zoning.		n.a.
Ban all Marijuana Establishments Ban certain types of Marijuana Establishments	Risky to ban or limit Marijuana Establishments after April 1, 2018.	Zoning Bylaw Amendment or General Bylaw Amendment
Limit the number and/or type of Marijuana Establishments	Risky to ban or limit Marijuana Establishments after April 1, 2018.	Zoning Bylaw Amendment or General Bylaw Amendment
Regulate the time, place and manner of the operation of Marijuana Establishments and of any business dealing in Marijuana Accessories		Zoning Bylaw Amendment
Regulate "on-site consumption" of marijuana products		Zoning Bylaw Amendment
Regulate use of marijuana in public buildings		Zoning Bylaw Amendment
Impose local sales tax		
Establish working group and provide forum		



How Zoning Bylaw amendments could regulate Marijuana Establishments

- **Zoning Bylaw amendments regulate how property in specific zones can be used.**
 - They specify whether zones can be used for residential or commercial purposes
 - They regulate lot size, placement, bulk (or density), number of licenses and the height of structures
 - State Act states that a **Zoning or General By-laws** adopted by a community **cannot be “Unreasonably impracticable”,** i.e., cannot “... subject licensees to unreasonable risk or require such a high investment of risk, money, time or any other resource or asset that a reasonably prudent businessperson would not operate a marijuana establishment.”



Regulating Marijuana Establishments in Wayland through Zoning

- **Zoning Bylaw amendments** (and any proposed changes to Wayland's General Bylaws):
 - **Should be in place prior to the expiration of the temporary moratorium.**
 - **Must be approved by Town Meeting.**
 - **Should be coordinated with any proposed General Bylaw amendments** and proposed changes to other Town regulations (including the Board of Health Tobacco Regulations).
 - **Must be consistent with the state Act and regulations.**



Result of “Take No Action”

- **Recreational Marijuana Establishments could petition to build/operate**
- **Current Zoning Bylaw doesn't prohibit marijuana sales**



Result of a ban on all Marijuana Establishments

At a recent program sponsored by the Massachusetts Municipal Association, the panelists cautioned that there is a risk to communities who wish to ban or limit Marijuana Establishments but do not do so before April 1, 2018. This risk has been lessened by the fact applicants must first obtain a Host Community Agreement with the Board of Selectmen prior to applying for a license from the CCC. However, HCA's should not be a substitute for reasonable zoning controls.



Result of Regulating Marijuana Establishments

**With zoning & other bylaws and regulations
Wayland could:**

- Determine appropriate location(s) for businesses
- Determine appropriate activities
- Determine appropriate hours
- Limit number



Zoning Issues for Recreational Marijuana

State Act requires municipalities to “Establish and provide for issuance of additional types or classes of licenses to operate marijuana related businesses, including licenses that authorize only limited **cultivation, processing, manufacture, possession** or **storage** of marijuana or marijuana products, limited **delivery** of marijuana or marijuana products to consumers, licenses that authorize the **consumption** of marijuana or marijuana products on the premises where sold, licenses that authorize the consumption of marijuana at **special events** in limited areas and for a limited time and licenses intended to facilitate scientific **research** or **education**.”

Zoning Issues for Recreational Marijuana (cont'd)



Retail

- Parking
- Patron management
- Signs
- Buffers

Processing/Extraction

- Type of facility
- Equipment/processes
- Hazardous material
- Building codes





Zoning Issues for Recreational Marijuana (cont'd)

Accessories

Delivery

- Traffic
- Out-of-town provider registration
- Hours of operation

Special Events

- Type of facility
- Equipment/processes
- Hazardous material
- Construction contracts
- Building codes

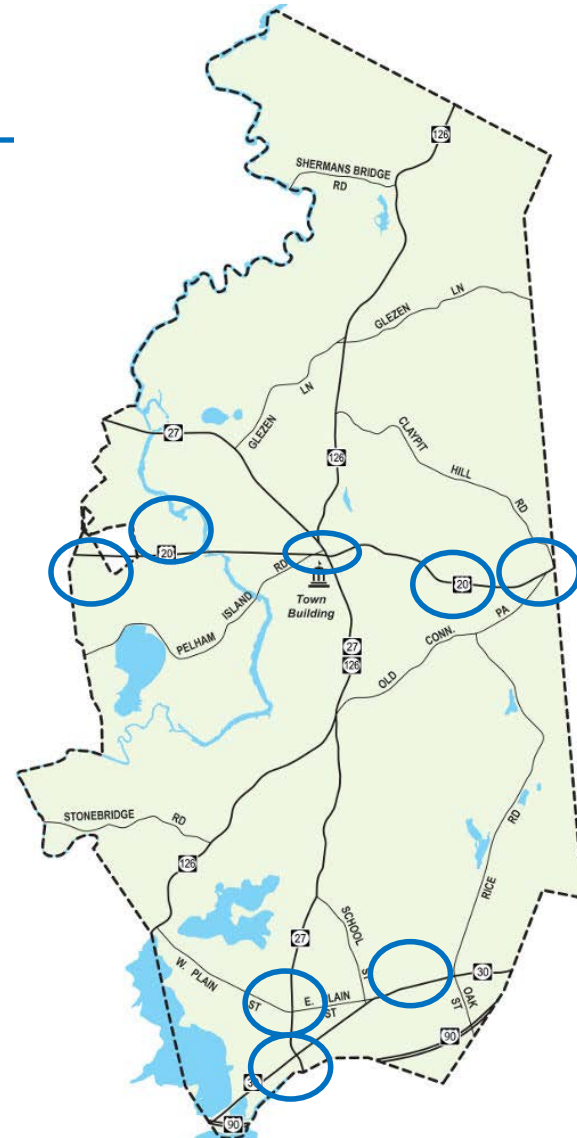




Options for locating Marijuana Establishments in Wayland

Commercial Districts

1. Rte. 20 West Wayland
2. Town Center
3. Wayland Center
4. Rte. 20/Pinebrook
5. Rte. 20/Old Conn. Path
6. West Plain/27 (Coch Ctr)
7. Rte. 30/27 (Cochituate)
8. Rte. 30/School St.

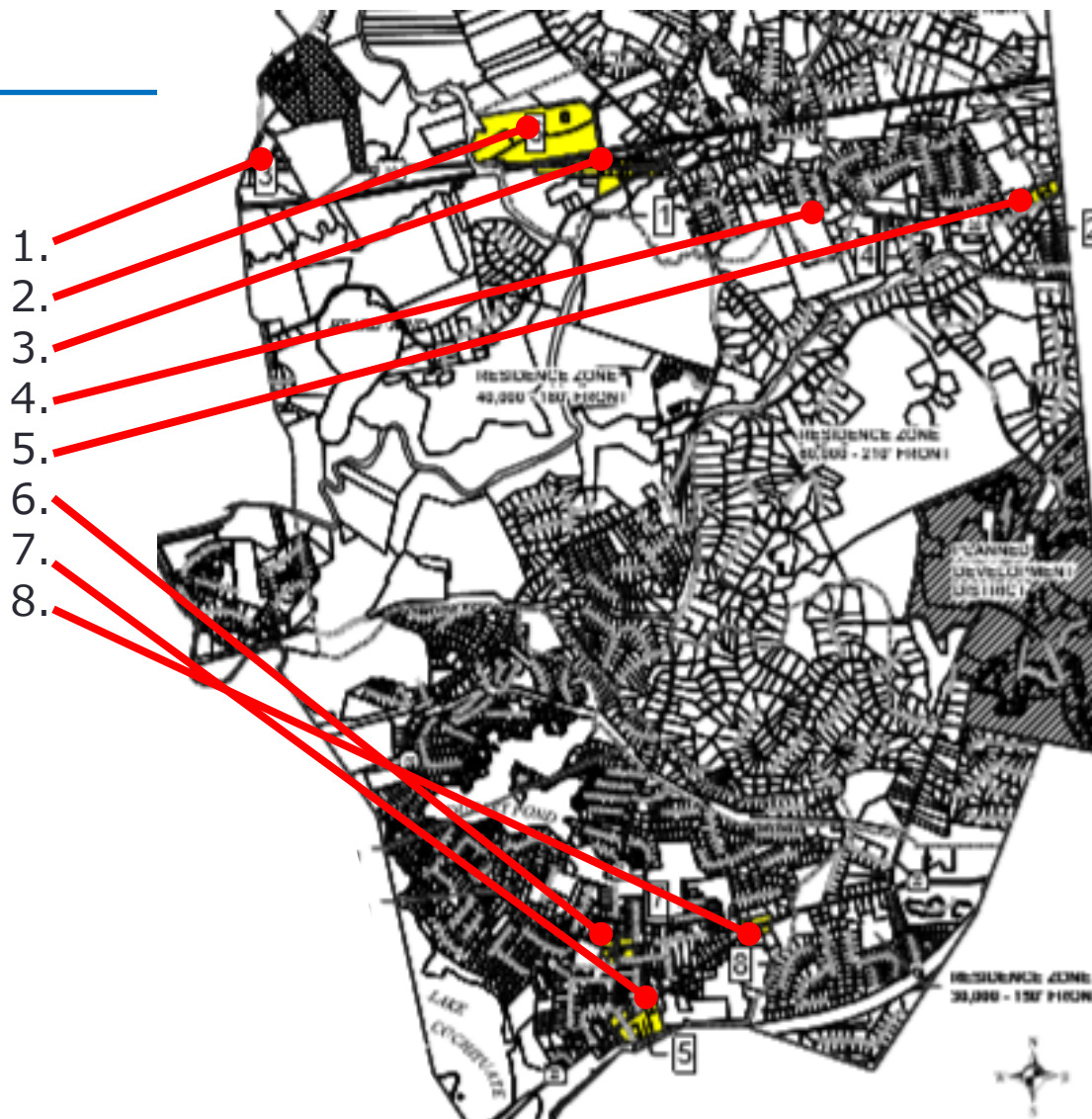




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Considerations for locating Marijuana Establishments in Wayland

Potential Detriments

- Children being exposed
 - Schools
 - Parks, playgrounds, playing fields
 - Family shops
- Traffic volume and safety
- Aesthetics
- More uses in the district later (e.g., adult entertainment)

Potential Benefits

- A majority of voters support the option
- Tax revenue
- Possible reduction in opioid use



Considerations for locating Marijuana Establishments in Wayland (cont'd)

State will be approving licenses

- MGL c. 94G §5(b)(2): "the Commission shall approve a marijuana establishment license application and issue a license if: (2) the commission is not notified by the city or town in which the proposed marijuana establishment will be located that the proposed marijuana establishment is not in compliance with an ordinance or by-law consistent with section 3* of this chapter and in effect at the time of application;"

** Section 3 contains the local control provisions of the law governing the prohibition, limitation and/or regulation of MEs.*



Next steps

1. **Public input** (Information session on pros & cons of Marijuana June 5th)
2. **Planning Board discussions** (June/July)
3. **Draft zoning amendments?** (August)
4. **Planning Board public hearings on draft zoning amendments?** (September)
5. **Submit zoning amendments for warrant** (October 1st)