

REPORT OF PLANNING BOARD ON PROPOSED BAN ON RECREATIONAL
MARIJUANA ESTABLISHMENTS BYLAW AMENDMENT

January 10, 2018 Special Town Meeting

Article 4

TO BAN RECREATIONAL MARIJUANA

Article 4. To see if the Town will vote to amend Chapter 255 (Zoning) of the Town's Code in regard to Recreational Marijuana by amending: in Section 255-19 Use Regulations Schedule by inserting new uses related to Recreational Marijuana (Craft marijuana cultivator cooperative, Marijuana cultivator, Marijuana product manufacturer, Marijuana testing facility, Marijuana retailer) as they are defined in Chapter 94G, MGL and noting that all such uses are prohibited in all zoning districts as detailed in the Planning Board's Report to Town Meeting or take any other action thereto.

The proposed changes are as follows:

- 1. Amend Section 255-19 Use Regulations Schedule by inserting the following new uses related to Recreational Marijuana into the Business Use Classification and Industrial Use Classifications and indicate that they are to be prohibited in all zoning districts.**

Uses to be Inserted:

The following uses shall be inserted into the Business Use Classification and Industrial Use Classification and noted as being prohibited in all zoning districts

- Craft marijuana cultivator cooperative
- Marijuana cultivator
- Marijuana product manufacturer
- Marijuana testing facility
- Marijuana retailer

OBJECTIVES: The objective of this article is to provide the voters an opportunity to vote on prohibiting all Commercial Recreational Marijuana.

SUMMARY: This article is put forth by the Selectboard to allow for a public vote on whether to prohibit all such commercial recreational marijuana establishments from locating within the Town of South Hadley. Article 6 is a companion article in that it seeks the same objective as a General Bylaw. If this article is passed by Town Meeting and by the voters of the Town at a municipal election, all five identified marijuana establishments would be prohibited under the Zoning Bylaw.

BACKGROUND: Massachusetts voters approved a ballot question in 2016 which legalized the possession, cultivation, and distribution of marijuana for non-medical purposes. In this voting, approximately 51% of South Hadley's participating voters voted in favor of the question. This law is codified as Chapter 94G, Massachusetts General Laws. Subsequent to the vote, the State

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legislature amended the act. Part of the amendments delayed the licensing time frame, clarified that cultivation of marijuana is not exempt as an agricultural use from Zoning Bylaws, and limited the local authority to regulate marijuana establishments.

Town Meeting enacted a General Bylaw moratorium to allow the Town to establish local Bylaws to regulate marijuana establishments which may be authorized under Chapter 94G, MGL. This warrant article seeks to establish a permanent prohibition on marijuana establishments in the manner allowed by Chapter 94G, MGL – a vote by Town Meeting and a vote in a municipal election.

RELATIONSHIP TO MASTER PLAN: There is not a clear relationship to the Master Plan, adopted in 2010. Legalization of marijuana was not envisioned when the Master Plan was developed. However, the Master Plan speaks to updating the regulatory structure to reflect desired community outcomes. This Article is an attempt to update the regulatory structure in light of a changed legal environment – if passed by Town Meeting and the voters at the next municipal election; it will reflect the desired community outcomes.

PUBLIC HEARING: The Planning Board conducted a public hearing on this proposed article on January 8, 2018. There were approximately 8-12 persons in attendance at the public hearing. Comments/questions/concerns raised by the members of the public and the Planning Board during the public hearing included:

- The total ban would deprive the Town of a potential source of tax revenue
- Only ban the retail establishments – this would retain the ability of cultivators, manufacturers, and testing facilities to operate
- What is the process for undoing the ban?
- What are the implications if Article 4 (this article) fails to get 2/3's vote at Town Meeting and therefore fails but Article 6 (the General Bylaw article) gets a simple majority and passes?
- Can someone cultivate non-medical marijuana for their own use on public land (such as the Community Garden)?
- Due to the confusion surrounding the different requirements for passage but the common effort to ban non-medical marijuana, Articles 4 and 6 should be considered consecutively or concurrently but not separated by Article 5. Possibly take Article 5 before Article 4 since it is a Planning Board sponsored article as are Articles 1, 2, and 3.

RECOMMENDATION: The Planning Board, following conclusion of the January 8, 2018 public hearing on this article, unanimously voted to not make a recommendation either for or against this article. Instead, the Board voted to convey this Report to Town Meeting including the summation of the comments/questions/concerns voiced at the public hearing.