

**NOTE – DRAFT WORKING COPY – CANNOT CONFIRM ACCURACY**

Chapter 334 of the Acts of 2016; as amended by Chapter 351 of the Acts of 2016; and as further amended by Chapter 55 of the Acts of 2017.

**THE REGULATION AND TAXATION OF MARIJUANA ACT**

SECTION 1. The purpose of this Act is to control the production and distribution of marijuana under a system that licenses, regulates and taxes the businesses involved in a manner similar to alcohol and to make marijuana legal for adults 21 years of age or older. Its intent is to remove the production and distribution of marijuana from the illicit market and to prevent the sale of marijuana to persons under 21 years of age by providing for a regulated and taxed distribution system. To the fullest extent possible, its terms are to be interpreted in accordance with the purpose and intent set forth in this section.

SECTION 2. This act may be known as “The Regulation and Taxation of Marijuana Act.”

SECTION 3. Chapter 10 of the General Laws is hereby amended by inserting after section 75 the following sections:

**Section 76:**

Section 76. (a) There shall be a Massachusetts cannabis control commission which shall consist of 5 commissioners: 1 of whom shall be appointed by the governor and shall have a background in public health, mental health, substance use or toxicology; 1 of whom shall be appointed by the attorney general and shall have a background in public safety; 1 of whom shall be appointed by the treasurer and receiver-general and shall have experience in corporate management, finance or securities; and 2 of whom shall be appointed by a majority vote of the governor, attorney general and treasurer and receiver-general, 1 of whom shall have professional experience in oversight or industry management, including commodities, production or distribution in a regulated industry and 1 of whom shall have a background in legal, policy or social justice issues related to a regulated industry. The treasurer and receiver-general shall designate the chair of the commission. The chair shall serve in that capacity throughout the term of appointment and until a successor shall be appointed. Prior to appointment to the commission, a background investigation shall be conducted into the financial stability, integrity and responsibility of a candidate, including the candidate’s reputation for good character, and honesty. No person who has been convicted of a felony shall be eligible to serve on the commission.

(b) Each commissioner shall be a resident of the commonwealth within 90 days of appointment and, while serving on the commission, shall not: (i) hold, or be a candidate for, federal, state or local elected office; (ii) hold an appointed office in a federal, state or local government; or (iii) serve as an official in a political party. Not more than 3 commissioners shall be from the same political party.

(c) Each commissioner shall serve for a term of 5 years or until a successor is appointed and shall be eligible for reappointment; provided, however, that no commissioner shall serve more than 10 years. A person appointed to fill a vacancy in the office of a commissioner shall be appointed in a like manner and shall serve for only the unexpired term of that commissioner.



[MJH note: Chapter 55 of Acts of 2017 amends the terms of the commissioners as follows: “SECTION 53. Notwithstanding subsections (c) and (d) of section 76 of chapter 10 of the General Laws, the initial appointments to the Massachusetts cannabis control commission by the governor and the attorney general shall serve for a term of 4 years and the initial appointments by majority vote of the treasurer and receiver-general, governor and attorney general shall serve for a term of 3 years.”]

(d) The treasurer and receiver-general, the governor or the attorney general may remove a commissioner who was appointed by that appointing authority if the commissioner: (i) is guilty of malfeasance in office; (ii) substantially neglects the duties of a commissioner; (iii) is unable to discharge the powers and duties of the office; (iv) commits gross misconduct; or (v) is convicted of a felony. The treasurer and receiver-general, the governor and the attorney general may, by majority vote, remove a commissioner who was appointed by majority vote of the state treasurer, the governor and the attorney general if the commissioner: (1) is guilty of malfeasance in office; (2) substantially neglects the duties of a commissioner; (3) is unable to discharge the powers and duties of the commissioner’s office; (4) commits gross misconduct; or (5) is convicted of a felony. Before removal, the commissioner shall be provided with a written statement of the reason for removal and an opportunity to be heard.

(e) Three commissioners shall constitute a quorum and the affirmative vote of 3 commissioners shall be required for an action of the commission. The chair or 3 members of the commission may call a meeting; provided, however, that notice of all meetings shall be given to each commissioner and to other persons who request such notice. The commission shall adopt regulations establishing procedures, which may include electronic communications, by which a request to receive notice shall be made and the method by which timely notice may be given.

(f) Commissioners shall receive salaries not greater than  $\frac{3}{4}$  of the salary of the secretary of administration and finance under section 4 of chapter 7; provided, however, that the chair shall receive a salary equal to the salary of the secretary of administration and finance. Commissioners shall devote their full time and attention to the duties of their office.

(g) The commission shall annually elect 1 of its members to serve as secretary and 1 of its members to serve as treasurer. The secretary shall keep a record of the proceedings of the commission and shall be the custodian and keeper of the records of all books, documents and papers filed by the commission and of its minute book. The secretary shall cause copies to be made of all minutes and other records and documents of the commission and shall certify that such copies are true copies and all persons dealing with the commission may rely upon such certification.

(h) The chair shall have and exercise supervision and control over all the affairs of the commission. The chair shall preside at all hearings at which the chair is present and shall designate a commissioner to act as chair in the chair’s absence. To promote efficiency in administration, the chair shall make such division or re-division of the work of the commission among the commissioners as the chair deems expedient.

(i) The commissioners shall, if so directed by the chair, participate in the hearing and decision of any matter before the commission; provided, however, that at least 2 commissioners shall participate in the hearing and decision of matters other than those of formal or administrative character coming before the commission; and provided further, that any such matter may be heard, examined and investigated by an employee of the commission designated and assigned by the chair, with the concurrence of 1 other commissioner. Such employee shall make a report in writing relative to the hearing, examination and investigation of every such matter to the commission for its decision. For the purposes of hearing, examining and investigating any such matter, such employee shall have all of the powers conferred upon a commissioner by this section. For each hearing, the concurrence of a majority of the commissioners participating in the decision shall be necessary.

(j) The commission shall appoint an executive director. The executive director shall serve at the pleasure of the commission, shall receive such salary as may be determined by the commission, and shall devote full time and attention to the duties of the office. The executive director shall be a person with skill and experience in management, shall be the executive and administrative head of the commission and shall be responsible for administering and enforcing the law relative to the



commission and to each administrative unit thereof. The executive director shall appoint and employ a chief financial and accounting officer and may, subject to the approval of the commission, employ other employees, consultants, agents and advisors, including legal counsel, and shall attend meetings of the commission. The chief financial and accounting officer of the commission shall be in charge of its funds, books of account and accounting records. No funds shall be transferred by the commission without the approval of the commission and the signatures of the chief financial and accounting officer and the treasurer of the commission. In the case of an absence or vacancy in the office of the executive director or in the case of disability as determined by the commission, the commission may designate an acting executive director to serve as executive director until the vacancy is filled or the absence or disability ceases. The acting executive director shall have all of the powers and duties of the executive director and shall have similar qualifications as the executive director.

(k) Chapters 268A and 268B shall apply to the commissioners and to employees of the commission; provided, however, that the commission shall establish a code of ethics for all members and employees that shall be more restrictive than said chapters 268A and 268B. A copy of the code shall be filed with the state ethics commission. The code shall include provisions reasonably necessary to carry out the purposes of this section and any other laws subject to the jurisdiction of the commission including, but not limited to: (i) prohibiting the receipt of gifts by commissioners and employees from any marijuana licensee, applicant, close associate, affiliate or other person or entity subject to the jurisdiction of the commission; (ii) prohibiting the participation by commissioners and employees in a particular matter as defined in section 1 of said chapter 268A that affects the financial interest of a relative within the third degree of consanguinity or a person with whom such commissioner or employee has a significant relationship as defined in the code; and (iii) providing for recusal of a commissioner in a licensing decision due to a potential conflict of interest.

(l) The Massachusetts cannabis control commission shall be a commission for the purposes of section 3 of chapter 12.

(m) The commission shall, for the purposes of compliance with state finance law, operate as a state agency as defined in section 1 of chapter 29 and shall be subject to the laws applicable to agencies under the control of the governor; provided, however, that the comptroller may identify any additional instructions or actions necessary for the department to manage fiscal operations in the state accounting system and meet statewide and other governmental accounting and audit standards. The commission shall properly classify the commission's operating and capital expenditures, and shall not include any salaries of employees in the commission's capital expenditures. Unless otherwise exempted by law or the applicable central service agency, the commission shall participate in any other available commonwealth central services including, but not limited to, the state payroll system pursuant to section 31 of said chapter 29, and may purchase other goods and services provided by state agencies in accordance with comptroller provisions. The comptroller may chargeback the commission for the transition and ongoing costs for participation in the state accounting and payroll systems and may retain and expend such costs without further appropriation for the purposes of this section. The commission shall be subject to section 5D and subsection (f) of section 6B of said chapter 29.

## Section 77: Cannabis Advisory Board

### Section 77. Cannabis Advisory Board

(a) There shall be a cannabis advisory board to study and make recommendations to the Massachusetts cannabis control commission on the regulation and taxation of marijuana. The board shall consist of: the executive director of the Massachusetts cannabis control commission who shall serve as chair; the secretary of housing and economic development or a designee; the commissioner of revenue or a designee; the commissioner of public health or a designee; the commissioner of agricultural resources or a designee; the colonel of the state police or a designee; the president of the Massachusetts Municipal Association, Inc. or a designee; the president of the Massachusetts Patient Advocacy Alliance, Inc. or a designee; a registered qualifying patient appointed by the president of the Massachusetts Patient Advocacy Alliance, Inc.; the executive director of the American Civil Liberties Union of Massachusetts, Inc. or a designee; 5 persons to be appointed by the treasurer and receiver-general, 1 of whom shall be an expert in marijuana cultivation, 1 of whom shall be an expert in marijuana retailing, 1 of whom shall be an



expert in marijuana product manufacturing, 1 of whom shall be an expert in laboratory sciences and toxicology and 1 of whom shall be an expert in providing legal services to marijuana businesses; 5 persons to be appointed by the governor, 1 of whom shall be an expert in minority business development, 1 of whom shall be an expert in economic development strategies for under-resourced communities, 1 of whom shall be an expert in farming or representing the interests of farmers, 1 of whom shall be an expert representing the interests of employers and 1 of whom shall be an expert in municipal law enforcement with advanced training in impairment detection and evaluation; and 5 persons to be appointed by the attorney general, 1 of whom shall be an expert in social welfare or social justice, 1 of whom shall be an expert in criminal justice reform to mitigate the disproportionate impact of drug prosecutions on communities of color, 1 of whom shall be an expert in minority business ownership, 1 of whom shall be an expert in women-owned business ownership and 1 of whom shall be an expert in the prevention and treatment of substance use disorders. Members of the board shall serve for terms of 2 years. Members of the board shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the discharge of their official duties. Members of the board shall not be state employees under chapter 268A by virtue of their service on the board. To take action at a meeting, a majority of the members of the board present and voting shall constitute a quorum.

(b) The cannabis advisory board shall: (i) consider all matters submitted to it by the commission; (ii) on its own initiative, recommend to the commission guidelines, rules and regulations and any changes to guidelines, rules and regulations that the advisory board considers important or necessary for the commission's review and consideration; and (iii) advise on the preparation of regulations pursuant to chapter 94G and 94I.

(c) The chair may appoint subcommittees in order to expedite the work of the board; provided, however, that the chair shall appoint: (i) a subcommittee on public health to develop recommendations on products, labelling, marketing, advertising, related public health issues, potency, which may include a recommended maximum limit for individual servings of marijuana products, and packaging, which may include the development and implementation of a public health warning to appear on marijuana products; (ii) a subcommittee on public safety and community mitigation to develop recommendations on law enforcement, property, business and consumer issues; (iii) a subcommittee on the cannabis industry to develop recommendations on cultivation, processing, manufacturing, transportation, distribution, seed-to-sale tracking and market stability; and (iv) a subcommittee on market participation to develop recommendations on women, minority and veteran-owned businesses, local agriculture and growing cooperatives.

SECTION 4. The General Laws are hereby amended by inserting after chapter 64M the following chapter:

## CHAPTER 64N

### Section 1: Definitions

Section 1. Definitions. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:

- (a) "Commissioner", the commissioner of revenue.
- (b) "Marijuana," "Marijuana establishment," "Marijuana product" and "Marijuana retailer", as defined in chapter 94G of the General Laws.

### Section 2: State excise imposition: rate; payment



Section 2. State excise imposition; rate; payment. An excise tax is hereby imposed upon the sale of marijuana or marijuana products by a marijuana retailer to anyone other than a marijuana establishment at a rate of 10.75 per cent of the total sales price received by the marijuana retailer as a consideration for the sale of marijuana or marijuana products. The excise tax shall be levied in addition to state tax imposed upon the sale of property or services as provided in section 2 of chapter 64H of the General Laws and shall be paid by a marijuana retailer to the commissioner at the time provided for filing the return required by section 16 of chapter 62C of the General Laws.

### Section 3

Section 3. (a) A city or town that accepts this section in the manner provided in section 4 of chapter 4 may impose a local sales tax upon sale or transfer of marijuana or marijuana products by a marijuana retailer operating within the city or town to anyone other than a marijuana establishment at a rate not greater than 3 per cent of the total sales price received by the marijuana retailer as a consideration for the sale of marijuana or marijuana products. The marijuana retailer shall pay the local sales tax imposed under this section to the commissioner at the same time and in the same manner as the sales tax due to the commonwealth.

(b) All sums received by the commissioner under this section shall, at least quarterly, be distributed, credited and paid by the treasurer and receiver-general upon certification of the commissioner to each city or town that has accepted this section in proportion to the amount of the sums received in that city or town. Any city or town seeking to dispute the commissioner's calculation of its distribution under this subsection shall notify the commissioner, in writing, not later than 1 year from the date the tax was distributed by the commissioner to the city or town.

(c) This section shall take effect in a city or town on the first day of the calendar quarter following 30 days after its acceptance by the city or town or on the first day of a later calendar quarter that the city or town may designate.

### Section 4: Exemptions

Section 4. Exemptions. This chapter shall not apply to the sale of marijuana or marijuana products by a medical marijuana treatment center or a registered personal caregiver to a qualifying patient or personal caregiver pursuant to 94I, nor to any unlawful sale subject to taxation pursuant to chapter 64K of the General Laws.

### Section 5: Application of tax revenue

Section 5. Application of tax revenue. The commissioner shall deposit revenue collected pursuant to this chapter, other than revenue collected pursuant to section 2 of chapter 64H of the General Laws, in the Marijuana Regulation Fund established by chapter 94G of the General Laws and it shall be subject to appropriation.

SECTION 5. The General Laws are hereby amended by inserting after chapter 94F the following chapter:



# Chapter 94G: REGULATION OF THE USE AND DISTRIBUTION OF MARIJUANA NOT MEDICALLY PRESCRIBED

## Section 1: Definitions

Section 1. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Cannabinoid”, any of several compounds produced by marijuana plants that have medical and psychotropic effects.

“Cannabinoid profile”, amounts, expressed as the dry-weight percentages, of delta-nine-tetrahydrocannabinol, cannabidiol, tetrahydrocannabinolic acid and cannabidiolic acid in a marijuana product. Amounts of other cannabinoids may be required by the commission.

“Close associate”, a person who holds a relevant financial interest in, or is entitled to exercise power in, the business of an applicant or licensee and, by virtue of that interest or power, is able to exercise a significant influence over the management or operation of a marijuana establishment licensed under this chapter.

“Consumer”, a person who is at least 21 years of age.

“Controlling person”, an officer, board member or other individual who has a financial or voting interest of 10 per cent or greater in a marijuana establishment.

“Commission”, the Massachusetts cannabis control commission established by section 76 of chapter 10.

“Craft marijuana cultivator cooperative”, a marijuana cultivator comprised of residents of the commonwealth organized as a limited liability company or limited liability partnership under the laws of the commonwealth, or an appropriate business structure as determined by the commission, and that is licensed to cultivate, obtain, manufacture, process, package and brand marijuana and marijuana products to deliver marijuana to marijuana establishments but not to consumers.

“Cultivation batch”, a collection of marijuana plants from the same seed or plant stock that are cultivated and harvested together, and receive an identical propagation and cultivation treatment, including, but not limited to: growing media, ambient conditions, watering and light regimes and agricultural or hydroponic inputs. The marijuana licensee shall assign and record a unique, sequential alphanumeric identifier to each cultivation batch for the purposes of production tracking, product labeling and product recalls.

“Experienced marijuana establishment operator”, (i) a medical marijuana treatment center 94I with a registration in good standing, or (ii) a reorganized marijuana business established by a vote of at least 2/3 of the board of directors of an entity that submitted an application for a registration to operate a medical marijuana treatment center to the department of public health before October 1, 2015 and was issued a provisional registration to operate a medical marijuana treatment center by the department of public health before the effective date of this chapter.

“Finished marijuana”, usable marijuana, cannabis resin or cannabis concentrate.

“Hemp”, the plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 per cent on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of marijuana product, or the combined per cent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus Cannabis regardless of moisture content.

“Host community”, a municipality in which a marijuana establishment or a medical marijuana treatment center is located or in which an applicant has proposed locating a marijuana establishment or a medical marijuana treatment center.

“Independent testing laboratory”, a laboratory that is licensed by the commission and is: (i) accredited to the most current International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Cooperation mutual recognition arrangement or that is otherwise approved by the commission; (ii) independent financially from any medical marijuana treatment center or any licensee or marijuana establishment for which it conducts a test; and (iii) qualified to test marijuana in compliance with regulations promulgated by the commission pursuant to this chapter.

“Laboratory agent”, an employee of an independent testing laboratory who transports, possesses or tests marijuana.

“Licensee”, a person or entity licensed by the commission to operate a marijuana establishment under this chapter.

“Manufacture”, to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

“Marijuana” or “Marihuana”, all parts of any plant of the genus Cannabis, not excepted below and whether growing or not; 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 as defined in section 1 of chapter 94C; 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 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, 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.

"Mycotoxin", a secondary metabolite of a microfungus that is capable of causing death or illness in humans and other animals. For the purposes of this chapter, mycotoxin shall include alfatoxin B1, alfatoxin B2, alfatoxin G1, alfatoxin G2 and ochratoxin A.

"Process" or "processing", to harvest, dry, cure, trim and separate parts of the marijuana plant by manual or mechanical means, except it shall not include manufacture as defined in this section.

"Production batch", a batch of finished plant material, cannabis resin, cannabis concentrate or marijuana-infused product made at the same time, using the same methods, equipment and ingredients. The licensee shall assign and record a unique, sequential alphanumeric identifier to each production batch for the purposes of production tracking, product labeling and product recalls. All production batches shall be traceable to 1 or more marijuana cultivation batches.

"Residual solvent", a volatile organic chemical used in the manufacture of a marijuana product and that is not completely removed by practical manufacturing techniques.

"Terpenoid", an isoprene that are the aromatic compounds found in cannabis, including, but not limited to: limonene, myrcene, pinene, linalool, eucalyptol,  $\delta$ -terpinene,  $\beta$ -caryophyllene, caryophyllene oxide, nerolidol and phytol.

"Unreasonably impracticable", that the measures necessary to comply with the regulations, ordinances or by-laws adopted pursuant to this chapter 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.

## Section 2: Limitations

### Section 2. Limitations

(a) Operating under the influence. This chapter does not amend existing penalties for operating, navigating or being in actual physical control of any motor vehicle, train, aircraft, motorboat or other motorized form of transport or machinery while impaired by marijuana or a marijuana product or for consuming marijuana while operating, navigating or being in actual physical control of any motor vehicle, train, aircraft, motorboat or other motorized form of transport or machinery.



(b) Transfer to or possession by a person under 21 years of age. This chapter shall not be construed to permit the knowing transfer of marijuana, marijuana products or marijuana accessories, with or without remuneration, to a person under 21 years of age or to allow a person under 21 years of age to possess, use, purchase, obtain, cultivate, process, manufacture, deliver or sell or otherwise transfer marijuana or marijuana accessories.

(c) Manufacture of products. Unless done pursuant to a marijuana product manufacturer license issued by the commission, this chapter does not authorize a person to manufacture marijuana or hemp by means of any liquid or gas, other than alcohol, that has a flashpoint below 100 degrees Fahrenheit.

(d) Property. This chapter shall not be construed to:

(1) prevent a person from prohibiting or otherwise regulating the consumption, display, production, processing, manufacture or sale of marijuana and marijuana accessories on or in property the person owns, occupies or manages, except that a lease agreement shall not prohibit a tenant from consuming marijuana by means other than smoking on or in property in which the tenant resides unless failing to do so would cause the landlord to violate a federal law or regulation;

(2) prevent the commonwealth, a subdivision thereof or local government agency from prohibiting or otherwise regulating the possession or consumption of marijuana or marijuana accessories within a building owned, leased or occupied by the commonwealth, a political subdivision of the commonwealth or an agency of the commonwealth or a political subdivision of the commonwealth; or

(3) authorize the possession or consumption of marijuana or marijuana accessories on the grounds of or within a public or private school where children attend classes in preschool programs, kindergarten programs or grades 1 to 12, inclusive, on a school bus, in any youth center, or on the grounds of or within any correctional facility or detoxification facility.

(e) Employment. This chapter shall not require an employer to permit or accommodate conduct otherwise allowed by this chapter in the workplace and shall not affect the authority of employers to enact and enforce workplace policies restricting the consumption of marijuana by employees.

(f) Negligent conduct. This chapter shall not amend existing penalties for conduct involving the performance of any task while impaired by marijuana that would constitute negligence or professional malpractice and shall not prevent the imposition of any civil, criminal or other penalty for such conduct.

(g) Relation to medical use of marijuana. This chapter shall not be construed to affect the provisions of 94I, relating to the medical use of marijuana as enacted by the people in the state election in 2012 except where otherwise provided for in this chapter.

(h) Adulteration and misbranding. This chapter shall not exempt marijuana or marijuana products from sections 186 to 195, inclusive, of chapter 94 of the General Laws, relating to the adulteration and misbranding of food, drugs and various articles. Marijuana included in a marijuana product manufactured in compliance with the regulations under this chapter shall not be considered an adulterant.

## Section 3: Local control

### Section 3. Local control

(a) A city or town may adopt ordinances and by-laws that impose reasonable safeguards on the operation of marijuana establishments, provided they are not unreasonably impracticable and are not in conflict with this chapter or with regulations made pursuant to this chapter and that:

(1) govern the time, place and manner of marijuana establishment operations and of any business dealing in marijuana accessories, except that zoning ordinances or by-laws shall not operate to: (i) prevent the conversion of a medical marijuana treatment center licensed or registered not later than July 1, 2017 engaged in the cultivation, manufacture or sale of marijuana or marijuana products to a marijuana establishment engaged in the same type of activity under this chapter; or (ii) limit the number



of marijuana establishments below the limits established pursuant to clause (2);

(2) limit the number of marijuana establishments in the city or town; provided, however, that in the case of a city or town in which the majority of voters voted in the affirmative for question 4 on the 2016 state election ballot, entitled "Legalization, Regulation, and Taxation of Marijuana", and after December 31, 2019 in the case of any other city or town, the city or town shall submit any by-law or ordinance for approval to the voters pursuant to the procedure in subsection (e) before adopting the by-law or ordinance if it would:

- (i) prohibit the operation of 1 or more types of marijuana establishments within the city or town;
- (ii) limit the number of marijuana retailers to fewer than 20 per cent of the number of licenses issued within the city or town for the retail sale of alcoholic beverages not to be drunk on the premises where sold under section 15 of chapter 138; or
- (iii) limit the number of any type of marijuana establishment to fewer than the number of medical marijuana treatment centers registered to engage in the same type of activity in the city or town;.

(3) restrict the licensed cultivation, processing and manufacturing of marijuana that is a public nuisance;

(4) establish reasonable restrictions on public signs related to marijuana establishments provided, however, that if a city or town enacts an ordinance or by-law above the commission's standard, that local ordinance or by-law shall not impose a standard for signage more restrictive than those applicable to retail establishments that sell alcoholic beverages within that city or town; and

(5) establish a civil penalty for violation of an ordinance or by-law enacted pursuant to this subsection, similar to a penalty imposed for violation of an ordinance or by-law relating to alcoholic beverages.

(b) The city council of a city and the board of selectmen of a town shall, upon the filing with the city or town clerk of a petition (i) signed by not fewer than 10 per cent of the number of voters of such city or town voting at the state election preceding the filing of the petition and (ii) conforming to the provisions of the General Laws relating to initiative petitions at the municipal level, request that the question of whether to allow, in such city or town, the sale of marijuana and marijuana products for consumption on the premises where sold be submitted to the voters of such city or town at the next biennial state election. If a majority of the votes cast in the city or town are not in favor of allowing the consumption of marijuana or marijuana products on the premises where sold, such city or town shall be taken to have not authorized the consumption of marijuana and marijuana products on the premises where sold.

(c) No city or town shall prohibit the transportation of marijuana or marijuana products or adopt an ordinance or by-law that makes the transportation of marijuana or marijuana products unreasonably impracticable.

(d) A marijuana establishment or a medical marijuana treatment center seeking to operate or continue to operate in a municipality which permits such operation shall execute an agreement with the host community setting forth the conditions to have a marijuana establishment or medical marijuana treatment center located within the host community which shall include, but not be limited to, all stipulations of responsibilities between the host community and the marijuana establishment or a medical marijuana treatment center. An agreement between a marijuana establishment or a medical marijuana treatment center and a host community may include a community impact fee for the host community; provided, however, that the community impact fee shall be reasonably related to the costs imposed upon the municipality by the operation of the marijuana establishment or medical marijuana treatment center and shall not amount to more than 3 per cent of the gross sales of the marijuana establishment or medical marijuana treatment center or be effective for longer than 5 years. Any cost to a city or town imposed by the operation of a marijuana establishment or medical marijuana treatment center shall be documented and considered a public record as defined by clause Twenty-sixth of section 7 of chapter 4.

(e) If an ordinance or by-law shall be submitted for approval pursuant to clause (2) of subsection (a), the following procedures shall be followed:

(1) The city solicitor or town counsel shall prepare a fair and concise summary of the proposed ordinance or by-law which shall make clear the number and types of marijuana establishments which shall be permitted to operate under the proposed



ordinance and by-law and shall be included on the ballot.

(2) A ballot shall be prepared asking “Shall this [city or town] adopt the following [by-law or ordinance]? [solicitor/counsel summary] [full text of by-law or ordinance]”

(3) If the majority of the votes cast in answer to the question are in the affirmative, the city or town may adopt the by-law or ordinance, but if the majority of votes cast is in the negative, the city or town shall not adopt the by-law or ordinance.

A ballot question under this subsection may be placed on the ballot at a regular or special election held by the city or town by a vote of the board of selectmen or by the city or town council, with the approval of the mayor or chief executive officer of a city that does not have a mayor, and subject to a municipal charter, if applicable.

## Section 4: The Cannabis Control Commission

### Section 4. The Cannabis Control Commission

(a) The commission shall have all the powers necessary or convenient to carry out and effectuate its purposes including, but not limited to, the power to:

- (i) appoint officers and hire employees;
- (ii) establish and amend a plan of organization that it considers expedient;
- (iii) execute all instruments necessary or convenient for accomplishing the purposes of this chapter;
- (iv) enter into agreements or other transactions with a person, including, but not limited to, a public entity or other governmental instrumentality or authority in connection with its powers and duties under this chapter;
- (v) appear on its own behalf before boards, commissions, departments or other agencies of municipal, state or federal government;
- (vi) apply for and accept subventions, grants, loans, advances and contributions of money, property, labor or other things of value from any source, to be held, used and applied for its purposes;
- (vii) provide and pay for advisory services and technical assistance as may be necessary in its judgment to carry out this chapter and fix the compensation of persons providing such services or assistance;
- (viii) prepare, publish and distribute, with or without charge as the commission may determine, such studies, reports, bulletins and other materials as the commission considers appropriate;
- (ix) require an applicant for licensure under this chapter to apply for such licensure and approve or disapprove any such application or other transactions, events and processes as provided in this chapter;
- (x) determine which applicants shall be awarded licenses;
- (xi) deny an application or limit, condition, restrict, revoke or suspend a license;
- (xii) establish a registration process, based on finding of suitability or approval of licensure;
- (xiii) fine a person licensed, registered, found suitable or approved for licensure, for any cause that the commission deems reasonable;
- (xiv) gather facts and information applicable to the commission’s obligation to issue, suspend or revoke licenses, registrations, finding of suitability or approval of licensure for: (A) a violation of this chapter or any regulation adopted by the commission; (B) willfully violating an order of the commission directed to a licensee or a person required to be registered; (C) the conviction of a criminal offense; or (D) any other offense which would disqualify such a licensee from holding a license;
- (xv) conduct investigations into the qualifications of all applicants for employment by the commission and all applicants for licensure;
- (xvi) receive from the state police, the department of criminal justice information services or other criminal justice agencies including, but not limited to, the Federal Bureau of Investigation and the Internal Revenue Service, such criminal offender record information relating to criminal and background investigations as necessary for the purpose of evaluating licensees, applicants for license, and lab agents as provided in section 21;
- (xvii) be present, through its inspectors and agents, at any time, in marijuana establishments for the purposes of exercising its oversight responsibilities;
- (xviii) inspect and have access to all equipment and supplies in a marijuana establishment;
- (xix) seize and remove from the premises of a marijuana establishment and impound any marijuana, equipment, supplies, documents and records obtained or possessed in violation of this chapter for the purpose of examination and inspection;
- (xx) for cause, demand access to and inspect all papers, books and records of close associates of a licensee whom the commission suspects is involved in the financing, operation or management of the licensee; provided, however, that the inspection, examination, photocopying and audit may take place on the affiliate’s premises or elsewhere as practicable and in



the presence of the affiliate or its agent;

(xxi) require that the books and financial or other records or statements of a licensee be kept in a manner that the commission considers proper;

(xxii) impose fees and fines, as authorized by this chapter and penalties and sanctions for a violation of this chapter or any regulations promulgated by the commission;

(xxiii) collect fees under this chapter;

(xxiv) conduct adjudicatory proceedings and promulgate regulations in accordance with chapter 30A;

(xxv) refer cases for criminal prosecution to the appropriate federal, state or local authorities;

(xxvi) maintain an official internet website for the commission;

(xxvii) monitor any federal activity regarding marijuana; and

(xxviii) adopt, amend or repeal regulations for the implementation, administration and enforcement of this chapter.

(a ½) The commission shall, in accordance with chapter 30A, adopt regulations consistent with this chapter for the administration, clarification and enforcement of laws regulating and licensing marijuana establishments. The regulations shall include:

(i) methods and forms of application which an applicant for a license shall follow and complete before consideration by the commission;

(ii) a schedule of application, license and renewal fees in an amount necessary to pay for all regulation and enforcement costs of the commission; provided, however, that fees may be relative to the volume of business conducted or to be conducted by the marijuana establishment;

(iii) qualifications for licensure and minimum standards for employment that are directly and demonstrably related to the operation of a marijuana establishment and similar to qualifications for licensure and employment standards in connection with alcoholic beverages as regulated under chapter 138; provided, that a prior conviction solely for a marijuana-related offense or for a violation of section 34 of chapter 94C shall not disqualify an individual or otherwise affect eligibility for employment or licensure in connection with a marijuana establishment, unless the offense involved the distribution of a controlled substance, including marijuana, to a minor;

(iv) procedures and policies to promote and encourage full participation in the regulated marijuana industry by people from communities that have previously been disproportionately harmed by marijuana prohibition and enforcement and to positively impact those communities;

(v) standards for the licensure of marijuana establishments, including, but not limited to updating that licensure;

(vi) standards for the reporting or payment of licensure fees or taxes;

(vii) requirements for the information to be furnished by an applicant or licensee;

(viii) criteria for evaluation of the application for a license;

(ix) requirements for the information to be furnished by a licensee relating to the licensee's employees;

(x) requirements for fingerprinting or other method of identification of an applicant for a license or a licensee;

(xi) procedures and grounds for the revocation or suspension of a license or registration;

(xii) minimum uniform standards of accounting procedures;

(xiii) requirements for record keeping by marijuana establishments and procedures to track marijuana cultivated, processed, manufactured, delivered or sold by marijuana establishments;

(xiv) any necessary registration requirements for employees working at the marijuana establishment;

(xv) requirements that all marijuana establishment employees be properly trained in their respective professions as necessary;

(xvi) procedures for the interim authorization of a marijuana establishment under this chapter;

(xvii) minimum standards for the requirement that all licensees possess and operate an interoperable publicly available application programming interface seed-to-sale tracking system sufficient to ensure the appropriate track and trace of all marijuana cultivated, processed or manufactured pursuant to this chapter;

(xviii) minimum security requirements for licensees sufficient to deter and prevent theft and unauthorized entrance into areas containing marijuana, which shall include but not be limited to the use of security cameras, provided that the requirements shall not prohibit the cultivation of marijuana outdoors or in greenhouses;

(xix) minimum standards for liability insurance coverage or requirements that a certain sum be placed in escrow to be expended for coverage liabilities;

(xx) requirements and standards sufficient to ensure for the virtual separation of marijuana cultivated, processed, manufactured, delivered or sold by a licensee that is also licensed as a medical marijuana treatment center pursuant to 94I. Such



requirements shall leverage seed-to-sale tracking technology and may allow for the appropriate transfer or acquisition of marijuana seeds, clones, cuttings, plants or plant tissue between such entities;

(xxi) requirements and procedures to prevent the sale, delivery or transfer of marijuana to persons under 21 years of age, or the purchase of marijuana on behalf of a person under 21 years of age, including a prohibition on persons under 21 entering marijuana establishments;

(xxii) standards for manufacturing or extracting cannabinoid oils or butane hash oil;

(xxiii) health and safety standards, established in consultation with the department of public health and the department of agricultural resources, for the cultivation, processing, manufacturing and distribution of marijuana, including standards regarding sanitation for the preparation, storage, handling and sale of food products, including compliance with state sanitation requirements set forth in 105 CMR 500.000, and health inspections; provided, however, that the authority to promulgate regulations pertaining to the use of pesticides shall remain with the department of agricultural resources;

(xxiv) requirements for the packaging of marijuana and marijuana products that shall, at a minimum: (1) require the most current consumer product safety commission standards, set forth in 16 C.F.R. 1700 et seq.; (2) protect children from accidentally ingesting marijuana or marijuana products, including by making packaging certified child-resistant and resealable; (3) require the division of each serving within a package containing multiple servings in a manner that allows consumers and card holders to easily identify a single serving; (4) prohibit the use of bright colors, cartoon characters and other features designed to appeal to minors; (5) ensure that packaging is opaque or plain in design; (6) limit each serving size to no greater than 10 milligrams of delta-nine-tetrahydrocannabinol ( $\Delta$ 9-THC); and (7) prohibit any packaging that imitates or has a semblance to any existing branded consumer products, including foods and beverages, that do not contain marijuana;

(xxv) requirements for the potency or dosing limitations of edible marijuana products sold by licensees;

(xxvi) requirements for the labeling of a package containing marijuana or marijuana products that shall, at a minimum, include: (1) a symbol or easily recognizable mark issued by the commission that indicates the package contains marijuana or a marijuana product; (2) a symbol or other easily recognizable mark issued by the commission on the package indicating to children that the product is harmful to children; (3) the name and contact information of the marijuana cultivator or the marijuana product manufacturer who produced the marijuana or marijuana product; (4) the results of sampling, testing and analysis conducted by a licensed independent testing laboratory; (5) a seal certifying the marijuana meets such testing standards; (6) a unique batch number identifying the production batch associated with manufacturing, processing, and cultivating; (7) a list of ingredients and possible allergens; (8) the amount of delta-nine-tetrahydrocannabinol ( $\Delta$ 9-THC) in the package and in each serving of a marijuana product as expressed in absolute terms and as a percentage of volume; (9) the number of servings in a package if there are multiple servings; (10) a use-by date, if applicable; and (11) the following statement, including capitalization: "This product has not been analyzed or approved by the FDA. There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN.";

(xxvii) procedures and policies, in cooperation with the department of agricultural resources, to promote and encourage full participation in the regulated marijuana industry by farmers and businesses of all sizes, which shall include creating a schedule of cultivator license fees commensurate with cultivation size and regulations to create a craft marijuana cultivator cooperative system including, but not limited to, the following: (1) a limitation on ownership interests in a marijuana cultivator cooperative; (2) a limit on the total marijuana produced by a craft marijuana cultivator by the number of plants, surface area used for cultivation or output by weight; and (3) a reasonable fee for licensure as a craft marijuana cultivator cooperative;

(xxviii) requirements for the safe disposal of excess, contaminated, adulterated or deteriorated marijuana, which shall consider policies which promote the recycling of such waste, including, but not limited to, recycled industrial products;

(xxix) requirements for advertising, marketing and branding of marijuana and marijuana products that shall, at a minimum, include: (1) a prohibition on advertising, marketing and branding in such a manner that is deemed to be deceptive, false or misleading; (2) a prohibition on advertising, marketing and branding by means of television, radio, internet, billboard or print publication unless at least 85 per cent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data; (3) a prohibition on advertising, marketing and branding that utilizes statements, designs, representations, pictures or illustrations that portray anyone less than 21 years of age; (4) a prohibition on advertising, marketing and branding including, but not limited to, mascots, cartoons, brand sponsorships and celebrity endorsements, that is deemed to appeal to a person less than 21 years of age; (5) a prohibition on advertising, marketing and branding, including statements by a licensee, that makes any false or misleading statements concerning other licensees and the conduct and products of such other licensees; (6) a prohibition on advertising, marketing and branding through certain identified promotional items as determined by the commission, including giveaways, coupons or "free" or "donated" marijuana; (7) a



prohibition on advertising, marketing and branding by a licensee that asserts its products are safe, other than labeling required pursuant to this chapter; (8) a reasonable prohibition on timing and use of illuminated external signage, which shall comply with all local ordinances and requirements, and a prohibition on neon signage; (9) a prohibition of the use of vehicles equipped with radio or loud speakers for the advertising of marijuana; (10) a prohibition on the use of radio or loud speaker equipment in any marijuana establishment for the purpose of attracting attention to the sale of marijuana; (11) an allowance that a licensee may sponsor a charitable, sporting or similar event, but a prohibition of advertising, marketing and branding at, or in connection with, such an event unless at least 85 per cent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data; (12) a requirement that the website of a marijuana establishment shall verify that the entrant is at least 21 years of age; (13) a prohibition on the use of unsolicited pop-up advertisements on the internet; and (14) a requirement that all advertising, marketing or branding materials for marijuana and marijuana products contain a standard health warning developed by the department of public health;

(xxx) procedures and requirements to enable the transfer of a license for a marijuana establishment to another qualified person or to another suitable location with notification and approval by the commission;

(xxxii) requirements to establish a process allowing the commission to order a prohibition on the sale of a marijuana product found especially appealing to persons under 21;

(xxxiii) requirements to establish a process allowing a marijuana product manufacturer to voluntarily submit a product, its packaging and intended marketing to the commission for review of whether the product is especially appealing to persons under 21;

(xxxiv) requirements that prohibit marijuana product manufacturers from altering or utilizing commercially-manufactured food products when manufacturing marijuana products unless the food product was commercially manufactured specifically for use by the marijuana product manufacturer to infuse with marijuana; provided, however, that a commercially-manufactured food product may be used as an ingredient in a marijuana product if: (i) it is used in a way that renders it unrecognizable as the commercial food product in the marijuana product; and (ii) there is no statement or advertisement indicating that the marijuana product contains the commercially-manufactured food product; and

(xxxv) energy and environmental standards for licensure and licensure renewal of marijuana establishments licensed as a marijuana cultivator or marijuana product manufacturer.

(b) In furtherance of the intent of this act, the commission may also adopt regulations in accordance with chapter 30A of the General Laws which:

(1) 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;

(c) Regulations made pursuant to this section shall not:

(1) prohibit the operation of a marijuana establishment either expressly or through regulations that make operation of a marijuana establishment unreasonably impracticable;

(3) require a customer to provide a marijuana retailer with identifying information other than identification to determine the customer's age and shall not require the marijuana retailer to acquire or record personal information about customers other than information typically required in a retail transaction;



(4) prohibit a medical marijuana treatment center and an experienced marijuana establishment operator from operating a medical marijuana treatment center and a marijuana establishment at a shared location;

(5) prohibit marijuana establishments from transferring or acquiring marijuana seeds, clones, cuttings, plants or plant tissue from other marijuana establishments or from medical marijuana treatment centers or prohibit a marijuana establishment from transferring or otherwise selling marijuana to a marijuana retailer, a marijuana product manufacturer or a marijuana cultivator; or

(6) prohibit marijuana establishments from using inorganic cultivation methods.

(d) The commission shall administer the laws and regulations relating to licensing in this chapter.

(e) Each fiscal year the commission shall submit an annual finance plan to the secretary of administration and finance, and updates to such plan, in accordance with instructions issued by said secretary.

(f) The commission shall investigate, in conjunction with the department of public health, the effects of marijuana and marijuana products with a high potency of tetrahydrocannabinol on the human body and recommend whether there should be restrictions on the potency of tetrahydrocannabinol in marijuana and marijuana products.

(g) The commission shall hold a public hearing before the adoption, amendment or repeal of any regulation. Adjudicatory proceedings shall be conducted pursuant to chapter 30A of the General Laws and to standard rules of adjudicatory procedure established pursuant to section 9 of chapter 30A of the General Laws.

(h) The commission shall annually submit a complete and detailed report of the commission's activities, including a review of the implementation and enforcement of this chapter and the governance structure established in this chapter, not more than 90 days after the end of the fiscal year to the governor, the attorney general, the treasurer and receiver-general, the clerks of the house of representatives and the senate, the chairs of the joint committee on marijuana policy and the chairs of the house and senate committees on ways and means.

(i) The commission shall annually review the tax rate established by chapter 64N and may make recommendations to the general court, as appropriate, regarding any changes to the tax rate that further the intent of this chapter. The commission may study marijuana commerce and make recommendations to the general court regarding changes in the laws that further the intent of this chapter by filing those recommendations with the clerks of the house of representatives and the senate who shall forward the recommendations to the joint committee on marijuana policy, the joint committee on consumer protection and professional licensure, the joint committee on revenue, the joint committee on mental health, substance use and recovery, the joint committee on public health and any other committee deemed appropriate by the commission.

(j) The commission shall deposit all license, registration and monetary penalties collected pursuant to this chapter in the Marijuana Regulation Fund established by section 14 of this chapter.

(k) The commission and the department of public health shall work collaboratively to ensure that the production and distribution of marijuana is effectively regulated in the commonwealth in furtherance of the intent of this act.

(l) The commission shall promulgate advisory guidelines and best practices on the cultivating of marijuana within a person's primary residence.

## Section 5: Licensing of marijuana establishments

### Section 5. Licensing of marijuana establishments



(a) Upon receipt of a complete marijuana establishment license application and the application fee, the commission shall forward a copy of the application to the city or town in which the marijuana establishment is to be located, determine whether the applicant and the premises qualify for the license and has complied with this chapter and shall, within 90 days:

(1) issue the appropriate license; or

(2) send to the applicant a notice of rejection setting forth specific reasons why the commission did not approve the license application.

(b) The commission shall approve a marijuana establishment license application and issue a license if:

(1) the prospective marijuana establishment has submitted an application in compliance with regulations made by the commission, the applicant satisfies the requirements established by the commission, the applicant is in compliance with this chapter and the regulations made by the commission and the applicant has paid the required fee;

(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;

(3) the property where the proposed marijuana establishment is to be located, at the time the license application is received by the commission, is not located within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12, unless a city or town adopts an ordinance or by-law that reduces the distance requirement; and

(4) an individual who will be a controlling person of the proposed marijuana establishment has not been convicted of a felony or convicted of an offense in another state that would be a felony in the commonwealth, except a prior conviction solely for a marijuana offense or solely for a violation of section 34 of chapter 94C of the General Laws, unless the offense involved distribution of a controlled substance, including marijuana, to a minor.

## Section 6: Expiration and renewal

### Section 6. Expiration and renewal

(a) License term. Unless the commission authorizes the renewal of a license for a longer period, all licenses under this chapter shall be effective for 1 year from the date of issuance.

(b) Renewal. The commission shall issue a renewal license within 30 days of receipt of a renewal application and renewal license fee from a marijuana establishment to licensees in good standing and who have filed any tax returns required pursuant to chapter 64N of the General Laws.

## Section 7: Personal use of marijuana

### Section 7. Personal use of marijuana

(a) Notwithstanding any other general or special law to the contrary, except as otherwise provided in this chapter, a person 21 years of age or older shall not be arrested, prosecuted, penalized, sanctioned or disqualified under the laws of the commonwealth in any manner, or denied any right or privilege and shall not be subject to seizure or forfeiture of assets for:

(1) possessing, using, purchasing, processing or manufacturing 1 ounce or less of marijuana, except that not more than 5 grams of marijuana may be in the form of marijuana concentrate;

(2) within the person's primary residence, possessing up to 10 ounces of marijuana and any marijuana produced by marijuana plants cultivated on the premises and possessing, cultivating or processing not more than 6 marijuana plants for personal use so long as not more than 12 plants are cultivated on the premises at once;

(3) assisting another person who is 21 years of age or older in any of the acts described in this section; or



(4) giving away or otherwise transferring without remuneration up to 1 ounce of marijuana, except that not more than 5 grams of marijuana may be in the form of marijuana concentrate, to a person 21 years of age or older, as long as the transfer is not advertised or promoted to the public.

(b) Notwithstanding any other general or special law to the contrary, except as otherwise provided in this chapter, if the import or export of marijuana to or from the commonwealth is not prohibited by federal law, a person 21 years of age or older shall not be arrested, prosecuted, penalized, sanctioned or disqualified under the laws of the commonwealth in any manner, or denied any right or privilege and shall not be subject to seizure or forfeiture of assets for possessing, using, purchasing, cultivating, processing or manufacturing any amount of marijuana or marijuana products for personal use.

(c) Notwithstanding any other general or special law to the contrary, except as otherwise provided in this chapter, a person shall not be arrested, prosecuted, penalized, sanctioned or otherwise denied any benefit and shall not be subject to seizure or forfeiture of assets for allowing property the person owns, occupies or manages to be used for any of the activities conducted lawfully under this chapter or for enrolling or employing a person who engages in marijuana-related activities lawfully under this chapter.

(d) Absent clear, convincing and articulable evidence that the person's actions related to marijuana have created an unreasonable danger to the safety of a minor child, neither the presence of cannabinoid components or metabolites in a person's bodily fluids nor conduct permitted under this chapter related to the possession, consumption, transfer, cultivation, manufacture or sale of marijuana, marijuana products or marijuana accessories by a person charged with the well-being of a child shall form the sole or primary basis for substantiation, service plans, removal or termination or for denial of custody, visitation or any other parental right or responsibility.

(e) The use of marijuana shall not disqualify a person from any needed medical procedure or treatment, including organ and tissue transplants.

(f) Notwithstanding any general or special law to the contrary, except as otherwise provided in this chapter, a person 21 years of age or older shall not be arrested, prosecuted, penalized, sanctioned or disqualified and is not subject to seizure or forfeiture of assets for possessing, producing, processing, manufacturing, purchasing, obtaining, selling or otherwise transferring or delivering hemp.

(g) For the purposes of this section, "marijuana concentrate" shall mean the resin extracted from any part of the plant of the genus Cannabis and every compound, manufacture, salt, derivative, mixture or preparation of that resin but shall not include the weight of any other ingredient combined with marijuana to prepare marijuana products.

## Section 8: Marijuana accessories authorized

### Section 8. Marijuana accessories authorized

Notwithstanding any general or special law to the contrary, except as otherwise provided in this chapter, a person 21 years of age or older shall not be arrested, prosecuted, penalized, sanctioned or disqualified and shall not be subject to seizure or forfeiture of assets for possessing, purchasing or otherwise obtaining or manufacturing marijuana accessories or for selling or otherwise transferring marijuana accessories to a person who is 21 years of age or older.

## Section 9: Lawful operation of marijuana establishments

### Section 9. Lawful operation of marijuana establishments

(a) Notwithstanding any general or special law to the contrary, except as otherwise provided in this chapter, the following people involved in the distribution of marijuana as authorized by this chapter shall not be arrested, prosecuted, penalized, sanctioned or disqualified and shall not be subject to seizure or forfeiture of assets for activities specified for:

(1) a marijuana retailer or an owner, operator, employee or other agent acting on behalf of a marijuana retailer possessing or testing marijuana or marijuana products; purchasing, selling or otherwise transferring or delivering marijuana or marijuana



products to or from a marijuana establishment; or selling or otherwise transferring or delivering marijuana or marijuana products to a consumer;

(2) a marijuana cultivator or an owner, operator, employee or other agent acting on behalf of a marijuana cultivator cultivating, propagating, breeding, harvesting, processing, packaging, testing, storing or possessing marijuana or marijuana products, or selling or otherwise transferring, purchasing or delivering marijuana and marijuana products to or from a marijuana establishment;

(3) a marijuana product manufacturer or an owner, operator, employee or other agent acting on behalf of a marijuana product manufacturer packaging, processing, manufacturing, storing, testing or possessing marijuana or marijuana products, or delivering, selling or otherwise transferring and purchasing marijuana or marijuana products to or from a marijuana establishment; or

(4) a marijuana testing facility or an owner, operator, employee or other agent acting on behalf of a marijuana testing facility possessing, processing, storing, transferring or testing marijuana or marijuana products.

(b) Any licensee, or agent or employee thereof, under this chapter who reasonably relies on a liquor purchase identification card issued pursuant to section 34B of chapter 138, or on a motor vehicle license issued pursuant to section 8 of chapter 90, or on an identification card issued under section 8E of said chapter 90, or on a valid passport issued by the United States government, or by the government, recognized by the United States government, of a foreign country, or a valid United States issued military identification card, for proof of a person's identity and age shall not suffer any modification, suspension, revocation or cancellation of such license, nor shall the licensee, agent or employee suffer any criminal liability, for delivering or selling marijuana or marijuana products to a person under 21 years of age. Any licensee, or agent or employee thereof, under this chapter, who reasonably relies on a liquor purchase identification card issued pursuant to said section 34B of said chapter 138, or an identification card issued under said section 8E of said chapter 90, or a motor vehicle license issued pursuant to said section 8 of said chapter 90, for proof of a person's identity and age shall be presumed to have exercised due care in making such delivery or sale of marijuana or marijuana products to a person under 21 years of age. Such presumption shall be rebuttable.

## Section 10: Contracts pertaining to marijuana enforceable

### Section 10. Contracts pertaining to marijuana enforceable

It is the public policy of the commonwealth that contracts related to the operation of marijuana establishments under this chapter shall be enforceable. A contract entered into by a licensee or its agents as permitted pursuant to a valid license issued by the commission, or by those who allow property to be used by a licensee or its agents as permitted pursuant to a valid license issued by the commission, shall not be unenforceable or void exclusively because the actions or conduct permitted pursuant to the license is prohibited by federal law.

## Section 11: Provision of professional services

### Section 11. Provision of professional services

A person engaged in a profession or occupation subject to licensure shall not be subject to disciplinary action by a professional licensing board solely for providing professional services to prospective or licensed marijuana establishments related to activity under this chapter that is not subject to criminal penalty under the laws of the commonwealth.

## Section 12: General marijuana establishment operation

### Section 12. General marijuana establishment operation

(a) In addition to requirements established by regulation pursuant to section 4 of this chapter or by a city or town pursuant to section 3 of this chapter, a marijuana establishment shall:



(1) secure every entrance to the establishment so that access to areas containing marijuana is restricted to employees and others permitted by the marijuana establishment to access the area and to agents of the commission or state and local law enforcement officers and emergency personnel; and

(2) secure its inventory and equipment during and after operating hours to deter and prevent theft of marijuana, marijuana products and marijuana accessories.

(b) No marijuana establishment may cultivate, process, test, store or manufacture marijuana or marijuana products at any location other than at a physical address approved by the commission and within an area that is enclosed and secured in a manner that prevents access by persons not permitted by the marijuana establishment to access the area. A greenhouse or outdoor marijuana cultivation area shall have sufficient security measures to demonstrate that outdoor areas are not readily accessible by unauthorized individuals, including perimeter security fencing designed to prevent unauthorized entry.

(c) No marijuana establishment shall allow cultivation, processing, manufacture, sale or display of marijuana or marijuana products to be visible from a public place without the use of binoculars, aircraft or other optical aids.

(d) No marijuana establishment shall refuse representatives of the commission the right at any time of operation to inspect the entire licensed premises or to audit the books and records of the marijuana establishment.

(e) No marijuana establishment shall allow any person under 21 years of age to volunteer or work for the marijuana establishment.

(f) No marijuana establishment shall cultivate, manufacture, sell or otherwise transact business with any products containing cannabinoids other than those that were produced, distributed and taxed in compliance with this chapter.

(g) No licensee shall operate a marijuana establishment without an operations certificate issued by the commission.

(h) Each licensee shall file an emergency response plan with the fire department and police department of the host community.

## Section 13: Penalties

### Section 13. Penalties

(a) Restrictions on personal cultivation. No person shall cultivate or process marijuana plants pursuant to section 8 of this chapter if the plants are visible from a public place without the use of binoculars, aircraft or other optical aids or cultivate or process marijuana plants outside of an area that is equipped with a lock or other security device. A person who violates this subsection shall be punished by a civil penalty of not more than \$300 and forfeiture of the marijuana, but shall not be subject to any other form of criminal or civil punishment or disqualification solely for this conduct.

(b) Restrictions on personal possession. No person shall possess more than 1 ounce of marijuana or marijuana products within the person's place of residence pursuant to section 8 of this chapter unless the marijuana and marijuana products are secured by a lock. A person who violates this subsection shall be punished by a civil penalty of not more than \$100 and forfeiture of the marijuana.

(c) Restrictions on public consumption of marijuana. No person shall consume marijuana in a public place or smoke marijuana where smoking tobacco is prohibited. A person who violates this subsection shall be punished by a civil penalty of not more than \$100. This subsection shall not apply to a person who consumes marijuana or marijuana products in a designated area of a marijuana establishment located in a city or town that has voted to allow consumption on the premises where sold and shall not be construed to limit the medical use of marijuana.

(d) Possession of marijuana in motor vehicles. No person shall, upon any way or in any place to which the public has a right of access, or upon any way or in any place to which members of the public have access as invitees or licensees, possess an open container of marijuana or marijuana products in the passenger area of any motor vehicle. A person who violates this subsection shall be punished by a civil penalty of not more than \$500. For purposes of this section, "open container" shall mean that the



package containing marijuana or marijuana products has its seal broken or from which the contents have been partially removed or consumed and "passenger area" shall mean the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or passenger while in a seated position; provided however that the passenger area shall not include a motor vehicle's trunk, locked glove compartment or the living quarters of a house coach or house trailer, or if a motor vehicle is not equipped with a trunk, the area behind the last upright seat or an area not normally occupied by the driver or passenger.

(e) Possession or cultivation of excess marijuana. Notwithstanding chapter 94C of the General Laws and until the import or export of marijuana to or from the commonwealth is not prohibited by federal law, a person who is at least 21 years of age and who cultivates more than 6 but not more than 12 marijuana plants or who possesses an amount of marijuana outside of his or her place of residence having a weight of more than 1 ounce but not more than 2 ounces shall be subject only to a civil penalty of not more than \$100 and forfeiture of the marijuana not allowed by section 8 of this chapter, but shall not be subject to any other form of criminal or civil punishment or disqualification solely for this conduct.

(f) Procurement of marijuana by a person under 21 years of age. A person under 21 years of age, except a qualifying patient holding a valid registration card for the medical use of marijuana, who purchases or attempts to purchase marijuana, marijuana products or marijuana accessories, or makes arrangements with any person to purchase or in any way procure marijuana, marijuana products or marijuana accessories, or who willfully misrepresents such person's age, or in any way alters, defaces or otherwise falsifies identification offered as proof of age, with the intent of purchasing marijuana, marijuana products or marijuana accessories, shall be punished by a civil penalty of not more than \$100 and shall complete a drug awareness program established pursuant to section 32M of chapter 94C of the General Laws. The parents or legal guardian of any offender under the age of 18 shall be notified in accordance with section 32N of chapter 94C of the General Laws and the failure within 1 year of the offense of such an offender to complete a drug awareness program may be a basis for delinquency proceedings for persons under the age of 17 at the time of the person's offense.

(g) Enforcement. Civil penalties imposed pursuant to this section shall be enforced by utilizing the non-criminal disposition procedures provided in section 32N of chapter 94C of the General Laws.

(h) Notwithstanding chapter 94C, a person less than 21 years of age, except a qualifying patient holding a valid registration card for the medical use of marijuana, who cultivates not more than 12 marijuana plants shall be punished by a civil penalty of not more than \$100 and shall complete a drug awareness program established pursuant to section 32M of chapter 94C. If that person is less than 18 years of age, the parent or legal guardian of that person shall be notified in accordance with section 32N of said chapter 94C. If a person is less than 17 years of age at the time of the offense and fails to complete a drug awareness program not later than 1 year after the offense, that person may be subject to delinquency proceedings.

(i) Whoever furnishes marijuana, marijuana products or marijuana accessories to a person less than 21 years of age, either for the person's own use or for the use of the person's parent or another person shall be punished by a fine of not more than \$2,000 or by imprisonment for not more than 1 year or both such fine and imprisonment.

For the purposes of this subsection, "furnish" shall mean to knowingly or intentionally supply, give or provide to or allow a person less than 21 years of age, except for the children and grandchildren of the person being charged, to possess marijuana, marijuana products or marijuana accessories on premises or property owned or controlled by the person charged.

This subsection shall not apply to the sale, delivery or furnishing of medical marijuana pursuant to chapter 94I.

## Section 14: Marijuana Regulation Fund

### Section 14. Marijuana Regulation Fund

(a) There shall be established and set up on the books of the commonwealth a separate fund, to be known as the Marijuana Regulation Fund. It shall, subject to appropriation, consist of all monies received on account of the commonwealth as a result of applications for and licensing of marijuana establishments, all civil penalties received for violations of this chapter, revenue generated by the state tax imposed by section 2 of chapter 64N of the General Laws and interest earned or other income on balances in the fund.

(b) Money in the fund shall be subject to appropriation. Money in the fund shall be expended for the implementation, administration and enforcement of this chapter by the commission and by the department of agricultural resources for the implementation, administration and enforcement of sections 116 to 123, inclusive, of chapter 128 and the provision of pesticide



control pursuant to chapter 132B. Thereafter, money in the fund shall be expended for: (i) public and behavioral health including but not limited to, evidence-based and evidence-informed substance use prevention and treatment and substance use early intervention services in a recurring grant for school districts or community coalitions who operate on the strategic prevention framework or similar structure for youth substance use education and prevention; (ii) public safety; (iii) municipal police training; (iv) the Prevention and Wellness Trust Fund established in section 2G of chapter 111; and (v) programming for restorative justice, jail diversion, workforce development, industry specific technical assistance, and mentoring services for economically-disadvantaged persons in communities disproportionately impacted by high rates of arrest and incarceration for marijuana offenses pursuant to chapter 94C.

Section 15. (a) (1) The commission shall promulgate regulations for the licensure and oversight of independent testing laboratories, and shall establish testing protocols for the sampling, testing and analysis of marijuana, finished marijuana and marijuana products in consultation with the department of public health and the department of agricultural resources. Such regulations shall be based on the most recent standards as issued by the United States Pharmacopeial Convention and shall address sampling and analysis to characterize the cannabinoid profile and biological and chemical contaminants, including but not limited to terpenoids, pesticides, plant growth regulators, metals, microbiological contaminants, mycotoxins, and residual solvents introduced through cultivation of marijuana plants and post-harvest processing and handling of marijuana, marijuana products and ingredients.

(2) No marijuana or marijuana product shall be sold or otherwise marketed pursuant to this chapter or chapter 94I that has not first been tested by an independent testing laboratory and determined to meet the commission's testing protocols issued pursuant to paragraph (1).

(3) An independent testing laboratory shall report any results indicating contamination to the commission within 72 hours of identification.

(4) No laboratory agent or employee of an independent testing laboratory shall receive direct or indirect financial compensation, other than such reasonable contractual fees to conduct such testing, from any entity for which it is conducting testing pursuant to this chapter.

(5) No individual who possesses an interest in or is a laboratory agent employed by an independent testing laboratory, and no immediate family member of that individual, shall possess an interest in or be employed by a marijuana establishment.

(b)(1) An independent testing laboratory shall apply for a certificate of registration from the commission prior to testing, processing or transporting marijuana.

(2) A laboratory agent shall be registered with the commission prior to volunteering or working at an independent testing laboratory.

(3) An independent testing laboratory shall apply to the commission for a registration card for each affiliated laboratory agent by submitting, at a minimum, the name, address, and date of birth of the laboratory agent.

(4) An independent testing laboratory shall notify the commission within 1 business day if a laboratory agent ceases to be associated with the laboratory, and the laboratory agent's registration card shall be immediately revoked.

(5) No one shall be a laboratory agent who has been convicted of a felony drug offense. The commission may conduct criminal record checks with the department of criminal justice information services as provided in section 21 and may set standards and procedures to enforce this provision. Such standards and procedures may include requiring applicants seeking registration to submit a full set of fingerprints for the purposes of conducting a state and national criminal history records check pursuant to sections 167 to 178, inclusive, of chapter 6 and 28 U.S.C. section 534 through the department of criminal justice information services and the Federal Bureau of Investigation. The commission shall treat such information in accordance with said sections 167 to 178, inclusive, of said chapter 6 and the regulations thereunder.

(c) A registered laboratory agent shall not be subject to arrest, prosecution, civil penalty, sanctions or disqualifications, and shall not be subject to seizure or forfeiture of assets under Massachusetts law for actions taken under the authority of an independent testing laboratory, including possessing, processing, storing, transferring or testing marijuana provided the agent: (1) presents his or her registration card to any law enforcement official who questions the laboratory agent concerning their marijuana related activities; and (2) is acting in accordance with all the requirements of this chapter and chapter 94I.

Section 16. No licensee shall be granted more than 3 marijuana retailer licenses, 3 medical marijuana treatment center licenses, 3 marijuana product manufacturer licenses or 3 marijuana cultivator licenses; provided, however, that a licensee may hold 3 marijuana retailer licenses, 3 medical marijuana treatment center licenses, 3 marijuana product manufacturer licenses and 3 marijuana cultivator licenses.



Section 17. (a) The commission shall develop a research agenda in order to understand the social and economic trends of marijuana in the commonwealth, to inform future decisions that would aid in the closure of the illicit marketplace and to inform the commission on the public health impacts of marijuana. The research agenda shall include, but not be limited to: (i) patterns of use, methods of consumption, sources of purchase and general perceptions of marijuana among minors, among college and university students and among adults; (ii) incidents of impaired driving, hospitalization and use of other health care services related to marijuana use, including a report of the state of the science around identifying a quantifiable level of marijuana-induced impairment of motor vehicle operation and a report on the financial impacts on the state healthcare system of hospitalizations related to marijuana; (iii) economic and fiscal impacts for state and local governments including the impact of legalization on the production and distribution of marijuana in the illicit market and the costs and benefits to state and local revenue; (iv) ownership and employment trends in the marijuana industry examining participation by racial, ethnic and socioeconomic subgroups, including identification of barriers to participation in the industry; (v) a market analysis examining the expansion or contraction of the illicit marketplace and the expansion or contraction of the legal marketplace, including estimates and comparisons of pricing and product availability in both markets; (vi) a compilation of data on the number of incidents of discipline in schools, including suspensions or expulsions, resulting from marijuana use or possession of marijuana or marijuana products; and (vii) a compilation of data on the number of civil penalties, arrests, prosecutions, incarcerations and sanctions imposed for violations of chapter 94C for possession, distribution or trafficking of marijuana or marijuana products, including the age, race, gender, country of origin, state geographic region and average sanctions of the persons charged.

(b) The commission shall incorporate available data into its research agenda, including the baseline study conducted pursuant to chapter 351 of the acts of 2016, and coordinate and form partnerships with the department of public health, the department of elementary and secondary education, the department of higher education, the executive office of public safety and security and the executive office of labor and workforce development. The commission shall annually report on the results of its research agenda and, when appropriate, make recommendations for further research or policy changes. The annual reports shall be posted online in a machine-readable format.

Section 18. The commission shall audit as often as the commission determines necessary the accounts, programs, activities, and functions of all licensees. To conduct the audit, authorized officers and employees of the commission shall have access to such accounts at reasonable times and the commission may require the production of books, documents, vouchers and other records relating to any matter within the scope of the audit, except tax returns. The superior court shall have jurisdiction to enforce the production of records that the commission requires to be produced under this section and the court shall order the production of all such records within the scope of any such audit. All audits shall be conducted in accordance with generally accepted auditing standards established by the American Institute of Certified Public Accountants. In any audit report of the accounts, funds, programs, activities and functions of a licensee issued by the commission containing adverse or critical audit results, the commission may require a response, in writing, to the audit results. The response shall be forwarded to the commission within 15 days of notification by the commission.

On or before April 1 of each year, the commission shall submit a report to the clerks of the house of representatives and the senate who shall forward the report to the house and senate committees on ways and means, which shall include, but not be limited to: (i) the number of audits performed under this section; (ii) a summary of findings under the audits; and (iii) the cost of each audit.

Section 19. Any liability to the commonwealth under this chapter shall constitute a debt to the commonwealth. Once a statement naming a licensee is recorded, registered or filed, any such debt shall constitute a lien on all commercial property owned by a licensee in the commonwealth and shall have priority over an encumbrance recorded, registered or filed with respect to any site.

Section 20. A licensee shall be subject to chapters 62 to 62E, inclusive, and chapters 63 and 63B.

Section 21. (a) The commission shall conduct fingerprint-based checks of state and national criminal history databases, as authorized by Public Law 92-544, for the following purposes: (i) prior to issuing a license as provided in section 4 and (ii) to determine the suitability of lab agents as provided in section 15. Authorized department staff may receive criminal offender record information and the results of checks of state and national criminal history databases under said Public Law 92-544 but they shall not receive juvenile adjudications and delinquency matters or sealed records. When the department obtains the results of checks of state and national criminal history databases, it shall treat the information according to section 167 to 178, inclusive, of chapter 6 and the regulations thereunder regarding criminal offender record information.

(b) Fingerprint submissions shall be submitted by the commission to the identification unit within the department of state



police through the department of criminal justice information services, or its successor, for a state criminal records check and to the Federal Bureau of Investigation for a national criminal records check according to the policies and procedures established by the identification unit and the department of criminal justice information services. The department of state police and Federal Bureau of Investigation are expressly authorized to search criminal justice databases including all latent fingerprint submissions. Fingerprint submissions may be retained by the Federal Bureau of Investigation, the state identification section and the department of criminal justice information services to assist the commission. The department of criminal justice information services may disseminate the results of a state and national criminal history check to the commission as provided in this section.

(c) Notwithstanding subsections 9 and 9½ of section 4 of chapter 151B, if the commission receives criminal history record information from the state or national fingerprint-based criminal background checks that includes no disposition or is otherwise incomplete, the commission may request that an individual provide additional information regarding the results of the criminal background checks to assist the commission in determining the applicant's suitability for employment, licensure, registration or approval.

(d) The department of criminal justice information services shall disseminate the results of the criminal background check to the commission. The department of criminal justice information services shall only disseminate information under this section that would otherwise be available to the commission as provided in this section.

(e) All persons required to submit fingerprints under this section shall pay a fee to be established by the secretary of administration and finance, in consultation with the secretary of public safety and the commission, to offset the costs of operating and administering a fingerprint-based criminal background check system. The secretary of administration and finance, in consultation with the secretary of public safety and the commission, may increase the fee accordingly if the Federal Bureau of Investigation increases its fingerprint background check service fee. The commission may pay the fee on behalf of applicants or reimburse applicants for all or part of the fee on the grounds of financial hardship. Any fees collected from fingerprinting activity under this chapter shall be deposited into the Fingerprint-Based Background Check Trust Fund, established in section 2HHHH of chapter 29.

SECTION 6. Notwithstanding any general or special law to the contrary, if the cannabis control commission fails to adopt regulations necessary for the implementation of this chapter on or before July 1, 2018, each medical marijuana treatment center may begin to possess, cultivate, process, manufacture, package, purchase or otherwise obtain and test marijuana and marijuana products and may deliver, sell or otherwise transfer marijuana to any person who is at least 21 years of age until the commission adopts the regulations necessary for implementation of this chapter and begins to issue licenses to operate marijuana establishments pursuant to section 5 of this chapter.

Section 7. The initial appointments to the Massachusetts cannabis control commission under section 76 of chapter 10 of the General Laws shall be not later than September 1, 2017.

Section 8. The initial appointments to the cannabis advisory board under section 77 of chapter 10 of the General Laws shall be not later than August 1, 2017.

SECTION 9. The cannabis control commission shall promulgate the initial regulations under section 4 of chapter 94G of the General Laws not later than March 15, 2018.

Relevant text added by Chapter 55 of the Acts of 2017:

SECTION 55. Notwithstanding any general or special law to the contrary, the Massachusetts cannabis control commission established pursuant to section 76 of chapter 10 of the General Laws shall promulgate regulations, guidelines and protocols necessary for the issuance of licenses pursuant to chapter 94G of the General Laws not later than March 15, 2018. The commission shall begin to accept applications for licenses pursuant to said chapter 94G not later than April 1, 2018.



SECTION 56. (a) The Massachusetts cannabis control commission shall prioritize review and licensing decisions for applicants for retail, manufacture or cultivation licenses who:

(i) are registered marijuana dispensaries with a final or a provisional certificate of registration in good standing with the department of public health pursuant to 105 CMR 725.000 that are operational and dispensing to qualifying patients; or

(ii) demonstrate experience in or business practices that promote economic empowerment in communities disproportionately impacted by high rates of arrest and incarceration for offenses under chapter 94C of the General Laws.

(b) The commission shall identify all applications subject to prioritization under subsection (a) submitted between April 1, 2018 and April 15, 2018 and grant or deny such applications prior to reviewing any other applications for licenses.

(c) The commission shall not issue a license pursuant to chapter 94G of the General Laws until June 1, 2018.

(d) The commission shall not approve any application for a license submitted by such a registered marijuana dispensary if, pursuant to chapter 94G of the General Laws, a host community, as defined in said chapter 94G, has prohibited marijuana establishments under said chapter 94G.

SECTION 57. The Massachusetts cannabis control commission, in consultation with the department of agricultural resources, shall report to the joint committee on marijuana policy and the house and senate committees on ways and means on participation in the regulated marijuana industry by farmers and businesses of all sizes. The first report shall provide recommendations to ensure farmers' access to marijuana licenses and to allow for the growth, cultivation, production and harvest of marijuana on farm or agricultural lands, including, to the extent permitted by state and federal law, lands protected under an agricultural preservation restriction and the possibility of including marijuana and industrial hemp as land in horticultural use for the purposes of assessment and taxation pursuant to chapter 61A. The recommendations, including drafts of legislation necessary to carry the recommendations into effect shall be reported within 12 months of the effective date of this act. The second report shall update the general court on progress made to promote and encourage full participation in the regulated marijuana industry by farmers and businesses of all sizes and shall be filed not later than December 31, 2018.

SECTION 58. The Massachusetts cannabis control commission shall make necessary accommodations and promulgate special regulations for the counties of Dukes County and Nantucket. Such regulations shall be promulgated on or before May 1, 2018.

SECTION 72. Notwithstanding any general or special law to the contrary, any person with a provisional or final certification of registration as of July 1, 2017 to dispense medical use marijuana, or any application pending before the department of public health which has not received provisional or final certification of registration, shall be entitled to convert from a non-profit corporation organized under chapter 180 of the General Laws into a domestic business corporation or a domestic other entity pursuant to chapter 156 of the General Laws, or any other such domestic business entity as permitted by the General Laws, by adopting a plan of entity conversion in accordance with section 9.51 of chapter 156D of the General Laws approved by a vote of  $\frac{2}{3}$  of the members of its board of directors at a meeting duly called for the purpose or by unanimous written consent; provided, however, notwithstanding any law to the contrary, any plan of entity conversion adopted by an any medical use marijuana licensee or any application for a medical use marijuana license pending before the Massachusetts cannabis control commission which has not received provisional or final certification of registration shall not be required to be approved in accordance with the organic law of the non-profit corporation organized under said chapter 180. Articles of entity conversion shall be signed and submitted to the secretary of the commonwealth in the manner prescribed in and subject to section 9.53 and section 9.55 of said chapter 156D on a form prescribed by the secretary of the commonwealth and the secretary of the commonwealth shall approve all such filings submitted pursuant to this section. For the purposes of converting from a non-profit corporation organized under said chapter 180 into a domestic business corporation or a domestic other entity pursuant to said chapter 156, notwithstanding any provision in the articles of organization applications pending before the Massachusetts cannabis control commission which have not received provisional or final certification of registration to the contrary, the members of its board of directors may determine that such plan of entity conversion is consistent with its purpose and such non-profit corporation shall be entitled to surrender its articles of organization in connection with the plan of entity conversion. Notwithstanding any law to the contrary, neither the entity conversion nor the issuance of any shares, interests, or other securities, obligations, rights to acquire interests or other securities, cash, other property or any combination of the foregoing, set forth in or resulting from the plan of entity conversion shall be subject to taxation or result in the imposition of any tax by the commonwealth.



SECTION 73. (a) The Massachusetts cannabis control commission may exempt any establishment registered and operating as a medical marijuana treatment center pursuant to 94I as of July 1, 2017 from any licensing requirement of this chapter to continue as a medical marijuana treatment center. Upon renewal of the license for a medical marijuana treatment center, all regulations promulgated by the commission needed for such licensing requirement, shall be met and approved by the commission.

(b) Notwithstanding any general or special law to the contrary, for the purposes of reviewing and approving an application for a license to operate a marijuana establishment, the Massachusetts cannabis control commission shall identify applicants who are holders of a provisional or final certificate of registration pursuant to 94I and accompanying regulations. The commission shall consider issuance of a provisional or final certificate of registration as achievement of accreditation status. The commission shall ensure an expedited review process for applicants for a license to operate a marijuana establishment who have achieved accreditation status and shall only require that such applicants submit specific information not previously required, analyzed, approved and recognized by the department of public health.

SECTION 75. Notwithstanding any general or special law to the contrary, a state, municipal or county employee whose official duties or responsibilities require them to take any action related to the enactment, administration or enforcement of chapter 94G of the General Laws or 94I, this act or any rule or regulation promulgated pursuant to said chapter 94G or 94I or this act shall be indemnified by their employer for all costs associated with any legal proceedings brought against said state, municipal or county employee by the federal government as a result of any such official action taken by said state, municipal or county employee; provided, however, that no state, municipal or county employee shall be indemnified for a violation of chapter 94G or 94I of the General Laws, this act or any rule or regulation promulgated pursuant to said chapter 94G or 94I or this act for any actions taken in their personal capacity.

SECTION 79. Notwithstanding any general or special law to the contrary, nothing in this act shall affect any restrictions or limitations on the operation of medical marijuana treatment centers, marijuana establishments or both imposed by a municipality pursuant to 94I or chapter 334 of the acts of 2016 as of July 1, 2017.





# Franklin Regional Council of Governments

## Recreational Marijuana Municipal Roles and Responsibilities Workshop Notes

*Please be advised that these workshops notes are based on current information but the field of Recreational Marijuana is evolving rapidly and Towns should consult with their Legal Counsel*

**Speaker:** Margaret Hurley, Municipal Law Division Chief, Mass AGO @ FRCOG 9/7/17

**Current Status:** The Cannabis Control Commission (CCC) and Cannabis Advisory Board (CAB) have been appointed. CCC is meeting in September 2017 to begin the development of the regulations. Some favorable outcomes of the legislation include funds being set aside for public health and a charge to the CCC to study how to increase involvement of local agriculture.

### Next steps:

- By March 15, 2018 the CCC should publish regulations. If not done by July 1, 2018, then existing medical marijuana establishments can start selling recreational marijuana on July 2, 2018.
- On April 1, 2018 license applications can be submitted. When a license application is filed with the CCC, they notify the community. It is up to the community to communicate to the CCC about any local ordinances or zoning bylaws or regulations that would make the Applicant noncompliant if the license were issued.
- CCC will rank the applications under statutory criteria.
- Bylaws that would impact the placement of a facility in a town would ideally need to be in place by April 1, 2018 when the CCC licensing process begins, including approval by Attorney General's (AG) office (which can take up to 90 days). However, this will be difficult to do since the regulations are not expected to be published until March 2018. Therefore, many towns have considered adopting a temporary moratorium via a zoning amendment as soon as possible. This will provide additional time to get zoning amendments in place before applications are considered. Bylaws adopted after April 1, 2018 would still apply to any applications submitted to the CCC after the date of the zoning bylaw adoption.
- Licensing by the CCC can start as early as June 1, 2018.
- Your town should know if a business is applying, because the Applicant will need a host agreement with your community.
- The prior Medical Marijuana law was repealed with statutory requirements now under the authority of the CCC.
- Compromise legislation has a grandfathering provision. If your town already took votes based on the State law passed in November, whatever the town passed before July 1, 2017 should be valid.
- Taxes – the local tax rate for recreational marijuana has been increased to 3% of the total sales price. A Town Meeting Vote is required to adopt a local sales tax.
- The AG's office will consider moratoria that go into 2019, but the AG's office has not yet approved any beyond December 2018.
- AG's office recommends that, if your moratorium expires before the AG approves the bylaw, you can call a Special Town Meeting and extend the moratorium for a few months to cover the review period.

### Planning process issues:



- Definition of commercial marijuana is very broad and AG's office has approved zoning bylaws limiting or prohibiting this type of land use. A town can also adopt a general bylaw which may provide additional protection from zoning freezes and requires only a simple majority vote.
- Bylaws that limit the # of establishments below the threshold (fewer than 20 percent of the number of alcohol licenses issued within the town), and bylaws that completely ban retail establishments, need to get both Town Meeting approval of a by-law (or City Council approval of an ordinance) and approval of a majority of voters on a ballot vote at an annual or special election if the town/city voted in favor of commercial marijuana at the state wide ballot in November of 2016. Towns/cities that voted against commercial marijuana need only get Town Meeting or City Council approval of the by-law/ordinance.
- The Ballot vote and zoning bylaw amendment language MUST be the same. In other words there should be no amendments at Town Meeting to the language of the zoning amendment! The statute is not clear on the order of the two votes. The ban or limit would not have lawful effect until the town gets both Town Meeting approval and ballot approval. The AG's office must also approve the zoning bylaw amendment.
- With respect to advertising, communities can regulate signage at a facility but should seek guidance from Town Counsel on what is acceptable since case law is evolving.
- With respect to food inspections: With medical marijuana, edibles were not considered to be food. Seed to Stem tracking will be regulated by the CCC and tested by an independent lab. Local BOHs may be able to regulate and inspect but this should become clearer when CCC regulations are issued.

#### Other important municipal concerns:

- Public Consumption is not legal. Towns have the ability to regulate or prohibit smoking (including marijuana) in public and on public lands. You may not need to amend existing smoking regulations depending upon the text if the regulations are broad enough to include marijuana.
- An open containers of marijuana in a vehicle is unlawful, similar to open container law for alcohol.
- Agriculture – language was added in December to establish that “agricultural uses” does not include growing, distribution, etc. of marijuana. Compromise bill added “but a town can adopt a bylaw to allow for commercial growing on land zoned for agriculture.”
- Question: If a town gave a letter of support for the medical facilities, could they rescind the letter?  
Answer: Another process will now be in place. Medical Marijuana facilities will need a host community agreement.
- A private landowner can prohibit possession and use on their property.
- Towns and State can prohibit possession and use on their property.
- All employers: Check your employment policies. Clarify medical and recreational marijuana standards.
- If anyone is selling recreational marijuana now, the community can contact the local District Attorney or the Attorney General's Office.
- The AGO's Consumer Protection Division will be looking at issues of advertising, labeling and other consumer protection related issues.
- In order to permit marijuana cafes, all communities regardless of how they voted on the state wide ballot question in November of 2016 will need to do a ballot vote at a biennial state election, the next of which will be held in November 2018.





**Additional items that may be addressed in the CCC regulations:**

- The CCC regulations may clarify whether the host agreement has to be in place before an application is submitted.
- Not clear from statute whether towns or BOHs can license. The CCC regulations may address.
- If a town votes to ban commercial sales, will it affect existing medical marijuana facilities?
- What if a town has issued a special permit for a medical marijuana facility and on July 2, 2018 medical marijuana facilities are allowed by state statute to begin selling recreational marijuana (due to the failure of the CCC to issue final regulations)? Will the state statutory provisions pre-empt the local permitting process?
- What if towns want to know where the CCC is headed, so they know if they want to be more or less restrictive with their town regulations? Answer: there will be a Public Hearing process for the regulations.
- Can commercial home delivery be regulated locally? CCC regulations may address.

**Helpful Links as of 9/7/17:**

MA Courts: <http://www.mass.gov/courts/case-legal-res/law-lib/laws-by-subj/about/marijuana.html>  
Attorney General's Muni Law Division: <http://www.mlu.ago.state.ma.us/>  
MA Regional Planning Agencies Resource Page: [www.Massmarpa.org/recreational-marijuana](http://www.Massmarpa.org/recreational-marijuana)







September 20, 2017

Dear Local Official:

The MunEnergy program's Fall 2017 breakfast series is coming up on October 17th, 24th, and 26<sup>th</sup>. These discussions are timely; the winter heating season will be here before we all know it.

We invite you to join us for a **hot breakfast and conversation** about creating an energy strategy for your municipality. Constellation's energy experts will discuss the current market drivers influencing energy rates, the price components within your control, when is the best time to seek quotes, and more.

We have also added a new feature to these educational seminars. The Constellation team will present their exclusive **Efficiency Made Easy program**, designed to help cities and towns make necessary energy efficiency upgrades without the upfront cost. This program helps members reduce energy costs and is another benefit provided through the MunEnergy program.

You may register online at [www.mma.org](http://www.mma.org) or complete this registration form and send it to: Katie McCue, Massachusetts Municipal Association, One Winthrop Sq., Boston, MA 02110, or by email to [kmccue@mma.org](mailto:kmccue@mma.org).

**Please share this invitation with members of your municipal staff.**

**Fall 2017 MunEnergy Breakfast Series  
Today's Energy Market, Efficiency Made Easy, and More:  
Creating a Complete Energy Strategy for your Community**

*All meetings are from 8:00 – 10:00 a.m.*

**Tuesday, October 17**

Franklin  
3 Restaurant, 461 W. Central St, Franklin

**Tuesday, October 24**

Leominster  
Doubletree by Hilton, 99 Erdman Way, Leominster

**Thursday, October 26**

East Longmeadow  
Center Square Grill, 84 Center Square, East Longmeadow

*If you cannot attend but would like additional information about the MunEnergy program, please contact Katie McCue at the MMA.*



**administrator@townofcharlemont.org**

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**From:** Cynthia Smith <csmith@hampshirecog.org>  
**Sent:** Thursday, October 5, 2017 3:16 PM  
**To:** administrator@townofcharlemont.org  
**Subject:** RE: IAC Meeting 10/11/2017, 10am

Hi Peg,

We have no one listed for Charlemont nor does anyone ever attend our meetings from there. Our meetings are open for anyone to attend, but it is the town's decision who they elect to represent their unit at our meetings for voting. If you would like to elect representatives, please let us know who the primary and alternate would be so we are aware for voting.

Thanks,  
Cindy Smith

**From:** administrator@townofcharlemont.org [mailto:administrator@townofcharlemont.org]  
**Sent:** Thursday, October 05, 2017 3:04 PM  
**To:** Cynthia Smith <csmith@hampshirecog.org>  
**Subject:** RE: IAC Meeting 10/11/2017, 10am

Good afternoon,

Who does Charlemont have listed as its representatives? I ask because if I or one of the Select Board members wants to attend, would we be able to vote?

Sincerely,

Peg Dean, MPA  
Town Administrator  
**Proudly serving the Town of Charlemont**  
(413) 339-4335 X 8  
[administrator@townofcharlemont.org](mailto:administrator@townofcharlemont.org)  
[www.charlemont-ma.us](http://www.charlemont-ma.us)

*Please be advised that the Secretary of the Commonwealth has determined that all email messages and attached content sent from and to this email address are public records unless qualified as an exemption under the Massachusetts Public Records Law (MGL c.4 § 7(26)).*

**From:** Cynthia Smith [mailto:csmith@hampshirecog.org]  
**Sent:** Thursday, October 5, 2017 10:03 AM  
**To:** Ashfield, Rebecca Herzog <treasurer@ashfield.org>; Athol, Melanie <treasurer@townofathol.org>; Athol, Shaun Suhoski <ssuhoski@townofathol.org>; Athol, Tammy Collier <collector@townofathol.org>; Bernardston, Hugh Campbell <bos@townofbernardston.org>; Bernardston, Susan Bobe <treasurer@townofbernardston.org>; Buckland, Lisa Blackmer <treasury@town.buckland.ma.us>; Charlemont, Kathy Reynolds <select@bcn.net>; Charlemont, Peg Dean <administrator@townofcharlemont.org>; Charlton, Jessica Lewerenz <jessica.lewerenz@townofcharlton.net>; Charlton, Monica Redmond <monica.redmond@townofcharlton.net>; Colrain, Paula Harrison <treasurer@colrain-ma.gov>; Conway, Jan Warner <treasurer@townofconway.com>; Deerfield, Barbara Hancock <bhancock@town.deerfield.ma.us>;



Deerfield, Wendy Foxmyn <townadmin@town.deerfield.ma.us>; Dudley, Lisa Lamarche <lisal@dudleyma.gov>; Dudley, Richard A. Carmignani, Jr. <richc@dudleyma.gov>; Easthampton, Monica Kane <personneldirector@easthampton.org>; Easthampton, Robin Richard <personnel@easthampton.org>; Erving, Bryan Smith <admin@erving-ma.org>; Erving, Jean Fountain <assistanttreas.jean.fountain@erving-ma.org>; Erving, Julie Wonkka <treasurer@erving-ma.org>; Franklin Cty Solid Waste, Jan Ameen <fcswmd@crocker.com>; Franklin Cty Tech School, Nadine Coughlan <ncoughlan@fcts.us>; Franklin Cty Tech School, Russ Kaubris <rkaubris@fcts.us>; Franklin Reg Retire., Dale Kowacki <ExDr@frsma.com>; Franklin Reg Retire., Deb Frentzos <debfrontzos.frsma@gmail.com>; Franklin Reg. Transit Auth., Tina Cote <tina@frta.org>; Franklin Regional COG, Linda Gross <lgross@frcog.org>; Franklin Regional COG, Patricia Auchard <finance@frcog.org>; Frontier Reg School Dist, Patti Cavanaugh <patti.cavanaugh@frsu38.org>; Frontier Reg School Dist, Paula Light <paula.light@frsu38.org>; Gill, Ronnie LaChance <taxcollector@gillmass.org>; Greenfield Comm. Virtual Academy, Judy Houle <jhoule@gcvs.org>; Greenfield Comm. Virtual Academy, Marc Richard <mrichard@gcvs.org>; Hawley, Virginia Gabert <treasurer@townofhawley.com>; Cynthia Smith <csmith@hampshirecog.org>; Heath, Kristi Nartowicz, Treasurer <treasury@townofheath.org>; Heath, Town Coordinator <bos@townofheath.org>; Holland, Kelli Robbins <krobbins@town.holland.ma.us>; Holland, Linda Blodgett <treasurer@townofholland.necoxmail.com>; Leverett, Jason Noschese <treasurercollector@leverett.ma.us>; Leverett, Margie McGinnis <townadministrator@leverett.ma.us>; Leverett, Sue Nagy <assistant@leverett.ma.us>; Leyden, Kris Nartowicz <knartowicz@gmail.com>; Monroe, David Fierro <monroe.treasurer01350@gmail.com>; Montague, Cheryl Clark <treasclerk1@montague-ma.gov>; Montague, Eileen Seymour <treasurer@montague-ma.gov>; Montague, Steve Ellis <townadmin@montague-ma.gov>; New Salem, Gabriele Voelker <ghvoelker@outlook.com>; New Salem/Wendell, Bruce Turner <turner@erving.com>; New Salem/Wendell, Megan Young <young@erving.com>; Northfield, Barbara Brassor <bbrassor@townnfld.com>; Northfield, Town Administrator <admin@townnfld.com>; Orange, Gabriele Voelker <gvoelker@townoforange.org>; Orange, Linda Adam <ladam@townoforange.org>; Pioneer Valley RSD, Ruth Miller <millerr@pioneervalley.k12.ma.us>; Pioneer Valley RSD, Sues'anne Jason <Jasons@pioneervalley.k12.ma.us>; Rowe, Janice Boudreau <admin@rowe-ma.gov>; Rowe, Marcella Stafford-Gore <treasurer@rowe-ma.gov>; Rowe, Sandy Daviau <collector@rowe-ma.gov>; Shelburne, Angelina Bragdon <treasurer@townofshelburnema.gov>; Shutesbury, Becky Torres <townadmin@shutesbury.org>; Shutesbury, Gabriele Voelker <treasurer@shutesbury.org>; So. Deerfield Water, Heather Rock <sdwsd@sdwsd.comcastbiz.net>; South Hadley, Gloria Congram <gcongram@southhadleyma.gov>; South Hadley, Jackie Iskander <jiskander@southhadleyma.gov>; South Hadley, Michael Sullivan <msullivan@southhadleyma.gov>; Southwick, Michelle L. Hill <treasurer@southwickma.net>; Sunderland Water Dist, Connie Laurenitis <conniel123@msn.com>; Sunderland, Margaret Nartowicz <townadmin@townofsunderland.us>; Sunderland, Treasurer/Collector <treascollector@townofsunderland.us>; SWCRV, Dean Iacobucci <diacobucci@baypath.net>; SWCRV, Sue Plouffe <splouffe@baypath.net>; SWSC, Matthew Donnellan <matthew.donnellan@waterandsewer.org>; SWSC, Mildred Colon <Mildred.Colon@Waterandsewer.org>; Turners Falls Fire Dist., Eileen M. Tela <etela.tffd@yahoo.com>; Warwick, Beth Gilgun <treasurer@town.warwick.ma.us>; Wendell, Carolyn Manley <cman19@wildblue.net>; Whately, Lynn Sibley <tclerk2@comcast.net>; Whately, Treasurer <whatelytreasurer@comcast.net>

**Subject:** IAC Meeting 10/11/2017, 10am

To All Units,

Our Insurance Advisory Committee meeting is **Wednesday, October 11, 2017 at the Deerfield Town Hall at 10:00am**. I have attached the full agenda for your review. It is important that you or another unit representative attend this meeting. We will be voting on the 2018 Medex rates and will have the Executive Committee elections.

**If you are interested in running for a position on the Executive Committee, please email myself or Joe Shea ([jshea@hampshirecog.org](mailto:jshea@hampshirecog.org)) any final nominations to be put on the ballot.**

**Could you please confirm if you or someone from your unit will be attending the meeting? I will be making phone calls Monday morning to those there is no response from.**



Thanks,  
*Cindy*

**Cynthia A. Smith**  
Account Reconciliation Assistant  
Hampshire County Group Insurance Trust

Hampshire Council of Governments  
99 Main Street  
Northampton, MA 01060  
(413) 584-1300 x145 office  
(413) 587-0056 fax

[www.hampshirecog.org](http://www.hampshirecog.org) | [twitter@hampshirecog](mailto:twitter@hampshirecog)



**administrator@townofcharlemont.org**

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**From:** administrator@townofcharlemont.org  
**Sent:** Friday, October 6, 2017 10:32 AM  
**To:** selectboard@townofcharlemont.org  
**Subject:** Re: appoint a Historical Commission member

Relative to the conversation around where to place the broadband hut at the joint budget meeting was whether the Historical Commission wants to chime in on the location. Because of the two vacancies, adding appoint Historical Commission member to the Select Board agenda.

Peg Dean, MPA  
Town Administrator  
**Proudly serving the Town of Charlemont**  
(413) 339-4335 X 8  
[administrator@townofcharlemont.org](mailto:administrator@townofcharlemont.org)  
[www.charlemont-ma.us](http://www.charlemont-ma.us)

*Please be advised that the Secretary of the Commonwealth has determined that all email messages and attached content sent from and to this email address are public records unless qualified as an exemption under the Massachusetts Public Records Law (MGL c.4 § 7(26)).*

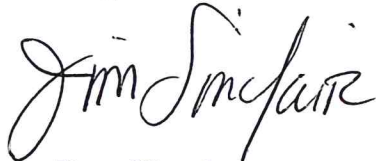
October 3, 2017

To: Board of Selectmen, Town of Charlemont, MA

Dear Selectboard Members,

It is with regret that I am resigning from the Capital Improvement Committee. Unfortunately, the time I need to devote to my business interests does not leave sufficient time to effectively participate on the committee.

Regards,

A handwritten signature in black ink that reads "Jim Sinclair". The signature is written in a cursive style with a large, stylized "J" and "S".

Jim Sinclair



Mr. Richardson:

Regarding your letter of September 25<sup>th</sup> 2017 citing a drainage issue at the property located at 80 Deer Run Lane in Charlemont. I agree that the property is on the low side of the road, and of course water runs down hill, but to install a channel or ditch line to pick up the surface water that lands on the road is not practical and would not do anything to stop the surface water that lands on the home owners property. Keep in mind this is a gravel road and we grade and rake this road twice a year, once in the Spring and once in the Fall. When we grade the road we crown up the center or middle of the road to allow surface water to shed off evenly so if the road is 20' wide  $\frac{1}{2}$  or 10 ' of the surface water goes to one side and  $\frac{1}{2}$  goes to the other side. To help with shedding water we install bleeders every x amount of feet to control the erosion of the roadside, in an effort to be helpful I will instruct my crew not to install these bleeders along the Rowley frontage.

As far as the driveway goes, I recommend that the homeowner have installed a 15" x 20' double wall plastic pipe at the location marked on the picture included taken 9/21/15 with this letter, this is something that should have been done when built (in my opinion). When I looked at and took these pictures I saw no evidence of any surface gravel on the driveway, just what I assume to be bank run gravel with large cobbles and stone. I didn't see where any gravel had been washed up into a pile or deposited into the woods which usually is the case when there is a claim of this sort. Again it is my opinion that there has not been any surface gravel on this driveway in many years even before Miss Rowley took ownership.

I do see where sand or silt has gathered up near the well, and I am sure with the installation of the culvert pipe that I have recommended, graveling the driveway with good 1  $\frac{1}{2}$ " crushed gravel and a couple water bars further down towards the house this problem will be alleviated.

Gordon Hathaway,

**John W. Richardson**  
Attorney at Law  
32 Bridge Street  
(Mail: 297 Bardwells Ferry Road)  
Shelburne, Massachusetts 01370  
413-625-6637  
Fax: 413-625-6286

September 25, 2017-via email and regular mail

Board of Selectmen  
Town of Charlemont  
P. O. Box 677  
Charlemont,  
Massachusetts 01339

**Re: Eleanor Rowley-80 Deer Run Lane**

Selectboard:

Eleanor Rowley has consulted me concerning a serious drainage issue she is experiencing at her property located at 80 Deer Run Lane in Charlemont. Her property is on the lower side of the road and as a result, without a proper channel on the downhill side of the road, when it rains water not only runs over the bank down onto her property but it runs down her driveway as well which has washed away the gravel on her driveway creating a rocky surface such that she cannot get anyone to plow her driveway in winter for fear of doing damage to their plow. Furthermore, her water source is located at the end of this driveway near the corner of the house and this situation has the potential of contaminating her well.

It would be appreciated if a member of your board would investigate this situation and ask the highway department to take the appropriate action to take fix this problem as soon as possible. Thank you for your attention to this issue.

Yours very truly,

  
John W. Richardson

Emailed copy to  
Highway Department







*Needs culvert across driveway  
owner responsibility*

X















Charles D. Baker, Governor  
 Karyn E. Polito, Lieutenant Governor  
 Stephanie Pollack, Secretary & CEO  
 Jonathan L. Gulliver, Acting Highway Administrator



September 21, 2017

Town of Charlemont  
 Board of Selectmen  
 P.O. Box 677 / 157 Main St.  
 Charlemont, MA 01339

RECEIVED  
 SEP 25 2017

Attn: Gordon Hathaway, Highway Superintendent

SUBJECT: NATIONAL BRIDGE INSPECTION STANDARDS (NBIS)  
BRIDGE INSPECTION REPORTS

|                |                                      |                 |
|----------------|--------------------------------------|-----------------|
| C-05-010 (0EQ) | ST 8 A/W HAWLEY RD / DEERFIELD RIVER | Dated: 06/19/17 |
| C-05-029 (AL6) | MAXWELL RD / MAXWELL BROOK           | Dated: 06/05/17 |
| C-05-049 (AY1) | BURRINGTON RD / HARTWELL BROOK       | Dated: 06/05/17 |

Dear Mr. Hathaway:

As part of the Massachusetts Bridge Inspection Program, MassDOT - Highway Division performs the inspection of municipally owned bridges that have a clear span of 20 feet or greater. These bridges are scheduled to be inspected every two years or less.

Copies of the recent bridge inspection field reports are enclosed for your records for the referenced municipally owned bridges. Repair, rehabilitation or reconstruction of any bridges to address the deficiencies reported is the owner/custodian's responsibility. Chapter 90 funds may be used for these purposes.

Questions regarding the content of the reports may be directed to the District Bridge Inspection Engineer, Laurie A. Briggs, at (413) 637-5783.

Sincerely,

Francisca R. Heming  
 District 1 Highway Director

LAB/lab  
 cc: AKB, LAB, BridgeLen  
 Enclosure