



Memorandum

To: City Council

From: Councilor Susan Albright, Chair, Zoning & Planning Committee

Re: Exempting Garden Remedies from the Proposed Adult Use (Recreational) Marijuana Moratorium

Date: February 16, 2018

During the ZAP meeting the notion of an exemption from the moratorium for Garden Remedies was discussed but there was no follow-through in the motion. The Planning Board did recommend to exempt GR from the moratorium (vote: 3 in favor 1 opposed). Therefore, I am proposing (via 2nd call) to exempt Garden Remedies from Newton's Proposed Adult Use (Recreational) Moratorium ("the Proposed Moratorium"). Newton is obligated by state law to allow Garden Remedies (GR) to sell recreational marijuana in addition to medical marijuana at its existing facility at 697 Washington Street in Newtonville. The slide below is from a presentation at Worcester State University two weeks ago by an expert panel on Marijuana implementation in the Commonwealth:

Worcester State University Presentation COMBINED 02052018.pdf
from Jeff Bagg (CMRPC)

Zoning bylaws/ordinances shall not prohibit the conversion of a medical marijuana treatment center licensed or registered not later than July 1, 2017 that is engaged in the cultivation, manufacture or sale of marijuana or marijuana products to a marijuana establishment for adult use engaged in the same type of activity. G.L. 94G, s.3(a)(1)

- Questions to ask:
 - Has an applicant for a MMTC obtained a provisional or final certificate of registration no later than July 1 2017?
 - Does the municipality intend to regulate (instead of prohibit) adult use marijuana?
 - If the answer is "yes" to both questions, the municipality must allow adult use of the same type in the location of the licensed MMTC.

KP|LAW

Experts at the state level have provided our Law and Planning Departments with conflicting opinions regarding whether or not a moratorium would apply to an existing Medical Marijuana facility licensed before July 1, 2017, such as GR.

The first question the Council should have is – if we exempt GR from the moratorium, how can Newton control its future operations? There are a number of protections in place for Newton. GR must 1. Hold a community meeting presenting its plans for the proposed recreational use within 6 months before making application to the Cannabis Control Commission (CCC) for a recreational license. 2. It must negotiate and have in place a community host agreement with Newton, and 3. It must modify its existing special permit to allow recreational marijuana sales.

Why would we want to exempt GR from the moratorium?

1. As the Planning department begins its work on zoning regulations it has expressed the usefulness of working with an existing dispensary with a medical mj special permit as it goes through the process of beginning a retail sale operation. Working with an existing dispensary can illuminate the best practices, which we may want to incorporate into our proposed zoning.
2. A majority of Newton voted (55%) for this ballot question and this is a controlled way to serve an unserved population without sending them to another city.
3. Revenue – We are allowed to include a 3% impact fee in the host community agreement and in addition adopt a 3% sales tax. If we allow GR to begin the process of applying for a license from the CCC and commence its recreational operation on July 1, we would receive a projected (by GR) estimated \$284,000 (3% host agreement and 3% sales tax) from July –Dec 2018. This revenue would be lost if GR is not exempt from the moratorium. Furthermore, GR is voluntarily proposing to pay an additional 3% pursuant to a medical marijuana host agreement effective March 1, 2018. GR projects that the 3% medical from March 1, 2018 to December 31, 2018 would be an additional \$ 172,500 bringing the total revenue through December 2018 to \$456,900.

Does this exemption provide an unfair “leg-up” to GR? The Planning Department has met with several potential applicants. Some plan to apply first for a medical dispensary. None are far enough along to actually apply imminently for a special permit under our existing medical marijuana zoning. Applicants who were either licensed or operating as of July 1, 2017 are eligible by statute and by CCC draft regulations for what amounts to priority treatment from the Commonwealth.

What additional protections are in place that limit GR operations if we exempt them, besides those mentioned above? The State regulations are comprehensive governing logos, signage, branding rules, labeling practices, marketing practices, advertising prohibitions, and packaging requirements. They also contain the 500 foot buffer from k-12 schools.

Along with the moratorium, which I am now convinced, should last until December 31, 2018 because of all the other obligations our Planning Department has, I hope the Council will exempt Garden Remedies and let it begin the process of adding on adult use.

The following language was provide by both the Planning and Law departments to amend the Council order and add paragraph c as follows:

c. This moratorium shall not apply to prevent a medical marijuana dispensary operating in Newton that was licensed or registered not later than July 1, 2017 from converting to the retail sale of recreational marijuana under the provisions of MGL c. 94G and any regulations promulgated thereunder.

#77-18 **DRAFT**
with exemption
language
(underscored)

CITY OF NEWTON

IN CITY COUNCIL

ORDINANCE NO.

, 2018

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWTON that the Revised Ordinances of Newton, Massachusetts, 2012, as amended, be and are hereby further amended with respect to **Chapter 30 ZONING** as follows:

INSERT a new section 6.10.4 as follows:

6.10.4 Recreational Marijuana Establishments

- A. Recreational Marijuana Establishment shall mean a non-medical marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer, or any other type of marijuana-related business licensed by the Cannabis Control Commission.
- B. The City hereby adopts a temporary moratorium prohibiting the use of land, buildings or structures in any district for Recreational Marijuana Establishments. This moratorium shall be in effect through December 31, 2018, unless repealed earlier by the City Council. During this moratorium period, the City shall undertake a planning process to address the potential impacts of recreational marijuana establishments on the City, to consider the Cannabis Control Commission's regulations pertaining to recreational marijuana establishments and related uses, and to study and consider adoption of zoning amendments to regulate in what districts and under what conditions licensed marijuana establishments may be allowed.
- C. This moratorium shall not apply to prevent a medical marijuana dispensary operating in Newton that was licensed or registered not later than July 1, 2017 from converting to the retail sale of recreational marijuana under the provisions of MGL c. 94G and any regulations promulgated thereunder.

Approved as to legal form and character:

QUIDA C. M. YOUNG
Acting City Solicitor

Under Suspension of Rules
Readings Waived and Adopted

EXECUTIVE DEPARTMENT
Approved:

(SGD) DAVID A. OLSON
City Clerk

(SGD) SETTI D. WARREN
Mayor