



Zoning & Planning Committee Agenda

City of Newton In City Council

Monday, February 8, 2021

7:00 PM

The Zoning & Planning Committee will hold this meeting as a virtual meeting on Monday, February 8, 2021 at 7:00 PM. To view this meeting using Zoom, use this link: <https://us02web.zoom.us/j/89367591104> or call 1-646-558-8656 and use the following Meeting ID: 893 6759 1104

Items Scheduled for Discussion:

Public Hearing

#485-20

Economic Development Commission requesting City Ordinance amendments
ECONOMIC DEVELOPMENT COMMISSION requesting an amendment of Sections 4.4.1 (Business, Mixed Use & Manufacturing Districts), 6.4.28 (Research and Development), and 6.5.9 (Laboratory and Research Facility) in order to clarify inconsistencies in the way Research and Development is treated in the use tables and definitions. Providing clarity in where Research and Development uses are allowed is necessary to diversity Newton's Economy, make Newton competitive with surrounding communities in attracting 21st century industries and jobs, and raise Newton's commercial tax revenue and implement recommendation from the 2019 Newton Strategic Plan (Camoin study).

#448-20

Proposal to amend City of Newton Zoning Ordinances Chap. 30. Sec 3.4 Garages
COUNCILOR CROSSLEY, on behalf of the Zoning & Planning Committee proposing to amend Chapter 30, City of Newton Zoning Ordinances, by repealing Ordinance No. A-78 and amending the regulation of garages in residential zoning districts as set forth in Chapter 30, Section 3.4. The objectives are to prevent garages from dominating the streetscape, improve safety along the public way for all modes of travel and achieve consistency with climate action goals.

The location of this meeting is accessible and reasonable accommodations will be provided to persons with disabilities who require assistance. If you need a reasonable accommodation, please contact the city of Newton's ADA Coordinator, Jini Fairley, at least two business days in advance of the meeting: jfairley@newtonma.gov or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.

Chair's Note: The Zoning & Planning Committee will continue review of the changes required to the Marijuana ordinances in preparation for the public hearing on March 8, 2021.

#41-21 Zoning Amendments for Marijuana Establishments

THE DIRECTOR OF PLANNING AND DEVELOPMENT requesting amendments to the Newton Zoning Ordinance, Chapter 30, Sections 4.4 and 6.10, to amend the regulations for marijuana establishments to be consistent with the regulations put forth by the Cannabis Control Commission on January 8, 2021.

Chair's Note: The Zoning & Planning Committee will continue its discussion with Planning Department staff on a Zoning Work Plan for 2021.

Respectfully Submitted,

Deborah J. Crossley, Chair



Ruthanne Fuller
Mayor

City of Newton, Massachusetts

Department of Planning and Development

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Barney S. Heath
Director

REVISED PUBLIC HEARING MEMORANDUM

DATE: February 5, 2021 (Revised)

TO: Councilor Deborah Crossley, Chair, Zoning & Planning Committee
Members of the Zoning and Planning Committee
Members of the Planning & Development Board
Members of the Economic Development Commission

FROM: Barney S. Heath, Director of Planning and Development
Jennifer Caira, Deputy Director, Department of Planning & Development
Devra Bailin, Director of Economic Development

RE: #485-20 Economic Development Commission requesting City Ordinance amendments
ECONOMIC DEVELOPMENT COMMISSION requesting an amendment of Sections 4.4.1 (Business, Mixed Use & Manufacturing Districts), 6.4.28 (Research and Development), and 6.5.9 (Laboratory and Research Facility) in order to clarify inconsistencies in the way Research and Development is treated in the use tables and definitions. Providing clarity in where Research and Development uses are allowed is necessary to diversity Newton's Economy, make Newton competitive with surrounding communities in attracting 21st century industries and jobs, and raise Newton's commercial tax revenue and implement recommendation from the 2019 Newton Strategic Plan (Camoin study).

MEETING DATE: February 8, 2021

CC: City Council
John Lojek, Commissioner of Inspectional Services
Neil Cronin, Chief of Current Planning
Alissa O. Giuliani, City Solicitor
Jonathan Yeo, Chief Operating Officer

In reviewing applications and responding to questions from developers, the Planning Department has experienced technical inconsistencies within the Zoning Ordinance regarding allowed uses for research and development activities. “Research and Development” is listed in the Zoning Ordinance use table as only being permitted in the Mixed Use 3 zone (Riverside Station), and nowhere else. Research and Development is also undefined in the ordinance. A “Laboratory and Research Facility” is allowed, either by-right or by Special Permit, in all commercial, mixed use and manufacturing zones and the definition includes research and development. This leads to confusion about if and where research and development activities are permitted. The “Laboratory and Research Facility” definition could also use improvement to better reflect current research and development activities.

In addition, the Economic Development Commission has indicated its interest in diversifying the commercial tax base by encouraging appropriate development by R&D enterprises. We therefore provide proposed corrective measures to the Zoning Ordinance to clarify and encourage these uses in appropriate locations.

Attached you will find the proposed revisions to Sections 4.4.1 (Business, Mixed Use & Manufacturing Districts), 6.5.9 (Laboratory and Research Facility) and 6.5.11 (Manufacturing). This proposal reflects input from the Economic Development Commission, the Newton Needham Chamber of Commerce, and other experts in the field.

The proposed revisions include:

- Striking Research & Development as a stand-alone use from the use table in Section 4.4.1 as it is only permitted in the MU3 zone and is undefined.
- Renaming Laboratory and Research Facility to Laboratory, Research and Development to better reflect the category of uses.
- Revising the definition for Laboratory, Research and Development in Section 6.5.9 to better align with modern laboratory and research uses and to clarify that accessory manufacturing is permitted in the business and mixed-use zones.
- Amending the definition for Manufacturing in 6.5.11 to include the types of manufacturing associated with research and development.

Update – February 5, 2021

The draft ordinance revisions attached to the Planning Department’s memos dated January 8, 2021 and January 29, 2021 included changes to Section 6.7.4 Scientific Research and Development Activities. This section applies only to accessory scientific research and development activities for civic/institutional uses in public use, open space, and residential zoning districts. Changes to this section were inadvertently excluded from the public hearing notice and while the changes are related to research and development, they are not relevant to research and development uses in commercial and industrial zones, which is the primary intent of this update. Therefore, the draft ordinance has been revised to remove any changes to this section and this will be addressed through a future clean-up effort.

Attachment A: Draft ordinance revisions February 5, 2021 (clean)

Attachment B: Draft ordinance revisions February 5, 2021 (redline)

Amend the following sections as follows:

Sec. 4.4. Allowed Uses

4.4.1. Business, Mixed Use & Manufacturing Districts

Business, Mixed Use & Manufacturing Districts	BU1	BU2	BU3	BU4	BU5	MU1	MU2	MU3	MU4	M	LM	Definition/ Listed Standard
Industrial Uses												
Laboratory, research and development	SP	SP	SP	SP	SP	P	P	SP	P	P	P	Sec. 6.5.9

6.5.9. Laboratory, Research and Development

- A. **Defined.** Technical facility consisting of laboratory space, office space, storage space, and space for assembly of materials for study, research and development, experimentation, and prototype development in one or more scientific fields including, but not limited to, life sciences, biotechnology, biomedical research, robotics, renewable technology, sustainable technology, computer science, electronic technology, or medicine.
- B. **Standards.** Research and Development involving recombinant DNA shall be subject to Revised Ordinances Chapter 12, Sections 12-21 et. seq.
- C. Manufacturing activity shall be considered an allowed accessory use to a technical facility in a business or mixed-use district that does not otherwise permit manufacturing uses provided that such manufacturing activity is related to the research and development being conducted in such a facility and occurs inside of buildings.

6.5.11. Manufacturing

- A. **Defined.** Manufacturing includes:
 1. Canvas products, fabrication and sales;
 2. Glass fabrication or installation;
 3. Ice manufacturing or storage;
 4. Light metal fabrication such as sheet metal, ducts, gutters and leaders;
 5. Lightweight and nonferrous metal casting (no noxious fumes);
 6. Machine shop (excluding presses over 10 tons), plumbing shop, blacksmith shop;
 7. Molding, shaping or assembly from prepared materials (including repairs) of boxes, staging, toys, stationery, novelties, paper boxes, toilet preparations, drugs, perfumes, flavoring extracts, medical and hygienic appliances, clothing, textiles, hats, leather and sporting goods, mattresses, store, house, office, theater, playground equipment, signs, musical instruments, art goods, industrial models, tools, appliances or electrical goods;

8. Optical scientific instrument and jewelry manufacturing;
9. Wearing apparel fabrication and processing;
10. Product and/or process development in connection with a Laboratory, Research and Development use; and
11. Other similar manufacturing uses.

DRAFT

Amend the following sections as follows:

Sec. 4.4. Allowed Uses

4.4.1. Business, Mixed Use & Manufacturing Districts

Business, Mixed Use & Manufacturing Districts	BU1	BU2	BU3	BU4	BU5	MU1	MU2	MU3	MU4	M	LM	Definition/ Listed Standard
Commercial Uses												
Research and Development	-	-	-	-	-	-	-	P	-	-	-	Sec. 6.4.28
Industrial Uses												
Laboratory, and research facility <u>and development</u>	SP	SP	SP	SP	SP	P	P	SP	P	P	P	Sec. 6.5.9

6.5.9. Laboratory ~~and~~ Research Facility and Development

- A. **Defined.** Technical facility consisting of laboratory space, office space, storage space, and space for assembly of materials for study, research and development, experimentation, and prototype development in one or more scientific fields including, but not limited to, life sciences, biotechnology, biomedical research, robotics, renewable technology, sustainable technology, computer science, electronic technology, or medicine. Research and development facility, laboratory or research facility with or without recombinant DNA research or technology, as defined in Revised Ordinances Chapter 12, Section s12-20 et. seq.
- ~~B.~~ **Standards.** In the business 5 District, the facility is exclusively for research purposes with no manufacturing on the premises. Research and Development involving recombinant DNA shall be subject to Revised Ordinances Chapter 12, Sections 12-21 et. seq.
- ~~B.C.~~ Manufacturing activity shall be considered an allowed accessory use to a technical facility in a business or mixed-use district that does not otherwise permit manufacturing uses provided that such manufacturing activity is related to the research and development being conducted in such a facility and occurs inside of buildings.

6.5.11. Manufacturing

- A. **Defined.** Manufacturing includes:
 1. Canvas products, fabrication and sales;
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6. Machine shop (excluding presses over 10 tons), plumbing shop, blacksmith shop;
7. Molding, shaping or assembly from prepared materials (including repairs) of boxes, staging, toys, stationery, novelties, paper boxes, toilet preparations, drugs, perfumes, flavoring extracts, medical and hygienic appliances, clothing, textiles, hats, leather and sporting goods, mattresses, store, house, office, theater, playground equipment, signs, musical instruments, art goods, industrial models, tools, appliances or electrical goods;
8. Optical scientific instrument and jewelry manufacturing;
9. Wearing apparel fabrication and processing; ~~and~~
- 9.10. Product and/or process development in connection with a Laboratory, Research and Development use; and
- ~~10.11.~~ Other similar manufacturing uses.

DRAFT



Ruthanne Fuller
Mayor

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Barney S. Heath
Director

MEMORANDUM

DATE: February 4, 2021

TO: Councilor Deborah Crossley, Chair, Zoning & Planning Committee
Members of the Zoning & Planning Committee

FROM: Barney Heath, Director, Department of Planning and Development
Jennifer Caira, Deputy Director, Department of Planning and Development
Zachery LeMel, Chief of Long Range Planning
Nevena Pilipović-Wengler, Community Engagement Manager
Cat Kemmett, Planning Associate

RE: **#448-20 Discussion and review relative to the draft Zoning Ordinance**
COUNCILOR CROSSLEY, on behalf of the Zoning & Planning Committee proposing to amend Chapter 30, City of Newton Zoning Ordinances, by repealing Ordinance No. A-78 and amending the regulation of garages in residential zoning districts as set forth in Chapter 30, Section 3.4. The objectives are to prevent garages from dominating the streetscape, improve safety along the public way for all modes of travel and achieve consistency with climate action goals.

MEETING: February 8, 2021

CC: City Council
Planning Board
John Lojek, Commissioner of Inspectional Services
Neil Cronin, Chief of Current Planning
Alissa O. Giuliani, City Solicitor
Jonathan Yeo, Chief Operating Officer

Recap of Previous ZAP Meeting

At the January 25 ZAP meeting, the committee held a public hearing for the Garage Ordinance. Members of the public, including a number of architects and building professionals, voiced their thoughts on the ordinance, followed by committee discussion.

Several of the outstanding items and questions from that discussion were topics closely related to garages, but outside the scope of the Garage Ordinance. Staff have flagged these important points for future analysis, to be taken up either under Zoning Redesign or a cleanup of those individual sections at a later date. These issues focused on the definition of Two-Family, Detached buildings (Sec. 1.5.1.B) and the link between garage design and Accessory Apartments (Sec. 6.7.1).

ZAP members requested further clarification on the regulations for garages on corner lots, asked for staff to revisit the exemption for garages set back 70 feet or more from the primary front lot line as described in Sec. 3.4.4.G.1, and suggested to omit references to automobiles in the ordinance. Staff conclusions and recommendations for those items are discussed below.

Corner Lots

Current zoning

In the Zoning Ordinance, residential properties located on corner lots are subject to two front yard setbacks, one on each street they front. This means that a detached garage on a corner lot facing the secondary front lot line is subject to the stricter front yard setback, rather than the 5-foot side yard setback for accessory buildings described in Sec. 3.4.3.A.1. In the current ordinance, there is no distinction between how garages on corner lots are regulated based on whether they are located on the Primary Front Lot Line or the secondary front lot line. They are both subject to the same rules, including the maximum of 700 square feet and provision for a maximum of 3 cars, and must adhere to the front setbacks on both lot lines that touch the street.

Proposed changes in Garage Ordinance

In the proposed Garage Ordinance, garages on corner lots would be treated differently depending on which lot line they face. A detached or attached garage on a corner lot facing the Primary Front Lot Line would be subject to the more restrictive Front Facing Garage standards (Sec. 3.4.4.C).

A garage on a corner lot facing the secondary front lot line would be considered a Side Facing Garage (Sec. 3.4.4.D). As a Side Facing Garage, the restrictions on the measurement of the garage as a percentage of the Front Elevation would not apply. However, that garage would need to comply with the door width restrictions outlined in 3.4.4.D.2 and 3.4.4.D.3., which are the same as those allowed for Front Facing Garages.

Several committee members raised concerns about garages on corner lots facing the secondary front lot line. Front Facing Garages are regulated more strictly than Side Facing Garages, and under this ordinance it is possible that garages on the secondary street could be more prominent and a larger proportion of the side elevation of the house than is desirable. Because corner lots are already subject to stricter rules due to having two front yard setbacks, and based on an analysis of existing garages, staff are not recommending additional restrictions for garages on corner lots. The elevation of the house facing the secondary street is often narrower than the primary elevation, making it difficult to meet the restrictions on the width of garages as a percentage of the total width of the Front Elevation. Garages on secondary streets are also unlikely to be forward of the house given the restrictive setbacks. By limiting the garage door width on Side Facing corner lot garages, the Garage Ordinance can limit their visual impact while still allowing flexible options.

Another question committee members requested clarification on is the potential impact of Sec. 3.4.4.E.1 on corner lots. This section would allow two garages on a lot by right, one attached and one detached. This means that it would be possible to have both a Front Facing Garage and Side Facing Garage on a single lot.

This scenario is a possibility in the instance of a two-unit residential building on a corner lot, where each unit has a garage facing one of the streets that the building fronts. For the few corner lots large enough to permit both a Side and Front Facing Garage, the impact will be minimized in part by the break in massing from one being attached and the other detached, and by the requirement that both garages would be set back a minimum of 25 feet from the lot line due to the front setback requirement. Additionally, two-unit buildings are subject to the stricter rules outlined in Sec. 3.4.4.F.1.a, which limit each unit to no more than 500 square feet in total garage area and provision for no more than 2 automobiles.

70 Foot Exemption

At the public hearing on January 25, members of the committee asked staff to address a concern about Sec. 3.4.4.G.1. They pointed out that under this exemption, it would be possible to build a garage that projects more than 10 feet forward of the main elevation of the house on long, narrow lots.

Staff have consulted with several building professionals and surveyed garages built in the past the past few years to better understand to what extent this configuration exists in the city and believe this is unlikely to be an issue. While it is possible that a prominent garage could be built forward of the Front Elevation under this exemption, staff would expect this exemption to be most applicable to estate size properties on very large lots. In the rare case that such a garage might be built on a long and narrow lot, the visual impact would be reduced at a distance of 70 or more feet back than a prominent garage close to the street.

Staff recommend that this exemption be retained in the ordinance as written now, rather than creating additional conditions. However if the sentiment of the committee is that this exemption is too generous it could be removed without resulting in significant negative impacts, since those garages would then be subject to the same standards that apply to other Front or Side Facing garages.

References to Automobiles

At the suggestion of members of the committee, staff reexamined the ordinance to see if the text could be reworded to remove all references to automobiles. Given that the ordinance is focused on the size, shape, and look of garages, and there are plenty of garages that are not used for automobiles at all, it was suggested that defining a garage based on the mass rather than the interior use could be forward-thinking as the city takes steps to move away from car-centric planning practices.

In the Garage Ordinance, the definition of a garage (Sec. 3.4.4.B.1) states that the structure is able to be accessed by an automobile, or that it is intended to be used primarily for the storage or parking of 1 or more automobiles. In practice, this definition will be most relevant when a garage is first built and would not prevent a garage to be used for other common purposes such as storage or recreation. Garages often evolve in how they are used over time, but nothing in this definition would prevent a change in interior use or require that an automobile be stored inside for it to be considered a garage.

Staff are supportive of deemphasizing automobiles in the ordinance and considered a few options for the text that could remove references to automobiles, but at this time are recommending retaining those references in order to avoid unintended consequences. Using a range of door opening widths to define a garage (for instance, doors wider than 3 feet and up to 9 feet) could potentially encompass structures with common residential door dimensions, such as French doors. Because garage doors are

measured jamb to jamb in the Garage Ordinance, it is also possible that by giving a range of door widths, a sliding door could fall into the definition of a garage door. Similarly, a definition based on a structure with a single door of a certain size that opens vertically would not be appropriate because there are a small number of garages with two doors that open horizontally. By defining a garage in this way, a garage would simply need to change the garage doors to be exempt from all regulations on garages.

The Planning department is supportive of finding ways to deemphasize automobiles in the Zoning Ordinance in the Zoning Redesign process where appropriate and ensuring the ability to use garages in flexible ways that can adapt over time.

Effective Date

The ZAP committee voiced a general consensus on moving this item to a vote on February 8. Should ZAP vote to recommend adoption to the City Council, staff recommend setting an effective date of no earlier than April 1, 2021. This would allow homeowners and building professionals time in between adoption and implementation to make any necessary changes to planned garages.

CITY OF NEWTON

Planning and Development Board



2/4/2021

The Honorable City Council President, Susan Albright
City of Newton
1000 Commonwealth Avenue
Newton, MA 02459

RE: Garage Ordinance (Docket #448-20)

Ruthanne Fuller
Mayor

Barney Heath
Director
Planning & Development

Members

- Peter Doeringer, Chair
- Kelley Brown, Member
- Sudha Maheshwari, Member
- Jennifer Molinsky, Member
- Sonia Parisca, Vice Chair
- Chris Steele, Member
- Barney Heath, *ex officio*
- Kevin McCormick, Alternate
- James Robertson, Alternate

Dear Honorable Council President Albright:

The Planning and Development Board has been discussing the proposed revisions to the Garage Ordinance more or less in tandem with the Zoning and Planning Committee’s review schedule. The Board is currently working with the January 15, 2021 version of the proposed garage ordinance (Docket #448-20). Given the tight time schedule for considering this measure, the Board feels comfortable that this version of the ordinance will achieve its intended goals (preventing streetscapes from being dominated by garages, improving the safety of the City’s public ways for pedestrians and all modes of travel, and being consonant with Newton’s climate action goals). The Board therefore decided to discuss and vote on that document at its regularly-scheduled meeting on February 1, 2021. Because the Board anticipated that further changes might emerge during the Zoning and Planning Committee’s next discussion of Docket #448-20, it has also included three commentaries to accompany the Board’s recommendation on the proposed Garage Ordinance.

At its meeting on February 1, 2021, the Board approved the following motion by a vote of 6 in favor, none opposed, and Director Heath abstaining:

The Planning and Development Board recommends approval of the amendment to Chapter 30, City of Newton Zoning Ordinances by repealing Ordinance No. A-78 and amending the regulation of garages in residential zoning districts as set forth in the revisions to Chapter 30, Section 3.4 (Docket #448-20) that was attached to the January 15, 2021 memorandum from Director Heath and members of the Planning Department to Councilor Deborah Crossley, Chair, and members of the Zoning and Planning Committee.

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In addition, the Board asks that the Zoning and Planning Committee and the Newton City Council consider the following additional points during their further discussions of Docket #448-20:

Special Permits

The Board recognizes that Special Permits are not part of its remit. Nevertheless, the proposed Garage Ordinance references circumstances where Special Permits may be granted, which is within the Board’s purview. The Board thinks that there is often merit to including guidelines or conditions in Special Permit zoning provisions to describe the desired objectives and outcomes of the specific special permitting process. The Special Permit arrangements in Sec. 3.4.4.H.1 of the proposed garage ordinance, which mirrors the language of the current zoning ordinance, seems unduly open-ended and the Board encourages the consideration of additional guidance language.

Accessory Dwelling Units

Detached garages are a potential source of second floor accessory dwelling units that would add to the stock of housing and provide a source income to residential owners. Garages are considered Accessory Buildings (sec. 3.4.4.B.1) and are therefore subject to accessory building design standards (secs. 3.4.3.A.3 and 3.4.3.A.4.). The Board wishes to encourage accessory dwelling units. It therefore would welcome a further discussion of whether the proposed application of these standards to garages is inhibiting the creation of accessory dwelling units and, if so, whether these standards should be relaxed to allow more accessory dwelling units.

Corner Lots

The proposed Garage Ordinance mainly uses the “primary” front lot line as the reference point for regulating front and side facing garages, even where there are “multiple lot lines abutting streets or private ways”. However, corner lots always front on two streets and the Board thinks that streetscapes on the “secondary” front lot lines of corner lots are as important as those on the “primary” front lot lines. It is unclear in the proposed language of the Garage Ordinance whether garages that face the “secondary” front lot line in one way or another are subject to the same standards as those facing the “primary” front lot line. The Board would appreciate further discussion and clarification of this question and whether it would be useful to specifically address corner lots in the ordinance, particularly since multiple garages on corner lots may become more common in the future.

Best Regards,



Peter B. Doeringer, Chair

CC: City Council



Ruthanne Fuller
Mayor

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Barney S. Heath
Director

MEMORANDUM

DATE: February 5, 2021

TO: Councilor Crossley, Chair
Members of the Zoning and Planning Committee

FROM: Barney Heath, Director of Planning and Development
Jennifer Caira, Deputy Director of Planning and Development
Marie Lawlor, Deputy City Solicitor

RE: #41-21 Zoning Amendments for Marijuana Establishments
THE DIRECTOR OF PLANNING AND DEVELOPMENT requesting amendments to the Newton Zoning Ordinance, Chapter 30, Sections 4.4 and 6.10, to amend the regulations for marijuana establishments to be consistent with the regulations put forth by the Cannabis Control Commission on January 8, 2021.

MEETING DATE: February 8, 2021

CC: City Council
Planning and Development Board
Jonathan Yeo, Chief Operating Officer
Alissa O. Giuliani
John Lojek, Commissioner of ISD

At the January 25, 2021 meeting of the Zoning and Planning Committee, Planning staff introduced the marijuana zoning changes that are necessary to stay consistent with updated regulations from the state Cannabis Control Commission (Commission). The new regulations were filed on January 8, 2021 and can be found here: <https://mass-cannabis-control.com/the-laws/>. This memo will provide additional details regarding the necessary changes to the 2018 marijuana zoning ordinance, including recommendations for zoning districts for the two new delivery license types, and responses to questions raised by the committee at the January 25th meeting.

Zoning Updates – Minor technical changes

The attached redline of the 2018 marijuana zoning ordinance (Attachment A) represents the changes necessary to stay consistent with state regulations. These changes include:

- Registered marijuana dispensaries (RMDs) are now called Medical Marijuana Treatment Centers (MTCs). An MTC is still limited to the sale of medical marijuana and the definition is largely unchanged. MTCs, formerly regulated by the Department of Public Health, are now regulated by the Cannabis Control Commission.
- Marijuana Product Manufacturing definition has been updated to clarify that it includes packaging and transferring products to other marijuana establishments.
- The buffers for Medical Marijuana Treatment Centers have been revised to be consistent with those for Marijuana retailers. Previously medical marijuana RMDs could be required to maintain a buffer of at least 500 feet from a school, daycare center, preschool or afterschool facility, or any facility in which minors commonly congregate. Marijuana retailers are only required to maintain a 500-foot buffer from public and private k-12 schools. The MTC buffer has been revised to match the marijuana retailer buffer. The City may reduce this buffer requirement or eliminate it but may not require a greater buffer.
- The measurement for this buffer distance has also been clarified and new definitions have been added. The buffer zone distance is to be measured in a straight line from the geometric center of the marijuana establishment entrance to the geometric center of the nearest school entrance, unless there is an unpassable barrier within those 500 feet, in which case it is measured along the center of the shortest publicly accessible pedestrian travel path from entrance to entrance. An impassible barrier is defined as a highway, public or private way or path, inaccessible structure, body of water, or other obstruction that renders any part of the 500-foot straight line inaccessible by a pedestrian or automobile.
- The school buffer updates do not impact the City's required half-mile buffer between MTCs/marijuana retailers.
- The requirement for medical marijuana RMDs to be located in an area that currently does not have reasonable access to medical marijuana or an area that has been established by the Department of Health as needing supplemental service has been removed.
- For clean up purposes we are also striking Section 6.10.4 from the ordinance. This section is the moratorium that was in place in 2018 prior to adopting zoning for recreational marijuana.

Zoning Recommendations for New License Types

The new regulations also include two new delivery license types, marijuana courier and marijuana delivery operator. For a period of three years courier and delivery operator licenses will only be

granted to applicants that qualify under the state's Social Equity or Economic Empowerment programs. Additional information on these programs can be found in Planning's [January 22, 2021 memo](#).

The two new delivery license types are defined as follows:

- Marijuana courier is an entity licensed to deliver marijuana and marijuana products directly to consumers from a marijuana retailer or medical marijuana treatment center but is not authorized to sell directly to consumers.
- Marijuana delivery operator is an entity licensed to purchase at wholesale and warehouse finished marijuana products acquired from a marijuana cultivator, product manufacturer, microbusiness or craft marijuana cooperative and to repackage, sell and deliver directly to consumers but is not authorized to operate a storefront. Delivery operators are not considered retailers and are not subject to the cap on the number of licenses a municipality must issue.

New zoning is needed for the two new license types. The zoning allows for the courier or delivery operators to physically locate here, it does not affect the ability of Newton residents to receive deliveries from operators within or outside of Newton. The marijuana courier will need a site that allows for parking of the delivery vehicles and likely some office space. The delivery operator will require parking for delivery vehicles and space for a storage warehouse and office. The courier will never have marijuana products onsite as they will pick up from the retailer/MTC and deliver directly to the customer. The delivery operator will require a secure location to store products.

Planning staff have evaluated the current zoning districts for compatibility with these new uses as well as reviewed proposals from surrounding communities. Both couriers and delivery operators will need sufficient parking for their delivery vehicles and delivery operators will also need a secure, though likely relatively small, warehouse to store products. In preliminary conversations with delivery operators, they tend to be looking for warehouse space ranging from about 1,000 square feet to about 5,000 square feet. Parking needs are likely fairly high, though it will be a fixed amount based on the number of delivery vehicles and applicants can be expected to only select sites that meet their parking needs.

Staff do not anticipate external impacts from either couriers or delivery operators. All products stored in the warehouse for delivery operators must be packaged so odors are unlikely. Drivers are able to make multiple stops per trip (the cash value of product carried in the vehicle is limited to \$10,000), reducing the number of vehicular trips to and from the site. However, neither use is compatible with the vibrant, pedestrian friendly vision for village centers and commercial areas. For this reason, Planning Staff recommends limiting marijuana couriers and marijuana delivery operators to the manufacturing and limited manufacturing zoning districts (see map in Attachment B). Other zoning districts were considered, but not recommended for the following reasons:

- BU1 and BU2 – these districts represent the core of village centers and the areas just on the edge of village centers. These commercial and mixed-use areas should be preserved for more active uses.

- BU4 and BU5 – these districts are extremely limited and primarily include the Marriot hotel in Auburndale, the Street and Chestnut Hill Square along Route 9, and Northland (once the rezoning is in effect).
- Mixed Use 1 and Mixed Use 2 – MU1 and MU2 encompass Needham Street and contain a mix of predominantly retail, office, and industrial uses. The courier and delivery operator uses would not be out of place along Needham Street, but they also do not contribute towards the vision for Needham Street in the Needham Street Area Vision Plan.
- Mixed Use 4 – the MU4 district has only been applied in conjunction with development projects receiving a Special Permit for a mixed use building with residential units above ground floor retail. These buildings are not appropriate locations for this type of use, and it is not in line with the MU4 regulations.

Given the emphasis on parking and security, and for the reasons above, staff recommends limiting these uses to manufacturing and limited manufacturing zoning districts. This is also consistent with initial recommendations from Cambridge and Natick, both of which have recommended limiting these new delivery uses to industrial areas. However, given these uses will be similar to other uses allowed by-right in manufacturing and limited manufacturing districts, Planning staff recommend that both couriers and delivery operators be allowed to locate by-right. Operators will be heavily regulated by the Cannabis Control Commission (far more so than other warehouses) and as discussed above external impacts would be extremely limited.

The relevant criteria from Section 6.10.3 E will still apply, including:

- Marijuana establishments are prohibited from locating in a building containing a residential use; requirement that all marijuana establishments locate in a permanent building.
- Deliveries may not occur before 8 am or after 9 pm.
- All marijuana establishments must submit state approved emergency response plans and security plans to the Newton Police Department and Newton Fire Department for review and approval.
- All marijuana establishments must submit a state approved operation and management plan to Inspectional Services Department and Planning and Development for review and approval.
- No odors may be detected at the exterior of the building.

In addition, signage is subject to the regulations issued by the Commission which includes a prohibition on any images or marijuana or marijuana products. Signage would additionally be reviewed by the Urban Design Commission.

Eliminating the requirement for a Special Permit would also benefit Social Equity and Economic Empowerment entities who may be challenged in terms of being able to “hold” potential properties while proceeding forward with a Special Permit process and timeline.

Responses to Questions

At the January 25th meeting committee members asked a number of questions, primarily concerning the operations of the new delivery uses. Responses below are from Planning and Law staff.

- *Are we required to allow delivery operators on top of retailers?* In order to ban courier and delivery operator licensees outright in Newton, the question would have to be put to the voters at the next general or special election.
- *Can appointments for retailers be required in the ordinance?* While an ‘appointment-only’ requirement could be added for MTCs and marijuana retailers, Planning staff would recommend against such an amendment. All MTCs and marijuana retailers require a Special Permit and the City Council has the discretion to require appointments where necessary in order to mitigate potential impacts. Thus far, all three establishments granted a Special Permit have a requirement to operate by appointment-only. There are varying processes outlined in the Council Orders for removing such condition, but all require at a minimum consultation with the Land Use committee and relevant departments such as Transportation and Police. Adding a requirement for appointments in the ordinance at this point would give a competitive advantage to those operators who have already obtained their Special Permit approvals.
- *What is legally required?* As mentioned above, Newton is required to allow for couriers and delivery operators to locate in the city unless a ballot referendum is approved to ban these uses. Additionally, Newton has no authority to limit the delivery of marijuana products to Newton residents from retailers and operators that are located outside of Newton. Municipalities are only authorized to reasonably regulate hours of delivery, which per the state regulations may not occur before 8 am or after 9 pm.
- *Could couriers and delivery operators utilize bicycles for deliveries?* No, delivery licensees may not deliver on bicycles. Vehicle requirements are highly regulated for security by the Cannabis Control Commission and vehicles must be owned or leased by the marijuana establishment.
- *Can we limit drivers from carrying large amounts of cash?* The Cannabis Control Commission limits the amount of product in a vehicle at any time to a cash value of \$10,000 and requires licensees use best efforts to minimize the cash carried in the vehicle and to maximize the use of online sales transactions. Any cash must be kept in a secure, locked compartment in the vehicle, separate from the secure compartment used to store the product. Municipalities are not authorized to regulate this.
- *Will this add to issues of delivery vehicles blocking streets?* It is unknown at this time how frequent deliveries will be within Newton. We are not able to restrict deliveries into Newton, however. Even if no couriers or delivery operators locate within Newton, residents may still receive deliveries from companies outside of Newton.
- *May personal vehicles be used?* No, personal vehicles are not permitted for deliveries. The delivery vehicles must be owned or leased by the Delivery Licensee. The Cannabis Control

Commission highly regulates delivery vehicle security. For example, vehicles may not have any external markings indicating it is being used to transport marijuana; marijuana product may not be visible from outside the vehicle and must be kept in a secure, locked storage compartment that is part of the vehicle; any cash must be kept in a separate secure, locked compartment; each vehicle must be staffed by a minimum of 2 agents of the Delivery Licensee one of whom must stay with the vehicle at all times and who must report to the establishment with fixed locations before and after each delivery as well as every 30 minutes while between deliveries. Firearms are not allowed.

- *Does the state set any controls on prices and will delivery operators undercut storefront retailers?* The Cannabis Control Commission does not regulate price nor allow municipalities to regulate pricing.
- *Could vehicles be parked offsite?* Yes, vehicles could be parked offsite, however this may not be practical. Delivery operators must be able to securely transfer product and cash to and from delivery vehicles. If vehicles were located offsite they would still need to drive to the warehouse location for pick up of product/drop off of cash.

Next Steps:

A public hearing has been set for March 8, 2021. Based on the discussion at this meeting staff will make any necessary changes to the draft ordinance redline in advance of the hearing.

ATTACHMENT A: Proposed Ordinance - Redline

ATTACHMENT B: Proposed Marijuana Courier and Delivery Operator Zoning Map

2/5/2021

Item # 41-21 DRAFT FOR DISCUSSION

Amend the following sections as follows:

Sec. 4.4. Allowed Uses

4.4.1. Business, Mixed Use & Manufacturing Districts

Business, Mixed Use & Manufacturing Districts	BU1	BU2	BU3	BU4	BU5	MU1	MU2	MU3	MU4	M	LM	Definition/ Listed Standard
Medical Marijuana Treatment Center/Registered Marijuana Dispensary	--	SP	--	SP	SP	SP	--	--	--	--	--	Sec. 6.10.3
Craft Marijuana Cooperative	--	--	--	--	--	--	--	--	--	SP	--	Sec. 6.10.3
Independent Testing Laboratory	--	--	--	--	--	--	--	--	--	SP	SP	Sec. 6.10.3
Marijuana Courier										<u>L</u>	<u>L</u>	Sec. 6.10.3
Marijuana Cultivator	--	--	--	--	--	--	--	--	--	SP	--	Sec. 6.10.3
Marijuana Delivery Operator										<u>L</u>	<u>L</u>	Sec. 6.10.3
Marijuana Product Manufacturing	--	--	--	--	--	--	--	--	--	SP	--	Sec. 6.10.3
Marijuana Research Facility	--	--	--	--	--	--	--	--	--	SP	SP	Sec. 6.10.3
Marijuana Retailer	--	SP	--	SP	SP	SP	--	--	--	--	--	Sec. 6.10.3
Marijuana Transporter	--	--	--	--	--	--	--	--	--	SP	--	Sec. 6.10.3
Microbusiness	--	--	--	--	--	--	--	--	--	SP	--	Sec. 6.10.3

6.10.3. Registered Marijuana Use

A. **Purpose.** The purpose of this [Sec. 6.10.3](#) is to provide for the limited establishment of [Medical Marijuana Treatment Centers \(“MTCs”\)](#) ~~Registered Marijuana Dispensaries (“RMDs”)~~ and adult use Marijuana Establishments (~~“MEs”~~) within the City as they are authorized pursuant to state regulations set forth in ~~105 CMR 725.000~~ and 935 CMR 500.000 [and 935 CMR 501.000](#). Since ~~RMD~~ [MTCs](#) and Marijuana Establishments are strictly regulated by the Massachusetts [Department of Public Health and the Cannabis Control Commission](#), the intent of this [Sec. 6.10.3](#) is to permit ~~RMD~~ [MTCs](#) and Marijuana Establishments where there is access to regional roadways and public transportation, where they may be readily monitored by law enforcement for health and public safety purposes, and where they will not adversely impact the character of residential neighborhoods and business districts.

B. **Definitions.** ~~Marijuana Uses shall include the following, As~~ defined or amended by 935 CMR 500.000 and 935 CMR 501.000:

1. **Craft Marijuana Cooperative.** A Marijuana Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, process, package and brand cannabis or marijuana products to transport marijuana to Marijuana Establishments, but not to consumers.
2. **Independent Testing Laboratory.** A laboratory licensed by the Commission that is: accredited to the International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the Commission; independent financially from any Medical Marijuana Treatment Center (RMD), Marijuana Establishment or licensee for which it conducts a test; and qualified to test cannabis or marijuana in compliance with 935 CMR 500.160 and MGL c. 94C, Section 34.
3. **Marijuana Cultivator.** An entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers.
4. **Marijuana Establishment.** A Marijuana Cultivator (Indoor or Outdoor), Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Microbusiness, Marijuana Retailer, Independent Testing Laboratory, Marijuana Research Facility, Marijuana Transporter, Marijuana Delivery Licensee, or any other type of licensed marijuana-related business, except a medical marijuana treatment center.
5. **Marijuana Product Manufacturer.** An entity licensed to obtain, manufacture, process and package marijuana or marijuana products and to transfer these products to other Marijuana Establishments, but not to consumersecompound, blend, extract, infuse or otherwise make or prepare a cannabis or marijuana product.
6. **Marijuana Research Facility.** An entity licensed to engage in research projects by the Cannabis Control Commission. A Marijuana Research Facility may cultivate, purchase or otherwise acquire marijuana for the purpose of conducting research regarding marijuana products.

7. **Marijuana Retailer.** An entity licensed to purchase and transport cannabis or marijuana product from Marijuana Establishments and to sell or otherwise transfer this product to Marijuana Establishments and to consumers.
8. **Marijuana Transporter.** An entity, not otherwise licensed by the Commission, that is licensed to possess purchase, obtain, and possess cannabis or marijuana products -solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments or MTCs, but not to consumers.
9. **Microbusiness.** A co-located Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or Product Manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Marijuana Establishments.
10. **Medical Marijuana Treatment Center** (formerly known as a Registered Marijuana Dispensary (RMD)). ~~also known as Medical Marijuana Treatment Center~~-An entity registered under 105935 CMR 501.101725.100: Registration of Registered Marijuana Dispensaries, that acquires, cultivates, possesses, processes (including development of related products such as edible cannabis or marijuana products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing cannabis or marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use.
11. **Tier 1 Marijuana- Cultivator.** A Tier 1 Marijuana Cultivator shall be limited to less than 5,000 square feet of canopy.
12. **Marijuana Courier.** ~~An entity licensed to deliver marijuana and marijuana products directly to consumers from a Marijuana Retailer or Medical Marijuana Treatment center but is not authorized to sell directly to consumers.~~
13. **Marijuana Delivery Operator.** ~~An entity licensed to purchase at wholesale and warehouse finished marijuana products acquired from a marijuana cultivator, product manufacturer, microbusiness or craft marijuana cooperative and to sell and deliver directly to consumers, but is not authorized to operate a storefront.~~

14. **Impassible Barrier.** For the purposes of determining the 500-foot buffer zone, a highway, public or private way or path, inaccessible structure, body of water, or other obstruction that renders any part of the 500-foot straight line distance between a marijuana establishment entrance and a school entrance inaccessible by a pedestrian or automobile.

15. **Marijuana Establishment Entrance.** The entrance or entrances that provide ingress and egress to consumers to the marijuana establishment.

~~14.~~16. **School Entrance.** The entrance or entrances that provide ingress and egress to students of a preexisting public or private school providing education in kindergarten or any grades 1 through 12.

C. Marijuana uses not Allowed As-of-Right. Marijuana uses are not included within the definition of retail sales or services, agriculture, manufacturing, research, or any other lawful business permitted as of right or by special permit as provided in this Chapter.

D. Marijuana uses allowed by special permit. Use of land, buildings or structures for an ~~MTCRMD~~ or Marijuana Establishment shall be allowed only by special permit in the districts specified in Sec. 4.4.1 subject to the requirements and criteria of this Sec. 6.10.3....

E. Notwithstanding the provisions of paragraphs C and D above, licensed marijuana couriers and licensed delivery operators are allowed as-of-right in the districts specified in Sec. 4.4.1 subject to the requirements and criteria of this Sec. 6.10.3.

F.E. Minimum criteria and limitations on approval.

1. An ~~MTCRMD~~ or Marijuana Retailer shall not be located within a radius of 500 feet from ~~a school, daycare center, preschool or afterschool facility or any facility in which minors commonly congregate, and a Marijuana Retailer shall not be located within a radius of 500 feet from~~ an existing public or private school providing education in kindergarten or any grades 1 through 12~~kindergarten-12 school~~, unless the City Council finds that the ~~MTCRMD~~ or Marijuana Retailer is sufficiently buffered such that these facilities or uses will not be adversely impacted by the ~~MTC'sRMD~~ or Marijuana Retailer's operation. ~~Such distance shall be measured in a straight line from the nearest property line of the proposed RMD or Marijuana Retailer to the nearest property line of the facility. The buffer zone distance of 500 feet shall be measured in a straight line from the geometric center of the marijuana establishment entrance to the geometric center of the nearest school entrance, unless there is an impassable barrier within those 500 feet; in these cases, the buffer zone distance shall be measured along the center of the shortest publicly-accessible pedestrian travel path from the geometric center~~

of the marijuana establishment entrance to the geometric center of the nearest school entrance.

2. An ~~RMD-MTC~~ or Marijuana Establishment shall be properly registered with the Massachusetts ~~Department of Public Health or~~ Cannabis Control Commission pursuant to ~~105-CMR-725.100~~ or 935 CMR 500.1000 ~~or 935 CMR 501.00~~ and shall comply with all applicable state and local public health regulations, public safety code regulations and all other applicable state and local laws, ordinances, rules and regulations. No building permit or certificate of occupancy shall be issued for an ~~MTCRMD~~ or Marijuana Establishment that is not properly registered with the Massachusetts ~~Department of Public Health or~~ Cannabis Control Commission. The ~~MTCRMD~~ or Marijuana Establishment shall file copies of its initial certificate of registration and each annual renewal certificate with the clerk of the City Council within one week of issuance, and shall immediately notify said clerk if its registration is not renewed or is revoked. The ~~MTCRMD~~ or Marijuana Establishment shall provide the Newton Police Department with the names and contact information for all management staff and shall immediately notify the police department of any changes.

3. A special permit granted by the City Council authorizing the establishment of an ~~MTCRMD~~ or Marijuana Establishment shall be valid only for the registered entity to which the special permit was issued, and only for the lot on which the ~~MTCRMD~~ or Marijuana Establishment has been authorized by the special permit. If the registration for the ~~MTCRMD~~ or Marijuana Establishment is revoked, transferred to another controlling entity, or relocated to a different site, a new special permit shall be required prior to the issuance of a certificate of occupancy.

4. An ~~MTCRMD~~ or Marijuana Establishment shall be located only in a permanent building and not within any mobile facility. All sales shall be conducted either within the building or by home delivery to qualified clients pursuant to applicable state regulations.

5. An ~~MTCRMD~~ or Marijuana Establishment shall be subject to the number of parking stalls required in Sec. 5.1 unless a lesser or greater number of stalls is required by the City Council based on the transportation analysis provided by the applicant. An ~~MTCRMD~~ or Marijuana Retailer shall comply with the parking requirements for Retail uses; a Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Courier, Marijuana Delivery Operator, Marijuana Microbusiness, or Marijuana Product Manufacturer shall comply with the parking requirements for Manufacturing; and a Marijuana Research Facility or Independent Testing Laboratory shall comply with the parking requirements for Research, Laboratory.

6. All signage shall conform to the requirements of ~~105-CMR-725.105(L)~~ and 935 CMR 500.105(4) or 935 CMR 501.105(4) as applicable, and to the requirements of Sec. 5.2. No graphics, symbols or images of marijuana or related paraphernalia

shall be displayed or clearly visible from the exterior of an ~~MTCRMD~~ or Marijuana Establishment. The City Council may impose additional restrictions on signage to mitigate impact on the immediate neighborhood.

7. The ~~MTC'sRMD~~ or Marijuana Retailer's or other marijuana establishment's hours of operation shall not adversely impact nearby uses. The hours of operation shall be set by the City Council as a condition of the Special Permit, but in no case shall an ~~MTCRMD~~ or Marijuana Retailer open before 9:00 a.m. or remain open after 9:00 p.m.; and -in no case shall a delivery licensee deliver marijuana and marijuana products to Newton locations before 8:00 a.m or after 9:00 p.m.

8. The number of Marijuana Retailers shall not exceed 20 percent of the number of liquor licenses issued in the City pursuant to G.L. c.138 § 15 (commonly known as “package stores”).

9. No ~~MTCRMD~~ or Marijuana Retailer shall be located within a radius of one half-mile of an existing or approved ~~MTCRMD~~ or Marijuana Retailer. Such distance shall be measured in a straight line from the nearest property line of the proposed RMD or Marijuana Retailer to the nearest property line of the existing ~~RMDMTC~~ or Marijuana Retailer. The co-location of a ~~MTCRMD~~ and Marijuana Retailer on the same site shall not be subject to this buffer requirement.

10. No ~~MTCRMD~~ or Marijuana Establishment shall be located within a building containing a residential use.

11. No ~~MTCRMD~~ or Marijuana Retailer or co-located facility shall exceed 5,000 square feet of floor area.

12. All ~~MTCRMDs~~ and Marijuana Establishments shall submit a state approved security plan to the Newton Police Department for review and approval.

13. All ~~MTCRMDs~~ and Marijuana Establishments shall submit a state approved emergency response plan to the Newton Police Department and Newton Fire Department for review and approval.

14. All ~~MTCRMDs~~ and Marijuana Establishments shall submit a state approved Operation and Management Plan to the Inspectional Services Department and the Department of Planning and Development for review and approval.

15. An ~~MTCRMD~~ or Marijuana Retailer located at the ground level shall provide at least 25 percent transparency along building's front façade at ground level and existing buildings shall not be modified to reduce the transparency of the front façade at the ground level to below 25 percent, unless the City Council finds impacts to security and aesthetics have been appropriately mitigated.

16. Any marijuana cultivation shall offset 100 percent of energy used for cultivation through renewable energy, either by any combination of purchasing

Renewable Energy Certificates through the State, generating renewable energy onsite, and/or through Newton Power Choice, if available.

17. The MTCRMD or Marijuana Establishment shall be ventilated in such a manner that no:
 - a. Pesticides, insecticides, or other chemicals or products in cultivation or processing are dispersed into the outside atmosphere; or
 - b. Odor from marijuana may be detected by a person with a normal sense of smell at the exterior of the building or at any adjoining use or property.
18. A Marijuana Research Facility may not sell marijuana cultivated under its research license.
19. Marijuana Retailers are prohibited from delivering cannabis or marijuana products to consumers unless authorized by the CCC; and are prohibited from offering cannabis or marijuana products for the purposes of on-site social consumption on the premises of a Marijuana Establishment.

G.F. Special permit application and procedure. The procedural and application requirements of Sec. 7.3 shall apply. In addition to the procedural and application requirements of Sec. 7.3, an application for special permit shall include, at a minimum, the following information:

1. **Description of Activities:** A narrative providing information about the type and scale of all activities that will take place on the proposed site, including but not limited to cultivating and processing of marijuana or marijuana infused products (MIP's), research, testing, on-site sales, off-site deliveries, distribution of educational materials, and other programs or activities.
2. **MTCRMD Service Area:** Applications for an MTCRMD shall include a map and narrative describing the area proposed to be served by the MTCRMD and the anticipated number of clients that will be served within that area. This description shall indicate where any other MTCRMD's exist or have been proposed within the expected service area.
3. **MTCRMD and Marijuana Retailer Transportation Analysis:** An application for an RMD or Marijuana Retailer shall include a quantitative analysis, prepared by a qualified transportation specialist acceptable to the Director of Planning and Development and the Director of Transportation, analyzing the proposed new vehicular trips, the expected modes of transportation used by clients and employees, and the frequency and scale of deliveries to and from the site. An MTCRMD or Marijuana Retailer that does

not provide the number of parking stalls required per this Sec. 6.10.E.6. shall also provide a parking study.

- 4. **Lighting Analysis:** A lighting plan showing the location of proposed lights on the building and the lot and a photometric plan showing the lighting levels.

- 5. **Context Map:** A map depicting all properties and land uses within a minimum 1,000 foot radius of the proposed lot, whether such uses are located in the City or within surrounding communities, including but not limited to all educational uses, ~~kindergarten through grade 12, day care, preschool and afterschool programs~~. The context map shall include the measured distance to all uses described in paragraphs ~~E.1 and DE.10.4~~ above.

- 6. **Registration Materials:** Copies of registration materials issued by the Massachusetts Department of Public Health or Cannabis Control Commission and any materials submitted to that Department for the purpose of seeking registration, to confirm that all information provided to the City Council is consistent with that provided to the Massachusetts Department of Public Health or Cannabis Control Commission.

HG. Special Permit Criteria. In granting a special permit for an RMD or Marijuana Establishment, in addition to finding that the general criteria for issuance of a special permit are met, the City Council shall find that the following criteria are met:

- 1. Criteria for all marijuana uses:
 - a. The lot is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the lot, whether driving, bicycling, walking or using public transportation.
 - b. Loading, refuse and service areas are designed to be secure and shielded from abutting uses.
 - c. The ~~MTCRMD~~ or Marijuana Establishment is designed to minimize any adverse impacts on abutters.
 - d. The ~~MTCRMD~~ or Marijuana Establishment has satisfied all of the conditions and requirements in this section.
- 2. Additional criteria for ~~MTCRMDs~~ and Marijuana Retailers:

- a. The lot location complies with Sec. 6.10.3.~~EF~~.1, or the lot is located at a lesser distance if the City Council finds that the lot is sufficiently buffered such that these facilities or uses will not be adversely impacted by the MTCRMD or Marijuana Retailer’s operation.
- b. Traffic generated by client trips, employee trips, and deliveries to and from the MTCRMD or Marijuana Retailer shall not create a significant adverse impact on nearby uses.
- c. The building and lot have been designed to be compatible with other buildings in the area and to mitigate any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building’s interior.
- d. The building and lot are accessible to persons with disabilities.
- e. The lot is accessible to regional roadways and public transportation.
- f. The lot is located where it may be readily monitored by law enforcement and other code enforcement personnel.
- g. The MTCRMD or Marijuana Retailer’s hours of operation will have no significant adverse impact on nearby uses.

~~3. Additional Criteria for RMDs only:~~

- ~~a. The RMD is located to serve an area that currently does not have reasonable access to medical marijuana, or if it is proposed to serve an area that is already served by another RMD, it has been established by the Massachusetts Department of Public Health that supplemental service is needed.~~

II. *Severability*. If any portion of this section is ruled invalid, such ruling will not affect the validity of the remainder of the section.

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.~~

DRAFT



Memorandum

To: Zoning & Planning Committee members and Colleagues

From: Chair of Zoning & Planning Committee

Date: February 5, 2021

Dear Zoning & Planning committee members and Colleagues,

Members of our committee have expressed that to move forward more effectively as we reconsider how our zoning ordinances can achieve our stated goals, that we need to make some clear decisions on how we proceed. Specifically, how will we approach the problem solving that needs to be done and which zoning tools we agree to consider?

I agree.

To do this, I ask you first to revisit the 11-page Zoning Reform Group Final Report.

As discussed early last year, this report was published in January 2012.

<https://www.newtonma.gov/home/showpublisheddocument?id=47581> and has guided much of our work since that time.

Please consider each of 10 Themes (#2-11) described therein as you think about the problems our current ordinance presents.

I believe there are two items we need to discuss and resolve:

1. Which of these challenges you think we can solve, if any, independent from the rest of the ordinance, and which if any, require a more comprehensive approach.
2. Are there any zoning "tools of the trade" that we should summarily eliminate from our toolbox? For example, it is routinely suggested by one member that form-based tools will not work, and by others that regulating FAR does not produce the desired result.

The themes in the ZRG report are:

1. Better organize the ordinance for ease of use.
(Revised ordinance adopted in 2015)
2. Simplify and streamline the permitting and review processes
3. Recognize that each village center and commercial corridor is unique
4. Encourage mixed-use residential redevelopment in village centers
5. Create “soft transitions” between village centers and residential neighborhoods
6. Allow moderate, flexible growth on commercial corridors
7. Rationalize and streamline parking regulations
8. Protect neighborhood character and scale
9. Create more diverse housing opportunities
10. Institute a better process for managing change of religious and educational institutions
11. Improve natural resource conservation and sustainability

I propose and open discussion on this matter exclusively.

Depending on where we land, we begin to better plan the calendar together.

See you Monday!