

Eileen J. Marum  
Chairman, Marion Planning Board  
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College of the Holy Cross

## **RE: SUMMARY OF TECHNIQUES FOR PLANNING AND ZONING**

### **1. Don't Forget "Fair" in Planning for Affordable Housing**

Speaker: Judi Barrett, Director of Economic Development, Plymouth Regional Economic Development Foundation and Principal, Barrett Planning Group LLC

Massachusetts has 351 independent zoning jurisdictions, representing a median population of about 10,000 each, which significantly limits opportunities for regional land use strategy.

The average lot size for new single-family homes constructed in metro Boston between 2003-2012 was more than an acre, or the size of an NFL football field. That exacerbates suburban sprawl and puts Massachusetts well beyond the norm in other states. If Massachusetts built new housing at an average of 4 units per acre—consistent with other states—we could build enough additional housing to meet demand while consuming less land and preserving more open space.

In addition, very little multifamily housing is permitted in communities with high- performing school districts. Over the past 10 years, communities in the lowest 25 percent of MCAS performance have permitted nearly half of all new multifamily units in the Commonwealth. These towns also receive the highest amount of Ch. 70 aid, as a percent of their foundation budgets.

The Massachusetts Smart Growth Zoning Law, Chapter 40R, has not been a game changer. It has resulted in permits for 3,352 new housing units since enactment in 2004, averaging less than 300 units per year.

By contrast, Chapter 40B has enabled more than 70,000 housing units since 1969, but the potential for new (typically mixed- income) 40B development is diminishing relative to projected housing need.

There is legislation to make it easier for municipalities to adopt Chapter 40R Smart Growth Zoning Districts by lowering the adoption threshold from a 2/3rd supermajority to a simple majority of the local legislative body. 40R provides for greater density in transit areas. Municipalities are also eligible for state payments for each unit zoned and additional payments for each unit built. The Commonwealth also reimburses qualifying municipalities for increased school costs due to increased development in a 40R District.

Subsidies—Financial assistance that fills the gap between the costs of any affordable housing development and what the occupants can afford based on program eligibility requirements.

## **2. Helping Your Community Get to Municipal Vulnerability Preparedness Program (MVP) Status: Climate Change and Planners**

Speakers: Stefanie Covino, Mass Audubon

Margot Mansfield, Climate Change and Coastal Hazards Analyst, Executive Office of Energy and Environmental Affairs

The pounding taken from two '100-year' storms in a matter of weeks is a grim reminder that climate change is happening right now and with a greater severity than has been previously predicted. According to experts, this is the new normal which should give all state and local government officials a much greater sense of urgency about the need to develop and implement adaptation and resiliency plans for our vulnerable infrastructure systems.

To address the "triple threat" of rising sea levels, more frequent and intense storms, and crumbling, old infrastructure Gov. Charlie Baker signed executive order 569 Establishing an Integrated Climate Change Strategy for the Commonwealth, which lays out an approach to further reduce greenhouse gas emissions, safeguard residents, municipalities and businesses from the impacts of climate change, and build a more resilient Commonwealth via the Municipal Vulnerability Preparedness Program.

A key commitment in the executive order, which the MVP Program builds upon, is coordinating assistance to cities and towns as they prepare for the impacts of climate change. Massachusetts is committed to combatting and preparing for the impacts of climate change.

Marion was one of seventy-one communities throughout the state to receive \$20,000 of a shared \$1 million in state grant money to help thwart and prepare for climate change.

As part of the MVP Program, municipalities will work through a community-based workshop process to identify key climate-related hazards, vulnerabilities and strengths, develop adaptation actions, and prioritize next steps. Results of the workshops and planning efforts will be used to inform existing local plans, grant applications, budgets, and policies. One area of focus will be using the process to develop a local hazard mitigation plan.

The primary purpose of a Hazard Mitigation Plan is three-fold:

1. To help Marion become better prepared and more resilient to potential emergencies and disasters;
2. To identify and assess the community's natural hazard risks and determine how to best minimize and manage those risks over time; and
3. To make Marion eligible and better positioned to receive federal grant funding for mitigation projects and other types of non-emergency disaster assistance.

### **3. Municipal Regulations of Adult Use Marijuana**

Speakers: Katherine D. Laughman, Attorney, KP Law

Kay Doyle, Cannabis Control Commissioner

Personal use of marijuana not subject to municipal regulation:

#### **Public possession of one ounce or less of marijuana– 21 years or older:**

- Home growth
  - Up to 10 ounces of marijuana for personal use
  - Any marijuana produced on premises by not more than 6 marijuana plants
  - Up to 12 plants if multiple growers on the premises
- Give away/Transfer to other consumers up to one ounce
  - No remuneration
  - Not advertised to public
  - 21 or older
- Possession and manufacturing of marijuana accessories
  - Persons 21 years of age or older may also possess or manufacture marijuana accessories or sell such accessories to a person 21 year of age or older.

#### **Limitations on personal use of marijuana:**

- Visibility—Cultivation and processing marijuana plants may not be visible from a public place.
- Security—Marijuana or marijuana products exceeding 1 ounce within the person’s place of residence must be secured by a lock.
- Public Consumption—No person shall consume marijuana in a public place or smoke marijuana where smoking tobacco is prohibited.
  - The term “public place” is not defined in the Act; may include areas both privately and publicly owned to which the public have rights of access by invitation, either express or implied.
- Open Container—Open containers of marijuana or marijuana products are prohibited in the passenger area of any motor vehicle.

#### **Types of Adult-Use “Marijuana Establishments” as defined in G.L. c.94G, s.1**

- “Marijuana cultivator”
- “Marijuana retailer”
- “Marijuana product manufacturer”
- “Independent testing laboratory”

#### **Additional types of Licensed Marijuana Establishments (Draft CCC Regs 935 CMR 500.005)**

- Craft Marijuana Cultivator Cooperative
- Microbusiness
- Retail (brick and mortar)
- Retail (delivery only)
- Third party transporter
- Existing Licensee Transporter
- Social Consumption – Primary Use
- Social Consumption – Mixed Use

#### **Buffer Zone Requirements**

Under the Act, a Marijuana Establishment may not be located within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12. Municipalities may adopt an ordinance or bylaw that reduces that distance requirement.

*\*No buffer zone requirement for daycare or pre-school. Town shall include a buffer in bylaws.*  
Default buffer zone imposed by Department of Public Health on medical marijuana treatment centers:

“Absent local siting requirements, Medical Marijuana Treatment Centers shall not be sited within a radius of five hundred feet of a school, daycare center, or any facility in which children commonly congregate.” 105 CMR 725.110(A)(14)

### **Limitation or Prohibition – Process**

If a municipality voted in favor of Question 4 on November 8, 2016 [i.e., a majority of voters casting ballots voted “yes” on the question], then two votes must be taken before a prohibiting or limiting bylaw/ordinance can be effective:

- (1) it must be approved by the voters by ballot at an annual or special election, and
- (2) the ordinance or bylaw must be approved by the local legislative body.

### **Local Tax Option**

The Act created a new Chapter 64N of the General Laws setting tax rates for the sale of recreational marijuana products.

- Section 3 allows cities and towns to impose a local sales tax on the “sale or transfer of marijuana or marijuana products by a marijuana retailer operating within the city or town” up to 3 percent of the total sales price, an increase from the previous 2 percent.

### **Medical-Use Marijuana**

The Act also makes several significant changes to the regulation of medical-use marijuana including the following:

- The eventual repeal of chapter 369 of the Acts of 2012, “An Act for the Humanitarian Medical Use of Marijuana.”
- The adoption of a new Chapter 94I – “Medical Use of Marijuana.”
- The transfer of the oversight and regulation of medical-use marijuana to the Cannabis Control Commission.
- The continuation of the Department of Public Health regulating medical-use marijuana in the short-term under its existing regulatory scheme, 105 CMR 725, until the transfer of oversight and regulation is complete. – This transfer must occur on or before December 31, 2018.

**Marijuana Social Consumption Establishment:** A marijuana social consumption establishment may purchase marijuana from licensed marijuana establishments and sell single servings of marijuana to consumers for consumption on the premises.

**Primary Use:** A primary use marijuana social consumption license shall be required for any commercial enterprise for which 51 percent or more of average monthly revenue is derived from the sale of marijuana products to be consumed on the premises (e.g. cannabis café).

**Mixed Use:** A mixed use marijuana social consumption license shall be required for any commercial enterprise for which the consumption of marijuana is a secondary or shared purpose to non-cannabis business purpose (e.g. massage studio that uses cannabis-infused lotion).

**Marijuana Research Facility:** an academic institution, non-profit corporation or domestic corporation or entity authorized to do business in the Commonwealth of Massachusetts. A marijuana research facility may cultivate, purchase or otherwise acquire marijuana for conducting research regarding marijuana and marijuana products. Any research involving humans must be authorized by an Institutional Review Board. A marijuana research facility may not sell marijuana cultivated under its research license but may also hold a marijuana retailer license.