



Community Mitigation Recommendations

DRAFT as of November 22, 2017



Special thanks to the individuals that contributed to the background and development of these recommendations.

Julie Jacobson, Massachusetts Municipal Association

Scott Winters, Vice Chair of the Amesbury Recreational Marijuana Committee

James A. McMahon, Healthwise Foundation

James Philbrook, Health Director for the Town of Charlton



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CHAPTER 55 SECTION 25. Said section 3 of said chapter 94G, as so appearing, is hereby further amended by striking out subsection (d) and inserting in place thereof the following 2 subsections:-

(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.



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- **How can the Commission resolve any confusion and misunderstandings in municipalities arising from changes made to the ballot question four by the legislative compromise bill?**
- Many communities prohibited all marijuana establishments before the legislative compromise and understanding the totality of the law.
- Municipalities are confused as to whether they can prohibit marijuana establishments from selling, cultivating, or processing for the adult use market if the establishment is already licensed under the medical marijuana law.
- The process for banning marijuana establishments involves Town/City bylaw changes even after a vote by ballot that can take upwards of six months which has created a legal grey period in which marijuana establishments are not banned officially within a municipality.



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- **Recommendation:** The Commission should issue guidance designed for municipalities that acted before the legislative compromise in July on whether or not they need to take further action to prohibit marijuana establishments.
- **Recommendation:** The Commission should issue guidance on how to re-legalize marijuana establishments in municipalities that banned them before they knew of the wide range of small business licenses possible under the compromise legislation.
- **Recommendation:** The Commission should issue guidance on the status of marijuana establishment applicants in municipalities that have banned such establishments but have not yet instituted a bylaw change.



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- **Best practices for ongoing evaluation of cannabis business impact on the community (traffic, noise, etc.), including measures to ensure accountability and improvement.**
- **Main Question: What tangible and intangible costs does a marijuana establishment create in its host community?**
- Tangible costs: Traffic, Public Infrastructure, Noise, Security and Law Enforcement, Educational materials and office supplies, Inspections, Municipal officials time, Municipal resources like electricity and water in cases of cultivation.
- Intangible costs: Youth Prevention & Education, Public Safety Awareness Campaigns, Drug Abuse Rehabilitation
- Community participation should be the goal throughout the process.
- Municipal committees collect information, work with cannabis establishment applicants, and create agreements based on both tangible and intangible benefits to the host community.



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- **Recommendation:** The Commission should allow for both tangible and intangible costs to be included as the basis for stipulations in community impact fees for host communities.
- **Recommendation:** The Commission should encourage community participation through guidance designed to educate municipalities on the adult use law and examples of tangible and intangible costs that qualify as a basis for stipulations in community impact fees.
- **Recommendation:** The Commission should develop guidance that encourages municipalities to appoint a municipal liaison and a law enforcement liaison designated to work with marijuana establishments interested in locating within their jurisdiction.
- **Recommendation:** The Commission should develop mandatory state environmental and waste requirements for marijuana establishments but also allow municipalities to increase those requirements based on their own local concerns and issues.



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- **Identify best practices related to tobacco producers**
- Massachusetts Tobacco Control: <http://www.mass.gov/eohhs/gov/departments/dph/programs/mtcp/tobacco-control.html>
- Local ordinances on tobacco are enacted through local community efforts guided by MTCP-funded local boards of health and board of health coalitions. Many of the cities/towns in Massachusetts have passed tobacco-related provisions. These provisions fall into two broad categories: *Restricting youth access to tobacco and Restricting public exposure to environmental tobacco smoke*
- Phillip Morris International Good Agricultural Practices: https://www.pmi.com/resources/docs/default-source/pmi-sustainability/gap-principles-and-ms.pdf?sfvrsn=1501b0b5_2
- British American Tobacco Sustainable Tobacco Program: <http://www.bat.com/srtp>



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- **Identify best practices related to tobacco producers**
- Maximize water use efficiency
- Pollution monitoring systems
- Compliance with all local rules and regulations
- Recycling Programs
- Efficient use, re-use and recycling programs with safe disposal of hazardous materials
- Renewable energy sources are used whenever possible
- Strong labor protections and procedures
- Regular engagement with stakeholders including prevention organizations



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- **Recommendation:** The Commission should incorporate best practices from tobacco producers including water use efficiency, pollution monitoring, recycling programs, renewable energy usage, and their programs reducing youth access and public exposure to smoke.



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- **Identify best practices related to alcohol retailers**
- Massachusetts Chapter 138 governs Alcoholic Liquors: <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXX/Chapter138>
- Full Alcohol Regulations 204 CMR 2.00 <http://www.mass.gov/abcc/regs/reg2040200.htm>
- Regulation 204 CMR 4.00 (Prohibition of Certain Practices) <http://www.mass.gov/abcc/regs/reg2040400.htm>
- Matrix for Retail Alcohol License Transactions <http://www.mass.gov/abcc/pdf/retailchecklist.pdf>
- ABCC Local Licensing Authority: <http://www.mass.gov/abcc/locallicensing.htm>



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- **Identify best practices related to alcohol retailers**
- Comprehensive training and retraining of sales personnel.
- Strict policies for store managers and owners.
- Active engagement with public health and enforcement agencies.
- Understanding their intended audience is 21+.
- Participating in business retailer associations holding members to a high standard.
- Having video cameras at checkout counters
- Unusual occurrence log
- Partnering with youth prevention organizations



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- **Recommendation:** The Commission should incorporate best practices from alcohol retailers for marijuana establishments including requiring comprehensive training of sales personnel, requiring strict policies for managers and owners, requiring active engagement with public health and enforcement agencies, requiring video cameras, and engagement with youth prevention organizations.



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- **Is there a role for the CCC to review if business mitigation payments to or agreements with host communities are directly related to anticipated impact?**
- **The law clearly states that agreements and fees need to be relative to the volume of business conducted or to be conducted by the marijuana establishment.**
- **The CCC definitely has a role in the review of community impact fees based on statute.**
- **Community impact fees should be based on tangible and intangible items that can be listed and examined by the CCC when reviewing any mitigation payments.**
- **The CCC providing strong guidance on business mitigation payments would prevent abuses currently seen facing medical marijuana non-profits in Massachusetts.**



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Same Recommendations From Slide 5

- **Recommendation:** *The Commission should allow for both tangible and intangible costs to be included as the basis for stipulations in community impact fees for host communities.*
- **Recommendation:** *The Commission should encourage community participation through guidance designed to educate municipalities on the variety of business licenses possible under the adult use law and examples of tangible and intangible costs that qualify as a basis for stipulations in community impact fees.*

New Recommendation

- **Recommendation:** The Commission should review community impact fees for a marijuana establishment before the issuance of any state license to ensure that the community impact fee is based on costs and stipulations reasonably related to the costs imposed upon the municipality by the operation of the marijuana establishment.



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- **Identify best practices for establishing local cannabis advisory committees including representation from local stakeholders.**
- Cannabis Advisory Committees should be made up of municipal officials and also local stakeholders including those for and against cannabis coming into the community.
- James Philbrook the Health Director in the Town of Charlton and chair of their marijuana committee said it was easy to setup the committee in his municipality as it was done in one meeting of the selectman. James also insisted that the health department in each municipality is brought into the discussion and part of any municipal advisory committee because of the wide range of areas public health touches including youth prevention.
- James A. McMahon representing the Healthwise Foundation in the Town of Charlton explained that participating in the municipal advisory committee was not mandatory but a wide range of stakeholders were invited to participate and many did.
- James A. McMahon and James Philbrook both reiterated that the town of Charlton wanted to be proactive and not reactive.
- Scott Winter, the Vice Chair of the Amesbury Recreational Marijuana Committee insisted the recreational marijuana committee was great for planning, zoning, and assembling any anticipated costs on the community from a proposed marijuana establishment.
- Scott Winters suggested that before any municipality imposes a ban they should setup a marijuana committee to bring all stakeholders to the table and educate the community on the marijuana law including its prohibitions to lessen hysteria.
- Both Scott Winters of Amesbury, and James Philbrook of Charlton insisted that local marijuana committees should have the ability to suggest policy to a municipality but not make the policy.



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- **Recommendation:** The Commission should develop guidance for cities and towns on how to develop non-binding municipal advisory committees on marijuana that make recommendations in order to help elected officials make educated decisions on topics related to community mitigation of marijuana establishments including but not limited to the tangible and intangible costs associated with community impact fees as well as where to zone marijuana establishments.



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- **Consider issues that may arise from new types of cannabis businesses (i.e. social use).**
- Onsite consumption presents a new set of challenges for communities to understand and accept.
- 830 CMR 270.1.1 (Provisions Concerning the Issuance of a Smoking Bar Permit) <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/regulations/64a-64c-64e-64f-64g-64j-94e-270-misc-excises/830-cmr-27011-provisions-concerning-the.html>
- 105 CMR 661.00 (Provides detailed requirements for allowing smoking in membership associations and outdoor spaces.) <https://www.mass.gov/regulations/105-CMR-66100-regulations-implementing-mgl-c270-s22>
- There maybe a variety of onsite consumption licenses ranging from lounges attached to dispensaries to standalone bar style establishments where no cannabis consumed is brought in by the consumer and no cannabis is allowed to leave with the consumer.



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- **Consider issues that may arise from new types of cannabis businesses (i.e. social use).**
- **Cooperatives present a new way for cultivation of cannabis throughout the state and will include a learning curve for municipalities.**
- **Massachusetts municipalities currently are educated on vertical integration and not non-vertical integration.**
- **The wide range of businesses now possible under adult use includes standalone manufacturers, laboratories, packagers, processors, cultivators and retailers.**
- **Educating municipalities on the wide range of licenses they can allow in their community to take up their 20% requirement will be challenging. Bans are happening because municipal officials likely don't understand the wide range of choice they have on bringing cannabis to their communities. It is not just adult use package stores.**



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- **Recommendation:** The Commission should develop guidance for municipalities on the wide range of businesses including small business licenses now possible following the legislative changes to the ballot question in order to fulfill on their 20% package store requirements if they do not wish to ban marijuana establishments.
- **Recommendation:** The Commission should coordinate with law enforcement to encourage the training of more Drug Recognition Experts (DRE) to ensure our roads are safe and officers on the road can detect impairment from marijuana in drivers in the absence of a breathalyzer.
- *Recommendation passed by the Cannabis Industry Subcommittee* (The Commission should develop guidance for municipalities on developing short term event permits for offsite consumption similar to an alcohol consumption permit given by a municipality.)



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- **Recommendation:** The Commission should issue guidance to municipalities on whether or not communities can zone small craft cooperatives within agricultural zones under recently amended MGL Chapter 40a Section 3.
- **Recommendation:** The Commission should issue guidance for municipalities on if they have the authority to further expand security protocols above state security guidelines based on their own municipal concerns and issues around marijuana establishments that are cash businesses.
- **Recommendation:** The Commission should develop a local sign off mechanism before an applicant obtains a state issued license similar to how the letter of non-opposition / support works currently under the medical marijuana law.