



CITY OF SALEM PLANNING BOARD

2017 DEC 18 PM 3:27

CITY CLERK
SALEM, MASS.

Report to City Council

December 18, 2017

At its meeting on December 7, 2017 the Planning Board discussed the proposed Zoning Ordinance amendments regarding adding new uses, allowed only by special permit, to Section 3.0, Table of Principal and Accessory Uses for a retail marijuana cultivator within zones B2, B4, Industrial (I) and Business Park Development (BPD), a marijuana product manufacturer within zones I and BPD, a marijuana testing facility within the I zone, and a marijuana retailer within zones B2, B4, I and BPD, and a new use for a marijuana testing facility allowed by right in the B2 and BPD zones; adding new definitions to Section 10.0 for marijuana establishment, marijuana cultivator, marijuana product manufacturer, marijuana testing facility, marijuana retailer, marijuana processing, marijuana manufacturing, marijuana, marijuana accessories and marijuana products; and adding a new Section 6.10 – Special Regulations to provide for the special permit process for marijuana establishments listed in Section 3.0. The Planning Board unanimously voted in favor of recommending that the City Council approve the amendments as modified below:

Sections that are recommended to be approved as proposed are not included in this report. The recommended *modifications* are shown in italics and deletions are shown as strikethrough below. Commentary from the Planning Board is noted in bullets below each modification. The full ordinance with the recommended changes is attached for reference.

Section 3.0 Table of Principal and Accessory Uses

| | RC | R1 | R2 | R3 | B1 | B2 | B4 | B5 | I | BPD |
|--------------------------------|----|----|----|----|---------------------------|---------------------------|----|---------------------------|----|---------------------------|
| Retail Marijuana Cultivator | N | N | N | N | N <i>BA</i> | BA | BA | N <i>BA</i> | BA | BA |
| Marijuana Product Manufacturer | N | N | N | N | N | N | N | N | BA | BA |
| Marijuana Testing Facility | N | N | N | N | N | Y <i>BA</i> | N | N | BA | Y <i>BA</i> |
| Marijuana Retailer | N | N | N | N | N <i>BA</i> | BA | BA | N <i>BA</i> | BA | BA |

- The Planning Board recommends all marijuana related uses be by special permit and thus recommends changing the testing facility in B1 and BPD to require a special permit by the Board of Appeals. The Board considered cultivator and retail marijuana uses appropriate in the B1 and B5 zoning districts, and does not have any recommended changes for the manufacturing use.

Section 6.0 Special Regulations of the Salem Zoning Ordinance

Section 6.10.6 subsection 5 to be revised: Pursuant to M.G.L. c. 94G, §5(b)(3), a marijuana establishment shall 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. ~~A marijuana establishment which is proposing a location within 500 feet of any church, library, institution of higher education, licensed daycare, nursery school, or playground must provide written notice of its intention to these entities prior to or in conjunction with any request for a letter of support or non-opposition and/or the application for a special permit.~~

- Rather than limiting the noticing to specific uses/protecting categories under Section 6.10.6, the Planning Board recommends adding a requirement to Section 6.10.7 that requires a notice to be sent by mail to all abutters within 500-feet. This takes away from the ambiguity of what a park is, and removes the administrative task of keeping an updated list of the uses such as licensed daycares and nursery schools.

Section 6.10.6 subsection 12 to be removed: ~~No marijuana shall be smoked, eaten, or otherwise consumed or ingested within any type of licensed marijuana establishment.~~

- The Planning Board discussed onsite consumption and ultimately determined that onsite consumption should be allowed, thus recommends striking this section. Additionally, if State Law prohibits onsite consumption this section is moot, thus does not need to be included in this ordinance.

Section 6.10.7 to be revised: If a Special Permit is required by Section 3.0 Table of Principle and Accessory Uses of the Zoning Ordinance, the petitioner (Applicant) shall submit a standard petition form and materials of the Zoning Board of Appeals application in addition to the following required materials:

1. *Notice from the City shall be sent by mail, postage prepaid to "parties in interest" as used in MGL Chp. 40A within five hundred (500) feet of the property line of the petitioner as they appear on the most recent applicable tax list.*
 - Massachusetts General Law Chp. 40A Section 11 requires a 300-foot notice to all parties of interest. Adding this section will increase the noticing requirement to 500 feet, and will capture all the uses that were identified under the proposed section 6.10.6 subsection 5. The Planning Board recommends that this notice should be sent by the City, not the petitioner.

Section 6.10.9 subsection 1 to be removed: ~~All marijuana cultivation facilities shall off-set 100% of their electricity consumption through at least 50% of on-site generation facilities, New England based renewable energy credits, and/or an equivalent that is subject to approval of the city.~~

- The Planning Board was concerned that this section would be cost prohibitive. Additionally, given that Salem is a small, dense city the Board is not concerned with the electricity consumption that this use would generate.

Section 6.10.10 subsection 1 to be removed: ~~All marijuana manufacturing facilities shall off-set 100% of their electricity consumption through at least 50% of on-site generation facilities, New England based renewable energy credits, and/or an equivalent that is subject to approval of the city.~~

- The Planning Board was concerned that this section would be cost prohibitive. Additionally, given that Salem is a small, dense city the Board is not concerned with the electricity consumption that this use would generate.

Section 10.0. Definitions

Section 10.0 to be revised: "Marijuana retailer", an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver ~~or sell or otherwise transfer~~ marijuana and marijuana products to marijuana establishments and to consumers.

- The Board determined this is unnecessarily wordy, thus recommended removing "otherwise transfer."

If you have any questions regarding this matter, please feel free to contact Tom Daniel, AICP, Director of Planning & Community Development, at 978-619-5685.

Yours truly,

A handwritten signature in black ink, appearing to read "Ben Anderson", with a stylized flourish at the end.

Ben Anderson, Chair

CC: Cheryl LaPointe, City Clerk

City of Salem

In the year two thousand and seventeen

An Ordinance to amend an Ordinance relative to Zoning

Be it ordained by the City Council of the City of Salem, as follows:

Section 3.0 Table of Principal and Accessory Uses

Amend Section 3.0 Table of Principal and Accessory Uses to include the following new uses:

The following uses shall be permitted as set forth in the Table of Principal and Accessory Use Regulations.

| | RC | R1 | R2 | R3 | B1 | B2 | B4 | B5 | I | BPD |
|--------------------------------|-----------|-----------|-----------|-----------|--------------------|--------------------|-----------|--------------------|----------|--------------------|
| Retail Marijuana Cultivator | N | N | N | N | N BA | BA | BA | N BA | BA | BA |
| Marijuana Product Manufacturer | N | N | N | N | N | N | N | N | BA | BA |
| Marijuana Testing Facility | N | N | N | N | N | Y BA | N | N | BA | Y BA |
| Marijuana Retailer | N | N | N | N | N BA | BA | BA | N BA | BA | BA |

City of Salem

In the year two thousand and seventeen

An Ordinance to amend an Ordinance relative to Zoning
Be it ordained by the City Council of the City of Salem, as follows:

The following is an amendment to *Section 6.0- Special Regulations* of Salem Zoning Ordinance:

Section 6.10 - Marijuana Establishments

M.G.L. c. 94G, authorizes a system of state licensing for businesses engaging in the cultivation, testing, processing and manufacturing, and retail sales of marijuana, collectively referred to as “marijuana establishments.” In addition to the discretion the city has to issue a letter of support or non-opposition to a potential licensee to the state licensing authority, Section 3 of M.G.L. c. 94G allows cities to adopt ordinances that impose reasonable safeguards on the operation of marijuana establishments, provided they are not unreasonably impracticable and are not in conflict with the law.

Section 6.10.1 Purpose

The purpose of this ordinance is to allow state-licensed retail marijuana establishments to exist in the City of Salem in accordance with applicable state laws and regulations and impose reasonable safeguards to govern the time, place and manner of marijuana establishment operations and any business dealing in marijuana accessories in such a way as to ensure public health, safety, well-being, and undue impacts on the natural environment as it relates to cultivation, processing and manufacturing subject to the provisions of this Zoning Ordinance, M.G.L. c. 40A, and M.G.L. c. 94G.

Section 6.10.2 Applicability; Effective Date

This section applies to all marijuana establishments including marijuana cultivators, testing facilities, product manufacturers, processors, and retailers licensed by the Commonwealth pursuant to M.G.L. c. 94G.

Under M.G.L. c. 94G, experienced marijuana establishment operators including medical marijuana treatment centers as defined in Chapter 369 of the Acts of 2012 with a registration in good standing, or a reorganized marijuana business established by a vote of at least 2/3 of the Board of Directors of any entity that submitted an application for a registration to operate a medical marijuana treatment center to the Department of Public Health before October 1, 2015 and was issued a provisional registration to operate a medical marijuana treatment center by the Department of Public Health are also subject to this Zoning Ordinance should an experienced

marijuana establishment operator of a medical marijuana treatment center convert into a retail marijuana establishment.

Section 6.10.3 Definitions

The following definitions, consistent with M.G.L. c. 94G, shall apply in the interpretation and enforcement of this section:

1. Marijuana cultivation facility- an entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.
2. Marijuana manufacturing facility- an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.
3. Marijuana testing facility- a laboratory that is licensed by the commission and is: (i) accredited to the most current International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Cooperation mutual recognition arrangement or that is otherwise approved by the commission; (ii) independent financially from any medical marijuana treatment center or any licensee or marijuana establishment for which it conducts a test; and (iii) qualified to test marijuana in compliance with regulations promulgated by the commission.
4. Marijuana retailer- an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

Section 6.10.4 Special Permit Required

The Zoning Board of Appeals may grant a special permit for marijuana establishments, as defined in M.G.L. c. 94G, in accordance with the standards set forth in this section and the general criteria for granting a special permit contained in section 9.4 of the Zoning Ordinance.

Section 6.10.5 Requirements

1. It shall be unlawful for any person to operate a marijuana establishment without obtaining a special permit to operate pursuant to the requirements of this Ordinance.
2. A separate special permit is required for each different marijuana establishment detailed in section 6.10.3, above. In the case that one or more different types of marijuana establishments are proposed, each establishment type shall require a special permit from the Zoning Board of Appeals.

3. The special permit requirements set forth in this chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law.
4. The issuance of a special permit pursuant this chapter does not create an exception, defense, or immunity to any person or entity in regard to any potential criminal liability the person or entity may have for the production, distribution, or possession of marijuana.
5. A special permit issued for a marijuana establishment is not transferable or assignable to a different location or a different type of marijuana establishment.

Section 6.10.6 General Provisions

The following apply to all marijuana establishments as defined above and in M.G.L. c. 94G, including marijuana cultivation facilities, manufacturing facilities, testing facilities, and retail establishments:

1. Security, Operations, and Emergency Plans. All marijuana establishments shall file a security plan, operation and management plan, and emergency plan with the Salem Police Department:

- a. Security Plan

- i. The petitioner shall submit a security plan to the Salem Police Department and Department of Planning and Community Development, in conformance with the requirements of the Salem Police Department, to demonstrate that there is limited undue burden on city public safety officials as a result of the proposed business prior to the issuance of a certificate of occupancy.
- ii. The security plan shall include the details of all security measures for the site and the transportation of marijuana and marijuana products to and from off-site premises to ensure the safety of employees and the public and to protect the premises property from theft or other criminal activity.

- b. Operation and Management Plan

All marijuana establishments shall submit an operation and management plan to the Building Department which shall include, but not be limited to the following elements: Organizational Structure, Location, Property Description, Hours of Operation and Staffing, description of proposed operations, distribution practices, employee safety, general compliance, fire prevention, sanitation requirements, electrical system overview, proposed energy demand and proposed electrical demand off-sets, ventilation system and air quality, proposed water system and utility demand prior to the issuance of a building permit.

c. Emergency Response Plan

All marijuana establishments shall meet with the Salem Fire Department and the Salem Police Department to discuss and identify emergency plans/contingency plans for the site prior to the issuance of a certificate of occupancy. A written Emergency Response Plan shall be filed with the Salem Fire Department and the Salem Police Department pursuant to M.G.L. c. 94G, §12.

2. A marijuana establishment may only be involved in the use permitted by its definition. Retail marijuana establishments may only be located in buildings with other uses, including other types of marijuana establishments, only if the marijuana establishment is separated by full walls from the other use.
3. All marijuana establishments shall be within a fully enclosed building.
4. Marijuana establishments shall not be located in mobile structures.
5. Pursuant to M.G.L. c. 94G, §5(b)(3), a marijuana establishment shall 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. ~~A marijuana establishment which is proposing a location within 500 feet of any church, library, institution of higher education, licensed day care, nursery school, or playground must provide written notice of its intention to these entities prior to or in conjunction with any request for a letter of support or non-opposition and/or the application for a special permit.~~
6. Marijuana establishments shall, at a minimum, meet the requirements imposed on registered marijuana dispensaries for storage.
7. No odor from marijuana establishments may be noxious or cause a public nuisance.
8. No retail marijuana establishment shall be managed by any person other than the licensee or their assign. Such licensee or assign shall be on the premises during regular hours of operation and responsible for all activities within the licensed business and shall provide up to date emergency contact information for the Salem Police Department to have on file.
9. All waste disposal, shall at a minimum, meet the requirements imposed on registered marijuana dispensaries for disposal to prevent exposure to the public or create a nuisance.
10. The marijuana establishment shall remove all material, plants, equipment, and any other retail marijuana establishment items upon ceasing its operation.
11. All business signage shall be subject to the requirements to be promulgated by the Cannabis Control Commission and the requirements of Sections 4-31 through 4-60 of the Code of Ordinances.
12. ~~No marijuana shall be smoked, eaten, or otherwise consumed or ingested within any type of licensed marijuana establishment.~~

13. Hours of operation for marijuana retailers shall be consistent with those of package stores licensed under M.G.L. c. 138.

Section 6.10.7 Application Procedure and Submission Requirements

If a Special Permit is required by *Section 3.0 Table of Principle and Accessory Uses* of the Zoning Ordinance, the petitioner (Applicant) shall submit a standard petition form and materials of the Zoning Board of Appeals application in addition to the following required materials:

1. *Notice from the City shall be sent by mail, postage prepaid to "parties in interest" as used in MGL Chp. 40A within five hundred feet of the property line of the petitioner as they appear on the most recent applicable tax list.*
2. Applicant shall submit proof of approval from the Commonwealth of Massachusetts for the proposed marijuana establishment by submitting copies of all required registrations, licenses and permits issued to the applicant by the state and any of its agencies for the facility as well as the letter of support or non-opposition issued by the city.
3. The Applicant shall submit proof of site control and right to use the premises proposed for the marijuana establishment and may include a deed, notarized statement from the property owner and a copy of the lease agreement, or real estate contract contingent upon successful licensing, or a letter of intent by the owner of the premises indicating intent to lease the premises to the petitioner contingent upon successful permitting.
4. In addition to complying with any other state or city requirement related to good character and criminal background, any person or entity proposed to have interests in the license to operate a marijuana establishment shall not have committed any marijuana licensing violation affecting public safety, or received any suspension or revocation of any other state or local marijuana business licenses.
5. A statement signed by the organization's chief executive officer disclosing all of its designated owners, including officers, directors, partners, managers, or other similarly situated individuals. If any of the above are entities rather than persons, the Applicant must disclose the identity and current contact information of all responsible individuals.
6. A detailed description of the proposed activities to occur on site in relation to the standard special permit criteria set out in Section 9.4 of the Salem Zoning Ordinance and specific requirements set forth in this chapter.
7. The petitioner shall submit a security plan to the Salem Police Department and the Department of Planning and Community Development, in conformance with the requirements of the Salem Police Department, to demonstrate that there is limited undue burden on city public safety officials as a result of the proposed business prior to the issuance of a certificate of occupancy.

8. The petitioner shall submit an operation and management plan to the Salem Police Department and the Department of Planning and Community Development.
9. The petitioner shall submit a copy of an Emergency Response Plan to the Salem Police Department, the Salem Fire Department, and the Department of Planning and Community Development.
10. The petitioner shall submit proof that it provided notification in writing to all churches, libraries, institutions of higher education, licensed daycares, nursery schools, or playgrounds within 500 feet of its proposed location to provide them with the opportunity to comment at the Board of Appeals.

Section 6.10.8 Special Permit Findings

In addition to the findings for a special permit in Section 9.4 of the Zoning Ordinance, the Zoning Board of Appeals must also make the following findings:

1. The applicant demonstrates that the marijuana establishment will meet all of the permitting requirements of all applicable agencies within the Commonwealth and will be in compliance with all applicable state laws and regulations, including, but not limited to M.G.L. c. 94G, §12 *General Marijuana Establishment Operation*.
2. The applicant has satisfied all of the conditions and requirements of this section and other applicable sections of the Zoning Ordinance and any applicable city ordinances.
3. The facility provides adequate security measures to ensure that there are not direct threats to the health or safety of employees, staff, or members of the public and that storage and location of cultivation is adequately secured.

Section 6.10.9 Requirements Specific to Marijuana Cultivation Facilities

As the cultivation and processing of marijuana is not considered agriculture under M.G.L. c. 128, §1A, and is subject to M.G.L. c. 94G, §12, the following restrictions to ensure the health, safety, well-being of the public, and limit undue impacts on the natural environment as it relates to cultivation, shall apply:

- ~~1. All marijuana cultivation facilities shall off-set 100% of their electricity consumption through at least 50% of on-site generation facilities, New England based renewable energy credits, and/or an equivalent that is subject to approval of the city.~~
2. All marijuana cultivation facilities shall use high-efficiency lights and equipment to limit energy and water usage demand.
3. All marijuana cultivation facilities shall use LEDs for all fixtures except for those that are used in flowering rooms. High Pressure Sodium grow lights may be used for no more than fifty percent (50%) of the total square footage of the cultivation area to maximize flowering conditions and limit electricity demand.
4. No more than one-half of the marijuana plants may be mature, flowering plants.

5. No pesticides, insecticides, or other chemicals shall be used in the cultivation of marijuana.
6. Marijuana cultivators shall comply with all regulations that may be promulgated by the Cannabis Control Commission.

Section 6.10.10 Requirements Specific to Marijuana Manufacturing Facilities

Marijuana manufacturing facilities shall be subject to M.G.L. c. 94G, §12 and the following restrictions to ensure the health, safety, and well-being of the public, and limit any undue impacts on the natural environment as it relates to manufacturing, shall apply:

1. ~~All marijuana manufacturing facilities shall off-set 100% of their electricity consumption through at least 50% of on-site generation facilities, New England based renewable energy credits, and/or an equivalent that is subject to approval of the city.~~
2. All marijuana manufacturing facilities shall use high-efficiency lights and manufacturing equipment to limit energy and water usage demand.
3. All marijuana manufacturing facilities shall comply with all regulations that may be promulgated by the Cannabis Control Commission.

Section 6.10.11 Requirements Specific to Marijuana Testing Facilities

1. All marijuana testing facilities shall use high-efficiency lights and equipment to limit energy and water usage demand.
2. Marijuana testing facilities shall be subject to the requirements of M.G.L. c. 94G, §15 and any regulations that the Cannabis Control Commission may promulgate thereunder to ensure there are no undue impacts on the health, safety, and well-being of the public.

Section 6.10.12 Requirements Specific to Marijuana Retailer Establishments

Marijuana retailers shall be subject to M.G.L. c. 94G, §12 and the following restrictions to ensure there are no undue impacts on the health, safety, and well-being of the public:

1. As defined in M.G.L. c. 94G, and as established in section 24-30 of the Code of Ordinances, the number of marijuana retailers shall be limited to no more than 20% of the number of licenses issued within the city for the retail sale of alcoholic beverages not to be drunk on the premises where sold under M.G.L. c. 138, §15.
2. All marijuana retail establishments shall comply with all regulations that may be promulgated by the Cannabis Control Commission.

Section 6.10.13 Unlawful Acts

1. It shall be unlawful for any person to operate any marijuana establishment in the city without a valid license issued by the state licensing authority under the M.G.L. c. 94G.
2. When a marijuana establishment has received a renewal license from the state, the business shall submit a copy to the Department of Planning and Community Development and the Building Department within thirty (30) days of receipt.
3. It shall be unlawful for any person to operate any retail marijuana, marijuana product manufacturing, or marijuana cultivation establishment without a special permit from the City of Salem Zoning Board of Appeals.

Section 6.10.14 Severability

If any provision of this section is invalidated by subsequent legislation or regulation, or held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

An Ordinance to amend an Ordinance relative to Zoning
Be it ordained by the City Council of the City of Salem, as follows:

The following is an amendment to *Section 6.0- Special Regulations* of Salem Zoning Ordinance

Section 10.0. Definitions

Amend Section 10.00 Definitions of the City of Salem Zoning Ordinance to add the following terms and definitions:

"Marijuana establishment", a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business.

"Marijuana cultivator", an entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.

"Marijuana product manufacturer", an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

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

"Marijuana retailer", an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver or sell ~~or otherwise transfer~~ marijuana and marijuana products to marijuana establishments and to consumers.

"Marijuana processing", to harvest, dry, cure, trim and separate parts of the marijuana plant by manual or mechanical means.

"Marijuana Manufacturing", to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

"Marijuana" or "Marihuana", all parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C of the General Laws; provided that "Marijuana" shall not include:

(1) The mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination;

(2) Hemp; or

(3) The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

"Marijuana accessories", equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body.

"Marijuana products", products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

City of Salem

In the year two thousand and seventeen

An Ordinance to amend an Ordinance relative to Zoning

Be it ordained by the City Council of the City of Salem, as follows:

Section 3.0 Table of Principal and Accessory Uses

Section 1.

Amend Section 3.0 Table of Principal and Accessory Uses to include the following new uses:

The following uses shall be permitted as set forth in the Table of Principal and Accessory Use Regulations.

| | RC | R1 | R2 | R3 | B1 | B2 | B4 | B5 | I | BPD |
|--------------------------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|----------|------------|
| Retail Marijuana Cultivator | N | N | N | N | N | BA | BA | N | BA | BA |
| Marijuana Product Manufacturer | N | N | N | N | N | N | N | N | BA | BA |
| Marijuana Testing Facility | N | N | N | N | N | Y | N | N | BA | Y |
| Marijuana Retailer | N | N | N | N | N | BA | BA | N | BA | BA |

Section 2. This Ordinance shall take effect as provided by City Charter

In City Council September 28, 2017

Referred to the Planning Board to schedule a joint public hearing with the City Council
Public Hearing held on November 15, 2017 and continued to November 27, 2017

Continuation of public hearing held on November 27, 2017 and closed.

Referred to the planning board for their recommendation

In City Council January 11, 2018

Received planning board recommendation which was referred to the Committee on Ordinances
Licenses and Legal Affairs co-posted with Committee of the Whole

ATTEST:

CHERYL A. LAPOINTE
CITY CLERK



CITY OF SALEM, MASSACHUSETTS

Kimberley Driscoll
Mayor

September 28, 2017

Honorable Salem City Council
Salem City Hall
Salem, Massachusetts 01970

Ladies and Gentlemen of the City Council:

In 2016 Massachusetts voters approved a ballot question to allow for the retail sale of marijuana in the Commonwealth. The measure was approved state-wide by 54% and locally here in Salem by 60% of voters. Since that time the legislature has deliberated on and ultimately passed legislation broadly structuring the implementation of these sales. On July 28, Governor Baker signed the bill into law as Chapter 55 of the Acts of 2017 (<https://malegislature.gov/Laws/SessionLaws/Acts/2017/Chapter55>), codified at <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXV/Chapter94G>.

While specific regulations are still being developed by the newly created Cannabis Control Commission, municipalities were granted some discretion in adopting local controls in regards to this new industry. Specifically, Salem has the ability to establish a cap on the number of such establishments permitted in the city, adopt a local sales tax rate on recreational marijuana sales, and set zoning to regulate the location and permitting process for cultivation, manufacture, testing, and retail sale of marijuana. Measures relative to capping the number and setting the local excise tax have been submitted under separate cover. The enclosed Ordinance here is in regards to the zoning proposal.

The law permits cities and towns to establish zoning regulations in regards to the cultivation, manufacturing, and testing of marijuana, and the retail sale of recreational marijuana. In regards to manufacturing, testing, and retail sale, the proposed Ordinance seeks to reflect a consistency in how other commercial activities of the same nature are already treated in our zoning. The only exception is a restriction prohibiting the retail sale of marijuana in the B1 (Neighborhood Business) and B5 (Central Development) zones.

Special permits, issued by the Board of Appeals, are conditioned on the proposer's site and operation plans, traffic plans, security plans, odor control plans, and proposed host

agreement. We include a standard of signage equal to that regulating businesses engaged in the sale of alcohol, as allowed by section 24 of Chapter 55. Where the law only allows for a restriction on marijuana establishments within 500 feet of K through 12 schools, we add a notice requirement to provide additional protections to those churches, libraries, colleges, nursery schools, and licensed daycares within 500-feet of a proposed establishment.

There are additional components to the proposed zoning and special permits, and I encourage you to review the zoning proposal closely. Process-wise, any interested operator would need to (1) register with the state, (2) receive a local letter of non-opposition from the City, (3) apply for and receive their state license, and then (4) apply for and receive any necessary local permits. In other words, the special permit for zoning is the final step in the process, not the first. Going forward, for the purposes of the local letter of non-opposition, we have established a policy that will treat these letter requests identically to a request for a special act liquor license from a process stand-point: applicants will file an application with the City similar to the one used for liquor license applications, and will be expected to demonstrate local abutter support, in order for their request to be filed by the Mayor with the City Council as a Council Order, requiring, subsequently, a majority vote of support by the City Council.

Our intention with these measures is to neither encourage nor hamper these businesses. Three out of five Salem voters, almost 13,000 in all, approved the creation of recreational marijuana establishments. I believe we have seen with ATG that marijuana establishments that meet our local standards and that are run by professional and qualified individuals can be positive additions to our community, contributing both directly and indirectly to our local economy in a manner that does not negatively impact neighbors. While I recognize that retail marijuana establishments are a different type of operation from medical clinics, I believe the proposed Ordinance here will appropriately manage their impacts in a way that respects the will of the voters of Salem, is consistent with our existing zoning, and allows this new industry to set up in our community safely, productively, and transparently.

I look forward to discussing these measures with you in greater depth through the joint public hearing process and, recognizing this is the start of this discussion, I welcome your feedback and questions on this topic.

Sincerely,

A handwritten signature in black ink, appearing to read "Kim Driscoll", written in a cursive, flowing style.

Kimberley Driscoll
Mayor
City of Salem



City of Salem, Massachusetts

Office of the City Council City Hall

COUNCILLORS-AT-LARGE

2017

THOMAS H. FUREY
ELAINE F. MILO
JERRY L. RYAN
ARTHUR C. SARGENT, III

ELAINE F. MILO
PRESIDENT

CHERYL A. LAPOINTE
CITY CLERK

WARD COUNCILLORS

2017

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JOSH H. TURIEL
BETH GERARD
STEPHEN G. DIBBLE

September 29, 2017

Mr. Ben Anderson, Chairman
Planning Board
10 Adams Street
Salem, MA 01970

Dear Mr. Anderson:

At a regular meeting of the Salem City Council, held in the Council Chamber on Thursday, September 28, 2017, the enclosed Zoning amendments were referred to the Planning Board to schedule a joint public hearing with the City Council

Please contact me at your earliest convenience so we can schedule the Hearing.

Very truly yours,

CHERYL A. LAPOINTE
CITY CLERK

Enclosure

Cc: Tom Daniels
Amanda Chiancola

**CITY OF SALEM
NOTICE
JOINT PUBLIC HEARING
OF THE CITY COUNCIL
And PLANNING BOARD**

Wednesday, November 15, 2017 at 6:30 PM

The City Council and Planning Board will hold a joint public hearing on November 15, 2017 at 6:30 p.m. in the City Council Chambers, City Hall, 93 Washington St., Salem, MA in accordance with Chapter 40A, Section 5, of the Massachusetts General Laws for all persons interested in the following proposed amendments to the Zoning Ordinance:

1. Adding a new section within Section 8-Entrance Corridor Overlay District requiring Design Review Board (DRB) recommendations to the Planning Board on the design of new construction non-residential structures of 10,000 s.f. or more and new construction of residential structure of six units or more and a Planning Board vote to determine if a proposed new construction non-residential structure between 2,000 and 9,999 s.f. should be referred to the DRB for a recommendation.
2. The implementation of Chapter 94G of the Massachusetts General Laws, Regulation of the Use and Distribution of Marijuana Not Medically Prescribed. The proposed amendments add:
 - a) new uses, allowed only by special permit, to Section 3.0 – Table of Principal and Accessory Uses for a retail marijuana cultivator within zones B2, B4, Industrial (1) and Business Park Development (BPD), a marijuana product manufacturer within zones I and BPD, a marijuana testing facility within the I zone, and a marijuana retailer within zones B2, B4, I and BPD, and a new use for a marijuana testing facility allowed by right in the B2 and BPD zones;
 - b) new definitions to Section 10.0 for marijuana establishment, marijuana cultivator, marijuana product manufacturer, marijuana testing facility, marijuana retailer, marijuana processing, marijuana manufacturing, marijuana, marijuana accessories and marijuana products; and
 - c) a new Section 6.10 - Special Regulations to provide for the special permit process for marijuana establishments listed in Section 3.0.
3. Adding a new section 3.2.8 entitled Accessory Living Areas to allow, only by special permit, the creation of an accessory unit within a single-family dwelling limited to two bedrooms and 800 s.f. for occupancy by family members who have some dependency for special housing needs due to age, mental or physical health, personal care requirements or economic factors, or by others such as nurses or nannies who occupy the accessory living area to facilitate providing direct care to a family member of the owner that resides in the dwelling.

The proposed Zoning Ordinance amendments are on file and available for review during normal business hours at the office of the City Clerk, 93 Washington Street, Salem, MA.

ATTEST:
ADV: 11/1/2017 & 11/8/2017

CHERYLA, LAPOINTE
CITY CLERK

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CHERYLA, LAPOINTE
CITY CLERK



City of Salem, Massachusetts

Office of the City Council City Hall

COUNCILLORS-AT-LARGE

2017

THOMAS H. FUREY
ELAINE F. MILO
JERRY L. RYAN
ARTHUR C. SARGENT, III

ELAINE F. MILO
PRESIDENT

CHERYL A. LAPOINTE
CITY CLERK

WARD COUNCILLORS

2017

ROBERT K. MCCARTHY
HEATHER E. FAMICO
STEPHEN P. LOVELY
DAVID W. EPPLEY
JOSH H. TURIEL
BETH GERARD
STEPHEN G. DIBBLE

September 29, 2017

Mr. Tom Daniel, Planner
City of Salem
Planning Dept.
Salem, MA 01970

Dear Mr. Daniel:

At a regular meeting of the Salem City Council, held in the Council Chamber on Thursday, September 28, 2017, the enclosed Zoning amendments were referred to the Planning Board to schedule a joint public hearing with the City Council

Please contact me at your earliest convenience so we can schedule the Hearing.

Very truly yours,

CHERYL A. LAPOINTE
CITY CLERK

Enclosure

cc: Amanda Chiancola

City of Salem

In the year two thousand and seventeen

An Ordinance to amend an Ordinance relative to Zoning

Be it ordained by the City Council of the City of Salem, as follows:

The following is an amendment to *Section 6.0- Special Regulations* of Salem Zoning Ordinance:

Section 1.

Section 6.10 - Marijuana Establishments

M.G.L. c. 94G, authorizes a system of state licensing for businesses engaging in the cultivation, testing, processing and manufacturing, and retail sales of marijuana, collectively referred to as "marijuana establishments." In addition to the discretion the city has to issue a letter of support or non-opposition to a potential licensee to the state licensing authority, Section 3 of M.G.L. c. 94G allows cities to adopt ordinances that impose reasonable safeguards on the operation of marijuana establishments, provided they are not unreasonably impracticable and are not in conflict with the law.

Section 6.10.1 Purpose

The purpose of this ordinance is to allow state-licensed retail marijuana establishments to exist in the City of Salem in accordance with applicable state laws and regulations and impose reasonable safeguards to govern the time, place and manner of marijuana establishment operations and any business dealing in marijuana accessories in such a way as to ensure public health, safety, well-being, and undue impacts on the natural environment as it relates to cultivation, processing and manufacturing subject to the provisions of this Zoning Ordinance, M.G.L. c. 40A, and M.G.L. c. 94G.

Section 6.10.2 Applicability; Effective Date

This section applies to all marijuana establishments including marijuana cultivators, testing facilities, product manufacturers, processors, and retailers licensed by the Commonwealth pursuant to M.G.L. c. 94G.

Under M.G.L. c. 94G, experienced marijuana establishment operators including medical marijuana treatment centers as defined in Chapter 369 of the Acts of 2012 with a registration in good standing, or a reorganized marijuana business established by a vote of at least 2/3 of the Board of Directors of any entity that submitted an application for a registration to operate a medical marijuana treatment center to the Department of Public Health before October 1, 2015 and was issued a provisional registration to operate a medical marijuana treatment center by the Department of Public Health are also subject to this Zoning Ordinance should an experienced

marijuana establishment operator of a medical marijuana treatment center convert into a retail marijuana establishment.

Section 6.10.3 Definitions

The following definitions, consistent with M.G.L. c. 94G, shall apply in the interpretation and enforcement of this section:

1. Marijuana cultivation facility- an entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.
2. Marijuana manufacturing facility- an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.
3. Marijuana testing facility- an entity licensed to test marijuana and marijuana products, including certification for potency and the presence of contaminants.
4. Marijuana retailer- an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

Section 6.10.4 Special Permit Required

The Zoning Board of Appeals may grant a special permit for marijuana establishments, as defined in M.G.L. c. 94G, in accordance with the standards set forth in this section and the general criteria for granting a special permit contained in section 9.4 of the Zoning Ordinance.

Section 6.10.5 Requirements

1. It shall be unlawful for any person to operate a marijuana establishment without obtaining a special permit to operate pursuant to the requirements of this Ordinance.
2. A separate special permit is required for each different marijuana establishment detailed in section 6.10.3, above. In the case that one or more different types of marijuana establishments are proposed, each establishment type shall require a special permit from the Zoning Board of Appeals.
3. The special permit requirements set forth in this chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law.
4. The issuance of a special permit pursuant this chapter does not create an exception, defense, or immunity to any person or entity in regard to any potential criminal liability the person or entity may have for the production, distribution, or possession of marijuana.

5. A special permit issued for a marijuana establishment is not transferable or assignable to a different location or a different type of marijuana establishment.

Section 6.10.6 General Provisions

The following apply to all marijuana establishments as defined above and in M.G.L. c. 94G, including marijuana cultivation facilities, manufacturing facilities, testing facilities, and retail establishments:

1. Security, Operations, and Emergency Plans. All marijuana establishments shall file a security plan, operation and management plan, and emergency plan with the Salem Police Department:

- a. Security Plan

- i. The petitioner shall submit a security plan to the Salem Police Department and Department of Planning and Community Development, in conformance with the requirements of the Salem Police Department, to demonstrate that there is limited undue burden on city public safety officials as a result of the proposed business prior to the issuance of a certificate of occupancy.
- ii. The security plan shall include the details of all security measures for the site and the transportation of marijuana and marijuana products to and from off-site premises to ensure the safety of employees and the public and to protect the premises property from theft or other criminal activity.

- b. Operation and Management Plan

All marijuana establishments shall submit an operation and management plan to the Building Department which shall include, but not be limited to the following elements: Organizational Structure, Location, Property Description, Hours of Operation and Staffing, description of proposed operations, distribution practices, employee safety, general compliance, fire prevention, sanitation requirements, electrical system overview, proposed energy demand and proposed electrical demand off-sets, ventilation system and air quality, proposed water system and utility demand prior to the issuance of a building permit.

- c. Emergency Response Plan

All marijuana establishments shall meet with the Salem Fire Department and the Salem Police Department to discuss and identify emergency plans/contingency plans for the site prior to the issuance of a certificate of occupancy. A written Emergency Response Plan shall be filed with the

Salem Fire Department and the Salem Police Department pursuant to
M.G.L. c. 94G, §12.

2. A marijuana establishment may only be involved in the use permitted by its definition. Retail marijuana establishments may only be located in buildings with other uses, including other types of marijuana establishments, only if the marijuana establishment is separated by full walls from the other use.
3. All marijuana establishments shall be within a fully enclosed building.
4. Marijuana establishments shall not be located in mobile structures.
5. Pursuant to M.G.L. c. 94G, §5(b)(3), a marijuana establishment shall 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. A marijuana establishment which is proposing a location within 500 feet of any church, library, institution of higher education, licensed daycare, nursery school, or playground must provide written notice of its intention to these entities prior to or in conjunction with any request for a letter of support or non-opposition and/or the application for a special permit.
6. Marijuana establishments shall, at a minimum, meet the requirements imposed on registered marijuana dispensaries for storage.
7. No odor from marijuana establishments may be noxious or cause a public nuisance.
8. No retail marijuana establishment shall be managed by any person other than the licensee or their assign. Such licensee or assign shall be on the premises during regular hours of operation and responsible for all activities within the licensed business and shall provide up to date emergency contact information for the Salem Police Department to have on file.
9. All waste disposal, shall at a minimum, meet the requirements imposed on registered marijuana dispensaries for disposal to prevent exposure to the public or create a nuisance.
10. The marijuana establishment shall remove all material, plants, equipment, and any other retail marijuana establishment items upon ceasing its operation.
11. All business signage shall be subject to the requirements to be promulgated by the Cannabis Control Commission and the requirements of Sections 4-31 through 4-60 of the Code of Ordinances.
12. No marijuana shall be smoked, eaten, or otherwise consumed or ingested within any type of licensed marijuana establishment.
13. Hours of operation for marijuana retailers shall be consistent with those of package stores licensed under M.G.L. c. 138.

Section 6.10.7 Application Procedure and Submission Requirements

If a Special Permit is required by *Section 3.0 Table of Principle and Accessory Uses* of the Zoning Ordinance, the petitioner (Applicant) shall submit a standard petition form and materials of the Zoning Board of Appeals application in addition to the following required materials:

1. Applicant shall submit proof of approval from the Commonwealth of Massachusetts for the proposed marijuana establishment by submitting copies of all required registrations, licenses and permits issued to the applicant by the state and any of its agencies for the facility as well as the letter of support or non-opposition issued by the city.
2. The Applicant shall submit proof of site control and right to use the premises proposed for the marijuana establishment and may include a deed, notarized statement from the property owner and a copy of the lease agreement, or real estate contract contingent upon successful licensing, or a letter of intent by the owner of the premises indicating intent to lease the premises to the petitioner contingent upon successful permitting.
3. In addition to complying with any other state or city requirement related to good character and criminal background, any person or entity proposed to have interests in the license to operate a marijuana establishment shall not have committed any marijuana licensing violation affecting public safety, or received any suspension or revocation of any other state or local marijuana business licenses.
4. A statement signed by the organization's chief executive officer disclosing all of its designated owners, including officers, directors, partners, managers, or other similarly situated individuals. If any of the above are entities rather than persons, the Applicant must disclose the identity and current contact information of all responsible individuals.
5. A detailed description of the proposed activities to occur on site in relation to the standard special permit criteria set out in Section 9.4 of the Salem Zoning Ordinance and specific requirements set forth in this chapter.
6. The petitioner shall submit a security plan to the Salem Police Department and the Department of Planning and Community Development, in conformance with the requirements of the Salem Police Department, to demonstrate that there is limited undue burden on city public safety officials as a result of the proposed business prior to the issuance of a certificate of occupancy.
7. The petitioner shall submit an operation and management plan to the Salem Police Department and the Department of Planning and Community Development.
8. The petitioner shall submit a copy of an Emergency Response Plan to the Salem Police Department, the Salem Fire Department, and the Department of Planning and Community Development.

9. The petitioner shall submit proof that it provided notification in writing to all churches, libraries, institutions of higher education, licensed daycares, nursery schools, or playgrounds within 500 feet of its proposed location to provide them with the opportunity to comment at the Board of Appeals.

Section 6.10.8 Special Permit Findings

In addition to the findings for a special permit in Section 9.4 of the Zoning Ordinance, the Zoning Board of Appeals must also make the following findings:

1. The applicant demonstrates that the marijuana establishment will meet all of the permitting requirements of all applicable agencies within the Commonwealth and will be in compliance with all applicable state laws and regulations, including, but not limited to M.G.L. c. 94G, §12 *General Marijuana Establishment Operation*.
2. The applicant has satisfied all of the conditions and requirements of this section and other applicable sections of the Zoning Ordinance and any applicable city ordinances.
3. The facility provides adequate security measures to ensure that there are not direct threats to the health or safety of employees, staff, or members of the public and that storage and location of cultivation is adequately secured.

Section 6.10.9 Requirements Specific to Marijuana Cultivation Facilities

As the cultivation and processing of marijuana is not considered agriculture under M.G.L. c. 128, §1A, and is subject to M.G.L. c. 94G, §12, the following restrictions to ensure the health, safety, well-being of the public, and limit undue impacts on the natural environment as it relates to cultivation, shall apply:

1. All marijuana cultivation facilities shall off-set 100% of their electricity consumption through at least 50% of on-site generation facilities, New England based renewable energy credits, and/or an equivalent that is subject to approval of the city.
2. All marijuana cultivation facilities shall use high-efficiency lights and equipment to limit energy and water usage demand.
3. All marijuana cultivation facilities shall use LEDs for all fixtures except for those that are used in flowering rooms. High Pressure Sodium grow lights may be used for no more than fifty percent (50%) of the total square footage of the cultivation area to maximize flowering conditions and limit electricity demand.
4. No more than one-half of the marijuana plants may be mature, flowering plants.
5. No pesticides, insecticides, or other chemicals shall be used in the cultivation of marijuana.
6. Marijuana cultivators shall comply with all regulations that may be promulgated by the Cannabis Control Commission.

Section 6.10.10 Requirements Specific to Marijuana Manufacturing Facilities

Marijuana manufacturing facilities shall be subject to M.G.L. c. 94G, §12 and the following restrictions to ensure the health, safety, and well-being of the public, and limit any undue impacts on the natural environment as it relates to manufacturing, shall apply:

1. All marijuana manufacturing facilities shall off-set 100% of their electricity consumption through at least 50% of on-site generation facilities, New England based renewable energy credits, and/or an equivalent that is subject to approval of the city.
2. All marijuana manufacturing facilities shall use high-efficiency lights and manufacturing equipment to limit energy and water usage demand.
3. All marijuana manufacturing facilities shall comply with all regulations that may be promulgated by the Cannabis Control Commission.

Section 6.10.11 Requirements Specific to Marijuana Testing Facilities

1. All marijuana testing facilities shall use high-efficiency lights and equipment to limit energy and water usage demand.
2. Marijuana testing facilities shall be subject to the requirements of M.G.L. c. 94G, §15 and any regulations that the Cannabis Control Commission may promulgate thereunder to ensure there are no undue impacts on the health, safety, and well-being of the public.

Section 6.10.12 Requirements Specific to Marijuana Retailer Establishments

Marijuana retailers shall be subject to M.G.L. c. 94G, §12 and the following restrictions to ensure there are no undue impacts on the health, safety, and well-being of the public:

1. As defined in M.G.L. c. 94G, and as established in section 24-30 of the Code of Ordinances, the number of marijuana retailers shall be limited to no more than 20% of the number of licenses issued within the city for the retail sale of alcoholic beverages not to be drunk on the premises where sold under M.G.L. c. 138, §15.
2. All marijuana retail establishments shall comply with all regulations that may be promulgated by the Cannabis Control Commission.

Section 6.10.13 Unlawful Acts

1. It shall be unlawful for any person to operate any marijuana establishment in the city without a valid license issued by the state licensing authority under the M.G.L. c. 94G.
2. When a marijuana establishment has received a renewal license from the state, the business shall submit a copy to the Department of Planning and Community Development and the Building Department within thirty (30) days of receipt.

3. It shall be unlawful for any person to operate any retail marijuana, marijuana product manufacturing, or marijuana cultivation establishment without a special permit from the City of Salem Zoning Board of Appeals.

Section 6.10.14 Severability

If any provision of this section is invalidated by subsequent legislation or regulation, or held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

Section 2. This Ordinance shall take effect as provided by City Charter.

In City Council September 28, 2017

Referred to the Planning Board to schedule a joint public hearing with the City Council
~~Joint public hearing~~ held November 15, 2017 and continued to November 27, 2017
November 27, 2017 public hearing closed and referred to the Planning Board for their recommendation

In City Council January 11, 2018

Received Planning Board recommendation and referred to the Committee on Ordinances, Licenses and Legal Affairs co-posted with Committee of the Whole.

ATTEST:

CHERYL A. LAPOINTE
CITY CLERK

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City of Salem, Massachusetts

Office of the City Council City Hall

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September 29, 2017

Mr. Tom Daniel, Planner
City of Salem
Planning Dept.
Salem, MA 01970

Dear Mr. Daniel:

At a regular meeting of the Salem City Council, held in the Council Chamber on Thursday, September 28, 2017, the enclosed Zoning amendments were referred to the Planning Board to schedule a joint public hearing with the City Council

Please contact me at your earliest convenience so we can schedule the Hearing.

Very truly yours,

CHERYL A. LAPOINTE
CITY CLERK

Enclosure

cc: Amanda Chiancola



City of Salem, Massachusetts

Office of the City Council
City Hall

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September 29, 2017

Mr. Ben Anderson, Chairman
Planning Board
10 Adams Street
Salem, MA 01970

Dear Mr. Anderson:

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Please contact me at your earliest convenience so we can schedule the Hearing.

Very truly yours,

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CITY CLERK

Enclosure

Cc: Tom Daniels
Amanda Chiancola

CITY OF SALEM

In the year Two Thousand and Seventeen

An Ordinance to amend an Ordinance relative to Zoning

Be it ordained by the City Council of the City of Salem, as follows:

Section 1. The following is an amendment to **Section 10.0. Definitions** by adding the following terms and definitions:

Amend Section 10.00 Definitions of the City of Salem Zoning Ordinance to add the following terms and definitions:

"Marijuana establishment", a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business.

"Marijuana cultivator", an entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.

"Marijuana product manufacturer", an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

"Marijuana testing facility", an entity licensed to test marijuana and marijuana products, including certification for potency and the presence of contaminants.

"Marijuana retailer", an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

"Marijuana processing", to harvest, dry, cure, trim and separate parts of the marijuana plant by manual or mechanical means.

"Marijuana Manufacturing", to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

"Marijuana" or "Marihuana", all parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C of the General Laws; provided that "Marijuana" shall not include:

the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination;

(2) Hemp; or

(3) The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

"Marijuana accessories", equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body.

"Marijuana products", products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

Section 2. This Ordinance shall take effect as provided by City Charter.

In City Council September 28, 2017

Referred to the Planning Board to schedule a joint public hearing with the City Council
Joint public hearing held on November 15, 2017 and continued November 27, 2017
Public hearing closed on November 27, 2017 and referred to the planning board for their recommendation

In City Council January 11, 2018

Received planning board recommendation and referred to the Committee on Ordinances,
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ATTEST:

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CITY CLERK

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NOTICE
JOINT PUBLIC HEARING
OF THE CITY COUNCIL
And PLANNING BOARD**

Wednesday, November 15, 2017 at 6:30 PM

The City Council and Planning Board will hold a joint public hearing on November 15, 2017 at 6:30 p.m. in the City Council Chambers, City Hall, 93 Washington St., Salem, MA in accordance with Chapter 40A, Section 5, of the Massachusetts General Laws for all persons interested in the following proposed amendments to the Zoning Ordinance:

1. Adding a new section within Section 8-Entrance Corridor Overlay District requiring Design Review Board (DRB) recommendations to the Planning Board on the design of new construction non-residential structures of 10,000 s.f. or more and new construction of residential structure of six units or more and a Planning Board vote to determine if a proposed new construction non-residential structure between 2,000 and 9,999 s.f. should be referred to the DRB for a recommendation.
2. The implementation of Chapter 94G of the Massachusetts General Laws, Regulation of the Use and Distribution of Marijuana Not Medically Prescribed. The proposed amendments add:
 - a) new uses, allowed only by special permit, to Section 3.0 – Table of Principal and Accessory Uses for a retail marijuana cultivator within zones B2, B4, Industrial (1) and Business Park Development (BPD), a marijuana product manufacturer within zones I and BPD, a marijuana testing facility within the I zone, and a marijuana retailer within zones B2, B4, I and BPD, and a new use for a marijuana testing facility allowed by right in the B2 and BPD zones;
 - b) new definitions to Section 10.0 for marijuana establishment, marijuana cultivator, marijuana product manufacturer, marijuana testing facility, marijuana retailer, marijuana processing, marijuana manufacturing, marijuana, marijuana accessories and marijuana products; and
 - c) a new Section 6.10 - Special Regulations to provide for the special permit process for marijuana establishments listed in Section 3.0.
3. Adding a new section 3.2.8 entitled Accessory Living Areas to allow, only by special permit, the creation of an accessory unit within a single-family dwelling limited to two bedrooms and 800 s.f. for occupancy by family members who have some dependency for special housing needs due to age, mental or physical health, personal care requirements or economic factors, or by others such as nurses or nannies who occupy the accessory living area to facilitate providing direct care to a family member of the owner that resides in the dwelling.

The proposed Zoning Ordinance amendments are on file and available for review during normal business hours at the office of the City Clerk, 93 Washington Street, Salem, MA.

ATTEST:
ADV: 11/1/2017 & 11/8/2017

CHERYLA, LAPOINTE
CITY CLERK

**CITY OF SALEM
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And PLANNING BOARD**

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