

# RECREATIONAL POT LAW

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BERKSHIRE REGIONAL PLANNING COMMISSION MEETING JANUARY 18, 2018

# LOCAL REGULATION OPTIONS

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- Every Town and City in Berkshire County voted yes on Question 4 (to approve recreational marijuana)
- City or Town can take the following actions:
  - Adopt a local ordinance to regulate pot (and collect 3% tax) (So far only Clarksburg and Williamstown have adopted local bylaws for pot, with more coming)
  - Adopt a moratorium – can last no longer than December 31, 2018
  - Take no action, and let State law govern
  - Attempt to ban pot by a 2/3 majority vote at a Town Meeting or City Council AND a majority vote at the ballot at the next election.



# STATE RESPONSIBILITIES

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- The State (CCC) is in charge of most of the heavy lifting of the new law
- Sets basic guidelines/laws for all Towns & Cities to follow
- Issues licenses
- Performs background checks
- Collects fees and issues fines
- Performs surprise inspections
- The State will ask the applicant for proof of local compliance before issuing license

# STATE RULES AS OF LATEST DRAFT

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AS OF DECEMBER 22, 2017

# USES ASSOCIATED WITH POT

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- GROWING
- PROCESSING
- MANUFACTURING
- PACKAGING
- SELLING
- TESTING
- RESEARCHING
- TRANSPORTING
- CONSUMING ON-SITE

# THE 8 TYPES OF POT ESTABLISHMENT LICENSES (EACH TYPE CAN HAVE MULTIPLE USES)

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1. **CULTIVATION** (CULTIVATE, PROCESS, PACKAGE)
2. **CRAFT COOPERATIVE** (CULTIVATE & MANUFACTURE IN SEVERAL LOCATIONS)
3. **MANUFACTURER** (MANUFACTURE, PROCESS, PACKAGE)
4. **RETAILER** (SELL, DELIVER)
5. **RESEARCH** (CULTIVATE, RESEARCH)
6. **TESTING** (TESTING ONLY)
7. **TRANSPORTER** (TRANSPORT ONLY)
8. **MICRO-BUSINESS** (CULTIVATE, MANUFACTURE, DELIVER; ON A SMALL-SCALE)

# CULTIVATION

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- **Cultivate, Process, Package only**
- Can move between Tiers with approval of the State
- Tiers 1-4 (based on square footage)
  - Up to 1,000 SF
  - 1,000 – 5,000 SF
  - 5,000 – 10,000 SF
  - Over 10,000 SF



# CRAFT CO-OPERATIVE

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- **Cultivate and Manufacture only**
- Can have up to 6 locations for cultivation and up to 3 locations for manufacturers
- The co-op would then sell it, wholesale, to a retailer

# MANUFACTURER

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- **Manufacture, Process and Package only**

# RETAILOR

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- **Sell and Deliver Only**
- 3 types:
  - Storefront
  - Social Consumption (Pot Café)
  - Delivery Only (Including home-delivery)
- This is the only license that allows selling to consumers
- Home delivery allowed to house, condo apartment, but NOT hotel, dorm or bed & breakfast
- ID's are checked at the door, either at a pot café or someone's house

# RESEARCH

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- **Cultivation and Research only**
- Draft regulations allow on-site consumption for “testing”, including on humans
- As such, on-site consumption is permitted

# TESTING

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- **Testing only** (composition and potency)
- These licensee holders may not hold a different class of license, so that they're kept honest

# TRANSPORTER

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- **Transport only**
- Presumably between all of the other establishments (unclear whether home-delivery is included in this license)
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# MICRO-BUSINESS

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- **Cultivate, Manufacture and deliver**
- Small-scale, so Tier 1 or Tier 2 only (so no greater than 5,000 SF in any case)
- Such a license gets a break on the State license fees

# POT CAFÉS ARE PERMITTED AS A TYPE OF RETAILOR

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- POT CAFÉS ARE PERMITTED AS A TYPE OF RETAILER
- CAFÉS SHALL NOT BE ALLOWED UNTIL OCTOBER 1, 2018, UNLIKE EVERYTHING ELSE
- “SINGLE SERVINGS”. CAN’T OVERSELL TO SOMEONE THAT IS REALLY HIGH.
- POT CAFÉS CANNOT SERVE OR SELL ALCOHOL



# OTHER NEW RULES

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- On-site pot consumption establishments (Pot Cafés) cannot sell alcohol (but does this mean that non on-site consumption places *can* sell alcohol?)
- Outdoor cultivation seems to be permitted as long as they are “not visible from a public place without the use of binoculars, aircraft or other optical aids”.

# LOCAL REGULATION OPTIONS

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IN GENERAL- REGULATE BY TIME, PLACE AND MANNER



# LOCAL REGULATION OPTIONS CONT.

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- Regulating by PLACE:
- By zone district
- By pot overlay district, for certain types of uses (manufacturing in Area A, retail in Area B)
- By setbacks from schools, religious facilities, homes, etc. The State has a 500' setback requirement from schools and places where minors congregate, but Local regulations can modify or waive this requirement.

# LOCAL REGULATION OPTIONS CONT.

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- May require a Special Permit for the establishment, usually granted by the Planning Board, although the ZBA or Select Board may also be the granting authority
- May (should) require a site plan, usually in tandem with the Special Permit
- Outdoor storage
- Visibility of Activities
- Hours of operation
- Can prohibit marijuana establishments from selling alcohol

# LOCAL REGULATION OPTIONS CONT.

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- Lighting
- Landscaping
- Parking
- Prohibit Drive-throughs, if desired
- Fencing
- Signage (although this seems to conflict with US Supreme Court case Reed v. Gilbert)
- Require a security plan (although the State already requires one)
- Outdoor waste (requiring waste be kept indoors)

# LOCAL REGULATION OPTIONS CONT.

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- Can require a traffic study
- Can require annual inspections by the City/Town, although the State will inspect in some capacity
- Require a host community agreement (may involve impact fee)
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# LOCAL LIMITATIONS

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# LOCAL LIMITATIONS CONT.

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- Local regulations CANNOT unreasonably regulate – in other words make it nearly impossible for establishments to open
- Can't limit the number of pot establishments to less than 20% of the number of package liquor licenses in the town/city (without town meeting & election ballot)
- Can't prohibit a certain type of establishment (no pot cafés for example)
- Can't prohibit any existing MEDICAL pot facility from becoming a recreational one



# CANNABIS CONTROL COMMISSION PUBLIC HEARING

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MONDAY, FEBRUARY 5<sup>TH</sup>, 8:30 AM TO 11 AM AT  
BERKSHIRE COMMUNITY COLLEGE

THROUGH FUNDING PROVIDED THROUGH THE  
DISTRICT LOCAL TECHNICAL ASSISTANCE PROGRAM,  
BRPC IS ABLE TO ASSIST COMMUNITIES WITH BYLAWS

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