

RETAIL MARIJUANA COMMITTEE

Legal Landscape

January 4, 2018

Presentation by Town Counsel Kate Feodoroff

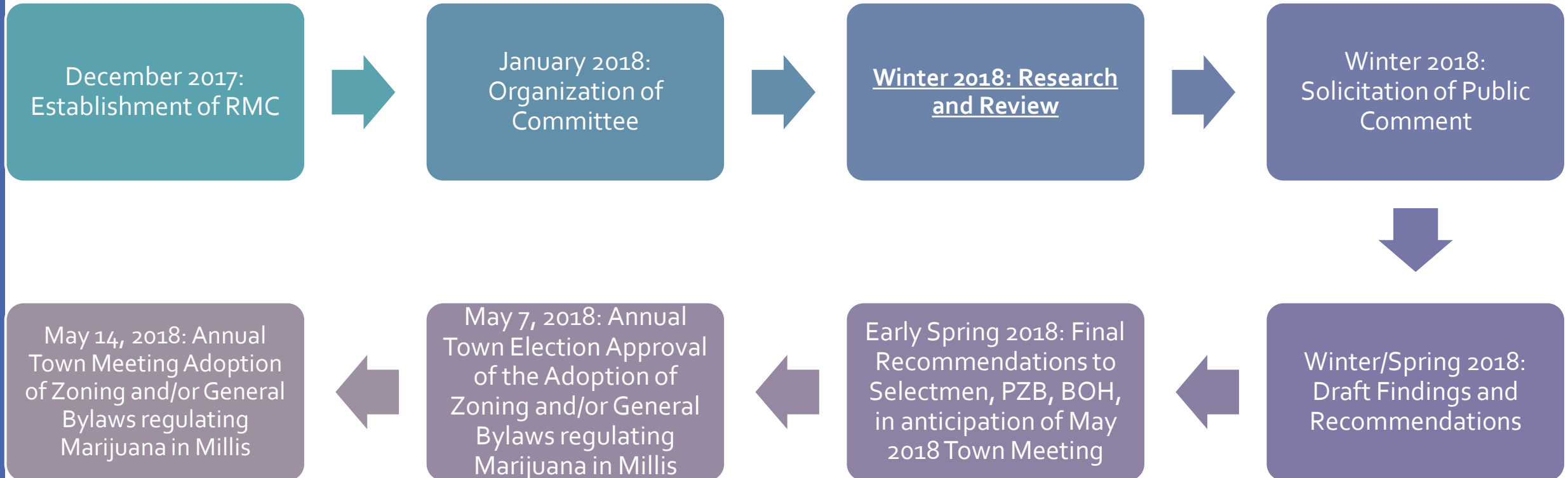
Retail Marijuana Committee

- Voters of the Commonwealth of Massachusetts approved a ballot initiative in November, 2016 which legalizes the sale of marijuana throughout the Commonwealth.
- Millis Town Meeting adopted a moratorium on the sale of marijuana within the Town to run through December 31, 2018.
- The Selectmen, in order to adequately plan for the necessary regulation and/or prohibition of marijuana within the moratorium period, voted to establish the Retail Marijuana Committee (RMC).
- RMC consists of representatives of the Selectmen, Planning Board, Insurance Committee, as well as Millis residents.
- RMC's mission is to to make recommendations regarding establishing local zoning regulations to the extent allowable by state law as it pertains to the passage of House Bill No. 3818 *An Act to ensure safe access to medical and adult-use of marijuana in the Commonwealth*, to the Board of Selectmen, Board of Health, Planning and Zoning Board, and any other applicable public body.

Possible Consideration

- 1. Identify the potential impact of businesses that sell, grow, manufacture, or test recreational marijuana products;
- 2. Identify potential conflicts or vulnerabilities that may exist between the Town's position on Medical marijuana and Recreational marijuana businesses;
- 3. Identify and suggest the promulgation of regulations and/or by laws and policies as they pertain to the regulation or prohibition of businesses that sell, grow, manufacture, or test recreational marijuana products.

RMC Timeline



RECREATIONAL MARIJUANA

An Emerging Legal Landscape

Methods of Regulation and/or Prohibition Available
to Our Community

Applicable Law

- Voters approved Question 4 appearing on the state election ballot on November, 2016 to allow the non-medical use of marijuana by adults
- Question 4 was codified as Chapter 334 of the Acts of 2016
- The law was revised by Chapter 55 of the Acts of 2017
- The law as amended appears in G.L. c. 94G

Legislative Timelines

- 1-Aug-2017: Appointment of Cannabis Advisory Board
- 1-Sept-2017: Appointment of Cannabis Control Commission
- 21-12-2017: Draft CCC Regulations Released
- 15-Mar-2018: Adoption of CCC Regulations
- 1-Apr-2018: Acceptance of License Applications by CCC
- 1-Jun-2018: CCC May Issue Licenses

Local Measures for Regulation & Prohibition

- Zoning Moratoria ~ Temporary Town-Wide Prohibition
- General Bylaw Restrictions
 - Absolute Prohibition
 - Quota Limitations
 - Type Limitations
- Zoning Bylaw Restrictions
- Board of Health Rules Regulations ~ Licensure
- Selectmen Rules and Regulations ~ Licensure

Zoning Moratoria

- Millis has enacted a Zoning Moratorium
- Effective until December 31, 2018
- Allows communities to properly plan for and address community concerns with the ultimate goal of comprehensive regulation (or prohibition if desired)

Prohibition Process

- The process to prohibit or limit marijuana establishments is dependent upon the individual Town's vote on Question 4
- Millis voted *in favor* of Question 4
- Consequently, the process to prohibit or limit is two-pronged
 - Bylaw approval through Town Meeting
 - General Bylaws ~ Majority Vote
 - Zoning Bylaws ~ 2/3 Vote
 - Ballot Approval

Types of Prohibitions

- Towns may prohibit all types of Marijuana Establishments
- Towns may prohibit one or more types of Marijuana Establishments:
 - Marijuana Retailers
 - Marijuana Cultivators
 - Marijuana Testing Facilities
 - Marijuana Product Manufacturer
 - Other
- Towns may limit the number of marijuana retailers to fewer than 20% of the number of retail liquor licenses (package stores)
- Towns may limit the number to fewer than the number of medical marijuana treatment centers

Zoning Bylaws

- Zoning Bylaws may prohibit or limit Marijuana Establishments in terms of location
 - Residential Zone
 - Commercial Zone
 - Industrial Zone
- Zoning Bylaws may require special permit approval
 - Conditions can be imposed as part of approval
 - Requires a showing that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site
- Recreational Marijuana Overlay District
- Zoning Bylaws may NOT prohibit the conversion of existing Medical Marijuana Facilities to Recreational Facilities

Local Licensure/Permitting

- Local permitting similar to Liquor License Approval
- Although not precluded by the legislation, not expressly included
- CCC Regs. clarify that local permitting and licensure is permissible

Host Community Agreements

- HCAs are required for ALL medical and recreational marijuana facilities
- Allows for assessment of Community Impact Fees
 - Maximum Allowable Fee is 3% Gross Sales
 - Impact Fee sunsets after 5 years
 - Must be reasonably related to municipal costs resulting from marijuana facility

Taxation

- A local tax of 3% may be imposed on the “sale or transfer of marijuana or marijuana products by a marijuana retailer operating” in the Town.
- The process is through local acceptance of G.L. c. 64N, s. 3 at Town Meeting

Other Regulations

- Public Consumption Bylaws
- Nuisance Bylaws

Marijuana Cafés

- Marijuana Cafés – Consumption On Premises Where Sold
- Cafés may ONLY be allowed following an affirmative ballot vote
 - Must first be initiated by a petition, signed by at least 10% of registered voters
 - Question may ONLY be placed on the local ballot in conjunction with a State Election ~ Nov. 2018

NEXT STEPS

Next Steps: The Road to Town Meeting

Current moratorium expires on December 31, 2018, any zoning or general bylaw adoption should occur by Annual Town Meeting on May 14, 2018, as a conservative approach.

The following timeline must be met to submit zoning or general bylaw articles to the warrant for Town Meeting.

Approximate Date	Milestone
Winter 2017/18	<ul style="list-style-type: none"> • RMC continues review of policy options following conclusion of public listening session(s) • RMC drafts policy recommendations
Spring 2018	<ul style="list-style-type: none"> • Final RMC recommendations to Selectmen, Planning Board, and Board of Health
March 2018	<ul style="list-style-type: none"> • Selectmen open warrant for Annual Town Meeting ~ April • Planning Board reviews and hold hearing(s) on proposed zoning amendments <ul style="list-style-type: none"> • 14 days prior ~ Publication of Notice of Hearing • Board of Health review and hold hearing(s) [if necessary] on possible general bylaw amendments and/or promulgation of regulations under G.L. c. 111 and c. 149 Massachusetts Regulations Title 105, Chapters 400, 410, 500 and 590, as may be applicable
April 2018	<ul style="list-style-type: none"> • Planning Board concludes public hearing(s) regarding proposed zoning amendments • Planning Board submits zoning amendments to the Selectmen for inclusion on the Annual Town Meeting warrant • Selectmen review and possibly include general bylaw regulations of marijuana for the Annual Town Meeting warrant
May 2018	<ul style="list-style-type: none"> • Annual Town Election ballot approval of general and/or zoning bylaws prohibiting or limiting marijuana ~ May 7, 2018 • Annual Town Meeting approval of general and/or zoning bylaw regulations of marijuana ~ May 14, 2018

POSSIBLE TIMELINE

- Planning Board Hearing Notice 1st • Publication ~ March 26, 2018
 - Planning Board Hearing ~ April 10, 2018
 - Warrant Opens ~ March, 2018
 - Warrant Closes ~ April, 2018
 - Warrant Published ~ 14 days per Town bylaws ~ April 27, 2018
 - Annual Election (Ballot Questions) ~ May 7, 2018
 - Annual Meeting ~ May 14, 2018
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