

OFFICE OF THE CITY SOLICITOR
MEMORANDUM

TO: Jamie Bova, Mayor and Members of the Council
for the City of Newport

CC: Girard Galvin, Esq., Assistant City Solicitor
Joseph J. Nicholson, Jr., Esq., City Manager
Guy Weston, Zoning Officer
Patricia Reynolds, Director of Planning and Development
Peter Friedrichs, City Planner
Laura Swistak, City Clerk

FROM: Christopher J. Behan, Esq., City Solicitor 

DATE: November 4, 2020

RE: Moratorium on the Sale or Dispensing of Marijuana –
Proposed Zoning Amendments

The proposed zoning amendments provided herewith are intended to be received by the City Council at its meeting on November 10, 2020 and then referred out to the Planning Board and for advertising. This will start the process for the adoption of the proposed zoning ordinances.

As you will recall, by resolution read and passed on June 24, 2020, the Council directed that a six month moratorium be established on any retail use which includes the sale or dispensing of marijuana in the City of Newport. Thereafter, the City adopted Ordinance Section 14.04.030 establishing a moratorium on any retail use which includes the sale or dispensing of marijuana in Newport for a period of six months from the date of passage of the ordinance. This moratorium is due to expire on or about January 21, 2021.

The resolution had directed that the Planning Board review this issue and determine the extent of the need to update the zoning ordinances to properly plan for such uses. This issue was referred to the Planning Board shortly after the adoption of the ordinance. However, with the COVID-19 pandemic and the limitations on the ability of the Planning Board to meet, and the Planning Board's need to address a number of pressing issues, including the North End planning, it was not likely that the Planning Board would be able to timely provide recommendations to the Council and City staff with respect to the adoption of ordinances regulating this use.

For the same reasons, the City's Planning and Zoning Departments are also limited in their ability to timely develop and recommend a comprehensive zoning scheme to address the use.

With that said, this office, the Planning Department and Zoning are recommending the adoption of these amendments which create and define a new use entitled "Marijuana Retail Facility". In addition, since the Zoning Officer has determined that the sale or dispensing of marijuana would be allowed in the City's so-called commercial districts which include the Limited Business, Waterfront Business, General Business and Commercial-Industrial districts under the permitted use described as "stores where goods are sold or services rendered primarily at retail", these amendments clearly spell out that such a use would not include a marijuana retail facility.

These amendments result in the prohibition of the use in the City of Newport for the time being.

The Planning staff and Planning Board will, after the start of the new year, take up further study on this matter to determine where, and under what conditions, such a use would be permitted in the City of Newport. This may include allowing it by way of a floating zone whereby this use would require Planning Board and City Council review and approvals. Other conditions would be imposed to address potential adverse impacts.

We are recommending that the City Council receive and refer these amendments to the Planning Board for study and recommendations as well as for advertising.

These amendments would allow for much needed time to develop a comprehensive scheme to properly regulate the use.

Section 17.08.010 - Definitions

ADD: “Marijuana Retail Facility” means any facility that dispenses or sells marijuana, including but not limited to, retail stores, compassion centers and emporiums/vape lounges.

Chapter 17.52 Limited Business District

AMEND: 17.52.020 - Use Regulations

A. The following uses are permitted by right:

11. Stores where goods are sold or service is rendered primarily at retail but not including a marijuana retail facility.

Chapter 17.56 - Waterfront Business District

AMEND: 17.56.020 - Use Regulations

A. The following uses are permitted by right:

10. Stores where goods are sold or service is rendered primarily at retail but not including a marijuana retail facility.

Chapter 17.60 – General Business District

AMEND: 17.60.020 - Use Regulations

A. The following uses are permitted by right:

14. Stores where goods are sold or service is rendered primarily at retail but not including a marijuana retail facility.

Chapter 17.64 – Commercial-Industrial District

AMEND: 17.64.020 - Use Regulations

A. The following uses are permitted by right:

11. Stores where goods are sold or service is rendered primarily at retail but not including a marijuana retail facility.