NOTICE

As per Massachusetts General Laws Chapter 40, section 32, the following attested copies have been posted in five (5) public places in the town of Hadley:

1. **HADLEY TOWN MEETING OF MAY 22, 2021**
   - Warrant Articles #3, 4 and 25 (Zoning)
   - Warrant Articles #5, 12, 26, 27 and 28 (General)

2. Attorney General’s letter dated August 20, 2021 pertaining to Articles and approval thereof

Copies of the Zoning By-law and zoning map may be examined and obtained in the office of the Town Clerk, Town Hall, Hadley, MA. Claims of invalidity by reasons of any defect in the procedure of adoption may only be made within ninety (90) days of this posting.

Copies posted at: Town Hall, Hadley Post Office, North Hadley Sugar Shack, Hadley Safety Complex, Hadley Senior Center, all in said town on

\[\text{8-20-2021}\]

ATTEST:

[Signature]

Constable
Hadley, Massachusetts
August 20, 2021

Jessica Spanknebel, Town Clerk
Town of Hadley
100 Middle Street
Hadley, MA 02061

Re: Hadley Annual Town Meeting of May 22, 2021 -- Case # 10133
Warrant Articles # 3, 4, and 25 (Zoning)
Warrant Articles # 5, 12, 26, 27, and 28 (General)

Dear Ms. Spanknebel:

Articles 3, 4, 5, 12, 25, 26, 27, and 28 - We approve Articles 3, 4, 5, 12, 25, 26, 27, and 28 from the May 22, 2021 Hadley Annual Town Meeting. Our comments on Articles 3, 12, and 25 are provided below.

Article 3 - Under Article 3 the Town voted to amend Section 1.2, “Definitions,” of the Town’s zoning by-laws to add several marijuana related definitions. We approve these definitions. However, in applying the new Section 1.2, the Town should be mindful that the Cannabis Control Commission (CCC) has updated its regulations, 935 CMR 500.000, “Adult Use of Marijuana,” effective January 8, 2021. Among other changes, the new regulations amend definitions and establish new requirements for the delivery of marijuana. The Town must ensure that Section 1.2 is applied consistent with the applicable statutes and regulations, including 935 CMR §§ 500.000. In light of these updated regulations, we offer comments on Section 1.2, “Definitions,” for the Town’s consideration.

1. Marijuana Retailer

The Town defines “Marijuana Retailer” as follows:

An entity licensed to purchase and transport cannabis or marijuana product from marijuana establishments and to sell or otherwise transfer this product to marijuana establishments and consumers. Retailers are prohibited from delivering cannabis or marijuana products to consumers; and from offering cannabis or marijuana products for the purpose of on-site social consumption on the premises of a marijuana establishment.

Section 1.2’s definition of “Marijuana Retailer” differs from the definition in the CCC regulations. Specifically, the CCC regulations define the term “Marijuana Retailer” as follows:
Marijuana Retailer means an entity licensed to purchase, Repackage, White Label, and transport Marijuana or Marijuana Product from Marijuana Establishments and to Transfer or otherwise Transfer this product to Marijuana Establishments to sell to Consumers. Unless licensed, retailers are prohibited from offering Marijuana or Marijuana Products for the purpose of on-site social consumption on the Premises of a Marijuana Establishment.

The Town must ensure that Section 1.2 of the by-law, "Marijuana Related Terms," including the definition of "Marijuana Retailer" is applied consistent with 935 CMR 500.000, as updated effective January 8, 2021. The Town should consult with Town Counsel with any questions on this issue. In addition, the Town may wish to consult with Town Counsel to determine if a future by-law amendment is needed in light of the recently updated CCC regulations.

2. Registered Marijuana Dispensary (RMD)

Section 1.2 defines the term "Registered Marijuana Dispensary (RMD)" as follows (with emphasis added):

A use operated by a not-for-profit entity registered and approved by the MA Department of Public Health [in accordance with 105 CMR 725.100], and pursuant to all other applicable state laws and regulations, also to be known as a "medical marijuana treatment center," that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. A RMD shall explicitly include facilities and deliver medical marijuana and related products. The cultivation and processing of medical marijuana in accordance with these regulations is considered to be a manufacturing use and is not agriculturally exempt from zoning.

The definition of a Registered Marijuana Dispensary (also referred to as a Medical Marijuana Treatment Center) references a "not-for-profit entity" registered or approved pursuant to 105 CMR 725.00. The Town must apply this definition consistent with 935 CMR 500.00 and 935 CMR 501.00, as these sections have superseded 105 CMR 725.00.

As a result of Chapter 55 of the Acts of 2017 ("An Act to Ensure Safe Access to Marijuana"), in December of 2018, the administration and oversight of medical marijuana use was transferred from the Massachusetts Department of Public Health to the CCC. The CCC regulations, 935 CMR 500.002, and 935 CMR 501.002, "Definitions," define a "Medical Marijuana Treatment Center (MTC) (formerly known as a Registered Marijuana Dispensary (RMD))" as follows, with emphasis added:

Medical Marijuana Treatment Center (MTC), (formerly known as a Registered Marijuana Dispensary (RMD)) means an entity licensed under 935 CMR 501.101 that acquires, cultivates, possesses, processes (including development of related products such as Edible

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1 The definition of “Off-Site Medical Marijuana Dispensary (OMMD) also references a “not-for-profit entity.”
Marijuana or Marijuana Products, MIPs, Tinctures, aerosols, oils, or ointments), Repackages, transports, sells, distributes, delivers, dispenses, or administers Marijuana, products containing Marijuana, related supplies, or educational materials to Registered Qualifying Patients or their Personal Caregivers for medical use. Unless otherwise specified, MTC refers to the site(s) of dispensing, cultivation, and preparation of Marijuana for medical use.

Thus, a Registered Marijuana Dispensary (RMD) (also known as a Medical Marijuana Treatment Center) is no longer limited to a not-for-profit entity. The Town must ensure that this definition is applied consistent with 935 CMR 500.00 and 501.00. In addition, the Town may wish to consult with Town Counsel to determine if a future by-law amendment is needed in light of the recently updated CCC regulations.

**Article 12** - Under Article 12 the Town voted to amend its general by-laws by adding Section 86-9 to Chapter 86 to establish the annual expenses allowed under the Town’s revolving funds and to delete certain existing revolving funds and to “return any remaining balances in said revolving fund accounts to the General Fund.” We approve Article 12. However, G.L. c. 44, § 53E ½, “Revolving Funds,” requires that any balance remaining in a terminated revolving fund shall “revert to surplus revenue” at the close of the fiscal year. The Town must apply Article 12 consistent with G.L. c. 44, § 53E ½. The Town may wish to discuss with Town Counsel and Department of Revenue, Division of Local Services the accounting of any remaining balances in the deleted and discontinued revolving funds.

**Article 25** - Under Article 25 the Town voted to amend the Town’s zoning by-laws by deleting Section XIII and inserting a new Section XIII, “Flood Overlay District.” The changes adopted under Article 25 are part of a federal requirement for communities that choose to participate, in the National Flood Insurance Program (NFIP). The new Section XIII is adopted to ensure that the Town’s zoning by-laws contain the necessary and proper language for compliance with the NFIP.

Section XIII appears to follow the “Massachusetts 2020 Model Floodplain Bylaw” provided by the Massachusetts Department of Conservation and Recreation Flood Hazard Management Program. (DCR Flood Hazard Management Program) See https://www.mass.gov/guides/floodplain-management#:~:text=2020~massachusetts~mo. The DCR Flood Hazard Management Program is the state coordinating office for the NFIP and, according to their website, they have provided the Model Floodplain Bylaw to Massachusetts communities “to assure that their local bylaws... contain the necessary and proper language for compliance with the” NFIP. For this reason, we approve Article 25. The Town should consult with Town Counsel and the DCR Flood Hazard Management Program with any questions regarding the application of the new Section XIII.

**Note:** Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is

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fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

MAURA HEALEY
ATTORNEY GENERAL

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cc: Town Counsel Jeffrey T. Blake