

HEARING BEFORE THE CITY COUNCIL, JULY 28, 2014

Hearing opened at 6:50 P.M. with Councillor Dombrowski, Chair of the LEGAL AFFAIRS COMMITTEE, presiding.

All members were present except Councillor Lanciani.

Present at the hearing was John Souza, Chair of the Planning Board.

The hearing is continued from June 9, 2014.

The following PETITION was the subject of the hearing:

40-14 Leominster Planning Board: Amend the Leominster Zoning Ordinances by adding Article XVIII, Section 22-105 entitled "Medical Marijuana Facilities" to allow and regulate medical marijuana facilities in the city.

Councillor Dombrowski said that Councillor Bodanza and Mr. Souza met and took the template that the Planning Board submitted and made some changes.

Councillor Bodanza said the changes were to straighten out the definition for the cultivation and the dispensary to allow it to be separate. This was done because the hours of operation for the dispensary are held to and that a cultivation site might not need hours. The other changes were to add a host agreement provision and to correct some type-o's.

Councillor Bodanza said the document is straight forward and that the location would probably end up at Jytek due to the distance limitations.

Mr. Souza said also possible locations could be Mohawk Drive and maybe Tanzio Road in the back corner. He said those are probably the only locations.

Councillor Marchand asked if any of the zoning limits the amount that is grown on the site for foot items.

Mr. Souza said that falls under State regulations.

Councillor Feckley said she was pleased that the Industrial zone will hopefully win out. She said a letter received from the Zoning Board of Appeals Chair in May stating that it might be of interest for the Council to add language to the sale of marijuana for non medical store locations with the possibility of same being legalized in the near future. She asked if that language was in the document.

Mr. Souza said no, it's not allowed by State statute at this time. It is very regulated. He said when there is a closed building and things need to be moved they have to use certified trucks with guards and not in vans. It would be under security, lock and guards. He said transportation is important and needs to meet the criteria so that has to be looked at.

Councillor Nickel asked is someone applies to the City Council for a permit is there an automatic mechanism to go to the Planning Board.

Mr. Souza said they have to come to the Planning Board for Site Plan for all the standard things. It will go to City Council for the granting of the permit and the location. Mr. Souza said when he looked at section 105.6.7 regarding the host agreement there is a community impact fee. He said he is not sure if it should be taken out or left in because there is a host agreement.

Councillors Bodanza and Dombrowski said they would like to leave it in.

No one in the audience spoke in favor or in opposition of the PETITION.

HEARING ADJOURNED AT 7:14 P.M.

Lynn A. Bouchard, City Clerk
and Clerk of the City Council

REGULAR MEETING OF THE CITY COUNCIL, JULY 28, 2014

Meeting was called to order at 7:30 P.M.

Attendance was taken by a roll call vote; all members were present except Councillor Lanciani.

The Committee on Records reported that the record through July 14, 2014 were examined and found to be in order. The records were accepted.

REGULAR MEETING OF THE CITY COUNCIL, JULY 28, 2014, continued

The following APPOINTMENTS were received, referred to the WAYS & MEANS AND VETERANS AFFAIRS COMMITTEE and given REGULAR COURSE.

2014-2015 Election Officers – terms to expire August 31, 2015

Fire Department – Lieutenant – Ryan Young

Upon recommendation of the WAYS & MEANS AND VETERANS AFFAIRS COMMITTEE, the following PETITION was GRANTED. Vt. 8/0

1-15 Christine DiMauro: Grant a second hand dealers license for My Uncle's Attic located at 609 Main Street.

Upon recommendation of the LEGAL AFFAIRS COMMITTEE, the following COMMUNICATION was GRANTED. Vt. 8/0

C-4 Dean J. Mazarella, Mayor: Authorize the Mayor to enter into a Preservation Restriction Agreement on the Drake House, located at 21 Franklin Street.

Upon request of the LEGAL AFFAIRS COMMITTEE, the following PETITION was given FURTHER TIME. Vt. 8/0
A hearing is set for August 11, 2014 at 7:00 P.M.

3-15 Leominster Planning Board and Peter Niall, Building Commissioner: Amend the Leominster Zoning Ordinance by adding "sales and service of all recreation vehicles and motor cycles" to Section 22-17, Underlying Districts Table of Uses and removing the word "vacant" from Article I, Section 22-10-1-1.

Upon recommendation of the LEGAL AFFAIRS COMMITTEE, the following PETITION was AMENDED and GRANTED AS AMENDED. Vt. 8/0

40-14 Leominster Planning Board: Amend the Leominster Zoning Ordinances by adding Article XVIII, Section 22-105 entitled "Medical Marijuana Facilities" to allow and regulate medical marijuana facilities in the city.

Amended as follows:

Amend the current Zoning Ordinance by adding a new Article XVIII, Section 22-105 for Medical Marijuana Facilities for the purpose of allowing and regulating the location of these facilities in Leominster.

22-105 Special Requirements for Medical Marijuana Facilities 105.1 *Purposes*

105.1.1 To provide for the establishment of Medical Marijuana Facilities in appropriate places and under strict conditions in accordance with the passage of Initiative Petition 11-11 (Question #3 on the November, 2012 state ballot).

105.1.2 To minimize the adverse impacts of Medical Marijuana Facilities on adjacent properties, residential neighborhoods, and other land uses potentially incompatible with said Facilities.

105.1.3 To regulate the siting, design, placement, security, safety, monitoring, modification, and removal of Medical Marijuana Facilities.

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105.2 *Applicability*

~~105.2.1 The commercial cultivation [unless it meets the requirements for an agricultural exemption under Chapter 40A Section 3], production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of Marijuana for Medical Use is prohibited unless permitted as a Medical Marijuana Facility under this Section 105.~~

105.2.1. No ~~Medical Marijuana Facility~~ Registered Marijuana Dispensary shall be established except in compliance with the provisions of this Section 105.

105.2.2 Nothing in this Ordinance shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.

105.2.3 If any provision of this Section or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this Section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Section are severable.

105.3 *Definitions*

~~Medical Marijuana Facility— Shall mean a "Medical marijuana treatment center" to mean a not for profit entity, as defined by Massachusetts law only, registered under this law, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials~~

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~~to qualifying patients or their personal caregivers. These facilities shall be located inside a structure or building.~~

REGULAR MEETING OF THE CITY COUNCIL, JULY 28, 2014, continued

Registered Marijuana Dispensary -- Medical Marijuana Treatment Center, also known as RMD, shall mean an establishment operated by a non-profit entity and properly registered with the Massachusetts Department of Public Health under 105 CMR 725.100 that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana infused products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers.

Marijuana for Medical Use — Marijuana that is designated and restricted for use by, and for the benefit of, Qualifying Patients in the treatment of Debilitating Medical Conditions as set forth in Citizens Petition 11-11.

Marijuana — The same substance defined as "marihuana" under Chapter 94C of the Massachusetts General Laws.

Cultivation Site -- A registered Marijuana Dispensary (RMD) that exclusively cultivates marijuana pursuant to 105 CMR 725.105(B)(1)(c) such that all phases of cultivation take place in designated, locked, limited access areas that are monitored by a surveillance system, the specific detailed requirements of such system being as stated in 105 CMR 725.110(D)(1)(d) through (i). It may also process (including development of related products such as edible Marijuana Infused Products, tinctures, aerosols, oils, or ointments), transport and distribute to other RMDs that dispense marijuana. All portions of the RMD shall be non-mobile and shall not have on-site retail sales or make off-site deliveries to registered Qualifying Patients as defined in 105 CMR 725 or their Personal Caregivers from this site. Any accessory retail sales at such locations may only be allowed by special permit issued by the Planning Board pursuant to the provisions of Section XI.01.1.

105.4 *Eligible Locations for ~~Medical Marijuana Facilities~~ Registered Marijuana Dispensaries.*

105.4.1 ~~Medical Marijuana Facilities, other than agricultural operations meeting exemption standards under Chapter 40A Section 3, Registered Marijuana Dispensaries~~ may be allowed by Special Permit from the Leominster City Council in the Industrial Zoning Districts provided the facility meets the requirements of this Section 105.

105.5 *General Requirements and Conditions for all ~~Medical Marijuana Facilities~~ Registered Marijuana Dispensaries.*

105.5.1 All ~~non-exempt Medical Marijuana Facilities~~ Registered Marijuana Dispensaries shall be contained within a building or structure.

105.5.2 A ~~Medical Marijuana Facility~~ Registered Marijuana Dispensary shall not be located in buildings that contain any medical doctors' offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana.

105.5.3 The hours of operation of ~~Medical Marijuana Facilities~~ Registered Marijuana Dispensaries shall be set by the City Council, but in no event shall said Facilities be open and/or operating between the hours of 8:00 PM and 8:00 AM. ~~unless the Registered Marijuana Dispensary is a cultivation site.~~

105.5.4 No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a ~~Medical Marijuana Facility~~ Registered Marijuana Dispensary .

105.5.5 No ~~Medical Marijuana Facility~~ Registered Marijuana Dispensary shall be located inside a building containing residential units, including transient housing such as motels and dormitories, or inside a movable or mobile structure such as a van or truck.

105.5.6 Signage for the ~~Medical Marijuana Facility~~ Registered Marijuana Dispensary shall include the following language: "Registration card issued by the MA Department of Public Health required." The required text shall be a minimum of two inches in height.

105.5.7 ~~Medical Marijuana Facilities~~³ Registered Marijuana Dispensaries shall provide the Leominster Police Department and the Building Commissioner with the names, phone numbers and email addresses of all management staff and key holders to whom one can provide notice if there are operating problems associated with the establishment.

105.5.8 No ~~Medical Marijuana Treatment Center~~ Registered Marijuana Dispensary may be located within 500 feet of a residential zoning district, church or other religious use. No ~~Medical Marijuana Treatment Center~~ Registered Marijuana Dispensary may be located within 1000 feet of a school, child care facility, family child care home, park, playground, or other ~~Medical Marijuana Treatment Center~~ Registered Marijuana Dispensary. Distance shall be measured as the shortest between buildings, or as the shortest distance between the building of the Medical Marijuana Treatment Center and the lot line of a church, child care facility, school, park, playground or other recreational area.

105.6 *Special Permit Requirements Planning*

105.6.1 A ~~Medical Marijuana Facility~~ Registered Marijuana Dispensary shall only be allowed by special permit from the City Council in accordance with G.L. c. 40A, §9, subject to the following statements, regulations, requirements, conditions and limitations.

105.6.2 A special permit for a ~~Medical Marijuana Facility~~ Registered Marijuana Dispensary shall be limited to one or more of the following uses that shall be prescribed by the Special Permit Granting Authority:

- a) cultivation of Marijuana for Medical Use (~~horticulture~~) ~~except that sites protected under Chapter 40A Section 3 shall not require a special permit;~~
- b) processing and packaging of Marijuana for Medical Use, including Marijuana that is in the form of smoking materials, food products, oils, aerosols, ointments, and other products;
- c) retail sale or distribution of Marijuana for Medical Use to Qualifying Patients;

105.6.3 In addition to the application requirements set forth in Sections 105.5 and 105.6 of this ~~Bylaw Ordinance~~, a special permit application for a ~~Medical Marijuana Facility~~ Registered Marijuana Dispensary shall include the following:

- a) the name and address of each owner of the facility;

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- b) copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the Facility;
- c) evidence of the Applicant's right to use the site of the Facility for the Facility, such as a deed, or lease;
- d) if the Applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of the owners of such entities until the disclosure contains the names of individuals;
- e) a certified list of all parties in interest entitled to notice of the hearing for the special permit application, taken from the most recent tax list of the City and certified by the City Assessors;
- f) Proposed security measures for the ~~Medical Marijuana Facility~~ *Registered Marijuana Dispensary*, including lighting, fencing, gates and alarms, etc., to ensure the safety of persons and to protect the premises from theft.

105.6.4 Mandatory Findings. The City Council shall not issue a special permit for a ~~Medical Marijuana Facility~~ *Registered Marijuana Dispensary* unless it finds that:

- a) the Facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in G.L. c. 40A, §11;
- b) the Facility demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations; and
- c) the applicant has satisfied all of the conditions and requirements of Sections 105.5 and 105.6 herein;

105.6.5 Annual Reporting. Each ~~Medical Marijuana Facility~~ *Registered Marijuana Dispensary* permitted under this Ordinance shall as a condition of its special permit file an annual report to and appear before the City Council and the City Clerk no later than January 31st, providing a copy of all current applicable state licenses for the Facility and/or its owners and demonstrate continued compliance with the conditions of the Special Permit.

105.6.6 A special permit granted under this Section shall have a term limited to the duration of the applicant's ownership of the premises as a ~~Medical Marijuana Facility~~ *Registered Marijuana Dispensary*. A special permit may be transferred only with the approval of the City Council in the form of an amendment to the special permit with all information required in this Section 105.

105.6.7 The permit holder shall enter into a Host Community Agreement (HCA) with the City of Leominster. The HCA shall address any known and additional impact of the Registered Marijuana Dispensary on the City's public safety and infrastructure, and any other stipulations as deemed necessary by the Mayor of the City of Leominster, including a Community Impact Fee.

105.6.8 The City Council shall require the applicant to post a bond at the time of construction to cover costs for the removal of the ~~Medical Marijuana Facility~~ *Registered Marijuana Dispensary* in the event the City must remove the facility. The value of the bond shall be based upon the ability to completely remove all the items noted in 105.7.2 and properly clean the facility at prevailing wages. The value of the bond shall be developed based upon the applicant providing the City Council with three (3) written bids to meet the noted requirements. An incentive factor of 1.5 shall be applied ~~estimating costs associated with determining the appropriate value of~~ *to* all bonds ~~necessary~~ *to* ensure compliance and adequate funds for the City to remove the ~~tower at prevailing wages~~ *Registered Marijuana Dispensary*.

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105.7 *Abandonment or Discontinuance of Use*

105.7.1 A Special Permit shall lapse if not exercised within one year of issuance.

105.7.2 A ~~Medical Marijuana Facility~~ *Registered Marijuana Dispensary* shall be required to remove all material, plants equipment and other paraphernalia:

- a) prior to surrendering its state issued licenses or permits; or
- b) within six months of ceasing operations; whichever comes first.

Upon request of the CITY PROPERTY AND PROPERTY OVERSIGHT COMMITTEE, the following PETITION was given LEAVE TO WITHDRAW WITHOUT PREJUDICE. Vt. 8/0.

2-15 Eric D. Holt: Lease public land on the old Leominster dump to install a community solar farm.

Recommendations were read into the record from the Purchasing Agent and the Mayor which are on file in the City Clerk's Office.

Upon recommendation of the FINANCE COMMITTEE, the following COMMUNICATIONS were GRANTED and ORDERED. Vt. 8 "yeas"

C-1 Relative to the appropriation of \$1,081,766.00 to the Highway Street Resurfacing Expense Account; same to be transferred from the Highway State Aid Reserved for Appropriation Account.

ORDERED: - that the sum of One Million Eighty One Thousand Seven Hundred Sixty Six Dollars (\$1,081,766.00) be appropriated to the Highway Street Resurfacing Expense Account; same to be transferred from the Highway State Aid Reserved for Appropriation Account.

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C-2 Relative to the appropriation of \$50,000.00 to the School Department Capital Outlay Expense Account; same to be transferred from the Stabilization Fund.

ORDERED: - that the sum of Fifty Thousand Dollars (\$50,000.00) be appropriated to the School Department Capital Outlay Expense Account; same to be transferred from the Stabilization Fund.

C-3 Relative to the appropriation of \$6,900.00 to the Gallagher Building Expense Account: same to be transferred from the Gallagher Building Revolving Fund.

ORDERED: - that the sum of Six Thousand Nine Hundred Dollars (\$6,900.00) be appropriated to the Gallagher Building Expense Account; same to be transferred from the Gallagher Building Revolving Fund.

RE: Repairs to the Gallagher Building

Upon recommendation of the WAYS & MEANS AND VETERANS AFFAIRS COMMITTEE, the following APPOINTMENT was CONFIRMED. Vt. 8 “yeas”

Lynn Gaudet – License Commission – term to expire April 15, 2020
(to fill the unexpired term of Melissa Maguire)

Councillor Freda asked that a letter be sent to the State Representative regarding the new regulations for cell towers. Councillor President Marchand asked Councillor Freda to work with the City Clerk to draft the letter.

Upon recommendation of the WAYS & MEANS COMMITTEE AND VETERANS AFFAIRS COMMITTEE, the following ORDER was ADOPTED. Vt. 8 “yeas”

CITY OF LEOMINSTER
STATE PRIMARY
ELECTION ORDER
SEPTEMBER 9, 2014

ORDERED: - that the City Clerk be and she hereby is authorized and directed to notify and warn the voters of the City of Leominster to assemble in their respective polling places in the several wards and precincts of the City, designated by the City Council as follows:

WARD 1A	SKY VIEW MIDDLE SCHOOL 500 KENNEDY WAY
WARD 1B	SKY VIEW MIDDLE SCHOOL 500 KENNEDY WAY
WARD 1C	SKY VIEW MIDDLE SCHOOL 500 KENNEDY WAY
WARD 2A	SOUTHEAST ELEMENTARY SCHOOL 95 VISCOLOID AVENUE
WARD 2B	SOUTHEAST ELEMENTARY SCHOOL 95 VISCOLOID AVENUE
WARD 2C	SOUTHEAST ELEMENTARY SCHOOL 95 VISCOLOID AVENUE
WARD 3A	FRATERNAL ORDER OF EAGLES HALL 456 LITCHFIELD STREET
WARD 3B	FRATERNAL ORDER OF EAGLES HALL 456 LITCHFIELD STREET
WARD 3C	FRATERNAL ORDER OF EAGLES HALL 456 LITCHFIELD STREET
WARD 4A	SENIOR CITIZEN DROP-IN CENTER 5 POND STREET
WARD 4B	LEOMINSTER VETERANS' QUARTERS 100 WEST STREET
WARD 4C	LEOMINSTER VETERANS' QUARTERS 100 WEST STREET
WARD 5A	AUDITORIUM, CITY HALL 25 WEST STREET

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WARD 5B AUDITORIUM, CITY HALL
25 WEST STREET

WARD 5C FIRST BAPTIST CHURCH OF LEOMINSTER
23 WEST STREET

On Tuesday, the 9TH day of September 2014, then and there for the purpose of giving in their votes for the election of candidates for the following offices: Senator in Congress, Governor, Lt. Governor, Attorney General, Secretary of State, Treasurer, Auditor, Representative in Congress – 2nd District, Councillor – 7th District, Senator in General

Court – Worcester & Middlesex, Representative in General Court – 4th Worcester District, District Attorney – Middle District, Register of Probate.

And it is further

ORDERED:- that the polls shall be opened at 7:00 A.M. and closed at 8:00 P.M. and that notice shall be given by publication of this order in a conspicuous place in the office of the City Clerk.

Per Order Leominster City Council
True Copy Attest:
Lynn A. Bouchard, City Clerk

Upon recommendation of the LEGAL AFFAIRS COMMITTEE, the following ORDINANCES were read once, ADOPTED presented and ordered published. Vt. 8 “yeas”

1st Reading Ordinance – Amend Chapter 14 of the Revised Ordinances entitled “Offenses – Miscellaneous” by inserting a new section 14-21 regarding the use of medical marijuana on public property. (A hearing was set for August 11, 2014 at 6:45 P.M.)

1st Reading Ordinance - Amend Chapter 18, Section 18-5 of the Revised Ordinances entitled “Police – Equipment” by deleting Section 18- 5 in its entirety and replacing with a new Section 18- 5. (A hearing was set for August 11, 2014 at 6:55 P.M.)

MEETING ADJOURNED AT 8:06 P.M.

Lynn A. Bouchard, City Clerk
and Clerk of the City Council