

BOARD OF SELECTMEN MEETING AGENDA

**Fuller Meadow School
Nathan Media Room
143 South Main Street, Middleton, MA 01949
November 22, 2016
7:00 PM**

This meeting is being recorded

1. 7:00 PM Minutes
Warrant
Town Administrator
2. 7:10 PM Masconomet Regional School District FY18 budget update from School Committee member Teresa Buono
3. 7:15 PM Entertainment and Common Victualler License change of name request by Optigolf New England, LLC, located at 216-220 South Main Street, from 'Optigolf New England, LLC' to 'Clubhouse Golf and Entertainment, LLC by Attorney Jill Mann
4. 7:20 PM Vote to accept a conservation restriction, per MGL Chapter 40, Section 8C, granted by Philip Colosi and Joanne Colosi, as Trustees of PC Development Realty Trust, for a parcel of land located at Ohlson Way, Essex South District Registry of Deeds Book 33666, Page 267, with rights reserved under the Deed recorded in Book 34717, Page 554, to the Town of Middleton by Attorney Jill Mann
5. 7:25 PM Request to establish a Cable Television Advisory Committee to assist with the renegotiation of the Verizon and Comcast cable television licenses with the Town
6. 7:30 PM Continuation of Public Hearing from the October 25, 2016 Board of Selectman's meeting: Retail package goods store license revocation hearing for Rusty's Bottle Shop (21 South Main Street, licensee Alan Karahalís)
7. 7:35 PM Appointment of Alternate Member to Recreation Commission, Ms. Michelle Creasi
8. 7:45 PM Appointment of Member to Cultural Council, Richard Gilman
9. 7:50 PM Request to replace Susan Gannon as a member of the Municipal Tax Relief Committee with Ronald Draper, resident of 6 Acorn Street, through June 30, 2018, to ensure compliance with Massachusetts General Law Chapter 60, Section 3D
10. 7:55 PM Preliminary review of potential Charter amendments
11. 8:00 PM Preliminary discussion of interest in a tax increment financing agreement for a business relocating to Middleton
12. 8:05 PM Vote to designate a member of the Board of Selectmen to approve all bills, drafts, orders and payrolls provided the designated member shall make available to the board at the first meeting following such action, a record of such actions, per Chapter 218, Sections 57 and 58 (An Act to Modernize Municipal Finance and Government)
13. 8:10 PM Discussion of implications regarding passing of Question #4: Legalization, Regulation, and Taxation of Marijuana, passed by Massachusetts voters on November 8, 2016
14. 8:15 PM New Business: reserved for topics that the Chair did not reasonably anticipate would be discussed
15. 8:20 PM Executive Session pursuant to MGL C30A, §21(a)(2) To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel

11/8 or
11/22

Andy Sheehan

From: Teresa Buono <teresabuono@comcast.net>
Sent: Wednesday, October 26, 2016 5:01 PM
To: Andy.Sheehan@townofmiddleton.org
Subject: Masco Update, Next Selectmen Meeting

Hi Andy,

This is just a reminder that I plan on giving a brief update on Masco at the next Selectmen meeting on November 22nd. If the date time/changes, please let me know.

Thanks,
Teresa

Sent from my iPhone

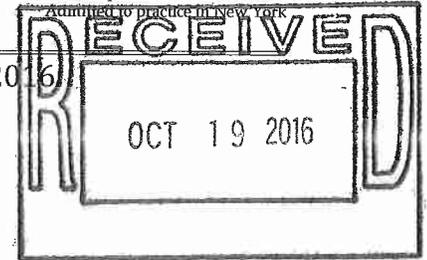
MANN & MANN, P.C.
COUNSELLORS AT LAW

sent 10-27-16

JILL ELMSTROM MANN†*
KURT P. MANN†*
MELISSA GNOZA OGDEN†

†Admitted to practice in Massachusetts
‡Admitted to practice in New York

October 19, 2016



Board of Selectmen
Attention: Andrew Sheehan, Town Administrator
48 South Main Street
Middleton, Massachusetts 01949

RE: THE CLUBHOUSE, GOLF AND ENTERTAINMENT LLC (f/k/a OptiGolf New England LLC).
All Alcohol, General On-Premises Liquor License No. 070400037

Dear Mr. Sheenan:

With reference to the above, please find enclosed one (1) original and seven (7) copies of an Application for Amendment requesting the approval to change the corporate name of the Licensee of the above-referenced Liquor License. Please be advised that there is no change to the managers or members of the Licensee.

In addition, the Licensee is requesting that the Selectmen for the Town of Middleton approve an extension of the hours of service of alcohol under the Liquor License from 12:00 a.m. to 1:00 a.m.

Each package includes copies of the following:

- Monetary Transmittal Form – Change of Corporate Name;
- \$200.00 Fee – Check # 13993;
- Amendment Application for Change of Corporate Name;
- Certificate of Sole Manager and Sole Member Vote;
- Certificate of Organization as filed with the Secretary of the Commonwealth of Massachusetts (the "SOC"); and
- Certificate of Amendment (changing name) as filed with the SOC.

Also enclosed is the Local Licensing Authority Review Record (which replaces Form 43) to be signed by the Members of the Board and sent to the ABCC along with the original Application for Amendment.

Please place this on the agenda for the next public hearing of the Selectmen. Thank you for your kind attention to this matter.

Very truly yours,

Jill Elmstrom-Mann

Enclosures –

Cc: Wayne Pasanen
Joseph Piemonte

S:\Pasanen - 2016-23\abcc -chg corp name\ltr bd slctmn .docx

191 South Main Street, Suite 104
Middleton, Massachusetts 01949
Telephone: 978-762-6238
Facsimile: 978-762-6434

Direct Email: jill@mannpc.com
kurt@mannpc.com
melissa@mannpc.com



Town of Middleton

Town Planner Katrina O'Leary, AICP

planner@townofmiddleton.org

Planning Department

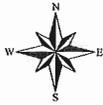
195 North Main Street, Middleton, MA 01949

Ph: (978)777-8917

Date: November 4, 2016
To: Board of Selectmen
From: Katrina O'Leary
RE: Ohlson Way Conservation Restriction
Attachment: Ipswich River Trail Easements

In January of this year, the Planning Board voted to accept a Conservation Restriction on a portion of the 64 East Street Subdivision Plan (Ohlson Way) and in exchange, the Planning Board also modified their prior definitive subdivision approval by waiving the existing condition requiring a sidewalk fund contribution of \$10,000.

As this Conservation Restriction along the Ipswich River (see attachments) will add to a future trail alongside the Ipswich River, the board decided that accepting the conservation restriction would act to mitigate the effects of waiving sidewalks on both sides of the roadway in this four lot subdivision by providing nearby pedestrian amenities.



River Trail Easements

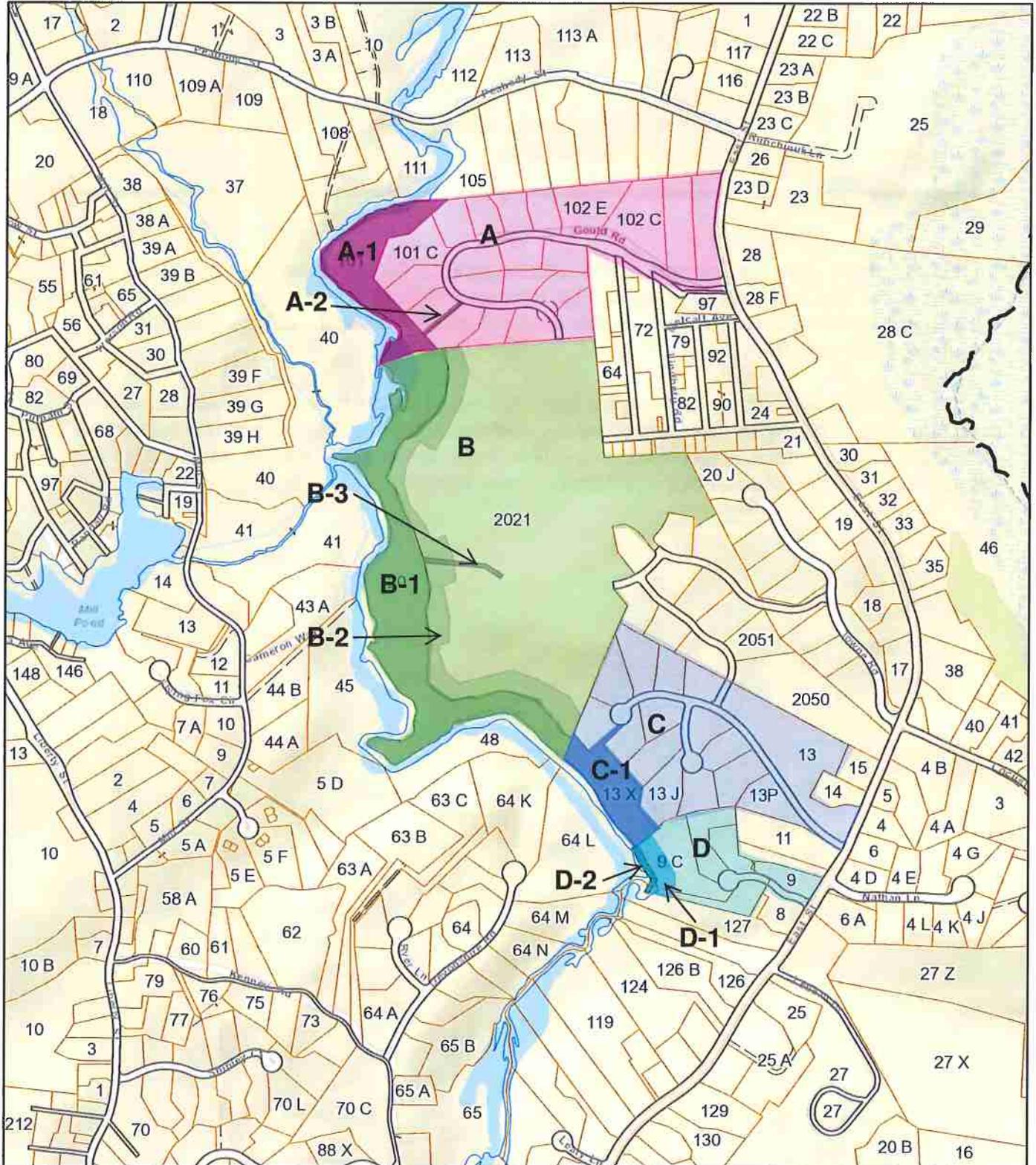
Middleton, MA



January 7, 2016

1 inch = 752 Feet

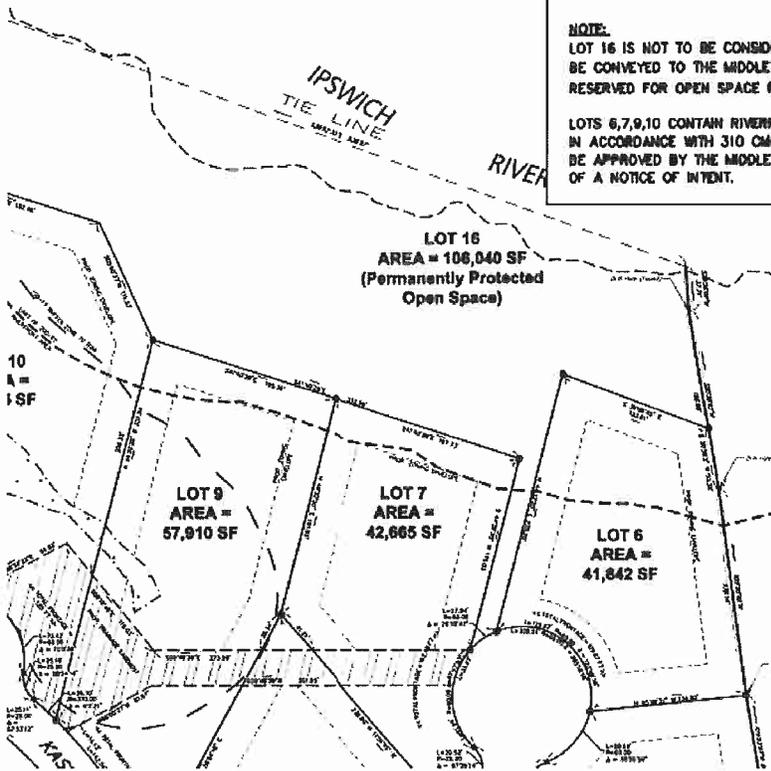
www.cai-tech.com



Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.

	SUBDIVISION/RIVER EASEMENTS	SIDEWALK CONTRIBUTION
A	East Meadow Farm	Must construct sidewalk from East Meadow Lane along East Street to Peabody Street (granted waiver of sidewalk on one side)
A-1	Lot B . Note on plan: "Not to be considered a separate building lot."	
A-2	6' wide trail easement on Lot 11	
B	Ridgewood Estates	Contribution of \$38,500 to sidewalk fund (granted waiver of sidewalk on one side)
B-1	Lot C. Note on plan: "Are not to be considered separate building lots."	
B-2	Labeled: Conservation Restriction Easement Area	
B-3	6" wide trail easement on Lot 33 shown on Sheet 8 of 48	
C	Olde Boxford Estate	(\$30,000) sidewalk contribution required. (granted waiver of sidewalk on one side)
C-1	Lot 16 Permanently Protected Open Space. Note: Lot 16 is not to be considered a buildable lot. Lot 16 is to be conveyed to the Middleton Conservation Commission and reserved for open space purposes in perpetuity.	
D	Ohlson Way	\$10,000 (granted waiver of sidewalks on both sides) NOTE: PLANNING BOARD WAIVED THIS REQUIREMENT IN EXCHANGE FOR CONSERVATION RESTRICTION & EASEMENT IN JAN 2016
D-1	Proposed 100' Conservation Restriction	
D-2	Proposed 25' Easement	

Norma Way



NOTE:
LOT 16 IS NOT TO BE CONSIDERED A BUILDABLE LOT. LOT 16 IS TO BE CONVEYED TO THE MIDDLETON CONSERVATION COMMISSION AND RESERVED FOR OPEN SPACE PURPOSES IN PERPETUITY.
LOTS 6,7,9,10 CONTAIN RIVERFRONT AREA ASSOCIATED WITH THE IPSWICH RIVER IN ACCORDANCE WITH 310 CMR 10.58. ANY WORK IN THE RIVERFRONT AREA MUST BE APPROVED BY THE MIDDLETON CONSERVATION COMMISSION WITH THE FILING OF A NOTICE OF INTENT.

Space above line reserved for recording information

Grantor: Philip Colosi and Joanne Colosi, as Trustees of PC Development Realty Trust
Grantee: Town of Middleton
Property Address: Ohlson Way
Deed reference: Essex South District Registry of Deeds
Book 33666, Page 267 with rights reserved under the Deed recorded in Book 34717, Page 554

CONSERVATION RESTRICTION

PHILIP COLOSI AND JOANNE COLOSI, as Trustees of PC Development Realty Trust, u/d/t dated November 5, 1999 and recorded with the Essex South District Registry of Deeds in Book 16035, Page 338, including their successors and assigns (hereinafter referred to as the "**Grantor**") with a mailing address of 2 Ross Lane, Middleton, MA 01949, acting under Sections 31, 32 and 33 of Chapter 184 of the Massachusetts General Laws, in consideration of \$10.00 hereby grant with quitclaim covenants to

the Town of Middleton, a Massachusetts municipal corporation, acting by and through the Conservation Commission of the Town of Middleton, and their permitted successors and assigns (hereinafter referred to as the "**Grantee**") by authority of Section 8C of Chapter 40 of the Massachusetts General Laws, with a mailing address of 195 North Main Street, Middleton, MA 01949

in perpetuity and exclusively for conservation purposes, the following described Conservation Restriction (this "**Conservation Restriction**") on a thirty-four thousand four hundred thirty-six (34,436±) square foot portion (the "**Restricted Area**") of Lot 4 ("**Lot 4**"), which Restricted Area is shown on the plan entitled "Plan of Land in Middleton, MA" prepared by Williams and Sparages, LLC, dated October 13, 2016, which plan is recorded with the Essex South District

Registry of Deeds in Plan Book _____, Plan _____ (the "**CR Plan**"), a reduced copy of which is attached hereto and incorporated herein as Exhibit A. Such Restricted Area also includes a public access easement over the area of land identified as the 25' WIDE ACCESS EASEMENT on the CR Plan (the "**Access Easement**"). Grantor's right to grant this Conservation Easement and the Access Easement were reserved and intended to survive the transfer of Lot 4 in a Quitclaim Deed conveying Lot 4 from Philip Colosi and Joanne Colosi as Trustees of PC Development Trust to Sebago Enterprises, Inc., which deed is recorded with said Registry in Book 34717, Page 554.

I. PURPOSES.

This Conservation Restriction is defined in and authorized by Sections 31-33 of Chapter 184 of the General Laws and otherwise by law. The purpose of this Conservation Restriction is to assure that the Restricted Area will be maintained in perpetuity for conservation purposes, in a natural, scenic and undeveloped condition, and to prevent any use or change that would materially impair or interfere with its conservation and preservation values (the "**Conservation Values**").

This Conservation Restriction is granted pursuant to and in accordance with the modification to the Subdivision approval issued by the Planning Board of the Town of Middleton (the "**Planning Board**") on January 14, 2016 (the "**Modification**"), which modification waived certain obligations of the Grantor in exchange for the Grantor granting to this Conservation Restriction to the Grantee. A copy of the Modification is attached hereto as Exhibit B.

The Conservation Values include the following:

A. Preservation of Open Space and Riverfront Areas. The Restricted Area includes important natural resources. It contains riverfront areas (including bank and land under water), bordering vegetated wetland, and associated buffer zones. The Restricted Area abuts and is otherwise in close proximity to the Ipswich River. The Restricted Area provides mixed forested upland, deciduous forested upland, and wetland habitat for native wildlife and plant species and communities, including many species of native plants, lichens, mammals,

birds, reptiles, amphibians, and invertebrates. The preservation of the forest and wetland resources within the Restricted Area will protect these habitats. Furthermore, the restricted naturally vegetated plant communities will afford protection to the Ipswich River watershed.

B. Scenic Landscape Preservation. The Restricted Area comprises part of a scenic landscape associated with a natural, undisturbed environment. Prohibiting significant alterations to the natural character of the Restricted Area will further protect and enhance the scenic and open space attributes and the recreational, human enjoyment, and ecological value of the Restricted Area.

C. Public Trails. Surrounding the Restricted Area are properties with walking paths and canoe access that are open to the public. The creation of the Access Easement within the Restricted Area allows for the continuation of abutting access trails for passive recreation, education, and nature study of the Ipswich River.

D. Water Quality and Wetland Protection. Preserving the natural, undisturbed environment will provide for groundwater recharge and protect wetland resource areas.

E. Furtherance of Government Policy. Protection of the Restricted Area furthers the goals of the Town of Middleton to preserve and provide open space and passive recreation areas and connectivity along the Ipswich River.

II. PROHIBITED ACTS AND USES, EXCEPTIONS THERETO, PERMITTED USES AND AFFIRMATIVE COVENANTS

A. Prohibited Acts and Uses. Subject to the exceptions and rights reserved to Grantor herein, Grantor will not perform or allow others to perform the following acts and uses which are prohibited on, above, and below the Restricted Area:

1. Structures. Constructing, placing or allowing to remain any temporary or permanent building, tennis court, landing strip, mobile home, swimming pool, asphalt or concrete pavement, billboard or other advertising display, antenna, utility pole, tower, conduit, line or other permanent structure or facility on, above or under the Restricted Area.

2. Topographic and Other Disturbances. Mining, excavating, dredging or removing from the Restricted Area any soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit, excluding water, or otherwise make topographical changes to the area;
3. Debris. Placing, filling, storing or dumping on the Restricted Area of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, waste or other similar substance or material whatsoever, or the installation of underground storage tanks.
4. Vegetation Removal. Cutting, removing or otherwise destroying trees, shrubs, grasses or other vegetation.
5. Planting. Planting any plant species that are identified by the Massachusetts Invasive Plant Advisory Group as invasive species in the Commonwealth of Massachusetts.
6. Detrimental Activities. Activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation, prevention of pollution, protection of groundwater, wildlife habitat, or archaeological conservation.
7. Operating of Motorized Vehicles The operation, storage, parking, or maintenance of snowmobiles, motorcycles, mopeds, all-terrain vehicles, or any other motorized vehicles of any kind, except for vehicles necessary for public safety (i.e., fire, police, ambulance, other government officials) in carrying out their lawful duties.
8. Further Subdivision. Subdivision or conveyance of a part or portion of the Restricted Area alone, or division or subdivision of Lot 4 (as compared to conveyance of the Lot 4 in its entirety which shall be permitted), and no portion of the Restricted Area may be used towards building or development requirements on this or any other parcel;

9. Business, Commercial, and Industrial Uses. Any activities involving the operation of a business or any commercial or industrial enterprise.

10. Inconsistent Activities Any other use of the Restricted Area which is materially inconsistent with the purposes of this Conservation Restriction and which would materially impair significant Conservation Values.

B. Reserved Rights and Exceptions. Grantor reserves the right to conduct or permit the following activities and uses within the Restricted Area, but only if such uses and activities do not materially impair the purpose of this Conservation Restriction or its Conservation Values:

1. Permitted Activities and Uses. The exercise of any right reserved by Grantor under this Paragraph B shall be in compliance with the then-current Zoning By-laws of the Town of Middleton, the Massachusetts Wetlands Protection Act (MGL c.131, Section 40), the Massachusetts Endangered Species Act (MGL c.131A), and all other applicable federal, state and local laws, rules, regulations, and permits. The inclusion of any reserved right requiring a permit from a public agency does not imply that the Grantee or the Commonwealth takes any position of whether such permit should be issued.

2. Passive Recreational Activities. Fishing, boating, hiking, horseback riding, cross-country skiing and other non-motorized outdoor passive recreational activities that do not materially alter the landscape, do not degrade environmental quality, or do not involve more than *de minimis* use for commercial recreational activities.

3. Vegetation Management. In accordance with generally accepted forest management practices, selective *de minimus* removing of brush, pruning and cutting to prevent, control or remove hazards, disease, insect or fire damage, or to preserve the condition of the Restricted Areas, including existing vistas, woods roads, fence lines and trails.

4. Non-native, invasive, or noxious species. The removal of non-native, invasive species and noxious species and interplanting of indigenous species and the control of

species in a manner that minimizes damage to surrounding, non-target species and preserves water quality.

5. Wildlife Habitat Management. With the prior written permission of Grantee, measures designed to restore native biotic communities, or to maintain, enhance or restore wildlife, wildlife habitat, or rare or endangered species including selective planting of native trees, shrubs and plant species;

6. Composting. The stockpiling and composting of stumps, trees and brush limbs and similar biodegradable materials originating on the Restricted Areas, Provided that such stockpiling and composting is in locations where the presence of such activities will not have a deleterious impact on the purposes (including scenic values) of this Conservation Restriction., No such activities will take place close than one hundred (100) feet from any wetland, waterbody or stream, All exercise of this right shall take into account sensitive areas and avoid harm to nesting species during nesting season.

7. Trails. The marking, clearing, mowing, and/or maintenance of existing trails within the Access Easement, however the marking and clearing of any new trails shall be with written permission of the Grantee.

8. Signs. The erection, maintenance and replacement of signs with respect to trespass, trail access, identity and address of the occupants. Any signs shall be small and unobtrusive.

9. Fencing. To install sight pervious fencing that does not impede the passage of wildlife in order to prohibit trespass onto the balance of the Lot and Restricted Area beyond the area designated as the Access Easement.

10. Archaeological Investigations. The conduct of archaeological activities, including without limitation survey, excavation and artifact retrieval, following submission of an archaeological field investigation plan and its approval in writing by Grantee and the State Archaeologist of the Massachusetts Historical Commission (or appropriate successor official).

C. Notice and Approval. Whenever notice to or approval by Grantee is required, Grantor shall notify Grantee in writing not less than thirty (30) days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit the Grantee to make an informed judgment as to its consistency with the purposes of this Conservation Restriction. Where Grantee's approval is required, Grantee shall grant or withhold approval in writing within thirty (30) days of receipt of Grantor's request. Said approval shall not be unreasonably withheld or delayed, but shall only be granted upon a showing that the proposed activity shall not materially impair the purposes of this Conservation Restriction.

Failure of the Grantee to respond in writing within thirty (30) days shall be deemed to constitute approval by Grantee of the request as submitted, so long as the request sets forth the provisions of this section relating to deemed approval after within thirty (30) days in the notice, the requested activity is not prohibited herein, and the activity will not materially impair this Conservation Values or purpose of this Conservation Restriction.

IV. LEGAL REMEDIES OF THE GRANTEE:

A. Legal and Injunctive Relief. The rights hereby granted shall include the right to enforce this Conservation Restriction by appropriate legal and administrative proceedings and to obtain injunctive and other equitable relief against any violations, including, without limitation, relief requiring restoration of the Restricted Area to its condition before the time of the injury complained of (it being agreed that Grantee may have no adequate remedy at law), and shall be in addition to, and not in limitation of, any other rights and remedies available to Grantee. The rights hereby granted shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantee for the enforcement of this Conservation Restriction. Grantee agrees to cooperate for a reasonable period of time prior to restoring to legal means in resolving issues concerning violations provided Grantor ceases objectionable actions and Grantee determines that there is no ongoing diminution of the Conservation Values of the Conservation Restriction.

Grantor covenants and agrees to reimburse Grantee for all reasonable costs and expenses (including without limitation reasonable counsel fees) incurred in enforcing this Conservation Restriction or in taking reasonable measures to remedy or abate any violation thereof, provided that a violation of this Conservation Restriction is acknowledged by Grantor or determined by a court of competent jurisdiction to have occurred. In the event of a dispute over the boundaries of the Conservation Restriction, Grantor shall pay for a survey and to have the boundaries permanently marked if the boundaries have not already been permanently marked by Grantor.

B. Non-Waiver. Enforcement of the terms of this Conservation Restriction shall be at the discretion of Grantee. Any election by Grantee as to the manner and timing of its right to enforce this Conservation Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

C. Grantee's Disclaimer of Liability. By acceptance of this conservation restriction, the Grantee does not undertake any liability or obligation relating to the condition

of the Restricted Area pertaining to compliance with and including, but not limited to, hazardous materials, zoning, environmental laws and regulations, or acts not caused by the Grantee or its agents.

D. Acts Beyond Grantor's Control. Nothing contained in this Conservation Restriction shall be construed to entitle the Grantee to bring any actions against the Grantor for any injury to or change in the Restriction Area resulting from casus beyond the Grantor's control, including but not limited to fire, flood, storm and earth movement, or from any prudent action taken by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Restricted Area resulting from such causes. In the event of any such occurrence, the Grantor and Grantee will cooperate in the restoration of the Restricted Area, if desirable and feasible.

V. ACCESS.

The Grantor hereby grants to the Grantee, or its duly authorized agents or representatives, the right to enter the Restricted Area upon reasonable notice and at reasonable times, for the purpose of inspecting the Restricted Area to determine compliance with or to enforce this Conservation Restriction. The Grantor also grants to the Grantee, after notice of a violation and failure of the Grantor to cure said violation, the right to enter the Restricted Area for the purpose of taking any and all actions with respect to the Restricted Area as may be necessary or appropriate to remedy or abate any violation hereof, including but not limited to the right to perform a survey of boundary lines.

This Conservation Restriction does not grant to the general public, or to any other person any right to enter the Restricted Area other than the area contained within the Access Easement.

VI. EXTINGUISHMENT

A. If circumstances arise in the future such as render the purpose of this Conservation Restriction impossible to accomplish, this restriction can only be terminated or extinguished,

whether in whole or in part, by a court of competent jurisdiction under applicable law after review and approval by the Massachusetts Secretary of Energy and Environmental Affairs.

VII. ASSIGNABILITY

A. **Running of the Burden.** The burdens of this Conservation Restriction shall run with Lot 4, including the Restricted Area, in perpetuity, and shall be enforceable against the Grantor and the successors and assigns of the Grantor holding any interest in the Restricted Area.

B. **Execution of Instruments.** The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction; the Grantor, on behalf of herself and her successors and assigns, appoint the Grantee their attorney-in-fact to execute, acknowledge and deliver any such instruments on her behalf. Without limiting the foregoing, the Grantor and her successors and assigns agree themselves to execute any such instruments upon request.

C. **Running of the Benefit.** The benefits of this Conservation Restriction shall run to the Grantee, shall be in gross and shall not be assignable by the Grantee, except in the following instances:

As a condition of any assignment, the Grantee shall require that the purpose of this Conservation Restriction continues to be carried out; that the Assignee is not an owner of the fee in the Property, and the Assignee, at the time of the assignment, qualifies under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder, and is a donee eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the General Laws of Massachusetts. Any assignment will comply with article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

VIII. SUBSEQUENT TRANSFERS:

Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Restricted Area, including a leasehold interest and to notify the Grantee within twenty (20) days of such transfer. Failure to do any of the above shall not impair the validity or enforceability of this Conservation Restriction.

The Grantor shall not be liable for violations occurring after his, her, or its ownership, or for any transfer, if in violation. Liability for any acts or omissions occurring prior to any transfer and liability for any transfer if in violation of this Conservation Restriction shall survive the transfer. Any new owner shall cooperate in the restoration of the Conservation Areas or removal of violations caused by prior owner(s) and may be held responsible only for any additional violations.

IX. ESTOPPEL CERTIFICATES

Upon request by Grantor, Grantee shall, within sixty (60) days of receiving a written request, execute and deliver to Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance with any obligation of Grantor contained in this Conservation Restriction (provided that Grantor is in compliance herewith) and which otherwise evidences the status of this Conservation Restriction as may be required by Grantor.

X. NON MERGER

The parties intend that any future acquisition of any portion of Lot 4 shall not result in a merger of the Conservation Restriction into the fee. The Grantor agrees that it will not grant, and the Grantee agrees that it will not take title, to any part of Lot 4, including the Restricted Area, without having first assigned this Conservation Restriction to a non-fee owner that is qualified under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder and is eligible to receive this Conservation Restriction under Section 32

of Chapter 184 of the General Laws of Massachusetts in order to ensure that merger does not occur and that this Conservation Restriction continues to be enforceable by a non-fee owner.

XI. AMENDMENT

If circumstances arise under which an amendment to or modification of this Conservation Restriction would be appropriate, Grantor and Grantee may jointly amend this Conservation Restriction; provided that no amendment shall be allowed that will affect the qualification of this Conservation Restriction or the status of Grantee under any applicable laws, including Section 170(h) of the Internal Revenue Code of 1986, as amended, or Sections 31-33 of Chapter 184 of the General laws of Massachusetts. Any amendments to this conservation restriction shall occur only in exceptional circumstances. The Grantee will consider amendments only to correct an error or oversight, to clarify an ambiguity, or where there is a net gain in conservation value. All expenses of all parties in considering and/or implementing an amendment shall be borne by the persons or entity seeking the amendment. Any amendment shall be consistent with the purposes of this Conservation Restriction, shall not affect its perpetual duration, shall be approved by the Secretary of Energy and Environmental Affairs and if applicable, shall comply with the provisions of Art. 97 of the Amendments to the Massachusetts Constitution, and any gifts, grants or funding requirements. Any amendment shall be recorded in the Essex South District Registry of Deeds.

XII. EFFECTIVE DATE:

This Conservation Restriction shall be effective when Grantor and Grantee have executed it, the administrative approvals required by Section 32 of Chapter 184 of the General Laws have been obtained, and it has been recorded with the Essex County Registry of Deeds.

XII. NOTICES

Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage pre-paid, addressed as follows:

To Grantor: Type in address here.
2 Ross Lane, Middleton, MA 01949
greetem@aol.com

To Grantee: Type address here.
195 North Main Street, Middleton, MA 01949
concomagent@townofmiddleton.org

or to such other address as any of the above parties shall designate from time to time by written notice to the other or, if notice is returned to sender, to an address that is reasonably ascertainable by the parties.

XIV. GENERAL PROVISIONS

A. Controlling Law. The interpretation and performance of this Conservation Restriction shall be governed by the laws of the Commonwealth of Massachusetts.

B. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Conservation Restriction shall be liberally construed in favor of the grant to effect the purpose of this Conservation Restriction and the policy and purposes of Massachusetts General Laws Chapter 184, Sections 31-33. If any provision in this instrument is found to be ambiguous, any interpretation consistent with the purpose of this Conservation Restriction that would render the provision valid shall be favored over any interpretation that would render it invalid.

C. Severability. If any provision of this Conservation Restriction or the application thereof to any person or circumstance is found to be invalid, the remainder of the provision of this Conservation Restriction shall not be affected thereby.

D. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to this Conservation Restriction and supersedes all prior discussions, negotiations, understandings or agreements relating to the Conservation Restriction, all of which are merged herein.

XV. MISCELLANEOUS

A. Pre-existing Public Rights. Approval of this Conservation Restriction pursuant to M.G.L. Chapter 184, Section 32 by any municipal officials and by the Secretary of Environmental Affairs is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Restricted Area, and any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.

B. Release of Homestead. The Grantor hereby releases, agrees to waive, subordinate, and release any and all Massachusetts General Law Chapter 188 Homestead rights it may have in favor of this Conservation Restriction with respect to any portion of Lot 4 affected by this Conservation Restriction, and hereby agrees to execute, deliver and/or record any and all instruments necessary to effectuate such waiver, subordination and release. In all other respects, the Grantor reserves and retains any and all Homestead rights, subject to this Conservation Restriction, pursuant to M.G.L. c. 188 10 (e).

C. Subordination of Mortgage. The Grantor shall record at the appropriate Essex South District Registry of Deeds simultaneously with this Conservation Restriction all documents necessary to subordinate any mortgage, promissory note, loan, equity credit line, refinance assignment of mortgage, lease, financing statement or any other agreement which gives rise to a surety interest affecting the Property.

D. Attached hereto and incorporated herein by reference are the following:

Signature pages:

- Grantor
- Grantee Acceptance
- Approval by Board of Selectmen
- Approval of the Secretary of Energy and Environmental Affairs.

Exhibits:

- Exhibit A: CR Plan
- Exhibit B: Modification of Planning Board Definitive Approval
- Exhibit C: Trustee Certificate

IN WITNESS WHEREOF, the Grantor has caused these presents to be executed as an instrument under seal this day of 2016.

GRANTOR,

PHILIP COLOSI, Trustee of the
PC Development Realty Trust

JOANNE COLOSI, Trustee of the
PC Development Realty Trust

COMMONWEALTH OF MASSACHUSETTS
Essex, ss.

On this of 2016 before me, the undersigned notary public, personally appeared Philip and Joanne Colosi, who proved to me through satisfactory evidence of identification, a driver's license, to be the persons whose names are signed on the foregoing instrument and acknowledged to me that they signed it voluntarily as Trustees of the PC Development Realty Trust for its stated purpose.

Notary Public Jill E. Mann
My commission expires: January 25,

2019

ACCEPTANCE OF GRANT CONSERVATION COMMISSION

We, the undersigned, being a majority of the Conservation Commission of the Town of Middleton, Essex County, Massachusetts, hereby certify that at a meeting duly held on _____, 2016, the Conservation Commission voted to accept the foregoing Conservation Restriction from Philip Colosi and Joanne Colosi, Trustees of PC Development Realty Trust pursuant to Massachusetts General Laws, Chapter 40, §8C and Chapter 184, §32, and agree to be bound by its terms.

MIDDLETON CONSERVATION COMMISSION

Thomas Skinner, Chairman

Ian McKenzie

Michael G. Sliney

Laurie York

Antonio Pesce

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

On this _____ day of _____, 2016, before me, the undersigned Notary Public, personally appeared Laurie York, Ian McKenzie, Michael G. Sliney, Tom Skinner, and Antonio Pesce, proved to me through satisfactory evidence of identification, which were their driver's licenses, to be the person(s) whose name(s) are signed on the preceding or attached documents, and acknowledged to me that he or she signed it voluntarily for its stated purpose as members of the Middleton Conservation Commission.

Notary Public
My Commission Expires:

APPROVAL BY TOWN OF MIDDLETON BOARD OF SELECTMEN

We, the undersigned, being a majority of the Board of Selectmen of the Town of Middleton, Essex County, Massachusetts, hereby certify that the foregoing Conservation Restriction from Philip Colosi and Joanne Colosi, Trustees of PC Development Realty Trust to the Town of Middleton Conservation Commission is approved in the public interest pursuant to G. L. Chapter 184, Section 32, at a meeting duly held on _____, 2016.

MIDDLETON BOARD OF SELECTMEN

Kosta E. Prentakis, Chairman

Richard Kassiotis

Todd Moreschi

Timothy P. Houten

Brian M. Cresta

COMMONWEALTH OF MASSACHUSETTS

Essex, ss

On this _____ day of _____, 2013, before me, the undersigned Notary Public, personally appeared Brian M. Cresta, Timothy P. Houten, Todd Moreschi, Kosta E. Prentakis and Richard Kassiotis, proved to me through satisfactory evidence of identification, which were their driver's licenses, to be the person(s) whose name(s) are signed on the preceding or attached documents, and acknowledged to me that he or she signed it voluntarily for its stated purpose as members of the Board of Selectmen of the Town of Middleton.

Notary Public
My commission expires:

APPROVAL BY THE SECRETARY OF ENVIRONMENTAL AFFAIRS COMMONWEALTH OF
MASSACHUSETTS

The undersigned, Secretary of the Executive Office of Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction Philip Colosi and Joanne Colosi, Trustees of PC Development Realty Trust to the Town of Middleton has been approved in the public interest pursuant to M.G.L. c. 184, § 32.

Date: _____ 2016

Secretary of Energy and Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK ss.

On this _____ day of _____, 2016, before me, the undersigned notary public, personally appeared MATTHEW A. BEATON, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document and acknowledged to me that the undersigned signed it voluntarily for the Commonwealth of Massachusetts as its Secretary of Environmental Affairs.

Notary Public
My Commission Expires:

EXHIBIT A – CR PLAN

PLAN OF LAND IN MIDDLETON, MA

SCALE: 1" = 40'  DATE: OCTOBER 13, 2016
SHOWING 100' WIDE CONSERVATION RESTRICTION
AND 25' WIDE ACCESS EASEMENT



I CERTIFY THAT THE PROPERTY LINES SHOWN ON THIS PLAN ARE THE LINES DIVIDING EXISTING OWNERSHIPS, AND THE LINES OF STREETS OR WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED, AND THAT NO NEW LINES FOR DIVISION OF EXISTING OWNERSHIP OR FOR NEW WAYS ARE SHOWN.

DATE: 10/14/2016



LOT 4
(AS SHOWN ON
PLAN BOOK 442
PLAN 95)

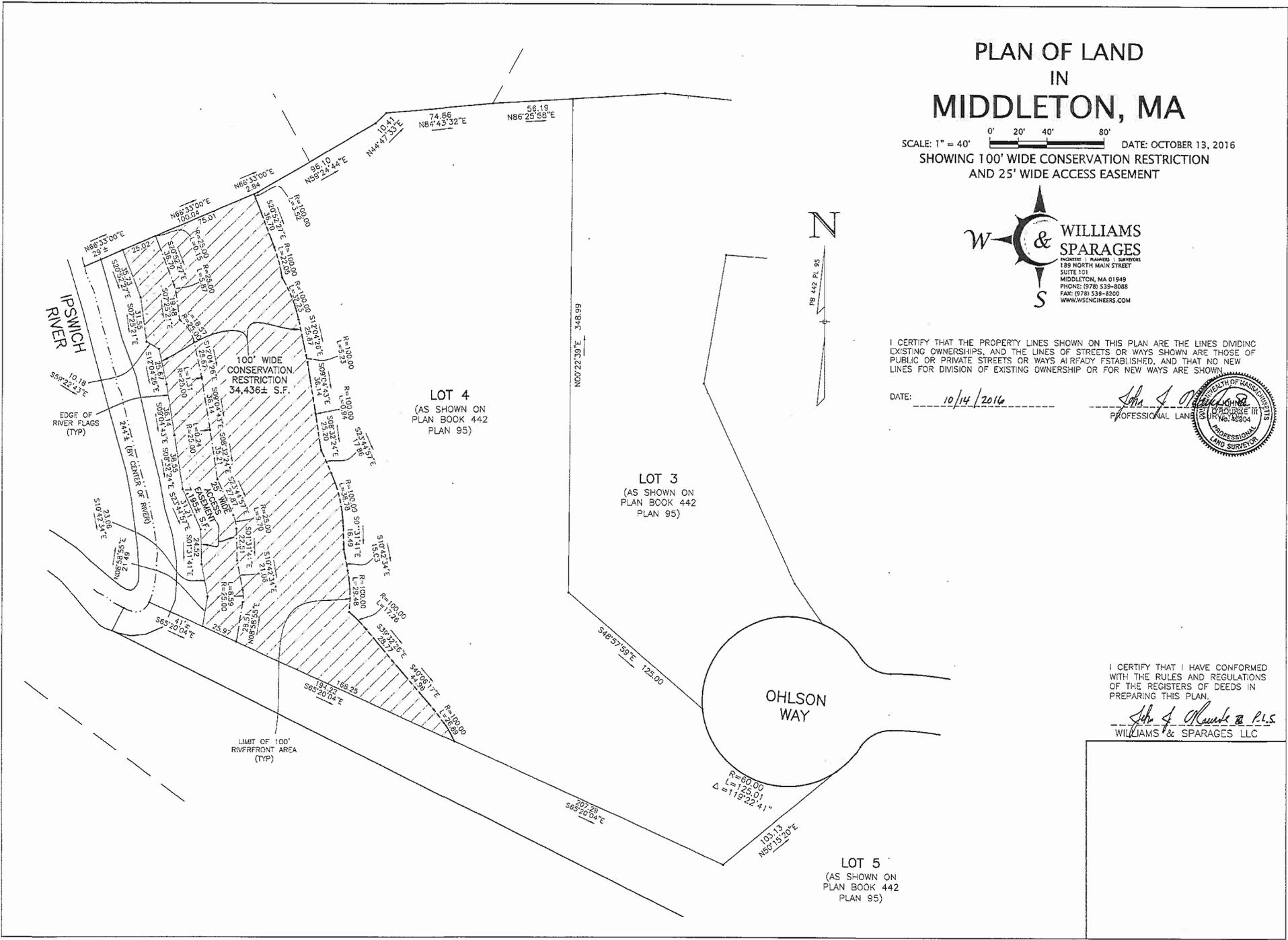
LOT 3
(AS SHOWN ON
PLAN BOOK 442
PLAN 95)

OHLSON WAY

LOT 5
(AS SHOWN ON
PLAN BOOK 442
PLAN 95)

I CERTIFY THAT I HAVE CONFORMED WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS IN PREPARING THIS PLAN.

John J. O'Rourke P.L.S.
WILLIAMS & SPARGES LLC



Michelle Creasi
81 Forest St
Middleton, MA 01949

October 28, 2016

Kevin Noyes
Chairman
Middleton Recreation

Dear Kevin Noyes:

This letter is to express my interest in the Middleton Recreation Committee. I was made aware there was an opening as an alternate member to the committee.

After speaking with you and several other members of the committee, I'm very interested in becoming a part of this fun group.

I have experience in marketing and event planning as well as strong creative, technical and administrative skills. I have had many different types of careers over the years as well as volunteer positions that I feel would help the committee.

Please feel free to contact me with any other questions you may have. I look forward to hearing from you!

Sincerely,

A handwritten signature in cursive script that reads "Michelle Creasi". The signature is written in black ink and is positioned above the printed contact information.

Michelle Creasi
(978) 210-6012
Michelle.Creasi@gmail.com



Town of Middleton
Memorial Hall
48 South Main Street
Middleton, Massachusetts
01949-2253
978-774-3589
www.townofmiddleton.org

**TOWN OF MIDDLETON
 TALENT BANK APPLICATION**

The Board of Selectmen maintains a Talent Bank of names of citizens of Middleton willing to serve on boards, commissions and committees. Names in this file are available for use by all Town Departments.

Names: Michelle Creasi Telephone: 978-210-6012

Address: 81 Forest St Middleton, MA Bus. Telephone: 978-777-3617

Occupation: Administrative Assistant to the Town Administrator of Middleton

Background Experience: I'm currently on the committee for Its My Heart New England, Keep the Beat Annual Walk, and assisted with the Middleton Pumpkin Festival Hay Ride, I also have experience in web design and managing social media pages. I have experience in child care as well as coaching. I think this will be an asset in managing large groups and coordinating the events to make sure everyone has fun and it runs as smoothly as possible. I used to assist in teaching Swing, Latin and Ballroom and would help people feel comfortable to practice and get out and dance.

I am interested in serving on Town Boards and Committees involved in the following areas:
 (Please check all that apply. The Board encourages you to attach a recent resume if available.)

- | | |
|--|---|
| <input type="checkbox"/> Board of Health | <input checked="" type="checkbox"/> Recreation Commission |
| <input type="checkbox"/> Council on Aging | <input type="checkbox"/> Historical Commission |
| <input type="checkbox"/> Finance Committee | <input type="checkbox"/> Planning Board |
| <input type="checkbox"/> Board of Appeals | <input type="checkbox"/> Scholarship Committee |
| <input type="checkbox"/> Master Plan Committee | <input type="checkbox"/> Library Services |
| <input type="checkbox"/> Conservation Commission | <input type="checkbox"/> Industrial Commercial Development Review Committee |
| <input type="checkbox"/> Cultural Council | |

Amount of Time Available: _____

Are you available year round for committee meetings? Yes No

If not, when are you available?
 Winter Spring Summer Autumn

Are there any Boards or Committees in which you are particularly interested?
Recreation Commission

Email Address: Michelle.Creasi@gmail.com

Michelle Creasi _____ 9/8/16 _____
 Signature Date

Please submit all responses to the Town Administrator's Office via the mailing address above or via email at: adminsecretary@townofmiddleton.org

Richard Gilman
110 Flint Farm Road
Middleton, MA 01949

October 1, 2016

Middleton Town Clerk
Town Hall
48 South Main Street
Middleton, MA 01949

To Whom It May Concern,

I am interested in serving on the Middleton Cultural Council. Please let me know what I need to complete to be consider for the position. I can be reached at rmgilman@comcast.net or 978-500-2672.

Thank You,

A handwritten signature in black ink, appearing to read 'Richard Gilman', written in a cursive style.

Richard Gilman



Town of Middleton
Memorial Hall
48 South Main Street
Middleton, Massachusetts
01949-2253
978-774-3589
www.townofmiddleton.org

**TOWN OF MIDDLETON
TALENT BANK APPLICATION**

The Board of Selectmen maintains a Talent Bank of names of citizens of Middleton willing to serve on boards, commissions and committees. Names in this file are available for use by all Town Departments.

Names: Richard Gilman Telephone: 978-500-267

Address: 110 Flint Farm Road, Middleton, MA

Occupation: Certified Financial Planner

Background Experience: Certified Financial Planner; Assistant Professor and Adjunct Faculty; owned several small companies

I am interested in serving on Town Boards and Committees involved in the following areas:
(Please check all that apply. The Board encourages you to attach a recent resume if available.)

- | | |
|--|---|
| <input type="checkbox"/> Board of Health | <input type="checkbox"/> Recreation Commission |
| <input type="checkbox"/> Council on Aging | <input type="checkbox"/> Historical Commission |
| <input type="checkbox"/> Finance Committee | <input type="checkbox"/> Planning Board |
| <input type="checkbox"/> Board of Appeals | <input checked="" type="checkbox"/> Scholarship Committee |
| <input type="checkbox"/> Master Plan Committee | <input type="checkbox"/> Library Services |
| <input type="checkbox"/> Conservation Commission | <input type="checkbox"/> Industrial Commercial Development Review Committee |
| <input checked="" type="checkbox"/> Cultural Council | |

Amount of Time Available: Few hours a month

Are you available year round for committee meetings? Yes No
If not, when are you available?

Winter Spring Summer Autumn

Are there any Boards or Committees in which you are particularly interested?

Email Address: rngilman@comcast.net

Signature

1/7/2010
Date

Please submit all responses to the Town Administrator's Office via the mailing address above or via email at adminsecretary@townofmiddleton.org

October 28, 2016

Dear Ryan Ferrara:

I have been approached by Susan Gannon of the Council on Aging about an open position on the Senior and Disabled Tax Relief Committee. She and I discussed the position and I am interested in applying to be on the committee.

I feel that I have qualification for this committee as I am well known in town having lived here for over 40 years and have served on past Committees including Finance Committee, Memorial Day Committee, Computer Committee, Cable TV Review Committee to name a few. Currently I work with Veterans Agent Ted Butler, helping to keep his records up to date for the veterans in town.

This would be a good opportunity to further serve the Community and help the Veterans, Disabled and Elderly in Middleton. I look forward to hearing from you and if you have any questions please do not hesitate to contact me.

Sincerely,

Ron Draper
6 Acorn St.

Home phone 978 777 1291

rondraper@verizon.net

3. On petition of the Board of Selectmen to see if the Town will vote to accept the provisions of Massachusetts General Law chapter 40, section 8J creating a Commission on Disability; or take any other action relative thereto

4. On petition of the Board of Selectmen, Town Clerk, and Town Moderator to see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation in the form set out below amending the Town Charter to change the term of the Moderator from one (1) year to three (3) years and to change the day of the annual Town election from Monday to Tuesday.

SECTION 1. The Middleton Home Rule Charter, which was adopted at the Annual Town Election held on May 20, 1974, is hereby amended by striking out the words "one year" and inserting in its place the words "three year" in Section 2-5-1.

SECTION 2. Section 3-1-1 of said charter is amended by striking out the word "Monday" and inserting in its place the word "Tuesday".

SECTION 3. This act shall take effect upon passage.

Or take any other action relative thereto.

Purpose: This article authorizes the Board of Selectmen to petition the Massachusetts Legislature to amend two provisions of the Town Charter. Section 1 would change the term of the Moderator from one year to three years consistent with other offices. Section 2 would change the annual Town election from Monday to Tuesday. The amended provisions would read as follows:

Section 2-5-1 A Moderator shall be elected for a ~~one year~~ **three year** term at the regular election of Town officials. He shall not hold any other office or accept Town employment during the term for which he is elected.

Section 3-1-1 The regular election for all Town offices shall be by official ballot held on the ~~Monday~~ **Tuesday** following the second Tuesday in May of each year.

5. On petition of the Board of Selectmen to see if the Town will vote to amend Chapter 56 of the Middleton Code, Section 56-3, Hours for Special Town Meetings, by changing the start time of Special Town Meetings from no earlier than 7:30PM to no earlier than 7:00PM or such other time called by the Board of Selectmen. Section 56-3 will read: "No Special Town Meeting shall be called to assemble earlier than ~~7:30~~ 7:00 p.m. or such other time as the Board of Selectmen may call; and no Special Town Meeting shall be called to assemble later than 9:00 p.m." ; or take any other action relative thereto.

Chapter 218

AN ACT MODERNIZING MUNICIPAL FINANCE AND GOVERNMENT

Summary of Chapter 218, Sections 57 and 58:

Approval Bills Warrants (54, 55) – Allows multi-member boards, committee, commissions heading departments, including boards of selectmen, to designate one of its members, to review and approve bills or payment warrants, with a report provided at the next meeting. Currently, a board or committee heading a department may delegate authority to approve payrolls to a member and a regional school committee may designate a subcommittee to approve bills and payrolls with a report to the next meeting of full committee. Absent a charter or special act, boards and committees must approve bills or payment warrants by majority vote at a meeting subject to the Open Meeting Law.

Sections 57 and 58:

SECTION 57. Section 52 of said chapter 41, as appearing in the 2014 Official Edition, is hereby amended by inserting after the fourth sentence the following 2 sentences: The board of selectmen may designate any 1 of its members for the purpose of approving bills or payrolls under this section; provided, however, that the member shall make available to the board, at the first meeting following such action, a record of such actions. This provision shall not limit the responsibility of each member of the board of selectmen in the event of a noncompliance with this section.

SECTION 58. Section 56 of said chapter 41, as so appearing , is hereby amended by inserting after the first sentence the following 2 sentences:- For purposes of this section, the board of selectmen and any other board, committee or head of department consisting of more than 1 member authorized to expend money, may designate any 1 of its members to approve all bills, drafts, orders and payrolls; provided, however, that the member shall make available to the board, committee or other department head, at the first meeting following such action, a record of such actions. This provision shall not limit the responsibility of each member of the board in the event of a noncompliance with this section.

PRESIDENTIAL ELECTION NOVEMBER 8, 2016				
UNOFFICIAL RESULTS				
Precinct #	1	2		Total
Candidate				
Electors of President and Vice President				
Clinton and Kaine (D)	1058	1083		2141
Johnson and Weld (L)	97	95		192
Stein and Baraka (J)	19	14		33
Trump and Pence (R)	1315	1347		2662
Blanks	49	27		76
Write-Ins	0	0		0
All Others	37	51		88
Totals	2575	2617		5192
Representative in Congress				
Seth Moulton (D)	1746	1763		3509
Blanks	801	809		1610
Write-Ins	0	0		0
All Others	28	45		73
Totals	2575	2617		5192
Councillor				
Eileen R. Duff (D)	953	984		1937
Richard A. Baker (R)	1305	1333		2638
Blanks	315	299		614
Write-Ins	0	0		0
All Others	2	1		3
Totals	2575	2617		5192
Senator in General Court				
Bruce E. Tarr (R)	1845	1867		3712
Blanks	721	732		1453
Write-Ins	0	0		0
All Others	9	18		27
Totals	2575	2617		5192

Precinct #	1	2	Total
Representative In General Court Twentieth Middlesex District			
Bradley H. Jones, JR (R)	1891		1891
Blanks	675		675
Write-Ins	0		0
All Others	9		9
Totals	2575		2575
Representative In General Court Thirteenth Essex District			
Theodore C Speliotis (D)		1700	1700
Blanks		884	884
Write-Ins		0	0
All Others		33	33
Totals		2617	2617
Sheriff			
Kevin F. Coppinger (D)	893	953	1846
Anne M. Manning-Martin (R)	1116	1143	2259
Mark E. Archer (O)	166	149	315
Kevin J. Leach (O)	113	103	216
Blanks	286	268	554
Write-Ins	0	0	0
All Others	1	1	2
Totals	2575	2617	5192
Question 1 Expanded Slot-Machine Gaming.			
Yes	1075	1118	
No	1391	1364	
Blanks	109	135	
Totals	2575	2617	
Question 2 Charter School Expantion			
Yes	963	1007	
No	1552	1540	
Blanks	60	70	

Precinct #	1	2		Total
Totals	2575	2617		
Question 3				
Conditions for Farm Animals				
Yes	1929	1972		
No	570	559		
Blanks	76	86		
Totals	2575	2617		
Question 4				
Legalization, Regulation, and Taxation of Marijuana				
Yes	1173	1186		
No	1355	1373		
Blanks	47	58		
Totals	2575	2617		

Precinct #	1	2		Total
Ballots Cast	2575	2617		5192
Total Registered	3220	3260		6480
Percentage	80%	80%		80%
Reg. Democrats	652	620		1272
Reg. Republicans	522	508		1030
Reg. Green-Rainbow	1	1		2
Reg. United Independent	8	16		24
Unenrolled	2029	2100		4129
				6457
A True Copy Attest				
Ilene B. Twiss, Town Clerk				

New pot law a challenge for cities and towns

The people have spoken, and the recreational use of marijuana will soon be legal in Massachusetts.

Last Tuesday's statewide vote wasn't particularly close. Ballot Question 4 passed with more than 53 percent of the vote, even in the face of opposition from Gov. Charlie Baker, a Republican, and Democrats ranging from Attorney General Maura Healey and House Speaker Robert DeLeo to Essex County District Attorney Jonathan Blodgett. The editorial board of this paper also opposed the measure.

Now it's up to state and local officials to put regulations in place that honor the spirit of that law without engendering the haze-filled free-for-all feared by the law's opponents. It will be a difficult task, given that the law is written in scattershot fashion at best and that many municipal leaders are aghast at the idea of pot shops opening in their town.

On Beacon Hill, officials from state Treasurer Deborah Goldberg's office will spend the next several months putting the framework in place to license shops and enforce the new law.

However, the bulk of responsibility for how well those shops fit into local neighborhoods falls squarely on the shoulders of city councils and boards of selectmen. Those leaders need to find a way to honor the will of the voters, even if their communities voted against legalization.

Each community faces an individual challenge, given the makeup and mood of their constituents. Voters in Gloucester, Newburyport, Salem, Beverly, Amesbury and Swampscott, for example, voted to legalize marijuana. A majority of voters in Danvers, Andover, North Andover, Peabody and Lawrence, meanwhile, voted against it. The new law, however, encompasses all 351 of the state's cities and towns.

Already, leaders in some local communities are trying to figure out how to block pot sales.

Amesbury Mayor Ken Gray, for example, fears his city will become a destination for "marijuana tourists."

"Because we're a border community, people will be coming down from New Hampshire to get it, so that's a real concern," he told Statehouse reporter Christian Wade last week.

In Methuen, where the majority of voters opposed the ballot question, Mayor Stephen Zanni wants to work with the City Council to restrict the sale and cultivation of marijuana.

He does not see a need for pot shops in his city.

"There should be public hearings to give the community an opportunity to weigh in on it," he told Wade. "The public needs to have a say."

He's right: Local cities and towns should have a role in deciding how the new law will be implemented in their communities. Fortunately, the new law will give them at least some power.

"Local officials have plenty of control over the facilities," said Jim Borghesani, spokesman for the Committee to Regulate Marijuana Like Alcohol, which pushed for the passage of the ballot question. "They can deter-

-Leonard Cohen

Trump election illuminating a growing dynamic

Brian T. Watson



I am deeply disappointed that Donald Trump has been elected president.

If one is looking for reasons why he prevailed over Hillary Clinton, there are many, many factors that, in combination, explain his victory.

And with a total of roughly 134 million voters participating across the country, there are a multitude of reasons that people cast their ballots as they did. Not one story can capture their thinking.

What haunts me the most though are the feelings, knowledge, reactions and hopes of the people who voted for Trump and who have been overlooked or left behind by the developments of the past 35 years.

Because, of all the many narratives and truths and interpretations out there, of one I am certain. The place where we are today — the state of the nation and the citizenry — is the product of a long-building set of forces and realities.

That may seem like an obvious statement, but it doesn't get said enough, and certainly not by Mr. Trump.

If we don't understand what forces and realities have shaped our immediate world, we risk living in an accidental world. At 24/7 speed, without sufficient control, we can no longer discuss, analyze, design and sustain a coherent trajectory.



In this Nov. 9 photo, President-elect Donald Trump stands with Republican National Committee Chair Rudy Giuliani during an election night rally in New York Sunday named Priebus as his White House chief of

chunk of the electorate. And the biggest consequence is the election of Donald Trump, who is the human Molotov cocktail thrown by citizens who are looking for leverage over the system.

I have sympathy for those citizens, but not for Trump. A would-be leader must advance our understanding of the economic, political and technological developments that are shaping or even dominating the trajectory of both our society and our daily lives. Trump did not do that.

I'm a big believer in the potential of citizens to learn. But like John Dewey, I believe that doesn't happen without responsible leadership. Furthermore, civic learning can be

being an immense distraction.

Was Trump's presidency just his con? Just meant to ultimate in public brand enhancement have been.

To oversimplify, years the power and Big Money industry have been reckless, greedy, patriotic. They have out for themselves all. I include Trump category. Now, we very real poisons corrupt voices on.

Now, all citizens losing. And it is a possibility that autocratic technology and the hegemony will continue keep ordinary citizens

work with the City Council to restrict the sale and cultivation of marijuana.

He does not see a need for pot shops in his city.

"There should be public hearings to give the community an opportunity to weigh in on it," he told Wade. "The public needs to have a say."

He's right: Local cities and towns should have a role in deciding how the new law will be implemented in their communities. Fortunately, the new law will give them at least some power.

"Local officials have plenty of control over the facilities," said Jim Borghesani, spokesman for the Committee to Regulate Marijuana Like Alcohol, which pushed for the passage of the ballot question. "They can determine the location, the hours and signage." Community leaders can also impose local taxes on pot sales.

There is little else those communities can do, at least at the outset, to keep pot shops out of town, or to limit their number.

The law goes into effect Dec. 15. It allows state residents 21 years and older to possess an ounce of marijuana, creates a 3.75 percent tax on pot sales and sets up a system of regulating retail outlets, growing facilities and testing. Shops could be licensed as soon as 2018.

That licensing will resemble the licensing of alcohol sales. The law sets the number of pot shops allowed in a community at 20 percent of its liquor and beer and wine licenses. Salem, for example, has 80 liquor licenses, meaning it would have as many as 16 pot shops.

Geoff Beckwith of the Massachusetts Municipal Association notes that cities and towns wanting to reduce the number of pot shops allowed under the law must win voters' approval through a local ballot question.

We think local leaders should follow the lead of Baker, himself a former selectman. While safety concerns need to be addressed, Baker said, state and local officials should not be dragging their feet on the issue.

"Our view on this is that the people spoke and we're going to honor that," he said last week. "But we need to make sure that we implement this in a way that is consistent with a lot of the rhetoric and the dialogue that took place during the course of the campaign, which is that it will be done in a way that does protect public safety."

That may seem like an obvious statement, but it doesn't get said enough, and certainly not by Mr. Trump.

If we don't understand what forces and realities have shaped our immediate world, we risk living in an accidental world. At 24/7 speed, without sufficient control, we can no longer discuss, analyze, design and sustain a coherent trajectory.

And make no mistake about this: the vast majority of Americans — Republican and Democratic — want prosperity and good results for the country as a whole.

With any degree of consistency over the past 35 years, there hasn't been a good-faith effort by our political leaders to level with the American people about all sorts of realities. And although both Democratic and Republican officeholders share responsibility for the resulting lack of public knowledge, it is fair to say that Republican narratives have played a larger part in misleading the ordinary voter.

But regardless of who is most responsible, you can't dump on people for 35 years, while telling them that you're really helping them, and then not expect consequences when they find out that you were really looking out for interests other than theirs.

The consequences are the resentments and alienation existing in a significant

advance our understanding of the economic, political and technological developments that are shaping or even dominating the trajectory of both our society and our daily lives. Trump did not do that.

I'm a big believer in the potential of citizens to learn. But like John Dewey, I believe that doesn't happen without responsible leadership. Furthermore, civic learning can be obstructed by those with narrow agendas. Extremist talk radio, extremist internet platforms, and all of Big Money are in that category.

Since 1980, there has not been a shortage of knowledge or data but there have been shortages of honesty and leadership with which citizens could have become more savvy about all aspects of our society.

Of all the reasons citizens gave for voting for Trump, the one that pains me the most is the claim that "He tells it like it is." That just isn't true. Sure, he gave voice to the hurt laid on manufacturing workers. But that's it. He didn't tell them that technology and software are eating their jobs faster than they can be brought back to the United States.

Because Trump campaigned unconventionally, with nearly no discussion of problems and policies, we have little idea of how he will attempt to govern. We don't know if he recognizes his own role in helping to polarize the nation and in

have been responsible, patriotic. They out for them all. I include category. No very real poi corrupt voice

Now, all cit cratic and Re losing. And it possibility th technology a hegemony wi keep ordinary, fused, off-bal; and captivate

Human nat ready for the dynamics an the total, soc system. Dona cartoon char; ing, soulless role-playing, vanity, sensa and hyperbol is the web pe.

Citizens, jo saturated and a 24/7 digital. is erasing the news, enterta fiction, opinio thinking and: couldn't disce story of our ti Trump — a ce — is not the a

The natural politics and h are no match: Who really w tion? Technol internet.

■ I
Brian T. Wa
Salem News c
tact him at bti
gmail.com.

READER ACCESS

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Phone: 978-922-1234 Fax: 978-927-4524

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DAVID OLSON
EDITOR

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► Sports Editor Phil Stacey at 978-338-2650; pstacey@salemnews.com

► Features and Lifestyles Editor Muriel Hoffacker
Wikson at 978-338-2687; mhoffacker@salemnews.com

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Letters can be mailed (Letters to News, 32 Dunham 01915), email (do com) or by fax. Correspondence publication must be self-include a home phone number.

Letters should be 50 words or less. The editor should receive them by length.

Questions regarding the editor can be directed to Phil Stacey, editor, who can be reached by email at the a telephone at 978-



Massachusetts

INFORMATION FOR VOTERS

2016 Ballot Questions
STATE ELECTION

Tuesday, November 8, 2016

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Published by

William Francis Galvin
Secretary of the Commonwealth

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QUESTION 4: Law Proposed by Initiative Petition

Legalization, Regulation, and Taxation of Marijuana

Do you approve of a law summarized below, on which no vote was taken by the Senate or the House of Representatives on or before May 3, 2016?

SUMMARY ►

As required by law, summaries are written by the State Attorney General.

The proposed law would permit the possession, use, distribution, and cultivation of marijuana in limited amounts by persons age 21 and older and would remove criminal penalties for such activities. It would provide for the regulation of commerce in marijuana, marijuana accessories, and marijuana products and for the taxation of proceeds from sales of these items.

The proposed law would authorize persons at least 21 years old to possess up to one ounce of marijuana outside of their residences; possess up to ten ounces of marijuana inside their residences; grow up to six marijuana plants in their residences; give one ounce or less of marijuana to a person at least 21 years old without payment; possess, produce or transfer hemp; or make or transfer items related to marijuana use, storage, cultivation, or processing.

The measure would create a Cannabis Control Commission of three members appointed by the state Treasurer which would generally administer the law governing marijuana use and distribution, promulgate regulations, and be responsible for the licensing of marijuana commercial establishments. The proposed law would also create a Cannabis Advisory Board of fifteen members appointed by the Governor. The Cannabis Control Commission would adopt regulations governing licensing qualifications; security; record keeping; health and safety standards; packaging and labeling; testing; advertising and displays; required inspections; and such other matters as the Commission considers appropriate. The records of the Commission would be public records.

The proposed law would authorize cities and towns to adopt reasonable restrictions on the time, place, and manner of operating marijuana businesses and to limit the number of marijuana

establishments in their communities. A city or town could hold a local vote to determine whether to permit the selling of marijuana and marijuana products for consumption on the premises at commercial establishments.

The proceeds of retail sales of marijuana and marijuana products would be subject to the state sales tax and an additional excise tax of 3.75%. A city or town could impose a separate tax of up to 2%. Revenue received from the additional state excise tax or from license application fees and civil penalties for violations of this law would be deposited in a Marijuana Regulation Fund and would be used subject to appropriation for administration of the proposed law.

Marijuana-related activities authorized under this proposed law could not be a basis for adverse orders in child welfare cases absent clear and convincing evidence that such activities had created an unreasonable danger to the safety of a minor child.

The proposed law would not affect existing law regarding medical marijuana treatment centers or the operation of motor vehicles while under the influence. It would permit property owners to prohibit the use, sale, or production of marijuana on their premises (with an exception that landlords cannot prohibit consumption by tenants of marijuana by means other than by smoking); and would permit employers to prohibit the consumption of marijuana by employees in the workplace. State and local governments could continue to restrict uses in public buildings or at or near schools. Supplying marijuana to persons under age 21 would be unlawful.

The proposed law would take effect on December 15, 2016.

WHAT YOUR VOTE WILL DO ►

As required by law, the statements describing the effect of a "yes" or "no" vote are written jointly by the State Attorney General and the Secretary of the Commonwealth.

A YES VOTE would allow persons 21 and older to possess, use, and transfer marijuana and products containing marijuana concentrate (including edible products) and to cultivate marijuana, all in limited amounts, and would provide for the regulation and taxation of commercial sale of marijuana and marijuana products.

A NO VOTE would make no change in current laws relative to marijuana.

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STATEMENT OF FISCAL CONSEQUENCES

As required by law, statements of fiscal consequences are written by the Executive Office of Administration and Finance.

The fiscal consequences of this proposed measure may affect both projected state and municipal revenues and expenditures, but these consequences are difficult to project due to the lack of reliable data. A March 2016 report from the Special Senate Committee on Marijuana

concluded as follows: "Tax revenues and fees that would be generated from legal sales may fall short of even covering the full public and social costs (including regulation, enforcement, public health and safety, and substance abuse treatment)."

ARGUMENTS

As provided by law, the 150-word arguments are written by proponents and opponents of each question, and reflect their opinions. The Commonwealth of Massachusetts does not endorse these arguments, and does not certify the truth or accuracy of any statement made in these arguments. The names of the individuals and organizations who wrote each argument, and any written comments by others about each argument, are on file in the Office of the Secretary of the Commonwealth.

IN FAVOR: Law enforcement veterans support this initiative because it replaces the current unregulated marijuana market, controlled by drug dealers, with a tightly regulated system controlled by state and local authorities. Passing this measure will allow local law enforcement to shift resources and focus to serious and violent crimes.

The initiative includes strict regulations for business licensing, product testing, labeling and packaging, providing many more consumer safeguards than exist now. Marketing to minors is strictly prohibited, as is public use and driving under the influence.

Local cities and towns can limit or ban marijuana businesses, and will govern operating hours, locations, and signage.

Taxing marijuana will generate an estimated \$100 million in annual revenue for state and local governments.

Regulation and taxation is working in Colorado, Washington, Alaska and Oregon, generating millions of dollars for education, infrastructure and more. Massachusetts can improve on the regulatory standards already in place and working elsewhere.

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AGAINST: Vote "NO" on creating a billion-dollar commercial marijuana industry that, just like Big Tobacco, would make millions on the backs of our communities, compromise health and safety, and harm kids.

Vote "NO" because this measure:

- Allows the sale and marketing of highly-potent marijuana edibles like candy, cookies, gummy bears, and soda that are attractive to young people and can lead to accidental overdose by kids and pets.
- Allows people to "home grow" thousands of dollars' worth of marijuana, even if neighbors object.
- Severely restricts the ability of cities and towns to control the number of marijuana retailers entering communities and allows pot shops to locate near preschools and playgrounds.
- Ignores the deadly opioid epidemic and the impact legalized pot will have on overall drug use.

This legalization scheme would force Massachusetts into the commercial marijuana industry when communities across Colorado, the first state to legalize, are trying to get out.

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FULL TEXT OF QUESTION

Be it enacted by the People, and by their authority, as follows:

THE REGULATION AND TAXATION OF MARIJUANA ACT

SECTION 1. The purpose of this Act is to control the production and distribution of marijuana under a system that licenses, regulates and taxes the businesses involved in a manner similar to alcohol and to make marijuana legal for adults 21 years of age or older. Its intent is to remove the production and distribution of marijuana from the illicit market and to prevent the sale of marijuana to persons under 21 years of age by providing for a regulated and taxed distribution system. To the fullest extent possible, its terms are to be interpreted in accordance with the purpose and intent set forth in this section.

SECTION 2. This act may be known as "The Regulation and Taxation of Marijuana Act."

SECTION 3. Chapter 10 of the General Laws is hereby amended by inserting after section 75 the following sections:

Section 76. Cannabis Control Commission; members; appointment; terms; chairman; secretary

(a) There shall be a commission known as the cannabis control commission to have general supervision and sole regulatory authority over the conduct of the business of marijuana establishments as defined in chapter 94G of the General Laws. The commission shall consist of 1 commissioner and 2 associate commissioners who shall be appointed by the treasurer. Not more than 2 members of the commission shall be of the same political party. The commissioner shall serve a term co-terminous with the treasurer. The associate commissioners shall serve a term of 4 years. Any vacancy occurring for any reason other than the expiration of a term shall be filled for the unexpired term in the same manner as the original appointment.

(b) The treasurer shall appoint commissioners based on their experience or expertise in public health, law enforcement, social justice, the regulation and business of consumer commodities and the production and distribution of marijuana and marijuana products.

(c) The commissioner shall serve as chair and shall preside over all official activities of the commission.

(d) The treasurer may remove any member for neglect of duty, misconduct or malfeasance in office, after providing the member with a written statement of the charges and an opportunity to be heard.

(e) Two members shall constitute a quorum for

conducting the business of the commission. A vacancy shall not impair the right of the remaining members to exercise the powers of the commission.

(f) The commission may expend for such investigators and clerical and other assistants as may be necessary for the performance of its duties. The commissioner may appoint a chief investigator and other investigators, who shall be exempt from chapter 31 of the General Laws, to enforce or cause to be enforced the penalties provided by law against a marijuana establishment that violates chapter 94G of the General Laws and shall make all necessary and appropriate investigations for that enforcement.

(g) All records of the commission shall be considered public records within the meaning of chapter 66 of the General Laws.

Section 77. Cannabis Advisory Board

(a) There shall be a cannabis advisory board to study and make recommendations on the regulation of marijuana and marijuana products. The board shall consist of 15 members appointed by the governor and shall consist of: 1 expert in marijuana cultivation, 1 expert in marijuana retailing, 1 expert in marijuana product manufacturing, 1 expert in marijuana testing, 1 board member or officer of a medical marijuana treatment center, 1 registered medical marijuana patient, 1 individual who represents marijuana retail consumers, 2 experts in public health, 2 experts in law enforcement, 2 experts in social welfare or social justice, and 2 attorneys with experience providing legal services to marijuana businesses, marijuana consumers or medical marijuana patients in the commonwealth. Members of the board shall serve terms of 2 years. Members of the board shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the discharge of their official duties. Members of the board shall not be state employees for purposes of chapter 268A of the General Laws by virtue of their service on the advisory board. The board shall meet at the discretion of the commission. A majority of the members of the board present and voting shall constitute a quorum.

(b) The cannabis advisory board shall:

(1) advise the commission on marijuana cultivation, processing, manufacture, transport, distribution, testing and sale;

(2) consider all matters submitted to it by the commission;

(3) on its own initiative, recommend to the commission guidelines, rules and regulations and any changes to guidelines, rules and regulations that the board

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FULL TEXT OF QUESTION (continued)

considers important or necessary; and

(4) advise on the preparation of regulations under chapters 64N and 94G.

(c) All records of the cannabis advisory board shall be public records under chapter 66 of the General Laws.

SECTION 4. The General Laws are hereby amended by inserting after chapter 64M the following chapter:

CHAPTER 64N.

MARIJUANA TAX.

Section 1. Definitions. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:

(a) "Commissioner", the commissioner of revenue.

(b) "Marijuana," "Marijuana establishment," "Marijuana product" and "Marijuana retailer", as defined in chapter 94G of the General Laws.

Section 2. State excise imposition; rate; payment. An excise tax is hereby imposed upon the sale of marijuana or marijuana products by a marijuana retailer to anyone other than a marijuana establishment at a rate of 3.75 per cent of the total sales price received by the marijuana retailer as a consideration for the sale of marijuana or marijuana products. The excise tax shall be levied in addition to state tax imposed upon the sale of property or services as provided in section 2 of chapter 64H of the General Laws and shall be paid by a marijuana retailer to the commissioner at the time provided for filing the return required by section 16 of chapter 62C of the General Laws.

Section 3. Local tax option. Any city or town may impose a local sales tax upon the sale or transfer of marijuana or marijuana products by a marijuana retailer operating within the city or town to anyone other than a marijuana establishment at a rate not greater than 2 per cent of the total sales price received by the marijuana retailer as a consideration for the sale of marijuana or marijuana products. A marijuana retailer shall pay a local sales tax imposed under this section to the commissioner at the same time and in the same manner as the sales tax due to the commonwealth.

All sums received by the commissioner under this section shall not be considered received on account of the commonwealth and shall at least quarterly be distributed, credited and paid by the state treasurer upon certification of the commissioner to each city or town that has adopted this section in proportion to the amount of such sums received from the sale or transfer of marijuana and marijuana products in the city or town.

Section 4. Exemptions. This chapter shall not apply to the sale of marijuana or marijuana products by a medical marijuana treatment center or a registered personal caregiver to a qualifying patient or personal caregiver pursuant to chapter 369 of the acts of 2012, nor to any unlawful sale subject to taxation pursuant to chapter 64K of the General Laws.

Section 5. Application of tax revenue. The commissioner shall deposit revenue collected pursuant to this chapter, other than revenue collected pursuant to section 2 of chapter 64H of the General Laws, in the Marijuana Regulation Fund established by chapter 94G of the General Laws and it shall be subject to appropriation.

SECTION 5. The General Laws are hereby amended by inserting after chapter 94F the following chapter:

CHAPTER 94G

REGULATION OF THE USE AND DISTRIBUTION OF MARIJUANA NOT MEDICALLY PRESCRIBED

Section 1. Definitions

As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:

(a) "Consumer", a person who is at least 21 years of age.

(b) "Controlling person", an officer, board member or other individual who has a financial or voting interest of 10 per cent or greater in a marijuana establishment.

(c) "Commission", the cannabis control commission established by section 76 of chapter 10 of the General Laws.

(d) "Experienced marijuana establishment operator", (i) a medical marijuana treatment center as defined in chapter 369 of the acts of 2012 with a registration in good standing, or (ii) a reorganized marijuana business established by a vote of at least 2/3 of the board of directors of an entity that submitted an application for a registration to operate a medical marijuana treatment center to the department of public health before October 1, 2015 and was issued a provisional registration to operate a medical marijuana treatment center by the department of public health before the effective date of this chapter.

(e) "Hemp", the plant of the genus *Cannabis* or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 per cent on a dry weight basis of any part of the plant of the genus *Cannabis*, or per volume or weight of marijuana product, or the combined per cent of delta-9-

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FULL TEXT OF QUESTION (continued)

tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus *Cannabis* regardless of moisture content.

(f) “Manufacture”, to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

(g) “Marijuana” or “Marihuana”, all parts of any plant of the genus *Cannabis*, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C of the General Laws; provided that “Marijuana” shall not include:

(1) The mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination;

(2) Hemp; or

(3) The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

(h) “Marijuana accessories”, equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body.

(i) “Marijuana cultivator”, an entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.

(j) “Marijuana establishment”, a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business.

(k) “Marijuana product manufacturer”, an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

(l) “Marijuana products”, products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients

that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

(m) “Marijuana testing facility”, an entity licensed to test marijuana and marijuana products, including certification for potency and the presence of contaminants.

(n) “Marijuana retailer”, an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

(o) “Process” or “processing”, to harvest, dry, cure, trim and separate parts of the marijuana plant by manual or mechanical means, except it shall not include manufacture as defined in subsection (f) of this section.

(p) “Unreasonably impracticable”, that the measures necessary to comply with the regulations, ordinances or by-laws adopted pursuant to this chapter subject licensees to unreasonable risk or require such a high investment of risk, money, time or any other resource or asset that a reasonably prudent businessperson would not operate a marijuana establishment.

Section 2. Limitations

(a) Operating under the influence. This chapter does not amend existing penalties for operating, navigating or being in actual physical control of any motor vehicle, train, aircraft, motorboat or other motorized form of transport or machinery while impaired by marijuana or a marijuana product or for consuming marijuana while operating, navigating or being in actual physical control of any motor vehicle, train, aircraft, motorboat or other motorized form of transport or machinery.

(b) Transfer to or possession by a person under 21 years of age. This chapter shall not be construed to permit the knowing transfer of marijuana, marijuana products or marijuana accessories, with or without remuneration, to a person under 21 years of age or to allow a person under 21 years of age to possess, use, purchase, obtain, cultivate, process, manufacture, deliver or sell or otherwise transfer marijuana or marijuana accessories.

(c) Manufacture of products. Unless done pursuant to a marijuana product manufacturer license issued by the commission, this chapter does not authorize a person to manufacture marijuana or hemp by means of any liquid or gas, other than alcohol, that has a flashpoint below 100 degrees Fahrenheit.

(d) Property. This chapter shall not be construed to:

(1) prevent a person from prohibiting or otherwise regulating the consumption, display, production,

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FULL TEXT OF QUESTION (continued)

processing, manufacture or sale of marijuana and marijuana accessories on or in property the person owns, occupies or manages, except that a lease agreement shall not prohibit a tenant from consuming marijuana by means other than smoking on or in property in which the tenant resides unless failing to do so would cause the landlord to violate a federal law or regulation;

(2) prevent the commonwealth, a subdivision thereof or local government agency from prohibiting or otherwise regulating the possession or consumption of marijuana or marijuana accessories within a building owned, leased or occupied by the commonwealth, a political subdivision of the commonwealth or an agency of the commonwealth or a political subdivision of the commonwealth; or

(3) authorize the possession or consumption of marijuana or marijuana accessories on the grounds of or within a public or private school where children attend classes in preschool programs, kindergarten programs or grades 1 to 12, inclusive, or on the grounds of or within any correctional facility.

(e) Employment. This chapter shall not require an employer to permit or accommodate conduct otherwise allowed by this chapter in the workplace and shall not affect the authority of employers to enact and enforce workplace policies restricting the consumption of marijuana by employees.

(f) Negligent conduct. This chapter shall not amend existing penalties for conduct involving the performance of any task while impaired by marijuana that would constitute negligence or professional malpractice and shall not prevent the imposition of any civil, criminal or other penalty for such conduct.

(g) Relation to medical use of marijuana. This chapter shall not be construed to affect the provisions of chapter 369 of the acts of 2012, relating to the medical use of marijuana as enacted by the people in the state election in 2012.

(h) Adulteration and misbranding. This chapter shall not exempt marijuana or marijuana products from sections 186 to 195, inclusive, of chapter 94 of the General Laws, relating to the adulteration and misbranding of food, drugs and various articles. Marijuana included in a marijuana product manufactured in compliance with the regulations under this chapter shall not be considered an adulterant.

Section 3. Local control

(a) A city or town may adopt ordinances and by-laws that impose reasonable safeguards on the operation of marijuana establishments, provided they are not

unreasonably impracticable and are not in conflict with this chapter or with regulations made pursuant to this chapter and that:

(1) govern the time, place and manner of marijuana establishment operations and of any business dealing in marijuana accessories, except that zoning ordinances or by-laws shall not prohibit placing a marijuana establishment which cultivates, manufactures or sells marijuana or marijuana products in any area in which a medical marijuana treatment center is registered to engage in the same type of activity;

(2) limit the number of marijuana establishments in the city or town, except that a city or town may only adopt an ordinance or by-law by a vote of the voters of that city or town if the ordinance or by-law:

(i) prohibits the operation of 1 or more types of marijuana establishments within the city or town;

(ii) limits the number of marijuana retailers to fewer than 20 per cent of the number of licenses issued within the city or town for the retail sale of alcoholic beverages not to be drunk on the premises where sold under chapter 138 of the General Laws; or

(iii) limits the number of any type of marijuana establishment to fewer than the number of medical marijuana treatment centers registered to engage in the same type of activity in the city or town.

(3) restrict the licensed cultivation, processing and manufacturing of marijuana that is a public nuisance;

(4) establish reasonable restrictions on public signs related to marijuana establishments; and

(5) establish a civil penalty for violation of an ordinance or by-law enacted pursuant to this subsection, similar to a penalty imposed for violation of an ordinance or by-law relating to alcoholic beverages.

(b) The city council of a city and the board of selectmen of a town shall, upon the filing with the city or town clerk of a petition (i) signed by not fewer than 10 per cent of the number of voters of such city or town voting at the state election preceding the filing of the petition and (ii) conforming to the provisions of the General Laws relating to initiative petitions at the municipal level, request that the question of whether to allow, in such city or town, the sale of marijuana and marijuana products for consumption on the premises where sold be submitted to the voters of such city or town at the next biennial state election. If a majority of the votes cast in the city or town are not in favor of allowing the consumption of marijuana or marijuana products on the premises where sold, such city or town shall be taken to have not authorized the consumption of

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FULL TEXT OF QUESTION (continued)

marijuana and marijuana products on the premises where sold.)

(c) No city or town shall prohibit the transportation of marijuana or marijuana products or adopt an ordinance or by-law that makes the transportation of marijuana or marijuana products unreasonably impracticable.

(d) No agreement between a city or town and a marijuana establishment shall require payment of a fee to that city or town that is not directly proportional and reasonably related to the costs imposed upon the city or town by the operation of a marijuana establishment. Any cost to a city or town by the operation of a marijuana establishment shall be documented and considered a public record as defined by clause Twenty-Sixth of section 7 of chapter 4 of the General Laws.

Section 4. The Cannabis Control Commission

(a) The commission shall, in consultation with the cannabis advisory board and in accordance with chapter 30A of the General Laws, adopt regulations consistent with this chapter for the administration, clarification and enforcement of laws regulating and licensing marijuana establishments. The regulations shall include:

(1) procedures for the issuance and renewal of licenses to operate marijuana establishments;

(2) a schedule of application, license and renewal fees in an amount necessary to pay for all regulation and enforcement costs of the commission; provided however that fees may be relative to the volume of business conducted or to be conducted by the marijuana establishment and shall not exceed:

(i) For an initial application, \$3,000;

(ii) For a license for a retail marijuana store, \$15,000;

(iii) For a license for a marijuana product manufacturer, \$15,000;

(iv) For a license for a marijuana cultivator, \$15,000; and

(v) For a license for a marijuana testing facility, \$10,000.

(3) qualifications for licensure and minimum standards for employment that are directly and demonstrably related to the operation of a marijuana establishment and similar to qualifications for licensure and employment standards in connection with alcoholic beverages as regulated under chapter 138 of the General Laws; provided that a prior conviction solely for a marijuana-related offense or for a violation of section 34 of chapter 94C of the General Laws shall not disqualify an

individual or otherwise affect eligibility for employment or licensure in connection with a marijuana establishment, unless the offense involved the distribution of a controlled substance, including marijuana, to a minor;

(4) procedures and policies to promote and encourage full participation in the regulated marijuana industry by people from communities that have previously been disproportionately harmed by marijuana prohibition and enforcement and to positively impact those communities;

(5) requirements for the security of marijuana establishments, including security, lighting, video and alarm requirements and requirements for the secure transportation and storage of marijuana, marijuana plants and marijuana products, provided that the requirements shall not prohibit the cultivation of marijuana outdoors or in greenhouses;

(6) requirements to prevent the sale of marijuana and marijuana products to persons under 21 years of age;

(7) requirements for record keeping by marijuana establishments and procedures to track marijuana and marijuana products cultivated, processed, manufactured, delivered or sold by marijuana establishments;

(8) health and safety standards for the cultivation, processing, manufacture and distribution of marijuana and marijuana products, including standards regarding sanitation for the preparation, storage, handling and sale of food products and reasonable limitations on the use of organic and non-organic pesticides;

(9) requirements for the packaging of marijuana and marijuana products, which shall include special packaging requirements to protect children from ingesting marijuana or marijuana products and requirements for dividing each serving within a package containing multiple servings in a manner that allows consumers to easily identify a single serving;

(10) requirements for the labeling of a package containing marijuana or marijuana products that shall include a symbol or other easily recognizable mark indicating that the package contains marijuana and an identification of the marijuana cultivator or the marijuana product manufacturer who produced the marijuana or marijuana product, and for the labeling of a package containing marijuana products, the amount of tetrahydrocannabinol in a package and in each serving of a marijuana product, the number of servings in a package and a list of ingredients and possible allergens;

(11) requirements for the testing of random samples of marijuana and marijuana products to verify

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FULL TEXT OF QUESTION (continued)

that marijuana and marijuana products are accurately labeled and to verify that products intended for human consumption do not contain contaminants that are in excess of typical standards applied to other commercially available products intended for human consumption;

(12) requirements for safe disposal of excess, contaminated, adulterated or deteriorated marijuana or marijuana products;

(13) reasonable restrictions on signs, marketing, displays and advertising with respect to marijuana, marijuana products and marijuana accessories, including prohibiting marketing or advertising designed to appeal to children;

(14) procedures and requirements to enable the transfer of a license for a marijuana establishment to another qualified person or to another suitable location, which shall not be more restrictive than laws governing the transfer of a license for the sale of alcoholic beverages under chapter 138 of the General Laws; and

(15) provisions for: enforcing this chapter, including penalties for civil violations for the failure to comply with any regulation made pursuant to this section or for any violation of section 13 of this chapter; collecting fees and penalties imposed; suspending the license of a marijuana establishment that include provisions to allow for the continued maintenance and security of any marijuana and marijuana products; terminating the license of a licensee; and appealing civil penalties or licensing actions.

(b) In furtherance of the intent of this act, the commission may also adopt regulations in accordance with chapter 30A of the General Laws which:

(1) establish and provide for issuance of additional types or classes of licenses to operate marijuana-related businesses, including licenses that authorize only limited cultivation, processing, manufacture, possession or storage of marijuana or marijuana products, limited delivery of marijuana or marijuana products to consumers, licenses that authorize the consumption of marijuana or marijuana products on the premises where sold, licenses that authorize the consumption of marijuana at special events in limited areas and for a limited time and licenses intended to facilitate scientific research or education;

(2) regulate the cultivation, processing, distribution and sale of hemp by marijuana establishments; and

(3) limit the total amount of marijuana cultivated within the commonwealth, if the commission determines after an analysis of the current and anticipated supply of and demand for marijuana and marijuana products, that a limit on the amount of marijuana cultivated within the

commonwealth is necessary to minimize illicit markets for marijuana. If the commission limits the total amount of marijuana that may be cultivated within the commonwealth, the commission shall reconsider that determination biannually and shall not set the limit at a level below that which is necessary to provide an adequate supply of marijuana and marijuana products in the commonwealth. No such limit shall be imposed if the import or export of marijuana to or from the commonwealth is not prohibited by federal law.

(c) Regulations made pursuant to this section shall not:

(1) prohibit the operation of a marijuana establishment either expressly or through regulations that make operation of a marijuana establishment unreasonably impracticable;

(2) require testing of marijuana or marijuana products before the commission has licensed any marijuana testing facilities or, if such facilities have been licensed, before such facilities are capable of performing any required tests in a timely manner;

(3) require a customer to provide a marijuana retailer with identifying information other than identification to determine the customer's age and shall not require the marijuana retailer to acquire or record personal information about customers other than information typically required in a retail transaction;

(4) prohibit a medical marijuana treatment center and an experienced marijuana establishment operator from operating a medical marijuana treatment center and a marijuana establishment at a shared location;

(5) prohibit marijuana establishments from transferring or acquiring marijuana seeds, clones, cuttings, plants or plant tissue from other marijuana establishments or from medical marijuana treatment centers or prohibit a marijuana establishment from transferring or otherwise selling marijuana to a marijuana retailer, a marijuana product manufacturer or a marijuana cultivator; or

(6) prohibit marijuana establishments from using inorganic cultivation methods.

(d) The commission shall administer the laws and regulations relating to licensing in this chapter.

(e) The commission may suspend or revoke the license of a licensee under regulations made pursuant to this chapter upon written notice of a violation and, if applicable, an opportunity to cure any violation within 30 days of such notice. All licensees shall be entitled to an adjudicatory hearing pursuant to chapter 30A of the General Laws prior to suspension of a license for longer than 5 days or the revocation of a license.

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FULL TEXT OF QUESTION (continued)

(f) The commission shall enforce the laws and regulations relating to the cultivation, processing, manufacture, delivery, storage, sale and testing of marijuana and marijuana products by marijuana establishments. The commission shall conduct investigations of compliance with this chapter and shall perform regular inspections of marijuana establishments and the books and records of marijuana establishments as necessary to enforce this chapter. The commission shall cooperate with appropriate state and local organizations to provide training to law enforcement officers of the commonwealth and its political subdivisions.

(g) The commission shall hold a public hearing before the adoption, amendment or repeal of any regulation. Adjudicatory proceedings shall be conducted pursuant to chapter 30A of the General Laws and to standard rules of adjudicatory procedure established pursuant to section 9 of chapter 30A of the General Laws.

(h) The commission shall annually publish a full report of its action during each year containing a comprehensive description of its activities and including the number of licenses of each class issued, actions taken pursuant to clause (4) of subsection (a) of this section and a statement of revenue and expenses of the commission.

(i) The commission shall annually review the tax rate established by chapter 64N of the General Laws and may make recommendations to the General Court as appropriate regarding changes to the tax rate that further the intent of this act. The commission may study marijuana commerce and make recommendations to the General Court regarding changes in the laws of the commonwealth that further the intent of this act by filing those recommendations with the clerk of the house and senate who shall forward the recommendations to the joint committee on consumer protection and professional licensure, the joint committee on revenue and any other committee deemed appropriate by the commission.

(j) The commission shall deposit all license, registration and monetary penalties collected pursuant to this chapter in the Marijuana Regulation Fund established by section 15 of this chapter.

(k) The commission and the department of public health shall work collaboratively to ensure that the production and distribution of marijuana is effectively regulated in the commonwealth in furtherance of the intent of this act.

Section 5. Licensing of marijuana establishments

(a) Upon receipt of a complete marijuana establishment license application and the application fee,

the commission shall forward a copy of the application to the city or town in which the marijuana establishment is to be located, determine whether the applicant and the premises qualify for the license and has complied with this chapter and shall, within 90 days:

(1) issue the appropriate license; or

(2) send to the applicant a notice of rejection setting forth specific reasons why the commission did not approve the license application.

(b) Except as provided in subsection (c) of this section, the commission shall approve a marijuana establishment license application and issue a license if:

(1) the prospective marijuana establishment has submitted an application in compliance with regulations made by the commission, the applicant satisfies the requirements established by the commission, the applicant is in compliance with this chapter and the regulations made by the commission and the applicant has paid the required fee;

(2) the commission is not notified by the city or town in which the proposed marijuana establishment will be located that the proposed marijuana establishment is not in compliance with an ordinance or by-law consistent with section 3 of this chapter and in effect at the time of application;

(3) the property where the proposed marijuana establishment is to be located, at the time the license application is received by the commission, is not located within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12, unless a city or town adopts an ordinance or by-law that reduces the distance requirement; and

(4) an individual who will be a controlling person of the proposed marijuana establishment has not been convicted of a felony or convicted of an offense in another state that would be a felony in the commonwealth, except a prior conviction solely for a marijuana offense or solely for a violation of section 34 of chapter 94C of the General Laws, unless the offense involved distribution of a controlled substance, including marijuana, to a minor.

(c) If a city or town limits the number of marijuana establishments that may be licensed in the city or town pursuant to clause (2) of subsection (a) of section 3 of this chapter and that limit prevents the commission from issuing a license to all applicants who meet the requirements of subsection (b) of this section:

(1) until January 1, 2018, the commission shall issue licenses first to applicants with the most experience operating medical marijuana treatment centers and then by

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lottery among qualified applicants; or

(2) on and after January 1, 2018, the commission shall issue licenses by lottery among qualified applicants.

The lottery shall also designate the priority order of unselected applicants in the event that a license becomes available within a year.

Section 6. Expiration and renewal

(a) License term. Unless the commission authorizes the renewal of a license for a longer period, all licenses under this chapter shall be effective for 1 year from the date of issuance.

(b) Renewal. The commission shall issue a renewal license within 30 days of receipt of a renewal application and renewal license fee from a marijuana establishment to licensees in good standing and who have filed any tax returns required pursuant to chapter 64N of the General Laws.

Section 7. Personal use of marijuana

(a) Notwithstanding any other general or special law to the contrary, except as otherwise provided in this chapter, a person 21 years of age or older shall not be arrested, prosecuted, penalized, sanctioned or disqualified under the laws of the commonwealth in any manner, or denied any right or privilege and shall not be subject to seizure or forfeiture of assets for:

(1) possessing, using, purchasing, processing or manufacturing 1 ounce or less of marijuana, except that not more than 5 grams of marijuana may be in the form of marijuana concentrate;

(2) within the person's primary residence, possessing up to 10 ounces of marijuana and any marijuana produced by marijuana plants cultivated on the premises and possessing, cultivating or processing not more than 6 marijuana plants for personal use so long as not more than 12 plants are cultivated on the premises at once;

(3) assisting another person who is 21 years of age or older in any of the acts described in this section; or

(4) giving away or otherwise transferring without remuneration up to 1 ounce of marijuana, except that not more than 5 grams of marijuana may be in the form of marijuana concentrate, to a person 21 years of age or older, as long as the transfer is not advertised or promoted to the public.

(b) Notwithstanding any other general or special law to the contrary, except as otherwise provided in this chapter, if the import or export of marijuana to or from the

commonwealth is not prohibited by federal law, a person 21 years of age or older shall not be arrested, prosecuted, penalized, sanctioned or disqualified under the laws of the commonwealth in any manner, or denied any right or privilege and shall not be subject to seizure or forfeiture of assets for possessing, using, purchasing, cultivating, processing or manufacturing any amount of marijuana or marijuana products for personal use.

(c) Notwithstanding any other general or special law to the contrary, except as otherwise provided in this chapter, a person shall not be arrested, prosecuted, penalized, sanctioned or otherwise denied any benefit and shall not be subject to seizure or forfeiture of assets for allowing property the person owns, occupies or manages to be used for any of the activities conducted lawfully under this chapter or for enrolling or employing a person who engages in marijuana-related activities lawfully under this chapter.

(d) Absent clear, convincing and articulable evidence that the person's actions related to marijuana have created an unreasonable danger to the safety of a minor child, neither the presence of cannabinoid components or metabolites in a person's bodily fluids nor conduct permitted under this chapter related to the possession, consumption, transfer, cultivation, manufacture or sale of marijuana, marijuana products or marijuana accessories by a person charged with the well-being of a child shall form the sole or primary basis for substantiation, service plans, removal or termination or for denial of custody, visitation or any other parental right or responsibility.

(e) The use of marijuana shall not disqualify a person from any needed medical procedure or treatment, including organ and tissue transplants.

(f) Notwithstanding any general or special law to the contrary, except as otherwise provided in this chapter, a person 21 years of age or older shall not be arrested, prosecuted, penalized, sanctioned or disqualified and is not subject to seizure or forfeiture of assets for possessing, producing, processing, manufacturing, purchasing, obtaining, selling or otherwise transferring or delivering hemp.

(g) For the purposes of this section, "marijuana concentrate" shall mean the resin extracted from any part of the plant of the genus *Cannabis* and every compound, manufacture, salt, derivative, mixture or preparation of that resin but shall not include the weight of any other ingredient combined with marijuana to prepare marijuana products.

Section 8. Marijuana accessories authorized

Notwithstanding any general or special law to the contrary,

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except as otherwise provided in this chapter, a person 21 years of age or older shall not be arrested, prosecuted, penalized, sanctioned or disqualified and shall not be subject to seizure or forfeiture of assets for possessing, purchasing or otherwise obtaining or manufacturing marijuana accessories or for selling or otherwise transferring marijuana accessories to a person who is 21 years of age or older.

Section 9. Lawful operation of marijuana establishments

(a) Notwithstanding any general or special law to the contrary, except as otherwise provided in this chapter, the following people involved in the distribution of marijuana as authorized by this chapter shall not be arrested, prosecuted, penalized, sanctioned or disqualified and shall not be subject to seizure or forfeiture of assets for activities specified for:

(1) a marijuana retailer or an owner, operator, employee or other agent acting on behalf of a marijuana retailer possessing or testing marijuana or marijuana products; purchasing, selling or otherwise transferring or delivering marijuana or marijuana products to or from a marijuana establishment; or selling or otherwise transferring or delivering marijuana or marijuana products to a consumer;

(2) a marijuana cultivator or an owner, operator, employee or other agent acting on behalf of a marijuana cultivator cultivating, propagating, breeding, harvesting, processing, packaging, testing, storing or possessing marijuana or marijuana products, or selling or otherwise transferring, purchasing or delivering marijuana and marijuana products to or from a marijuana establishment;

(3) a marijuana product manufacturer or an owner, operator, employee or other agent acting on behalf of a marijuana product manufacturer packaging, processing, manufacturing, storing, testing or possessing marijuana or marijuana products, or delivering, selling or otherwise transferring and purchasing marijuana or marijuana products to or from a marijuana establishment; or

(4) a marijuana testing facility or an owner, operator, employee or other agent acting on behalf of a marijuana testing facility possessing, processing, storing, transferring or testing marijuana or marijuana products.

(b) Notwithstanding any general or special law to the contrary, except as otherwise provided in this chapter, a person acting in the person's capacity as an owner, employee or other agent of a marijuana retailer who transfers marijuana or marijuana accessories to a person under 21 years of age shall not be subject to arrest or prosecution, penalty, sanction or disqualification, or seizure

or forfeiture of assets, if the person reasonably verified that the recipient appeared to be 21 years of age or older by means of government-issued photographic identification containing a date of birth.

Section 10. Contracts pertaining to marijuana enforceable

It is the public policy of the commonwealth that contracts related to the operation of marijuana establishments under this chapter shall be enforceable. A contract entered into by a licensee or its agents as permitted pursuant to a valid license issued by the commission, or by those who allow property to be used by a licensee or its agents as permitted pursuant to a valid license issued by the commission, shall not be unenforceable or void exclusively because the actions or conduct permitted pursuant to the license is prohibited by federal law.

Section 11. Provision of professional services

A person engaged in a profession or occupation subject to licensure shall not be subject to disciplinary action by a professional licensing board solely for providing professional services to prospective or licensed marijuana establishments related to activity under this chapter that is not subject to criminal penalty under the laws of the commonwealth.

Section 12. General marijuana establishment operation

(a) In addition to requirements established by regulation pursuant to section 4 of this chapter or by a city or town pursuant to section 3 of this chapter, a marijuana establishment shall:

(1) secure every entrance to the establishment so that access to areas containing marijuana is restricted to employees and others permitted by the marijuana establishment to access the area and to agents of the commission or state and local law enforcement officers and emergency personnel; and

(2) secure its inventory and equipment during and after operating hours to deter and prevent theft of marijuana, marijuana products and marijuana accessories.

(b) No marijuana establishment may cultivate, process, test, store or manufacture marijuana or marijuana products at any location other than at a physical address approved by the commission and within an area that is enclosed and secured in a manner that prevents access by persons not permitted by the marijuana establishment to access the area. A greenhouse or outdoor marijuana cultivation area shall have sufficient security measures to demonstrate that outdoor areas are not readily accessible by unauthorized individuals, including perimeter security fencing designed to prevent unauthorized entry.

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(c) No marijuana establishment shall allow cultivation, processing, manufacture, sale or display of marijuana or marijuana products to be visible from a public place without the use of binoculars, aircraft or other optical aids.

(d) No marijuana establishment shall refuse representatives of the commission the right at any time of operation to inspect the entire licensed premises or to audit the books and records of the marijuana establishment.

(e) No marijuana establishment shall allow any person under 21 years of age to volunteer or work for the marijuana establishment.

(f) No marijuana establishment shall cultivate, manufacture, sell or otherwise transact business with any products containing cannabinoids other than those that were produced, distributed and taxed in compliance with this chapter.

Section 13. Penalties

(a) Restrictions on personal cultivation. No person shall cultivate or process marijuana plants pursuant to section 7 of this chapter if the plants are visible from a public place without the use of binoculars, aircraft or other optical aids or cultivate or process marijuana plants outside of an area that is equipped with a lock or other security device. A person who violates this subsection shall be punished by a civil penalty of not more than \$300 and forfeiture of the marijuana, but shall not be subject to any other form of criminal or civil punishment or disqualification solely for this conduct.

(b) Restrictions on personal possession. No person shall possess more than 1 ounce of marijuana or marijuana products within the person's place of residence pursuant to section 7 of this chapter unless the marijuana and marijuana products are secured by a lock. A person who violates this subsection shall be punished by a civil penalty of not more than \$100 and forfeiture of the marijuana.

(c) Restrictions on public consumption of marijuana. No person shall consume marijuana in a public place or smoke marijuana where smoking tobacco is prohibited. A person who violates this subsection shall be punished by a civil penalty of not more than \$100. This subsection shall not apply to a person who consumes marijuana or marijuana products in a designated area of a marijuana establishment located in a city or town that has voted to allow consumption on the premises where sold and shall not be construed to limit the medical use of marijuana.

(d) Possession of marijuana in motor vehicles. No person shall, upon any way or in any place to which the public has a right of access, or upon any way or in any place to which members of the public have access

as invitees or licensees, possess an open container of marijuana or marijuana products in the passenger area of any motor vehicle. A person who violates this subsection shall be punished by a civil penalty of not more than \$500. For purposes of this section, "open container" shall mean that the package containing marijuana or marijuana products has its seal broken or from which the contents have been partially removed or consumed and "passenger area" shall mean the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or passenger while in a seated position; provided however that the passenger area shall not include a motor vehicle's trunk, locked glove compartment or the living quarters of a house coach or house trailer, or if a motor vehicle is not equipped with a trunk, the area behind the last upright seat or an area not normally occupied by the driver or passenger.

(e) Possession or cultivation of excess marijuana. Notwithstanding chapter 94C of the General Laws and until the import or export of marijuana to or from the commonwealth is not prohibited by federal law, a person who is at least 21 years of age and who cultivates more than 6 but not more than 12 marijuana plants or who possesses an amount of marijuana outside of his or her place of residence having a weight of more than 1 ounce but not more than 2 ounces shall be subject only to a civil penalty of not more than \$100 and forfeiture of the marijuana not allowed by section 7 of this chapter, but shall not be subject to any other form of criminal or civil punishment or disqualification solely for this conduct.

(f) Procurement of marijuana by a person under 21 years of age. A person under 21 years of age, except a qualifying patient holding a valid registration card for the medical use of marijuana, who purchases or attempts to purchase marijuana, marijuana products or marijuana accessories, or makes arrangements with any person to purchase or in any way procure marijuana, marijuana products or marijuana accessories, or who willfully misrepresents such person's age, or in any way alters, defaces or otherwise falsifies identification offered as proof of age, with the intent of purchasing marijuana, marijuana products or marijuana accessories, shall be punished by a civil penalty of not more than \$100 and shall complete a drug awareness program established pursuant to section 32M of chapter 94C of the General Laws. The parents or legal guardian of any offender under the age of 18 shall be notified in accordance with section 32N of chapter 94C of the General Laws and the failure within 1 year of the offense of such an offender to complete a drug awareness program may be a basis for delinquency proceedings for persons under the age of 17 at the time of the person's

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offense.

(g) Enforcement. Civil penalties imposed pursuant to this section shall be enforced by utilizing the non-criminal disposition procedures provided in section 32N of chapter 94C of the General Laws.

Section 14. Marijuana Regulation Fund

(a) There shall be established and set up on the books of the commonwealth a separate fund, to be known as the Marijuana Regulation Fund. It shall, subject to appropriation, consist of all monies received on account of the commonwealth as a result of applications for and licensing of marijuana establishments, all civil penalties received for violations of this chapter, revenue generated by the state tax imposed by section 2 of chapter 64N of the General Laws and interest earned or other income on balances in the fund.

(b) Subject to appropriation, the fund shall be expended first for the implementation, administration and enforcement of this chapter by the commission and by the cities and towns that authorize the operation of marijuana establishments within their jurisdictions. Subject to appropriation, at the end of a fiscal year, unexpended balances may be redeposited in the General Fund after all necessary funds are expended for the implementation, administration and enforcement of this chapter.

SECTION 6. Notwithstanding any general or special law to the contrary, if the cannabis control commission fails to adopt regulations necessary for the implementation of this chapter on or before January 1, 2018, each medical marijuana treatment center may begin to possess, cultivate, process, manufacture, package, purchase or otherwise obtain and test marijuana and marijuana products and may deliver, sell or otherwise transfer marijuana to any person who is at least 21 years of age until the commission adopts the regulations necessary for implementation of this chapter and begins to issue licenses to operate marijuana establishments pursuant to section 5 of this chapter.

SECTION 7. The state treasurer shall make the initial appointments to the cannabis control commission under section 76 of chapter 10 of the General Laws by March 1, 2017. The initial appointments shall include 1 member who shall serve an initial term of 2 years.

SECTION 8. The governor shall make the initial

appointments to the cannabis advisory board under section 77 of chapter 10 of the General Laws by February 1, 2017. Seven of the initial appointees, as determined by the governor, shall serve for a term of 1 year.

The cannabis advisory board shall meet not less frequently than quarterly until January 1, 2020.

SECTION 9. The cannabis control commission shall promulgate the initial regulations under section 4 of chapter 94G of the General Laws not later than September 15, 2017.

SECTION 10. The commission shall begin accepting applications:

(a) for marijuana testing facility licenses, by October 1, 2017;

(b) from each experienced marijuana establishment operator for 1 marijuana cultivator license, 1 marijuana product manufacturer license and 1 marijuana retailer license, by October 1, 2017;

(c) if fewer than 75 provisional registrations to operate medical marijuana treatment centers have been issued on October 1, 2017, from all applicants for marijuana retailer, marijuana product manufacturer and marijuana cultivator licenses, on and after January 1, 2018;

(d) from all applicants for marijuana retailer licenses or for marijuana product manufacturer licenses, on and after October 1, 2018; and

(e) from all applicants for marijuana cultivator licenses, on and after October 1, 2019.

SECTION 11. If the commission accepts applications pursuant to subsection (c) of section 10 of this act, it shall license no more than 75 marijuana retailers, 75 marijuana product manufacturers and 75 marijuana cultivators until additional applications are accepted pursuant to subsection (d) or subsection (e) of section 10 of this act. If this section prevents the commission from issuing licenses to all applicants who meet the requirements of this act, the commission shall issue licenses first to qualified applicants who submitted applications for registrations to operate medical marijuana treatment centers to the department of public health by October 1, 2015 and then by lottery among qualified applicants.

SECTION 12. This act shall take effect on December 15, 2016.