



# Town of Longmeadow Police Department

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The information below was compiled by Officer Robert Lombardi

Since the passage of Question 4 (aka *The Regulation & Taxation of Marijuana Act*) and the subsequent new laws pertaining to the possession, use, and cultivation of marijuana in Massachusetts, we have received numerous inquiries about what in fact is legal and what is not. To help answer some of these questions, the Longmeadow Police Department has generated this marijuana informational sheet. First and foremost, while the media and other outlets refer to the passage of Question 4 as the “legalization” of marijuana, you will see this is not entirely true. Penalties, or the lack thereof, depend on the age of the offender and the amount of marijuana possessed.

## **FOR INDIVIDUALS 21 YEARS OF AGE AND OVER:**

- You can possess up to one (1) ounce of marijuana in public or 10 ounces or less in a private residence. However, “in public” does not mean consuming marijuana in public. More simply, it means if you are out in public and possessing up to an ounce of marijuana in a backpack, your pocket, etc, you can do so.
- If you are found in possession of more than one (1) ounce in public, but LESS THAN two (2) ounces, you will be subject to a \$100 civil citation. The marijuana more than the allowed one (1) ounce will be seized.
- Finally, if you are found in possession of over two (2) ounces of marijuana in public, this is still a crime and an arrestable offense (Possession of Class D; Marijuana).

## **FOR INDIVIDUALS AGE 18 TO 20 YEARS OLD:**

- If found to be in possession of one (1) ounce of marijuana or less in public or at a private residence, you are subject to a \$100 civil citation and a seizure of the marijuana.

- If found to be in possession of over one (1) ounce of marijuana, you are subject to arrest (Possession of Class D; Marijuana).

### **FOR INDIVIDUALS UNDER THE AGE OF 18:**

- If you are found in possession of less than one (1) ounce of marijuana in public or in private, you are subject to a \$100 civil citation and a mandatory completion of a drug awareness program within one (1) year.
- If the program is not completed within the given time frame, the fine may be increased to \$1,000.
- If you are found to be in possession of over one (1) ounce of marijuana in public or in a private residence, you are subject to arrest (Possession of Class D; Marijuana).
- Parents of the offender will also be notified.

### **CULTIVATION OF MARIJUANA**

For individuals 21 years of age or older, you may grow six (6) marijuana plants PER PERSON, with no more than 12 plants within the house. In layman's terms, if you are the lone occupant of your house, you may grow no more than six (6) plants, however, if there is another person living in the house, there can be no more than 12 plants. Twelve plants are the absolute most allowed to be grown, regardless if there are two people in the residence or ten. If in possession of over 12 plants, this is still a criminal offense (Cultivation of Marijuana) and arrestable.

Also, note that the growing of the allowed number of plants can take place either indoors or outdoors. However, if the growing is occurring outside, it must not be visible from a public place. Violators of this area subject to a \$300 civil citation and the visible plants will be seized.

### **“GIFTING” OF MARIJUANA BETWEEN ADULTS**

Within the wording of this law are also regulations pertaining to the commercial sale of marijuana. The commercial system will be regulated by the Cannabis Control Commission (CCC); however, this commission will not be established until July of 2018. So, I'm sure you're thinking “If I can possess up to an ounce of marijuana legally, where do I get it from, legally?” This new law allows for the “gifting” of up to an ounce of marijuana from one adult to another. For those who grow the legal amount of marijuana in their home, they can “gift” up to an ounce to another adult.

What is “gifting” you may ask? “Gifting” means that the transfer of the marijuana from one adult to another (adult being 21+ years old) must occur without the transfer of money, valued goods, or a non-monetary payment. For example, you cannot trade a video game for an ounce of marijuana, or even provide a certain service for marijuana. If found to be in violation of this, the “seller” and the “buyer” are open to criminal charges and possible

arrest. It's important to note, while individuals are only allowed to gift up to an ounce of marijuana, any gifting of more than an ounce is considered distribution and the "gifter" and receiver are open to criminal charges.

Even more important to note is that any gift/sale to anyone/between anyone under 21 is considered distribution and criminal charges can occur. This includes the "social sharing" of marijuana from a 21+ year old individual to a minor, as well as if the transfer of marijuana occurs between two individuals under 21 years old.

## **WHERE CAN I SMOKE MARIJUANA?**

We have received numerous inquiries since the passage of the law questioning where marijuana can be used. In short, the public consumption of marijuana is prohibited and violators of this are subject to a \$100 civil citation under M.G.L 94G, 13(c). The legislature has also granted all cities and towns permission to pass their own by-laws pertaining to the public consumption of marijuana and allows for up to a \$300 civil citation be issued to violators. Now, Longmeadow has no town by-law, meaning the penalty for public consumption remains the state mandated minimum \$100.

The law also states that smoking marijuana is prohibited in any place where smoking tobacco is prohibited. This includes private offices, elevators, medical facilities, bars, stadiums, colleges, libraries, and child care centers, just to name a few. Violators of this are subject to a \$100 civil citation.

## **FAQ's**

*Can I smoke marijuana while I am driving?*

Simply put, no. The laws pertaining to the use of marijuana while behind the wheel of a motor vehicle mirror the laws pertaining to the use of alcohol behind the wheel. A driver found to be under the influence of marijuana while operating a vehicle could be subject to arrest for OUI: Drugs. This offense carries the same penalties as OUI: Alcohol, including license suspension, fines, and in some cases, jail time.

Also, much like having an open container of alcohol in a vehicle is a \$500 civil citation, having an open container of marijuana in a vehicle is now also a \$500 civil citation under these new laws. Understand that both a driver AND passenger can be found to be in violation of this law.

*Is it legal if at 3am, when everyone is sleeping, I decide to take a walk in my neighborhood and smoke marijuana while doing so?*

No. This is a violation under the public consumption portion of the new law. Remember, if you are seen consuming marijuana in public, regardless of the time of day, you are subject to a \$100 civil fine.

*My friend has three marijuana plants growing at this house. Every now and then, I ask him for a half-ounce of marijuana, which he gives me for free as a friendly gesture. Usually we meet at the Longmeadow Shops parking lot and he gives me the half-ounce. Both of us are 25 years old. This is okay, right?*

Correct. Remember, under the new law, adults 21 and over may legally transfer (“gift”) up to an ounce of marijuana to another adult, so long as there was no monetary or items of value exchanged. Based on the law, this legal transfer may occur in public or in private.

*I’ve heard that since the monetary penalties for a lot of these new laws are “civil” in nature, there is no penalty for not paying them.*

Wrong. Wrong. Wrong. While yes, “civil” fines issued on town by-law tickets are processed differently than say “civil” fines issued on state traffic citations, failure to pay can result in criminal penalties. For example, if you are issued a \$100 civil fine on a town by-law ticket for a violation of the public consumption law, you must pay within the mandated time frame. Here in Longmeadow, you have 21 days to either pay the fine or request a hearing to contest the matter. If you fail to pay the fine or request a hearing within the 21 days, you are subject to being issued a criminal complaint for failure to pay.

*My 18-year-old son believes that since he is now 18, he can smoke marijuana since he saw on the news that it is legal. When I tell him, I’m worried he will be arrested, he tells me he won’t be because he’s an adult and it’s legal for adults. Should I be worried?*

While yes, your son is technically an adult under the law, under the marijuana law, he hasn’t reached the “marijuana is legal” age. Like we discussed earlier, for individual’s age 18 to 20, if they are found with less than an ounce of marijuana, they are subject to a \$100 civil fine. If they have anything over an ounce, they are subject to criminal penalties, including arrest.

We hope this information sheet has been helpful in clearing up any confusion about the new laws pertaining to marijuana. Please understand, a much longer information sheet could be generated on the laws pertaining to the use of medical marijuana, however, the Commonwealth of Massachusetts has outlined those guidelines very thoroughly on <http://www.mass.gov/eohhs/gov/departments/dph/programs/hcq/medical-marijuana/>. Should there be any further questions on the possession, use, and/or cultivation of recreational marijuana, do not hesitate to contact the station to speak with an officer. All Longmeadow Police officers have gone through training pertaining to the new recreational marijuana laws and will be able to answer your question.