



TOWN OF ARLINGTON
DEPARTMENT OF PLANNING and
COMMUNITY DEVELOPMENT

TOWN HALL, 730 MASSACHUSETTS AVENUE
ARLINGTON, MASSACHUSETTS 02476
TELEPHONE 781-316-3090

MEMORANDUM

To: Marijuana Study Group

From: Erin Zwirko, Assistant Director, Planning and Community Development

Date: October 5, 2018

RE: Background Information on Proposed Zoning Amendments

This memorandum outlines the research completed to prepare the proposed zoning amendments related to adult-use marijuana and medical marijuana treatment centers.

Background

Arlington, voted “yes” on the 2016 ballot question related to adult-use marijuana meaning the community supported adult-use marijuana. As a result, if the community desired to ban or limit adult-use marijuana establishments, a ballot question must be included at a regular or special election. At the time, the state had not yet adopted regulations related to adult-use marijuana establishments. Therefore, a temporary moratorium was passed by Town Meeting through June 30, 2018, initially, and subsequently extended by Town Meeting to December 30, 2018.

In March 2018, the Massachusetts Cannabis Control Commission (the Commission) adopted regulations (<https://www.mass.gov/regulations/935-CMR-500-adult-use-of-marijuana>) and produced municipal guidance (https://mass-cannabis-control.com/wp-content/uploads/2018/03/FINAL_Guidance-for-Municipalities_040218.pdf).

What are other communities doing?

As with regulating medical marijuana uses a few communities moved very quickly to adopt zoning regulations for marijuana establishments. The following summarizes some of the research that was completed over the summer:

Brookline: At Brookline’s Annual Town Meeting, a series of regulations were adopted that included a cap on the number of licenses that could be issued by the Brookline Select Board, limited the density of marijuana establishments, and set store size limitations. You can read about Brookline’s process and final bylaws here: <https://www.brooklinema.gov/1426/Recreational-Marijuana-Information>.

Boston: The City of Boston requires that recreational marijuana establishments cannot be within a quarter mile of another: <https://www.bostonglobe.com/business/2018/04/11/boston-approves-zoning-for-recreational-marijuana-businesses/iOdsPhiqViSaaEqnrEly9L/story.html>.

Amherst: Passed a maximum cap on the number of recreational marijuana retailers at a number higher than 20% of the number of liquor stores where consumption is off-premises:

<https://www.amherstma.gov/3342/Marijuana--Recreational-Medical>.

Salem: Zoning Ordinance limits the number of marijuana retailers to no more than 20% of the number of liquor stores where consumption is off-premises:

https://library.municode.com/ma/salem/codes/zoning_ordinance?nodeId=S6.0SPRE_6.10MAES.

Cambridge: The City Council is currently reviewing proposed zoning amendments. Included in the proposal is a prohibition that retailers cannot be located within 1,800 feet of another (with some exceptions): <http://www.cambridgema.gov/CDD/Projects/Zoning/Cannabis>.

Based on these examples, it became clear that many communities were creating new use categories for the different types of marijuana establishments, requiring a special permit, requiring a cap on the number of special permits, and imposing a density buffer. It is important to note that the Commission's regulations allow "yes" communities to limit the number of marijuana retailers in the community to 20% or greater than the number of licensed liquor stores with off-premises consumption. To limit it to fewer than 20% would require a ballot question.

What do the regulations include?

The regulations provide explicit instruction related to a number of items that would require regulations including:

1. Signs (935 CMR 500.105(4)(b)): Signs must comply with local requirements. Signage cannot be neon. Illumination of external signage must be extinguished 30 minutes before sundown until closing. Marijuana products cannot be displayed so to be visible from the exterior.
2. Storage (935 CMR 500.105(11)): Storage must have adequate lighting, ventilation, temperature, humidity, space, and equipment. Storage areas must also comply with the security requirements.
3. Waste (935 CMR 500.105(12)): Waste must be disposed of properly, especially waste that contains marijuana. Waste must be stored, secured, and managed properly.
4. Security (935 CMR 500.110): Security measures must deter and prevent unauthorized entrance.
5. Buffer Zone (935 CMR 500.110(3)): Marijuana establishments cannot be located within 500 feet of a pre-existing public or private school providing education in kindergarten or grades 1 through 12, unless a municipality reduces that buffer. This is measured property line to property line.

The instructions that are provided in the regulations are similar to the requirements that are in DPH's regulations related to medical marijuana uses.

Putting it all together for Arlington

To determine where to allow the new uses, I began by mapping the public and private K-12 schools in the community, required 500-foot buffer, and the business and industrial zoning districts. Note that the 300-foot buffer shown on the graphic is relative to controlled substance violations near school property. This buffer did not eliminate any specific zoning districts from consideration, so I looked at the existing use categories that are most similar to the uses described in the regulations (i.e., marijuana retailers, marijuana research and testing facilities, marijuana production facilities). As a result, I eliminated the B1 and B2 zoning districts from consideration for all types of marijuana uses, as these two zoning districts are described as neighborhood business districts that might be located within primarily residential

districts. Marijuana production facilities are further limited to only the B4 and I districts due to the similar existing use categories already in the Zoning Bylaw.

Taking the analysis a step further, I wanted to apply a density buffer to the one permitted Medical Marijuana Treatment Center located on Water Street. Although this location is not open, the operator might consider converting to or co-locating adult-use and medical marijuana in the facility. Therefore, I applied the density buffer to this property, and found that at 2,000 feet, the majority of Arlington Center is eliminated when combined with the school buffer. Note that the density buffer is also applied to Medical Marijuana Treatment Centers as well.

Finally, by adding a limit of 20% of the liquor licenses for off-premises consumption, Arlington would only allow 2 marijuana retailers. This cap does not apply to marijuana production facilities or marijuana research and testing facilities, which by their definitions, are not allowed to sell directly to consumers.

Other considerations

The proposed amendments also include the following requirements:

1. An Environmental Design Review (EDR) Special Permit granted by the Arlington Redevelopment Board would be required for any marijuana establishment as is required by Medical Marijuana Treatment Centers.
2. Marijuana Production Facilities are limited to 5,000 square feet, and are further limited to a Marijuana Microbusiness if the marijuana products are cultivated or produced for non-medical use. This limits the cultivation or production of non-medical marijuana products to a Tier 1 facility, or a facility with a canopy of up to 5,000 square feet gross floor area. This requirement prevents significant cultivation within Arlington if the marijuana products are for adult use.
3. A new special permit would be required if an existing permitted Medical Marijuana Treatment Center wants to convert to adult-use or co-locate.

The proposed amendments leave most of the details in the state regulations, which is how medical marijuana was addressed in the Arlington Zoning Bylaw. Additionally, the Arlington Redevelopment Board may want to develop an addendum to the EDR special permit application form to address the specific considerations of marijuana.