

For Discussion

Zoning Bylaw Amendments for Adult-Use and Medical Marijuana

10/15/18

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

Amend Section 2, DEFINITIONS, to add the following general definitions related to marijuana:

Marijuana: Also known as Cannabis, means 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; clones of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in M.G.L. c. 94G, § 1; provided that cannabis shall not include: (a) 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; (b) hemp; or (c) the weight of any other ingredient combined with cannabis or marijuana to prepare topical or oral administrations, food, drink or other products.

Marijuana Products: Marijuana and its products unless otherwise indicated. These include products 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.

Marijuana Use: A Marijuana Production Facility, ~~Marijuana Retailer, or Medical Marijuana Treatment Center~~ as defined in this Zoning Bylaw.

Deleted: ~~or~~

Deleted: ~~Retail Store,~~

Amend Section 2, DEFINITIONS, to add the following definitions related to marijuana establishments:

Marijuana Establishment: A Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Retailer, Independent Testing Laboratory, Marijuana Research Facility, or any other type of licensed marijuana-related business, except a Medical Marijuana Treatment Center, also known as a Registered Marijuana Dispensary or RMD.

Marijuana Cultivator: An entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers. A Craft Marijuana Cooperative is a type of Marijuana Cultivator, pursuant to 935 CMR 500.00.

Marijuana Product Manufacturer: An entity licensed to obtain, manufacture, process and package marijuana products and to transfer these products to other Marijuana Establishments, but not to consumers.

Marijuana Retailer: An entity licensed to purchase and transport marijuana products from Marijuana Establishments and to sell or otherwise transfer this product to Marijuana Establishments and to consumers. Retailers are prohibited from delivering marijuana products to consumers; and from offering marijuana products for the purposes of on-site social consumption on the premises of a Marijuana Establishment.

Independent Testing Laboratory: A laboratory that is licensed by the Cannabis Control Commission (the Commission) and is: (a) accredited to the International Organization for Standardization 17025 (ISO/IEC 17025: 2017) by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by

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the Commission; (b) independent financially from any Medical Marijuana Treatment Center (also known as a Registered Marijuana Dispensary or RMD), Marijuana Establishment or licensee for which it conducts a test; and (c) qualified to test marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34.

Marijuana Research Facility: A Marijuana Research Facility is an academic institution, non-profit corporation or domestic corporation or entity authorized to do business in the Commonwealth of Massachusetts. A Marijuana Research Facility may cultivate, purchase or otherwise acquire marijuana for the purpose of conducting research regarding marijuana and marijuana products. Any research involving humans must be authorized by an Institutional Review Board. A Marijuana Research Facility may not sell marijuana it has cultivated.

Marijuana Microbusiness: A colocated Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or Product Manufacturer or both, pursuant to 935 CMR 500.00, in compliance with the operating procedures for each license. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Marijuana Establishments, pursuant 935 CMR 500.00.

Marijuana Production Facility: An establishment authorized to cultivate, manufacture, process, or package marijuana products, in accordance with applicable state laws and regulations. A Marijuana Production Facility may be licensed to operate as a Marijuana Cultivator or Marijuana Product Manufacturer, or registered as a Medical Marijuana Treatment Center (also known as a Registered Marijuana Dispensary or RMD), or both, in accordance with applicable state laws and regulations.

Medical Marijuana Treatment Center: A ~~not for profit~~ establishment registered with the Commonwealth pursuant to 105 CMR 725.100, also known as a “Registered Marijuana Dispensary” (RMD) that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, offers for sale, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical purposes in accordance with applicable state laws and regulations. Unless otherwise specified, Medical Marijuana Treatment Center refers to the site(s) of dispensing, cultivation, and preparation of cannabis or marijuana for medical use.

Deleted: ~~Marijuana Retail Store: An establishment authorized to sell or otherwise transfer marijuana products to consumers for use off the premises, but not to cultivate, manufacture, process, or package marijuana products, in accordance with applicable state laws and regulations. A Marijuana Retail Store may be licensed to operate as a Marijuana Retailer or registered as a Medical Marijuana Treatment Center (also known as a Registered Marijuana Dispensary or RMD), or both, in accordance with applicable state laws and regulations.~~

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Amend SECTION 3.4 ENVIRONMENTAL DESIGN REVIEW, to include Marijuana Establishments as required to obtain an Environmental Design Review Special Permit:

Section 3.4.2. Applicability

The following uses shall also be acted upon by the Arlington Redevelopment Board in accordance with the environmental design review procedures and standards of this Section 3.4:

- (1) Any use permitted as a right or by special permit in the Planned Unit Development District and the Multi-Use District.
- (2) Parking in the Open Space District.
- (3) Medical Marijuana Treatment Center.

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- (4) Any Marijuana Establishment.

Amend SECTION 5 DISTRICT REGULATIONS, to create new use categories for Marijuana Establishments and amend existing use categories for Medical Marijuana Treatment Centers:

Amend table in Section 5.5.3:

Class of Use	B1	B2	B2A	B3	B4	B5
Retail						
<u>Marijuana Retailer</u>			<u>SP</u>	<u>SP</u>	<u>SP</u>	<u>SP</u>
Research, Laboratory, Related Uses						
<u>Marijuana Research and Testing Facility</u>			<u>SP</u>	<u>SP</u>	<u>SP</u>	<u>SP</u>
Light Industry						
<u>Marijuana Production Facility</u>					<u>SP</u>	
Other Principal Uses						
Medical Marijuana Treatment Center			<u>SP</u>	SP	<u>SP</u>	SP

Amend table in Section 5.6.3:

Class of Use	MU	PUD	I	T	OS
Retail					
<u>Marijuana Retailer</u>			<u>SP</u>		
Research, Laboratory, Related Uses					
<u>Marijuana Research and Testing Facility</u>			<u>SP</u>		
Light Industry					
<u>Marijuana Production Facility</u>			<u>SP</u>		
Other Principal Uses					
<u>Medical Marijuana Treatment Center</u>			<u>SP</u>		

Amend SECTION 8, Special Regulations, to delete temporary moratorium and replace with standards for marijuana uses

~~8.3 — TEMPORARY MORATORIUM ON RECREATIONAL MARIJUANA ESTABLISHMENTS~~

~~8.3.1 — Purpose~~

~~By vote at the State election on November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, processing, distribution, possession and use of marijuana for recreational purposes (G.L. c. 94G, "Regulation of the Use and Distribution of Marijuana Not Medically Prescribed"). Effective December 15, 2016, the law allowed certain personal use and possession of marijuana, and further requires the Cannabis Control Commission to issue regulations regarding the licensing of commercial marijuana activities on or before March 15, 2018, and subsequently, to accept license applications for commercial operations beginning on April 1, 2018. The Cannabis Control Commission~~

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~~adopted regulations on or about March 6, 2018; transmitted to the Secretary of State on March 9, 2018. Non-medical Marijuana Establishments as defined by G.L. c. 94 are not otherwise contemplated or addressed under the present Zoning Bylaw. The regulations to be promulgated by the Cannabis Control Commission provide important guidance on aspects of local regulation of Recreational Marijuana Establishments, as well as details on how the Town may further restrict commercial sales of recreational marijuana by local ballot questions, but were not finalized in sufficient advance of the Annual Town Meeting. Moreover, the regulation of recreational marijuana raises novel legal, planning and public safety issues, potentially necessitating time to study and consider the regulation of Recreational Marijuana Establishments and address such issues, as well as to address the potential impact of the aforementioned State regulations on local zoning; and to undertake a planning process fully informed by the new Cannabis Control Commission regulations to consider amending the Zoning Bylaw regarding regulation of Recreational Marijuana Establishments. The Town intends to continue its temporary moratorium on the use of land and structures in the Town for Recreational Marijuana Establishments so as to allow the Town sufficient time to engage in a planning process to address the effects of such structures and uses in the Town and to adopt provisions of the Zoning Bylaw in a manner consistent with sound land use planning goals and objectives now that the parameters of retail marijuana have been fully and finally defined by the Commission.~~

~~8.3.2~~ — Temporary Moratorium

~~For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for Recreational Marijuana Establishments. The moratorium shall be in effect through December 31, 2018, or until such time as the Town adopts Zoning Bylaw amendments that regulate Recreational Marijuana Establishments, whichever occurs earlier. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of non-medical recreational marijuana in the Town, consider the Cannabis Control Commission regulations regarding Recreational Marijuana Establishments and related uses, and shall consider adopting new Zoning Bylaws in response to these new issues.~~

~~8.3.3~~ — Severability

~~The provisions of this by-law are severable. If any provision, paragraph, sentence, or clause of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.~~

8.3. Standards for Marijuana Uses

For all marijuana uses, the following standards apply:

A. General

- 1) Marijuana establishments and Medical Marijuana Treatment Centers shall be allowed only after the granting of a special permit by the Arlington Redevelopment Board, subject to the requirements of Section 3.4 and this Section.

Deleted: 5.9.2

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- 2) ~~Either Marijuana Retailers or Marijuana Production Facilities, as defined in Section 2, may be established to provide marijuana products for medical, non-medical use, or both, in accordance, with applicable state laws and regulations.~~
- 3) Marijuana Establishments and Medical Marijuana Treatment Centers shall be located only in a permanent building and not within any mobile facility. All sales, cultivation, manufacturing, and other related activities shall be conducted within the building, except in cases where home deliveries are authorized pursuant to applicable state and local regulations.
- 4) Marijuana Production Facilities shall be allowed only by a special permit by the Arlington Redevelopment Board provided that the establishment is not greater than 5,000 square feet in gross floor area, and provided that the establishment is licensed as a Marijuana Microbusiness if Marijuana Products are cultivated or manufactured for non-medical use.
- 5) ~~A Marijuana Retailer or Marijuana Production Facility that has previously received a special permit from the Arlington Redevelopment Board only to authorize a Medical Marijuana Treatment Center shall be required to amend its previously issued special permit to authorize the conversion to or colocation of a Marijuana Establishment for the non-medical use of marijuana.~~

Deleted: Retail Stores

Deleted: Retail Store

B. Location

- 1) Pursuant to 935 CMR 500.110, Marijuana Establishments shall not be permitted within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades one through 12, except where the Arlington Redevelopment Board, in issuing a special permit, approves a reduced distance upon finding that the location will cause no substantial adverse impact due to the site-specific factors or other mitigating efforts agreed to in writing by the permittee and made conditions of the special permit. This standard also applies to Medical Marijuana Treatment Facilities.
- 2) A Marijuana Establishment or Medical Marijuana Treatment Center shall not be permitted within 2,000 feet of another Marijuana Establishment or Medical Marijuana Treatment Center.

C. Cap on the number of Special Permits for Marijuana Retailers

- 1) The Arlington Redevelopment Board shall not grant a special permit if doing so would result in the total number of Marijuana Retailer licenses to exceed 20% of the number of liquor licenses for off-premises alcohol consumption that have been issued by the Select Board pursuant to M.G.L. c. 138, § 15, as rounded up to the nearest whole number in the event the number is a fraction.