



Report of the Arlington Redevelopment Board to the 2013 Annual Town Meeting April 22, 2013

The Arlington Redevelopment Board (ARB), acting as the Town's planning board, is required to issue a report with recommendations to the Town Meeting on each warrant article that proposes to amend the "Town of Arlington Zoning Bylaw." The ARB must first hold an advertised public hearing on each such warrant article. The advertisements appeared in the "Arlington Advocate" as required on February 14 and 21, 2013. The public hearing was held on Monday, March 11, 2013. At its meeting on March 18, 2013, the ARB voted on the recommended bylaw language shown below. For each of the warrant articles, the Board's vote was unanimous.

Appearing below are the three articles that propose amendments to the Zoning Bylaw. The intent of each article is briefly explained, followed by the ARB's vote on each article, which constitutes its recommendation. Town Meeting members should take particular note of the fact that the recommendations of the ARB, and not the original warrant articles, are the actual motions that will be considered by the Town Meeting.

Warrant article language may be quite general or very specific. The vote, however, must be specific in order to precisely set forth how the Zoning Bylaw will be modified. Even when the language in the warrant is specific, the vote or recommendation shown in this report may differ from the warrant language. This occurs when errors are discovered, or testimony at the public hearing convinces the ARB that a change from the original warrant article should be recommended. In such cases, the recommended change cannot exceed the scope of the original warrant article. When there is a question about the scope of the change, the Town Moderator will determine whether the change exceeds the scope of the original warrant article. Changes to the Zoning Bylaw text are shown below beneath the recommended votes. Additions to the original Bylaw text appear as underlined text, while any deletions to the original Bylaw text appear as ~~strike through~~ text.

ARTICLE 6 ZONING BYLAW AMENDMENT/ACCESSORY APARTMENTS
To see if the Town will vote to amend the Zoning Bylaw to allow accessory apartments, associated with single-family residences owned by seniors, and located in R0 and R1 zoning districts; or take any action related thereto.

(Inserted at the request of Richard Lacroix and ten registered voters)

This article was submitted by ten registered voters with the intent of allowing small accessory apartments within existing single family homes in Arlington so that elderly homeowners might afford to stay in their homes. A similar article to amend the zoning bylaw to allow accessory apartments was defeated at Annual Town Meeting in 2012. Mass General Law Chapter 40A Section 5 prevents Town Meeting from considering a Zoning Bylaw amendment article within two years after unfavorable action by Town Meeting unless the planning board (ARB) recommends adoption of the amendment in its report. After considering the debate at Town Meeting last year and public comment at its hearing this year, the Board concluded that the article failed to address concerns raised relating to permitting accessory apartments, and therefore recommends no action on this proposed Zoning Bylaw amendment.

Proposed Vote:

No action

ARTICLE 7

ZONING BYLAW AMENDMENT/MEDICAL MARIJUANA DISPENSARY SITING

To see if the Town will vote to amend the Zoning Bylaw to govern the use of land and buildings within the Town for “medical marijuana treatment centers” as defined in Chapter 369 of the Acts of 2012, adopted through the state initiative-petition process in November 2012; or take any action related thereto.

(Inserted at the request of the Town Manager)

This article was submitted at the request of the Town Manager in response to the adoption by the voters of the Commonwealth in November 2012 of a law permitting qualifying individuals to obtain and use marijuana to address medical issues without threat of state criminal prosecution. The Town Manager and Board of Selectmen will report to Town Meeting in greater detail on this proposed vote, but the Board voted unanimously for, and strongly supports, the proposed change to the Zoning Bylaw allowing such use in the B5 zone subject to environmental design review.

Proposed vote:

VOTED: That the Zoning Bylaw be and hereby is amended by:

(a) adding the definition of “Medical Marijuana Treatment Center” to Article 2 (Definitions) immediately after “Marquee,” as follows:

“Medical Marijuana Treatment Center:

An establishment 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 for ostensibly medical purposes”;

(b) amending Section 5.04 (Table of Use Regulations) by adding a new use numbered 7.10 as follows: “Medical Marijuana Treatment Center, permitted as such by the Arlington Board of Health” and “SP” under the B5 column for Use 7.10;

(c) adding a new Section 5.07, as follows:

“Section 5.07 - Medical Marijuana Treatment Center Use Restrictions

In addition to restrictions set forth elsewhere in this Zoning Bylaw, the following restrictions apply to Use 7.10 (Medical Marijuana Treatment Center):

- a. No goods or wares shall be displayed or kept in such a way as to be visible from outside the premises;
- b. No equipment or process shall be used, nor any activity performed, in any Medical Marijuana Treatment Center that creates noise, dust, vibration, glare, fumes, odors, or electrical or other interference detectable to normal senses outside the Medical Marijuana Treatment Center;
- c. In no case shall the operation of a Medical Marijuana Treatment Center or the acquisition, cultivation, possession, processing, development, transfer, transport, sale, offer for sale, distribution, dispensing, or administration of marijuana, products containing marijuana, or related supplies for any purpose be considered accessory to any use.;
- d. No Medical Marijuana Treatment Center or other establishment that acquires, cultivates, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), possesses, transfers, transports, sells, offers for sale, distributes, dispenses, or administers marijuana, products containing marijuana, or related supplies for any purpose that is not in continuous conformance with all registration, licensing, and permitting requirements of the state Department of Public Health as well as any applicable permitting and other requirements of the Arlington Board of Health shall operate within the Town.
- e. A Medical Marijuana Treatment Center may not be classified as, or included in, any other use set forth in this Bylaw.”; and

(d) amending Section 11.06 (“Environmental Design Review”) by adding to the end of Section 11.06(b) the following new numbered paragraph 4, “Use 7.10 (Medical Marijuana Treatment Center) shall be subject to the environmental design review procedures and standards hereinafter specified.

PROPOSED TEXT:

ARTICLE 2

DEFINITIONS

Section 2.01 - General

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Marquee:

A rigid surface canopy structure projecting from a building over an exterior entrance thereto and used as a shelter from rain or sun.

Medical Marijuana Treatment Center:

An establishment 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 for ostensibly medical purposes.

Membership Club:

A social, sports, or fraternal association or organization which is used exclusively by members and their guests.

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SECTION 5.04 - TABLE OF USE REGULATIONS (Continued)

		District																		
ART 15, ATM 5/91; ART 4, STM 5/97; ART. 14, ATM 4/01; ART. 2, STM 9/04; ART. 11, ATM 4/09		R0	R1	R2	R3	R4	R5	R6	R7	B1	B2	B2A	B3	B4	B5	MU	PUD	I	T	OS
Principal Use																				
7.04	Yards and buildings of general contractor, subcontractor or other building tradesman. Junkyards are specifically prohibited													SP						Yes
7.05	Stone cutting, shaping and finishing in enclosed buildings													SP						Yes
7.06	Autobody or paint shop, provided that all work is carried out inside the building																			SP
7.07	Truck service and repair, exclusive of bodywork and painting													SP						SP
7.08	Establishments devoted to research and development activities								SP		SP	SP	SP	SP	SP		SP			Yes
ART. 107, ATM 3/84																				
7.09	Light non-nuisance manufacturing providing that all resulting cinders, dust, flashing, fumes, gases, odors, refuse matter, smoke and vapor is effectively confined in a building or disposed of in a manner so as not to create a nuisance or hazard to safety or health; and further provided that no noise or vibration is perceptible without instruments at a distance greater than 50 feet																			
7.10	Medical Marijuana Treatment Center, permitted as such by the Arlington Board of Health													SP						SP
															SP					
	Accessory Use																			
ART. 6, ATM 5/91																				
8.01	Renting of not more than three rooms to not more than three persons within a dwelling unit										Yes	Yes	Yes	Yes	Yes					Yes
ART. 5, ATM 4/00																				
8.02	Dormitory of a permitted nonprofit educational or religious institution										SP	SP	SP	SP	SP		SP	SP		SP

Section 5.06 - Joint Occupancy of Schools

ART. 105, ATM 3/83

Portions of Arlington public schools may be occupied by a use(s) unrelated to public educational purposes provided the use(s) is in accordance with guidelines passed by the Arlington School Committee and a special permit granted by the ARB pursuant to Section 11.06, Environmental Design Review.

Section 5.07 - Medical Marijuana Treatment Center Use Restrictions

In addition to restrictions set forth elsewhere in this Zoning Bylaw, the following restrictions apply to Use 7.10 (Medical Marijuana Treatment Center):

a. No goods or wares shall be displayed or kept in such a way as to be visible from outside the premises;

b. No equipment or process shall be used, nor any activity performed, in any Medical Marijuana Treatment Center that creates noise, dust, vibration, glare, fumes, odors, or electrical or other interference detectable to normal senses outside the Medical Marijuana Treatment Center;

c. In no case shall the operation of a Medical Marijuana Treatment Center or the acquisition, cultivation, possession, processing, development, transfer, transport, sale, offer for sale, distribution, dispensing, or administration of marijuana, products containing marijuana, or related supplies for any purpose be considered accessory to any use.;

d. No Medical Marijuana Treatment Center or other establishment that acquires, cultivates, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), possesses, transfers, transports, sells, offers for sale, distributes, dispenses, or administers marijuana, products containing marijuana, or related supplies for any purpose that is not in continuous conformance with all registration, licensing, and permitting requirements of the state Department of Public Health as well as any applicable permitting and other requirements of the Arlington Board of Health shall operate within the Town.

e. A Medical Marijuana Treatment Center may not be classified as, or included in, any other use set forth in this Bylaw.

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Section 11.06 - Environmental Design Review

a. PURPOSE. The purpose of this section is to provide individual detailed review of certain uses and structures which have a substantial impact upon the character of the town and upon traffic, utilities and property values therein, thereby affecting the public health, safety and general welfare thereof. The environmental design review process is intended to promote the specific purpose listed in Section 1.03 of this Bylaw. For the purpose of implementation of this Section, the ARB is designated as the Special Permit Granting Authority in accordance with the provisions of Chapter 40A, Section 1.

b. APPLICATION.

ART. 74, ATM 3/77; ART. 80, ATM 4/80; ART. 8, ATM 4/94; ART. 11, STM 5/97; ART. 9, ATM 4/98,
ART. 8, ATM 4/11

1. In any instance where a new structure, or a new outdoor use, or an exterior addition or a change in use a) requires a building permit, b) is subject to a special permit in accordance with Section 5.04, Table of Use Regulations, or alters the facade in a manner that affects the architectural integrity of the structure, and c) is one of the uses included in subparagraphs (a), (b), (c), (d), (e), (f), (g), or (h) below, the aforementioned special permit shall be acted upon by the Arlington Redevelopment

Board in accordance with the environmental design review procedures and standards hereinafter specified.

- (a) Construction or reconstruction on a site abutting
Massachusetts Avenue
Pleasant Street
Mystic & Medford Streets between Massachusetts Avenue and Chestnut Street
Broadway
Minuteman Bikeway

ART. 16, ATM 4/01; ART. 5, ATM 4/05

- (b) Six or more dwelling units on the premises, whether contained in one or more structures or on one or more contiguous lots, constructed within a two year period.
- (c) Gasoline service stations.

ART. 13, ATM 5/91

- (d) Lodging house, bed and breakfast, bed and breakfast home or a rehabilitation residence with more than 5,000 square feet of gross floor area or with 10 or more parking spaces.
- (e) Nonresidential uses and hotels or motels in a nonresidential district with more than 10,000 square feet of gross floor area or with 20 or more parking spaces.
- (f) Nonresidential uses in a residential district with more than 5,000 square feet of gross floor area or with 10 or more parking spaces.

ART. 6, ATM 4/02

- (g) Outdoor uses.

ART. 17, ATM 5/11

- (h) Temporary, seasonal signage in accordance with an overall signage plan at a fenced athletic field with one or more permanent structures to seat more than 300 persons, which signage may be in effect between March 15 and December 15 of any calendar year.

ART.2, STM 9/04

- 2. Any use permitted as a right or by special permit in the Planned Unit Development District and the Multi-Use District shall be subject to the environmental design review procedures and standards hereinafter specified.

ART. 7, ATM 5/07

- 3. Parking in the Open Space District shall be subject to the environmental design review procedures and standards hereinafter specified.
- 4. Use 7.10 (Medical Marijuana Treatment Center) shall be subject to the environmental design review procedures and standards hereinafter specified.

ARTICLE 8 ZONING BYLAW AMENDMENT/MEDICAL MARIJUANA DISPENSARY MORATORIUM

To see if the Town will vote to amend the Zoning Bylaws to prohibit for some period of time the use of land and buildings within the Town for “medical marijuana treatment centers” as defined in Chapter 369 of the Acts of 2012, adopted through the state initiative-petition process in November 2012; or take any action related thereto.

(Inserted at the request of the Town Manager)

This article was submitted at the request of the Town Manager in response to the fact that the Commonwealth has only recently come out with draft regulations relating to medical marijuana treatment centers. The Town Manager and Board of Selectmen will report to Town Meeting in greater detail on this proposed vote, but the Board voted unanimously for, and strongly supports, the proposed one year delay to the Zoning Bylaw change so that the Town can benefit from understanding the Commonwealth's final regulations relating to such matters.

Proposed vote:

VOTED: That the Zoning Bylaw be and hereby is amended by adding a new Section 11.09, as follows:

“Section 11.09 - Temporary Prohibition of Medical Marijuana Treatment Centers

a. PURPOSE:

By vote at the state election in November 2012, the voters of the Commonwealth adopted a law permitting qualifying individuals to obtain and use marijuana to address medical issues without threat of state criminal prosecution. This law, Chapter 369 of the Acts of 2012, went into effect on January 1, 2013. The de-criminalization of marijuana under this law raises novel and complex legal, planning, health, and safety issues that the Town needs time to consider in order to allow for its orderly implementation with appropriate mitigation of potential negative consequences. Under the law, the state Department of Public Health will issue regulations governing, among other things, the registration and regulation of local dispensaries of marijuana, marijuana products, and related supplies. The siting and operation of these dispensaries is of specific municipal interest and, currently, the content of the Department of Public Health regulations is unknown. The temporary prohibition of marijuana dispensaries under this section will enable the Town to thoroughly and responsibly consider location and other reasonable restrictions on the operation of any marijuana dispensaries that may be opened within the Town, consistent with the law and the regulatory approach to be adopted by the state.

b. DEFINITIONS:

Medical Marijuana Treatment Center:

is defined as it is in Chapter 369 of the Acts of 2012, for purposes of this section

Medical Marijuana Planning Period:

is the period of the temporary prohibition set forth herein

c. TEMPORARY PROHIBITION:

For the reasons set forth above and notwithstanding any other provision of this Zoning Bylaw or any general or special law to the contrary, no land or buildings shall be used within the Town of Arlington for operation of a Medical Marijuana Treatment Center before the dissolution of the 2014 Annual Town Meeting. During this Medical Marijuana Planning Period, the Town will: (i) evaluate regulations and other guidance promulgated by the state Department of Public Health concerning Medical Marijuana Treatment Centers and related uses; (ii) undertake a planning process to address the potential effects that the presence of Medical Marijuana Treatment Centers in the Town would have upon the general health, safety, and welfare as well as on other property uses; (iii) consider amending these Zoning Bylaws to govern the operation and impact of Medical Marijuana Treatment Centers; and (iv) through its Board of Health, consider the adoption of reasonable health regulations and permitting procedures applicable to Medical Marijuana Treatment Centers consistent with state requirements, rights, and obligations.”