



**Town of Arlington
Office of the Town Manager**

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To: Town Meeting Members

From: Adam W. Chapdelaine, Town Manager

Date: April 18, 2013

Re: Town Meeting Warrant Articles 7, 8

I am transmitting with this memo a summary of the proposed votes under Articles 7 and 8, along with an FAQ sheet about medical marijuana treatment centers and a map of the Town highlighting the B5 zoning district. I placed these articles in the warrant to give Town Meeting the opportunity to carefully consider the imposition of reasonable limitations on the location and operation of marijuana dispensaries in the Town.

As Town Meeting Members may know, Question 3 at the November 2012 state election was approved by voters statewide and went into effect January 1, 2013. Under this law the State Department of Public Health must promulgate regulations governing the local marijuana dispensaries authorized under the law. A draft of the regulations was issued March 29th and final regulations are expected to go into effect by May 24th and the first state-level dispensary permits may be granted as soon as 90 days later.

Since passage of the law, I have been meeting regularly with the Police Chief, Director of Health and Human Services, Director of the Youth Health and Safety Coalition, Chief of the Inspections Division, Town Counsel, and the Director of Planning and Community Development to consider and develop proposals for reasonable regulation of these dispensaries within the Town, given the limitations stated above. Given the novelty and complexity of this issue it is appropriate for the Town to proceed cautiously at this point. These two proposals, summarized below, are intended to do that.

ARTICLE 7 ZONING BYLAW AMENDMENT/MEDICAL MARIJUANA DISPENSARY SITING

The proposed vote under this article would define “Medical Marijuana Treatment Center” as it is defined in the state law and would limit the placement of these centers to the B5 zoning district, subject to Environmental Design Review as well as permitting by the Arlington Board of Health and the state Department of Public Health. Also proposed are restrictions on the visible display of marijuana and related products, as well as limitation on noise, dust, vibration, and other sensory disturbances outside the center. These restrictions are similar to those applicable to home occupations under Section 5.05 of the Zoning Bylaw. Finally, the proposed amendment specifies that operation of a Medical Marijuana Treatment Center shall not be an accessory use.

ARTICLE 8 ZONING BYLAW AMENDMENT/MEDICAL MARIJUANA DISPENSARY MORATORIUM

The proposed vote under this article would impose a moratorium on Medical Marijuana Treatment Centers until the dissolution of the 2014 Annual Town Meeting. The amendment specifies that a moratorium is necessary to allow the Town to receive and evaluate state guidance on the operation of these centers and to carefully consider appropriate local restrictions to ameliorate any negative effects of these centers on the public health, safety, and welfare.

Even if the restrictions set forth under Article 7, above, were to pass, this moratorium would give the Town additional time to consider regulations more comprehensively and with the benefit of state guidance. If the restrictions proposed under Article 7 do not pass, then the moratorium provides another year to consider alternatives, including making a new proposal to the 2014 Town Meeting.

**FREQUENTLY ASKED QUESTIONS
MEDICAL MARIJUANA LAW**

**Juliana Rice
Town Counsel
April 2013**

Question 3: An Act for the Humanitarian Medical Use of Marijuana

By vote at the state election in November 2012, the voters of the Commonwealth adopted a law permitting certain individuals to obtain and use marijuana to address medical issues. This law, Chapter 369 of the Acts of 2012, went into effect on January 1, 2013. The law allows individuals with written medical authorization to obtain, possess, and use up to a 60-day supply of marijuana without threat of state criminal prosecution. The primary supply source for this marijuana is intended to be up to 35 dispensaries operated by non-profit corporations and located throughout the state. At least one dispensary -- and up to five -- will be licensed in each county. These dispensaries, as well as anyone working at them, will be registered by the state Department of Public Health ("DPH"). Additional dispensaries may be registered in future years. Opening of these dispensaries in communities raises novel and complex local issues of public health, safety, and welfare. Please see "FAQs" below for more information on local marijuana dispensaries.

1. Does the Town license or approve these marijuana dispensaries?

Not necessarily. Registration will be primarily done at the state level by DPH, which has until May 2013, to issue regulations governing dispensaries. In addition to state regulations, local boards of health may impose "reasonable health regulations" on the operation of marijuana dispensaries, which could include local permitting requirements.

2. May the Town decide where to allow dispensaries?

To some extent, yes. Through zoning changes, such as those proposed under Article 7 of the Town Meeting warrant, the Town may regulate the placement of these dispensaries. In addition to, or instead of, this type of change, the Town may impose a temporary moratorium on the opening of such dispensaries, as proposed under Article 8. The Attorney General has ruled that communities may temporarily delay allowing dispensaries in order to provide for comprehensive planning and management of this new use. The Town of Burlington has adopted a moratorium on all marijuana dispensaries until June 30, 2014. The City of Cambridge is considering a moratorium as well.

3. May the Town decide not to allow dispensaries at all?

No. The Attorney General has ruled that a community may not use zoning regulations to ban dispensaries altogether.

4. When might dispensaries be opening?

DPH must issue its regulations before dispensaries may apply for registration. Currently, DPH expects to issue draft regulations March 29, with a public comment period to run until April 20. Final regulations are anticipated to be adopted in May. Once regulations are issued, the Department will have 90 days to consider applications for registration. Therefore, the first local dispensaries may be seeking to open by the fall of 2013.

5. Who will operate these dispensaries?

The dispensaries must be operated by non-profit corporations.

6. Is public use of marijuana authorized under this law?

No. Arlington has a Town Bylaw prohibiting the use of marijuana in public, violation of which is punishable by a \$300 fine. See Title VIII, Article 7. The new state law does not change this bylaw.

7. May the Town regulate the sale and use of marijuana?

Yes. The Board of Health has the authority to issue reasonable health regulations. For example, it has issued regulations concerning the sale and use of tobacco products within the Town, including requiring a local permit to sell them. Local health regulations may not conflict with the rights granted under the state law. The Board of Health will be considering the adoption of reasonable health regulations once the DPH regulations have been adopted.

8. Has the Town taken steps to regulate dispensaries?

Yes. The Town Manager has placed two articles in the warrant for the 2013 Annual Town Meeting to amend the Zoning Bylaws relating to the local siting of marijuana dispensaries. The Manager's proposal under Article 7 would limit these dispensaries to the B5 zoning district (the Central Business District), would impose some regulation on the use, and would require a special permit from the Redevelopment Board and a permit from the Board of Health. The Manager's proposal under Article 8 would impose a temporary moratorium on dispensaries until after the 2014 Annual Town Meeting to allow time to evaluate forthcoming guidance from DPH and to propose additional regulatory or zoning changes.

9. Why are there two proposals before Town Meeting?

At the time the warrant closed, the Attorney General had not yet ruled on the legality of a temporary moratorium, so the Manager wanted Town Meeting to have another option to consider. Also, because zoning bylaw changes must be adopted by a two-thirds vote of Town Meeting, the Town Manager wanted to present more than one proposal to Town Meeting.

10. What happens if both proposals are adopted by Town Meeting?

If both proposals are adopted by Town Meeting, there will be a temporary moratorium on dispensaries until the close of the 2014 Town Meeting. At that time -- unless the 2014 Town Meeting has voted any additional zoning changes -- dispensaries would be allowed to open in the B5 zoning district with a special permit from the Redevelopment Board and consistent with the zoning bylaw changes proposed under Article 7. If the 2014 Town Meeting adopts different zoning requirements, those new requirements would apply. By then, the Board of Health will have promulgated local regulations governing the operation of dispensaries in Town.

If the moratorium proposed under Article 8 fails but the zoning changes proposed under Article 7 pass, then dispensaries, once registered with DPH, will be able to open in the B5 zoning district with a special permit from the Redevelopment Board.

If both proposals fail, then there will be no zoning regulation in place applicable to these dispensaries. They may try to open under existing retail or other uses, to which a special-permit requirement may or may not apply.

Zoning B5: Central Business

Town of Arlington, MA

Map for planning purposes only,
created by the Arlington GIS Office, 3/28/2013.



LEGEND			
	B5: Central Business		Community Safety Building
	Parcel Boundary		Fire Station
	School - Elementary		Playground / Recreation Site
	School - High		Protected Open Space
	School - Middle		Minuteman Bikeway
	Day Care		Brook / Stream
	Day Care		Brook / Stream (underground)
			Water Body

