

**Bylaw Cmte. Mtg. Minutes
May 19, 2014**

Meeting Called to order at 6 p.m.

Members- Jonathan Meindersma, David Mercurio, Christopher Olson, Greg Zakarian, Kim D. Hopewell

Discuss Bylaws for Semi-Annual Town Meeting and make recommendation

Article 16- Authorization to amend The Zoning Map and Zoning Bylaws by amending Sections 3.2F- Business Uses, 3.2G- Industrial Uses, and 3.12- Medical Marijuana Treatment Center

Existing Bylaw Section

Town of West Boylston Zoning Bylaws

Section 3.12- Medical Marijuana Treatment Center

Section 3.12.A. PURPOSE

By vote at the State election on November 6, 2012, the voters of the Commonwealth approved a law regulating the cultivation, distribution, possession and use of marijuana for medical purposes. The law provides that it is effective on January 1, 2013 and the State Department of Public Health is required to issue regulations regarding implementation within 120 days of the law's effective date. Currently under the Zoning Bylaw, a Medical Marijuana Treatment Center is not a permitted use in the Town of West Boylston and any regulations promulgated by the State Department of Public Health are expected to provide guidance to the Town in regulating medical marijuana, including Medical Marijuana Treatment Centers. The regulation of medical marijuana raises novel and complex legal, planning, and public safety issues and the Town needs time to study and consider the regulation of Medical Marijuana Treatment Centers and address such novel and complex issues, as well as to address the potential impact of the State regulations on local zoning and to undertake a planning process to consider amending the Zoning Bylaw regarding regulation of medical marijuana treatment centers and other uses related to the regulation of medical marijuana. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Medical Marijuana Treatment Centers 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 enact bylaws in a manner consistent with sound land use planning goals and objectives.

Section 3.12.B. DEFINITION

“Medical Marijuana Treatment Center” shall mean a “not-for-profit entity, as defined by Massachusetts law only, registered by the Department of Public Health, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.”

Section 3.12.C. 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 a Medical Marijuana Treatment Center. The moratorium shall be in effect through December 31, 2014. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of medical marijuana in the Town, consider the Department of Public Health regulations Regarding Medical Marijuana Treatment Facilities and related uses, and shall consider adopting new Zoning Bylaws to address the impact and operation of Medical Marijuana Treatment Centers and related uses.

Town Meeting Action

Town of West Boylston Semi-Annual Town Warrant

Article 16 -Authorization to amend The Zoning Map and Zoning Bylaws by amending Sections 3.2F- Business Uses, 3.2G- Industrial Uses, and 3.12- Medical Marijuana Treatment Center

To see if the Town will vote to amend the Town’s Zoning Map to include a Medical Marijuana Overlay District in the Business and Industrial Zones,

AND

To amend Section 3.2.F Business Uses, by adding:

3.2 F Business Uses						
	SR	GR	B	I	C	CLI
22 Medical Marijuana Treatment Center	N	N	SPR	SPR	N	N

AND

To amend Section 3.2.G Industrial Uses, by adding:

3.2 G Industrial Uses						
	SR	GR	B	I	C	CLI
12 Medical Marijuana Treatment Center	N	N	SPR	SPR	N	N

AND

By deleting and replacing the current Zoning Bylaw Section 3.12 “Medical Marijuana Treatment Center” with the text that follows:

Section 3.12- Medical Marijuana Treatment Center

1. Establishment: The Medical Marijuana Overlay District (“MMOD”) is established as an overlay district. The boundaries of the MMOD coincide with the boundaries of the Business and Industrial Districts as shown on the Zoning Map on file with the Town Clerk. Within the MMOD, all requirements of the underlying district remains in effect, except where these regulations provide an alternative to such requirements. Land within the MMOD may be used either for (1) a Registered Marijuana Dispensary (“RMD”), in which case the requirements set forth in this section shall apply; or (2) a use allowed in the underlying district, in which case the requirements of the underlying district shall apply. If the provisions of the MMOD are silent on a zoning regulation, the requirements of the underlying district shall apply. If the provisions of the MMOD conflict with the requirements of the underlying district, the requirements of the MMOD shall control.
2. Purpose: To provide for the placement of RMDs, in accordance with the Humanitarian Medical Use of Marijuana Act, G.L. c.94C, App. §1-1, et seq., in locations suitable for lawful medical marijuana facilities and to minimize adverse impacts of RMDs on adjacent properties, residential neighborhoods, historic districts, schools, playgrounds and other locations where minors congregate by regulating the siting, design, placement, security, and removal of RMDs.
3. Definitions: where not expressly defined in the Zoning Bylaws, terms used in the MMOD Bylaw shall be interpreted as defined in the Humanitarian Medical Use of Marijuana Act, G.L. c.94C, App. §1-1, et seq. and the Department of Public Health Regulations promulgated thereunder, 105 CMR 725.001, et seq., and otherwise by their plain language.
 - a. Registered Marijuana Dispensary: also known as a Medical Marijuana Treatment Center, means a not-for-profit entity registered under 105 CMR 725.100, that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana-infused products (“MIPs”), tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

4. Location

- a. RMDs may be permitted in the MMOD pursuant to a Special Permit.
- b. RMDs may not be located within five hundred (500) feet of the following:
 - (1) School, including a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university;
 - (2) Child Care Facility;
 - (3) Library;
 - (4) Playground;
 - (5) Public Park;
 - (6) Youth center;
 - (7) Public swimming pool;
 - (8) Video arcade facility; or
 - (9) Similar facility in which minors commonly congregate.
- c. The distance under this section is measured in a straight line from the nearest point of the property line of the protected uses identified in Section 4.b. to the nearest point of the property line of the proposed RMD.
- d. The distance requirement may be reduced by twenty-five percent or less, but only if:
 - (1) The applicant demonstrates that the RMD would otherwise be effectively prohibited within the municipality;
 - (2) The applicant demonstrates that the RMD will employ adequate security measures to prevent diversion of medical marijuana to minors who are not qualifying patients pursuant to 105 CMR 725.004.

5. Procedure: The Planning Board shall be the Special Permit Granting Authority (SPGA) for a RMD Special Permit.

- a. Application: In addition to the materials required under Section 3.6 Site Plan Review, the applicant shall include:
 - (1) A copy of its registration as an RMD from the Massachusetts Department of Public Health (“DPH”);
 - (2) a detailed floor plan of the premises of the proposed RMD that
 - (3) identifies the square footage available and describes the functional areas of the RMD, including areas for any preparation of MIPs;
 - (4) detailed site plans that include the following information:
 - (a) Compliance with the requirements for parking and loading spaces, for lot size, frontage, yards and heights and coverage of buildings, and all other provisions of this Bylaw;

- (b) Convenience and safety of vehicular and pedestrian movement on the site and for the location of driveway openings in relation to street traffic;
 - (c) Convenience and safety of vehicular and pedestrian movement off the site, if vehicular and pedestrian traffic off-site can reasonably be expected be substantially affected by on-site changes;
 - (d) Adequacy as to the arrangement and the number of parking and loading spaces in relation to the proposed use of the premises, including designated parking for home delivery vehicle(s), as applicable;
 - (e) Design and appearance of proposed buildings, structures, freestanding signs, screening and landscaping; and
 - (f) Adequacy of water supply, surface and subsurface drainage and light.
- (5) a description of the security measures, including employee security policies, approved by DPH for the RMD;
 - (6) a copy of the emergency procedures approved by DPH for the RMD;
 - (7) a copy of the policies and procedures for patient or personal caregiver home-delivery approved by DPH for the RMD;
 - (8) a copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between RMDs approved by DPH;
 - (9) a copy of proposed waste disposal procedures; and
 - (10) a description of any waivers from DPH regulations issued for the RMD.
- b. The SPGA shall refer copies of the application to the Building Department, Fire Department, Police Department, Board of Health, the Conservation Commission, the Department of Public Works, Board of Water Commissioners, and the Zoning Board of Appeals. These boards/departments shall review the application and shall submit their written recommendations. Failure to make recommendations within 35 days of referral of the application shall be deemed lack of opposition.
 - c. After notice and public hearing and consideration of application materials, consultant reviews, public comments, and the recommendations of other town boards and departments, the SPGA may act upon such a permit.
- 6. Special Permit Conditions on RMDs: The SPGA shall impose conditions reasonably appropriate to improve site design, traffic flow, public safety, protect water quality, air quality, and significant environmental resources, preserve the character of the surrounding area and otherwise serve the purpose of this section. In addition to any specific conditions applicable to the applicant's RMD, the SPGA shall include the following conditions in any special permit granted under this Bylaw:
 - a. Hours of Operation, including dispatch of home deliveries.

- b. The permit holder shall file a copy of any Incident Report required under 105 CMR 725.110(F) with the Zoning Enforcement Officer and the SPGA within 24 hours of creation by the RMD. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations.
 - c. The permit holder shall file a copy of any summary cease and desist order, cease and desist order, quarantine order, summary suspension order, order limiting sales, notice of a hearing, or final action issued by DPH or the Division of Administrative Law Appeals, as applicable, regarding the RMD with the Zoning Enforcement Officer and SPGA within 48 hours of receipt by the RMD.
 - d. The permit holder shall provide to the Zoning Enforcement Officer and Chief of the Police Department, the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder.
 - e. The special permit shall lapse within five (5) years of its issuance. If the permit holder wishes to renew the special permit, an application to renew the special permit must be submitted at least 120 days prior to the expiration of the special permit.
 - f. The special permit shall be limited to the current applicant and shall lapse if the permit holder ceases operating the RMD.
 - g. The special permit shall lapse upon the expiration or termination of the applicant's registration by DPH.
 - h. The permit holder shall notify the Zoning Enforcement Officer and SPGA in writing within 48 hours of the cessation of operation of the RMD or the expiration or termination of the permit holder's registration with DPH.
7. Exemption from RMD Special Permit Requirement: RMDs that demonstrate that they are protected pursuant to the agricultural exemption under G.L. c.40A §3 are not required to obtain a special permit, but shall apply for Site Plan Approval pursuant to Section 3.6 Site Plan Review of the Zoning Bylaw.
8. Prohibition Against Nuisances: No use shall be allowed in the MMOD which creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.
9. Severability: The provisions of this Bylaw 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.

or take any action relative thereto.

Annotated Version

Deletions in ~~strikeout~~

Town of West Boylston Zoning Bylaws- Section 3.12

Article 16

~~Section 3.12- Medical Marijuana Treatment Center~~

~~Section 3.12.A. PURPOSE~~

~~By vote at the State election on November 6, 2012, the voters of the Commonwealth approved a law regulating the cultivation, distribution, possession and use of marijuana for medical purposes. The law provides that it is effective on January 1, 2013 and the State Department of Public Health is required to issue regulations regarding implementation within 120 days of the law's effective date. Currently under the Zoning Bylaw, a Medical Marijuana Treatment Center is not a permitted use in the Town of West Boylston and any regulations promulgated by the State Department of Public Health are expected to provide guidance to the Town in regulating medical marijuana, including Medical Marijuana Treatment Centers. The regulation of medical marijuana raises novel and complex legal, planning, and public safety issues and the Town needs time to study and consider the regulation of Medical Marijuana Treatment Centers and address such novel and complex issues, as well as to address the potential impact of the State regulations on local zoning and to undertake a planning process to consider amending the Zoning Bylaw regarding regulation of medical marijuana treatment centers and other uses related to the regulation of medical marijuana. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Medical Marijuana Treatment Centers 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 enact bylaws in a manner consistent with sound land use planning goals and objectives.~~

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Final Version as Amended

Section 3.12 Medical Marijuana Treatment Center

1. **Establishment:** The Medical Marijuana Overlay District (“MMOD”) is established as an overlay district. The boundaries of the MMOD coincide with the boundaries of the Business and Industrial Districts as shown on the Zoning Map on file with the Town Clerk. Within the MMOD, all requirements of the underlying district remains in effect, except where these regulations provide an alternative to such requirements. Land within the MMOD may be used either for (1) a Registered Marijuana Dispensary (“RMD”), in which case the requirements set forth in this section shall apply; or (2) a use allowed in the underlying district, in which case the requirements of the underlying district shall apply. If the provisions of the MMOD are silent on a zoning regulation, the requirements of the underlying district shall apply. If the provisions of the MMOD conflict with the requirements of the underlying district, the requirements of the MMOD shall control.
2. **Purpose:** To provide for the placement of RMDs, in accordance with the Humanitarian Medical Use of Marijuana Act, G.L. c.94C, App. §1-1, et seq., in locations suitable for lawful medical marijuana facilities and to minimize adverse impacts of RMDs on adjacent properties, residential neighborhoods, historic districts, schools, playgrounds and other locations where minors congregate by regulating the siting, design, placement, security, and removal of RMDs.
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- g) a description of the security measures, including employee security policies, approved by DPH for the RMD;
- h) a copy of the emergency procedures approved by DPH for the RMD;
- i) a copy of the policies and procedures for patient or personal caregiver home-delivery approved by DPH for the RMD;
- j) a copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between RMDs approved by DPH;

(5) a copy of proposed waste disposal procedures; and

(6) a description of any waivers from DPH regulations issued for the RMD.

a. The SPGA shall refer copies of the application to the Building Department, Fire Department, Police Department, Board of Health, the Conservation Commission, the Department of Public Works, Board of Water Commissioners, and the Zoning Board of Appeals. These boards/departments shall review the application and shall submit their written recommendations. Failure to make recommendations within 35 days of referral of the application shall be deemed lack of opposition.

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 8. **Prohibition Against Nuisances:** No use shall be allowed in the MMOD which creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.
 9. **Severability:** The provisions of this Bylaw 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.

3.2 F Business Uses

	SR	GR	B	I	C	CLI
22 Medical Marijuana Treatment Center	N	N	SPR	SPR	N	N

And

3.2 G Industrial Uses

	SR	GR	B	I	C	CLI
12 Medical Marijuana Treatment Center	N	N	SPR	SPR	N	N

Discussion-

Chris Olson

A statewide voter referendum was held in November 2012 and resulted in the Humanitarian Medical Use of Marijuana Act, which legalized the use and distribution of marijuana for medical purposes. The state has acted and, thus, the town of West Boylston must react. If the Town does not respond to this referendum the Medical Marijuana Treatment Centers could be placed anywhere in Town even in a residential area. The moratorium stated in Section 3.12 C ends June 30, 2014 .

Section 3.12.C. 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 a Medical Marijuana Treatment Center. The moratorium shall be in effect through December 31, 2014. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of medical marijuana in the Town, consider the Department of Public Health regulations Regarding Medical Marijuana Treatment Facilities and related uses, and shall consider adopting new Zoning Bylaws to address the impact and operation of Medical Marijuana Treatment Centers and related uses.

The proposed bylaw would allow a Marijuana Overlay District in Business and Industrial Districts. State-licensed RMDs are overseen by the Department of Public Health (DPH) It would require a Special Permit from the Planning Board which would require a Public Hearing and mailed abutters notices.

There will be a PowerPoint presentation, commentary and discussion on the floor as well.

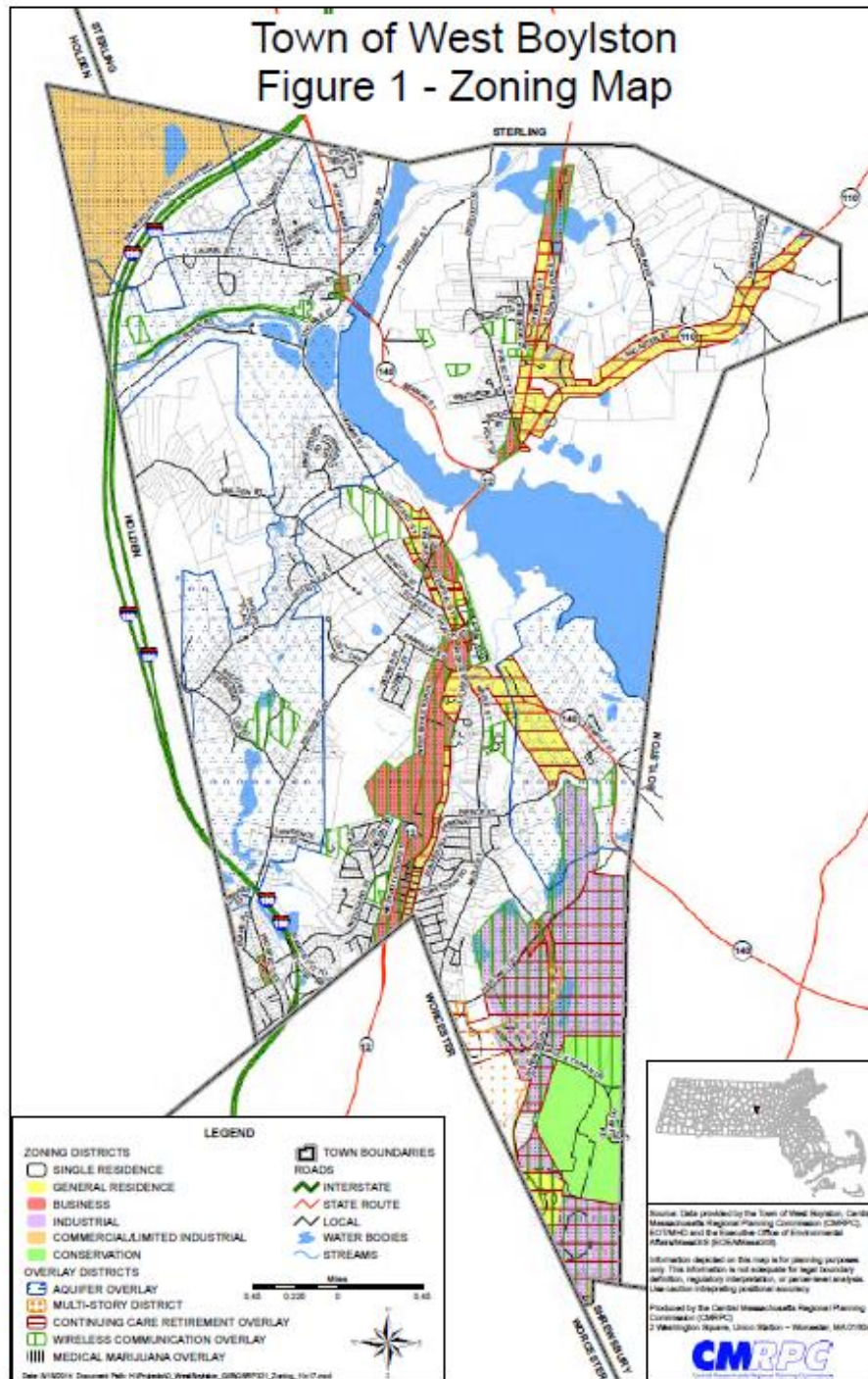
Approval conditions for a special permit include hours of operation, report requirements, contact information for Zoning Enforcement Officer and Chief of Police. The proposed bylaw represents a balance which includes meeting state requirements while protecting the needs and desires of all town residents.

The map below shows the districts in which this overlay applies to. If voted at Town Meeting it still must go through the state Attorney General's Office for approval.

Vincent Vignaly stated that amendments needed to be made to the schedule of use requirements as well.

No further discussion. Duly motioned by Kim D. Hopewell and seconded by Greg Zakarian it was unanimously voted to recommend approval Article 16

Motion to be made on the floor by Marc Frieden



Duly motioned and seconded to dissolve the meeting. Unanimously voted. Mtg. dissolved at 6:35 p.m.

Kim D. Hopewell, Town Clerk