



PLANNING BOARD

Report to Town Meeting

Article 7. Zoning – Temporary Moratorium on Recreational Marijuana Establishments (Planning Board)

To see if the Town will amend Article 3, Use Regulations, of the Zoning Bylaw, as follows:

~ SEE WARRANT ~

Recommendation

The Planning Board voted 7-0-0 with two members absent, to bring Article 7 to Town Meeting with no recommendation.

Background and Purpose

The purpose of this article is to adopt a temporary moratorium on the establishment of any new Recreational Marijuana Establishments. A Recreational Marijuana Establishment is defined as a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business for non-medical purposes. The article is a backup measure in case Article 6, Zoning – Recreational Marijuana Retailer fails at Fall Town Meeting as well as to provide an opportunity to debate and potentially enact a temporary moratorium, whether or not Article 6 is adopted.

If the Zoning Article 6 does not pass at Fall Town Meeting, there is not enough time to amend the Zoning Bylaws to regulate Recreational Marijuana Establishments before the state begins to accept applications for licenses. The Cannabis Control Commission (CCC) will issue its regulations governing the sale of marijuana for non-medical use on March 15, 2018, and will begin accepting applications for licenses on April 1, 2018, which is before the Spring Town Meeting begins on April 23, 2018.

Given the short amount of time between the issuance of regulations and the acceptance of license applications the Town may need more time to address the potential impact of the state regulations on local zoning bylaws regarding Recreational Marijuana Establishments as well as draft the regulations necessary to provide adequate local safeguards.

This temporary moratorium would prevent any new Recreational Marijuana Establishments from opening in Amherst until the moratorium ends December 31, 2018. It is the intention that this moratorium will not prevent any of the four medical marijuana dispensaries that already have preliminary certificates of registration from the Massachusetts Department of Public Health from converting to a recreational business and/or co-locating both medical and recreational marijuana

businesses in the same building.

Mechanics

The article would amend Section 3.0, Prohibited Uses – All Districts, of the Zoning Bylaw by adding a new section, Section 3.03, Temporary Moratorium on Recreational Marijuana Establishments, as well as amend the Table of Contents to add Section 3.03, “Temporary Moratorium on Recreational Marijuana Establishments.”

Section 3.030 states the purpose of the amendment, Section 3.031 defines “Recreational Marijuana Establishment” and Section 3.032 states the adoption of the Temporary Moratorium.

This temporary moratorium would be in effect through December 31, 2018. This moratorium would be applicable to all recreational marijuana establishments notwithstanding any zoning amendments adopted by the Town allowing for such uses prior to December 31, 2018.

Benefits

The proposed Temporary Moratorium to be in effect through December 31, 2018 would provide additional time to adopt zoning that reflects the Cannabis Control Commission’s regulations, and would reduce the likelihood of having to amend the Zoning Bylaw at a later date. Many municipalities have already adopted a zoning moratorium on Recreational Marijuana Establishments, such as Hadley, Chicopee, Ludlow, Greenfield, and Williamsburg. The purpose of the moratorium is to provide additional time to consider how the Town will regulate recreational marijuana uses, in particular if the town cannot have Zoning Bylaws in place before the April 1, 2018 date when the CCC will begin accepting applications for licenses.

Risks

The article would prevent any new Recreational Marijuana Establishments from opening in Amherst until the Temporary Moratorium ends, thereby putting the town at an economic disadvantage of losing potential investors who may seek locations in neighboring areas.

Process

Town Counsel, KP Law, has been working with the Town’s Internal Marijuana Working Group to help navigate through this newly legal industry and its regulations. KP Law has drafted a model zoning Temporary Moratorium article on which this Article 7 is based. The article has been reviewed by various town staff members, including representatives of the Planning Department, Inspection Services, the Health Department and Economic Development.

The Zoning Subcommittee reviewed the Temporary Moratorium this past summer and it was decided to bring this article to the Fall Town Meeting. The Planning Board held a public hearing on this article on September 19, 2017. No public comment was received at that time, and the Planning Board voted 7-0-0 (with two members absent) to bring it to Town Meeting with no recommendation.