

# Marijuana FAQs for Town Meeting (Articles 3 - 7)

## Why are these marijuana-related articles on the Town Meeting Warrant?

Amherst is committed to a safe and deliberate implementation of the recreational marijuana law that both protects the health and safety of Amherst residents and respects the 74% of Amherst voters who approved of the ballot question. 65% of Amherst residents are below the age of 25, and over 30% are under the age of 20. Amherst's population is in constant flux, with nearly 5,000 new undergraduate college students arriving at UMass, Amherst College, and Hampshire College each year.

## Why is it important to amend the bylaw now?

The deadlines for implementation of the recreational marijuana law are not conducive to the schedules of municipalities with a Town Meeting form of government. Typically, Annual Town Meetings occur in late spring. In 2018, the Amherst Annual Town Meeting will begin on April 23. However, there are two significant deadlines in the law that will occur between this fall's Special Town Meeting and Annual Town Meeting 2018: 1) the deadline for the Cannabis Control Commission (CCC) to promulgate regulations on March 15, 2018; and 2) the deadline for the CCC to begin accepting license applications on April 2, 2018.

At this time, the substance of the CCC's regulations are unknown, as is the role of municipalities in the licensing process. The law provides that when the CCC receives an application for a recreational marijuana establishment, it will confirm whether the proposed use is allowed by zoning *in effect at the time of the application* at that location. Therefore, it is of paramount importance to have zoning in place prior to April 1, 2018.

## Why not just enact a moratorium like other communities?

A temporary zoning moratorium on recreational marijuana is an option available to Town Meeting (Article 7), but it is not an ideal solution. Although the Massachusetts Attorney General's Office has approved temporary zoning moratoria in a number of communities throughout the Commonwealth, it is unclear what the CCC will do if it receives an application for a recreational marijuana establishment in a municipality with a moratorium in place. While it appears likely that the CCC will respect the moratoria, it is possible that they could be challenged in court under the theory that a temporary moratorium is, in effect, a time-limited ban and therefore must be approved by the voters in the municipality, as mandated by the law.

It is also unclear whether a temporary zoning moratorium would prevent a medical marijuana dispensary from selling recreational marijuana. Moreover, the existing illegal market has demonstrated that marijuana will be consumed in Amherst. If Amherst passes a moratorium, people will purchase marijuana in surrounding communities and consume it here, so the Town will still have to deal with the effects of legally-purchased marijuana without the benefit of additional tax revenue to offset it.

## Will these bylaws need to be amended later?

If there are conflicts between the bylaw and the CCC's final regulations, Amherst may need to amend the bylaws. Even if the bylaws don't conflict with the state regulations, it may be prudent to revisit them in several years for a few reasons. First, it is difficult to estimate market size, demand, and effect on municipal services because this is an entirely new industry. Second, it is unclear what punitive actions the federal government may take on municipalities that host marijuana establishments because marijuana remains an illegal substance under federal law.

## Why limit the number of establishments to eight and why is the limitation in both the general and zoning bylaws?

Town Meeting is presented with the option of enacting a limitation on the number of recreational marijuana retailers to eight (Articles 4 & 6). M.G.L. c.94G does not require a vote of the voters to approve any limitation that is at or above the number of medical marijuana treatment centers registered to operate in the municipality or equal to or greater than 20% of the licenses issued for the retail sale of alcoholic beverages not to be drunk on the premises. Currently there are four (4) medical marijuana treatment centers registered to operate in Amherst and eleven (11) licenses issued for the retail sale of alcoholic beverages not to be drunk on the premises in Amherst.

It is difficult to determine the appropriate number because the market for recreational marijuana in Amherst is unknown, however, eight was chosen for several reasons. First, Town Meeting could amend the article to include a lower number, but it would be outside the scope of the article to amend the article to a larger number. Second, it was believed to be unwise to limit the number to four because that would effectively give the four medical marijuana dispensaries exclusive rights to operate recreational marijuana establishments and not allow new operators into the market. Third, a relatively high ceiling would allow the market to determine the appropriate number of establishments.

The Attorney General's Office has advised other communities that passed a general bylaw banning or limiting the number of recreational marijuana establishments to also include the ban or limitation in their zoning bylaws because it is essentially a limitation on the use of real property. Amherst Town Counsel concurred with this advice.

## Who is working on this issue and what have they done?

The Town Manager appointed the Economic Development Director to be the point person on staff dealing with both medical and recreational marijuana issues. A working group was also convened, consisting of the Town Manager, Economic Development Director, Health Director, Planning Director, and members of the Select Board.

The working group has met every two weeks since April to discuss the law, learn about legislative amendments, and prepare testimony on behalf of the Town. Members of the working group have participated in more than a dozen public hearings, meetings, and information sessions put on by groups such as the Massachusetts Municipal Association, Massachusetts Municipal Lawyers Association, Franklin Regional Council of Governments, the Central Massachusetts Regional Planning Commission, the joint legislative Committee on Marijuana Policy, and the Cannabis Control Commission. Members have made presentations to the Select Board, Planning Board and Zoning Subcommittee, the Finance Committee, the Board of Health, and the Campus and Community Coalition to Reduce High-Risk Drinking. The working group also helped draft letters to elected officials and members of the joint legislative Committee on Marijuana Policy advocating for changes that would help make implementation easier for municipalities. Finally, members participated in a Planning Board public hearing on the proposed zoning articles and a Select Board listening session about both the general and zoning warrant articles.