

Westminster's Zoning Options for Recreational Marijuana

In November of 2016, Massachusetts voters approved a law regulating the cultivation, distribution, possession and use of marijuana for recreational purposes. In Westminster this ballot question passed by a mere 60 votes with 50.3% voting in favor of the ballot question and 49.7% voting against it.

In an effort to implement the new law, the Governor has appointed a Cannabis Control Commission (CCC) to issue regulations regarding the licensing of commercial marijuana businesses. The CCC has prepared a draft set of regulations ([click here](#)) and has begun holding public hearings across the State to seek input. The CCC's plan is to begin accepting applications for licenses on the first of April 2018, with businesses opening the first of July 2018.

Currently Westminster's Zoning Bylaw only allows for medical marijuana establishments. Such establishments can only locate in our Industrial zoning districts by Special Permit and Site Plan Review from the Planning Board.

Thus far, there are two medical marijuana operations planning to locate in Westminster: 1) a grow facility operated by the Massachusetts Patient Foundation Inc. located on the old Chem Design property on Authority Drive has received a State license and is currently setting up their operation, and 2) Trichrome Health Corporation is still going through the State licensing process for a grow facility and dispensary at 25 Theodore Drive within the Westminster Business Park.

Our Zoning Bylaw does not currently address recreational marijuana establishments. Towns across the Commonwealth are now grappling with how to zone for recreational marijuana and are waiting for the CCC to finalize their regulations.

As you can imagine, the subject of zoning for recreational marijuana raises novel and complex issues involving public health and safety, liberty and individual freedom, and economics (tax revenues and potential jobs). The Town (both citizens and public officials) need time to do their homework and weigh their options before moving forward with any zoning proposal. In an effort to give the Town time to fully consider the issue, the Town enacted a temporary moratorium on recreational marijuana establishments last fall and the moratorium is set to expire at the end of the 2018 calendar year.

Town Counsel has prepared some guidance on how to zone for recreational marijuana, which can be [found here](#).

Presently, the Town has three options to choose from:

Option #1: Total ban on growing, cultivation, processing, distribution and sales of recreational marijuana. This is the most cautious approach and it gives us a chance to see how this issue plays out in other communities similar in size and setting to ours.

Pursuing this option would require two votes: a ballot question and a vote at Town Meeting.

Option #2: Allow the growing, cultivation, distribution, processing of recreational marijuana, but not sales. This option would allow recreational marijuana as an industrial use, but would ban retail sales (i.e. stores and dispensaries). Growing, cultivation, processing and distribution are industrial uses that would be best located in our existing industrial zoning districts and allowed by Special Permit and Site Plan Review through the Planning Board.

Such operations would require that the applicant enter into a Host Community Agreement with the Town.

Two questions to answer for this option:

1. Do we want to require all growing and cultivation of recreational marijuana be conducted in an enclosed building or are we willing to allow growing and cultivation outdoors? Note that the draft regulations of the Governor's Cannabis Control Commission require extensive security measures for both growing and cultivation. Allowing growing and cultivation of recreational marijuana outdoors does not mean that such uses would be considered agricultural in nature. Chapter 351 of the Acts of 2016 amend Chapter 40A Section 3 of the Zoning Act to expressly state that marijuana does not qualify for the agricultural exemption under the Zoning Act.
2. We do have the option of limiting these uses to fewer than 20% of the Town's existing retail liquor licenses (we have seven such licenses currently, so this would limit recreational marijuana uses to one), or fewer than the number of approved medical marijuana establishments. Currently, the Town has only one fully licensed medical marijuana facility; thus, tying the number of recreational establishments to the number of medical establishments would limit the number of recreational establishments to one.

Pursuing this option would require two votes: a ballot question and a vote at Town Meeting.

Option #3: Allow the growing, cultivation, distribution, processing and retail sales of recreational marijuana. This would be the most permissive option and would only require a Town Meeting vote on the bylaw, not a ballot question as well.

Such operations would require that the applicant enter into a Host Community Agreement with the Town.

There are several questions to answer for this option:

1. Where do we want to allow such uses? While growing, cultivation, processing and distribution are industrial-scale uses, retail sales are typically considered a commercial use. We may want to consider allowing retail marijuana sales in our commercial zoning districts, or simply restrict retail operations to our industrial zoning districts where the other industrial-scale recreational marijuana uses would be allowed. Wherever we decide to allow these uses, they should be by Special Permit and Site Plan Review from the Planning Board.
2. We do have the option of limiting these uses as described in the previous option.
3. The Town would have the option of imposing a local tax on the retail sale of recreational marijuana, up to 3% of the total sales prices. To do this, Town Meeting would have to vote to accept the provisions of MGL Chapter 64N, Section 3, and then set the percentage rate which may not exceed 3% of the sales price.

The Town will need to choose its preferred option and, depending on which option is selected, bring it before voters at a Special Town Meeting and/or ballot question before the end of the calendar year.

Before the Board of Selectmen recommend an option to pursue, **WE WANT TO HEAR FROM YOU!** If you have any comments you want to share with the Selectmen, please contact either:

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