

ARTICLE 31 - TO MAKE PROPOSED CHANGES TO THE ZONING BY-LAW (DELETE EXPIRED MORATORIA)

To see if the Town will vote to amend the Zoning By-Law to delete expired Moratoria including Section 5.1.: "Temporary Moratorium on Medical Marijuana Treatment Centers" and 5.J.: "Temporary Moratorium on Recreational Marijuana Establishments" in their entirety and to delete reference to said sections in the Table of Contents; or act in relation thereto.

~~SECTION 5.I - TEMPORARY MORATORIUM ON MEDICAL MARIJUANA TREATMENT CENTERS~~

~~Whereas, by vote at the State Election on November 6, 2012, the voters of the Commonwealth approved Ballot Question 3 authorizing legislation regulating the cultivation, distribution, possession and use of marijuana for medical purposes; and~~

~~Whereas, said legislation became effective on January 1, 2013; and,~~

~~Whereas, the State Department of Public Health is required to issue regulations regarding implementation of the new law within 120 days of the law's effective date; and,~~

~~Whereas, currently under the Town of Billerica Zoning Bylaw (and other local bylaws and regulations), a medical marijuana treatment facility is not a permitted use in the Town; and,~~

~~Whereas 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; and,~~

~~Whereas, the regulation of medical marijuana raises novel and complex legal and land use planning issues; and,~~

~~Whereas the Town needs time to study and consider the regulation of medical marijuana treatment centers and address such novel and complex issues; and,~~

~~Whereas the Town needs time to address the potential impact of the state regulations on local zoning; and,~~

~~Whereas the Town needs time to undertake a planning process to consider substantive amendments to the Zoning Bylaw regarding regulation of medical marijuana treatment centers and other uses related to medical marijuana; and,~~

~~Whereas the Town deems it to be in the public interest and consistent with the underlying goals and objectives of the Zoning Bylaw to adopt a temporary moratorium on the use of land and structures located in the Town for medical marijuana treatment centers and related purposes 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 and regulations in a manner consistent with sound land use planning goals and objectives;~~

~~Wherefore, the Town of Billerica hereby adopts the following temporary moratorium on the use of land and structures for medical marijuana treatment centers in the Town:~~

~~For the reasons set forth above and notwithstanding any other provision in the Town of Billerica Zoning Bylaw to the contrary, the Town of Billerica hereby adopts a temporary moratorium on the use of land or structures for purposes of cultivation, distribution, possession and use of marijuana for medical purposes and/or the operation of a medical marijuana treatment center. The moratorium shall remain in effect until June 30, 2014 (unless repealed earlier by action of Town Meeting). During the moratorium period, the Town will undertake a planning process to address the potential impacts of the medical marijuana legislation in Billerica, consider the Department of Public Health regulations regarding medical marijuana treatment facilities and related uses, and adopt appropriate zoning regulations to address the impact and operation of medical marijuana treatment centers and related uses in Billerica.
(Art. 37 — ASTM 5-07/2013)~~

~~5.J. TEMPORARY MORATORIUM ON RECREATIONAL MARIJUANA ESTABLISHMENTS~~

~~A. Purpose~~

~~On November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, processing, distribution, possession and use of marijuana for recreational purposes (new G.L. c. 94G, Regulation of the Use and Distribution of Marijuana Not Medically Prescribed). The law, which allows certain personal use and possession of marijuana, took effect on December 15, 2016 and (as amended on December 30, 2016 by Chapter 351 of the Acts of 2016 and thereafter, on July 28, 2017 by Chapter 55 of the Acts of 2017) requires a Cannabis Control Commission to issue regulations regarding the licensing of commercial activities by March 15, 2018 and to begin accepting applications for licenses no later than April 1, 2018. Currently under the Zoning Bylaw, a non-medical Marijuana Establishment (hereinafter, a "Recreational Marijuana Establishment"), as defined in G.L. c. 94G, § 1, is not specifically addressed in the Zoning Bylaw. Regulations to be promulgated by the Cannabis Control Commission may provide guidance on certain aspects of local regulation of Recreational Marijuana Establishments. The regulation of recreational marijuana raises novel legal, planning, and public safety issues, and the Town needs time to study and consider the regulation of Recreational Marijuana Establishments and address such 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 Recreational Marijuana Establishments. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Recreational Marijuana Establishments so as to allow sufficient time to address the effects of such structures and uses in the Town and to enact bylaws in a consistent manner.~~

~~B. Definition~~

~~“Recreational Marijuana Establishment” shall mean a “marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business.”~~

~~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 Recreational Marijuana Establishment and other uses related to recreational marijuana. The moratorium shall be in effect through December 31, 2018. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of recreational marijuana in the Town, and to consider the Cannabis Control Commission regulations regarding Recreational Marijuana Establishments, and shall consider adopting new Zoning Bylaws in response to these new issues.~~

~~Amended: Art. 31 — AFTM 10/03/2017~~

Submitted by the Zoning By-Law Review Committee

Finance Committee has not yet made final recommendation.

Article 31 Explanation: The two moratoria to be removed have expired and need to be formally removed from the zoning code to clean up the code.

- Section 5.I. “Temporary Moratorium on Medical Marijuana Treatment Centers” was enacted at Town Meeting vote in May 2013 and expired on June 30, 2014. In May 2014, the Town established the Medical Marijuana Overlay District, so this moratorium was no longer needed.
- Section 5.J. “Temporary Moratorium on Recreational Marijuana Establishments” was enacted by Town Meeting vote in October 2017 and expired on December 31, 2018. In October 2018, the Town established the Adult Use Marijuana Overlay District, so this moratorium was no longer needed.

Please refer to the redlined version of the zoning code submitted in this article for changes.