

Town of Sudbury

Planning Board

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TO: Patty Golden, Administrative Assistant
FROM: Jody Kablack, Planning Director
RE: Warrant Articles for 2014 Annual Town Meeting
DATE: January 24, 2014

Enclosed please find four articles submitted by the Planning Board for inclusion in the 2014 Annual Town Meeting warrant.

1. Amend Zoning Bylaw, section 2326, Accessory Structures
2. Amend Zoning Bylaw, section 4500, Wastewater Facilities Bylaw
3. Amend Zoning Bylaw, Section 4100, Flood Plain Overlay District
4. Amend Zoning Bylaw, Medical Marijuana Treatment Centers

If you need anything further, please advise.

Attachments

cc: Town Counsel

Amend Zoning Bylaw, section 2326, Accessory Structures

To see if the Town will vote to amend Article IX (the Zoning Bylaw), as follows:

Amend Section 2326 to replace the words "12 feet in length on any side, or with a maximum gross floor area of one hundred twenty square feet, whichever is less" with the words "16 feet in length on any side, or with a maximum gross floor area of two hundred (200) square feet, whichever is less";

or act on anything relative thereto.

Planning Board Report: This bylaw change has been suggested by the Building Inspector in order to mirror the requirements of the State Building Code on the placement of small sheds on residential property. The Planning Board recommends approval.

Submitted by the Planning Board:

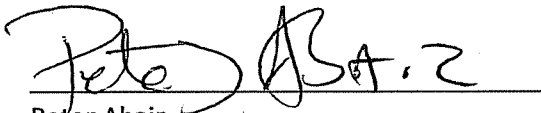


Michael Hunter, Chairman

Craig Lizotte, Vice-Chair

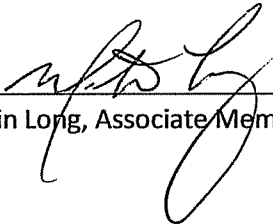


Patricia Brown



Peter Abair

Christopher Morely



Martin Long, Associate Member

sheds

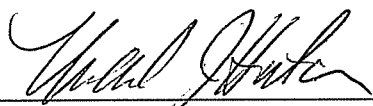
Amend Zoning Bylaw, section 4500 (Wastewater Facilities Bylaw) to delete this bylaw in its entirety.

To see if the Town will vote to amend Article IX (the Zoning Bylaw), as follows:

Delete section 4500 in its entirety; or act on anything relative thereto.

Planning Board Report: This is an obsolete bylaw which has never been used, dating back to the late 1980s when residential development pressure was high and the MA Department of Environmental Protection (DEP) regulation of these facilities was far less sophisticated. The local bylaw was adopted in response to an attempt by a developer to construct a package treatment plant for the wastewater needs of the subdivision, which was ultimately denied by DEP. The provisions of our local bylaw are now subsumed by comprehensive DEP regulations, including long term maintenance bonding and fail safe provisions, and to duplicate the permitting process does not make sense. The Planning Board recommends deleting this bylaw in its entirety.

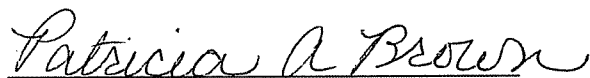
Submitted by the Planning Board:



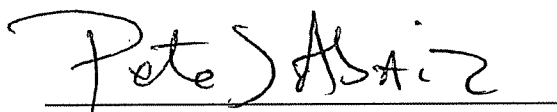
Michael Hunter, Chairman



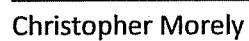
Craig Lizotte, Vice-Chair




Patricia Brown



Peter Abair



Christopher Morely



Martin Long, Associate Member

Wastewater Bylaw

Amend Zoning Bylaw, Section 4100, Flood Plain Overlay District

To see if the Town will vote to amend Article IX (the Zoning Bylaw), section 4100 (Flood Plain Overlay District) as follows:

1) Delete section 4130 and replace with the following:

4130. Location. The Flood Plain Overlay District shall consist of the several areas shown as flood plains on the following described maps or as otherwise described:

Flood Plain Boundaries

The Flood Plain District is herein established as an overlay district. The District includes all "special flood hazard areas inundated by 100-year flood" within the Town of Sudbury designated as Zones A and AE and "floodway areas in Zone AE" on the Middlesex County Flood Insurance Rate Map (FIRM), issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Middlesex County FIRM that are wholly or partially within the Town of Sudbury are panel numbers 25017C0362F, 25017C0363F, 25017C0364F, 25017C0366F, 25017C0367F, 25017C0368F, 25017C0369F, 25017C0386F, 25017C0388F, 25017C0501F, 25017C0502F, 25017C0506F, 25017C0507F, 25017C0508F and 25017C0509F dated July 7, 2014. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Flood Insurance Study booklet dated July 7, 2014. The FIRM and Flood Insurance Study booklet are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission and Engineering Department.

Floodway Data

In Zones A and AE along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

The areas in the Flood Plain Overlay District are hereby deemed to be subject to seasonal or periodic flooding, and the use of land in any such area is hereby declared to be dangerous to the health and safety of occupancy thereof, and each said area shall be known as a Flood Plan.

2) Delete section 4143 and replace with the following:

4143. Encroachments, including fill, new construction, substantial improvements and other development within any floodway shown on the Middlesex County Flood Insurance Rate Map for the Town of Sudbury Community No. 250217, dated July 7, 2014, prepared by the Federal Emergency Management Agency under the National Flood Insurance Program (on file with the Town Clerk and incorporated herein by reference), which would result in any increase in the 100-year flood level are prohibited, and no special permit shall be issued to allow such encroachments.

3) Delete section 4181 and 4183 and replace with the following:

4181. Massachusetts State Building Code as to floodplain and coastal high hazard areas (currently 780 CMR);

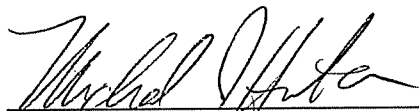
4183. Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);

Or act on anything relative thereto.

PLANNING BOARD REPORT:

The changes proposed in this article have been recommended by the Department of Conservation and Recreation Flood Hazard Management Program, which is the State Coordinating Office for the National Flood Insurance Program State Flood Hazard Mapping office, and reflect the new Federal Emergency Management Act (FEMA) flood maps that are expected to become effective in summer 2014 for the Concord-Sudbury-Assabet Watershed. FEMA has been working with MA communities to review existing zoning bylaws and to ensure that communities do not get suspended from the National Flood Insurance Program (NFIP). The National Flood Insurance Program is a federal program, administered by FEMA, which makes subsidized flood insurance available in communities that agree to adopt corrective and preventative floodplain management regulations that will reduce future flood damages. Communities that participate in the NFIP must adopt and abide by a floodplain district bylaw or ordinance that regulates development within their flood hazard areas as shown on their FEMA *Flood Insurance Rate Map*. Most of the minimum NFIP standards are included in the State Building Code, Wetlands Act and Title V. However, additional provisions are also required in the Flood Plain Overlay District Bylaw. The Sudbury Flood Plain Overlay District bylaw was originally adopted in 1962, and the major changes contemplated in this article are updates to FIRM map numbers and flood zone designations.

Submitted by the Planning Board:



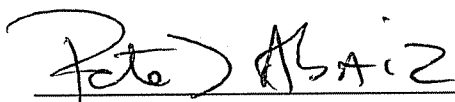
Michael Hunter, Chairman



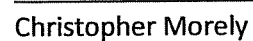
Craig Lizotte, Vice-Chair



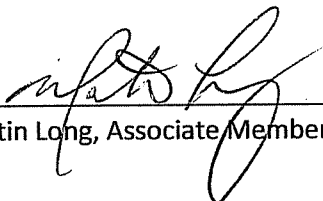
Patricia Brown



Peter Abair



Christopher Morely



Martin Long, Associate Member

Amend Zoning Bylaw, Medical Marijuana Treatment Centers

To see if the Town will vote to amend Article IX (the Zoning Bylaw), as follows:

A. To amend the Zoning Bylaw by repealing the “Section 8000. Temporary Moratorium on Medical Marijuana Treatment Centers” adopted at the 2013 Annual Town Meeting.

B. Amend Zoning Bylaw Section 7000, Definitions, to add the following new definition:

“Medical Marijuana Treatment Center” shall mean a “not-for-profit entity, as defined by Massachusetts law only, registered by the MA 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.”

C. Amend the Zoning Bylaw Section 2230, Table of Principal Use Regulations as follows:

Add a new use in C. Commercial, Medical Marijuana Treatment Center, which is allowed in the following zoning districts

Principal Use	A-Res	C-Res	WI	BD	LBD	VBD	ID	LID	IP	RD
Medical Marijuana Treatment Center	N	N	N	N	N	N	SP*	SP*	N	N

*Medical Marijuana Treatment Centers shall only be allowed in ID-2, ID-4, ID-6 and LID-1.

D. Amend the Zoning Bylaw by adding the following new section 4600, Medical Marijuana Treatment Centers:

4600. Medical Marijuana Treatment Centers.

4610. Purpose: To provide for the placement of Medical Marijuana Treatment Centers, 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 Medical Marijuana Treatment Centers 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 Medical Marijuana Treatment Centers.

4620. General Regulations: Medical Marijuana Treatment Centers may be permitted in the Industrial District 2 (ID-2), Industrial District 4 (ID-4), Industrial District 6 (ID-6) and Limited Industrial District 1 (LID-1) pursuant to a Special Permit issued by the Planning Board.

4621. Location: Medical Marijuana Treatment Centers may not be located within 500 feet of the following protected uses which are lawfully existing at the time of enactment of this Bylaw:

- a. schools, including a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university;
- b. licensed child care facilities;
- c. public libraries;

- d. public playgrounds and public parks;
- e. public or private youth centers, recreational fields or recreational facilities;
- f. public swimming pools; or
- g. similar facilities which provide services exclusively or predominantly to minors (dance studio, tutoring establishments, etc.), but not including restaurants, retail establishments or other commercial uses which are frequented by the general public, as identified by the Zoning Planning Board.

4622. 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 this section to the nearest point of the property line of the proposed Medical Marijuana Treatment Center.

4623. Location waiver: The distance requirement may be reduced by up to twenty-five percent (25%), but only if:

- a. The applicant demonstrates that the Medical Marijuana Treatment Center would otherwise be effectively prohibited within the municipality;
- b. The applicant demonstrates that the Medical Marijuana Treatment Center will employ adequate security measures to prevent diversion of medical marijuana to minors who are not qualifying patients pursuant to 105 CMR 725.004.

4624. Other restrictions:

- a. No Medical Marijuana Treatment Center may remain open for business past 9:00 P.M.
- b. There shall be no use of products or sampling of products at a Medical Marijuana Treatment Center.
- c. No marijuana or marijuana-based product shall be made, sold, grown or cultivated, interior or exterior, of a residential dwelling unit. Sale, processing, growing and related cultivation activities shall occur only in districts as permitted in this Bylaw, except as allowed under Massachusetts law.

4630. Procedure:

4631. Application: In submitting an application to the Planning Board, the applicant shall include:

- a. A copy of its registration as a Medical Marijuana Treatment Center from the Massachusetts Department of Public Health (DPH);
- b. Detailed floor plan of the premises of the proposed Medical Marijuana Treatment Center that identifies the square footage available and describes the functional areas of the Medical Marijuana Treatment Center, including areas for cultivating, any preparation or processing of products and retail sales area;
- c. Detailed site plans that include the following information:
 - (1) Compliance with the requirements for parking and loading spaces calculated separately for each area of use identified in the floor plans

- (2) Compliance with all dimensional requirements of section 2600, and all other provisions of this Bylaw;
- (3) Design and appearance of proposed buildings, structures, signs, screening and landscaping; and
- (4) Compliance with the Special Permit Criteria set forth in section 6220 of the Zoning Bylaw.

- d. A description of the security measures, including employee security policies, approved by DPH for the Medical Marijuana Treatment Center;
- e. A copy of the emergency procedures approved by DPH for the Medical Marijuana Treatment Center;
- f. A copy of the policies and procedures for patient or personal caregiver home-delivery approved by DPH for the Medical Marijuana Treatment Center;
- g. A copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between Medical Marijuana Treatment Centers approved by DPH;
- h. A copy of proposed waste disposal procedures; and
- i. A description of any waivers from DPH regulations issued for the Medical Marijuana Treatment Center.

4632. The Planning Board shall refer copies of the application to the Board of Selectmen, Town Counsel, Building Department, Fire Department, Police Department, Board of Health, Conservation Commission, Town Engineer and any other boards, departments or committees as it may deem necessary or appropriate. The 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.

4633. After notice and public hearing and consideration of application materials, consultant reviews, public comments, and the recommendations of other town boards and departments, the Planning Board may act upon such a permit.

4640. Special Permit Conditions on Medical Marijuana Treatment Centers: The Planning Board shall impose conditions reasonably appropriate to improve site design, traffic flow, protect ground and surface water quality, air quality, and significant environmental resources, ensure public safety and otherwise serve the purpose of this section. In addition to any specific conditions applicable to the applicant's Medical Marijuana Treatment Center, the Planning Board shall include the following conditions in any special permit granted under this Bylaw:

4641. Hours of Operation, including dispatch of home deliveries;

4642. 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 Sudbury Police Department within 24 hours of creation by the Medical Marijuana Treatment Center. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations;

4643. 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 Medical Marijuana Treatment Center with the Zoning Enforcement Officer and Sudbury Police Department within 48 hours of receipt by the Medical Marijuana Treatment Center.

4644. The permit holder shall provide to the Zoning Enforcement Officer and Sudbury 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.

4645. The special permit shall terminate within five 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.

4646. The special permit shall be limited to the current applicant and shall lapse if the permit holder ceases operating the Medical Marijuana Treatment Center.

4647. The special permit shall lapse upon the expiration or termination of the applicant's registration by DPH.

4648. The permit holder shall notify the Zoning Enforcement Officer and Planning Board in writing within 48 hours of the cessation of operation of the Medical Marijuana Treatment Center or the expiration or termination of the permit holder's registration with DPH.

4650. Exemption from Medical Marijuana Treatment Center Special Permit Requirement: Medical Marijuana Treatment Centers that demonstrate that they are protected pursuant to the agricultural exemption under G.L. c.40A Section 3 are not required to obtain a special permit, but shall apply for Site Plan Approval pursuant to Section 6300 of the Zoning Bylaw.

4660. Prohibition Against Nuisances: No Medical Marijuana Treatment Center shall be permitted to create a nuisance to abutters or to the surrounding area, or create 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.


4670. 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;

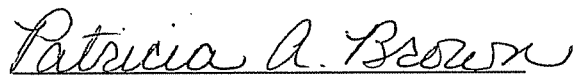
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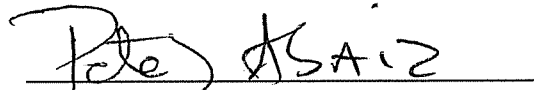
Planning Board Report: The 2013 Annual Town Meeting adopted a temporary moratorium on the establishment of Medical Marijuana Treatment Centers because the MA Dept. of Public Health had not issued final regulations as of that date. The regulations have been issued, and the 35 licenses will be awarded sometime in 2014. While Sudbury has not been chosen as a site for a Medical Marijuana Treatment Center, the Planning Board believes that pro-active zoning for this use is in the best interest of the community. This bylaw is similar to many in our neighboring communities, and provides modest but restrictive areas where such centers could be located.

Submitted by the Planning Board:



Michael Hunter, Chairman


Craig Lizotte, Vice-Chair


Patricia Brown


Peter Abair

Christopher Morely


Martin Long, Associate Member