

2018 Annual Town Meeting Town of Lexington Article 36 & 43

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**GENERAL BYLAW TO
REPEAL PROHIBITION OF RECREATIONAL
MARIJUANA ESTABLISHMENTS IN TOWN (36)**

&

**MEDICAL MARIJUANA /ADULT USE
ZONING BYLAW AMENDMENTS (43)**

MARCH 21, 2018

**TMMA INFORMATION SESSION III
PRESENTATION**

2017 October STM-3 Article 4 - Approved

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Code of Lexington Section 135-3.1.7 Excerpt:

“During the moratorium period, the Town shall undertake a planning process to address the potential impacts of marijuana in the Town, consider the Cannabis Control Commission regulations regarding “Marijuana Establishments” and related uses, and shall consider adopting new Zoning Bylaws to address the impact and operation of Marijuana Establishments and related uses.”

Overview and Purpose

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- Pro-actively address regulations for adult-use, stated in goals of 2017 October STM-3 Article 4 Moratorium
- Adopt a methodology to support reasonable and inclusive processes for all stakeholders in rulemaking
- Permit Medical Cannabis Centers in *theory* & in *practice*
- Respond to Lexington Resident's community demands for local patient and caregiver access
- Support meeting unfulfilled needs of Lexington Non-Profit & For-Profit Organizations intent on serving the Public
- Preserve Character and Expand Economic Opportunities and Amenities consistent with Regs. & Comprehensive Plan

Massachusetts Medical Marijuana Snapshot

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- As of 1/31/2018: (From DPH Monthly Dashboard)
- 50,582 Active Patient Certifications
- 5148 Active Registered Caregivers
- 227 Active Certifying Physician/NP Registrants

- Month January 2018 statistics:
- 46,294 Total Active Patients
- 26,844 ounces purchased at dispensaries
- 26,960 unique patients served at dispensaries (plus an additional 804 unique Caregivers served)

Why rezone for medical marijuana centers?

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- Patient and Caregiver Access Restricted
- Improve Quality of Life and Services for Residents
- Provide for reasonable retail accessibility in a manner similar to those of Licensed Pharmacies
- Current zoning CM (Commercial Manufacturing) inappropriate for all types of Establishments
- Unavailability of vacant space for Non-Profits
- Voters overwhelmingly approved [Medical Use 2012](#)
- Narrow split between local [Adult Use 2016 Vote](#)
- Safety and Accessibility are not mutually exclusive

Why zone for adult cannabis establishments?

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- Conversion and co-location of medical and adult-use establishments authorized under state law
- Address definitions in zoning for variety of ‘new uses’
- Local Employment Growth Opportunities
- Improved Patient & Caregiver access for Medical Use
- Grow Town Revenue from 3% Local Excise Tax
- Voters of 2016 Q4 nearly evenly split, while current law and final regulations are different altogether
- Lexington’s claim as a bio-tech hub and reputation as a business friendly community at stake

What's changed?

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- Mass. Cannabis Control Commission (CCC) created, 2017
- Mass. Medical Marijuana Regulations DPH/PHC changed 105 CMR 725 on November 8, 2017
- Massachusetts Adult-Use Cannabis Draft Regulations released 935 CMR 500 December, 2017
- October, 2017 Lexington STM Moratorium and Ban
- Mass. CCC approved Final Regulations 935 CMR 500 on 3/7/18. Filed with Sec. of Comm. on March 9, 2018
- Spring, 2018 Lexington ATM to address medical & adult-use zoning & general-bylaw amendments through regulation adoption & repealing the permanent ban/prohibition moratorium

Medical Marijuana Dateline

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- 2008 Personal Possession Decriminalization
- 2012 Medical Use Legalization
- 2016 Adult-Use Cannabis Legalization
- 2017 Modification of Medical Program Regulations
- 2017 Modification of Adult-Use Law H.3818 / Ch. 55
- 2017 Draft Released of Adult-Use Regulations
- 2018 March 7 CCC Approved Final Adult-Use Regulations, April 2 begin application process, July 1 sales expected to begin
- <https://www.mass.gov/medical-use-of-marijuana-program>
- <https://www.mass.gov/orgs/cannabis-control-commission>

Local Policy Considerations

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- Update Bylaw and Zoning for reasonable access
- Determine approach for host community agreements
- Identify department stakeholders to help limit barriers in crafted & contemplated regulations
- Address possible diversion and youth access
- Address possible nuisance issues for home and commercial cultivation, testing, on-site consumption
- Calculate department resource needs for security plans and costs directly incurred to by Town

Updated Regulation Development

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- 2018 ATM Warrant Article 43 Amended Draft Motion to Update the Town of Lexington Medical & Recreational Zoning Bylaw Webpage link: <https://www.lexingtonma.gov/planning-office/pages/proposed-marijuana-amendment>
- 2018 ATM Warrant Article 36 Standard Language to delete Town of Lexington Code Section 97-5 :
“That Chapter 97-5 of the Code of the Town of Lexington be repealed in its entirety.”

Lexington Zoned Med. Marijuana Use Types

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- Medical Marijuana Cultivation Centers
- Medical Marijuana Processing Centers
- Medical Marijuana Distribution Centers

Source (Code of the Town of Lexington, Chapter 135)

<http://ecode360.com/10529421?#10529421>

Zoning Table (Permitted Uses)

<https://ecode360.com/attachment/LE1818/LE1818-135a%20Table%201%20Permitted%20Uses%20and%20Dev%20Stds.pdf>

Un-Zoned Adult-Use Establishment Types

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- Adult-Use Cultivation Establishment up to 5k - 100k sq. ft. (Tier I, II, III, IV, V, VI, VII, VIII, IX, X, XI)
- Craft Marijuana Cooperative
- Marijuana Product Manufacturer
- Marijuana Retailer
- Marijuana Research Facility
- Marijuana Independent Testing Laboratory
- Marijuana Standards Laboratory
- Marijuana Transporter / Third Party / Existing Transporter
- Marijuana Micro-Business

Adult-Use Cultivation Sizing Tiers

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Tier	Feet
Tier 1	Up to 5,000 sq ft
Tier 2	5,001-10,000 sq ft
Tier 3	10,001 to 20,000 sq ft .
Tier 4	20,001 to 30,000 sq ft
Tier 5	30,001 to 40,000 sq ft
Tier 6	40,001 to 50,000 sq ft
Tier 7	50,001 to 60,000 sq ft
Tier 8	60,001 to 70,000 sq ft
Tier 9	70,001 to 80,000 sq ft
Tier 10	80,001 to 90,000 sq ft
Tier 11	90,001 to 100,000 sq ft

DELAYED Adult-Use Establishment Types

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- Delivery-Only Retailer
- Marijuana Social-Consumption Retailer (Primary)
- Marijuana Social-Consumption Retailer (Mixed-Use)

CCC Regulations Vote Unanimously [Approved March 6, 2018](#).

February, 2019 regulations anticipated by Massachusetts Cannabis Control Commission, Source: [Mass. CCC Municipal Guidance March, 2018](#), page 10.

Massachusetts Resources

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- <https://www.mass.gov/medical-use-of-marijuana-program>
- <https://mass-cannabis-control.com/>
- <https://mass-cannabis-control.com/wp-content/uploads/2018/03/Reposted-031218-CCC-Final-Regulations-with-disclaimer.pdf>
- <https://www.mass.gov/files/documents/2017/12/20/105cmr725.pdf>
- <https://www.mass.gov/files/documents/2018/01/10/2017-12-external-dashboard.pdf>
- <https://malegislature.gov/Laws/SessionLaws/Acts/2017/Chapter55>

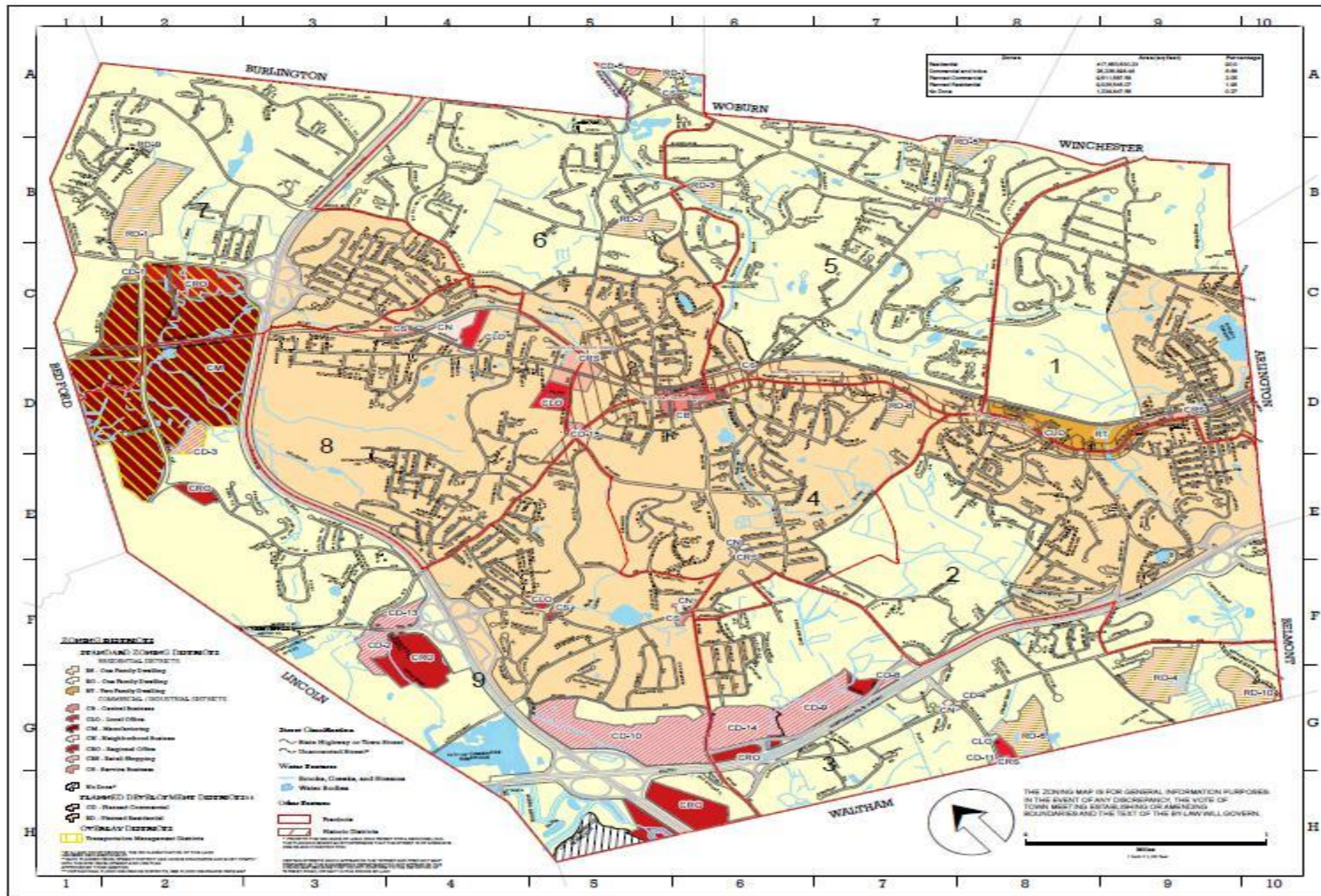
Town of Lexington Marijuana Links

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- Planning Board Page 2018:
<https://www.lexingtonma.gov/planning-office/pages/proposed-marijuana-amendment>
- Annual Town Meeting Draft Motion for Article 43 Amended 2/15/18:
https://www.lexingtonma.gov/sites/lexingtonma/files/pages/draft_motion_for_article_mmj_2018.pdf
- Planning Board Page 2017:
<https://www.lexingtonma.gov/planning-office/pages/medical-marijuana>
- Board of Selectmen STM-3 Art. 3 & 4 2017:
https://www.lexingtonma.gov/sites/lexingtonma/files/uploads/stm2017-3_articles_3-4_final_web-1.pdf

Town of Lexington Zoning Map

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Article 36 Motion

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Town of Lexington Motion 2018 Annual Town Meeting

ARTICLE 36 AMEND GENERAL BYLAWS TO REPEAL PROHIBITION OF RECREATIONAL MARIJUANA ESTABLISHMENTS IN TOWN (Citizen Article)

MOTION: That Chapter 97-5 of the Code of the Town of Lexington be repealed in its entirety.

(3/26/18)

For Reference: Existing Code § 97-5

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Town of Lexington Code

§ 97-5 Recreational Marijuana Facilities Prohibited

The operation of any marijuana establishment, as defined in G. L. c. 94G, § 1, including, without limitation, a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business, within the Town of Lexington shall be prohibited. This prohibition shall not apply to the sale, distribution or cultivation of marijuana for medical purposes licensed or registered pursuant to Chapter 369 of the Acts of 2012.

Article 43 Motion

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Town of Lexington Motion 2018 Annual Town Meeting

ARTICLE 43 AMEND CHAPTER 135 ZONING BYLAW (Citizen Article)

MOTION: That the Zoning Bylaw, Chapter 135 of the Code of the Town of Lexington, be amended, effective April 1, 2018, as follows:

- 1) Delete §135-3.1.7: “Recreational Marijuana Moratorium”.
- 2) Insert in §135-6.10 of the Town’s Zoning Bylaw, Definitions, the following definition: “Marijuana Establishment”: Any Establishment, registered as a Marijuana Establishment in accordance with Massachusetts law and licensed by the Cannabis Control Commission pursuant to 935 CMR 500 et seq.
- 3)25) (3/26/18)