

TOWN OF HANOVER



**PLANNING BOARD
NOTICE OF PUBLIC HEARING**

Notice is hereby given pursuant to Massachusetts General Laws Chapter 40A, Section 5 (The Zoning Act), that the Planning Board of the Town of Hanover will hold a Public Hearing on Monday, March 13, 2017 at 7:00 p.m. in the second floor hearing room of the Town Hall, 550 Hanover Street, Hanover, MA.

The purpose of the Public Hearing is to hear testimony and comment from interested persons relative to proposed amendments as listed to the Town of Hanover Zoning Bylaws and Zoning Map, said amendments to be included as Articles on the Warrant for consideration and action at the Annual Town Meeting to be convened at the Hanover High School on Monday, May 1, 2017. After the Public Hearing the Board will, as required by law, vote its recommendations on the proposed articles and report them to the Town Meeting.

A summary of the proposed Articles is provided below. Copies of the text of said Articles are available for review by interested parties in the Offices of the Town Clerk and of the Planning Board (550 Hanover Street, Hanover, MA 02339) during regular business hours. The Article items appearing below may not be the same as those on the final Warrant for the Annual Town Meeting, and are inserted herein for convenience and discussion purposes only.

Summary of Proposed Zoning Articles:

ARTICLE . ADD ZONING BYLAW – TEMPORARY MORATORIUM SALE AND DISTRIBUTION OF RECREATIONAL MARIJUANA

To see if the Town will vote to amend the Town's Zoning Bylaws by adding the following new section, or take any other action relative thereto.

"6.16.0 TEMPORARY MORATORIUM." and further to amend the Table of Contents to add Section 6.16. "Temporary Moratorium" and the ensuing parts as proposed herein.

"6.16.0 Temporary Moratorium on the Sale and Distribution of Recreational Marijuana

A. Purpose

By vote at the State election on November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, distribution, possession and use of marijuana for recreational purposes. The law provides that it is effective on December 15, 2016 and the Cannabis Control Commission is required to issue regulations regarding implementation by March 15, 2018.

Currently under the Zoning Bylaw, Recreational Marijuana Establishments and Marijuana Retailers are not a permitted use in the Town and any regulations promulgated by the State Cannabis Control Commission are expected to provide guidance to the Town in regulating Recreational Marijuana Establishments and Marijuana Retailers. Further, the ballot measure establishes an important provision that requires ballot action by the Town prior to the adoption of zoning.

The regulation of Recreational Marijuana Establishments and Marijuana Retailers raise novel and complex legal, planning, and public safety issues and the Town needs time to study and consider the regulation of Recreational Marijuana Establishments and Marijuana Retailers and address such novel and complex 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 and Marijuana Retailers and other uses related to the regulation of recreational marijuana. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Recreational Marijuana Establishments and Marijuana Retailers 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 adopt provisions of the Zoning Bylaw in a manner consistent with sound land use planning goals and objectives.

B. Definitions

"Manufacture", to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

"Marijuana accessories", equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body.

"Marijuana cultivator", an entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.

"Marijuana establishment", a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business.

"Marijuana product manufacturer", an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

"Marijuana products", products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of

marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

"Marijuana testing facility", an entity licensed to test marijuana and marijuana products, including certification for potency and the presence of contaminants

"Marijuana retailer", an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

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 Recreational Marijuana Establishments and Marijuana Retailers. 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, consider the Cannabis Control Commission regulations regarding Recreational Marijuana Establishments and Marijuana Retailers and related uses, once issued, determine whether the town shall, if in its power, restrict any, or all, licenses for Recreational Marijuana Establishments and Marijuana Retailers, determine whether the town will prohibit on-site consumption at Recreational Marijuana Establishments and Marijuana Retailers and shall consider adopting new provisions of the Zoning Bylaw to address the impact and operation of Recreational Marijuana Establishments and Marijuana Retailers and related uses.

D. Severability

The provisions of this by-law are severable. If any provision, paragraph, sentence, or clause of this By-law 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.”

Board of Selectmen
Town Manager

ARTICLE WITHDRAWN - ARTICLE . AMEND ZONING MAP 55/LOT 004

To see if the Town will vote to amend the Zoning Map of the Town of Hanover to rezone a property located on the Hanover Assessor’s Map 55/Lot 004 from Residence A to Business, or take any other action relative thereto.

Town Manager

ARTICLE

To see if the Town will vote to amend the Zoning Bylaw for the Town in the manner described below, or, to see if the Town will vote to take any action relative thereto:

Amend the Hanover Zoning Bylaw, Section 6, “Residence A District” by deleting “6.040 Uses Permitted by Special Permit and with Site Plan Approval” in its entirety and replacing it with the following new section:

6.040 – Uses Permitted by Special Permit and with Site Plan Approval

The following uses may be permitted upon application to and granting of a Special Permit and Site Plan Approval by the Planning Board, acting as the Special Permit Granting Authority, as specified in Section 10 of this Zoning Bylaw. The applicant shall clearly demonstrate to the satisfaction of the Board that said use is safe and appropriate for the specific site and that it will not create a nuisance by virtue of noise, odor, smoke, vibration, traffic generated or unsightliness.

- A. The establishment of a Planned Residential Development for Seniors (PRDS) subject to all of the requirements, regulations, provisions, and procedures of subsections 1. through 7., below. Failure on the part of the applicant to comply with any of said requirements, regulations, provisions, and procedures may be cause for the denial of the project by the Planning Board.

- 1. Purpose

The purpose of a PRDS is to provide alternative and affordable housing for residents who are 55 years in age or older.

- 2. General Requirements

- a. Any PRDS shall contain a minimum area of not less than three (3) acres, of which at least one and a half (1.5) acres shall be exclusive of any and all wetlands resource areas or floodplains and any and all easements or covenants restricting in any way the use of said minimum area.
- b. Included as a portion of the minimum area required above, any PRDS shall contain a minimum area of not less than one half (.5) acre to be dedicated as common open space. Said common open space shall be distinctly separate from land used for the construction or dwellings, shall be landscaped or left in a natural state, and shall be for the use and enjoyment of the residents of the PRDS where allowed.
- c. Except for the Height Regulations of Section 7.100, the PRDS shall not be subject to the Dimensional Regulations of Section 7, but shall be subject to the Area and Dimensional Regulations of Section 3., below.
- d. Any PRDS shall be serviced by a minimum of two (2) access roads or drives unless a divided access road or drive is approved by the Planning Board. One of the access roads can be approved for emergency egress only and be gated with appropriate access for the Hanover Fire Department.

- e. Any P.R.D.S. shall include adequate provisions for the disposal of septic waste. Said provisions shall be in compliance with the regulations of both the Department of Environmental Protection (314 CMR 2.00 through 7.00 and 310 CMR 15.00) and the Hanover Board of Health.
- f. Recreational facilities and accessory structures, along with their associated uses, for the use of the residents of a PRDS shall be permitted but home occupations, the taking in of boarders, or the renting of rooms shall not be allowed nor permitted.
- g. Any person who resides in a PRDS shall be fifty-five years of age or older, provided that an exemption from such requirement shall be provided for a qualified caregiver to an over fifty-five years of age or older resident whose residence is certified to be medically necessary by an attending physician.
- h. The maximum number of dwelling units in any specific PRDS shall not exceed four percent (4%) of the total number of dwelling units in the Town as shown on the records of the Board of Assessors for the year in which the application is filed.
- i. On any parcel of land utilized for the development of a PRDS, no other uses, except for accessory uses, shall be allowed or permitted.

3. Area and Dimensional Regulations

- a. A PRDS shall have a minimum frontage of a distance not less than fifty (50) feet. Said frontage shall be contiguous and uninterrupted for the required distance.
- b. In addition to the minimum area requirements of Section 2.b., above, there shall be provided for each dwelling unit in a PRDS a minimum area of five thousand (5,000) square feet, said minimum area to be as follows:
 - i. A minimum area of four thousand (4,000) square feet shall be reserved for the construction of said dwelling units and garages associated with said dwelling units and said area shall be in accordance with the provisions of Section 2.a., above, relative to wetlands resource areas, floodplains, easements and/or covenants.
 - ii. A minimum area of one thousand (1,000) square feet shall be added to the minimum area required in Section 2.b., above and said area shall be in accordance with the provisions of that Section relative to wetlands resource areas, floodplains, easements and/or covenants.
- c. The minimum area requirements of Sections 2.b and 3.b (1.) & (2.), above, shall be exclusive of all paved surfaces such as roads, drives and parking areas.
- d. A buffer area shall be provided around the entire perimeter of a PRDS in accordance with the following:

- i. Said buffer area shall be continuous and shall be of a minimum width of not less than forty (40) feet.
 - ii. Said buffer area shall be landscaped in accordance with the provisions of Section 8 of this Zoning Bylaw.
 - iii. Access roads or access drives may be permitted within said buffer area provided that said buffer is maintained along any abutting lots. However, roads or drives internal to the PRDS shall not be so permitted.
4. Dwelling Unit Design Requirements
- a. Dwelling units in a PRDS may be comprised of either of the following:
 - i. All single family dwellings.
 - ii. All duplex dwellings.
 - iii. All town houses. A town house structure shall not contain more than five (5) dwelling units per structure.
 - iv. A mix of single family dwellings, duplex dwellings, and/or town houses containing not more than five (5) dwelling units per structure provided that, if any PRDS is comprised of a mix of dwelling types, no one dwelling type shall constitute more than sixty percent (60%) nor less than thirty percent (30%) of the total number of dwelling units.
 - b. For the purposes of conserving the value of land and buildings, promoting the aesthetic qualities of the Town, and protecting residential neighborhoods from potential despoliation, all dwellings shall be constructed in accordance with the following:
 - i. All dwellings shall be of wood, lightweight metal or steel frame construction and shall be constructed on site.
 - ii. No dwellings or dwelling units shall be mobile homes. Modular or Manufactured homes may be permitted so long as they comply Section 5(a) of this section.
 - c. Individual dwelling units shall not contain more than two (2) bedrooms per unit.
 - d. Each dwelling unit shall have two (2) exterior means of access and egress, as such are defined in the Massachusetts State Building Code, 780 CMR, and such exterior means of access and egress shall be separate from those of any other dwelling unit.
 - e. Each dwelling unit shall have, at a minimum, two (2) sides with full exterior exposure.

- f. No floor of a dwelling unit, except for the floor of an unfinished basement, shall be located below the average finished grade of the land abutting said dwelling unit.
 - g. Each dwelling unit in a structure containing four (4) dwelling units or more shall be equipped with a fire protection residential sprinkler system approved by the Hanover Fire Department.
5. Other Design Requirements
- a. All buildings and structures shall be designed in an architectural style consistent with that of a rural suburban New England environment. Said architectural style shall be aesthetically pleasing and compatible with the surrounding neighborhood.
 - b. All buildings, structures, open spaces, roads and drives, parking areas and other development features shall be designed and located in such a fashion so as to conform, to the greatest extent possible, to the existing natural terrain on the site.
 - c. All exterior lighting, whether placed along roads, drives, or walks, in parking areas, or on structures or other facilities, shall be arranged and shielded so as not to distract in an unreasonable manner the occupants of any dwelling(s) nor shine directly upon abutting properties and/or public ways. In no instance shall illumination upon the window surface of any dwelling exceed one-half (1/2) foot candle. All exterior lighting shall be of a mercury vapor type.
 - d. All access roads and drives and all interior roads and drives shall be designed and constructed in accordance with the provisions of the Planning Board Rules & Regulations Governing the Subdivision of Land unless specific provisions are waived by the Board.
 - e. The placement of structures so as to allow the maximum utilization of direct and passive solar energy shall be encouraged.
 - f. All developed areas not covered by pavement, curbing, buildings and/or structures shall be landscaped with grass, shrubbery, trees, flowers and/or ground covers indigenous to the area. In addition, along the length of each exterior wall of every principal structure, there shall be an area landscaped with bushes, shrubbery and/or flowers indigenous to the area.
 - g. There shall be one (1) parking space for each dwelling unit for the use of the occupants thereof. In addition, there shall be one parking space for each two dwelling unit for visitors. All parking spaces shall be a minimum of ten (10) feet in width by twenty (20) feet in length and within reasonable proximity to the dwelling units which they serve. Parking spaces may be located in garage facilities either attached to, or detached from, the principal structure(s).
 - h. All existing or proposed utilities and municipal services shall be installed underground at the time of initial construction.

- i. Provisions shall be made for the storage, collection and removal of all solid waste. All necessary facilities shall be screened appropriately.
 - j. All dwellings, structures, and other facilities shall be designed, constructed, and maintained in accordance with the latest Massachusetts' standards for accessibility for the handicapped.
6. Special Provisions
- a. All access roads and drives, interior roads and drives, drainage systems, provision for underground utilities and municipal services, and other site improvements shall be shown on a plan prepared in accordance with the provisions of the Planning Board Rules and Regulations Governing the Subdivision of Land as said provisions relate to a Definitive Subdivision Plan.
 - b. All design requirements, all elements of the PRDS, all site improvements and all other amenities shall be shown on a Site Plan prepared in accordance with Section 10, Site Plan Approval, of this Zoning Bylaw. Included on said Site Plan shall be all dwelling units, and all of the elements required under Section 10.100, Site Plan Contents, of this Zoning Bylaw, unless the inclusion of specific elements is waived by the Planning Board.
 - c. Architectural Plans showing elevations of all typical principal structures shall be prepared by a Registered Professional Architect. All structures shall be designed in a compatible architectural style consistent with that of a rural suburban New England environment. Architectural Plans, as well as the Site Plan required in Section 6.b., above, shall be submitted to the Hanover Design Review Board for review. Failure on the part of the applicant to comply with the recommendations of the Design Review Board may be cause for the denial of the project by the Planning Board. Said Architectural Plans shall also be submitted to the Planning Board.
 - d. The area of land required in Sections 2.b. and 3.b.(2.), above, to be dedicated as common open space shall be placed in the common ownership of all of the individual owners of the dwelling units in the PRDS. Said ownership and the use and maintenance of such common open space shall be determined by an agreement, duly executed in a form suitable for recording by the owner, or owners, of such common open space. Such agreement shall provide for the permanent retention of said common open space and shall provide that, in the event that the Planning Board shall grant a Special Permit hereunder, such permanent common open space shall be owned by the owner, or owned in common by the owners, of the dwelling units within the PRDS and such ownership shall run with the title to the dwelling units and shall not be separately alienable. The format and content of said agreement shall be reviewed by Town Counsel and shall be such as to be acceptable to the Planning Board.

- e. In addition to the agreement required in Section 6.f., above, Covenants or Deed Restrictions, reviewable by Town Counsel and acceptable to the Planning Board, shall be prepared to ensure the following:
 - i. The dwelling units in the PRDS shall be occupied only by persons fifty-five (55) years of age or older except for guests visiting for short durations, not to exceed thirty (30) days in a calendar year.
 - ii. That responsibility for the upkeep, maintenance, plowing and sanding of roads, drives, walks and parking areas within the PRDS shall fall to the owner, or owners, of the dwelling units in the PRDS.
 - iii. That adequate provisions are in place to accomplish the collection and removal of solid waste and that the associated cost, as well as any costs associated with septic waste disposal, shall be borne by the owner, or owners, of the dwelling units in the PRDS.
- f. Evidence, satisfactory to the Planning Board, that agreements, covenants and/or deed restrictions required by Sections 6.f. & g., above, have been recorded at the Registry of Deeds shall be submitted to the Board prior to the issuance of any Occupancy Permit by the Building Inspector. The Planning Board shall so notify the Building Inspector of satisfactory compliance with this provision and the Building Inspector shall not issue Occupancy Permits until so notified.
- g. In addition to the information required in Section 6.b., above, the Site Plan shall include the following:
 - i. Total area of the parcel.
 - ii. Total area of all wetlands resource areas, floodplains and land restricted by covenants or easements.
 - iii. Total area to be reserved for the construction of dwelling units.
 - iv. Total area to be dedicated as Common Open Space.
 - v. Total area to be devoted to paved surfaces to include roads, drives and parking areas.
- h. The Planning Board shall require as a condition of approval and as a requisite for the granting of a Special Permit that, prior to the issuance of building permits, the construction of access ways and drives, the installation of municipal services, and the provisions for landscaping and other amenities shall be secured by a deposit of money or negotiable securities sufficient in the opinion of the Board to secure said performance.
- 7. Procedure

- a. The applicant shall submit an application for Special Permit and Site Plan Approval in accordance with the provisions of Section 10 of this Zoning Bylaw and in accordance with the following:
 - i. Prior to submitting a formal application, the applicant shall meet at least twice with the Planning Board in order to discuss the concept of the proposal.
 - ii. The Planning Board may request an outline of the concept and/or a limited plan of the proposal. The Planning Board shall determine whether additional meetings are required and shall so notify the applicant in a timely fashion, not to exceed thirty (30) days.
 - iii. At the conclusion of said meetings, the Planning Board shall indicate whether, in the opinion of the Board, the concept does, or does not, have merit. A positive indication is not a guarantee that the formal application will be approved nor is a negative indication a determination that a formal application shall not be approved.
 - iv. If the applicant desires to proceed with the proposal, he/she shall submit a formal application within sixty (60) days of the date upon which the Planning Board issues the positive or negative indication referenced in Section (3), immediately above.
 - v. Within one (1) week of submitting a formal application to the Planning Board, the applicant shall submit to the Design Review Board the Site Plan and Architectural Plans in accordance with Section 6.c., above.
- b. The Planning Board shall review said application for Special Permit and Site Plan Approval in accordance with the provisions of this Zoning Bylaw, Sections 6 & 11 of Chapter 40A (The Zoning Act) and Sections 81K through 81GG, inclusive, of Chapter 41 (The Subdivision Control Law) of the Massachusetts General Laws, the Planning Board Rules and Regulations Governing the Subdivision of Land, and the Rules and Regulations of the Planning Board relative to the Grant of Special Permits.
- c. All applications shall be reviewed by the Planning Board's Consultant Review Engineer. The applicant, in accordance with the Planning Board Rules and Regulations, shall deposit with the Treasurer of the Town funds equal to five thousand dollars (\$5,000.00) for the purpose of covering the costs associated with said engineering review. Unexpended funds shall be returned to the applicant.

And further amend Section 6.100 - Business District to add the following:

Section 6.140

The following uses are permitted upon application to and granting of a Special Permit and Site Plan Approval by the Planning Board, acting as the Special Permit Granting Authority, as specified in Section 10 of this Bylaw. The applicant shall clearly demonstrate to the Board that said use is safe and appropriate for the specific site and that it will not create a nuisance by virtue of noise, odor, smoke, vibration, traffic generated or unsightliness.

A. Uses Permitted in section 6.040 of the Residence A District.

And further amend Section 6.200 – Commercial District to add the following:

Section 6.230

B. Uses Permitted in Section 6.040 of the Residence A District.

And further amend Section 6.300 – Planned Shopping Center District:

Section 6.330

B. Uses Permitted in Section 6.040 of the Residence A District.

Assistant Town Manager
Town Planner

ARTICLE . AMEND ZONING BYLAW, SECTION 6.11.20

To see if the Town will vote to amend Zoning Bylaw 6.11.20 in the manner described below, or take any other action relative thereto.

Village Planned Unit Development Section 6.11.20: Area and Dimensional Regulations:

Amend the Hanover Zoning Bylaw, Section 6.11.20 F. (VPUD) Area and Dimensional Regulations Requirements, by deleting this subsection and replacing it with the following:
To be inserted in place of Section 6.11.20.F.

- F. A buffer area shall be provided around the entire perimeter of a parcel of land that is the subject of a VPUD Special Permit in accordance with the following:
1. The buffer area shall be continuous and shall be of a minimum width of not less than fifty (50) feet.
 2. The buffer area shall be landscaped with natural vegetation, new plantings, or a combination, which shall include groundcover, shrubs, and trees in accordance with the provisions of Section 8 of this Zoning Bylaw, except to the extent that the requirements of that section are reduced by the Planning Board upon the request of the Special Permit applicant.
 3. Access roads or driveways or pedestrian paths may be allowed to cross the buffer area as shown on the approved plans.

The buffer area shall apply to a VPUD except to the extent that the requirements of this subsection are reduced, amended or waived by the Planning Board for good cause shown, consistent with the purposes of Section 6.11.0 (Village Planned Unit Development) of this Zoning Bylaw.

Planning Board

Hanover Planning Board

Jeff Puleo, Chairman

Hanover Mariner, Wednesday February 22, 2017 and March 1, 2017

PLEASE SEND INVOICE:

Attention: Sandra MacFarlane, Asst. Conservation Agent

Dept. of Municipal Inspections, Conservation Office

550 Hanover Street, Suite 11, Hanover, MA 02339 Tel: 781-826-6505 Ext. 1020