

FOXBOROUGH PLANNING BOARD

ARTICLES FOR FALL 2013 TOWN MEETING

ARTICLE 1 Medical marijuana

To amend Table 3-1 of the Foxborough Zoning By-Laws by inserting a new use category as follows:

	R-15	R-40	GB	NB	HB	GI	LI	S-1
D.12 Medical Marijuana Treatment Center	N	N	N	N	N	N	N	PB

To amend the Foxborough Zoning By-Laws by inserting the following as Section 7.5:

7.5 MEDICAL MARIJUANA TREATMENT CENTERS

7.5.1 Purpose. The purpose of this Section 7.5 is to:

1. Provide for the establishment of Medical Marijuana Treatment Centers in appropriate places and under strict conditions in accordance with the passage of Initiative Petition 11-11 (Question #3 on the November, 2012 state ballot).
2. Minimize the adverse impacts of Medical Marijuana Treatment Centers on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other land uses potentially incompatible with said Centers.
3. Regulate the siting, design, placement, security, safety, monitoring, modification, and removal of Medical Marijuana Treatment Centers.

7.5.2 Applicability.

1. The commercial cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of Marijuana for Medical Use is prohibited unless permitted as a Medical Marijuana Treatment Center under this Section.
2. No Medical Marijuana Treatment Center shall be established except in compliance with the provisions of this Section.
3. Nothing in this By-Law shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.

7.5.3 General Requirements for all Medical Marijuana Treatment Centers.

1. Marijuana or Marihuana, Marijuana-Infused Product (MIP), Medical Marijuana Treatment Center , Registration Card, and Production Area are defined in 105 CMR 725.000.
2. All Medical Marijuana Treatment Centers shall be contained within a building or structure.
3. No Medical Marijuana Treatment Center shall have a gross floor area of less than 2,500 square feet or in excess of 20,000 square feet.
4. The hours of operation of Medical Marijuana Treatment Centers shall be set by the Planning Board, but in no event shall said Facilities be open and/or operating between the hours of 8:00 PM and 8:00 AM.
5. No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a Medical Marijuana Center.
6. No Medical Marijuana Treatment Center shall be located inside a building containing residential units, including transient housing such as motels and dormitories, or inside a movable or mobile structure such as a van or truck.
7. Signage shall comply with the Town of Foxborough Sign By-Law and only contain the name of the Center, the address, hours, contact information for the permit holder, and the following language: "Registration card issued by the MA Department of Public Health required." All text shall be a minimum of two inches in height. Signage shall not include the marijuana leaf icon or other imagery that would detract from the professional and medical nature of the Center.
8. Medical Marijuana Treatment Centers shall provide the Police Department and Building Commissioner with the names, phone numbers and email addresses of all management staff and keyholders to whom one can provide notice if there are operating problems associated with the establishment.

7.5.4 Special Permit Requirements.

1. A Medical Marijuana Treatment Center shall only be allowed by special permit from the Planning Board.
2. A special permit for a Medical Marijuana Treatment Center shall be limited to one or more of the following uses that shall be prescribed by the Special Permit Granting Authority:
 - a. Cultivation of Marijuana for Medical Use (horticulture).
 - b. Processing and packaging of Marijuana for Medical Use, including Marijuana, Marijuana-Infused Products (MIP), and other products.
 - c. Retail sale or distribution of Marijuana for Medical Use to Qualifying

Patients.

3. Site Plan Review by the Planning Board is required.
4. In addition to the application requirements set forth in these By-Laws, a special permit application for a Medical Marijuana Treatment Center shall include the following:
 - a. The name and address of each owner of the Center;
 - b. Copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the Center;
 - c. Evidence of the Applicant's right to use the site for the Center, such as a deed or lease;
 - d. If the Applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of the owners of such entities until the disclosure contains the names of individuals;
 - e. A written report from the Foxborough Police Department detailing minimum security measures for The Center.
 - f. Proposed security measures for the Medical Marijuana Center meeting or exceeding the requirements of the Police Department, including lighting, fencing, police details, guards, gates and alarms, etc., to ensure the safety of persons and to protect the premises from theft.

7.5.5 Findings. The Planning Board shall not issue a special permit for a Medical Marijuana Treatment Center unless it finds that the Center meets the criteria listed in Section 10.4.2 and that:

1. The Center is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest.
2. The Center is not within one thousand feet (1000') of any school serving persons under 21 years of age, a church or other religious facility, or a public park.
3. The Center demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations.

7.5.6 Conditions of Approval.

1. A special permit granted under this Section shall have a term limited to the duration of the applicant's ownership of the premises as a Medical Marijuana Treatment Center.

2. The Board shall require the applicant to post a bond at the time of construction to cover costs for the removal of the Medical Marijuana Treatment Center in the event the Town must remove the Center. The value of the bond shall be based upon the ability to completely remove all the items noted in 7.5.6 and properly clean the Center at prevailing wages.
3. Each Medical Marijuana Treatment Center permitted under this By-Law shall as a condition of its special permit file an annual report to the Planning Board, Board of Health, and the Town Clerk no later than January 31st, providing a copy of all current applicable state licenses for the Center and/or its owners and demonstrate continued compliance with the conditions of the Special Permit. The Planning Board may require such report to be made at a meeting.
4. Medical Marijuana Treatment Centers shall provide the Police Department and Building Commissioner the contact information required in 7.5.3.8 each year, no later than January 31st.
5. Medical Marijuana Treatment Centers shall meet with Police Department annually to review security provisions and submit any revisions to the Police Department and Building Commissioner no later than January 31st.
6. The Planning Board may impose other conditions as they deem necessary.

7.5.7 Abandonment or Discontinuance of Use.

1. A Special Permit shall lapse if not exercised within one year of issuance.
2. A Medical Marijuana Treatment Center shall be required to remove all material, plants equipment and other paraphernalia:
 - a. prior to surrendering its state issued licenses or permits; or
 - b. within six months of ceasing operations; whichever comes first.

ARTICLE 2: Innovative Development Standards

Amend Table 3-1 by inserting the following:

		R-15	R-40	GB	NB	HB	GI	LI	S-1
G.15	Innovative Residential Development	PB	PB	N	N	N	N	N	N

Amend Section 11 by inserting in the proper alphabetical order:

Innovative Residential Development: Alternative land development techniques that encourage higher quality development, create improved living environments, preserve unique site features, and provide services more efficiently.

Amend the Zoning By-Laws by inserting Section 8.5 as follows:

8.5 INNOVATIVE RESIDENTIAL DEVELOPMENT

8.5.1 Purpose. The purpose of this Section 8.5 is to:

1. Encourage the protection and preservation of significant rural and natural areas, including agricultural resources, open space, water bodies and supplies, wetlands and other natural resources, and historical and archeological resources;
2. Provide site-sensitive alternatives for orderly land development and use;
3. Allow innovation in the design of residential development and increased responsiveness to site conditions;
4. Enhance public safety by increasing access alternatives;
5. To facilitate the construction and maintenance of streets, utilities and public service facilities in an economical and efficient manner; and
6. Provide a mechanism to evaluate, consider, and approve alternate land design techniques.

8.5.1 Innovative Residential Development includes land development techniques, site access, and dimensional requirements that vary from those otherwise required. Innovative Residential Development includes shared driveways, extended dead-end roads, and responsiveness to historic settlement patterns. The Planning Board may adopt rules and regulations to implement this Section.

8.5.2 Shared driveways. A single driveway may be constructed to serve two lots.

1. A shared driveway provides vehicular access from a public way to the lots.
2. The applicant shall demonstrate that each lot otherwise has legal and functional access and it is possible to construct a driveway on each lot.
3. The applicant shall demonstrate that the shared driveway addresses one or more of the following:
 - a. Vehicular safety issues;
 - b. Sight distance improvement;
 - c. Preservation of land features, such as existing trees, stone walls and other amenities;
 - d. Compatibility with abutting lots;
 - e. Convenience for the homeowners, the public, and public safety providers.

4. Construction standards, widths, turnarounds, maintenance agreements, and easements shall be submitted with the application.
5. The Planning Board may require the Police Department and Fire Department review the proposed shared driveway. A fire hydrant may be required.
6. The street numbers for both dwellings must be clearly displayed in the vicinity of the shared driveway.

8.5.3 Extended dead-end roads. An extended dead-end road is one which exceeds the maximum length allowed in the Subdivision Rules and Regulations.

1. The applicant shall demonstrate that the number of building lots does not exceed the number of building lots of the tract as permitted by Board of Health and Conservation Commission regulations, existing zoning, and as shown on a subdivision plan complying with the maximum length of a dead-end road.
2. Water lines may not dead end. If they can only be looped within the road right of way, the loops shall be separated to the maximum extent possible.
3. Utilization of low impact development tools, enhanced stormwater techniques, and other innovative land use development techniques are encouraged.
4. The applicant shall demonstrate that the extended dead-end road addresses one or more of the following:
 - a. Vehicular safety issues, either elimination of a second curb cut at an unsafe location, elimination of a second curb cut with minimal sight distance, elimination of a road with grades approaching the maximum allowed, elimination of a outset intersection to an existing road, or other factor;
 - b. Preservation of land features, such as existing trees, stone walls and other amenities;
 - c. Protection of natural, agricultural, historic, or other resources;
 - d. Compatibility with abutting lots and land use patterns;
 - e. Substantially reduced maintenance costs for the Town;
 - f. Convenience for the homeowners, the public, and public safety providers.
5. Construction standards, widths, maintenance agreements, easements, and other documentation shall be submitted with the Application for a Special Permit.

8.5.4 Historic settlement patterns.

1. The Planning Board may permit the reduction of lot frontages, setbacks, and lot sizes if development within one thousand (1000) feet of the site was constructed at least one hundred (100) years previous and the proposed frontages, setbacks, and lot sizes

are consistent with those of the existing developments, provided, however, this reduction shall not be less than fifty per cent (50%) of the minimums required in this By-Law and provided the minimum lot sizes required by the Board of Health for septic systems is complied with.

2. In approving a permit under this Section 8.5.4, the Planning Board shall determine the proposed development is consistent with the existing settlement pattern, compatible with the existing neighborhood, and best retains the historic and community character of that section of town.

8.5.5 Approval Criteria. The Planning Board may grant a Special Permit if it determines that the proposal achieves greater flexibility and creativity in the design of residential development, promotes the preservation of community character and natural resources, is compatible with the existing neighborhood, reduces impact on natural resources and roadways, will not have a detrimental impact on the neighborhood or abutting properties, facilitates the efficient delivery of services and complies with the requirements of this Section.

8.5.6 Conditions.

1. The Planning Board may impose conditions as The Planning Board may impose conditions as a part of any approval. When appropriate, the conditions may include off-site improvements, such as but not limited to the installation of sidewalks, installations of hydrants, replacement or repair of stone walls, planting of street trees, and improvements to existing roads.
2. The Planning Board shall require a performance guarantee to secure the proper completion of all infrastructure as well as the fulfillment of any conditions of approval.

ARTICLE 3: Height of building

To amend Section 11 of the Foxborough Zoning By-Laws by deleting the existing definition of Building, Height and inserting the following:

The vertical distance measured from the average elevation of the finished lot grade at the front of the building to the highest point of the top story in the case of a flat roof or to the mean height between the plate and the ridge in the case of a pitched roof. In determining building height, belfries, steeples, chimneys, and similar projections shall be excluded.

ARTICLE 4: Brew-pub

To amend Table 3-1 of the Foxborough Zoning By-Laws:

First, delete existing use category B.1. and insert the following:

1. All land and buildings used for the storage, manufacture, processing or bottling of non-combustible materials, beverages, and low hazard wares that do not ordinarily burn rapidly and which are not High Hazard Uses.

Secondly, insert the following:

	R-15	R-40	GB	NB	HB	GI	LI	S-1
C.11 Brew Pub	N	N	PB	PB	N	N	N	N

And amend Section 11 of the Foxborough Zoning By-Laws by inserting the following in the appropriate alphabetical order:

Brew Pub: Restaurant licensed by the United States Department of Alcohol, Tobacco and Firearms and the Commonwealth of Massachusetts under the farmer's brewers statutes to produce and sell beer and ale at the location and whose primary business is the sale and preparation of food to be consumed on the premises, but which also produces beer and ale on the premises, of which not more than 20% of the production capacity may be sold wholesale to other establishments.

ARTICLE 5: Residential lot coverage

To Table 4-1, insert a column entitled “MAXIMUM LOT COVERAGE” to the right of MINIMUM LOT WIDTH and insert 40% for all R-15 & Two family categories and 25% for all R-40 and NB categories. Add 4.1.2.5 Maximum lot coverage may be modified by the provisions of special district regulations.

ARTICLE 6: PARC grant

To see if the Town of Foxborough will vote to authorize the Treasurer with the approval of the Selectmen to appropriate from free cash the amount of \$400,000, for the purpose of renovating for recreation purposes a certain property together with buildings thereon, known as the Payson Road recreation area consisting of 43.5 acres, more or less, as shown on a plan entitled “Plan of Land in Foxborough, MA prepared by the Bay Colony Group dated XX/XX/XXXX” that said land shall be used for public recreation as provided by Massachusetts statute and dedicated pursuant to Massachusetts General

Laws Chapter 45 section 3, to be managed and controlled by the Town of Foxborough and the Selectmen be authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town of Foxborough.

ARTICLE 7: Adopt MGL Ch. 41 s. 81U

To adopt the 12th paragraph of MGL Ch. 41 s. 81U (allowing Planning Board to expend forfeited bonds received upon permission of Selectmen instead of Town Meeting article)

ARTICLE 8: Scenic Roads

To designate Cross Street as a scenic road pursuant to Section 11 of the General By-Laws of the Town of Foxborough and MGL Ch. 40 s. 15C.

ARTICLE 9: Drive-Through Facilities

Amend Table 3-1 TABLE OF USES Section L. 15. Drive-Through Facility to read:

	R-15	R-40	GB	NB	HB	GI	LI	S-1
L.15. Drive-Through Facility	N	N	N	N	PB	N	N	PB