

**ANNUAL TOWN MEETING
TOWN OF WHATELY
April 24, 2018**

Pursuant to the recorded warrant the annual meeting of the Town of Whately held at the Whately Elementary School, 273 Long Plain Road was called to order Tuesday, April 24, 2018 at 7:01 p.m. by Moderator Richard Smith. Town Clerk, Lynn M. Sibley read the Constable's return of the warrant. Virginia Allis and Maryellen Cranston acted as checkers and assigned voting placards to those voters attending the meeting. Maximum attendance was 112 voters. The Moderator appointed Robert Smith and Zachary Smith to serve as counters. This meeting was being broadcast by FCAT as well.

Article 1. Upon motion made and seconded, it was

Voted that the town accept the Annual Reports of the officers of the Town, and to hear any other reports of the Boards and Committees.

Moderator declared article passed in the affirmative.

Select Board Chair Fred Orloski announced the recipient of the dedication of the 2017 Annual Town Report. Jane Grybko was recognized for her contributions on many town boards and committees over the years including the 200 Bicentennial celebration, Finance and Personnel.

Article 2. Upon motion made and seconded, it was

Voted that the town authorize the Town Treasurer, with the approval of the Selectboard, to borrow money from time to time in anticipation of the revenue of the Fiscal Year beginning July 1, 2018, in accordance with the provisions of General Laws, Chapter 44, Section 4, and to renew any note or notes as may be given for a period of less than one year, in accordance with the provisions of General Laws, Chapter 44, Section 17.

Moderator declared article passed in the affirmative

Article 3. Upon motion made and seconded, it was

Voted that the town authorize the Town Treasurer, with the approval of the Selectboard, to enter into compensating balance agreements with banking institutions having their principal offices in the Commonwealth during the fiscal year beginning on July 1, 2018, as permitted by General Laws Chapter 44, Section 53F.

Moderator declared article passed in the affirmative

Article 4. Upon motion made and seconded, it was

Voted that the town apply for, accept, and expend any federal, state or private grant monies on behalf of the Town and authorize the Town Treasurer with the approval of the Selectboard to borrow in anticipation of reimbursement.

Moderator declared article passed in the affirmative

Article 5. Upon motion made and seconded, it was

Voted that the town establish spending limits for the Town’s Revolving Funds as established by the Town’s General Bylaws, Chapter 46 – Revolving Funds, for the fiscal year beginning on July 1, 2018 as follows:

Revolving Fund Name	FY19 Spending Limit
Dog Licensing and Control Revolving Fund	\$2,000
Recreation Revolving Fund	\$20,000
Library Revolving Fund	\$1,000
Public Hearing Revolving Fund	\$2,500
Cordwood Sales Revolving Fund	\$2,500
Cemetery Commissioners Revolving Fund	\$1,000
Trench Permit	\$1,000
Recycling and Solid Waste Revolving Fund	\$15,000

Moderator declared article passed in the affirmative

Article 6: Upon motion made and seconded, it was

Voted that the town amend the Town’s General Bylaws, Chapter 46 - Revolving Funds, § 46-5 by expanding the Program or Activity Expenses Payable from Fund for the Cordwood Sales Revolving Fund as follows (the new text shown in *italics*):

Revolving Fund	Department, Board, Committee, Agency or Officer Authorized to Spend from Fund	Fees, Charges or Other Receipts Credited to Fund	Program or Activity Expenses Payable from Fund	Restrictions or Conditions on Expenses Payable from Fund	Other Requirements/ Reports	Fiscal Years
Cordwood Sales Revolving Fund	Tree Warden, Highway Superintendent	Revenues from the sale of cordwood	Purchase of replacement trees <i>and maintenance of trees</i> on Town property	Funds may not be spent for the salaries of any full-time employees		Fiscal Year 2018 and subsequent years

Moderator declared article passed in the affirmative

Article 7: Upon motion made and seconded, it was

Voted that the town amend the general bylaw adopted under Article 12 at the April 24, 1990 Annual Town Meeting by amending paragraph (a) as follows (the deletions shown in ~~strikeout~~, and new text in *italics*):

(a) The Tax Collector shall annually, *and may periodically*, furnish to each department, board, commission or division hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges ~~for not less than a twelve month period~~, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the Appellate Tax Board.

Moderator declared article passed in the affirmative

Article 8: Upon motion made and seconded, it was

Voted to fix the salaries or compensation of the elected officers of the Town for the fiscal year beginning on July 1, 2018 as follows:

Position	Amount (2.25% COLA)
Moderator	\$126.36
Selectboard – Chair	\$1,927.05
Selectboard - Member	\$1,769.10
Town Clerk	\$22,831.20
Assessors – Chair	\$1,927.05
Assessors - Member	\$1,769.10
Water Commissioner	\$758.19
School Committee	\$365.30
Elector: Oliver Smith Will	\$10.88
Board of Health – Chair	\$916.14
Board of Health – Member	\$758.19
Constables	\$14.33/hour
Cemetery Commissioners – Sextons	\$14.67/hour
Opening Graves Fee	\$600/opening

Moderator declared article passed in the affirmative

Article 9. Upon motion made and seconded, it was

Voted that the town appropriate **\$167,945** or any other sum or sums of money from the Water Department Enterprise Fund to finance the operation of the Water Department for the fiscal year beginning on July 1, 2018 as follows:

Enterprise Fund (EF)		FY19
Water Department		
I. Revenues (estimated)		
User Fees		\$149,500.00
Hook-up Fees		\$25,000.00
Other Fees & Charges		\$2,500.00
	Total Estimated Revenue	\$177,000.00
II. Expenses		
Direct Expenses		
Salaries		\$37,589.00
Operations		\$82,100.00
	Subtotal Direct Expenses	\$119,689.00
Indirect Expenses		
Selectboard & Administration		\$2,040.00
Legal Counsel/Financial Advisor		\$418.00
Audit		\$225.00
Town Building Operations		\$2,057.00
Town Accountant		\$619.00
Harper's Payroll		\$108.00
Treasurer/Collector		\$6,602.00
Property/Liability Insurance		\$4,140.00
Health Insurance		\$23,272.00
Medicare & Social Security		\$1,347.00
Workers Compensation Insurance		\$652.00
Life Insurance		\$0.00
Retirement		\$5,376.00
Town Vehicles Fuel		\$1,400.00
	Subtotal Indirect Expenses Appropriated for the General Fund	\$48,256.00
	Total Expenses	\$167,945.00

Moderator declared article passed in the affirmative

There was a brief PowerPoint presentation by Finance Committee Chair Paul Antaya prior to taking up the omnibus budget article.

Article 10: Upon motion made and seconded, it was

Voted to act on the report of the Finance Committee on the Fiscal Year 2019 Town Operating Budget and to raise and appropriate and/or transfer from available funds, money for the operation of the Town’s departments, boards, committees, agencies and officers, for the payment of debt service and for all other necessary and proper expenses for the fiscal year beginning on July 1, 2018 as follows:

(Note: Water Department Enterprise Fund costs are appropriated in Article 9)

Proposed Fiscal Year 2019 Budget

The Finance Committee recommends that the amounts shown in the column captioned “FY19 Budget (Finance Committee Recommended)” be raised or appropriated or transferred from available funds for Fiscal Year 2019 operating purposes, debt service and other Town expenses.

Fiscal Year 2019 - Town Operating Budget		
Town Operations		
<u>General Government (GG)</u>	FY18 Budget (Appropriated)	FY19 Budget (Finance Committee Recommended)
Selectboard & Administration	\$97,790.00	\$99,919.00
Legal Counsel/Financial Advisors	\$24,892.00	\$20,482.00
Town Offices-Supplies	\$2,750.00	\$2,750.00
Audit	\$13,095.00	\$7,275.00
Town Report	\$500.00	\$500.00
Town Building Operations	\$58,432.00	\$66,493.00
Town Clerk	\$32,279.00	\$39,384.00
Town Accountant	\$19,409.00	\$19,988.00
Harpers Payroll	\$5,096.00	\$5,292.00
Accounting Software	\$750.00	\$750.00
Treasurer/Collector	\$51,709.00	\$53,408.00
Tax Takings	\$5,000.00	\$8,000.00
Assessors	\$34,701.00	\$35,348.00
Planning Board	\$2,107.00	\$2,135.00
Zoning Board of Appeals	\$2,289.00	\$2,326.00
Finance Committee	\$150.00	\$150.00
Moderator	\$150.00	\$150.00
Conservation Commission	\$500.00	\$500.00
Historical Commission	\$200.00	\$200.00
Agricultural Commission	\$1,500.00	\$1,500.00
Computer - IT	\$5,200.00	\$5,000.00
Connect CTY	\$2,600.00	\$2,600.00
Website & Email Hosting	\$3,750.00	\$3,500.00
Housing Committee	\$200.00	\$200.00
Municipal Building Committee	\$800.00	\$800.00
Subtotal	\$365,849.00	\$378,650.00
<i>Change FY18 to FY19</i>	<i>\$12,801.00</i>	<i>3.50%</i>

<u>Cultural, Recreation, Services (CRS)</u>	FY18 Budget (Appropriated)	FY19 Budget (Finance Committee Recommended)
Tri-Town Beach District	\$4,850.00	\$5,037.00
Recreation Commission	\$11,200.00	\$10,000.00
Cemetery Commission	\$6,586.00	\$7,695.00
Library	\$66,480.00	\$69,728.00
South County Senior Center	\$12,888.00	\$13,069.00
Veterans	\$8,535.00	\$8,602.00
Local Council on Aging	\$500.00	\$500.00
Subtotal	\$111,039.00	\$114,631.00
<i>Change FY18 to FY19</i>	<i>\$3,592.00</i>	<i>3.23%</i>
<u>Public Health (PH)</u>	FY18 Budget (Appropriated)	FY19 Budget (Finance Committee Recommended)
Board of Health	\$2,680.00	\$2,934.00
Health Agent - Foothills Health District	\$14,025.00	\$17,111.00
Solid Waste	\$39,686.00	\$44,252.00
Hazardous Waste	\$1,000.00	\$1,000.00
Franklin County Solid Waste Management District	\$6,218.00	\$6,480.00
Subtotal	\$63,609.00	\$71,777.00
<i>Change FY18 to FY19</i>	<i>\$8,168.00</i>	<i>12.84%</i>
<u>Public Safety (PS)</u>	FY18 Budget (Appropriated)	FY19 Budget (Finance Committee Recommended)
Fire Department	\$63,632.00	\$62,288.00
Ambulance - South County EMS	\$86,502.00	\$105,915.00
Police Department	\$191,098.00	\$196,681.00
Quinn Bill Incentive	\$5,176.00	\$5,292.00
Animal Control	\$4,783.00	\$4,838.00
Animal Inspection	\$509.00	\$518.00
Emergency Management	\$1,200.00	\$950.00
Franklin County Inspection Services	\$7,500.00	\$7,500.00
Subtotal	\$360,400.00	\$383,982.00
<i>Change FY18 to FY19</i>	<i>\$23,582.00</i>	<i>6.54%</i>
<u>Public Works (PW)</u>	FY18 Budget (Appropriated)	FY19 Budget (Finance Committee Recommended)
Highway Department		
Highway Salaries	\$128,864.00	\$130,210.00
General Highways	\$78,900.00	\$78,600.00
Winter Roads	\$126,008.00	\$128,015.00
Road Machinery	\$21,000.00	\$21,000.00
Garage Maintenance	\$7,560.00	\$7,500.00
Trees	\$5,000.00	\$5,500.00
Subtotal	\$367,332.00	\$370,825.00
<i>Change FY18 to FY19</i>	<i>\$3,493.00</i>	<i>0.95%</i>

<u>Insurance & Benefits (IB)</u>	FY18 Budget (Appropriated)	FY19 Budget (Finance Committee Recommended)
Property & Liability Insurance	\$44,275.00	\$47,610.00
Group Health Insurance	\$371,546.00	\$443,959.00
Medicare & Social Security	\$28,680.00	\$29,253.00
Workers Compensation Insurance	\$16,178.00	\$16,948.00
Life Insurance	\$1,000.00	\$1,000.00
Unemployment Insurance	\$16,000.00	\$16,000.00
Franklin County Retirement	\$162,756.00	\$173,817.00
Police & Fire Injured on Duty Insurance	\$14,700.00	\$14,700.00
OPEB Liability	\$25,000.00	\$25,000.00
Division of Medicaid Assistance	\$1,700.00	\$2,000.00
Subtotal	\$681,835.00	\$770,287.00
<i>Change FY18 to FY19</i>	<i>\$88,452.00</i>	<i>12.97%</i>
<u>Unclassified (U)</u>	FY18 Budget (Appropriated)	FY19 Budget (Finance Committee Recommended)
Temporary Loan Interest	\$2,000.00	\$1,000.00
Reserve Fund	\$20,000.00	\$20,000.00
Franklin Regional Council of Governments (FRCOG)	\$19,530.00	\$19,940.00
Physicals & Tests	\$2,000.00	\$1,500.00
Town Vehicles Fuel	\$26,600.00	\$26,600.00
Educational Incentives	\$1,000.00	\$1,000.00
Subtotal	\$71,130.00	\$70,040.00
<i>Change FY18 to FY19</i>	<i>-\$1,090.00</i>	<i>-1.53%</i>
Total Town Operations	\$2,021,194.00	\$2,160,192.00
<i>Change FY18 to FY19</i>	<i>\$138,998.00</i>	<i>6.88%</i>

School Operations		
Schools (S)	FY18 Budget (Appropriated)	FY19 Budget (Finance Committee Recommended)
Whately Elementary School		
Operating	\$1,640,256.00	\$1,681,259.00
Transportation		
Fixed Assets		
Subtotal Whately Elementary School	\$1,640,256.00	\$1,681,259.00
Frontier Regional		
Operating	\$915,939.00	\$907,679.00
Existing Capital Costs		
Transportation	\$12,844.00	\$16,555.00
Subtotal Frontier Regional	\$928,783.00	\$924,234.00
Franklin County Technical School		
Operating Assessment	\$162,118.00	\$162,113.00
Capital Assessment		\$5,785.00
Subtotal Franklin County Technical School	\$162,118.00	\$167,898.00
Smith Vocational & Agricultural High School		
Tuition	\$0.00	\$0.00
Transportation	\$0.00	\$0.00
Subtotal Smith Vocational & Agricultural High School	\$0.00	\$0.00
Total School Operations	\$2,731,157.00	\$2,773,391.00
<i>Change FY18 to FY19</i>	<i>\$42,234.00</i>	<i>1.55%</i>
Debt		
Debt (D)	FY18 Budget (Appropriated)	FY19 Budget (Finance Committee Recommended)
Long Term Debt	\$0.00	\$0.00
Subtotal	\$0.00	\$0.00
Short Term Debt		
Dump Truck 2	\$49,046.00	\$47,012.00
Fire Truck	\$86,237.00	\$84,428.00
Subtotal	\$135,283.00	\$131,440.00
Total Debt Service	\$135,283.00	\$131,440.00
<i>Change FY18 to FY19</i>	<i>-\$3,843.00</i>	<i>-2.84%</i>
Water Department - Plowing Town Lots	\$3,305.00	\$3,380.00
<i>Change FY18 to FY19</i>	<i>\$75.00</i>	<i>2.27%</i>
TOTAL OPERATING BUDGET	\$4,890,939.00	\$5,068,403.00
<i>Change FY18 to FY19</i>	<i>\$177,464.00</i>	<i>3.63%</i>

Moderator declared article passed in the affirmative

Article 11. Upon motion made and seconded, it was Voted that the Town transfer the sum of **\$65,000** from available funds (FY17 Free Cash) to the Vehicle Stabilization Fund.

Moderator declared article passed in the affirmative

Article 12. Upon motion made and seconded, it was

Voted that the town transfer the sum of **\$61,000** from the Ambulance Stabilization Fund to the Vehicle Stabilization Fund.

2/3rds vote required Passed unanimously

Article 13. Upon motion made and seconded, it was

Voted that the Town transfer the sum of **\$140,000** from the MEMA Emergency Mill River Bank Stabilization Account in to the Stabilization Fund.

Moderator declared article passed in the affirmative

Article 14. Upon motion made and seconded, it was

Voted that the Town authorize the Board of Assessors to transfer the sum of **\$200,000** from available funds (FY17 Free Cash) to reduce the tax levy for the fiscal year beginning on July 1, 2018.

Moderator declared article passed in the affirmative

Article 15. Upon motion made and seconded, it was

Voted that the Town transfer the sum of **\$7,000** from available funds (FY17 Free Cash) to pay for the purchase of a new plow for the Ford F550 truck to be used by the Highway Department.

Moderator declared article passed in the affirmative

Article 16. Upon motion made and seconded, it was

Voted that the Town transfer the sum of **\$12,700** from available funds (FY17 Free Cash) to pay for the purchase of a new lawnmower with collection system to be used by the Highway Department.

Moderator declared article passed in the affirmative

Article 17. Upon motion made and seconded, it was

Voted that the Town transfer the sum of **\$25,000** from available funds (FY17 Free Cash) to pay for the replacement of the Highway Garage roof.

Moderator declared the motion passed in the affirmative

Article 18. Upon motion made and seconded, it was

Voted that the Town transfer the sum of **\$45,000** from available funds (Vehicle Stabilization Fund) to pay for the purchase of a new police cruiser to be used by the Police Department.

Moderator declared article passed in the affirmative by a clear 2/3rd's vote (1 in opposition)

Article 19. Upon motion made and seconded, it was

Voted that the Town transfer the sum of **\$40,000** from available funds (Vehicle Stabilization Fund) to pay for the purchase of a four-wheel drive rescue and transport vehicle to be used by the Fire Department.

Moderator declared article passed in the affirmative by a clear 2/3rd's vote (2 in opposition)

Article 20. Upon motion made and seconded, it was

Voted that the Town transfer the sum of **\$6,000** from available funds (FY17 Free Cash) to pay for the purchase and installation of a monitored fire detection system at the Fire Station.

Moderator declared the motion passed in the affirmative

Article 21. Upon motion made and seconded, it was

Voted that the Town transfer the sum of **\$45,000** from available funds (FY17 Free Cash) to pay for repairs to the sprinkler system at the Whately Elementary School.

Moderator declared the motion passed in the affirmative

Article 22. Upon motion made and seconded, it was

Voted that the town transfer the sum of **\$102,000** from available funds as follows, **\$16,074.47** from the Sale of Land Received Reserved for Appropriation Account and **\$85,925.53** from FY17 Free Cash, to be expended for the rehabilitation of the Town Hall; such work to be done under the direction of the Selectboard and to comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties.

Moderator declared the motion passed in the affirmative

Clerk's Note: There was much discussion on this article. Opponents indicated that there were past promises of no further requests for money and proponents argued that grants that were applied for did not come through so additional money was needed. Also, during the construction additional items were required which went above the Building Committee's contingency amount. In order to keep the project within the previously voted amount, the recommended contingency was lowered and certain parts of the project were not included in the base bid. The additional funding will be used mainly for a front ramp, sidewalks, the parking lot and drainage improvements.

Moderator declared the motion passed in the affirmative with a voted count of 83-4

Article 23. Upon motion made and seconded, it was

Voted that the Town transfer the sum of **\$8,000** from available funds (FY17 Free Cash) to pay for repairs to the HVAC system at the Town Offices.

Moderator declared the motion passed in the affirmative

Article 24. Upon motion made and seconded, it was

Voted that the Town transfer the sum of **\$3,500** from available funds (FY17 Free Cash) to pay for repairs to the roof at the Town Offices.

Moderator declared the motion passed in the affirmative

Article 25. Upon motion made and seconded, it was

Voted that the Town transfer the sum of **\$1,800** from available funds (FY17 Free Cash) to pay for the purchase and installation of a fence at the baseball field adjacent to the Fire Station.

Moderator declared the motion passed in the affirmative

Article 26. Upon motion made and seconded, it was

Voted that the Town transfer the sum of **\$5,000** from available funds (FY17 Free Cash) to pay for the purchase and installation of new interior and exterior lights at the S. White Dickinson Memorial Library.

Moderator declared the motion passed in the affirmative

Article 27. Upon motion made and seconded, it was

Voted that the Town transfer the sum of **\$6,000** from available funds (FY17 Free Cash) to pay for the purchase of a new lawnmower to be used by the Cemetery Commissioners for mowing at the Town-owned and maintained cemeteries.

Moderator declared the motion passed in the affirmative

Article 28. Upon motion made and seconded, it was

Voted that the Town transfer the sum of **\$4,004** from available funds (FY17 Free Cash) for the Town's share of the cost to purchase a replacement tractor similar in size and features to a John Deere 1025R Sub-Compact Utility Tractor, for the Frontier Regional School District, the total cost not to exceed \$35,000.

Moderator declared the motion passed in the affirmative

Article 29. Upon motion made and seconded, it was

Voted that the Town transfer the sum of **\$20,000** from available funds (FY17 Free Cash) to be expended for the Whately 250th Anniversary Celebration

Moderator declared the motion passed in the affirmative

Article 30. Upon motion made and seconded, it was

Voted to pass over Article 30.

Clerk's Note: This article pertained to health insurance plan change reimbursement which was no longer required.

Moderator declared the motion passed in the affirmative

Article 31. Upon motion made and seconded, it was

Voted that the Town transfer the sum of **\$3,000** from available funds (FY17 Free Cash) to the Highway Expenses – Salaries & Wages Account (#001-442-5110) to pay for the accrued benefits of a departing Town employee.

Moderator declared the motion passed in the affirmative

Article 32. Upon motion made and seconded, it was

Voted that the Town hear and act, pursuant to G.L. c. 44B, on the report of the Community Preservation Committee for the Fiscal Year 2019 Community Preservation Budget and vote to appropriate or reserve from the Community Preservation Fund a sum of money in the amounts recommended by the Community Preservation Committee for committee administrative expenses, community preservation projects and other necessary and proper expenses in the fiscal year beginning on July 1, 2018, including debt service for any approved Community Preservation project, with each item to be considered a separate appropriation:

Appropriations:

From FY19 estimated revenues for committee administrative expenses **\$6,000**

Reserves:

From FY19 estimated revenues for Open Space Reserve	\$12,000
From FY19 estimated revenues for Affordable Housing Reserve	\$12,000
From FY19 estimated revenues for Budgeted Reserve	\$47,000

Moderator declared the article passed in the affirmative

Article 33. Upon motion made and seconded, it was

Voted that the Town, pursuant to G.L. c. 44B, appropriate and transfer the sum of **\$30,000** as follows, **\$15,000** from the Community Preservation Fund Historic Resources Reserves and **\$15,000** from the Community Preservation Fund Unreserved Fund Balance for the restoration of historic grave markers at the Town-owned and maintained cemeteries.

Moderator declared the article passed in the affirmative

Article 34. Upon motion made and seconded, it was

Voted that the Town, pursuant to G.L. c. 44B, appropriate and transfer up to **\$93,000** as follows, up to **\$43,000** from the Community Preservation Fund FY19 estimated revenues and up to **\$50,000** from the Community Preservation Fund Unreserved Fund Balance to pay the debt service for the Town Hall rehabilitation project loan.

Moderator declared the article passed in the affirmative

Article 35. Upon motion made and seconded, it was

Voted to authorize the Selectboard to petition the General Court for special legislation to allow John Hannum, the Town of Whately Fire Chief, notwithstanding the provisions of any general or special law to the contrary, to serve in such position until the age of seventy, or until the date of his retirement or non-appointment, whichever occurs first; provided that no deductions from the regular compensation of said John Hannum shall be made under G.L. c. 32 subsequent to his reaching the age of sixty-five in connection with his service to the Town for retirement or pension purposes; and further provided, that the General Court may make clerical and editorial changes of form only to the bill unless the Selectboard approves amendments to the bill prior to enactment by the General Court, and to authorize the Selectboard to approve such amendments which shall be within the scope of the general public objectives of the petition.

Moderator declared the motion passed in the affirmative

Article 36. Upon motion made and seconded, it was

Voted to accept as a Town public way Grey Oak Lane, as laid out by the Selectboard and as shown on a plan entitled "Pine Plains Estates, Long Plain Road, Whately, Massachusetts Street Acceptance Plan Grey Oak Lane, Frances Way and Eastwood Lane prepared for JAWK, Inc. by Mott Macdonald, dated 11-14-2017 and filed with the Town Clerk, and to authorize the Selectboard to take by eminent domain, to purchase or otherwise acquire the fee or an easement in said roadway, and related easements for drainage, utilities and other purposes for which public ways are used in the Town.

Moderator declared the motion passed in the affirmative

Article 37. Upon motion made and seconded, it was

Voted to accept as a Town public way Eastwood Lane, as laid out by the Selectboard and as shown on a plan entitled "Pine Plains Estates, Long Plain Road, Whately, Massachusetts Street Acceptance Plan Grey Oak Lane, Frances Way and Eastwood Lane prepared for JAWK, Inc. by Mott Macdonald, dated 11-14-2017 and filed with the Town Clerk, and to authorize the Selectboard to take by eminent domain, to purchase or otherwise acquire the fee or an easement in said roadway, and related easements for drainage, utilities and other purposes for which public ways are used in the Town.

Moderator declared the motion passed in the affirmative

Article 38. Upon motion made and seconded, it was

Voted to accept as a Town public way Frances Way, as laid out by the Selectboard and as shown on a plan entitled "Pine Plains Estates, Long Plain Road, Whately, Massachusetts Street Acceptance Plan Grey Oak Lane, Frances Way and Eastwood Lane prepared for JAWK, Inc. by Mott Macdonald, dated 11-14-2017 and filed with the Town Clerk, and to authorize the Selectboard to take by eminent domain, to purchase or otherwise acquire the fee or an easement in said roadway, and related easements for drainage, utilities and other purposes for which public ways are used in the Town.

Moderator declared the motion passed in the affirmative

Article 39. Upon motion made and seconded, it was

Voted that the town transfer to the Selectboard, for the purposes of sale or other disposition, the care, custody and control of the property located at 219 Christian Lane - Lot # 1, Assessors Parcel ID 21-0-30-1, and to authorize the Selectboard to dispose of such property on such terms as the Selectboard, in its discretion, determine to be in the best interest of the Town.

Moderator declared the motion passed in the affirmative

Article 40. Upon motion made and seconded, it was

Voted that the town accept G.L. c. 64N §3 and impose a local sales tax upon the sale or transfer of marijuana or marijuana products by a marijuana retailer operating within the Town to anyone other than a marijuana establishment, at a rate of 3% of the total sales price received by the marijuana retailer, said excise tax to take effect on July 1, 2018.

Moderator declared the motion passed in the affirmative

Article 41. Motion was made and seconded as follows:

Motion made that the Town vote to amend the Town's Zoning Bylaws by deleting the existing §171-28.6 -Registered Marijuana Dispensary and Off-Site Marijuana Dispensary and replacing it with a new §171-28.6 - Adult Use Recreational and Medical Marijuana Establishments as shown in Appendix A to this Warrant and summarized below.

Summary of Changes: The proposed zoning amendment deletes the existing zoning bylaw provision that regulates medical marijuana dispensaries and adopts in its place a provision that regulates both adult use recreational and medical marijuana establishments. The proposed zoning amendments include definitions of terms, location requirements, site development standards and operational requirements that all marijuana establishments must comply with. The amendment further establishes a limit of three retail marijuana establishments. The purpose of the zoning amendment is to allow recreational marijuana establishments by special permit in certain zoning districts in the Town. Please see Appendix A for additional details.

APPENDIX A

Proposed zoning text for Article 41 of the April 24, 2018 Annual Town Meeting.

(Deleted text in ~~strikeout~~; new text in italics)

[Replaces Section 171-28.6 Registered Marijuana Dispensary and Off-Site Marijuana Dispensary [added ATM 4-29-2014, Art. 29B]]

~ 171-28.6 Adult Use Recreational and Medical Marijuana Establishments

A. Purpose and Intent

It is the purpose of this article to promote public health, safety and general welfare, and to support the availability of recreational marijuana in accordance with State law. To mitigate potential impacts to adjacent areas this bylaw will regulate the locations and site development to promote safe attractive business areas, prevent crime, maintain property values, protect and preserve the quality of residential neighborhoods and to protect the

safety of children and young people in the vicinity of schools, public parks and other areas where children congregate.

B. Definitions

Craft Marijuana Cultivator Cooperative - a marijuana cultivator comprised of residents of the commonwealth organized as a limited liability company or limited liability partnership under the laws of the Commonwealth, or an appropriate business structure as determined by the Cannabis Control Commission, that is licensed to cultivate, obtain, manufacture, process, package and brand marijuana and marijuana products for delivery to marijuana establishments but not to consumers.

Greenhouse - a structure, primarily of glass or sheets of clear plastic with no concrete flooring, in which temperature and humidity can be controlled for the cultivation or protection of plants.

Host Community Agreement – A marijuana establishment seeking to operate in Whately shall execute an agreement with the host community setting forth the conditions for having a marijuana establishment located within the host community. Such Host Community Agreement shall include, but not be limited to, all stipulations of responsibilities between Whately and the marijuana establishment. A Host Community Agreement between a marijuana establishment and a host community may include a community impact fee for the host community; provided, however, that the community impact fee shall be reasonably related to the costs imposed upon the municipality by the operation of the marijuana establishment and shall not amount to more than 3 per cent of the gross sales of the marijuana establishment or a greater amount if allowed by the State. Such Host Community Agreement shall be effective for 5 years and can be renewed for successive 5 year periods at the option of the Town. Any cost to Whately imposed by the operation of a marijuana establishment shall be documented and considered a public record.

Independent Testing Laboratory - a laboratory that is licensed by the State Cannabis Control commission and is: (i) accredited to the most current International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Cooperation mutual recognition arrangement or that is otherwise approved by the commission; (ii) independent financially from any medical marijuana treatment center or any licensee or marijuana establishment for which it conducts a test; and (iii) qualified to test marijuana in compliance with regulations promulgated by the Cannabis Control Commission.

Licensee - a person or entity licensed by the State Cannabis Control Commission or under the provisions of 105 CMR 725.00 to operate a marijuana establishment.

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, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of marijuana related business licensed by the Commonwealth of Massachusetts.

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 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. Requirements Regarding the Allowed Locations for Marijuana Establishments

1. *See ~ 171.8 Table of Use Regulations for locations for permitted Marijuana Establishments.*
2. *Marijuana Establishments shall not be located within 500 feet of any existing public, parochial, or private school, kindergarten, or State-approved day care center. This setback shall include the grounds on which said public, parochial, or private school, kindergarten or State-approved day care center is located on. The distance between any Marijuana Establishment and any public, parochial, or private school, kindergarten, State-approved day care center, or other location where children congregate shall be measured in a straight line, without regard to intervening structures, from the closest property line of any existing public, parochial, or private school, kindergarten, or State-approved day care center, or other places where children congregate to the Marijuana Establishment.*
3. *Marijuana Establishments shall not be located within 500 feet from any public recreation area or park measured in a straight line, without regard to intervening structures, from the closest property line of the recreation area to the Marijuana Establishment.*
4. *Marijuana Establishments shall not be located within 500 feet from any existing church without regard to intervening structures, from the closest property line of the church to the Marijuana Establishment.*
5. *Marijuana Establishments may request a waiver from the setback standard of 500 feet required by Sections C.2 - 4 from the Zoning Board of Appeal to no less than 300 feet if there is no other feasible alternative. Such waiver may be granted in the ZBA's sole discretion.*
6. *No Marijuana Establishment shall be located inside a building containing residential units, including transient housing such as motels and dormitories.*
7. *Marijuana establishments shall have a minimum 50 foot setback from all property lines.*

D. Site Development, Permitting Standards & Application

Pursuant to Chapter 40A Section 9A the following site improvements and amenities are required to protect public safety and neighboring property values, in addition to the Special Permit requirements found in ~171-31 and the Site Plan Review requirements found in ~171-17. The reviewing authorities are empowered hereunder to review and approve Special Permit and Site Plan Review applications for Marijuana Establishments and impose requirements for: buffering; odor control; noise; outdoor lighting; parking; access to the site from public roads; hazardous materials; water and energy efficiency; and landscaping and buildings. The purpose of these requirements is to avoid site development which may result in negative environmental, neighborhood, or public safety impacts.

- 1. Dimensional Requirements: Any building or structure containing a Marijuana Establishment shall meet the setback requirements of this Section C.6 and other dimensional controls of the appropriate district as specified in these bylaws. For any property proposed to contain a Marijuana Establishment, the applicant for a Special Permit for such use shall demonstrate that the entire property shall comply with these requirements and controls following the establishment of such use thereon.*
- 2. Parking and Loading Requirements: On-site parking and loading shall be provided in accordance with the requirements of ~171-13 of these bylaws. For any property proposed to contain a Marijuana Establishment Business in the Commercial, Commercial-Industrial, and Industrial Districts, the applicant for a Special Permit for such use shall demonstrate that the entire property shall comply with these requirements and controls following the establishment of such use thereon.*
- 3. Site Screening: The Special Permit and Site Plan Review granting authorities shall have the ability to require appropriate screening from abutters.*
- 4. Lighting & Security: Security cameras covering external areas shall include cameras with the capability to function with minimum lighting at night. External lighting should be consistent with public safety requirements and hours of operation, reasonably shielded from abutting properties and designed to reduce light pollution. Internal lighting in greenhouses shall be fully screened from abutters after sunset.*
- 5. Noise & Odors: Except for outdoor cultivation, no noise or marijuana or other odors detectable at the property line of the Marijuana Establishment shall be allowed. Outdoor Marijuana Cultivators shall be required to mitigate odors through siting, use of low-odor seed varieties, and other odor-reduction methods as practicable.*
- 6. Energy Efficiency: Except for outdoor cultivation, marijuana establishments shall be required to prepare a detailed energy efficiency plan. Cultivators in buildings and greenhouses shall generate a minimum of 50% of their projected energy use on site where feasible. For solar power generation, priority is to be given to roof-mounted facilities, then to siting on non-arable land, then to dual-use facilities that permit agriculture underneath high-mounted and well-spaced panels, and then to the least productive arable land.*
- 7. Water Efficiency: Marijuana Establishments are required to prepare a plan for water management and efficiency, including the incorporation of greenhouse run-off*

recapture and reuse. Where public water is to be used, Marijuana Cultivators are required to receive certification from the Water Department that there is sufficient capacity for their projected water use.

8. Hazardous Materials: Submission of a complete list of chemicals, pesticides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use. Provide a Hazardous Materials Management Plan if using or storing hazardous materials on site in excess of household quantities to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism. The plan should include spill containment and clean-up procedures, and provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces.

9. Signs: All signs for a Marijuana Establishment must meet the requirements of ~ 171-14 of this bylaw and the State Regulations (935 CMR 500.000) including the requirement that, no advertising signs shall be located within twenty feet of a public or private way and must be set back a minimum of twenty (20) feet from all property lines.

10. Greenhouses: Greenhouses (see Definition in Section B) for Marijuana Cultivation shall be designed to limit the impact on arable land and shall be subject to the lot coverage requirements of ~171-10 and ~171-28.4F(2)

11. Buildings: Appearance of buildings for Marijuana Establishments shall be consistent with the appearance of other buildings in Whately, not employing unusual color or building design which would attract attention to the premises. In Agricultural/Residential District 2 new buildings for Marijuana Cultivators including Craft Marijuana Cultivators shall resemble vernacular agricultural buildings, such as barns. Marijuana Establishment Buildings shall not exceed 4000 square feet in the Agricultural/Residential Districts and 5000 square feet in the Commercial District.

12. Marketing: Marijuana Establishments shall not be allowed to disseminate or offer to disseminate marijuana marketing materials to minors or suffer minors to view displays or linger on the premises. No free samples may be provided by Marijuana Establishments to consumers.

13. Hours of operation: The hours of operation shall be set by the Special Permit Granting authority but in no event shall a facility be open to the public and no sale or other distribution of marijuana occur on the premises or via delivery between the hours of 8:00 pm and 7:00 am.

14. Retailer limits: No more than three Marijuana Retailers will be permitted to operate in Whately.

15. Applications: The applicant requesting permission to operate any Marijuana Establishment must file their application with the Special Permit Granting Authority and the Town Clerk. Such application shall contain the information required by ~ 171-31 Special Permit and any rules and regulations established by the Special Permit Granting Authority and the State Cannabis Control Commission. The application shall also include:

- a) *Name and Address of the legal owner and Licensee of the Marijuana Establishment;*
- b) *Name and Address of all persons having lawful, equity or security interests in the Marijuana Establishment;*
- c) *Name and Address of the Manager of the Licensed Marijuana Establishment;*
- d) *The number of proposed employees; and*
- e) *Proposed security precautions.*

16. Site Plan Review: No Marijuana Establishment shall be established prior to submission and approval of a site plan by the Planning Board, pursuant to ~171-17. The site plan shall, at the minimum, depict all existing and proposed buildings, parking spaces, driveways, service areas, and other open uses. The site plan shall show the distances between the proposed Marijuana Establishment and all existing uses within 1,000 feet of the property lines of the proposed Marijuana Establishment. The site plan shall show all exterior proposed security measures including lighting, fencing, gates, cameras, alarms, etc. A traffic study may be required

17. Reporting: All Marijuana Establishments shall provide public safety officials, the Building Inspector and the Town Administrator with the names, phone numbers and email addresses of all management staff and key holders, including a minimum of two operators or managers of the facility identified as contact persons. All such contact information shall be updated to keep it current and accurate.

18. Change in License or Owner: The Owner and Licensee of any Marijuana Establishment issued a Special Permit under this bylaw shall report, in writing, within 10 business days any change in the name of the legal owner of the Marijuana Establishment or any expiration or suspension of a license to the Building Inspector and Planning Board. Any failure to meet this requirement of this Bylaw will result in the immediate issuance of a cease and desist order by the Building Inspector ordering that all activities conducted under the Special Permit cease immediately.

19. Change of Ownership: A Special Permit issued under this Article shall lapse upon any transfer of ownership or legal interest of more than 10% or change in contractual interest in the subject premises or property. The Special Permit may be renewed thereafter only in accordance with this Article 171-28.6 and ~ 171-31 (Special Permit) and ~ 171-17 (Site Plan Review).

20. Host Community Agreement: Applicant shall submit the proposed Host Community Agreement that is required between a Marijuana Establishment and the town it is operating in at the time they submit their Application.

E. Expiration

A Special Permit to operate a Marijuana Establishment shall expire after a period of five calendar years from its date of issuance but shall be renewable for successive five-year periods thereafter, provided that a written request for such renewal is made to the Special

Permit Granting Authority at least 60 calendar days prior to said expiration and that no objection to said renewal is made and sustained based upon compliance with all conditions of the Special Permit as well as public safety factors applied at the time the Special Permit renewal is requested. In addition, an updated Host Community Agreement satisfactory to Whately shall be provided if requested by the Town.

F. Severability

The invalidity of any section or provision of this article shall not invalidate any other section or provision thereof.

Amendment

Judy Markland of the Planning Board presented the following amendment on behalf of the Planning Board which was seconded.

I move that the proposed Section 171-28.6 Chapter C (7) which now reads “Marijuana establishments shall have a minimum 50’ setback from all property lines” be amended to add the words “except Marijuana Retailers shall have a minimum 20 foot setback from rear/side yard property lines in the Commercial District”.

Vote on Amendment

The Town voted to accept the amendment to add the words “except Marijuana Retailers shall have a minimum 20-foot setback from rear/side yard property lines in the Commercial District” to Chapter C (7) to new proposed section 171-28.6.

Moderator declared the amendment passed

Vote on Main Motion as amended:

Voted that the Town amend the Town’s Zoning Bylaws including the above amendment by deleting the existing §171-28.6 -Registered Marijuana Dispensary and Off-Site Marijuana Dispensary, and replacing it with a new §171-28.6 - Adult Use Recreational and Medical Marijuana Establishments as follows:

~ 171-28.6 Adult Use Recreational and Medical Marijuana Establishments

A. Purpose and Intent

It is the purpose of this article to promote public health, safety and general welfare, and to support the availability of recreational marijuana in accordance with State law. To mitigate potential impacts to adjacent areas this bylaw will regulate the locations and site development to promote safe attractive business areas, prevent crime, maintain property values, protect and preserve the quality of residential neighborhoods and to protect the safety of children and young people in the vicinity of schools, public parks and other areas where children congregate.

B. Definitions

Craft Marijuana Cultivator Cooperative - *a marijuana cultivator comprised of residents of the commonwealth organized as a limited liability company or limited liability partnership under the laws of the Commonwealth, or an appropriate business structure as determined by the Cannabis Control Commission, that is licensed to cultivate, obtain, manufacture, process, package and brand marijuana and marijuana products for delivery to marijuana establishments but not to consumers.*

Greenhouse - a structure, primarily of glass or sheets of clear plastic with no concrete flooring, in which temperature and humidity can be controlled for the cultivation or protection of plants.

Host Community Agreement – A marijuana establishment seeking to operate in Whately shall execute an agreement with the host community setting forth the conditions for having a marijuana establishment located within the host community. Such Host Community Agreement shall include, but not be limited to, all stipulations of responsibilities between Whately and the marijuana establishment. A Host Community Agreement between a marijuana establishment and a host community may include a community impact fee for the host community; provided, however, that the community impact fee shall be reasonably related to the costs imposed upon the municipality by the operation of the marijuana establishment and shall not amount to more than 3 per cent of the gross sales of the marijuana establishment or a greater amount if allowed by the State. Such Host Community Agreement shall be effective for 5 years and can be renewed for successive 5 year periods at the option of the Town. Any cost to Whately imposed by the operation of a marijuana establishment shall be documented and considered a public record.

Independent Testing Laboratory - a laboratory that is licensed by the State Cannabis Control commission and is: (i) accredited to the most current International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Cooperation mutual recognition arrangement or that is otherwise approved by the commission; (ii) independent financially from any medical marijuana treatment center or any licensee or marijuana establishment for which it conducts a test; and (iii) qualified to test marijuana in compliance with regulations promulgated by the Cannabis Control Commission.

Licensee - a person or entity licensed by the State Cannabis Control Commission or under the provisions of 105 CMR 725.00 to operate a marijuana establishment.

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, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of marijuana related business licensed by the Commonwealth of Massachusetts.

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 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. Requirements Regarding the Allowed Locations for Marijuana Establishments

1. *See ~ 171.8 Table of Use Regulations for locations for permitted Marijuana Establishments.*
2. *Marijuana Establishments shall not be located within 500 feet of any existing public, parochial, or private school, kindergarten, or State-approved day care center. This setback shall include the grounds on which said public, parochial, or private school, kindergarten or State-approved day care center is located on. The distance between any Marijuana Establishment and any public, parochial, or private school, kindergarten, State-approved day care center, or other location where children congregate shall be measured in a straight line, without regard to intervening structures, from the closest property line of any existing public, parochial, or private school, kindergarten, or State-approved day care center, or other places where children congregate to the Marijuana Establishment.*
3. *Marijuana Establishments shall not be located within 500 feet from any public recreation area or park measured in a straight line, without regard to intervening structures, from the closest property line of the recreation area to the Marijuana Establishment.*
4. *Marijuana Establishments shall not be located within 500 feet from any existing church without regard to intervening structures, from the closest property line of the church to the Marijuana Establishment.*
5. *Marijuana Establishments may request a waiver from the setback standard of 500 feet required by Sections C.2 - 4 from the Zoning Board of Appeal to no less than 300 feet if there is no other feasible alternative. Such waiver may be granted in the ZBA's sole discretion.*
6. *No Marijuana Establishment shall be located inside a building containing residential units, including transient housing such as motels and dormitories.*
7. *Marijuana establishments shall have a minimum 50 foot setback from all property lines except Marijuana Retailers shall have a minimum 20 foot setback from rear/side yard property lines in the Commercial District.*

D. Site Development, Permitting Standards & Application

Pursuant to Chapter 40A Section 9A the following site improvements and amenities are required to protect public safety and neighboring property values, in addition to the Special Permit requirements found in ~171-31 and the Site Plan Review requirements found in ~171-17. The reviewing authorities are empowered hereunder to review and approve Special Permit and Site Plan Review applications for Marijuana Establishments and impose requirements for: buffering; odor control; noise; outdoor lighting; parking; access to the site from public roads; hazardous materials; water and energy efficiency; and landscaping and buildings. The purpose of these requirements is to avoid site development which may result in negative environmental, neighborhood, or public safety impacts.

- 1. Dimensional Requirements: Any building or structure containing a Marijuana Establishment shall meet the setback requirements of this Section C.6 and other dimensional controls of the appropriate district as specified in these bylaws. For any property proposed to contain a Marijuana Establishment, the applicant for a Special Permit for such use shall demonstrate that the entire property shall comply with these requirements and controls following the establishment of such use thereon.*
- 2. Parking and Loading Requirements: On-site parking and loading shall be provided in accordance with the requirements of ~171-13 of these bylaws. For any property proposed to contain a Marijuana Establishment Business in the Commercial, Commercial-Industrial, and Industrial Districts, the applicant for a Special Permit for such use shall demonstrate that the entire property shall comply with these requirements and controls following the establishment of such use thereon.*
- 3. Site Screening: The Special Permit and Site Plan Review granting authorities shall have the ability to require appropriate screening from abutters.*
- 4. Lighting & Security: Security cameras covering external areas shall include cameras with the capability to function with minimum lighting at night. External lighting should be consistent with public safety requirements and hours of operation, reasonably shielded from abutting properties and designed to reduce light pollution. Internal lighting in greenhouses shall be fully screened from abutters after sunset.*
- 5. Noise & Odors: Except for outdoor cultivation, no noise or marijuana or other odors detectable at the property line of the Marijuana Establishment shall be allowed. Outdoor Marijuana Cultivators shall be required to mitigate odors through siting, use of low-odor seed varieties, and other odor-reduction methods as practicable.*
- 6. Energy Efficiency: Except for outdoor cultivation, marijuana establishments shall be required to prepare a detailed energy efficiency plan. Cultivators in buildings and greenhouses shall generate a minimum of 50% of their projected energy use on site where feasible. For solar power generation, priority is to be given to roof-mounted facilities, then to siting on non-arable land, then to dual-use facilities that permit agriculture underneath high-mounted and well-spaced panels, and then to the least productive arable land.*
- 7. Water Efficiency: Marijuana Establishments are required to prepare a plan for water management and efficiency, including the incorporation of greenhouse run-off recapture and reuse. Where public water is to be used, Marijuana Cultivators are required to receive certification from the Water Department that there is sufficient capacity for their projected water use.*
- 8. Hazardous Materials: Submission of a complete list of chemicals, pesticides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use. Provide a Hazardous Materials Management Plan if using or storing hazardous materials on site in excess of household quantities to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism. The plan should include spill containment and clean-up procedures, and provisions for indoor, secured storage of hazardous*

materials and wastes with impervious floor surfaces.

9. Signs: All signs for a Marijuana Establishment must meet the requirements of ~ 171-14 of this bylaw and the State Regulations (935 CMR 500.000) including the requirement that, no advertising signs shall be located within twenty feet of a public or private way and must be set back a minimum of twenty (20) feet from all property lines.

10. Greenhouses: Greenhouses (see Definition in Section B) for Marijuana Cultivation shall be designed to limit the impact on arable land and shall be subject to the lot coverage requirements of ~171-10 and ~171-28.4F(2)

11. Buildings: Appearance of buildings for Marijuana Establishments shall be consistent with the appearance of other buildings in Whately, not employing unusual color or building design which would attract attention to the premises. In Agricultural/Residential District 2 new buildings for Marijuana Cultivators including Craft Marijuana Cultivators shall resemble vernacular agricultural buildings, such as barns. Marijuana Establishment Buildings shall not exceed 4000 square feet in the Agricultural/Residential Districts and 5000 square feet in the Commercial District.

12. Marketing: Marijuana Establishments shall not be allowed to disseminate or offer to disseminate marijuana marketing materials to minors or suffer minors to view displays or linger on the premises. No free samples may be provided by Marijuana Establishments to consumers.

13. Hours of operation: The hours of operation shall be set by the Special Permit Granting authority but in no event shall a facility be open to the public and no sale or other distribution of marijuana occur on the premises or via delivery between the hours of 8:00 pm and 7:00 am.

14. Retailer limits: No more than three Marijuana Retailers will be permitted to operate in Whately.

15. Applications: The applicant requesting permission to operate any Marijuana Establishment must file their application with the Special Permit Granting Authority and the Town Clerk. Such application shall contain the information required by ~ 171-31 Special Permit and any rules and regulations established by the Special Permit Granting Authority and the State Cannabis Control Commission. The application shall also include:

a) Name and Address of the legal owner and Licensee of the Marijuana Establishment;

b) Name and Address of all persons having lawful, equity or security interests in the Marijuana Establishment;

c) Name and Address of the Manager of the Licensed Marijuana Establishment;

d) The number of proposed employees; and

e) Proposed security precautions.

16. *Site Plan Review: No Marijuana Establishment shall be established prior to submission and approval of a site plan by the Planning Board, pursuant to ~171-17. The site plan shall, at the minimum, depict all existing and proposed buildings, parking spaces, driveways, service areas, and other open uses. The site plan shall show the distances between the proposed Marijuana Establishment and all existing uses within 1,000 feet of the property lines of the proposed Marijuana Establishment. The site plan shall show all exterior proposed security measures including lighting, fencing, gates, cameras, alarms, etc. A traffic study may be required*

17. *Reporting: All Marijuana Establishments shall provide public safety officials, the Building Inspector and the Town Administrator with the names, phone numbers and email addresses of all management staff and key holders, including a minimum of two operators or managers of the facility identified as contact persons. All such contact information shall be updated to keep it current and accurate.*

18. *Change in License or Owner: The Owner and Licensee of any Marijuana Establishment issued a Special Permit under this bylaw shall report, in writing, within 10 business days any change in the name of the legal owner of the Marijuana Establishment or any expiration or suspension of a license to the Building Inspector and Planning Board. Any failure to meet this requirement of this Bylaw will result in the immediate issuance of a cease and desist order by the Building Inspector ordering that all activities conducted under the Special Permit cease immediately.*

19. *Change of Ownership: A Special Permit issued under this Article shall lapse upon any transfer of ownership or legal interest of more than 10% or change in contractual interest in the subject premises or property. The Special Permit may be renewed thereafter only in accordance with this Article 171-28.6 and ~ 171-31 (Special Permit) and ~ 171-17 (Site Plan Review).*

20. *Host Community Agreement: Applicant shall submit the proposed Host Community Agreement that is required between a Marijuana Establishment and the town it is operating in at the time they submit their Application.*

E. Expiration

A Special Permit to operate a Marijuana Establishment shall expire after a period of five calendar years from its date of issuance but shall be renewable for successive five-year periods thereafter, provided that a written request for such renewal is made to the Special Permit Granting Authority at least 60 calendar days prior to said expiration and that no objection to said renewal is made and sustained based upon compliance with all conditions of the Special Permit as well as public safety factors applied at the time the Special Permit renewal is requested. In addition, an updated Host Community Agreement satisfactory to Whately shall be provided if requested by the Town.

F. Severability

The invalidity of any section or provision of this article shall not invalidate any other section or provision thereof.

2/3 rd.'s vote required. Motion as amended passed 74-1

Article 42. Upon motion made and seconded, it was

Voted that the Town amend the Town’s Zoning Bylaws, § 171-8 - Table of Use Regulations, by revising the terms for medical marijuana related uses and adding provisions for recreational marijuana related uses, as shown in Appendix B to this Warrant and summarized below.

Summary of Changes: The proposed zoning amendment adds the following terms: Outdoor Marijuana Cultivator, Indoor Marijuana Cultivator, Indoor Marijuana Cultivator in Agricultural Buildings and Greenhouses in Existence on April 24, 2018, Marijuana Retailer or Offsite Medical Marijuana Dispensary, Independent [Marijuana] Testing Laboratory and Marijuana Manufacturer or Registered Marijuana Dispensary to the Table of Use Regulations and allows these uses by special permit in certain zoning districts and prohibits these uses in other zoning districts. The proposed zoning amendment also deletes the terms Offsite Medical Marijuana Dispensary (OMMD) and Registered Medical Marijuana Dispensary (RMD) as these uses are incorporated in the new terms to be added. The purpose of the zoning amendment is to allow recreational marijuana establishments by special permit in certain zoning districts in the Town. Please see Appendix B that follows for additional details.

APPENDIX B

Proposed Adult Use Recreational and Medical Marijuana Bylaw Changes

Proposed zoning text for Article 42 of the April 24, 2018 Annual Town Meeting.

~ 171-8. Table of Use Regulations.

[Deleted text in strikeout; *new text in italics.*]

	Agriculture/ Residential 1	Agriculture/ Residential 2	Commercial	Commercial - Industrial	Industrial
Agricultural Uses					
<i>Outdoor Marijuana Cultivator</i>	<i>N</i>	<i>SP</i>	<i>N</i>	<i>N</i>	<i>N</i>
<i>Indoor Marijuana Cultivator</i>	<i>N</i>	<i>SP</i>	<i>SP</i>	<i>SP</i>	<i>SP</i>
<i>Indoor Marijuana Cultivator in agricultural buildings and greenhouses in existence on April 24, 2018.</i>	<i>SP</i>	<i>SP</i>	<i>SP</i>	<i>SP</i>	<i>SP</i>
Commercial Uses					
<i>Marijuana Retailer or Offsite Medical Marijuana Dispensary (OMMD)</i>	<i>N</i>	<i>N</i>	<i>SP</i>	<i>SP</i>	<i>SP</i>

Off site Medical Marijuana Dispensary (OMMD)	N	N	SP	SP	Y
Light Industrial Uses					
<i>Independent [Marijuana] Testing Laboratory</i>	N	N	N	SP	SP
<i>Marijuana Manufacturer or Registered Marijuana Dispensary (RMD)</i>	N	N	N	SP	SP
Registered Medical Marijuana Dispensary (RMD)	N	N	N	N	Y

Y = Yes, the use is permitted by right in that zoning district.

N = No, the use is not permitted in that zoning district.

SP = The use is allowed in that zoning district only after a special permit has been granted.

Moderator declared the motion passed at a vote of 76 – 0

Article 43. Upon motion made and seconded, it was

Voted to dismiss Article 43.

Clerk’s note: This article pertained to a temporary moratorium on recreational marijuana. Because the two previous articles passed, this article was no longer needed.

Moderator declared the motion passed unanimously.

Article 44. Motion was made and seconded as follows

Motion was made to amend the Town’s Zoning Bylaws, § 171-8 - Table of Use Regulations, by revising the provisions for Agricultural Uses and adding provisions for farmer brewery uses, as shown in Appendix D to this Warrant and summarized below.

Summary of Changes: The proposed zoning amendment adds the terms Farmer Brewery, Farmer Brewery Tasting Room and Farmer Brewery Tasting Room with Pouring Permit to the Table of Use Regulations and allows these uses by special permit in certain zoning districts and prohibits these uses in other zoning districts. The proposed zoning amendment also limits the types of products that can be sold at greenhouses, salesrooms or stands to floricultural or nursery products instead of the broader category of horticultural products.

APPENDIX D

Proposed zoning text for Article 44 of the April 24, 2018 Annual Town Meeting.
(Deleted text in ~~strikeout~~; new text in *italics*)

§ 171-8 Table of Use Regulations.

	Agriculture/ Residential 1	Agriculture/ Residential 2	Commercial	Commercial - Industrial	Industrial
Agricultural Uses					
Year-round commercial greenhouses, salesrooms or stands for wholesale or retail sale of horticultural floricultural or nursery products on 5 acres or more with retail space of less than 300 square feet. [Amended ATM 4-29-2014, Art. 29A]	Y	Y	Y	Y	Y
Year-round commercial greenhouses, salesrooms or stands for wholesale or retail sale of horticultural floricultural or nursery products on 5 acres or more with retail space of more than 300 square feet. [Added ATM 4-29-2014, Art. 29A]	Y*	Y*	Y*	Y*	Y*
Commercial Uses					
<i>Farmer Brewery Tasting Room</i>	<i>N</i>	<i>SP</i>	<i>SP</i>	<i>SP</i>	<i>SP</i>
<i>Farmer Brewery Tasting Room with pouring permit</i>	<i>N</i>	<i>N</i>	<i>SP</i>	<i>SP</i>	<i>SP</i>
Light Industrial Uses					
<i>Farmer Brewery</i>	<i>N</i>	<i>SP</i>	<i>SP</i>	<i>SP</i>	<i>SP</i>

Y = Yes, the use is permitted by right in that zoning district.

N = No, the use is not permitted in that zoning district.

SP = The use is allowed in that zoning district only after a special permit has been granted.

* = Site Plan Review required

Amendment

Judy Markland of the Planning board presented an amendment to the motion on the floor as follows and this motion was seconded.

I move that the proposed motion on Section 171-8 Table of Use Regulations be amended to allow by Special Permit Farm Brewery Tasting Room with Pouring Permit in the A/R 2 district.

Clerk’s Note: There was some discussion on this amendment. One opponent felt that this would constitute a bar and shouldn’t be allowed in an A/R2 district which is many times prime farmland and too close to houses. Proponents felt that allowing this special permit in this district would allow farms to diversify and keep farms operational and that a pouring permit is unlike like a bar. The brewery would only be selling their own product and not the extensive selection of a bar.

Vote on Amendment

The Town voted to accept the amendment to the motion on Section 171-8 Table of Use Regulations to allow by Special Permit Farm Brewery Tasting Room with Pouring Permit in the A/R 2 district.

Moderator declared the amendment passed

Vote on Main Motion as amended:

Voted to amend the Town’s Zoning Bylaws § 171-8 - Table of Use Regulations, by revising the provisions for Agricultural Uses and adding provisions for farmer brewery uses including the amendment on the floor as follows:

Table of Use Proposals: Greenhouses and Farm Brewery Tasting Rooms

[Deleted text in ~~strikeout~~; new text in italics.]

	Agriculture/ Residential 1	Agriculture/ Residential 2	Commercial	Commercial - Industrial	Industrial
Agricultural Uses					
Year-round commercial greenhouses, salesrooms or stands for wholesale or retail sale of horticultural <i>floricultural or nursery</i> products on 5 acres or more with retail space of less than 300 square feet. [Amended ATM 4-29-2014, Art. 29A]	Y	Y	Y	Y	Y
Year-round commercial greenhouses, salesrooms or stands for wholesale or retail sale of horticultural <i>floricultural or nursery</i> products on 5 acres or more with retail space of more than 300 square feet. [Added ATM 4-29-2014, Art.29A]	Y*	Y*	Y*	Y*	Y*
Commercial Uses					
<i>Farmer Brewery Tasting Room</i>	<i>N</i>	<i>SP</i>	<i>SP</i>	<i>SP</i>	<i>SP</i>
<i>Farmer Brewery Tasting Room with pouring permit</i>	<i>N</i>	<i>SP</i>	<i>SP</i>	<i>SP</i>	<i>SP</i>
Light Industrial Uses					

<i>Farmer Brewery</i>	<i>N</i>	<i>SP</i>	<i>SP</i>	<i>SP</i>	<i>SP</i>
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Y = Yes, the use is permitted by right in that zoning district.

N = No, the use is not permitted in that zoning district.

SP = The use is allowed in that zoning district only after a special permit has been granted.

* = Site Plan Review required

Moderator declared the motion as amended passed unanimously

Article 45. Upon motion made and seconded, it was

Voted that the town amend the Town's Zoning Bylaws, § 171-37 - Terms Defined, by adding definitions for farmer brewery uses, as shown in Appendix E to this Warrant and summarized below.

Summary of Changes: The proposed zoning amendment adds definitions for the following terms: Farmer Brewery, Farmer Brewery Tasting Room and Farmer Brewery Tasting Room with Pouring Permit.

APPENDIX E

Proposed zoning text for Article 45 of the April 24, 2018 Annual Town Meeting.
(Deleted text in strikeout; new text in italics)

§ 171-37 Terms Defined

Farmer Brewery Definitions proposed to be added to ~171-37. Terms Defined:

Farmer Brewery: a business licensed under MGL Ch. 138 Sec. 91C.

Farmer Brewery Tasting Room: a facility operated as a part of a brewery licensed under MGL Ch 138 sec 19C which offers on-site sampling and retail sales for at-home consumption of the brewery's products only.

Farmer Brewery Tasting Room with pouring permit: a facility operated as a part of a brewery licensed under MGL Ch 138 sec 19C which offers on-site sampling and sales of its products for on-site consumption under a Farmer Series Pouring Permit in addition to retail sales for at-home consumption.

Moderator declared the motion as amended passed unanimously

Voted to adjourn without date at 8:55 p.m.

A true record,

ATTEST:

Lynn M. Sibley, MMC, CMMC
Town Clerk