

TOWN MEETING WARRANT  
and  
REPORT of the FINANCE COMMITTEE  
of the  
TOWN OF FAIRHAVEN  
MASSACHUSETTS

FOR THE  
SPECIAL  
TOWN MEETING  
TO BE VOTED UPON  
TUESDAY, NOVEMBER 13, 2018  
AT 7:00P.M.



**TUESDAY, NOVEMBER 13, 2018**  
IN THE ELIZABETH HASTINGS MIDDLE SCHOOL  
30 SCHOOL STREET  
FAIRHAVEN, MA 02719



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**WARRANT AND REPORT OF THE FINANCE COMMITTEE  
FOR THE SPECIAL TOWN MEETING  
TUESDAY, NOVEMBER 13, 2018 AT 7:00 P.M.  
AT THE ELIZABETH I. HASTINGS MIDDLE SCHOOL**

COMMONWEALTH OF MASSACHUSETTS  
BRISTOL, s.s

To the Constable of the Town of Fairhaven in said county:

**GREETINGS:**

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of the Town of Fairhaven qualified to vote on town affairs to meet as follows:

On Tuesday, the thirteenth day of November 2018 at 7:00 p.m. in the Walter Silveira Auditorium at the Elizabeth I. Hastings Middle School, then and there, to act upon the following articles:

**ARTICLE 1. FUNDING FOR REPAIR OF CEILING IN ASSESSORS OFFICE**

To see if the Town will vote to transfer \$50,000 from General Fund Surplus Revenue to repair the ceiling in the Assessors Office at Town Hall, or take any other action relative there to.

*Petitioned by: Board of Selectmen*

Board of Selectmen Recommendation: Adoption

Finance Committee Recommendation: Adoption

**ARTICLE 2. FUNDING FOR REPAIR OF SEWER PIPE AT FIRE/POLICE STATION**

To see if the Town will vote to transfer \$147,000 from General Fund Surplus Revenue to repair/replace a sewer pipe at the Fire/Police Station, or take any other action relative there to.

*Petitioned by: Board of Selectmen*

Board of Selectmen Recommendation: Adoption

Finance Committee Recommendation: Adoption

**ARTICLE 3. FUNDING FOR REPLACEMENT OF HANDHELD METER READERS**

To see if the Town will vote to transfer \$75,000 from Water Retained Earning to replace hand held meter readers, or take any other action relative there to.

*Petitioned by: Board of Public Works*

Board of Selectmen Recommendation: Adoption

Finance Committee Recommendation: Adoption

**ARTICLE 4. ADDITIONAL FUNDING FOR DOORWAY RESTORATION & HANDICAP ACCESS PROJECT AT THE ACADEMY BUILDING**

To see if the Town will vote to amend Article 31, “Community Preservation Program Appropriation –FY18”, Section F, “Historical Commission-Academy Building-Doorway Restoration &Handicap Access Project” of the May 6, 2017 Annual Town Meeting by adding an additional sum of money to the existing appropriation of \$119,000 to be paid for from the Community Preservation Fund and/or General Fund Surplus Revenue, or take any other action relative there to.

*Petitioned by: Board of Selectmen*

Board of Selectmen Recommendation: Adoption in the amount of \$45,000

Finance Committee Recommendation: To be made at Town Meeting

**ARTICLE 5. AMENDED FY 19 GENERAL FUND OPERATING BUDGET**

To see if the Town will vote to amend Article 10 of the May 5, 2018 Annual Town Meeting “General Fund Operating Budget-FY19” or take any other action relative thereto.

*Petitioned by: Board of Selectmen*

Line Item	FY19 Budget	Amendment	Revised FY19 Budget
Selectmen/Town Administrator: Salaries & Wages	\$275,698	\$3,449	\$279,147
Human Resources: Salary & Wages	\$111,566	\$7,518	\$119,084
Town Accountant: Salary & Wages	\$124,370	\$9,315	\$133,685
Finance Director (Treasurer/Collector): Salaries & Wages	\$344,494	\$2,986	\$347,480
Assessors: Salaries & Wages	\$155,502	\$11,860	\$167,362
Town Hall: Salaries & Wages	\$58,107	\$884	\$58,991
Planning and Economic Development: Salaries & Wages	\$109,385	\$1,274	\$110,659
Board of Appeals: Salaries & Wages	\$2,623	\$49	\$2,672
Conservation Comm/Sustainability: Salaries & Wages	\$56,375	\$3,011	\$59,386
Police Dept.: Salaries & Wages	\$3,491,654	\$13,360	\$3,505,014

Fire Dept.: Salaries & Wages	\$2,277,233	\$17,397	\$2,294,630
Building Dept.: Salaries & Wages	\$164,788	\$2,717	\$167,505
Marine Resources: Salaries & Wages	\$127,259	\$5,579	\$132,838
Public Works Administration: Salaries & Wages	\$185,797	\$3,654	\$189,451
Tree Warden Dept.: Salaries & Wages	\$38,664	\$1,235	\$39,899
Board of Health: Salaries & Wages	\$136,509	\$5,166	\$141,675
Council on Aging: Salaries & Wages	\$149,581	\$9,795	\$159,376
Recreation: Salaries & Wages	\$164,992	\$14,444	\$179,436
Office of Tourism: Salaries & Wages	\$58,953	\$8,623	\$67,576
WAGE AND SALARY RESERVE	\$150,000	-\$122,315	\$27,685

Board of Selectmen Recommendation: Adoption

Finance Committee Recommendation: Adoption

**ARTICLE 6. AMENDED FY 19 SEWER ENTERPRISE FUND OPERATING BUDGET**

To see if the Town will vote to amend Article 12 of the May 5, 2018 Annual Town Meeting “Sewer Enterprise Fund Operating Budget-FY19, or take any other action relative thereto.

*Petitioned by: Board of Public Works/Board of Selectmen*

Transfer \$6,847 from Sewer Enterprise Fund Retained Earnings to Sewer Salaries and Wages for a revised budget of \$1,000,545.

Board of Selectmen Recommendation: Adoption

Finance Committee Recommendation: Adoption

**ARTICLE 7. BILLS OF PRIOR YEARS**

To see if the Town will vote to authorize the payment of the following bills of the Prior Years from General Fund Surplus Revenue:

<u>Vendor</u>	<u>Amount</u>	<u>Petitioner</u>
Assoc. Phys. Of HMFP@BIDMC	\$61.34	Fire Chief
Dr. Brian Bowcock D.C.	\$665.19	Fire Chief
Southcoast Physicians Group	\$282.04	Fire Chief
Cape Medical Supply, Inc.	\$82.99	Fire Chief

Stewart Medical Group-St. Anne’s Hosp.	\$2,322.90	Police Chief
Staples	\$54.68	Health Agent

Or take any other action relative there to.

*Petitioned by: Board of Selectmen*  
Board of Selectmen Recommendation: Adoption  
Finance Committee Recommendation: Adoption

**ARTICLE 8. TEMPORARY MORATORIUM ON SALE AND DISTRIBUTION OF ADULT USE MARIJUANA**

To see if the Town will vote to amend the Town’s Zoning Bylaws by adding the following new section:

“TEMPORARY MORATORIA” and the ensuing parts as proposed herein.

A Temporary Moratorium on the Sale and Distribution of Adult Use Marijuana

(1) 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.

Currently under the Zoning Bylaw, Adult Use Marijuana Establishments are not permitted uses in the Town. Regulations promulgated by the Cannabis Control Commission have provided guidance to the Town in regulating Adult Use Marijuana Establishments; however, guidance for On-Site Social Consumption and Delivery Only (to consumers) Retailers, are not expected until February 2019. Further, the ballot measure establishes two important provisions that require action by the Town prior to the adoption of zoning. First, the Town must determine whether, and to what extent, it will exercise local control over Adult Use Marijuana Establishments and second, by ballot that cannot occur prior to November 6, 2018, the next biennial state election, on whether to allow on-site consumption of marijuana products should the Town decide to allow licenses for such facilities.

The regulation of Adult Use Marijuana Establishments raise novel and complex legal, planning, and public safety issues and the Town needs additional time to study and consider the regulation of Adult Use Marijuana Establishments 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 the regulation of Adult Use Marijuana Establishments 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 Adult Use Marijuana Establishments 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.

## (2) Definitions

- a) **MARIJUANA** — As defined or amended by State regulations, all parts of any plant of the genus *Cannabis*, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C; provided, however, that “Marijuana” shall not include (1) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt derivative, mixture or preparation of the mature stalks, fiber, oil or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; (2) hemp; or (3) the weight of any other ingredient combined with Marijuana to prepare topical or oral administrations, food, drink or other products. Marijuana also includes Marijuana Products except where the context clearly indicates otherwise.
  - 1. Marijuana, Hemp — As defined or amended by State regulations, the plant of the genus *Cannabis* or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 per cent on a dry weight basis of any part of the plant of the genus *Cannabis*, or per volume or weight of Marijuana product, or the combined per cent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus *Cannabis* regardless of moisture content.
- b) **ADULT USE MARIJUANA ESTABLISHMENT** – As defined or amended by State regulations, a Marijuana Retailer, Marijuana Product Manufacturer, Marijuana Cultivator, Independent Testing Laboratory, or any other type of Marijuana-related business that has been duly licensed by the Massachusetts Cannabis Control Commission or relevant State agency.

**1. Craft Marijuana Cultivator Cooperative** — As defined or amended by State regulations, a Marijuana Cultivator comprised of residents of Massachusetts organized as a limited liability company or limited liability partnership under Massachusetts law, or an appropriate business structure as determined by the Massachusetts Cannabis Control Commission, and that is licensed by the Cannabis Control Commission to cultivate, obtain, manufacture, process, package, and brand Marijuana and Marijuana Products to deliver Marijuana to Marijuana Establishments but not to consumers.

**2. Marijuana Cultivator** — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission to cultivate, process, and package Marijuana, to deliver Marijuana to Marijuana Establishments and to transport Marijuana to other Marijuana Establishments, but not to consumers.

**3. Delivery-Only Marijuana Retailer** — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission that does not provide a retail location accessible to the public, but is authorized to deliver directly from a Marijuana Cultivator facility, Craft Marijuana Cultivator Cooperative facility, Marijuana Product Manufacturer facility, or Micro-Business to consumers.

**4. Independent Marijuana Testing Laboratory** — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission that 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 Accrediting Cooperation Mutual Recognition Arrangement or that is otherwise approved by the Cannabis Control Commission; (ii) independent financially from any Medical Marijuana Treatment Center or any Cannabis Control Commission licensee or Marijuana Establishment of which it conducts a test; and (iii) qualified to test Marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34.

**5. Marijuana Micro-Business** — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission to act as a co-located licensed Tier 1 Marijuana Cultivator of up to 5,000 square feet in accordance with 935 CMR 500.005, Cannabis Control Commission Regulations, and/or a licensed Marijuana Product Manufacturer, in compliance with operating procedures for each such license and siting requirements for each type of licensee. A Micro-business that is a Marijuana Product

Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Marijuana Establishments.

**6. Marijuana Product Manufacturer** — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission 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.

**7. Marijuana Research Facility** — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission to engage in research projects, including cultivation, purchase or acquisition otherwise of Marijuana for the purpose of conducting research regarding Marijuana and Marijuana Products or any analogous uses. A Marijuana Research Facility may not sell marijuana it has cultivated.

**8. Marijuana Retailer** — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission 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, providing a retail location accessible to consumers 21 years of age or older or in possession of a registration card demonstrating that the individual is a registered qualifying patient with the Medical Use of Marijuana Program.

**9. Social Consumption Marijuana Retailer** — As defined or amended by State regulations, a Marijuana Retailer licensed by the Massachusetts Cannabis Control Commission to purchase Marijuana and Marijuana Products from Marijuana Establishments and to sell Marijuana and Marijuana Products on its premises only to consumers or allow consumers to consume Marijuana and Marijuana Products on its premises only.

**10. Marijuana Transporter** — As defined or amended by State regulations, an entity, not otherwise licensed by the Massachusetts Cannabis Control Commission, that is licensed by the Cannabis Control Commission to purchase, obtain and possess Marijuana and Marijuana Products solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments, not for sale to consumers.

**12. Marijuana Standards Laboratory** — As defined or amended by State regulations, a laboratory meeting the requirements of the Independent Testing laboratory that is licensed by the Massachusetts Cannabis Control Commission as a Standards Laboratory to ensure consistent and compliant testing by the Independent Testing Laboratories.

**(3) 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 Adult Use Marijuana Establishments. The moratorium shall be in effect through June 30, 2019. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of recreation marijuana in the Town, consider the Cannabis Advisory Board regulations regarding Recreational Marijuana Establishments and related uses, determine whether, and to what extent, the Town shall exercise local control over Recreational Marijuana Establishments and shall consider adopting new provisions of the Zoning Bylaw to address the impact and operation of Recreational Marijuana Establishments and related uses.

**(4) Severability.** The provisions of this bylaw are severable. If any provision, paragraph, sentence, or clause of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.

And by amending Section 198-16 of the Town's Zoning By-Law by adding the following entry under the heading COMMERCIAL USES

Adult Use Marijuana   N  N  N  N  N  N  N  N  N    
Establishments (22)

**(22) Subject to moratorium. See Section 198-32.3**

Or take any other action relative thereto.

*Petitioned by: Doug Brady, et. al.*

Board of Selectmen Recommendation: Yield to Petitioner

Finance Committee Recommendation: Yield to Petitioner

## ARTICLE 9. ZONING BYLAW AMENDMENT: CONSOLIDATED MARIJUANA ZONING.

*To see if the Town of Fairhaven will vote to amend the Fairhaven Zoning Bylaw as follows:*

(Deletions shown in strike-through and new text shown as underlined.)

**1. By deleting §198-29.7, Medical Marijuana Facilities, in its entirety, and replacing it with a new §198-29.7, Marijuana Establishments, as follows: 198-29.7 - MARIJUANA ESTABLISHMENTS**

### A. Purpose

The purpose of this section of the Zoning Bylaw is to permit Marijuana Establishments to operate and be located in such a way as to protect the health and safety of Fairhaven residents, as well as patients seeking treatment and customers seeking to purchase marijuana for recreational use, while minimizing adverse impacts on adjacent properties, residential neighborhoods, schools, and other sensitive locations, by regulating the siting, design, placement, security, modification and removal of such uses.

### B. Applicability

- 1) Definitions. See Massachusetts General Laws Chapter 94G, Section 1, Chapter 94I, Section 1, and the 18 regulations promulgated thereunder, as they may be amended, as well as Section 198-33, Definitions and Word Use, of the Fairhaven Zoning Bylaws for further definitions of applicable terms.
- 2) Severability. If any provision of this Chapter or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this Chapter, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Chapter are severable.
- 3) Special Permit. All Marijuana Establishments shall be permitted by Special Permit pursuant to this section and Site Plan Review pursuant to §198-29. The Special Permit Granting Authority shall be the Planning Board.

A Special Permit granted under this section of the Zoning Bylaws shall have a term limited to the duration of the applicant's continued use of the premises for a Marijuana Establishment licensed by the state. Any new or additional license, or a transfer of an existing license to a new owner, shall require a new Special Permit pursuant to the Fairhaven Zoning Bylaws.

- 4) A special permit issued prior to November 13, 2018, allowing the use of premises for a Medical Marijuana Treatment Center shall remain in effect subject to its own terms and conditions; provided that any subsequent change in use, including the use of the premises for an additional or different form of Marijuana Establishment, or for the expansion or alteration of the existing Medical Marijuana Treatment Center, or a change in ownership of the licensed establishment, shall be subject to the terms of this section.

#### C. Eligible Locations for Marijuana Establishments

- (1) Marijuana Establishments may be allowed by Special Permit from the Planning Board only in the Medical Marijuana Overlay District provided the facility meets the requirements of this Chapter.
- (2) Medical Marijuana Overlay District shall be comprised of the following Map and Lot numbers: Map 24: Lots 16, 16A, 18; Map 26: Lots 62, 62A, 63, 71, 71A, 72; Map 30A: Lots 86A, 86C, 86D, 86H; Map 36: Lots 13, 14, 14A, 14B, 14C, 14D, 14E, 14F, 14K, 14N, 15, 15A, 15B, 15C, 15D, 15F, 15G, 15J. A map of the over lay district is also on file at the Town Clerk's Office and the Planning Board's Office.

#### D. Limit on the Number of Special Permits for Marijuana Retailers

- 1) No new Special Permit shall be issued if the resulting number of Special Permits for Marijuana Retailers within the Town exceeds the smallest whole number which is not less than twenty per cent (20%) of the number of liquor licenses for off premises alcohol consumption issued within the Town pursuant to Chapter 138, § 15 of the General Laws. Special Permits previously granted for Marijuana Retailer shall not be affected by a change in the number of liquor licenses for off premises alcohol consumption.
- 2) All Marijuana Establishments are prohibited from offering marijuana or marijuana products for consumption on the premises of a Marijuana Establishment.

#### E. Limit on the Number of Special Permits for Adult Use Marijuana Establishment Licenses other than Marijuana Retailers

No new Special Permits shall be issued if the resulting number of Special Permits for each particular type of adult use Marijuana Establishment, except Marijuana Retailers, exceeds the number of licensed Medical Marijuana Treatment Centers permitted in the Town. Special Permits previously granted each particular type of adult use Marijuana Establishment, except

Marijuana Retailers, shall not be affected by a change in the number of licensed Medical Marijuana Treatment Centers permitted in the Town.

*F. Application Requirements.* Above and beyond the standard application requirements for Special Permits and Site Plan Review approval, an application for a use under this section shall include the following:

- 1) The name and address of each owner of the facility/operation;
- 2) Copies of all documentation demonstrating appropriate application status under state law, or registration or license, issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the facility;
- 3) Evidence that the Applicant has site control and the right to use the site for a facility in the form of a deed or valid purchase and sale agreement, or, in the case of a lease, a notarized statement from the property owner and a copy of the lease agreement;
- 4) A notarized statement signed by the organization's Chief Executive Officer and corporate attorney, if any, disclosing all of its designated representatives, including officers and directors, 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 all such responsible individual persons;
- 5) A Security Plan, approved by the Cannabis Control Commission as part of the issuance of a Provisional License, to be approved by the Police and Fire Departments prior to the issuance of a Special Permit, with details showing all exterior proposed security measures for the premises, including lighting, fencing, gates and alarms, etc. ensuring the safety of employees and patrons and protecting the premises from theft or other criminal activity;
- 6) A Management Plan, including a description of all activities to occur on site, including all provisions for the delivery of marijuana and related products to Marijuana Establishments or off-site direct delivery consistent with state law and regulations;
- 7) A Resource Plan, for all marijuana cultivators, shall be submitted to the Planning Board and the Board of Health to demonstrate best practices for waste disposal, use of energy, water, and other common resources, and to ensure that there will be no undue damage to the natural environment. The Resources Plan shall include an electrical system

overview, proposed energy demand and proposed electrical demand off-sets, ventilation system and air quality, proposed water system and utility demand;

- 8) A Traffic Impact Report shall be required for all Marijuana Establishments. The Planning Board may require a traffic study if in their determination one is warranted because of public safety concerns.

#### G. Special Permit Requirements for Marijuana Establishments

##### 1) General Requirements

- a) Marijuana Establishments shall comply with applicable State and local laws, regulations, bylaws, codes, conditions and agreements with the Town.
- b) An approved Host Community Agreement shall be required prior to the granting of a Special Permit for a Marijuana Establishment.
- c) Marijuana Establishments shall maintain all permits and licenses required by State and local laws. Any voiding, revocation or suspension of the Marijuana Establishment's Cannabis Control Commission license shall result in an automatic suspension of the Special Permit, pending hearing or the opportunity therefore afforded to the Marijuana Establishment by the CCC, and pending determination by the Planning Board during a regularly scheduled public meeting that the Marijuana Establishment has cured any violation with State laws and is duly licensed by and in good standing with the CCC.
- d) A violation of the Host Community Agreement shall result in automatic suspension of the Special Permit and may result in the revocation of the Special Permit.
- e) A Special Permit may also be revoked under the following circumstances:
  - i. Upon determination by the Building Commissioner that the permit holder is no longer operating under the Special Permit and its conditions or under the requirements of this bylaw, or that the use has been abandoned;
  - ii. The applicant has failed to report annually as required under this bylaw, or on the schedule approved as part of a Special Permit;
  - iii. Upon request by the permit holder of a desire to cease operations.
- f) The process for revoking a Special Permit shall be as follows:
  - i. Determination of violation, abandonment, or other cause for revocation by the Building Commissioner;



- ii. Notice sent by the Building Commissioner to the permit holder and the Planning Board;
- iii. Vote of the Planning Board to either continue or revoke/terminate the Special Permit;
- iv. Record notice of revocation/termination in the Registry of Deeds.

## 2) Use Regulations.

- a) No smoking, burning, consumption or use of Marijuana or Marijuana Products shall be permitted on the premises of a Marijuana Establishment.
- b) Marijuana manufacturing or extraction shall not be done in any building containing residential units including transient housing such as motels and dormitories, assembly, educational, health care, ambulatory health care, residential board and care, motels, or detention and correctional facilities, or inside a movable or mobile structure such as a van or truck.
- c) The hours of operation shall be set by the Planning Board as a condition of the Special Permit.
- d) Marijuana Establishment operations shall not create nuisance conditions in parking areas, sidewalks, streets and areas surrounding its premises and adjacent properties. "Nuisance" includes, but is not limited to, disturbances of the peace, open public consumption of Marijuana, excessive pedestrian or vehicular traffic, odors emanating from the Marijuana Establishment's premises, lighting trespass on adjacent properties, illegal drug activity under State or local law, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises, excessive citation for violations of State traffic laws and regulations and/or Transportation Division Rules and Regulations, queuing of patrons (vehicular or pedestrian) in or other obstructions of the public way (sidewalks and streets), collisions between vehicles, bicyclists, and pedestrians, lewd conduct or police detentions and arrests.
- e) Marijuana Establishments are prohibited from use of on-site self-service displays. Self-service displays are defined to mean displays from which customers may select Marijuana or Marijuana Products without assistance from an employee or store personnel, and include vending machines.

- f) The proposed use shall not display on-premises signage or other marketing on the exterior of the building or in any manner visible from the public way, which may promote or encourage the use of marijuana or other drugs by minors.

### 3) Locational and Physical Requirements

- a) All Marijuana Establishments' licensed operations must take place within a building at a fixed location and shall not be visible from the exterior of the business.
- b) Marijuana Establishments may cultivate, process, test, store and manufacture Marijuana or Marijuana Products only within an area that is enclosed and secured in a manner that prevents access by persons not permitted by the Marijuana Establishment to access the area.
- c) No outside storage of marijuana, related supplies, or educational materials is permitted.
- d) All business signage, marketing, advertising, and branding shall be subject to the requirements promulgated by the Cannabis Control Commission and the requirements of the Fairhaven Zoning Bylaws and Sign Code. In the case of a conflict, the stricter requirement shall apply.
- e) The gross floor area of Marijuana Establishments accessible to patients or customers, and not including space dedicated to administration or operations and accessible only to employees of the facility, shall be no greater than the following:
  - i. Medical Marijuana Treatment Centers: 4,500 square feet
  - ii. Marijuana Retailers: 2,500 square feet
- f) Ventilation. All facilities shall be ventilated in such a manner that:
  - i. No pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere; and
  - ii. No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the Marijuana Establishment or at any adjoining use or property.

### 4) Reporting Requirements.

- a) All Special Permit holders for uses under this section shall provide the Police Department, Fire Department, Building Commissioner, Board of Health, and Special Permit Granting Authority with the names, phone numbers, mailing and email addresses of all management staff and key-holders, including a minimum of two (2)

operators or managers of the facilities identified as designated contact persons to whom notice should be made if there are operating problems associated with any use under this section. All such contact information shall be updated as needed to keep it current and accurate

- b) One of the two designated contact persons shall notify the Police Department, Fire Department, Building Commissioner, Board of Health and Special Permit Granting Authority in writing a minimum of thirty (30) days prior to any change in ownership or management of a facility regulated under this section.
- c) The designated representatives of permitted facilities shall file an annual report with the Special Permit Granting Authority and shall appear before said Authority to present the report no later than 30 days following renewal of a state license or registration, providing a copy of all current applicable state licenses for the owners and facilities, to demonstrate continued compliance with the conditions of the Special Permit. If there is a notice of deficiencies or violations said notice shall be included with the Annual Report.
- d) The designated contact persons shall be required to respond by phone or email within twenty-four (24) hours of the time of contact and inquiry regarding operation of the facility by a town official to the telephone number or email address provided as the contact for the business.

5) Discontinuance of Use. Any Marijuana Establishment permitted under this section shall be required to remove all marijuana and marijuana products, equipment and other paraphernalia by the earlier of:

- a) immediately following the expiration, revocation or voiding of its state issued license or permit or
- b) within 120 days of ceasing operations.

H. Findings. In addition to the findings required under Section 198-29 of the Zoning Bylaw and meeting the provisions of all other applicable sections of this Bylaw, the Planning Board shall not issue a Special Permit for a Marijuana Establishment unless it finds that the use as proposed:

- 1) Does not contravene the limit on the number of Special Permits that may be granted.
- 2) Meets all of the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will as proposed be in compliance with all applicable state laws and regulations.

- 3) Meets all the applicable conditions and requirements as set forth in this Chapter.
- 4) Will provide copies of registrations and licenses and a copy of a signed Host Community Agreement with the Town of Fairhaven, in accordance with M.G.L. Chapter 94G and subsequent regulations, including 935 CMR 500, to the Building Commissioner prior to the issuance of a Certificate of Occupancy.
- 5) Is designed to minimize adverse visual impacts on abutters and other parties in interest.
- 6) Provides a secure waiting area, as required by state law or regulations.
- 7) Provides adequate security measures to ensure that no individual or group participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation of marijuana is adequately secured in enclosed, locked facilities.
- 8) Adequately addresses issues of vehicular and pedestrian traffic, circulation, parking and queuing, especially during peak periods at the facility, and adequately mitigates the impacts of vehicular and pedestrian traffic on neighboring uses.
- 9) Adequately demonstrates best practices with regard to the use of energy, water, waste disposal and other common resources, with no undue damage to the natural environment.

**2. And by amending §198-33, Definitions and Word Use, by deleting the definitions of “Marijuana” and “Marijuana for Medical Use,” and inserting new definitions as follows:**

~~MARIJUANA—The same substance defined as “marihuana” under the provisions of M.G.L. c. 94C, as amended from time to time. [Added 2-12-2014 STM by Art. 8]~~

~~MARIJUANA FOR MEDICAL USE—Marijuana that is designated and restricted for use by, and for the benefit of, Qualifying Patients in the treatment of Debilitating Medical Conditions as set forth in the provisions of M.G.L. c. 94C, as amended from time to time. [Added 2-12-2014 STM by Art. 8]~~

MARIJUANA —All parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C; provided, however, that “Marijuana” shall not include (1) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt derivative, mixture or preparation of the mature stalks, fiber, oil or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; (2) hemp; or (3) the weight of any other ingredient combined with Marijuana to prepare topical or oral

administrations, food, drink or other products. Marijuana also includes Marijuana Products except where the context clearly indicates otherwise.

a. Hemp — The plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 per cent on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of Marijuana product, or the combined per cent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus Cannabis regardless of moisture content.

MARIJUANA ESTABLISHMENT —A Marijuana Retailer, Marijuana Product Manufacturer, Marijuana Cultivator, Craft Marijuana Cultivator Cooperative, Independent Testing Laboratory, Standards Laboratory, Research Facility, Marijuana Micro-business, Marijuana Transporter, or any other type of Marijuana-related business, including a Medical Marijuana Treatment Center, that has been duly licensed by the Massachusetts Cannabis Control Commission or relevant State agency.

a. Marijuana Retailer —An entity licensed to purchase and transport cannabis or marijuana product from Marijuana Establishments; and to sell or otherwise transfer this product to Marijuana Establishments; and to sell this product to consumers. Retailers are prohibited from delivering cannabis or marijuana products to consumers; and from offering cannabis or marijuana products for the purposes of on-site social consumption on the premises of a Marijuana Establishment. A Marijuana Retailer is an entity authorized to purchase and deliver marijuana and marijuana products from Marijuana Establishments and to sell or otherwise transfer marijuana and marijuana products to Marijuana Establishments and to consumers.

b. Medical Marijuana Treatment Center — An entity registered by the State under 105 CMR 725.100 that acquires, cultivates, possesses, processes (including development of related products such as edible Marijuana products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers Marijuana, products containing Marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of cannabis or marijuana for medical use.

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.

**3. And by amending §198-16, Use Regulation Schedule, COMMERCIAL USES, of the Fairhaven Zoning Bylaw by deleting the “Medical Marijuana Facilities” use and inserting the following new uses, and by amending footnote 21 as follows:**

Activity or Use	RR/RA	RB	RC	District		I	AG	MU <sup>14</sup>	WRP <sup>16</sup>
				P	B				
Medical Marijuana Facilities									
<u>Marijuana Establishment (except Social Consumption)</u>									
	N	N	N	N	N	A <sup>21</sup>	N	N	N
<u>Marijuana Retailer Social Consumption</u>									
	N	N	N	N	N	N	N	N	N

Footnote 21: May only be allowed by Special Permit from the Planning Board only in the Medical Marijuana Overlay District. Any alterations, additions and/or changes of an approved ~~Medical Marijuana Facilities~~ Establishment Special Permit shall require a new Special Permit.

**4. And by deleting §198-32.3, Temporary Moratoria, Temporary Moratorium on the Sale and Distribution of Recreational Marijuana, in its entirety.**

***Or to take any action relative thereto.***

Petitioned by the Planning Board

Board of Selectmen Recommendation: To be made at Town Meeting

Finance Committee Recommendation: Yield to Petitioner

**ARTICLE 10. SALE OF ROGERS SCHOOL**

To see if the Town will vote to authorize the Board of Selectmen to sell the Rogers School Property including three parcels: (1) the school building parcel, (2) former Union Street discontinued between Chestnut Street and Pleasant Street, (3) and a strip of the school yard property abutting the south line of former Union Street and measuring up to 60 feet from north to south along the lines of Chestnut and Pleasant Streets under the terms and conditions they deem to be in the best interest of the Town or take any other action relative thereto

*Petitioned by:*                *Board of Selectmen*

Board of Selectmen Recommendation: To be made at Town Meeting

Finance Committee Recommendation: To be made at Town Meeting

**ARTICLE 11. REZONING OF ROGERS SCHOOL PROPERTY**

To see if the Town will vote to amend the Zoning Map as follows:

Rezone the following described property from Single Residence (RA) to Apartment/Multifamily (RC):

That portion of Assessors Map 8, Lot 9, as described in a deed recorded at the Bristol County (S.D.) Registry of Deeds at Book 113, Pages 331 – 333;

Commencing at the northeast corner of the lot, then

Southerly 225.02 feet by the westerly line of Pleasant Street, then

Westerly 250.00 feet in a line running S 82°02’52”W, to the easterly line of Chestnut Street, then

Northerly 224.64 feet along the easterly line of Chestnut Street, then

Easterly 250.00 feet along the southerly line of Center Street, to the point of origin,

Being 56,207 square feet in area;

or to take any other action relative thereto.

*Petitioned by:*                *Board of Selectmen*

Board of Selectmen Recommendation: To be made at Town Meeting

Finance Committee Recommendation: Yield to Petitioner

**ARTICLE 12. AUTHORIZATION TO SETTLE CLAIM AGAINST THE TOWN- ROBERT D. HOBSON.**

To see if the Town will authorize the Board of Selectmen to settle a claim of Robert D. Hobson against the Town in an amount not to exceed \$1,000 to be paid from General Fund Surplus Revenue or take any other action relative thereto.

*Petitioned by: Board of Selectmen*

Board of Selectmen Recommendation: Adoption

Finance Committee Recommendation: Indefinite Postponement

**ARTICLE 13. PETITION THE STATE LEGISLATURE TO CHANGE THE PACKAGE STORE/ALL ALCOHOL LICENSE ISSUED TO TOTAL CONFECTIONS, LLC, 115 HUTTLESTON AVENUE.**

To see if the Town will vote to authorize the Board of Selectmen to petition the State Legislature to amend the Chapter 328 of the Acts of 2012: AN ACT RELATIVE TO THE TOWN OF FAIRHAVEN ISSUING A PACKAGE STORE/ALL ALCOHOL LICENSE TO TOTAL CONFECTIONS, LLC, 115 HUTTLESTON AVENUE IN THE TOWN OF FAIRHAVEN by deleting the following sentence: “This license is non-transferable to a different location, but may grant the license to a new applicant at the same location”, or take any other action relative thereto.

*Petitioned by: Board of Selectmen*

Board of Selectmen Recommendation: To be made at Town Meeting

Finance Committee Recommendation: Yield to Petitioner

**ARTICLE 14. STREET ACCEPTANCE: DOANE COURT**

To see if the Town will vote to accept the layout of a parcel of land known as Doane Court as a public way as described as follows:

BEING a 0.29- acre tract of land situated in the Town of Fairhaven, County of Bristol, Massachusetts. Being shown as Doane Court on plan titled “Plan of Land, James Street & Harbor View Ave. in Fairhaven, Ma., Scale: 1”=40” , Date 06/07/07,” Prepared by Michael J. Koska & Associates, Inc. and recorded at the Bristol County Registry of Deeds in Plan Book 161, Page 97.

**BEGINNING** at a concrete bound with a drill hole set at the point of intersection of the easterly right-of-way line of Doane Street with the westerly right-of-way line of Doane Court, said point



being SOUTH 89°21'50" EAST a distance of 49.45 feet from a concrete bound with drill hole set found in the easterly right-of-way line of James Street, a 40 foot wide public way.

**THENCE** SOUTH 03°37'50" EAST a distance of 2.50 feet to a concrete bound with drill hole set;

**THENCE** NORTH 84°51'39" EAST a distance of 18.19 feet to a point;

**THENCE** SOUTH 84°21'50" EAST a distance of 15.04 feet to a concrete bound with drill hole set for the point of curvature to the left having a radius of 60.00 feet;

**THENCE** northeasterly along said curve to the left, through a central angle of 320°37'25", an arc distance of 335.76 feet to a concrete bound with drill hole set for the point of intersection;

**THENCE** NORTH 89°21'50" WEST a distance of 43.01 feet to a concrete bound with drill hole set;

**THENCE** SOUTH 04°54'14" EAST a distance of 39.48 feet along the Easterly right of way line of Doane Street to the point of beginning.

As shown on plan entitled "Roadway Description Plan, Doane Court, Fairhaven, MASS, dated November 29, 2017, Scale 1"=40' by Michael J. Koska & Associates, Inc., or take any other action relative there to.

*Petitioned by:*                *Board of Public Works*

Board of Selectmen Recommendation: To be made at Town Meeting

Finance Committee Recommendation: Yield to Petitioner

## **ARTICLE 15. STREET ACCEPTANCE: REYNOLDS DRIVE**

To see if the Town will vote to take by eminent domain and/or accept the layout of parcel of land known as Reynolds Drive as a public way as described as follows:

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY SIDELINE OF FARMFIELD STREET AND THE WESTERLY SIDELINE OF GREEN STREET; THENCE

A BEARING OF S 00° 01' 05" E, ALONG THE WESTERLY SIDELINE OF GREEN STREET, DISTANCE OF 328.27' TO A POINT OF BEGINNING; THENCE

A BEARING OF S 00° 01' 05" E, ALONG THE WESTERLY SIDELINE OF GREEN STREET, 30.00' TO A POINT; THENCE

A BEARING OF S 89° 59' 22" W, ALONG THE SOUTHERN SIDELINE OF REYNOLDS DRIVE, DISTANCE OF 295.81' TO A POINT; THENCE

A BEARING OF N 05° 02' 05" W, ALONG THE EASTERLY SIDELINE OF FORT STREET, DISTANCE OF 30.12' TO A POINT;

A BEARING OF N 89° 52' 22" E, ALONG THE NORTHERLY SIDELINE OF REYNOLDS DRIVE, A DISTANCE OF 298.44' TO THE POINT OF BEGINNING

As shown on a plan entitled "Street Layout and Acceptance Plan for Reynolds Drive", scale: 1" = 30', dated April 19, 2018 and prepared by GCG Associates, Inc., Wilmington, MA., said Reynolds Drive is 30.00 feet in width and contains 8914 square feet +/-, or take any other action relative thereto.

*Petitioned by: Board of Public Works*

Board of Selectmen Recommendation: To be made at Town Meeting

Finance Committee Recommendation: Yield to Petitioner

And you are hereby directed to serve this warrant by posting an attested copy thereof on or near the front or main entrance of the polling place in Precinct 1, Town Hall; and on or near the entrance of the polling place in Precinct 2 and 3, Elizabeth I. Hastings Middle School, School Street; and on or near the entrance of the polling place in Precinct 4, Fire Station meeting room, 146 Washington Street; and on or near the front or main entrance of the polling place in Precinct 5 and 6, Recreation Center, 227 Huttleston Ave; fourteen days at least prior to the date of the meeting.

HEREOF FAIL NOT, and make due return of this warrant to the Town Clerk at the time and place of the meeting aforesaid.

Given under our hands this 22nd day of October in the year two thousand eighteen.

Selectmen of Fairhaven,

\_\_\_\_\_  
Daniel Freitas, Chairman

\_\_\_\_\_  
Charles Murphy Sr., Vice-Chairman

\_\_\_\_\_  
Robert Espindola, Clerk





**CAROLYN HURLEY**

Town Clerk

Fairhaven, MA 02719

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