



Town of Conway, Massachusetts

Special Town Meeting 24 September 2018

AT A LEGAL TOWN MEETING of the inhabitants of the Town of Conway qualified to vote in town affairs, convened at the time and place and for the purpose specified in the warrant, 82 voters were checked at the door and issued yellow cards for the purpose of voting. Aina Barten, Lorraine Boyden, and Sarah Newman served as checkers. The meeting was called to order by the Town Clerk in the absence of the Moderator. Nominations for meeting Moderator were received from the floor and Kenneth Ouimette was unanimously voted to serve and was duly sworn to his duties by the Town Clerk. The call and return of service having been examined and found to be in order, it was unanimously voted to dispense with the formality reading the warrant. The following action was taken by those persons in attendance:

ARTICLE 1: Unanimously voted that the Town **pay two bills from previous fiscal years**, from United Site Services for the use of portable toilets, \$44.80 out of the Board of Health budget, and \$9.75 out of the Parks, Recreation, and Trails budget, for a total of \$55.45. (*Nine-tenths vote.*)

ARTICLE 2: Unanimously voted that the Town **grant authority to the Select Board to negotiate payment in lieu of taxes (PILOT) agreements** for any and all solar energy projects, in consultation with the Board of Assessors.

ARTICLE 3: Voted that the Town **grant authority to the Select Board to approve a payment in lieu of taxes agreement** for an approximately 5 megawatt (AC) solar energy project on a parcel at 2394 Main Poland Road, Franklin County Registry of Deeds Book 3639, Page 247.

ARTICLE 4: Voted that the Town adopt M.G.L. Part I, Title IX, Chapter 64G, Section 3A and 830 CMR 64G.3A.1, **Local Option Room Occupancy Excise**, as amended, for short-term (under 90 days annually) rentals, and an Occupancy Excise on short-term rentals in excess of 90 days annually, not exceeding 6%, but that no excise shall be imposed if the total amount of the rent is less than fifteen dollars (\$15.00).
Vote by actual hand count was YES = 44 and NO = 37.

ARTICLE 5: Article Failed to approve a transfer of funds from the **Garage Stabilization Fund** to the "Plans – Highway Garage" account, account number 001-422-5842, to hire an Owner's Project Manager and revise existing plans for the Conway Highway Garage.

ARTICLE 6: Unanimously voted to will **replace the existing Conway Zoning Bylaw Article 11, "Temporary Moratorium on Recreational Marijuana Establishments"** in its entirety with the following:
(Amendments to the original text appearing in the warrant appear at the end of the voted bylaw.)

ARTICLE 11: ADULT USE RECREATIONAL MARIJUANA ESTABLISHMENTS

11.1 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 and regulations (935 CMR 500.000 et.seq.). To mitigate potential impacts to adjacent areas and the environment 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.

11.2 Special Permit Granting Authority & Site Plan Review

The Planning Board shall be the Special Permit Granting Authority (SPGA) under this section in accordance with M.G.L. Chapter 40A, Sections 9 and 9A. Special permits issued by the Planning Board shall require a positive vote by a supermajority vote of Planning Board Members. Any proposed Marijuana Establishment requires a Special Permit and Site Plan Review approval. The Planning Board may in any particular case, where such action is in the public interest and not inconsistent with the intent and purpose of this Article, waive strict compliance with the requirements set forth in sections 11.4 and 11.5.

11.3 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.

Host Community Agreement – A marijuana establishment seeking to operate in Conway 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 Conway and the marijuana establishment. A Host Community Agreement between a marijuana establishment and a host community will include a community impact fee for the host community. 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 Conway 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 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 except a medical marijuana treatment center.

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 Research Facility – an entity licensed to engage in research projects by the State Cannabis Control Commission.

Marijuana Retailer – an entity licensed to purchase and transport marijuana and marijuana products from marijuana establishments and to sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

11.4 Requirements Regarding the Allowed Locations for Marijuana Establishments

- A. See Sections 22 and 23 of these bylaws for locations for permitted Marijuana Establishments.
- B. Marijuana Establishments shall not be located within 500 feet of any existing public, parochial, or private school, kindergarten, State-approved day care center or other locations where children congregate. 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 building or parking area of the Marijuana Establishment, whichever is closest.
- C. 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 building or parking area of the Marijuana Establishment, whichever is closest.
- D. Marijuana Establishments, excluding Marijuana Retailers, shall not be located within 200 feet from any existing residential use. The distance between a residential use and a Marijuana Establishment shall be measured in a straight line, without regard to intervening structures, from the closest property line of the residential property to the building or parking area of the Marijuana Establishment, whichever is closest.

11.5 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 Section 63 and the Site Plan Review requirements found in Section 64 of these bylaws. The Planning Board is empowered hereunder to review and approve Special Permit applications for Marijuana Establishments and impose requirements for: buffering; odor control; noise; outdoor lighting; parking; access to the site from public roads; hazardous materials; 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.

- A. **Dimensional Requirements:** Except for outdoor cultivation, any building or structure containing a Marijuana Establishment shall meet the setback requirements of this Section 11 and all other dimensional requirements 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. For outdoor cultivation, a minimum setback (clearance) from any property line of 25 feet shall be required.
- B. **Parking and Loading Requirements:** On-site parking and loading shall be provided in accordance with the requirements of Section 34 of these bylaws. For any property proposed to contain a Marijuana Establishment Business, 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.
- C. **Site Screening:** Rear and side property lines shall be screened from any neighboring residential, educational, childcare or recreational uses or properties. Screening shall be by fencing that is 3-1/2 feet tall within 20 feet of the street and 6 feet tall elsewhere on the property and/or a 10 foot wide vegetated planting of hardy evergreens and deciduous trees and shrubs no more than six (6) feet on center and no less than five (5) feet in height or other appropriate screening approved by the granting authorities.
- D. **Lighting & Security:** Energy efficient site lighting shall be maintained at a minimum lumen to ensure adequate visibility on the property to ensure public safety. Light standards may not exceed twenty (20) feet in height and shall be shielded from abutting properties and shall incorporate full cut off fixtures to reduce light pollution. Additional security features, such as security cameras covering external areas with the capability to function with minimal lighting at night, shall be installed and maintained. Internal lighting in greenhouses shall be fully screened from abutters after sunset.
- E. **Noise & Odors:** Except for outdoor cultivation, no noise, or marijuana odors, 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.
- F. **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. Depending on the quantities proposed to be used or stored on site, the Planning Board may request that a Hazardous Materials Management Plan be prepared 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. Permitting priority will be granted to organic cultivation.
- G. **Driveways:** Driveways shall comply with Section 34 of these bylaws.
- H. **Signs:** All signs for a Marijuana Establishment must meet the requirements of Section 33 of this bylaw and the State Regulations (935 CMR 500.000 et. seq.) 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.
- I. **Buildings:** Appearance of buildings for Marijuana Establishments shall be consistent with the appearance of other buildings in Conway, not employing unusual color or building design which would attract attention to the premises. In the Rural Residential and Agricultural Zoning District new buildings for Marijuana Cultivators including Craft Marijuana Cultivators shall resemble local agricultural buildings, such as barns or greenhouses. Marijuana Establishment Buildings shall not exceed 10,000 square feet in total on any parcel in the Rural Residential and Agricultural Zoning District.
- J. **Cultivation:** Marijuana products are required to be grown indoors in greenhouses, barns or other buildings or outdoors in a manner that minimizes public nuisances including odors, noise, and lighting to neighboring properties.

- K. Energy Efficiency: Marijuana establishments are required to prepare an energy efficiency plan. The use of renewable energy sources such as solar should be considered.
- L. Water Efficiency: Marijuana Establishments are required to prepare a plan for water management and efficiency. Applicant shall provide expected water usage amounts for cultivation or processing and will address whether such amounts will impact nearby public or private drinking water supplies or other water resources in the area.
- M. 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.
- N. 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 Section 63 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:
 - 1. Name and Address of the legal owner and Licensee of the Marijuana Establishment;
 - 2. Name and Address of all persons having lawful, equity or security interests in the Marijuana Establishment;
 - 3. Name and Address of the Manager of the Licensed Marijuana Establishment;
 - 4. The number of proposed employees; and
 - 5. Proposed security precautions.
- O. Site Plan Review: No Marijuana Establishment shall be established prior to submission and approval of a site plan by the Planning Board, pursuant to Section 64. 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.
- P. 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.
- Q. 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 11 and Section 63 (Special Permit) and Section 64 (Site Plan Review) of these bylaws.
- R. 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.

11.6 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 related to compliance with the conditions of the Special Permit as well as public safety factors applied at the time the Special Permit renewal is requested. In addition, a Host Community Agreement satisfactory to Conway shall be provided if requested by the Town.

11.7 Severability

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

Amendments to original warrant Article 6 regarding replacement of the existing Conway Zoning Bylaw Article 11, “Temporary Moratorium on Recreational Marijuana Establishments” with ARTICLE 11: ADULT USE RECREATIONAL MARIJUANA ESTABLISHMENTS.

All amendments to the printed by law were seconded and voted in accordance with the law.

Deletions to the warrant article are shown as ~~strikethroughs~~, additions underlined and *italicized*.

11.2 Special Permit Granting Authority & Site Plan Review

...Establishment requires a Special Permit and Site Plan Review approval. *The Planning Board may in any particular case, where such action is in the public interest and not inconsistent with the intent and purpose of this Article, waive strict compliance with the requirements set forth in sections 11.4 and 11.5.*

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11.4.B......approved day care center or other places where children congregate to the *building or parking area* of the Marijuana Establishment, *whichever is closest.*

Deleted: property line

11.4.C

.....structures, from the closest property line of the recreation area to the *building or parking area* of the Marijuana Establishment, *whichever is closest.*

Deleted: property line

11.5.A

Dimensional Requirements: *Except for outdoor cultivation,* any building or structure containing a Marijuana Establishment shall meet the setback requirements of this Section 11 and all other dimensional requirements 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. *For outdoor cultivation, a minimum setback (clearance) from any property line of 25 feet shall be required.*

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11.5.C

Site Screening: Rear and side property lines shall be screened from any neighboring residential, educational, childcare or recreational uses or properties. Screening shall be by *fencing* that is 3 1/2 feet tall within 20 feet of the street and 6 feet tall elsewhere on the property and/or a 10 foot wide vegetated planting of hardy evergreens and deciduous trees and shrubs no more than six (6) feet on center and no less than five (5) feet in height *or other appropriate screening approved by the granting authorities.*

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11.5.D

Lighting & Security: Energy efficient site lighting shall be maintained at a minimum lumen to ensure adequate visibility ...

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... Additional security features, such as security cameras covering external areas with the capability to function with minimal lighting at night, shall be installed and maintained. Internal lighting in greenhouses shall be fully screened from abutters after sunset.

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11.5.E

Noise & Odors: *Except for outdoor cultivation,* no noise, or marijuana odors, 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.*

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11.5.F

Hazardous Materials: Submission... *Permitting priority will be granted to organic cultivation.*

11.5.G

Driveways shall comply with Section 34 of these bylaws.

Deleted: Driveways:

11.5.J

Cultivation: Marijuana products are required to be grown indoors in greenhouses, barns or other buildings *or outdoors in a manner that* minimizes public nuisances including odors, noise, and lighting to neighboring properties.

Deleted: No driveway to a Marijuana Establishment shall be within three hundred (300) feet of any existing residential use. No such premises shall have any driveway entrance or exit for motor vehicles within five hundred (500) feet of the property used by any school, public library, or church or other location where children congregate. ¶

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AT 9:41 p.m., MOTION WAS MADE and seconded and vote was taken to adjourn the meeting.

A True Record of the Meeting,
Attest:

Virginia A. Knowlton, Town Clerk