



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK
Lisa M. Thomas
140 Main St.
Marlborough, MA 01752
(508) 460-3775 FAX (508) 460-3723**

APRIL 2, 2018

Regular meeting of the City Council held on Monday, April 2, 2018 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Clancy, Juairé, Oram, Ossing; Robey; Delano, Doucette, Dumais, Tunnera; Irish and Landers. Meeting adjourned at 9:15 PM.

ORDERED: That the Minutes of the City Council meeting MARCH 19, 2018, **FILE AS AMENDED**; adopted.

Councilor Juairé recused.

Suspension of the Rules requested – granted to move this item before Item 2 on the agenda.

ORDERED: That the Appointment of Jeffrey Cooke as Building Commissioner for a term to expire three years from date of City Council approval, **APPROVED**; adopted.

ORDERED: That the PUBLIC HEARING On the Petition of NGrid to install new pole 34-5 for service to Shell Gas Station, 342 Boston Post Road East, Order No. 18-1007200, all were heard who wish to be heard, hearing closed at 8:06 PM.

Councilors Present: Delano, Doucette, Dumais, Tunnera, Irish, Clancy, Landers, Juairé, Oram, Ossing & Robey.

ORDERED: That the PUBLIC HEARING On the Application for Special Permit from New England Hydroponics, to use an existing property for retail sales of gardening supplies, 19 Brigham Street, Unit 6, Order No. 18-1007199, all were heard who wish to be heard, hearing closed at 8:09 PM.

Councilors Present: Delano, Doucette, Dumais, Tunnera, Irish, Clancy, Landers, Juairé, Oram, Ossing & Robey.

ORDERED: That the PUBLIC HEARING On the Proposed Zoning Map Amendment, Expansion of the Marlborough Village District, Order No. 18-1007195, all were heard who wish to be heard, hearing closed at 8:11 PM.

Councilors Present: Delano, Doucette, Dumais, Tunnera, Irish, Clancy, Landers, Juairé, Oram, Ossing & Robey.

ORDERED: That the PUBLIC HEARING On the Proposed Zoning Ordinance Amendment, as it pertains to Article VI Section 650-36, Commercial Village Overlay District, Order No. 18-1007134, X16-1006668, hearing closed at 8:25 PM.

Councilors Present: Delano, Doucette, Dumais, Tunnera, Irish, Clancy, Landers, Juairé, Oram, Ossing & Robey.

ORDERED: That the transfer request for Marlborough Economic Development Corporation (MEDC) Land Acquisition in the amount of \$1,075,000.00 which moves funds from Undesignated to MEDC to satisfy a Purchase and Sales Agreement, refer to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT:	Mayor					FISCAL YEAR:	2018		
		FROM ACCOUNT:					TO ACCOUNT:			
Available										Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:		Balance
\$8,284,083.16	\$1,075,000.00	10000	35900	Undesignated Fund	\$1,075,000.00	11740006	53950	MEDC Funding		\$0.00
	Reason:							Land acquisition per Fossile purchase & sale		
								agreement		
	\$1,075,000.00	Total			\$1,075,000.00	Total				

ORDERED: That the Reappointment of Assistant City Solicitor, Cynthia Panagore Griffin for a term to expire three years from date of confirmation, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the Communication from Councilor-At-large Michael Ossing re: Municipal Aggregation-Six Month Fixed Price Contract with Public Power May 2018-October 2018, **FILE**; adopted.

ORDERED: It is moved, in conformance with MGL c. 30A, § 21(a)(3), that the Marlborough City Council conduct an executive session for the purpose of discussing strategy in pending litigation concerning a land use request involving a property off Boston Post Road, as an open meeting may have a detrimental effect on the litigating position of the City of Marlborough and the City Council, and the chair hereby declares that an open meeting may have that effect.

It is further moved and stated that the City Council will re-convene in open session after the executive session.

Yea: 11 – Nay: 0

Yea: Delano, Doucette, Dumais, Tunnera, Irish, Clancy, Landers, Juairé, Oram, Ossing & Robey.

ORDERED: That the Communication from Assistant City Solicitor, Cynthia Panagore Griffin re: Proposed Zoning Ordinance Amendment, Medical Marijuana Treatment Centers, in proper legal form, Order No. 18-1007163-1B, X18-1007151, **MOVE TO ITEM 33**; adopted.

ORDERED:

That the WHEREAS, in the opinion of the City Council of the City of Marlborough, the common convenience and necessity require that the perpetual walking trail easement shown on a plan entitled “Public Access Route Talia”, dated November 28, 2017, be accepted as a municipal easement for passive recreational pedestrian use, as hereinafter described:

DESCRIPTION

The perpetual walking trail easement of up to six (6) feet in width in the location approximately shown as “Pedestrian Route” on the plan entitled “Public Access Route Talia”, dated November 28, 2017 and attached here as Exhibit A to the deed of easement entitled “Public Walking Trail Easement”, dated January 10, 2018, by and through which deed of easement said perpetual walking trail easement is granted by Fairfield Marlborough Limited Partnership to the City of Marlborough, said deed of easement and Exhibit A thereto to be recorded with the Middlesex County South Registry of Deeds.

IT IS THEREFORE ORDERED THAT:

The perpetual walking trail easement of up to six (6) feet in width in the location approximately shown as “Pedestrian Route” on the plan entitled “Public Access Route Talia”, dated November 28, 2017 and attached as Exhibit “A” to the deed of easement entitled “Public Walking Trail Easement”, dated January 10, 2018, from Fairfield Marlborough Limited Partnership to the City of Marlborough, said deed of easement and Exhibit A thereto to be recorded with the Middlesex County South Registry of Deeds, be accepted as a municipal easement for passive recreational pedestrian use in the City of Marlborough.

Refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Communication from various residents re: Opposition to the Farm Road Retirement Community Overlay District, Order No. 18-1007136A, refer to **URBAN AFFAIRS COMMITTEE & FILE**; adopted.

ORDERED: Be it ordained by the City Council of the City of Marlborough that the Code of the City of Marlborough, as most recently amended, be further amended as follows:

1. In Section 650-5.B, insert the following new definitions: (new text underlined):

AUTO SALES

Places for the sale of new or previously owned cars, trucks, boats, and farm equipment, along with the incidental servicing and repair of vehicles.

ANCILLARY AUTO SALES

Places for the sale of new or previously owned cars, trucks, boats, and farm equipment, along with the incidental servicing and repair of vehicles, provided that any Ancillary Auto Sales use shall be operated in conjunction with a lawful Auto Sales use located within 1,500 feet of the Ancillary Auto Sales use and shall not be larger than the primary Auto Sales use.

2. Adding to the Table of Use Regulations, Section 650-17, a category for “Ancillary Auto Sales” under “Business Uses”, as follows:

	Zoning District Abbreviations											
	RR	A-1	A-2	A-3	RB	RC	RCR	B	CA	LI	I	MV
Business Use												
Ancillary Auto Sales	N	N	N	N	N	N	N	SP	SP	N	N	N

SET A PUBLIC HEARING FOR JUNE 4, 2018, ADVERTISE, REFER TO URBAN AFFAIRS COMMITTEE AND PLANNING BOARD; adopted.

ORDERED: That the Application for Renewal of Junk Dealers/Second Hand License, Tony Bitar, Hannoush Jewelers, 601 Donald Lynch Boulevard, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Application for Renewal of Junk Dealers/Second Hand License, TVI, Inc. d/b/a Savers, 222A East Main Street, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Application for Renewal of Junk Dealers/Second Hand License, Jean Rabelo, Post Road Used Auto Parts of Marlboro, Inc., 785 Boston Post Road, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Application for Renewal of Junk Dealers/Second Hand License, Gerald Dumais, Dumais & Sons Second Hand Store, 65 Mechanic Street, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

Councilor Dumais recused.

ORDERED: That the Communication from Central Mass Mosquito Control Project re: Commencement of Larval Mosquito Control, **FILE**; adopted.

ORDERED: That the Minutes, Minutes, Conservation Commission, March 1, 2018, **FILE**; adopted.

ORDERED: That the Minutes, Ad-Hoc Municipal Aggregation Committee, March 22, 2018, **FILE**; adopted.

ORDERED: That the Minutes, School Committee, February 13, 2018 & February 27, 2018, **FILE**; adopted.

ORDERED: That the Minutes, Traffic Commission, January 31, 2018 & February 28, 2018, **FILE**; adopted.

ORDERED: That the Minutes, Board of Assessors, November 29, 2017, **FILE**; adopted.

ORDERED: That the following CLAIMS, refer to the **LEGAL DEPARTMENT**; adopted.

- a. Lyonel Jean-Pierre, 21 Reynolds Court, residential mailbox claim 2(a).
- b. Edward Bogle, 102 Naugher Avenue, residential mailbox claim 2(a).
- c. James Lukey, 37 Hurley Circle, pothole or other road defect & other property damage and/or personal injury.
- d. Catherine LaJeunesse, 285 Hemenway Street, residential mailbox claim 2(a).
- e. Bih-Lin Cho, 81 Dowling Lane., residential mailbox claim 2(a).
- f. Susan Soffan, 8 Pick Wicks Circle, Worcester, pothole or other road defect.
- g. Andrew Starvaski, 55 Green Street, #D158, Clinton, pothole or other road defect.
- h. USA Motor Sport Inc. 433 Maple Street, other property damage and/or personal injury.
- i. Natasha Heimrath, 67 Denoncourt Street, residential mailbox claim 2(a).

Reports of Committees:

THERE WERE NO REPORTS OF COMMITTEE.

ORDERED: That the City Council review the results of the FY18 abbreviated budget process & that the City Council approve the Massachusetts Department of Revenue Financial Review Recommendation for adopting an abbreviated budget authorization format for all departments for the FY19 City budget, refer to **FINANCE COMMITTEE**; adopted.

The City Council will assess the results in April 2019 to determine if the practice will continue

ORDERED:

K-5 ELEMENTARY SCHOOL BOND

That the City of Marlborough, Massachusetts (the "City") appropriate the amount of Fifty-Six Million, Four Hundred Eighteen Thousand, Three Hundred and Thirty-Eight Dollars (\$56,418,338) for the purpose of paying the cost of (i) the construction of a proposed new K-5 Elementary School, including parking lots for such facility, to be constructed in the City on the site of an existing athletic field located on a portion of land on Poirier Drive, which land is owned by the City and known and numbered on the Assessors Map of the City as Map 30, Parcel 12, (ii) the reconstruction of Poirier Drive, which is a public way that will provide access to the school, and (iii) the renovation of athletic fields located on Poirier Drive adjacent to the school, including the payment of all costs incidental or related thereto (collectively, the "Project"), which school facility shall have an anticipated useful life as an educational facility for the instruction of school children for at least 50 years, and for which the City may be eligible for a grant from the Massachusetts School Building Authority ("MSBA"), said amount to be expended under the direction of the School Building Committee. To meet this appropriation, the Comptroller/Treasurer is authorized to borrow said amount under M.G.L. Chapter 44, as amended and supplemented, or pursuant to any other enabling authority and to issue bonds or notes of the City therefor. Any premium received by the City upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with M.G.L. Chapter 44, Section 20, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount. The City acknowledges that the MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any project costs the City incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the City; provided further that any grant that the City may receive from the MSBA for the proposed Project shall not exceed the lesser of (1) sixty-seven and seventy-one hundredths percent (67.71%) of eligible approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA, and that, if invited to collaborate with the MSBA on said Project, the amount of borrowing which is authorized pursuant to this vote shall be reduced by any grant amount set forth in the Project Funding Agreement that may be executed between the City and the MSBA.

ADVERTISE AND PLACE ON THE APRIL 23, 2018 CITY COUNCIL AGENDA; adopted.

ORDERED: That the Appointment of William Doherty to the Parks and Recreation Commission for a term to expire three years from date of City Council approval, **APPROVED;** adopted.

ORDERED: That the Reappointments of Robert Kays, Brenda Calder and Mark Vital to the Parks and Recreation Commission for three year terms, expiring three years from the date of their confirmation, **APPROVED;** adopted.

ORDERED: That the Appointment of Samantha Khosla to the Library Board of Trustees for a term to expire three years from date of City Council approval, **APPROVED;** adopted.

ORDERED:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY INSERTING INTO CHAPTER 315 THE FOLLOWING:

35) Lodging Houses and Boardinghouses (Chapter 421)	\$100	Building Commissioner and his designee
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AND BE IT FURTHER ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY INSERTING A NEW CHAPTER 421, AS FOLLOWS:

CHAPTER 421: Lodging Houses and Boarding Houses

§ 421-1 Authority and Scope

The following ordinance concerning lodging houses and boardinghouses has been adopted by the City Council pursuant to the provisions of Massachusetts General Laws (“M.G.L.”) Chapter 140, as amended. Any and all licenses issued by the Licensing Board shall be governed by, and subject to the Licensee’s compliance with all applicable federal, state and local laws, regulations and by-laws, including but not limited to the M.G.L., regulations of the Licensing Board, the ordinances of the City of Marlborough, all applicable building, fire prevention, zoning, health and sanitary codes, and any conditions the Licensing Board imposes on specific licenses. Where there is conflict between these ordinances and a condition on the license, the condition shall govern unless it is inconsistent with the law.

§ 421-2 Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Boarder, lodger, boardinghouse, lodging house, boarding unit, lodging unit shall have the same definitions as provided in § 650-5 of the City Code; consistent therewith, where the words lodging house are used, they shall also mean boardinghouse.

Licensee shall mean that person(s) or entity listed on the lodging house license and the owners of the land and building where the lodging house is operated.

§ 421-3 Application for a New or Renewed License

Prior to a new or renewed license being issued, Licensees and first-time applicants for a lodging house license shall request advisory reports from the Police Department, Fire Department, Collector, Board of Health, and Building Department, which advisory reports Licensees or first-time applicants shall furnish to the Licensing Board. The Licensing Board may deny an application for renewal of a license where there is cause for doing so. The Licensee's, or first-time applicant's, failure to comply with any federal, state or local law, regulation, or ordinance may be cause for denial of the application. This includes, but is not limited to, the ordinances of the City of Marlborough, the rules and regulations of the City of Marlborough Licensing Board, state and local health regulations, the state Building Code, and the state Fire Code.

§ 421-4 New or Newly Renovated Facilities and Existing Licensed Facilities:

- A. New and renovated lodging houses must comply with all applicable state and local codes, rules and regulations in effect at time of construction.
- B. Consistent with and as may be permitted by Building Code, Fire Code, and Health Code, respective City officials may establish more flexible standards than certain provisions of this ordinance, applicable to existing facilities previously licensed as lodging houses, so long as they conform with applicable code requirements in effect at the time of construction or rehabilitation.

§ 421-5 Responsibilities of Licensee:

The Licensee shall be responsible for the proper supervision, operation, and maintenance of the lodging house in accordance with the requirements of this ordinance and all other pertinent laws, regulations and ordinances. The appointment of an agent shall in no way relieve the Licensee from responsibility for full compliance with the law.

§ 421-6 Agent(s)

- A. If the Licensee, because of health, other employment, non-residence on the premises of the lodging house, frequent or extended absences from the lodging house or other reason, is unable to exercise proper supervision of the lodging house, he/she shall designate one or more agent(s) to carry out all or part of his/her responsibilities.
- B. If, for any reason, an agent ceases to exercise his/her responsibilities, the Licensee shall at once notify the Licensing Board, Board of Health, Building Department, Fire Department and Police Department and take immediate steps to provide proper interim supervision and obtain a suitable replacement.
- C. The agent(s) shall be available on a 24-hour basis and must post his/her telephone numbers (including cell phone number) and beeper number, as applicable, in a location accessible to lodgers.

§ 421-7 City Inspections

- A. City inspections of licensed lodging houses shall be made on an annual basis by authorized inspectional departments to determine compliance with applicable state and local laws, regulations and codes, and upon request pursuant to §25 of M.G.L. c. 140, as amended. The fee for said annual inspections shall be \$250.
- B. Annual inspections shall be made on week-days during normal City business hours. In addition, inspections may be made at other times (including but not limited to evenings and weekends) to investigate complaints or non-compliance issues. Inspections may include all areas occupied, used or controlled by the Licensee and within the structure containing the licensed premises, including rented and unrented units and other occupied and non-occupied space.
- C. Inspections shall be conducted in conformity with applicable federal, state and local law. Facilities requiring re-inspection are subject to a fee of \$50 per re-inspection.
- D. City officials shall, pursuant to an inspection under this ordinance or any other regulation or law, refer all violations of this ordinance and any other ordinance, regulation or law, whether federal, state, or local, which said officials are authorized to enforce, to the Licensing Board. All referrals to the Licensing Board shall also be mailed by first class mail to the Licensee and to the Licensee's agent, if any.

§ 421-8 Minimum Standards

- A. These regulations are minimum standards intended for the maintenance and enforcement required for the protection of health, safety and welfare of all persons concerned. If there is any conflict with state or local law, the stricter provision shall apply.
- B. All lodging houses shall comply with the requirements of Article II of the State Sanitary Code, Minimum Standards of Fitness for Human Habitation, which is incorporated herein by reference, and with the requirements of these regulations, whenever they are in addition to or more stringent than the requirements of Article II of said code.
- C. Licensees must have inspections performed by a licensed pest control operator (PCO) every 6 months (unless ordered to do so more frequently by the Health Department). PCO inspection reports must be kept on file for review. Inspections must include, but not be limited to, bed bugs, insects, and rodents. The licensee must take appropriate action to address any findings by the PCO. Licensees that can demonstrate long-term occupancy by a majority of the residents (greater than one year continued occupancy) may request a waiver of this inspection requirement. Waivers will be applied for and approved by the Director of Public Health.

D. The Licensee and his/her agent(s) shall comply with Chapter 406, Littering, and with Chapter 485, Property Maintenance, of the City Code, and all other state or local regulations and laws pertaining to the proper storage, collection, disposal of waste and property maintenance. Responsibilities of the Licensee and agent(s) include, but are not limited to, the following:

- (1) Storing garbage and trash in watertight, rodent-proof receptacles with tight-fitting covers;
- (2) Providing to lodgers as many receptacles as are sufficient to contain accumulation of all garbage and trash before collection for disposal;
- (3) Locating garbage and trash containers in an area where objectionable odors will not enter any boarding or lodging unit;
- (4) Removal of dumpster waste as frequently as necessary to prevent overflow, windblown trash and garbage, rodent infestation, and odors.

§ 421-9 Supervision

Licensees and their agent(s) shall:

- (1) Exercise due care in the selection of lodgers;
- (2) Inspect all common areas at least daily and all occupied rooms at least monthly and at every change of lodger to ensure that all such areas are in a clean and orderly condition and in compliance with Licensee's electrical use policy and regulations pertaining to obstruction of egress, cooking in rooms, and other health and safety hazards;
- (3) Post a schedule of inspections, for the purposes of notifying lodgers, at least forty-eight hours prior to said inspections. Posting of the schedule for inspections shall not apply in the case of an emergency;
- (4) Ensure that lodgers dispose of trash and garbage properly, and that lodgers store food items in a sanitary manner;
- (5) Ensure cleanliness of rooming units and common areas, if any;
- (6) Ensure an unobstructed path of egress from entry door to fire escape, particularly in exit rooms, stairs and hallways;
- (7) Ensure compliance by lodgers with Licensee's electrical use policy, and prohibit the use of candles and other items that requires burning to be used (incense, odor oils, etc.);
- (8) Prohibit the use of portable heaters;
- (9) Take whatever steps are necessary to prevent lodger(s) from repeatedly violating Licensee's rules or the requirements of this ordinance, or any other law or regulation, up to and including eviction; and
- (10) Comply with any other provisions or requirements as may be required by any department or board of the City of Marlborough.

§ 421-10 Automatic Fire Alarm System, Sprinkler Systems, Carbon Monoxide Protection

- A. All lodging houses shall be equipped with automatic smoke or heat detectors, an automatic sprinkler system, carbon monoxide alarms, carbon monoxide detectors and combination smoke/carbon detectors. The design, installation, and performance of said systems, alarms and detectors shall be in accordance with the state Building Code, the state Fire Code, NFPA and all applicable laws and regulations.
- B. The Licensee shall be responsible for the care and maintenance of all fire protection systems, including equipment and devices, to insure the safety and welfare of the lodgers. Installation of, or modification to, any automatic fire protection system shall require a permit from the Fire Department.
- C. Fire protection systems shall not be disconnected or otherwise rendered unserviceable, for purposes including but not limited to repair and maintenance, without first notifying the Fire Department.
- D. As part of the annual Fire Department inspection, all lodging houses must submit to Fire Department annual Fire Alarm and Sprinkler System tests.

§ 421-11 Penalty

- A. Refusal, neglect or failure to comply with any section of this ordinance shall be cause for a fine imposed pursuant to and in conformity with Chapter 315 of the City Code, and/or to the penalties imposed by M.G.L. c. 140 § 22, *et seq.*, as amended, where applicable, and/or such other provisions of law including but not limited to the state Sanitary Code, Fire Code, and Building Code, ordinances of the City of Marlborough and other regulations and fines applicable to the particular violation.
- B. The Licensee's refusal, neglect or failure to comply with any federal, state or local law, regulation, or ordinance including, but not limited to, this ordinance and any other ordinance of the City of Marlborough, the state Sanitary Code, Fire Code, and Building Code, and any other local codes and regulations may be cause for denial, suspension or revocation of a license by the Licensing Board, and/or a fine as above.

APPROVED; adopted.

First Reading, suspended; Second Reading, adopted; Passage to Enroll, adopted; Passage to Ordain; adopted. No objection to passage in one evening.

ORDERED:

That a petition to the General Court, accompanied by a bill for a special law relating to the city of Marlborough to be filed with an attested copy of this order, be, and hereby is, approved under Clause (1) of Section 8 of Article 2, as amended, of the Amendments to the Constitution of the Commonwealth of Massachusetts, to the end that legislation be adopted precisely as follows, except for clerical or editorial changes of form only:

An act authorizing the city of Marlborough to grant additional licenses for the sale of alcoholic beverages not to be drunk on the premises.

SECTION 1.

- (a) Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the city of Marlborough may grant 2 additional licenses for the sale of all alcoholic beverages not to be drunk on the premises pursuant to section 15 of said chapter 138. A license granted pursuant to this act shall be subject to the conditions set by the said licensing authority and shall be subject to all of said chapter 138 except said section 17.
- (b) The licensing authority of the said city shall not approve the transfer of a license granted pursuant to this act to any other person, partnership, corporation, limited liability company, organization or other entity or to any other location.
- (c) If a license granted pursuant to this act is cancelled, revoked, or no longer in use at the location of original issuance, the license shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority of the said city and the said licensing authority may then grant the license to a new applicant at the same location under the same conditions as authorized in this act if the applicant files with the said licensing authority a letter from the department of revenue and a letter from the department of unemployment assistance indicating that the license is in good standing with those departments and that all applicable taxes, fees and contributions have been paid.

SECTION 2. This act shall take effect upon its passage.

APPROVED; adopted.

President Clancy called a recess at 9:04 PM and returned to open meeting at 9:07 PM.

Suspension of the Rules requested – granted.

ORDERED: That the Communication from the Planning Board regarding their approval of the Proposed Zoning Ordinance to further amend Chapter 650, several subsections as it pertains to the Medical Marijuana, Order No. 18-1007163-1, **FILE**; adopted.

ORDERED:

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING SUBMITTED FOR ITS OWN CONSIDERATION CHANGES IN THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, TO FURTHER AMEND CHAPTER 650, NOW ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY ADDING THERETO AS FOLLOWS:

- 1. Section 650-17, entitled “Table of Uses,” is hereby amended by deleting in its entirety the use entitled “Medical Marijuana Treatment Centers” and by inserting in place thereof the following:

	RR	A1	A2	A3	RB	RC	B	CA	LI	I	MV
Medical marijuana treatment centers (45)	N	N	N	N	N	N	SP	N	SP	N	N

- 2. Section 650-18, entitled “Conditions for Uses,” is hereby amended by adding to said section a new paragraph (45), as follows:

(45) Medical marijuana treatment centers:

- (a) Shall only be located within those portions of the B and LI Districts located along Massachusetts State Highway Route 20 (Boston Post Road) from the Northborough town line to Massachusetts State Highway Route 495, and within those portions of the B and LI districts located along Massachusetts State Highway Route 20 (Boston Post Road) from the Sudbury town line to Phelps Street;
- (b) Shall have frontage on Massachusetts State Highway Route 20 (Boston Post Road); and
- (c) Shall be subject to the provisions of local and state laws, standards and regulations, and ordinances including without limitation § 650-32 of the Zoning Ordinance of the City of Marlborough, any conditions imposed on licenses and permits held by the medical marijuana treatment center, agreements between the medical marijuana treatment center and the City of Marlborough, and a Special Permit from the City Council (the “Special Permit Granting Authority”).

- 3. Section 650-32 entitled “Medical Marijuana Treatment Centers” is hereby deleted in its entirety and inserted in place thereof shall be the following:

§650-32 MEDICAL MARIJUANA TREATMENT CENTER

- A. Subject to the provisions of this Zoning Ordinance, Chapter 40A of the Massachusetts General Laws, Chapter 94I of the Massachusetts General Laws, and 105 CMR 725.000, all as amended, the City of Marlborough Zoning Ordinance will not prohibit the location of a center for medical marijuana treatment within the City of Marlborough, but will instead regulate such centers. A Medical Marijuana Treatment Center should provide medical support, security, oversight by a physician, and standards that meet or exceed 105 CMR 725.000. These Centers should not compete to provide streamlined care to patients and should not provide a location for patients to wait for treatment in the vicinity of children. Therefore, to ensure that these Centers are located in such a way as to not pose a direct threat to the health or safety of either qualifying patients or the public at large, the provisions of this section will apply to all such Centers.
- B. In the interpretation of this chapter, the meanings of words and phrases shall be according to the definitions included in Chapter 369 of the Acts of 2012, Chapter 94I of the Massachusetts General Laws as amended, and 105 CMR 725.00 as amended, unless the context shows another sense to be intended. For purposes of this chapter, the following definitions shall also apply:

MARIJUANA-INFUSED PRODUCT (MIP) means a product infused with marijuana that is intended for use or consumption, including but not limited to edible products, ointments, aerosols, oils, and tinctures. These products, when created or sold by a Medical Marijuana Treatment Center business, shall not be considered a food or a drug as defined in M.G.L. c. 94, § 1.

MEDICAL MARIJUANA shall mean all parts of the plant *Cannabis sativa* L., 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. It does not include 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, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination. The term also includes MIPs except where the context clearly indicates otherwise.

MEDICAL MARIJUANA TREATMENT CENTER shall refer to the site(s) of dispensing, cultivation, and preparation of marijuana; shall mean a not-for-profit entity or a for-profit entity registered under 105 CMR 725.100 and known thereunder as a registered marijuana dispensary (RMD), that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana-infused products (MIPs), 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; and shall be subject to the regulations under § 650-32 of this Ordinance.

MEDICAL USE OF MARIJUANA shall mean the acquisition, cultivation, possession, processing (including development of related products such as Marijuana-Infused Products (MIPs) that are to be consumed by eating or drinking, tinctures, aerosols, oils, or ointments), transfer, transport, sale, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.

PERSON shall mean an individual, non-profit entity, or for profit entity.

- C. In such zoning districts where a Special Permit is required for Medical marijuana treatment center, upon application, the Special Permit Granting Authority shall grant the Special Permit only upon its written determination that any adverse effects of the proposed use will not outweigh its beneficial impacts to the City or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this Ordinance, the determination shall include, but is not limited to, consideration of each of the following:
1. Social, economic, or community needs which are served by the proposal;
 2. Traffic flow and safety, including parking and loading;
 3. Adequacy of utilities and other public services;
 4. Neighborhood character and social structures;
 5. Impacts on the natural environment;
 6. Potential fiscal impact, including impact on City services, tax base, and employment;
 7. Hours of operation;
 8. Requiring that contact information be provided to the Chief of Police, the Building Commissioner, and the Special Permit Granting Authority;
 9. Requiring payment of a community impact fee;

10. Requiring the submission to the Special Permit Granting Authority of the same annual reports that must be provided to the Commonwealth of Massachusetts Department of Public Health and/or the Massachusetts Cannabis Control Commission;
11. Requiring regular inspections by City officials or their agents, and access to the same records which are available for inspection to the Commonwealth of Massachusetts Department of Public Health and/or the Massachusetts Cannabis Control Commission;
12. Requiring employees to undergo a criminal background check, including but not limited to CORI and an additional background check, by the Police Chief who shall have the authority to disapprove the employment of any person(s) as a result of said background check;
13. Requiring surveillance cameras, capable of 24-hour video recording, archiving recordings and ability to immediately produce images, in, on, around or at the premises;
14. Prohibiting the sale of any materials or items unrelated to the purposes of registration by the Commonwealth of Massachusetts Department of Public Health and/or the Massachusetts Cannabis Control Commission, including, without limitation, tobacco products, clove cigarettes, or e-cigarettes;
15. The ability for the Business to:
 - a. provide a secure indoor waiting area for clients;
 - b. provide an adequate and secure pick-up/drop-off area;
 - c. provide adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals; and
 - d. adequately address issues of traffic demand, parking, and queuing, especially at peak periods at the Business, and its impact on neighboring uses; and
 - e. provide opaque exterior windows.
16. Signs and signage; and
17. Names of businesses, business logos and symbols, subject to state and federal law and regulations.

- D. The Special Permit Granting Authority may require the applicant to provide a traffic study, at the applicant's expense, to establish the impacts of the peak traffic demand.
- E. Applicants for a Special Permit shall be subject to Site Plan Review under § 270-2 of the Code of the City of Marlborough.
- F. A medical marijuana treatment center shall not be located:
 - a. Within a radius of five hundred (500) feet of a school (as defined in § 517-2 of the Code of the City of Marlborough, as amended) located within the City of Marlborough; and
 - b. Within a radius of five hundred (500) feet of a daycare center (as defined in § 517-2 of the Code of the City of Marlborough, as amended) located within the City of Marlborough.

The five hundred (500) foot distance in these section F. is measured in a straight line from the nearest point of the building in which the school or daycare center in question is located to the nearest point of the building within which the proposed Medical Marijuana Treatment Center would be located.
- G. Chapter 412 of the Code of the City of Marlborough, as amended, prohibiting the smoking, ingesting, or other use or consumption of marijuana in any place accessible to the public, shall be construed as applying to the medical use of marijuana inside a Medical Marijuana Treatment Center.
- 4. The effective date of these amendments shall be the date of their passage.

Councilor Juairé recused.

APPROVED; adopted.

First Reading, suspended; Second Reading, adopted; Passage to Enroll, adopted; Passage to Ordain; adopted. No objection to passage in one evening.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:15 PM.