



**CITY OF MARLBOROUGH  
OFFICE OF CITY CLERK  
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**OCTOBER 16, 2017**

Regular meeting of the City Council held on Monday, October 16, 2017 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Clancy, Juare, Oram, Ossing, Robey, Delano, Doucette, Elder, Tunnera, Irish and Landers. Meeting adjourned at 9:55 PM.

**ORDERED:** That the Minutes of the City Council meeting SEPTEMBER 25, 2017, **FILE**; adopted.

**ORDERED:** That the Public Hearing on the amendment to the zoning map established by chapter 650 zoning article iii establishment of districts section 650-8 "boundaries established; zoning map". said zoning map is amended by superimposing the retirement community overlay district over Assessor's map 73, parcels 52 and 53, and Assessor's map 85, parcels 14 and 15, Order No. 17-1006963B, all were heard who wish hearing recessed at 8:34 PM.

**Councilors Present: Delano, Doucette, Elder, Tunnera, Irish, Clancy, Landers, Juare, Oram, Ossing & Robey.**

**ORDERED:** Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance from Funky Murphy's Restaurant to the Fire Department in the amount of \$1,796.50 to fund training; adopted.

**ORDERED:** Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Grant Acceptance from Funky Murphy's Restaurant to the Police Department in the amount of \$1,796.50 to fund training; adopted.

ORDERED: That the permanent easement for aerial utility purposes previously taken by the City Council by its Eminent Domain Order of Taking, being Order No. 16/17-1006732A recorded in the Middlesex County South Registry of Deeds at Book 68882, Page 250, and shown as parcel PUE-2 on sheets 3 and 4 of 6 of plans entitled "Right-of-Way Plans East Main Street in the City of Marlborough Middlesex County, Massachusetts" recorded as Plan 141 of 2017, over and upon certain real property of Fred R. Angier, Jr., 87 East Main Street, be hereby released and extinguished in that there is no current public purpose for such permanent aerial easement.

Further, the damages awarded for this taking in the amount of \$567.00 be and are hereby revoked and rescinded.

And in furtherance of this Order, that the Mayor is hereby authorized to execute a Release and Extinguishment of Permanent Easement, a copy of which Release and Extinguishment of Permanent Easement is attached to this Order.

**APPROVED;** adopted.

ORDERED:

**Eminent Domain Order of Taking**

WHEREAS, the City Council of the City of Marlborough has determined that the public welfare, safety, and common convenience require that legal interests in a certain portion of land located at 493 and 505 Boston Post Road West (Rte. 20), as more particularly described herein, be taken for the purpose of the reconstruction, construction, and maintenance of improvements to Boston Post Road West (Rte. 20), and for other municipal purposes, and that the taking by eminent domain is reasonable and necessary to carry out the aforementioned purposes; and,

WHEREAS, in order to promote the public welfare, safety, common convenience, and necessity, it is necessary to take by Eminent Domain the easement interests in the land for the purposes and duration described herein; and,

WHEREAS, all preliminary requirements of Massachusetts General Laws Chapter 79 having been complied with;

NOW, THEREFORE, IT IS HEREBY ORDERED that the City Council of the City of Marlborough, acting in accordance with the power and authority conferred by the City Charter, Division 1, Section 30, Massachusetts General Laws, Chapter 79 and every power and authority thereto enabling, and in the exercise of the power and authority conferred by said laws, does hereby take by Eminent Domain the permanent easement interest in the following described land, including all trees and other vegetation thereon.

**DESCRIPTION OF LAND TAKEN**

**Street address: 493 Boston Post Road West and 505 Boston Post Road West (Rte. 20), Marlborough, MA 01752**

Permanent easement for purposes of roadway reconstruction, construction, and maintenance of improvements, including but not limited to aerial wire purposes: Being an approximately 1,946 S.F. portion of the properties located at 493 Boston Post Road West and 505 Boston Post Road West (Rte. 20), Marlborough, MA 01752, known and numbered respectively as Map 88, Parcel 3 and Map 88, Parcel 3A on the Assessors’ Map of the City of Marlborough and shown as Parcel E-01 on a plan attached herewith as Exhibit “A” entitled “Plan of Land in Marlborough, Massachusetts; Prepared For: City of Marlborough; Prepared By: VHB, Inc.; Scale: 1 inch = 20 Feet; Date: August 30, 2017.”

OWNER: Dino Karalis, Trustee  
 Sparte II Realty Trust  
 34 Magnolia Street  
 Framingham, MA 01701

The ownership of said parcels is supposed to be as stated herein, but said easement is hereby taken whether the ownership is as stated herein or otherwise. We determine that the damages, set forth in the Table of Award below, has been sustained by the owner of said parcel upon which said easement, so taken, is located.

**TABLE OF AWARD**

The City Council hereby makes the following award for damages for the owner of record:

<b><u>OWNER</u></b>	<b><u>MARLBOROUGH ASSESSORS’ MAP/PARCEL</u></b>	<b><u>AREA OF TAKING OF EASEMENT</u></b>	<b><u>AWARD</u></b>
Dino Karalis, Trustee Sparte II Realty Trust 34 Magnolia Street Framingham, MA 01701	88/3 and 88/3A	1,946 S.F. ±	\$12,649

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

ORDERED: That the Appointment of William Dunbar to the Conservation Commission for a three-year term, replacing longtime member Lawrence Roy who has stepped down, refer to **PERSONNEL COMMITTEE**; adopted.

ORDERED: That the Appointment of Councilor Michael Ossing to the Council on Aging Board for a four-year term, refer to **PERSONNEL COMMITTEE**; adopted.

**Councilor Ossing abstained.**

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 litigation which is demonstrably likely and which concerns 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.

**APPROVED**; adopted.

**Yea: 11-Nay: 0**

**Yea – Clancy, Delano, Doucette, Elder, Tunnera, Irish, Landers, Juairé, Oram, Ossing & Robey**

ORDERED: That the Communication from City Solicitor, Donald Rider, re: Proposed Zoning Amendment for Brew Pubs, Breweries and Distilleries in proper legal form, Order No. 17-1006980A, **MOVED TO ITEM 24**; adopted.

ORDERED: That the Communication from Assistant City Solicitor, Cynthia Panagore Griffin, re: Pedestrian Trail Easement at Apex Center in proper legal form, Order No. 16/17-1006443FF, **FILE & MOVED TO REPORTS OF COMMITTEE**; adopted.

ORDERED: That the Communication from Assistant City Solicitor, Cynthia Panagore Griffin, re: Grant of Sewer Easement at Apex Center in proper legal form, Order No. 16/17-1006443FF, **FILE & MOVED TO REPORTS OF COMMITTEE**; adopted.

ORDERED: That the Communication from Assistant City Solicitor, Cynthia Panagore Griffin, re: Expansion of the Hospitality and Recreation Mixed Use Overlay District (HRMUOD), in proper legal form, Order No. 16/17-1006443W, **MOVED TO REPORTS OF COMMITTEE**; adopted.

ORDERED: That the Applicant, Dellaria Salon, 180 Boston Post Rd. West, request for flat wall signage pursuant to Section 650-35H, **APPROVED**; adopted.

ORDERED: That the Applicant, Apex Altitude Trampoline Park, 169 Apex Dr., request for flat wall signage pursuant to Section 650-35H, **APPROVED**; adopted.

ORDERED: That the Applicant, Protein House, 90 Apex Dr., request for three (3) flat wall signage pursuant to Section 650-35H, **APPROVED**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, DECEMBER 4, 2017** as **DATE FOR PUBLIC HEARING** On the Application for Special Permit to construct an Ancillary Residential Community in a single 28-unit building to be built at 615 Williams Street in conjunction with the Village at Crane Meadow Retirement Community, refer to **URBAN AFFAIRS COMMITTEE, ADVERTISE**; adopted.

**Councilor Robey and Landers opposed.**

ORDERED: That there being no objection thereto set **MONDAY NOVEMBER 13, 2017** as **DATE FOR PUBLIC HEARING** On the Petition of AT & T to deploy a small cell site which will be mounted on existing utility pole at 28 Concord Rd., refer to **WIRELESS COMMUNICATION COMMITTEE**; adopted.

ORDERED: That the Minutes, Conservation Commission, September 7, 2017, **FILE**; adopted.

ORDERED: That the Minutes, Planning Board, September 11, 2017, **FILE**; adopted.

ORDERED: That the Minutes, Board of Assessors, June 21, 2017, **FILE**; adopted.

ORDERED: That the Minutes, Library Board of Trustees, September 5, 2017, **FILE**; adopted.

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

- a. Elizabeth Costa, 2 Shawmut Avenue, #2 other property damage and or personal injury.
- b. Alyssa Hansen, 181 West Hill Road, pothole or other road defect.
- c. David Soucy, 166 Cullinane Drive, pothole or other road defect.
- d. Daniel Figueroa, Post Office Box 302, Ashland, pothole or other road defect.
- e. Lauren Hickey, 104 Elm Street, pothole or other road defect.

**Suspension of the Rules requested – granted**

ORDERED: That the Communication from the Mayor re: Notification of Free Cash certified by DOR in the amount of \$11,229,104.00, **FILE**; adopted.

Reports of Committees:

Councilor Robey reported the following out of the Legislative and Legal Affairs Committee:

City Council Legislative and Legal Affairs Committee  
Tuesday, October 3, 2017, 5:00 PM – In Council Chambers  
Minutes and Report

Present: Chairman Katie Robey, Councilor Delano, Councilor Juaire, & Councilors Clancy, Elder, Doucette, Landers, and Ossing. Also attending were Attorney Kevin Erickson, representing Walker Realty LLC and Cynthia Panagore Griffin, Assistant City Solicitor, City of Marlborough

**Order No. 16/17-1006443FF: Communication from Attorney Erickson, Walker Realty, LLC re: Pedestrian Trail Easement and Sewer Utility Easement.**

This matter is before committee as there have been changes to both the City's sewer line that runs through the property and also the pedestrian trails that were proposed under prior easements. The old sewer line needed to be moved as construction began under the HMRUOD agreement. It was determined for the residents of Glen St., the best pedestrian trail location was placement over the sewer line and for the residents of the apartment complex, now known as Talia, by connecting their property's walking trail to the sewer line/pedestrian trail and then onto the sidewalks of the Apex property.

## Reports of Committee Cont'd:

There were some concerns on the Easement Plan of Land raised prior to the meeting by Tom DiPersio, City Engineer that hadn't been addressed. It was agreed that the engineer from VHB who prepared the Plan and Mr. DiPersio would agree to any necessary changes to the Plan and have them ready prior to the City Council meeting of October 16<sup>th</sup>.

Councilor Delano moved to approve the amended Order for Sewer Easement and with it the amended Grant of Sewer Easement pending the engineers agreeing on the Easement Plan of Land. The motion was seconded and carried 3-0.

Councilor Delano moved to approve the amended Order for Permanent Walking Trail Easement and with it the amended Grant of Public Walking Trail Easement re: Middlesex South Registry of Deeds Book 63556, Page 554, the amended Grant of Public Walking Trail Easement re: Middlesex South Registry of Deeds Book 66892, Page 540 and pending the engineers agreeing on the Easement Plan of Land. The motion was seconded and carried 3-0.

Councilor Delano moved to refer this to the Legal Department to be put in proper legal form. The motion was seconded and carried 3-0.

The committee agreed to ask for a Suspension of Rules for this to be voted on at the October 16<sup>th</sup> meeting

It was moved and seconded to adjourn; motion carried 3-0. The meeting adjourned at 5:30 PM.

## Councilor Delano reported the following out of the Urban Affairs Committee:

Meeting Name: City Council Urban Affairs Committee

Date: October 3, 2017

Location: City Council Chamber, 2<sup>nd</sup> Floor, City Hall, 140 Main Street

Convened: 5:30 PM – Adjourned: 6:51 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Elder, Juaire, Tunnera (arrived 5:36 PM) and Landers; and Councilors Clancy, Doucette, Ossing and Robey (left at 5:51 PM); **Meredith Harris (Executive Director, Marlborough Economic Development Corporation); Brian Lawlor (SMMA); Eric Peterson (SMMA)**

## Reports of Committee Cont'd:

**Order No. 17-1006796: The Walker Building Feasibility Study, be and is herewith refer to Urban Affairs Committee.** The Urban Affairs Committee met with Meredith Harris, Executive Director of the **Marlborough Economic Development Corporation (MEDC)**, and **Brian Lawlor and Eric Peterson of SMMA** for a presentation by **Mr. Lawlor and Mr. Peterson of SMMA's** recommendations for the **Walker Building proposed redevelopment**. They reviewed the goals for redevelopment as well as twelve potential building re-use opportunities that was short-listed to the top four options from among those which were residential, hotel, mixed-use, and municipal offices. The Councilors discussed the history of the building and its appearance and the preference to keep the façade and grounds of the building intact and insulated from redevelopment changes. The Councilors also decided the top three uses for the building were the residential, hotel, or mixed-use options and any request for proposal (RFP) would reference either sale or long-term lease of the building and Councilors would retain the ability to review the RFP prior to its issuance.

**Motion made by Councilor Elder, seconded by Chair, to request a RFP for the top three recommended uses; hotel, mixed-use, and residential (market-rate units); the Council shall review the RFP prior to being sent out while referencing it may be a sale or long-term lease, and including a restriction on changes to the façade and grounds of the building. The motion carried 5-0.**

**Councilor Elder orally reported out of the Operations & Oversight Committee:**

**Order No. 17-1007020, pertinent to the Fire Chief appearing before Operations and Oversight Committee to discuss response times to various apartment complexes in the Southwest Quadrant of the City, as well as possible compliance issues we currently face. Additionally, the Chief will discuss the impact of further development in his department.**

**Item was tabled in Committee.**

**Motion made and seconded to adjourn. The motion carried 5-0. The meeting adjourned at 6:51 PM.**

## Councilor Landers reported the following out of Public Services Committee:

Meeting Name: City Council Public Services Committee

Date: October 2, 2017

Time: 7:00 PM

Location: City Council Chambers, 2<sup>nd</sup> Floor, City Hall, 140 Main Street

Convened: 7:01 PM – Adjourned: 7:45 PM

Present: Chairman Landers; Public Services Committee Members Councilor Irish and Doucette; and Councilor Clancy

Also Present: Katsunori Tanaka (Global Limousine & Tour Services); David Terk (Contractor, National Grid); Josh Sztabor (National Grid)

## Reports of Committee Cont'd:

**Order No. 17-1006982 - Application for Livery License, Katsunori Tanaka, d/b/a Global Limousine & Tour Services, LLC, 17 Eager Court.** Police Chief Giorgi approved the CORI report for Katsunori Tanaka, d/b/a Global Limousine & Tour Services, LLC and had no objection to his application for a livery license. Katsunori Tanaka appeared before the committee to request a livery license and answer questions from the committee. Recommendation of the Public Services Committee was to approve the application for a livery license for Katsunori Tanaka, d/b/a Global Limousine & Tour Services, LLC, 17 Eager Court. **Motion made by Councilor Doucette, seconded by Councilor Irish, to approve. The motion carried 3-0.**

**Order No. 17-1007004 - Petition of National Grid to relocate three solely owned electrical poles 54, 55, & 56-1 on Maple Street (Rt. 85).** David Terk and Josh Sztabor of National Grid appeared before the Public Services Committee to discuss the pole relocations for the Mass DOT Road Improvement Project for Route 85. Chairman Landers confirmed the utilities on the solely owned poles are National Grid and possibly cable television but not telephone with Mr. Terk. Mr. Terk stated since this is a DOT project, it would give the utilities some incentive to make their transfers quickly due to the schedule of the DOT. The pole relocations can be done this fall prior to the planned start of the Route 85 reconstruction in 2018. Chairman Landers required the following condition as part of the approval that the utility companies are to expedite the transfer of overhead wires from old to new poles, to minimize any double pole situations left along the street. **Motion made by Councilor Irish, seconded by Councilor Doucette, to approve Order No. 17-1007004. The motion carried 3-0.**

**Order No. 17-1007005 - Petition of National Grid to install one solely owned electrical pole on Framingham Road.** David Terk and Josh Sztabor of National Grid appeared before the Public Services Committee to discuss the installation of one solely owned electrical pole on Framingham Road because of the Mass DOT Road Improvement Project for Route 85. Mr. Terk explained this pole 1-75-S was at the convenience store and the reason for its installation is due to pole 1-75 being relocated sixty-eight feet in a southeasterly direction from its original location, Order No. 17-1007007, and the new pole would support the service to the convenience store mid-span of relocated pole 1-75. **Motion made by Councilor Doucette, seconded by Councilor Irish, to approve Order No.17-1007005. The motion carried 3-0.**

## Reports of Committee Cont'd:

**Order No. 17-1007006 - Petition of National Grid to relocate one solely owned pole to be made jointly owned poles 37-84 and relocate seventeen jointly owned poles on Maple Street (Rt. 85).** David Terk and Josh Sztabor of National Grid appeared before the Public Services Committee to discuss the pole relocations along Maple Street due to the Mass DOT Road Improvement Project for Route 85. President Clancy questioned the logistics of replacing that many poles and whether there would be multiple line crews and would the poles would be stored on-site or pulling them from the pole yard. Mr. Sztabor could not answer those questions as he is not a scheduler and those details would be determined closer to the start of the project by the scheduling department. Chairman Landers required the following condition as part of the approval that the utility companies are to expedite the transfer of overhead wires from old to new poles, to minimize any double pole situations left along the street. **Motion made by Councilor Doucette, seconded by Councilor Irish, to approve Order No. 17-1007006. The motion carried 3-0.**

**Order No. 17-1007007 - Petition of National Grid to relocate two poles and associated facilities on Maple Street/Framingham Road.** David Terk and Josh Sztabor of National Grid appeared before the Public Services Committee to discuss two pole relocations on Maple Street and Framingham Road as part of the Mass DOT Road Improvement Project for Route 85. Mr. Terk explained these two poles, pole 1-50 and pole 1-75, were the ones on Framingham Road moving to accommodate the new cut through street and its associated curve. President Clancy asked if there was an ideal distance to be kept between the poles and Mr. Terk stated they like to keep the distance to between 150 and 170 feet, the distance can be smaller but they try to space the poles out. Chairman Landers required the following condition as part of the approval that the utility companies are to expedite the transfer of overhead wires from old to new poles, to minimize any double pole situations left along the street. **Motion made by Councilor Irish, seconded by Councilor Doucette, to approve Order No. 17-1007007. The motion carried 3-0.**

**Order No. 17-1007036 - Application for Renewal of Junk Dealer's License, ecoATM, LLC, 601 Donald Lynch Boulevard.** Chairman Landers explained this was ecoATM's fourth or fifth year having a location at the Salomon Pond Mall where a customer can receive money for their old cell phone at a kiosk. Police Chief Giorgi approved the updated CORI report for the representative of ecoATM and had no objection or issues with the renewal of their Junk Dealer's License. **Motion made by Councilor Doucette, seconded by Chair, to approve Order No. 17-1007036. The motion carried 3-0.**

**Motion made by Councilor Doucette, seconded by Chair, to adjourn. The motion carried 3-0. The meeting adjourned at 7:45 PM.**

**Suspension of the Rules requested – granted**

ORDERED: WHEREAS, in the opinion of the City Council of the City of Marlborough, the common convenience and necessity require that the permanent walking trail easement in an approximately 85,506 S.F. portion of the land known as Lots 11, 12, and 13A as shown on a plan entitled “Subdivision Plan of Land in Marlborough, Massachusetts”, prepared by VHB Inc., dated May 4, 2017, revised through June 14, 2017 and recorded at Middlesex County South Registry of Deeds as Plan 574 of 2017, be accepted as a municipal easement as shown on plan thereof and as hereinafter described:

DESCRIPTION

Plan entitled “Easement Plan of Land in Marlborough, Massachusetts; Prepared For: Walker Realty LLC; Prepared By: VHB, Inc., 100 Walnut Street, P.O. Box 9151, Watertown, MA 02471-9151; Scale: 1" = 100'; Date: September 7, 2017”, said plan to be recorded at the Middlesex County South Registry of Deeds and attached here as Exhibit “A”;

Title to the permanent walking trail easement as shown on said plan has been granted to the City of Marlborough in two separate documents, each entitled “Amendment to Public Walking Trail Easement Grant” from Walker Realty LLC and Marlboro Hospitality LLC, said two documents, each entitled “Amendment to Public Walking Trail Easement Grant,” to be recorded in the Middlesex County South Registry of Deeds.

IT IS THEREFORE ORDERED THAT:

The permanent walking trail easement in an approximately 85,506 S.F. portion of land located on the southerly side of Boston Post Road West and the northerly side of Glen Street and being a portion of the land known as Lots 11, 12, and 13A as shown on a plan entitled “Easement Plan of Land in Marlborough, Massachusetts; Prepared For: Walker Realty LLC; Prepared By: VHB, Inc., 100 Walnut Street, P.O. Box 9151, Watertown, MA 02471-9151; Scale: 1" = 100'; Date: September 7, 2017”, to be recorded in the Middlesex County South Registry of Deeds, be accepted as a municipal easement in the City of Marlborough.

**APPROVED;** adopted.

**Suspension of the Rules requested – granted**

ORDERED: WHEREAS, in the opinion of the City Council of the City of Marlborough, the common convenience and necessity require that the permanent sewer easement in an approximately 87,302 S.F. portion of the land, located on the southerly side of Boston Post Road West and the northerly side of Glen Street and being a portion of the land known as Lots 11, 12, and 13A shown on a plan entitled “Subdivision Plan of Land in Marlborough, Massachusetts”, prepared by VHB Inc., dated May 4, 2017, revised through June 14, 2017 and recorded at the Middlesex County South Registry of Deeds as Plan 574 of 2017, be accepted as a municipal easement as shown on plan thereof and as hereinafter described:

DESCRIPTION

Plan entitled “Easement Plan of Land in Marlborough, Massachusetts; Prepared For: Walker Realty LLC; Prepared By: VHB, Inc., 100 Walnut Street, P.O. Box 9151, Watertown, MA 02471-9151; Scale: 1” = 100’; Date: September 7, 2017”, said plan to be recorded at the Middlesex County South Registry of Deeds and attached here as Exhibit “A”;

Title to the permanent sewer easement as shown on said plan has been granted to the City of Marlborough in a Grant of Sewer Easement from Walker Realty LLC and Marlboro Hospitality LLC, said Grant of Sewer Easement to be recorded at the Middlesex County South Registry of Deeds.

IT IS THEREFORE ORDERED THAT:

The permanent sewer easement in an approximately 87,302 S.F. portion of land located on the southerly side of Boston Post Road West and the northerly side of Glen Street and being a portion of the land known as Lots 11, 12, and 13A as shown on a plan “Easement Plan of Land in Marlborough, Massachusetts; Prepared For: Walker Realty LLC; Prepared By: VHB, Inc., 100 Walnut Street, P.O. Box 9151, Watertown, MA 02471-9151; Scale: 1” = 100’; Date: September 7, 2017”, said plan to be recorded at the Middlesex County.

**APPROVED**; adopted

**Suspension of the Rules requested – granted**

ORDERED: That the Favorable Recommendation from the Planning Board re: Proposed Zoning Amendment, Section 650-5 entitled “Definitions; word usage” and Section 650, entitled “Table of Uses” Council Order 17-1006980, Brew Pub, Winery, Brewery or Distillery with Tasting Room, **MOVE TO ITEM 24 AND ACCEPT AND PLACE ON FILE**; adopted.

ORDERED: That the Communication from City Solicitor, Donald Rider, re: Proposed Zoning Amendment for Brew Pubs, Breweries and Distilleries in proper legal form, Order No. 17-1006980A, **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 AS FOLLOWS:

- I. Section 650-5, entitled “Definitions; word usage,” is hereby amended as follows:
- a. By deleting in subsection B the definition of “BREW PUB” in its entirety and inserting in place thereof the following definition:

**BREW PUB**

A facility which is licensed by the United States Alcohol and Tobacco Tax Trade Bureau and the Commonwealth of Massachusetts, under the relevant statutes including M.G.L. c. 138, § 19D, to manufacture malt beverages and which is also authorized by the City and the Commonwealth of Massachusetts to serve alcoholic beverages. The facility may have a restaurant or serve food prepared on site, but shall comply with all applicable Board of Health requirements for kitchens and common victualler licenses; provided, however, that in such a case only beer, spirit or wine products manufactured by the facility, and none by other manufacturers, may be sold, unless an on-premises pouring license has been obtained under M.G.L. c. 138, § 12. Nothing contained herein shall prohibit the facility from having a bring-your-own-food policy.

- b. By inserting in subsection B the following new definitions:

**WINERY, BREWERY, OR DISTILLERY WITH TASTING ROOM**

A facility licensed under, respectively, M.G.L. c. 138, §§ 19B, 19C and 19E and which is located in a building where the primary use is for the production and distribution of vinous, malt, or spirituous beverages, with the option of a tasting room. Any such facility may provide, either for a fee or at no charge and limited in size as set forth in M.G.L. c. 138, samples of beverages it manufactures on its premises and for this purpose shall have a Commonwealth of Massachusetts issued Farmer Series Pouring Permit. The facility may host marketing events, special events, and/or factory tours. The facility may only sell beverages produced by, and commercial goods branded by, the winery, brewery, or distillery. The facility may sell permitted beverages to consumers for consumption off-premises. The facility may have a restaurant or serve food prepared on site, but shall comply with all applicable Board of Health requirements for kitchens and common victualler licenses; provided, however, that in such a case only beer, spirit or wine products manufactured by the facility, and none by other manufacturers, may be sold, unless an on-premises pouring license has been obtained under M.G.L. c. 138, § 12. Nothing contained herein shall prohibit the facility from having a bring-your-own-food policy.

TASTING ROOM

A room attached to either a winery, brewery, or distillery, and permitted as an accessory use thereto, that allows patrons to sample or consume wine, beer, and other alcoholic beverages that are produced on the premises in accordance with M.G.L. c. 138. A tasting room is not to exceed 25 percent of the gross square footage of the winery, brewery, or distillery.

II. Section 650-17, entitled “Table of Uses,” is hereby amended as follows:

- a. By regulating business uses so as to allow, as of right, a brew pub in the Business (B), Commercial Automotive (CA), Limited Industrial (LI), Industrial (I) and Marlborough Village (MV) districts, as follows:

	RR	A1	A2	A3	RB	RC	RCR	B	CA	LI	I	MV
Brew pub	N	N	N	N	N	N	N	Y	Y	Y	Y	Y

and

- b. By regulating business uses so as to allow, as of right, a winery, brewery, or distillery with tasting room in the Business (B), Commercial Automotive (CA), Limited Industrial (LI), Industrial (I) and Marlborough Village (MV) districts, as follows:

	RR	A1	A2	A3	RB	RC	RCR	B	CA	LI	I	MV
Winery, brewery, or distillery with tasting room	N	N	N	N	N	N	N	Y	Y	Y	Y	Y

**APPROVED.;** adopted.

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

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 650-35 A.(2.), by deleting “43.6 acres” and replacing with “45.2 acres”.
2. By Amending Exhibit A of Section 650-35 to include the following additional parcels:

Assessors Map 78, Parcel 14A

Assessors Map 78, Parcel 23

3. In Section 650-35 E.(1.)i.), adding the following language to the end of the Section:

“, except that nothing in this Section shall be deemed to prohibit or limit the existing drive-through facility on Assessors Map 78, Parcel 23, nor to prohibit or limit the existing dedicated driveway with a curb cut onto a public way located on Assessors Map 78, Parcel 23, the same being preexisting conditions which shall continue to be allowed notwithstanding anything contained in the HRMUOD to the contrary, however said existing drive-through facility and existing dedicated driveway with a curb cut onto a public way shall remain subject to Section 650-12.”

4. In Section 650-35 E.(1.)j.), adding the following language to the end of the Section:

“, except that nothing in this Section shall be deemed to prohibit or limit the existing drive-through facility on Assessors Map 78, Parcel 14A, nor to prohibit or limit the existing dedicated driveway with a curb cut onto a public way located on Assessor Map 78, Parcel 14A, the same being preexisting conditions which shall continue to be allowed, notwithstanding anything contained in the HRMUOD to the contrary, however said existing drive-through facility and existing dedicated driveway with a curb cut onto a public way shall remain subject to Section 650-12.”

5. In Section 650-35 E.(2.)a.), adding the following language to the end of the Section:

“, expressly excluding drive-through facilities located on Assessors Map 78, Parcel 23, which facilities are existing and shall not require a Special Permit under this Section, however, said existing drive-through facilities shall remain subject to Section 650-12.

6. In Section 650-35 E.(2.)b.), adding the following language to the end of the Section:

“, expressly excluding drive-through facilities located on Assessors Map 78, Parcel 14A, which facilities are existing and shall not require a Special Permit under this Section, however said existing drive-through facilities shall remain subject to Section 650-12.”

7. In Section 650-35 E.(2).(d.), adding the following language to the end of the Section:

“, excluding so-called Dry Cleaning drop stores where no dry cleaning is performed on premise, which shall be permitted in the HRMUOD as of right.”

8. In Section 650-35 H., insert a new paragraph 9 as follows:

“Lawful signage which exists on the date of approval of this amendment to Section 650-35 H. at or on Assessor’s Map 78, Parcel 14A and Assessors Map 78, Parcel 23 shall continue to be allowed, notwithstanding anything contained in the HRMUOD to the contrary, however any changes or alterations to said existing signage, whether on or outside of the buildings located on said parcels, including any freestanding signs, shall be in conformity with Section 650-35 H. and subject to approval of the City Council.”

**TABLE UNTIL THE OCTOBER 30, 2017 CITY COUNCIL MEETING;**  
adopted.

ORDERED: That the Communication from Assistant City Solicitor, Cynthia Panagore Griffin, re: Expansion of the Hospitality and Recreation Mixed Use Overlay District (HRMUOD), in proper legal form, Order No. 16/17-1006443W, be and is herewith **TABLE UNTIL THE OCTOBER 30, 2017 CITY COUNCIL MEETING, APPROVED;** adopted.

ORDERED: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CITY CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED IN CHAPTER 468, ENTITLED “PEDDLING AND SOLICITING,” BY AMENDING ARTICLE II THEREOF, ENTITLED “DOOR-TO-DOOR SOLICITORS,” AS FOLLOWS:

1. Section 468-17, entitled “Issuance of license; fee,” is hereby amended in subsection B thereof by deleting the words “The fee for such license shall be \$25” and inserting in place thereof the following: -- The fee for such license shall be \$35.
2. Section 468-28, entitled “Violations and penalties,” is hereby amended in subsection A thereof by deleting the words “Any person who solicits within the City of Marlborough without a license as described herein shall be fined not less than \$25” and inserting in place thereof the following: -- Any person who solicits within the City of Marlborough without a license as described herein shall be fined not less than \$35.

**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 9:55 PM.