



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

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August 30, 2017

Tracy K. Kenney, Town Clerk
Town of Canton
801 Washington Street
Canton, MA 02021

Re: Canton Annual Town Meeting of May 8, 2017 – Case # 8487
Warrant Articles # 38, 39, 45, 46, 48, 49, 50, 52, 53, and 55 (Zoning)
Warrant Articles # 18, 33, 34, 44, and 57 (General)

Dear Ms. Kenney:

Articles 18, 33, 34, 38, 39, 44, 45, 46, 48, 49, 50, 52, 53, 55, and 57 - We approve these Articles, and the maps pertaining to Articles 46, 48, and 55 from the May 8, 2017, Canton Annual Town Meeting.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date that these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were voted by Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,
MAURA HEALEY
ATTORNEY GENERAL

Kelli E. Gunagan

by: Kelli E. Gunagan, Assistant Attorney General
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cc: Town Counsel Paul Derensis

ARTICLE 18

VOTED: That the General By-Laws be amended by replacing Article VII, Part B as follows:

PART B - FINANCE COMMITTEE

Section 1. Composition of Committee; Limitations

There shall be a Finance Committee which shall consider any and all municipal operations involving an appropriation by the Town, for the purpose of making reports and recommendations thereon to the Town. Such Committee shall consist of nine voters, who shall serve without pay, none of whom, during their service on such Committee, shall hold any regular elective Town office or be a paid employee of the town.

Section 2. Quorum

Five members of the Finance Committee shall constitute a quorum thereof.

Section 3. Method of Appointment; Terms of Office; Organization; Filling of Vacancies

The Moderator shall after the dissolution of each Annual Town Meeting, for the transaction of business, and prior to June thirtieth, appoint three members of the Finance Committee to serve for three years.

If there is a vacancy in the Finance Committee whether caused by death, resignation or otherwise, the Finance Committee shall immediately notify the Town Moderator in writing and the Moderator shall thereupon fill such vacancy for the unexpired term. If any member is absent from eight consecutive meetings of the Finance Committee, except in case of illness, his or her position shall be deemed to be vacant and the remainder of the unexpired term shall be filled by appointment of the Moderator as provided in herein. Said committee shall choose its own officers at its first meeting following the dissolution of the annual town meeting.

Section 4. Duty of Committee, In General

It shall be the duty of the Finance Committee to study the financial affairs of the town and to advise town meeting as to expenditures and recommendations for appropriations to be made by it. To this Committee shall be referred all articles of the Warrants calling for appropriations.

Section 5. Right of Access

The Committee shall have access to all facts, figures, records and other information relating to all fiscal affairs of Town Departments, Boards, Committees or Officers and the same shall be furnished forthwith by any Department, Board, Committee, Officer, or employee whenever so requested by the Committee.

Section 6. Poll of Members

The recommendations of the Finance Committee with reference to the various Articles of the Town Warrants shall include a poll of the votes taken at the meetings of the Finance Committee, said poll to show only the number of Committee members voting in favor of or against the actions recommended by the full Committee.

Section 7. Procedures

The Finance Committee shall consider the various articles in the Warrants for all the Town Meetings held during the period for which they are appointed including the Warrant for the Annual Town Meeting next after their appointment and they shall report in print at all Town Meetings their estimates and recommendations for action of the Town.

Section 8. Reports by Town agencies to Provide Certain Information 7-B-11

All Departments, Boards, Committees, or Officers authorized by law to expend money shall furnish to the Finance Committee, on or before the second Monday in September of each year, detailed reports of the expenditures for the previous fiscal year; and, for the ensuing fiscal year, detailed estimates of the amounts necessary for the proper maintenance and administration of the departments shall be submitted on or before the third Friday in January.

Section 9. Transition

The members of the Finance Committee in office at the time of the adoption of the amendment to this By-law reducing the number of members of the Finance Committee from twelve to nine shall remain in office until the term of their appointment expires or they otherwise vacate their office, notwithstanding the reduction in the number of members, such that the reduction in the number of members from twelve to nine shall be accomplished over the course of a three year period by the appointment each year of three members by the Moderator.

ARTICLE 33

VOTED: That the General By-laws be amended by deleting Section 13 of Article VIII and inserting in place thereof a new Section 13 as set forth in the Warrant.

Section 13. Denial, Revocation or Suspension of Local Licenses and Permits ⁸⁻¹³/_{8-13b}

- (a) Any Town agency may deny any application for, or revoke or suspend a building permit, or any local license or permit including renewals and transfers issued by any board, officer, department for any person, corporation or business enterprise, who has neglected or refused to pay any local taxes, fees assessments, betterments or any other municipal charges, including amounts assessed under MGL Chapter 40 Section 21D or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event, or matter is carried out or exercised on or about real estate whose owner has neglected or refused to pay any local taxes, fees assessments, betterments or any other municipal charges. ^{8-13a}

The Collector-Treasurer or other municipal official responsible for the records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the Collector-Treasurer shall annually and may periodically furnish to each department, Board, Commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the Appellate Tax Board.

- (b) The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the Collector-Treasurer with respect to any activity, event or matter which is the subject of such license or permit and which activity is carried out or exercised or is to be carried out or exercised on or about the real estate owned by any party whose name appears on said list furnished to the licensing authority from the Collector-Treasurer; provided, however, that written notice is given to the party and the Collector-Treasurer, as required by applicable provisions of the law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Collector-Treasurer shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from any such denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the Collector-Treasurer that the party is in good standing with respect to any all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as of the date of issuance of said certificate.
- (c) Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.
- (d) The Board of Selectmen may waive such denial, suspension or revocation if it finds that there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his or her immediate family, as defined in section one of chapter two hundred sixty-eight in the business or activity conducted in or on said property.

This section shall not apply to the following licenses and permits: open burning; section thirteen of chapter forty-eight; bicycle permits; section eleven A of chapter eighty-five; sales of articles for charitable purposes, section thirty-three of chapter one hundred and one; children work permits, section sixty-nine of chapter one hundred and forty-nine; clubs, associations dispensing food or beverage licenses, section twenty-one E of chapter one hundred forty-nine; dog licenses, section one hundred and thirty-seven of chapter one hundred and forty; fishing, hunting, trapping license, section twelve of chapter one hundred and thirty-one; marriage licenses, section twenty-eight of

⁸⁻¹³ Inserted under article 14, ATM 1992.

^{8-13b} As amended under article 21, ATM May 16, 1994.

^{8-13a} Inserted under article 29, ATM May 14, 1997.

chapter two hundred and seven; and theatrical events, public exhibition permits, section one hundred and eighty-one of chapter one hundred and forty, or to take any other action related thereto.

ARTICLE 34

VOTED: That the General By-laws, Article XV, Wetlands Protection By-law, be amended as follows:

1. By inserting the following language into Section 3. Exceptions between the first and second paragraphs as a new second paragraph:

"The permit and application required by this Wetlands Protection By-law shall not be required for vista pruning, provided the activity occurs more than 50 feet from the mean annual high water line within a Riverfront Area or from Bordering Vegetated Wetland, whichever is farther, or for vegetation cutting for public safety limited to the removal of diseased or damaged trees or branches that pose an immediate and substantial threat". (Pruning of landscape areas is not subject to jurisdiction under this Article XV).

2. By inserting the following language (shown in bold) into Section 5. Notice and Hearings:

"Any person filing an application or request for determination with the Commission at the same time shall give written notice thereof, by certified mail, *certificates of mailing*, or hand delivery..."

ARTICLE 38

VOTED: That Section 8.1.5, "Procedures" of the Zoning By-Laws be amended by deleting in its entirety the second sentence of Section 8.1.5.3 and substituting in its place the following:

"Said permit shall be automatically renewed for a subsequent three year term unless the Zoning Board of Appeals determines before the end of any said term that the permit should be reviewed by the Board and by the Building Commissioner. If after said review the Board determines that there may be violations of the terms of the permit, the Board shall hold a hearing pursuant to M.G.L. c. 40A, s.11. If after said hearing the Board determines that there have been violations the Board may amend the permit to address the violations, rescind the permit or recommend that the Building Commissioner take other enforcement action. The permit holder shall have a right of appeal pursuant to M.G.L. c.40A, s.17".

ARTICLE 39

VOTED: That Section 10.5.14 "Lapse" of the Zoning By-Laws be amended by deleting the words "one (1) year" and substituting in their place the words "two (2) years".

ARTICLE 44

VOTED: That the Town of Canton General By-Laws be amended by adding a new Article XXIII, Stretch Energy Code, as set forth in the warrant, to adopt the "Stretch Energy Code" for the purpose of regulating the design and construction of buildings for the effective use of energy, pursuant to Appendix 115.AA of the Massachusetts Building Code, 780 CMR, including future editions, amendments and modifications.

ARTICLE XXIII

ADOPTION OF STRETCH ENERGY CODE Section 1 Definitions

The terms below shall have the following meanings for the purposes of this Article XXIII.

International Energy Conservation Code (IECC) - The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency, and is updated on a three-year cycle. The baseline energy conservation requirements of the MA State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.

Stretch Energy Code - Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA of the 8th edition Massachusetts Building Code, the Stretch Energy Code is an appendix to the Massachusetts Building Code, based on further amendments to the International Energy Conservation Code (IECC) to improve the energy efficiency of buildings built to this Code.

Section 2 Purpose

The purpose of 780 CMR 115.AA is to provide a more energy efficient alternative to the Base Energy Code applicable to the relevant sections of the Building Code for both new construction and existing buildings.

Section 3 Applicability

The Stretch Code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 51, as applicable.

Section 4 Stretch Code

The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA, including any future editions, amendments or modifications, is herein incorporated by reference into these General Bylaws, Article XXIII.

Section 5 Enforcement

The Stretch Code is enforceable by the Building Commissioner.

ARTICLE 45

VOTED: That the Zoning By-Laws be amended by deleting Section 4.2.1, Build Factor and by renumbering Sections 4.2.2, 4.2.3, 4.2.4, 4.2.5, 4.2.6 and 4.2.7 appropriately.

ARTICLE 46

VOTED: That the "Zoning Map for the Town of Canton, Massachusetts, March 8, 1937" as amended be further amended to expand the Groundwater Protection Overlay District to include those parcels identified by the Commonwealth of Massachusetts as Zone II Public Water Supply Well Head Areas.

ARTICLE 48

VOTED: That the Zoning Map be amended by rezoning golf courses currently zoned as Single Residence A (SR-A) to Single Residence AA (SR-AA). This would include the following parcels of land: the Milton-Hoosic, Blue Hills, Wompatuck, and Brook Meadow Golf Courses. Said parcels of land are identified as Board of Assessors Map 67 Lot 1, Map 48 Lot 1, Map 77 Lot 1, and Map 5 Lot 27.

ARTICLE 49

VOTED: That the Zoning By-Laws Section 11.0 be amended:

1. By deleting the definition of "Manufacturing" and replacing it with the following:

Manufacturing: The processing and manufacturing of materials, and the manufacturing of previously prepared materials, of finished products or parts. This includes processing, fabrication, assembly treatment, packaging incidental storage, sales and distribution of such products, including renewable and alternative energy

companies; but excludes the following uses: packaging of meat and fish products, heavy punch presses or drop hammers.

2. By deleting the definition of "Scientific or Research Laboratory:" and replacing it with the following: Scientific or Research Laboratory: Laboratory or research establishments including biotechnology companies (excluding laboratories categorized as Level 4 by the National Institutes of Health), and renewable and alternative energy companies.

ARTICLE 50

VOTED: That Section 6.1 of the Zoning By-Law be amended

1. by deleting the existing Section 6.1.2. Mixed Uses and replacing it with the following:

Section 6.1.2. Mixed Uses. In the case of mixed uses, the parking spaces required shall be the sum of the requirements for the various individual uses, computed separately in accordance with this Section. However, if the Board of Appeals finds that the need for the shared parking occurs at different times, the Board may allow a parking reduction.

2. by adding the following new subsection 6.1.7.4:

4. Smaller stalls for compact cars are allowed and recommended, up to 30% of the off-street parking provided. Compact car spaces shall not be less than 8 feet by 16 feet. Compact-size parking spaces shall be grouped together to the greatest possible extent in areas clearly designated for compact cars. Parking lots shall have a system of signs that clearly indicates the location of compact car spaces. For parking areas with twenty or more spaces, together with any reduction in total parking area obtained as a result of using compact-sized spaces, an equal or greater area of open space shall be provided in addition to minimum landscaping requirements required by the lot coverage provisions of Section 6.1.11.

3. by amending Section 6.1.9. Maintenance to read as follows:

Parking facilities and connecting drives shall be provided and maintained with a permanent, dust-free surface with individual spaces properly marked and maintained. Adequate drainage shall be provided. Permeable paving for parking stalls is allowed, as long as it meets other applicable maintenance requirements.

4. by amending section 6.1.11.1 Landscaping; Parking Areas with Twenty or More Spaces to read as follows:

1. The landscaped area shall be at least five (5) percent of the total interior parking lot area and five (5) percent of the loading bay area. Landscape areas shall be an integral part of the parking lot or loading bay and shall contain an appropriate mix of shade trees and other plants, such as vegetated islands with bioretention areas. Planting along the exterior perimeter of a parking area, whether for required screening or general beautification, shall not be considered part of the five (5) percent interior landscape.

ARTICLE 52

VOTED: That the Zoning By-law be amended by adding a new Section 7.8 as follows:

7.8 Temporary Moratorium on the Sale and Distribution of Recreational Marijuana.

7.8.1 Purpose: By vote at the State election on November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, distribution, possession and use of marijuana for recreational purposes. The law provides that it is effective on December 15, 2016 and the Cannabis Control Commission is required to issue regulations regarding implementation by September 15, 2017. The time period for issuance of the regulations by the Cannabis Control Commission has been extended by six months to March 15, 2018.

Currently under the Zoning By-law, Recreational Marijuana Establishments and Marijuana Retailers are not a permitted use in the Town and any regulations promulgated by the State Cannabis Control Commission are expected to provide guidance to the Town in regulating Recreational Marijuana Establishments and Marijuana Retailers.

The regulation of Recreational Marijuana Establishments and Marijuana Retailers raises novel and complex legal, planning, and public safety issues. The Town needs time to study and consider the regulation of Recreational Marijuana Establishments and Marijuana Retailers and address such novel and complex issues, as well as to address the potential impact of the State regulations on local zoning and to undertake a planning process to consider amending the Zoning By-law regarding regulation of Recreational Marijuana Establishments and Marijuana Retailers and other uses related to the regulation of recreational marijuana. The Town by this Section 7.8 adopts a temporary moratorium on the use

of land and structures in the Town for Recreational Marijuana Establishments and Marijuana Retailers so as to allow the Town sufficient time to engage in a planning process to address the effects of such structures and uses in the Town and to adopt provisions of the Zoning By-law in a manner consistent with sound land use planning goals and objectives.

7.8.2 Definitions.

"Manufacture", to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

"Marijuana accessories", equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body.

"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, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business.

"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 testing facility", an entity licensed to test marijuana and marijuana products, including certification for potency and the presence of contaminants.

"Marijuana retailer", an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

7.8.3 Temporary Moratorium.

For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for Recreational Marijuana Establishments and Marijuana Retailers. The moratorium shall be in effect through June 30, 2018. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of recreational marijuana in the Town, consider the Cannabis Control Commission regulations regarding Recreational Marijuana Establishments and Marijuana Retailers and related uses, determine whether the town will prohibit on-site consumption at Recreational Marijuana Establishments and Marijuana Retailers and shall consider adopting new provisions of the Zoning Bylaw to address the impact and operation of Recreational Marijuana Establishments and Marijuana Retailers and related uses.

ARTICLE 53

VOTED: That Section 3.1.4, Table of Use Regulations, Section F Commercial and Office Uses of the Zoning By-Laws be amended by changing "N" to "Y" under the LI and LI(B) columns in the row for Trade Shop.

ARTICLE 55

VOTED: That the Zoning Map be amended by rezoning the parcels listed in the warrant to the Parkland and Open Space zoning district.

Map_Lot	Owner	Current Zoning	Other Notes from View Permit
003_007_000	Dept of Cons & Rec	SRA	Fowl Meadow
007_002_000	Dept of Cons & Rec	SRA	Wetlands, Groundwater protection zone, Neponset river
007_005_000	Dept of Cons & Rec	SRA	Wetlands, Groundwater protection zone, Neponset river

007_006_000	Dept of Cons & Rec	SRA	Fowl Meadow, wetlands, groundwater protection zone
007_007_000	Dept of Cons & Rec	SRA	Fowl Meadow, wetlands, groundwater protection zone
007_016_000	Dept of Cons & Rec	SRA	Fowl Meadow, wetlands, groundwater protection zone
007_018_000	Dept of Cons & Rec	SRA	Fowl Meadow, wetlands, groundwater protection zone
008_003_000	Dept of Cons & Rec	I	wetlands, groundwater protection zone
035_002_000	Dept of Cons & Rec	LI	Groundwater protection zone, Zone II protection, flood zone, wetlands
035_003_000	Dept of Cons & Rec	LI	Groundwater protection zone, Zone II protection, flood zone, wetlands
035_005_000	Dept of Cons & Rec	LI	Groundwater protection zone, Zone II protection, flood zone, wetlands
036_001_000	Dept of Cons & Rec	LI	Groundwater protection zone, Zone II protection, flood zone, wetlands
036_002_000	Dept of Cons & Rec	LI	Groundwater protection zone, Zone II protection, flood zone, wetlands
036_003_000	Dept of Cons & Rec	LI	Groundwater protection zone, Zone II protection, flood zone, wetlands
036_004_000	Dept of Cons & Rec	LI	Groundwater protection zone, Zone II protection, flood zone, wetlands
036_008_000	Dept of Cons & Rec	SRAA	wetlands, flood zone, scenic road
051_002_000	Dept of Cons & Rec	LI	Groundwater protection zone, Zone II protection, flood zone, wetlands
051_003_000	Dept of Cons & Rec	LI	Groundwater protection zone, Zone II protection, flood zone, wetlands
051_004_000	Dept of Cons & Rec	LI	Groundwater protection zone, Zone II protection, flood zone, wetlands
052_006_000	Dept of Cons & Rec	SRAA	wetlands, scenic road
053_010_000	Dept of Cons & Rec	SRAA	scenic road
084_003_000	Dept of Cons & Rec	SRAA	Blue Hills
098_001_000	Dept of Cons & Rec	SRAA	Blue Hills
020_003_000	Trustees of the Reservation	I	wetlands, flood zone, watershed (dept. of conservation & rec)
020_005_000	Trustees of the Reservation	I	wetlands, flood zone, watershed (dept. of conservation & rec)
020_007_000	Trustees of the Reservation	I	wetlands, flood zone, watershed (dept. of conservation & rec)
021_002_000	Trustees of the Reservation	I	wetlands, flood zone, watershed (dept. of conservation & rec)
047_009_000	Town of Canton	SRA	wetlands, watershed, town well location, flood zone
007_020_000	Town of Canton	SRA	Wetlands, flood zone, watershed
007_022_000	Town of Canton	SRA	Wetlands, flood zone, watershed

ARTICLE 57

VOTED: That Article XVI, Section 24 Paragraph (d) Organization of the General By-Laws be amended by deleting the words "President Secretary and Clerk" and inserting in place thereof the words "Chairman, Vice-Chairman, Clerk and Treasurer".