

**RESULTS**  
**SPECIAL TOWN MEETING**  
**November 6, 8, and 13, 2017**

The meeting was televised by Amherst Community Television and shown on the government channel.

There were 249 town meeting members. 125 checked in and a quorum was declared. The November 6, 2017 Special Town Meeting was called to order by the Moderator, James W. Pistrang at 7:03 p.m. The call and return of the warrant was read by Town Clerk, Sandra J. Burgess.

The Moderator asked Town Meeting to rise and observe a moment of silence in memory of those town meeting members who had passed away since the last town meeting. Town Meeting stood in recognition of Isaac BenEzra, Louis Greenbaum, Ruth Hooke, Rick Keller and Randa Nachbar.

**Procedural Motions**

**VOTED** to hear Article 13 on Wednesday, November 8 at 7:05 p.m.

**VOTED unanimously** to hear Article 12 on Wednesday, November 8 at 7:15 p.m

**VOTED** to hear Article 16 on Wednesday, November 8 at 7:20 p.m.

**VOTED unanimously** to hear Article 15 on Wednesday, November 8 at 7:25 p.m.

**ARTICLE 1. Reports of Boards and Committees (Select Board)**

**VOTED unanimously** to hear those reports of Town officers, the Finance Committee, and any other Town boards or committees which are not available in written form.

Action taken 11/6/17.

Nina Allen gave a report on behalf of the Dog Park Task Force.

**ARTICLE 2. Free Cash to Stabilization Fund (Finance Committee)**

**VOTED** to appropriate and transfer the sum of \$1,301,633 from Free Cash in the Undesignated Fund Balance to the Stabilization Fund.

Action taken 11/6/17.

**ARTICLE 3. Local Option Recreational Marijuana Excise Tax (Select Board)**

**VOTED Yes 175, No 7, with 4 abstaining** to accept M.G.L. c.64N, Section 3(a), as recently amended by Section 13 of Chapter 55 of the Acts of 2017, and impose a sales tax upon the sale or transfer of marijuana or marijuana products by a marijuana retailer operating within the Town to anyone other than a marijuana establishment, at the rate of 3 percent of the total sales price received by the marijuana retailer as a consideration for the sale of marijuana or marijuana products.

Action taken 11/6/17.

**ARTICLE 4. General Bylaw – Limitation on Number of Recreational Marijuana Retail Establishments (Select Board)**

**VOTED Yes 98, No 57 with 7 abstaining** to amend the General Bylaws to limit the number of recreational marijuana retail establishments located within the Town by adding the following Bylaw:

Preamble

M.G.L. c.94G does not require a vote of the voters to approve any limitation on the number of recreational marijuana establishments that is at or above the number of medical marijuana treatment centers registered to operate in the municipality or equal to or greater than 20% of the licenses issued for the retail sale of alcoholic beverages not to be drunk on the premises. Currently there are four (4) medical marijuana treatment centers registered to operate in Amherst and eleven (11) licenses issued for the retail sale of alcoholic beverages not to be drunk on the premises in Amherst.

Limitation

No more than eight (8) recreational marijuana retail establishments shall be permitted to be located in the Town of Amherst.

Action taken 11/6/17.

*(A motion was made by Janet Chevan to amend the proposed bylaw to limit the number of recreational marijuana retail establishments to no more than six. In accordance with Section 7 of the Rules of Order for Town Meeting, Town Meeting voted first on the higher amount. Ms. Chevan's motion failed by default.)*

**ARTICLE 5. General Bylaw – Prohibition on Public Consumption of Marijuana or Tetrahydrocannabinol (Select Board)**

**VOTED Yes 117, No 73 with 1 (one) abstaining** to amend the General Bylaws to prohibit consumption of marijuana or tetrahydrocannabinol in public ways and places by adding the following Bylaw:

Consumption of Marijuana or Tetrahydrocannabinol (THC)

No person shall inhale, ingest, or otherwise use or consume marijuana or THC (as defined in G.L. c. 94C, § 1, as amended) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the Town; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any place accessible to the public.

This Bylaw may be enforced through any lawful means in law or in equity including, but not limited to, enforcement by criminal indictment or complaint pursuant to G.L. c.40, § 21, or by noncriminal disposition pursuant to G.L. c. 40, § 21D, by the Select Board, the Town Manager, or their duly authorized agents, or any police officer. The fine for violation of this Bylaw shall be one hundred dollars (\$100) for each offense. Any penalty imposed under this Bylaw shall be in addition to any civil penalty imposed under G.L. c. 94C, § 32L.

This Bylaw shall not alter or affect the jurisdiction of the Board of Health under the provisions of G.L. c.111, §31 or any other applicable law, including but not limited to the regulation of combustion and inhalation of tobacco and non-tobacco products in workplaces and public spaces in the Town.

Action taken 11/6/17.

*(A motion was made to reduce the fine for violation from \$300 to \$100. In accordance with Section 7 of the Rules of Order for Town Meeting, Town Meeting voted first on the higher amount. The vote on the higher amount was defeated and the motion to reduce the fine for violation from \$300 to \$100 carried.)*

**ARTICLE 6. Zoning Bylaw – Recreational Marijuana Retailer (Planning Board)**

**VOTED Yes 104, No 50 with 5 abstaining** to amend the Zoning Bylaw to insert a new use, “recreational marijuana retailer” and make changes, and to modify the regulation of “medical marijuana” uses, as follows:

- (1) Amend Article 3, Use Regulations, Section 3.3, Use Classifications and Standards, by deleting Section 3.360.40, Medical Marijuana Treatment Center (MMTC) and Section 3.360.41, Off-Site Medical Marijuana Dispensary (OMMD) in their entirety, including associated standards and conditions, and
- (2) Amend Article 3, Use Regulations, Section 3.3. Use Classifications and Standards, by adding a new use category, Section 3.363, Marijuana Uses, and adding subsections, shown in ***bold italics***, as follows: Section 3.363.0, Medical Marijuana Treatment Center (MMTC), Section 3.363.1, Off-Site Medical Marijuana Dispensary (OMMD) and Section 3.363.2, Recreational Marijuana Retailer (RMR), and adding associated Standards and Conditions; and
- (3) Amend Article 12, Definitions, by adding a new definition, 12.34, Recreational Marijuana Retailer (RMR), by adding the language in ***bold italics***, and to renumber subsequent subsections (definitions) of Article 12.

ARTICLE 3 USE REGULATIONS, Section 3.3, Use Classifications and Standards

**3.363 Marijuana Uses**

**3.363.0 Medical Marijuana Treatment Center (MMTC)**

**R-O**

<b>R-LD</b>	<b>R-N</b>	<b>R-VC</b>	<b>R-G</b>	<b>R-F</b>	<b>B-G</b>	<b>B-L</b>	<b>B-VC</b>	<b>B-N</b>	<b>COM</b>	<b>OP</b>	<b>LI</b>	<b>PRP</b>	<b>FPC</b>
N	N	N	N	N	SP	SP*	SP	N	SP	SP	SP	N	N

*\*Allowed only in those B-L Districts which co-occur with the R&D overlay district.*

*See definition under Article 12.*

*Subject to the standards and conditions listed below, under Section 3.363.2.*

**3.363.1 Off-Site Medical Marijuana Dispensary (OMMD)**

**R-O**

<b>R-LD</b>	<b>R-N</b>	<b>R-VC</b>	<b>R-G</b>	<b>R-F</b>	<b>B-G</b>	<b>B-L</b>	<b>B-VC</b>	<b>B-N</b>	<b>COM</b>	<b>OP</b>	<b>LI</b>	<b>PRP</b>	<b>FPC</b>
N	N	N	N	N	SP	SP	SP	N	SP	SP	SP	N	N

*See definition under Article 12.*

*Subject to the standards and conditions listed below, under Section 3.363.2.*

3.363.2 *Recreational Marijuana Retailer (RMR)*

R-O

<i>R-LD</i>	<i>R-N</i>	<i>R-VC</i>	<i>R-G</i>	<i>R-F</i>	<i>B-G</i>	<i>B-L</i>	<i>B-VC</i>	<i>B-N</i>	<i>COM</i>	<i>OP</i>	<i>LI</i>	<i>PRP</i>	<i>FPC</i>
<i>N</i>	<i>N</i>	<i>N</i>	<i>N</i>	<i>N</i>	<i>SP</i>	<i>SP</i>	<i>SP</i>	<i>N</i>	<i>SP</i>	<i>N</i>	<i>SP</i>	<i>N</i>	<i>N</i>

*See definition under Article 12.*

*Subject to the standards and conditions listed below.*

*Standards and Conditions (applies to MMTCs, OMMDs and RMRs)*

- 1. Purpose. It is recognized that the nature of the substance cultivated, processed, and/or sold by medical marijuana treatment centers and off-site medical marijuana dispensaries and recreational marijuana retailers may have objectionable operational characteristics and should be located in such a way as to ensure the health, safety and general well-being of the public as well as patients seeking treatment and customers seeking to purchase marijuana for recreational use. The specific and separate regulation of Medical Marijuana Treatment Centers (MMTCs) and Off-site Medical Marijuana Dispensaries (OMMDs) and Recreational Marijuana Retailers (RMRs) is necessary to advance these purposes.*

*Subject to the provisions of this Zoning Bylaw, Chapter 40A of the Massachusetts General Laws, and 105 CMR 725.000, and M.G.L. Chapter 94G, MMTCs and OMMDs and RMRs will be permitted to provide medical support, security and physician oversight that meet or exceed state regulation as established by the Massachusetts Department of Health (DPH) and to provide retail sales of marijuana for non-medical use in a manner that meets or exceeds state regulations.*

- 2. Application Requirements. Above and beyond the standard application requirements for Special Permits, an application for a use under this section shall include the following:*
  - a) The name and address of each owner of the facility/operation;*
  - b) Copies of all documentation demonstrating appropriate application status under state law, or registration or license, issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the facility;*
  - c) Evidence that the Applicant has site control and the right to use the site for a facility in the form of a deed or valid purchase and sale agreement, or, in the case of a lease, a notarized statement from the property owner and a copy of the lease agreement;*
  - d) A notarized statement signed by the organization's Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers and directors, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of all such responsible individual persons;*
  - e) In addition to what is normally required in a site plan pursuant to Section 11.2, details showing all exterior proposed security measures for the premises, including lighting, fencing, gates and alarms, etc. ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity;*
  - f) A Management Plan as required under the Rules and Regulations of the Special Permit Granting Authority, including a description of all activities to occur on site, including all provisions for the delivery of marijuana and related products to OMMDs and RMRs or off-site direct delivery;*
  - g) A traffic impact report as set forth in the Rules and Regulations of the Special Permit Granting Authority shall be developed and submitted with the application.*
- 3. Regulations. The following regulations shall apply to uses under this section:*
  - a. Use Regulations.*
    - 1) No marijuana shall be smoked, eaten or otherwise consumed or ingested on the premises.*
    - 2) The hours of operation shall be set up the Special Permit Granting Authority, but in no event shall a facility be open to the public, nor shall any sale or other distribution of marijuana occur upon the premises or via delivery from the premises, between the hours of 8:00 p.m. and 8:00 a.m.*
  - b. Locational and Physical Requirements*

- 1) *All aspects of an MMTC or OMMD or RMR relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, or products containing marijuana, must take place at a fixed location within a fully enclosed building.*
- 2) *No outside storage of marijuana, related supplies, or educational materials is permitted.*
- 3) *No MMTC shall have a gross floor area in excess of 25,000 square feet.*
- 4) *No OMMD or RMR shall have a gross floor area accessible to patients or customers which is in excess of 2,500 square feet, except as may be permitted under 3., e., 1), c). Space in an OMMD facility or RMR which is dedicated to administration or operations and is accessible only to employees of the facility shall not be included in this limitation.*
- 5) *Ventilation – all facilities shall be ventilated in such a manner that:*
  - a) *No pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere; and*
  - b) *No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the MMTC or OMMD facility or RMR or at any adjoining use or property.*

**c. Reporting Requirements**

- 1) *All Special Permit holders for uses under this section shall provide the Police Department, Fire Department, Building Commissioner, Board of Health, and Special Permit Granting Authority with the names, phone numbers, mailing and email addresses of all management staff and key-holders, including a minimum of two (2) operators or managers of the facilities identified as designated contact persons to whom notice should be made if there are operating problems associated with any use under this section. All such contact information shall be updated as needed to keep it current and accurate.*
- 2) *The designated contact persons shall notify the Police Department, Fire Department, Building Commissioner, Board of Health and Special Permit Granting Authority in writing a minimum of thirty (30) days prior to any change in ownership or management of a facility regulated under this section.*
- 3) *The designated representatives of permitted facilities shall file an annual report with the Special Permit Granting Authority and shall appear before said Authority to present the report no later than January 31<sup>st</sup> of each year, providing a copy of all current applicable state licenses for the owners and facilities, to demonstrate continued compliance with the conditions of the Special Permit.*
- 4) *The designated contact persons shall be required to respond by phone or email within twenty-four (24) hours of the time of contact and inquiry regarding operation of the facility by a town official to the telephone number or email address provided as the contact for the business.*

**d. Transfer/Discontinuance of Use**

- 1) *A Special Permit granted under this Section is non-transferable and shall have a term limited to the duration of the applicant's ownership or leasing of the premises as an MMTC or OMMD or RMR.*
- 2) *Any MMTC or OMMD or RMR permitted under this section shall be required to remove all material, plants, equipment and other paraphernalia in compliance with 105 CMR 725.105 (J), (O) prior to the expiration of its DPH Registration or immediately following revocation or voiding of its DPH Registration or following expiration, revocation or voiding of its license issued by the Cannabis Control Commission.*

**e. Prohibitions**

- 1) *The proposed uses shall not be located:*
  - a) *Within three hundred (300) feet of a building:*
    - i. *Containing another MMTC or OMMD or RMR, except for facilities that are owned or leased by the same operator; or*

- ii. *In which is located a public or private elementary school, middle school, secondary school, preparatory school, licensed daycare center, or any other facility in which children commonly congregate in an organized ongoing formal basis; or*
  - iii. *Owned by and operated as part of the campus of any private or public institution of higher learning; or*
  - iv. *Housing a public library; or*
  - v. *Containing any residential use, excepting a mixed-use building under Section 3.325 of the Zoning Bylaw.*
- b) *Within, on the same lot as, or on a lot immediately adjacent to a licensed pharmacy; or*
  - c) *Within buildings that contain any pharmacy, medical doctor offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana. An exception shall be that the Special Permit Granting Authority may grant permission for palliative and therapeutic care uses in the same building in which an MMTC or OMMD or RMR is operated; or*
- 2) *The proposed use shall not display on-premises signage or other marketing on the exterior of the building or in any manner visible from the public way, which, in the opinion of the Special Permit Granting Authority, may promote or encourage the use of marijuana or other drugs by minors.*
4. *Findings. In addition to the findings required under Section 10.38, and meeting the provisions of Articles 7, 8 and all other applicable sections of this Bylaw, the Special Permit Granting Authority shall find that the proposed use:*
- a. *Meets all of the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will as proposed be in compliance with all applicable state laws and regulations.*
  - b. *Will provide copies of registrations and licenses and a copy of a signed Host Agreement with the Town of Amherst, in accordance with M.G.L. Chapter 94G and subsequent regulations to the Building Commissioner prior to the issuance of a Certificate of Occupancy.*
  - c. *Is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest.*
  - d. *Provides a secure waiting area.*
  - e. *Provides adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation of marijuana is adequately secured in enclosed, locked facilities.*
  - f. *Adequately addresses issues of vehicular and pedestrian traffic, circulation, parking and queuing, especially during peak periods at the facility, and adequately mitigates the impacts of vehicular and pedestrian traffic on neighboring uses.*
5. *Limitation on number of RMRs – No more than eight (8) Recreational Marijuana Retailers shall be permitted to be located in the Town of Amherst.*

## ARTICLE 12 DEFINITIONS

**12.34 Recreational Marijuana Retailer (RMR):** *An entity licensed to purchase and deliver marijuana and marijuana products from marijuana cultivators and marijuana product manufacturers and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana consumers, for non-medical purposes.*

Action taken 11/6/17.

At 10:16 p.m. on Monday November 6, 2017, town meeting voted to adjourn to Wednesday, November 8, 2017 at 7:00 p.m. in the auditorium of the Amherst Regional Middle School. 202 town meeting members were checked in.

The November 8, 2017 session was called to order by Town Moderator Jim Pistrang at 7:03 p.m. 125 town meeting members were checked in.

## **Procedural Motions**

**Voted unanimously** to hear Article 10 immediately following Article 15.  
**Voted unanimously** to hear Article 11 immediately following Article 10.

Town Meeting resumed with consideration of Article 13

## **ARTICLE 7. Zoning Bylaw - Temporary Moratorium on Recreational Marijuana Establishments (Planning Board)**

**DEFEATED** [To see if the Town will amend the Zoning Bylaw by amending Section 3.0, Prohibited Uses – All Districts, by adding a new section, Section 3.03, Temporary Moratorium on Recreational Marijuana Establishments, that would provide as follows, and further to amend the Table of Contents to add Section 3.03, “Temporary Moratorium on Recreational Marijuana Establishments” as shown in *bold italics*:

### **3.03 Temporary Moratorium on Recreational Marijuana Establishments**

#### **3.030 Purpose**

*On November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, processing, distribution, possession and use of marijuana for recreational purposes (new G.L. c. 94G, Regulation of the Use and Distribution of Marijuana Not Medically Prescribed). The law, which allows certain personal use and possession of marijuana, took effect on December 15, 2016 and (as amended on December 30, 2016 by Chapter 351 of the Acts of 2016 and thereafter, on July 28, 2017 by Chapter 55 of the Acts of 2017) requires a Cannabis Control Commission to issue regulations regarding the licensing of commercial activities by March 15, 2018 and to begin accepting applications for licenses no later than April 1, 2018. Currently under the Zoning Bylaw, a non-medical Marijuana Establishment (hereinafter, a “Recreational Marijuana Establishment”), as defined in G.L. c. 94G, §1, is not specifically addressed in the Zoning Bylaw. Regulations to be promulgated by the Cannabis Control Commission may provide guidance on certain aspects of local regulation of Recreational Marijuana Establishments. The regulation of recreational marijuana raises novel legal, planning, and public safety issues, and the Town needs time to study and consider the regulation of Recreational Marijuana Establishments and address such issues, as well as to address the potential impact of the State regulations on local zoning and to undertake a planning process to consider amending the Zoning Bylaw regarding regulation of Recreational Marijuana Establishments. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Recreational Marijuana Establishments so as to allow sufficient time to address the effects of such structures and uses in the Town and to enact bylaws in a consistent manner.*

#### **Section 3.031 Definition**

*“Recreational Marijuana Establishment” shall mean a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business for non-medical purposes.*

#### **Section 3.032 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 a Recreational Marijuana Establishment and other uses related to recreational marijuana. The moratorium shall be in effect through December 31, 2018. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of recreational marijuana in the Town, and to consider the Cannabis Control Commission regulations regarding Recreational Marijuana Establishments, and shall consider adopting new Zoning Bylaws in response to these new issues. This moratorium shall be applicable to all recreational marijuana establishments notwithstanding any zoning bylaw amendments adopted by the Town allowing for such uses prior to December 31, 2018.]*

Action taken 11/8/17.

## **ARTICLE 8. Zoning Bylaw – Table 3 Footnotes – Miscellaneous (Planning Board)**

**VOTED by a declared two-thirds** to amend Section 4.32 and Article 6, Table 3 of the Zoning Bylaw as follows:

**Part A. Amend Section 4.32 by deleting the lined-out language and adding the language in bold italics, as follows:**

### **4.32 Use and Dimensional Standards**

4.320 A one-family detached dwelling, a zero lot line single family dwelling, a two-family detached dwelling (duplex), or attached dwellings, or other lawful accessory building may be constructed on certain lots in a Cluster Development (as herein defined and limited) although such lots have less area, frontage, and/or rear and side yard dimensions than normally required.

4.321 The total area of land included within the development shall be five (5) acres or more.

4.322 In all cluster developments, a minimum of 50 percent of the total lots shall be reduced at least 25 percent in area from the minimum standard lot size requirement of the zoning district in which the parcel is located.

4.323 Density/Setbacks

~~4.3230 Unless otherwise provided for, the Dimensional Regulations of Table 3 shall be complied with.~~

~~4.3231~~In any zoning district, the maximum density of a cluster subdivision, except for an affordable cluster, shall not exceed the allowed density for a standard subdivision in that zoning district, said density to be calculated by taking the parcel area, subtracting 10% of that area and dividing that number by the minimum lot area of the zoning district in which the parcel is located. See Section 4.12. In addition, the applicant shall submit a Yield Plan. See Article 12.

**4.324 For all cluster developments, the following Dimensional Regulations shall be substituted for those in Article 6, Table 3.**

	<i>R-LD</i>	<i>R-0</i>	<i>R-N</i>	<i>R-VC</i>	<i>R-G</i>
<i>Cluster Minimum Lot Area (sq. ft.)</i>	<i>25,000</i>	<i>15,000</i>	<i>10,000</i>	<i>7,500</i>	<i>6,000</i>
<i>Cluster Lot Frontage (ft.)*</i>	<i>100</i>	<i>100</i>	<i>80</i>	<i>60</i>	<i>50</i>
<i>Cluster Minimum Front Setback (ft.)*</i>	<i>20</i>	<i>20</i>	<i>15</i>	<i>10</i>	<i>10</i>
<i>Cluster Minimum Side and Rear Yards (ft.)*</i>	<i>15</i>	<i>15</i>	<i>15</i>	<i>10</i>	<i>10</i>

*\*Requirements may be modified by the Permit Granting Board under a Site Plan Review approval granted for a cluster development, except that no such modification may result in a reduced requirement of less than eighty percent (80%) of the cluster requirement. Frontage requirements may be modified for not more than fifty percent (50%) of the lots in the subdivision.*

**Part B. Amend Table 3 Footnotes by deleting the ~~lined-out~~ language as follows:**

**TABLE 3 – DIMENSIONAL REGULATIONS FOOTNOTES**

- a. Requirement may be modified under a Special Permit, issued by the Special Permit Granting Authority authorized to act under the applicable section of this bylaw. In applying the criteria established in Section 10.395, the Special Permit Granting Authority shall consider the proposed modified dimensional requirement in the context of the pattern(s) of the same dimensions established by existing buildings and landscape features in the surrounding neighborhood.
- b. Applies to Residence Uses only (Section 3.32). In the B-G, B-VC, and B-N districts, the Basic Minimum Lot Area shall apply only to the first dwelling unit on the ground floor of subdividable dwellings and converted dwellings. For townhouses, apartments, buildings containing dwelling units in combination with stores or other permitted commercial uses, and other permitted multi-unit residential uses in these districts, the Basic Minimum Lot Area, Additional Lot Area/Family, and Basic Minimum Lot Frontage requirements shall not apply.
- e. ~~Reserved~~
- d. ~~[Reserved.]~~
- e. ~~[Reserved.]~~
- f. ~~[Reserved.]~~
- g. ~~[Reserved.]~~
- h. ~~[Reserved.]~~

i. [Reserved.]

j. ~~85% in any B-L District adjacent to the B-G District, and along University Drive; 70% in any other B-L District and in the COM District.~~

k. ~~Requirements may be modified by the Permit Granting Board under a Site Plan Review approval granted for a cluster development, except that no such modification may result in a reduced requirement of less than eighty percent (80%) of the cluster requirement. Frontage requirements may be modified for not more than fifty percent (50%) of the lots in the subdivision.~~

l. [Reserved.]

m. In addition to the areas required by this table for any existing dwelling units on the lot, the density for new town houses (Section 3.322) and apartments (Section 3.323) shall not exceed one dwelling unit per 4,000 sq. ft. of the remaining lot area, or in the case where there are no existing dwelling units, 4,000 sq. ft. for each new dwelling unit beyond the first unit.

**Part C. Amend Table 3 by removing the bottom four rows and the footnotes deleted under Part B of this article, and by replacing the term “70/85” in Row “Maximum Lot Coverage (%)”/Column “B-L” with the numeral “85”.**

Action taken 11/13/17.

**ARTICLE 9. Zoning Bylaw - Parking Facilities (Planning Board)**

**DEFEATED Yes 58, No 104 with 10 abstaining.**

[To see if the Town will amend Section 3.384, Parking Facilities of the Zoning Bylaw by deleting the ~~lined out~~ language and adding the language in *bold italics*, as follows:

3.384 Parking Facilities

3.3840 Commercial parking lot or parking garage

R-O

R-LD	R-N	R-VC	R-G	R-F	B-G	B-L	B-VC	B-N	COM	OP	LI	PRP	FPC
N	N	N	N	N	SP	SP	SP	N	SP	N	N	N	N
					<i>SPR</i>	<i>SPR</i>	<i>SPR</i>		<i>SPR</i>				

3.3841 Public parking lot or garage

R-O

R-LD	R-N	R-VC	R-G	R-F	B-G	B-L	B-VC	B-N	COM	OP	LI	PRP	FPC
N	N	N	N	N	SPR	SPR	SPR	SP	SPR	SP	SP	SP	N

Action taken 11/13/17.

**ARTICLE 10. Regional School District Planning Committee (Amherst School Committee)**

**VOTED Yes 137, No 12 with 9 abstaining** to form a Regional School District Planning Committee (RSDPC) in accordance with M.G.L. Chapter 71, Sections 14, 14A and 14B, consisting of three (3) members, appointed by the Town Moderator, one of whom must be a member of the Amherst School Committee. The RSDPC may join with a corresponding Committee from another town to form a Regional School District Planning Board to perform a detailed exploration of and make a recommendation as to forming a regional school district for students in grades pre-kindergarten through six.

Action taken 11/8/17.

**ARTICLE 11. Resolution Regarding Charter School funding and Expansion (Amherst School Committee)**

**VOTED the following resolution:**

WHEREAS: providing free and equal access to the highest quality education possible for every student in our public schools - regardless of income, language proficiency, disability or any other difference - is a foundational principle core to our democracy;

WHEREAS: all schools funded by public tax dollars should be driven by this central mandate of civic and social responsibility;

WHEREAS: the charter tuition formula is fundamentally flawed, based on the spending level of the sending district, taken directly from the sending district's funding, and without consideration for the need level of the students sent;

WHEREAS: the charter tuition formula unfairly draws resources away from districts - such as Amherst and Amherst-Pelham Regional - that choose to make substantial investments in robust programs and resources for students with disabilities, English-language learners and economically-disadvantaged students, further escalating the budgetary impact on districts;

WHEREAS: the charter tuition formula includes in-district special education costs, but excludes special education costs out-of-district - creating a financial disincentive for districts to service special needs students with their peers in-district;

WHEREAS: the charter tuition formula already draws more than \$3 million from the Amherst and Amherst-Pelham Regional budgets, negatively impacting our resources and program levels;

WHEREAS: the state is required by M.G.L. c.71 § 89 (gg) to reimburse districts for 100 percent of charter tuition costs for the first year and 25 percent for the following five years, but has only been reimbursing districts for the first year since 2012;

WHEREAS: in recognition of the inequities created by the systemic problems with charter funding, 62% of Massachusetts and 78% of Amherst voted against the 2016 Question 2 Charter School addition and expansion;

THEREFORE BE IT RESOLVED that the Town of Amherst calls upon the Commissioner of Elementary and Secondary Education to work with the Legislature to develop and pass a state funding formula for district public schools and charter schools that adequately funds their respective missions;

BE IT FURTHER RESOLVED that the Town of Amherst calls upon Commissioner of Elementary and Secondary Education and the Massachusetts Board of Elementary and Secondary Education (BESE) to not approve any existing charter amendment to increase enrollment, and to further deny all similar charter school expansion requests until the funding formula has been corrected,

AND BE IT FURTHER RESOLVED that upon passage the Amherst Town Clerk shall mail copies of this resolution and vote to the Commissioner of Elementary and Secondary Education, BESE, the state Joint Committee on Education, our elected state Senator Stan Rosenberg and our elected state Representative Solomon Goldstein-Rose, and our elected Governor Charlie Baker.  
Action taken 11/8/17.

#### **ARTICLE 12. General Bylaw – Public Shade Trees (Public Shade Tree Committee)**

**VOTED** to amend the General Bylaws by adding a new bylaw as follows:

##### 1. Purpose

Public Shade Trees are protected by Chapter 87 of the Mass General Laws and regulated by the Amherst Tree Warden and the Select Board. The purpose of this bylaw is to recognize the protection afforded Town Public Shade Trees pursuant to Chapter 87 of the General Laws. In connection therewith, the bylaw authorizes the Select Board, in consultation with the Tree Warden, to promulgate regulations addressing the process by which these trees may be cut or removed. The bylaw also authorizes creation of a committee, appointed by the Select Board, to serve in an advisory role to the Tree Warden. Lastly, the bylaw provides for an enforcement scheme consistent with the General Laws to address unauthorized cutting or removal.

##### 2. Public Shade Tree Committee (“PSTC”) duties

The PSTC shall work to protect and promote Public Shade Trees consistent with the committee charge as set forth herein and as may be approved by the Select Board from time to time, including:

- a. Advocating for public trees and educating the public on the importance of street trees;
- b. Advising the Tree Warden, at the Warden’s request, as to tree removal, replanting and other tree related topics; and
- c. Searching out and designating locations for new plantings and organizing tree plantings, encouraging broad citizen participation.

##### 3. Promulgation of Regulations

The Select Board shall hereby be authorized to promulgate regulations consistent with law to implement the provisions of this bylaw, including but not limited to:

- a. establishing a process for applying for authorization to cut or remove Public Shade Trees as that term is defined in the General Laws (hereinafter “Public Shade Trees”);
- b. setting penalties for violations of such regulations;

- c. establishing mitigation requirements in the event of a violation thereof, including payment of any related costs incurred by the town; and
- d. establishing an appeal process.

#### 4. Prohibited Acts

No person shall violate any provision of the General Laws applicable to Public Shade Trees, this bylaw or any regulation promulgated hereunder.

#### 5. Enforcement

This bylaw and any regulations promulgated hereunder may be enforced by any means available in law or in equity, including non-criminal disposition. For purposes of non-criminal disposition, the term “enforcing person” shall mean the Tree Warden or any police officer of the town of Amherst. Each day a violation exists with respect to each Public Shade Tree shall constitute a separate violation. In the absence of a regulation promulgated hereunder establishing a different amount, each such violation shall be subject to a fine of \$300.

Action taken 11/8/17.

### **ARTICLE 13. General Bylaw – Town Meeting Advisory Committee (Town Meeting Coordinating Committee)**

**VOTED Yes 99, No 81 with 2 abstaining** to amend the General Bylaws by adding a Bylaw, “Town Meeting Advisory Committee”, as described below.

#### (a) The Town Meeting Advisory Committee. Duties of the Committee

There shall be a Town Meeting Advisory Committee (TMAC) consisting of nine members to be elected, as required by Section (b) “Committee Elections” by members of Town Meeting at the Annual Town Meeting.

*Duties of the Committee.* It shall be the duty of this committee to investigate how the Town Meeting warrant articles would affect the Town if passed, excepting the Town finances, which are reserved for the Finance Committee. The TMAC shall analyze the benefits and impacts to the Town of warrant articles and shall report its findings to Town Meeting. The principal focus of its report shall be on the analysis of pros and cons that it identifies.

#### (b) Committee Elections; Term of Office; Termination of Membership; Committee Vacancies

*Committee Elections:* Nominations to the Committee shall be made in writing and delivered to the Town Clerk, with the consent of the nominee recorded on the nomination paper. Nominations may be made by any or all of the following:

1. The Moderator;
2. The Town Meeting Coordinating Committee (TMCC); and
3. By filing with the Town Clerk an individual’s statement of nomination.

The nominees need not be Town Meeting members, but shall be residents of Amherst. The Town Clerk shall prepare a list of all nominees to be presented to Town Meeting members, without identifying the source of nomination. The Town Clerk shall prepare a ballot of those nominated, which ballot shall be presented to each Town Meeting member at a subsequent session of the Annual Town Meeting to be determined by the Moderator after consultation with the Town Clerk. Each Town Meeting member shall cast a number of votes less than or equal to the number of seats available. Ties shall be resolved by a coin toss.

*Terms of Office:* Each member shall hold office for three years commencing with the dissolution of the Town Meeting at which they were elected and ending at the dissolution of the Town Meeting three years later. Members shall be sworn by the Town Clerk. Notwithstanding any other provision of this paragraph, however, initial elections to the TMAC shall be in accord with the following: the three candidates receiving the largest number of votes shall be elected to serve three year terms, the next three candidates receiving the largest number of votes shall be elected to serve two year terms, and the next three candidates receiving the largest number of votes shall be elected to serve one year terms.

*Termination of Membership:* Other than termination at the expiration of a member’s term, membership on the Committee shall terminate when the member submits a resignation to the Town Clerk or is no longer a resident of the Town.

*Committee Vacancies:* When a position on the Committee becomes vacant for any reason other than expiration of a term, the Moderator shall appoint, from among those unelected candidates of the most recent election who are still-willing to serve, the candidate who received the highest

number of votes in said election, ties to be resolved by a coin toss. If no unsuccessful candidate from the most recent election meets these qualifications, the Moderator shall appoint a Committee member from among the current Town Meeting members or other residents of the Town. Appointed Committee members shall serve the remainder of the uncompleted term.

(c) Committee Internal Organization and Procedures: Leadership, Minutes

*Leadership:* The committee shall annually elect its own leadership.

*Minutes:* The Committee, and any subcommittees thereof, shall keep minutes of its proceedings and shall file these minutes with the Town Clerk.

Action taken 11/8/17.

**ARTICLE 14. Petition – Design for Significant Improvements to the North Amherst Library (Patricia G. Holland et al.)**

**VOTED Yes 100, No 73 with 5 abstaining** to appropriate the sum of \$50,000 from Free Cash in the Undesignated Fund Balance to fund the design by an architect of a plan, in accordance with the provisions of M.G.L. Chapter 7C, to include, but not be limited to, making the following significant improvements to the North Amherst Library, within the following constraints:

- a. Make all three floors of the building fully accessible by elevator with as little impact on the building's historic components as possible, while minimizing damage to the two large maples at the rear of the building, and maintaining the building's character, and its architectural and aesthetic unity;
- b. Provide (a) fully accessible bathroom(s) and a water fountain for use by the public and Library staff;
- c. Develop and install a more climate, energy, and space conscious method of heating and cooling the building;
- d. At least double the North Amherst Library space available to the public in the existing building;
- e. Add a sidewalk at the south edge of the paved area at the rear of the Library building that would connect to a new accessible ground floor entry at the rear of the North Amherst Library building;
- f. Finish and furnish the unfinished attic space for use for public meetings, for ESL conversation circles, for public readings including readings for children, etc.;
- g. Do not assume any change in the present layout of Sunderland Road;

And, additionally authorize the application for and acceptance of any gifts, bequests or grants for these purposes.

Action taken 11/13/17.

**ARTICLE 15. Petition – General Bylaw - Net Zero Energy Town Buildings (Lee Jennings et al.)**

**VOTED Yes 123, No 54 with 9 abstaining** to amend the Town of Amherst General By-Laws by adding the following new by-law.

**ZERO-ENERGY TOWN BUILDINGS.**

1. Definitions: For purposes of this Bylaw:

- a. 'Town of Amherst Buildings and Building Additions' shall mean all new buildings and new building additions built by and for the Town of Amherst and its subsidiary agencies, including but not limited to the Amherst School Committee.
- b. 'On-Site Renewable Energy Systems' shall mean photovoltaic or wind-energy systems serving the same electric meter that is used by the subject building(s) or addition(s).
  - i. Clarification: For purposes of this Bylaw, Renewable Energy Systems not on the project site and/or not on the same electric meter as the subject building(s) or addition(s) may be used if insufficient solar or wind exposure is available on the project site, subject to the following conditions:
    1. For Renewable Energy Systems purchased directly, such systems shall be funded as part of the construction budget.
    2. Such Renewable Energy Systems shall be dedicated exclusively to the subject project, and the energy generated shall be metered independently.

2. Zero Energy Requirements: All Town of Amherst Buildings and Building Additions shall be designed and constructed to meet Zero Energy requirements, which are defined as follows:

- a. No burning of fossil fuels shall take place on the site.
  - i. Exception: Emergency power generators powered by fossil fuels may be used.
- b. On-site Renewable Energy Systems shall supply at least as much energy, on an annual basis, as is used by the building for heating, cooling, ventilation, domestic hot water, lighting, plug loads, food preparation, refrigeration and all other building systems that require energy for operation.

- c. The building and its systems shall be conceived, planned, designed, engineered, constructed and commissioned collaboratively such that all systems work in consort to achieve the Zero Energy standards described in the previous items.
- d. Exceptions:
  - i. Projects for which construction documents (plans and specifications sufficient for competitive public bidding) are complete within 4 months of the passage of this bylaw by Town Meeting.
  - ii. Projects with a total project cost less than \$1,000,000.
  - iii. Projects which are renovations to existing buildings.
    - 1. Clarification: For projects which combine renovation of existing buildings and new construction, sub-metering shall be provided to enable separate determination of energy use by existing building(s) and by new construction.
- e. Determination of compliance with the requirements of this Bylaw:
  - i. Compliance shall be determined by actual measured performance over a 12-month period of occupancy, which 12-month period shall begin within 12 months of initial occupancy.
  - ii. Failure to Comply: The administrator of a building or addition that is non-compliant after 12 months shall continue to work toward compliance every year until it is compliant, and shall report the results publicly and to the Town Manager.
- f. Clarifications:
  - i. The Town may accept payments for renewable energy credits without jeopardizing Zero Energy status under this Bylaw.
  - ii. Compliance shall be measured by Site Energy, not Source Energy
  - iii. Renewable energy systems may be obtained through direct purchase or through leasing or power purchase agreements with third party private entities.
  - iv. Vehicles powered by fossil fuels may be allowed on the site.

Action taken 11/8/17.

**ARTICLE 16. Petition – Resolution in Support of 100 Percent Renewable Energy  
(Lee Jennings et al.)**

**VOTED unanimously** to adopt the following resolution in support of 100 percent renewable energy:

WHEREAS, too much of Massachusetts’ energy comes from fossil fuels that pollute our air and water and damage our climate, and Massachusetts communities are already feeling the impacts of global warming; and,

WHEREAS, the Town of Amherst is already actively reducing its carbon emissions and promoting clean energy, by taking actions including energy efficiency upgrades in municipal buildings and street lights, running a highly successful Solarize Amherst program, using electric vehicles and installing public EV charging stations; and,

WHEREAS, clean energy has brought many benefits to Massachusetts, including reduced pollution, tens of thousands of clean energy jobs, and more of our energy dollars retained in the local economy; and,

WHEREAS, Massachusetts has historically been a leader in the fight against global warming, has a responsibility to continue to set a positive example for other states and countries to follow, and has the ability to get 100 percent of its energy from clean, renewable sources by harnessing its abundant solar and wind resources, and taking advantage of innovations in energy efficiency, green transportation, energy storage, and other technologies; and

WHEREAS, the transition to 100 percent renewable energy should promote employment opportunities and economic growth in our communities, facilitate local control and ownership over energy options, and bring tangible benefits to low-income residents and others who have historically been disadvantaged by our energy system;

NOW, THEREFORE, BE IT RESOLVED by Town Meeting in the Town of Amherst in the County of Hampshire, Commonwealth of Massachusetts, that Massachusetts should commit to a goal of 100 percent clean, renewable energy, and move as quickly as possible to achieve that goal;

AND BE IT FURTHER RESOLVED that leaders in the Legislature and statewide elected and appointed officials are urged to support legislation that would bring Massachusetts to 100 percent renewable energy, and ensure that the benefits of renewable energy are realized by Massachusetts residents from all walks of life;

AND BE IT FURTHER RESOLVED that the Town of Amherst and its staff will consider all municipal decisions in light of whether they will bring the Town and its residents, businesses, and institutions closer to 100 percent renewable energy;

AND BE IT FURTHER RESOLVED that the Town of Amherst will avoid taking actions that could increase the use of fossil fuels or delay the transition to 100 percent renewable energy;

AND BE IT FURTHER RESOLVED that the Town of Amherst will strive to take actions to promote clean energy and reduce fossil fuel use, including

- Continued ENERGY EFFICIENCY UPGRADES in municipal buildings
- Promotion of ENERGY EFFICIENCY upgrades in private homes and businesses
- Consideration of commencing a Community Choice Aggregation (or “CCA”) program pursuant to G.L. c. 164, §134 in joint action with other municipalities, to
  - Purchase additional class 1 RECS above that required by the Renewable Portfolio Standard; and
  - Adopt a comprehensive energy plan that would:
    - Significantly reduce energy demand through electrification and the use of energy efficiency products and services and energy conservation measures;
    - Develop the maximum possible amount of renewable distributed energy resources to be sited, owned and used within the CCA community; and
    - Provide rate stability and possible consumer cost savings through bulk purchasing

Action taken 11/8/17.

At 10:00 p.m. on Wednesday, November 8, 2017, town meeting voted to adjourn to Monday, November 13, 2017 at 7:00 p.m. in the auditorium of the Amherst Regional Middle School. 192 town meeting members were checked in.

The November 13, 2017 session was called to order by Town Moderator Jim Pistrang at 7:06 p.m. 125 town meeting members were checked in.

Town Meeting resumed with consideration of Article 8.

**ARTICLE 17. Petition – Resolution in Support of the End of Life Options Act  
(Nadine Shank et al.)**

**VOTED to adopt the following Non-Binding Resolution for the Amherst Town Meeting to Call on the State Legislature to Pass ‘The End of Life Options Act’ and Make Massachusetts the 7<sup>th</sup> State plus Washington DC to allow citizens to request and receive compassionate aid in dying medication from their doctor.**

WHEREAS, advances in science and technology have created medical interventions that often prolong the dying process and increase suffering; and

WHEREAS, “aid in dying” describes a medical practice defined by established standards of care in Oregon for the past 19 years and in the state of Washington for 9 years. It enables a mentally capable, terminally ill adult to obtain a prescription for medication, which the patient may choose to self-administer, in the face of unbearable suffering, to advance the time of an approaching death; and

WHEREAS, many people find significant relief in the legal right and medical means of control in bringing an end to the suffering caused by their terminal illness, and only a small minority of the adults who request a prescription for life-ending oral medication actually receive and use it; and

WHEREAS, annual reports by the Public Health Department of Oregon’s implementation of the law show “no evidence of heightened risk for the elderly, women, the uninsured, people with low educational status, the poor; the physically disabled or chronically ill, minors, people with psychiatric illnesses including depression; or racial or ethnic minorities;” and

WHEREAS, many find comfort and peace of mind in having access to options at the end of life, including aid in dying, even if they do not exercise those options; and

WHEREAS, 72% of Amherst voters voted in favor of the 2012 Ballot Initiative authorizing aid in dying, and state Rep. Peter Kocot and many other legislators from western Mass. are co-sponsors of the 2017 bill called ‘The End of Life Options Act’; and

WHEREAS, a 2014 public opinion poll by Purple Strategies found 70% of Massachusetts registered voters agree with the statement: The decision of a terminally ill adult to end their own life should be a private decision between the patient, their family, their faith, and their own doctor; and

WHEREAS, seven jurisdictions (Oregon, Washington, California, Montana, Colorado, Vermont, and the District of Columbia) now authorize the medical practice of aid in dying; and

WHEREAS, aid in dying is only available to those terminally ill, mentally capable adults who have a prognosis of six months or less to live, as determined by their doctor and confirmed by a second medical doctor; and

WHEREAS, well-respected health and medical organizations recognize aid in dying as a legitimate, necessary end-of-life option for eligible adults facing an imminent death from a terminal illness, including The American Public Health Association, The American Medical Women's Association, The American Medical Student Association, The American Academy of Legal Medicine, The Gay and Lesbian Medical Association;

WHEREAS, the Commonwealth of Massachusetts statute on "assisted suicide" is not applicable to the choice of a psychologically healthy, terminally ill individual facing end-of-life suffering, who asks his or her physician for the means to die in a humane and dignified manner;

THEREFORE BE IT NOW RESOLVED, that the Amherst Town Meeting respects the diversity of perspectives on end-of-life decisions; and supports equal protection within the diversity of perspectives on end-of-life decisions; and

THEREFORE BE IT RESOLVED, that the Amherst Town Meeting recognizes the practice of aid in dying as a desirable medical option for many terminally ill, mentally capable adults; and

THEREFORE, BE IT NOW RESOLVED, that the Amherst Town Meeting hereby calls on the Massachusetts State Legislature to pass 'The End of Life Options Act'; and

THEREFORE BE IT FURTHER RESOLVED, that this resolution shall be transmitted to the Commonwealth of Massachusetts Legislature, including state representatives and state senators who represent the Town of Amherst.

Action taken 11/13/17.

The business of the warrant having been completed, Town Meeting voted to dissolve at 9:18 p.m. on Monday, November 13, 2017. 180 town meeting members were checked in.

**Attest:**

**Sandra J. Burgess**  
**Town Clerk**