

Board of Selectmen  
12 East Main Street  
Erving, Massachusetts 01344

Copy of Approved Special Town Meeting Warrant

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# Town *of* Erving

\*\*\*\*\*ECRWSS\*\*\*

LOCAL  
POSTAL CUSTOMER  
ERVING MA 01344

## **FY 2018 SPECIAL TOWN MEETING**

**Monday, March 26, 2018**

**7:00 P.M.**

**ERVING SENIOR & COMMUNITY CENTER**

**1 CARE DRIVE, ERVING, MA 01344**

Copy of Approved Special Town Meeting Warrant



# TOWN OF ERVING

12 East Main Street, Erving, MA 01344

Tel. (413) 422-2800 | Email: [admin@erving-ma.org](mailto:admin@erving-ma.org)

## SPECIAL TOWN MEETING WARRANT

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### COMMONWEALTH OF MASSACHUSETTS

Franklin, ss.

Town of Erving Constables: In the name of the Commonwealth, you are directed to notify and warn the said inhabitants qualified to vote in Town affairs to meet in the **Senior & Community Center**, located at **1 Care Drive, Erving, Massachusetts** on

**Monday, March 26, 2018 at 7:00 PM**

then and there to vote on the following articles in the Warrant:

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#### FY2018 FINANCIAL ARTICLES

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##### **ARTICLE 1: APPROPRIATION FOR THE RIVERFRONT PARK CONSTRUCTION PROJECT**

To see if the Town will vote to appropriate the sum of Two Hundred Three Thousand Three Hundred Ninety Dollars and Forty-nine Cents (\$203,390.49) from Free Cash for the purpose of paying for final charges related to the Riverfront Park Construction project and to rescind the remaining borrowing authorized under Article 13 of the Special Town Meeting on June 29, 2015, or take any other action relative thereto.

SUBMITTED BY: Administrative Coordinator

FINANCE COMMITTEE RECOMMENDS: Approval

***Article Information:** Approval of this article would cover the cost of final expenses related to the phase 1 construction of the Erving Riverfront Park project and rescind the associated borrowing authorization. All final construction costs have been processed and final reimbursements from the State have been received. This balance is the final amount of the Town's responsibility. Approval of this article requires a majority vote.*

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##### **ARTICLE 2: APPROPRIATION FOR THE FY2018 GENERAL GOVERNMENT BUDGET**

To see if the Town will vote to appropriate the sum of Fourteen Thousand Four Hundred Ninety-three Dollars and No Cents (\$14,493.00) from Free Cash and to amend the FY2018 General Government budget, as voted in line #1 of the May 8, 2017 Annual Town Meeting Warrant Article #4, by the same amount, or take any other action relative thereto.

SUBMITTED BY: Administrative Coordinator

FINANCE COMMITTEE RECOMMENDS: Approval



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**Article Information:** Approval of this article would correct a compilation error in the FY2018 operational budget. When inputting the approved FY2018 budget it was realized that 2 departmental lines had not been calculated into the total General Government budget. Approval of this article would correct this error. Approval of this article requires a majority vote.

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### ARTICLE 3: APPROPRIATION FOR THE FY2018 CULTURE & RECREATION BUDGET

To see if the Town will vote to appropriate the sum of Four Thousand Two Hundred Dollars and No Cents (\$4,200.00) from Free Cash and to amend the FY2018 Culture & Recreation budget, as voted in line #5 of the May 8, 2017 Annual Town Meeting Warrant Article #4, by the same amount, or take any other action relative thereto.

SUBMITTED BY: Board of Library Trustees

FINANCE COMMITTEE RECOMMENDS: Approval

**Article Information:** Approval of this article would increase the FY2018 Culture & Recreation operating budget by \$4,200. The Board of Library Trustees are making this request specifically to increase the Library Wages line item (01-610-101-51200) to increase substitute librarian funding for up to 14 hours per week. Approval of this article requires a majority vote.

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### ARTICLE 4: APPROPRIATION FOR THE PURCHASE OF LIBRARY COMPUTERS IN FY2018

To see if the Town will vote to appropriate the sum of One Thousand Eight Hundred Dollars and No Cents (\$1,800.00) from Free Cash for the purchase of two (2) laptops to provide more computer access for the public, or take any other action relative thereto.

SUBMITTED BY: Board of Library Trustees

FINANCE COMMITTEE RECOMMENDS: Approval

**Article Information:** Approval of this article would appropriate the specified amount for the purchase of laptops to be used by the public at the Erving Public Library. Approval of this article requires a majority vote.

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### ARTICLE 5: APPROPRIATION FOR THE FY2018 PUBLIC WORKS BUDGET

To see if the Town will vote to appropriate the sum of Fifteen Thousand Dollars and No Cents (\$15,000.00) from Free Cash and amend the FY2018 Public Works budget, as voted in line #3 of the May 8, 2017 Annual Town Meeting Warrant Article #4, by the same amount, or take any other action relative thereto.

SUBMITTED BY: Highway Foreman

FINANCE COMMITTEE RECOMMENDS: Approval

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**Article Information:** The request addresses unforeseen expenses related to signage and safety improvements in Erving Center as well as weather related damages experienced during the winter 2018. Approval of this article requires a majority vote.

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### ARTICLE 6: APPROPRIATION FOR THE PURCHASE OF A DUMP TRUCK

To see if the Town will vote to appropriate the sum of One Hundred Ten Thousand Dollars and No Cents (\$110,000.00) from Free Cash for the purpose of procuring a dump truck and associated equipment, or take any other action relative thereto.

SUBMITTED BY: Highway Foreman

CAPITAL PLANNING COMMITTEE RECOMMENDS:

FINANCE COMMITTEE RECOMMENDS: Approval

**Article Information:** The request would provide funding for the replacement of the 2010 F550 dump truck. The truck has experienced 2 repairs in recent time at an approximate cost of \$7,000.00. The truck is scheduled to be replaced in FY2019 and it is custom built which requires a 10 to 12 month lead time. Approval of this article requires a majority vote.

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### ACCOUNTS PAYABLE OF A PRIOR YEAR: FY2017

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### ARTICLE 7: APPROPRIATION FOR FY2017 EXPENSES

To see if the Town will vote to appropriate the sum of Five Thousand Eight Hundred Seventy-one Dollars and Twenty-eight Cents (\$5,871.28) from Free Cash for the purpose of paying Fiscal Year 2017 invoices as listed below, or take any other action relative thereto.

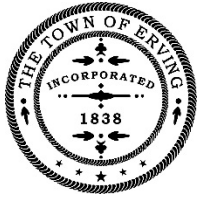
Line Item #1	Sirum Equipment Company, Inc.	\$180.01
Line Item #2	Cutchins Programs for Children & Families, Inc.	\$2,560.94
Line Item #3	AEIOU Healthcare	\$220.00
Line Item #4	S&J Jamrog	\$2,910.33
	<b>Grand Total</b>	<b>\$5,871.28</b>

SUBMITTED BY: Administrative Coordinator

FINANCE COMMITTEE RECOMMENDS: Approval

**Article Information:** In the above listed instances, invoices were identified and/or received after the start of Fiscal Year 2018 and after the books for FY2017 were closed. Approval of this article will authorize the Town to pay the above referenced vendors in the amounts indicated. Approval for expenditures in a previous fiscal year require 9/10 approval at Special Town Meeting per MGL Chapter 44 Section 64.

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### GENERAL BYLAWS

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#### ARTICLE 8: TO AMEND THE WINTER SNOW, ICE, SLEET AND PARKING BYLAW

To see if the Town will vote to amend the General Bylaw entitled Winter Snow, Ice, Sleet, and Parking Bylaw, adopted on May 3, 2017, in Section 8 Violations and Penalties by deleting the words “not exceeding” and inserting the word “of” so that the section now reads:

##### **8. Violations and Penalties**

Whoever violates any provision of the bylaw may be punished by a fine of Twenty-five Dollars (\$25.00) for the first offense, Fifty Dollars (\$50.00) for the second offense, and Seventy-five Dollars (\$75.00) for the third and each subsequent offenses in one (1) fiscal year.

Or take any action relative thereto

SUBMITTED BY: Board of Selectmen

FINANCE COMMITTEE RECOMMENDS: Approval

***Article Information:** At the Annual Town Meeting on May 3, 2017 the Town voted to adopt the Winter Snow, Ice, Sleet and Parking Bylaw. The Attorney General’s office approved the bylaw except for the wording regarding the first offense in Section 8. The fine of \$25.00 was deemed to be vague because of the use of the phrase “not exceeding” and MGL Chapter 40 Section 21D requires the fines for each offense to be specific. Approving this article makes the necessary correction.*

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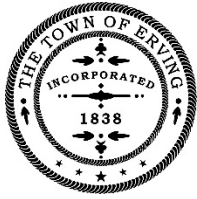
#### ARTICLE 9: TO AUTHORIZE THE SELECTMEN TO ERECT TRAFFIC SIGNS

To see if the Town will vote to authorize the Board of Selectmen to erect traffic signs for the safety and convenience of persons traveling on a municipal public way in the Town of Erving, or take any action relative thereto

SUBMITTED BY: Board of Selectmen

FINANCE COMMITTEE RECOMMENDS: Approval

***Article Information:** Approval of this article would authorize the Board of Selectmen to erect traffic signs in consultation with the Highway Department such as stop signs and other traffic enforcement signage. Approval of this article requires a majority vote.*



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### ARTICLE 10: TO AMEND THE COMPOSITION OF THE PLANNING BOARD

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To see if the Town will vote to amend the General Bylaws regarding the Planning Board, to affirm that the Board consists of five (5) members elected to serve staggered three (3) year terms, or take any action relative thereto

SUBMITTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDS: Approval

*Article Information: The Planning Board was established in 1970 at Town Meeting as a five (5) member elected Board. The initial vote was not clear about the length of terms and current practice has been to elect members for three (3) year terms. Approval of this article would clarify the term lengths of Planning Board members. Approval of this article requires a majority vote.*

### ARTICLE 11: TO AMEND SECTION 1.6 OF THE ZONING BYLAW

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To see if the Town will vote to amend the Town of Erving Zoning Bylaws, Section 1- Purpose and Administration Section 1.6.1 Associate Members of the Planning Board to establish an Associate Member of the Planning Board pursuant to Massachusetts General Law Chapter 40A, Section 9.

**Please note: Proposed additions are in *italics* and deletions are [underlined and in brackets]**

#### *1.6.1 Associate Members of the Planning Board*

*Under Massachusetts General Law, Chapter 40A, Section 9, the Selectmen shall appoint one associate member for a term of one year annually so that the chairman of the planning board may designate an associate member to sit on the board for the purposes of acting on a special permit application, in the case of absence, inability to act, or conflict of interest, on the part of any member of the planning board or in the event of a vacancy of the board.*

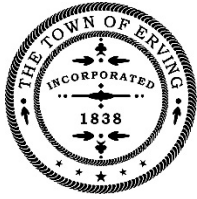
Or take any action relative thereto

SUBMITTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDS: Approval

*Article Information: The Planning Board was established in 1970 at Town Meeting as a five (5) member elected Board. The Planning Board is requesting the ability for the Board of Selectmen to appoint an Associate Members to serve on the Planning Board when the need arises and an elected member is unavailable. Approval of this article would allow the Board of Selectmen to appoint one (1) Associate Member to the Planning Board and requires a 2/3 vote.*





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### ARTICLE 12: TO AMEND SECTION 4.7 OF THE ZONING BYLAW

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To see if the Town will vote to amend the Town of Erving Zoning Bylaws, Section 4 - Use Regulations - pertaining to changes to the Home Based Business bylaw, Section 4.7 – to allow home based businesses to sell retail regardless of where they are produced.

**Please note: Proposed additions are in *italics* and deletions are [underlined and in brackets]**  
4.7 Home Based Business

A business or profession is allowed as an accessory use of a dwelling (“home occupation”), provided that:

A. Such use is clearly secondary to the residential use and the home occupation shall be carried on within the principal building or an accessory building on the lot or an adjoining lot in common ownership. Such adjoining lot in common ownership must be either adjacent to or only separated by a public way from the lot on which the principal building is located. No more than 50% of the gross floor area of the residence shall be used for the purposes of the home occupation. If the home occupation is located in an accessory building, the gross floor area devoted to the home occupation shall not exceed 50% of the gross floor area of the residence or 2,000 square feet, whichever is greater.

B. The home occupation shall be carried on by a resident of the principal dwelling and not more than two nonresidents shall be employed on the premises at any one time.

C. No external change is made which alters the residential appearance of the building on the lot.

D. Except for a permitted sign of not more than two (2) square feet, per section 4.6.3.A, there shall be no exterior display or other exterior indication of the home occupation or other variation from the residential character of the premises. No outside storage shall be allowed unless a special permit is granted by the Planning Board and such outside storage is screened from neighboring properties and the public way by a fence or an evergreen hedge of sufficient depth or height to provide screening.

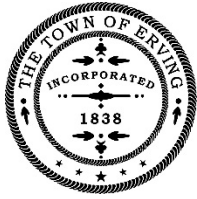
E. Traffic shall not exceed volumes normally expected in a residential neighborhood. For purposes of this Bylaw, this shall be defined as 15 trips per day per dwelling unit which is approximately 150% of the average weekday trip rate for single family homes from the Institute for Traffic Engineers Trip Generation Manual.

F. Adequate off-street parking shall be provided. Parking areas shall not be within 20 feet of a street line or within any required side or rear yard and shall be adequately screened from neighboring residential uses. Parking areas shall not have more than four spaces per dwelling unit.

G. The home occupation shall comply with the environmental performance standards listed in Section 2.2.

H. Automotive repair shops operating out of a residential dwelling and which otherwise meet the criteria for a home occupation shall require a Special Permit from the Planning Board.

I. [No retail sales shall be allowed except for products produced on the premises, provided that all other requirements of Section 4.7.1 can be met and a Special Permit is granted by the Planning Board.]



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Or take any action relative thereto

SUBMITTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDS: Approval

*Article Information: Approval of this article will allow home based businesses to sell retail regardless of where they are produced. Approval of this article requires a 2/3 vote.*

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### ARTICLE 13: TO AMEND SECTION 4.12 OF THE ZONING BYLAW

To see if the Town will vote to amend the Town of Erving Zoning Bylaws, Section 4- Use Regulations, Section 4.12 Marijuana Establishments

**Please note: Proposed additions are in *italics* and deletions are [underlined and in brackets]**

#### **[4.12 Medical Marijuana Moratorium Bylaw**

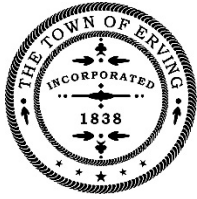
##### **4.12.1.1 Purpose**

By vote at the State election on November 6, 2012, the voters of the Commonwealth approved a law regulating the cultivation, distribution, possession and use of marijuana for medical purposes. The law provides that it is effective on January 1, 2013 and the State Department of Public Health is required to issue regulations regarding implementation within 120 days of the law's effective date. These regulations have now been published. Currently under the Zoning Bylaw, a Medical Marijuana Treatment Center is not a permitted use in the Town of Erving and any regulations promulgated by the State Department of Public Health are expected to provide guidance to the town in regulating medical marijuana, including Medical Marijuana Treatment Centers. The regulation of medical marijuana raises novel and complex legal, planning and public safety issues and the Town needs time to study and consider the regulation of Medical Marijuana Treatment Centers and address such novel and complex issues, as well as address the potential impact of the State regulations on local zoning and to undertake a planning process to consider amending the zoning bylaws regarding regulation of medical marijuana treatment centers and other uses related to the regulation of medical marijuana. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Medical Marijuana Treatment Centers 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 enact bylaws in a manner consistent with sound land use planning goals and objectives.

##### **4.12.1.2 Definition**

"Medical Marijuana Treatment Center" shall mean a "not-for-profit entity, as defined by Massachusetts law only, registered by the Department of Public Health, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana,





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products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers."

### 4.12.1.3 Temporary Moratorium

For the reasons set forth, 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 Medical Marijuana Treatment Center. The moratorium shall be in effect through October 31, 2014. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of medical marijuana in the Town, consider the Department of Public Health regulations regarding Medical Marijuana Treatment Centers and related uses, and shall consider adopting new Zoning Bylaws to address the impact and operation of Medical Marijuana Treatment Centers and related uses.]

## **SECTION 4.12 MARIJUANA ESTABLISHMENTS**

### **4.12.1.1. Purpose and Intent**

*It is the purpose of this article to promote public health, safety and general welfare, and to support the availability of medical and recreational marijuana in accordance with State law. To mitigate potential impacts to adjacent areas this bylaw will regulate the locations and site development to promote safe attractive business areas, prevent crime, maintain property values, protect and preserve the quality of residential neighborhoods and to protect the safety of children and young people in the vicinity of schools and public parks.*

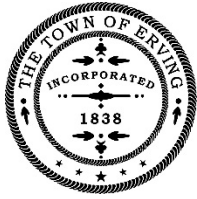
### **4.12.1.2. Special Permit Granting Authority**

*The Planning Board shall be the Special Permit Granting Authority (SPGA) under this section in accordance with M.G.L. Chapter 40A, Sections 9 and 9A. Special permits issued by the Planning Board shall require a positive vote by a supermajority vote of Planning Board Members.*

### **4.12.1.3. Definitions**

*Craft Marijuana Cultivator Cooperative - a marijuana cultivator comprised of residents of the commonwealth organized as a limited liability company or limited liability partnership under the laws of the Commonwealth, or an appropriate business structure as determined by the Cannabis Control Commission, that is licensed to cultivate, obtain, manufacture, process, package and brand marijuana and marijuana products for delivery to marijuana establishments but not to consumers.*

*Host Community Agreement – A marijuana establishment seeking to operate in Erving shall execute an agreement with the host community setting forth the conditions for having a marijuana establishment located within the host community. Such Host Community Agreement shall include, but not be limited to, all stipulations of responsibilities between Erving and the marijuana establishment. A Host Community Agreement between a marijuana establishment and a host community will include a community impact fee for the host community; provided, however, that the community impact fee shall be reasonably related to the costs imposed upon the municipality*



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*by the operation of the marijuana establishment and shall not amount to more than 3 percent of the gross sales of the marijuana establishment or a greater amount if allowed by the State. Such Host Community Agreement shall be effective for 5 years and can be renewed for successive 5-year periods at the option of the Town. Any cost to Erving imposed by the operation of a marijuana establishment shall be documented and considered a public record.*

*Independent Testing Laboratory - a laboratory that is licensed by the State Cannabis Control commission and is: (i) accredited to the most current International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Cooperation mutual recognition arrangement or that is otherwise approved by the commission; (ii) independent financially from any medical marijuana treatment center or any licensee or marijuana establishment for which it conducts a test; and (iii) qualified to test marijuana in compliance with regulations promulgated by the Cannabis Control Commission.*

*Licensee - a person or entity licensed by the State Cannabis Control commission to operate a marijuana establishment.*

*Marijuana Cultivator - an entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.*

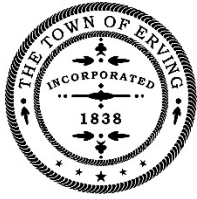
*Marijuana Establishment – a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business.*

*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 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.*

### *4.12.1.4. Requirements Regarding the Allowed Locations for Marijuana Establishments*



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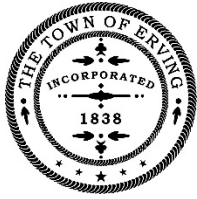
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- A. *See Section 4.2 Use Regulations schedule for locations for permitted Marijuana Establishments.*
- B. *Marijuana Establishments shall not be located within 500 feet of any existing public, parochial, or private school. This setback shall include the grounds on which said public, parochial, or private school. The distance between any Marijuana Establishment and any public, parochial, or private school shall be measured in a straight line, without regard to intervening structures, from the closest property line of any existing public, parochial, or private school to the property line of the Marijuana Establishment.*
- C. *Marijuana Establishments shall not be located within 100 feet from any public recreation area or park measured in a straight line, without regard to intervening structures, from the closest property line of the recreation area to the property line of the Marijuana Establishment.*
- D. *Marijuana Establishments shall not be located within 50 feet from any existing residential use. The distance between a residential use and a Marijuana Establishment shall be measured in a straight line, without regard to intervening structures, from the closest property line of the residential property to the property line of the Marijuana Establishment.*

### *4.12.1.5. Site Development, Permitting Standards & Application*

*Pursuant to Chapter 40A Section 9A the following site improvements and amenities are required to protect public safety and neighboring property values, in addition to the Special Permit requirements found in Section 6.1 and the Site Plan Review requirements found in Section 6.2. The Planning Board is empowered hereunder to review and approve Special Permit applications for Marijuana Establishments and impose requirements for: buffering; odor control; noise; outdoor lighting; parking; access to the site from public roads; hazardous materials; and landscaping and buildings. The purpose of these requirements is to avoid site development which may result in negative environmental, neighborhood, or public safety impacts.*

- A. *Dimensional Requirements: Any building or structure containing a Marijuana Establishment shall meet the setback requirements and other dimensional controls of the appropriate district as specified in these bylaws. For any property proposed to contain a Marijuana Establishment, the applicant for a Special Permit for such use shall demonstrate that the entire property shall comply with these requirements and controls following the establishment of such use thereon.*
- B. *Parking and Loading Requirements: On-site parking and loading shall be provided in accordance with the requirements of Section 4.5 of these bylaws. For any property proposed to contain a Marijuana Establishment Business, the applicant for a Special Permit for such use shall demonstrate that the entire property shall comply with these requirements and controls following the establishment of such use thereon.*



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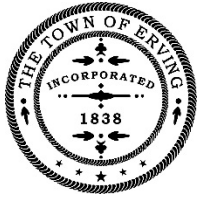
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- C. *Site Screening: Rear and side property lines shall be screened from any neighboring residential, educational, childcare or recreational uses or properties. Screening shall be by a fence that is 3 1/2 feet tall within 5 feet of the street and 6 feet tall elsewhere on the property and/or a 6-foot-wide vegetated planting of hardy evergreens and deciduous trees and shrubs no less than five (5) feet in height.*
- D. *Marijuana Establishments may request a waiver from the site screening standard of: Rear and side property lines shall be screened from any neighboring residential, educational, childcare or recreational uses or properties. Screening shall be by a fence that is 3 1/2 feet tall within 5 feet of the street and 6 feet tall elsewhere on the property and/or a 6-foot-wide vegetated planting of hardy evergreens and deciduous trees and shrubs no less than five (5) feet in height required by Section 4.12.1.4 C. Such waiver may be granted in the Planning Board's sole discretion.*
- E. *Lighting & Security: Energy efficient site lighting shall be maintained at a minimum lumen as determined by the Erving Police Department to ensure adequate visibility on the property to ensure public safety. Light standards may not exceed twenty (20) feet in height and shall be reasonably shielded from abutting properties and shall incorporate full cut off fixtures to reduce light pollution. Additional security features recommended by the Erving Police Department shall be installed and maintained.*
- F. *Noise & Odors: No noise or marijuana or other odors detectable at the property line of the Marijuana Establishment shall be allowed.*
- G. *Hazardous Materials: Submission of a complete list of chemicals, pesticides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use. The Planning Board will require that a Hazardous Materials Management Plan be prepared to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism. The plan should include spill containment and clean-up procedures, and provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces and must be approved by the Fire Chief.*
- H. *Signs: All signs for a Marijuana Establishment must meet the requirements of Section 4.6 of this bylaw and the State Regulations (935 CMR 500.000) including the requirement that, no advertising signs shall be located within twenty feet of a public or private way and must be set back a minimum of twenty (20) feet from all property lines.*
- I. *Buildings: Appearance of buildings for Marijuana Establishments shall be consistent with the appearance of other buildings in Erving, not employing unusual color or building design which would attract attention to the premises. In the Rural Residential zoning district new buildings for Marijuana Cultivators including Craft Marijuana Cultivators shall resemble a barn or*



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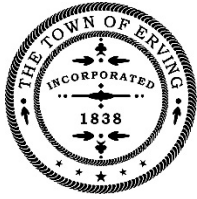
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*greenhouse. Reuse of existing vacant or underutilized mill buildings in the Central Village zoning district for marijuana cultivation, product manufacturing or testing may be possible by Special Permit.*

- J. Marketing: Marijuana Establishments shall not be allowed to disseminate or offer to disseminate marijuana marketing materials to minors or suffer minors to view displays or linger on the premises. No free samples may be provided by Marijuana Establishments to consumers.*
- K. Cultivation: If marijuana products are to be grown outdoors plans will need to be approved by the Planning Board to ensure they minimize public nuisances including odors, noise, and lighting to neighboring properties.*
- L. Applications: The applicant requesting permission to operate any Marijuana Establishment must file their application with the Special Permit Granting Authority and the Town Clerk. Such application shall contain the information required by Section 6.1 - Special Permit and any rules and regulations established by the Special Permit Granting Authority and the State Cannabis Control Commission. The application shall also include:*
- 1. Name and Address of the legal owner and Licensee of the Marijuana Establishment;*
  - 2. Name and Address of all persons having lawful, equity or security interests in the Marijuana Establishment;*
  - 3. Name and Address of the Manager of the Licensed Marijuana Establishment;*
  - 4. The number of proposed employees; and*
  - 5. Proposed security precautions.*
- M. Site Plan Review: No Marijuana Establishment shall be established prior to submission and approval of a site plan by the Planning Board, pursuant to Section 6.2. The site plan shall, at the minimum, depict all existing and proposed buildings, parking spaces, driveways, service areas, and other open uses. The site plan shall show the distances between the proposed Marijuana Establishment and all existing uses within 500 feet of the property lines of the proposed Marijuana Establishment.*
- N. Change in License or Owner: The Owner and Licensee of any Marijuana Establishment issued a Special Permit under this bylaw shall report, in writing, within 10 business days any change in the name of the legal owner of the Marijuana Establishment or any expiration or suspension of a license to the Building Inspector and Planning Board. Any failure to meet this requirement*





# TOWN OF ERVING

12 East Main Street, Erving, MA 01344

Tel. (413) 422-2800 | Email: [admin@erving-ma.org](mailto:admin@erving-ma.org)

## SPECIAL TOWN MEETING WARRANT

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*of this Bylaw will result in the immediate issuance of a cease and desist order by the Building Inspector ordering that all activities conducted under the Special Permit cease immediately.*

- O. Change of Ownership: A Special Permit issued under this Article shall lapse upon any transfer of ownership or legal interest of more than 10% or change in contractual interest in the subject premises or property. The Special Permit may be renewed thereafter only in accordance with this Section 4.12 and Section 6.1.*
- P. Host Community Agreement: Applicant shall submit the proposed Host Community Agreement that is required between a Marijuana Establishment and the town it is operating in at the time they submit their Application.*

### *4.12.1.6 Expiration*

*A Special Permit to operate a Marijuana Establishment shall expire after a period of five calendar years from its date of issuance but shall be renewable for successive five-year periods thereafter, provided that a written request for such renewal is made to the Special Permit Granting Authority at least 60 calendar days prior to said expiration and that no objection to said renewal is made and sustained based upon compliance with all conditions of the Special Permit as well as public safety factors applied at the time the Special Permit renewal is requested. In addition, a Host Community Agreement satisfactory to Erving shall be provided if requested by the Town.*

### *4.12.1.7 Severability*

*The invalidity of any section or provision of this article shall not invalidate any other section or provision thereof.*

Or take any action relative thereto

SUBMITTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDS: Approval

**Article Information:** *The voters of the State of Massachusetts have legalized the sale and consumption of medical and recreational marijuana. This bylaw replaces the Medical Marijuana Moratorium that expired on 10/31/2014 and allows for the retail sale of marijuana in the Central Village and French King Commercial Districts with a Special Permit issued by the Planning Board. Additionally, this bylaw allows for the cultivation, testing and processing of marijuana products in the Central Village, French King Commercial and Rural Residential Districts through the Special Permit process. Approval of this article requires a 2/3 vote.*





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## SPECIAL TOWN MEETING WARRANT

### ARTICLE 14: TO AMEND SECTION 4.1 OF THE ZONING BYLAW

To see if the Town will vote to amend the Town of Erving Zoning Bylaws, Section 4 – Use Regulations – pertaining to changes to the Use Regulations Schedule, Section 4.2:

**Please note: Proposed additions are in *italics* and deletions are [underlined and in brackets]**

#### 4.1 General Regulations

No building or structure shall be constructed, and no building, structure or land, or plan thereof shall be used for any purpose or in any manner other than for one or more uses hereinafter set forth as permissible. Any uses not listed in the Use Regulations Schedule, Section 4.2, shall be considered prohibited.

#### 4.2 Use Regulations Schedule

No building, structure or land shall be erected or used except as permitted in this section and all other sections of this Zoning Bylaw. No more than one principal structure or dwelling may be erected on a lot. Symbols employed in the following use regulations schedule shall have the following meaning:

Y – Yes, the use is permitted by right in that Zoning District

N – No, the use is not permitted in that Zoning District

SP – The use may be permitted if a Special Permit is granted by the Planning Board

<b>Residential Uses</b>	<b>Central Village</b>	<b>French King Commercial District</b>	<b>Village Residential</b>	<b>Rural Residential</b>
Single-Family Dwelling	Y	Y	Y	Y
Two-Family Dwelling	SP	Y	SP	Y
Accessory Apartment	SP	Y	SP	Y
Temporary Mobile Home (see Section 4.8)	Y	Y	Y	Y
Mobile Home & Mobile Home Parks	N	N	N	N
Bed and Breakfast, up to 6 rooms	Y	Y	Y	Y
Multi-Family Dwelling	SP	N	N	N
<b>Agricultural &amp; Recreational Uses</b>	<b>Central Village</b>	<b>French King Commercial District</b>	<b>Village Residential</b>	<b>Rural Residential</b>
Farming or Forestry <i>not to include Medical or Recreation Marijuana cultivation</i>	Y	Y	Y	Y



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## SPECIAL TOWN MEETING WARRANT

Commercial Greenhouse(s) on a lot equal to or greater than 5 acres <i>not to include Medical or Recreational Marijuana</i>	Y	Y	Y	Y
Commercial Greenhouse(s) on a lot less than 5 acres <i>not to include Medical or Recreational Marijuana cultivation</i>	SP	SP	SP	SP
<i>Cultivation of Medical and/or Recreational Marijuana occupying a building(s) or greenhouse(s) no greater than 10,000 square feet (see Section 4.12)</i>	SP	SP	N	SP
<i>Cultivation of Medical and/or Recreational Marijuana occupying a building(s) or greenhouse(s) greater than 10,000 square feet (see Section 4.12)</i>	SP	SP	N	SP
Commercial Recreation	SP	SP	SP	SP
Wildlife Preserve or Other Conservation Uses	Y	Y	Y	Y
<b>Community Services</b>	<b>Central Village</b>	<b>French King Commercial District</b>	<b>Village Residential</b>	<b>Rural Residential</b>
Public Utility Facility not exempted from zoning regulation by M.G.L.	SP	SP	SP	SP
Wireless Communication Facility in the Wireless Communication Overlay	SP	N*	N*	SP
Educational Uses exempted from zoning regulation by M.G.L. Ch.40A,	Y	Y	Y	Y
Other Educational Uses not exempted from zoning regulation by M.G.L. Ch.40A, Section	SP	SP	SP	SP
Church, other Religious Use	Y	Y	Y	Y
Municipal Uses not covered elsewhere	SP	SP	SP	SP
Family Day Care Home for six (6) or less children or adults	Y	Y	Y	Y
Family Day Care Home for more than six (6) children or adults	SP	SP	SP	SP
Day Care Center for children exempted from zoning regulations by M.G.L. Ch. 40A, Section 3	Y	Y	Y	Y
Nursing Home	SP	SP	SP	SP
<b>Business Uses</b>				



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## SPECIAL TOWN MEETING WARRANT

Business, Professional Offices with less than six (6) employees	Y	Y	SP	SP
Business, Professional Offices with six (6) or more employees	Y	SP	SP	SP
Banks	Y	SP	N	N
Restaurant, drive through	SP	N	N	N
Restaurant, other	Y	SP	SP	SP
Drive through - other	SP	N	N	N
Motor Vehicle Sales	SP	N	N	N
Laundry, Laundromat	SP	N	N	N
Theaters	SP	SP	N	N
Motels, Hotels	SP	SP	SP	SP
Inns	SP	SP	SP	SP
Building Materials, Sales & Storage	SP	N	N	N
Home Based Business <i>excludes cultivation and sale of medical and recreational marijuana</i>	Y	Y	Y	Y
Retail Store(s) – Building 2,500 sq. ft. or less <i>excludes medical and recreational marijuana products and related paraphernalia including edibles.</i>	Y	SP	SP	SP
Retail Store(s) – Building greater than 2,500 sq. ft. up to 5,000 sq. ft. <i>excludes medical and recreational marijuana products and related paraphernalia including edibles.</i>	Y	SP	N	N
<i>Retail Store(s) – Building greater than 5,000 sq. ft. excludes medical and recreational marijuana products and related paraphernalia including edibles.</i>	SP	N	N	N
<i>Retail Marijuana Product Store(s) - Marijuana Product sales and related paraphernalia including edibles of medical and recreational marijuana. (see Section 4.12) up to 5,000 square feet</i>	SP	SP	N	N
<i>Medical and Recreational Marijuana Cafes</i>	N	N	N	N
Self-Storage Facility	SP	N	N	N
Farm Stand	Y	Y	Y	Y



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Other principal uses where the physical appearance, operation, parking requirements, and traffic impact resemble a use permitted (Y or SP) above, and which will not have a detrimental impact on adjacent or nearby uses	SP	SP	SP	SP
Commercial Kennels	N	SP	N	SP
Hobby Kennels	SP	Y	SP	Y
<b>Industrial Uses</b>				
Junk yards, dumps, and landfills	N	N	N	N
Manufacturing, Processing & Laboratories	SP	N	N	N
Freight or Transportation Facilities	SP	N	N	N
Gasoline Station, Automotive Repair Garages	SP	N	N	N
Quarrying, Gravel Mining & Earth Removal	N	N	N	N
Collection, treatment, storage, burial, incineration or disposal of radioactive waste, including but not limited to low level radioactive waste	N	N	N	N
Sawmill	N	N	SP	SP
<b><i>Processing and product manufacturing of Medical and/or Recreational Marijuana including edibles (see Section 4.12)</i></b>	<b><i>SP</i></b>	<b><i>SP</i></b>	<b><i>N</i></b>	<b><i>SP</i></b>
<b><i>Independent Testing Laboratory Facility for Medical and Recreational Marijuana (see Section 4.12)</i></b>	<b><i>SP</i></b>	<b><i>SP</i></b>	<b><i>N</i></b>	<b><i>SP</i></b>
Bulk Storage, Warehousing	SP	N	N	N

\*No Wireless Communications Overlay District is located in the French King Commercial District or the Village Residential District,

Or take any action relative thereto

SUBMITTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDS: Approval

**Article Information:** The voters of the State of Massachusetts have legalized the sale and consumption of medical and recreational marijuana. This bylaw replaces the Medical Marijuana Moratorium that expired on 10/31/2014 and allows for the retail sale of marijuana in the Central Village and French King Commercial Districts with a Special Permit issued by the Planning Board. Additionally, this bylaw allows for the cultivation, testing and processing of marijuana products in the Central Village, French King Commercial and Rural Residential Districts through the Special Permit process. Approval of this article requires a 2/3 vote.



# TOWN OF ERVING

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## SPECIAL TOWN MEETING WARRANT

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### ARTICLE 15: TO AMEND SECTION 6.2.6 OF THE ZONING BYLAW

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To see if the Town will vote to amend the Town of Erving Zoning Bylaws, Section 6 – Special Permit and Site Plan Review – pertaining to changes to the Site Plan Review, Section 6.2.6 which sets a 90 day deadline for the decision by the Planning Board after the closing of the Public Hearing

**Please note: Proposed additions are in *italics* and deletions are [underlined and in brackets]**

#### 6.2.6 Decision

The Planning Board's action shall consist of either:

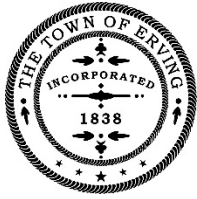
- A. Approval of the site plan based upon the determination that the proposed project is in compliance and consistent with the criteria set forth in this Bylaw;
- B. Approval of the site plan subject to conditions, modifications, and restrictions as the Planning Board may deem necessary; or
- C. Denial of the site plan based upon the determination that there was insufficient information submitted with the proposal to adequately review it or that the project is inconsistent with the requirements of this Zoning Bylaw and no conditions, modifications, requirements, or restrictions can be imposed pursuant that would ensure compliance with this Zoning Bylaw.
- D. *The decision of the Planning Board, and any extension, modification or renewal thereof, shall be made within 90 days following the closing of the public hearing, and the written record of the decision shall be filed with the Town Clerk within 14 days of the final vote or sooner as required to meet the 90 day maximum time frame. A copy of the decision shall be mailed to the Applicant by the Town Clerk and to any person attending the Public Hearing which requests it.*

Or take any action relative thereto

SUBMITTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDS: Approval

**Article Information:** *Approval of this article establishes a 90 day deadline for the decision by the Planning Board after the closing of the Public Hearing. Approval of this article requires a 2/3 vote.*



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## SPECIAL TOWN MEETING WARRANT

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### ARTICLE 16: TO AMEND SECTION 7 OF THE ZONING BYLAW

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To see if the Town will vote to amend the Town of Erving Zoning Bylaws, Section 7 – Phasing of Growth – the current Phase Growth Bylaw expired December 31, 2015. The proposed change is to allow the Phase Growth Bylaw to remain in effect until December 31, 2023.

**Please note: Proposed additions are in *italics* and deletions are [underlined and in brackets]**

#### 7.1 Purpose

The purposes of this section are: to promote orderly growth in the Town of Erving, consistent with the rate of growth over 10 years prior to the adoption of this provision; to phase growth so that it will not unduly strain the community's ability to provide basic public facilities and services; to provide the town, its boards and its agencies with information, time and capacity to incorporate such growth into the Master Plan and the regulations of the community; and to preserve and enhance existing community character and the value of property. Section 7 shall remain in effect until ***December 31, 2023.***

Or take any action relative thereto

SUBMITTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDS: Approval

***Article Information:*** *The current Phase Growth Bylaw expired December 31, 2015. Approval of this article would allow the Phase Growth Bylaw to remain in effect until December 31, 2023. Approval of this article requires a 2/3 vote.*





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## SPECIAL TOWN MEETING WARRANT

### ROUTE 63 STREETScape & PEDESTRIAN IMPROVEMENT PROJECT

#### ARTICLE 17: A VOTE TO AUTHORIZE ACQUISITION OF RIGHTS IN LAND PARCELS

To see if the Town will vote to authorize the Board of Selectmen to acquire the following land parcels and or rights in land parcels for the purpose of obtaining a secure and public right of way. This will allow for the construction and roadway safety improvements of the Route 63 Streetscape & Pedestrian Improvement Project (File #607253).

	Total # Parcels	Area (Square Feet)
<b>In Fee</b>		
Permanent Easements	11	6,392
Temporary Easements	20	11,736

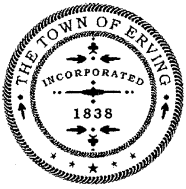
Further that the Selectmen may acquire these parcels, or modification of these parcels or other required parcels through all legal means. This includes donations, purchase or eminent domain. The subject parcels are currently identified on plans drafted by BSC Group, dated December 12, 2017, and titled Streetscape & Pedestrian Improvements on Route 63 in the Town of Erving Franklin County.

Or take any action relative thereto

SUBMITTED BY: Board of Selectmen

FINANCE COMMITTEE RECOMMENDS:

***Article Information:** Approval of this article authorizes the Board of Selectmen to use all legal means to acquire the necessary temporary and permanent easements for this project. The Route 63 Streetscape & Pedestrian Improvement Project is funded through Federal allocations and is the work of FRCOG transportation planners in collaboration with the Town of Erving. The project will improve sidewalks and crosswalks from Lester Street, beginning at Gunn Street, through Northfield Road until Care Drive. Approval of this article requires a majority vote.*



# TOWN OF ERVING

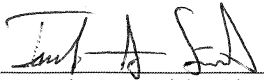
12 East Main Street, Erving, MA 01344  
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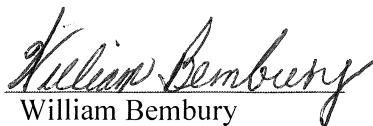
## SPECIAL TOWN MEETING WARRANT


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Constables... In addition, you are hereby directed to serve the above warrant and to post attested copies as directed by vote of the Town at least fourteen (14) days before said meeting. Fail not, and make due return of this warrant with your doings thereon to the Town Clerk for the day of said meeting.

Given under our hands this 5<sup>th</sup> day of **March 2018**.

  
Jacob A. Smith, Chairman

  
William Bembury

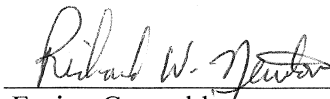
  
Scott Bastarache

Erving Board of Selectmen

FRANKLIN SS      TOWN OF ERVING

I have served the above warrant by posting up attested copies, as directed by vote of the Town, at least fourteen (14) days before time of holding said meeting.

March 8, 2018  
Date

  
Erving Constable

## Notes

[illegible]