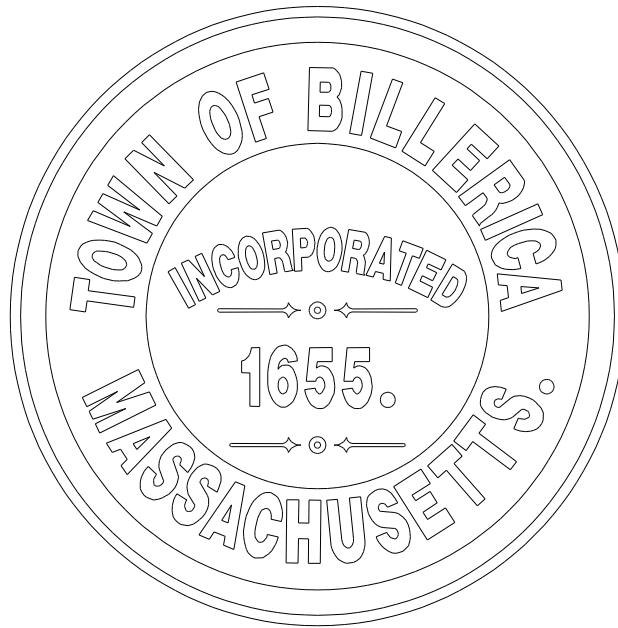


TOWN OF BILLERICA **PRELIMINARY WARRANT**



ANNUAL FALL TOWN MEETING

**Annual Fall Town Meeting
Tuesday, October 2, 2018 at 7:30 PM
At
Billerica Town Hall Auditorium**

Article Number	Purpose	Value	Funding Source	Submitted by:	Finance Committee Recommendation
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Committee Articles

1	To Appoint One Member to the Bowers Fund			Board of Selectmen	Reserves Recommendation
2	To Hear Reports of Town Departments, Committees & Officers			Town Manager; authorized by BOS	Reserves Recommendation

Financial Articles

3	To Fund Collective Bargaining Agreement for School Administrators		Raise & Appropriate or Transfer / Available Funds	School Committee	Reserves Recommendation
4	To Fund Collective Bargaining Agreement for Teachers		Raise & Appropriate or Transfer / Available Funds	School Committee	Reserves Recommendation
5	To Fund Collective Bargaining Agreement for School Paraprofessionals		Raise & Appropriate or Transfer / Available Funds	School Committee	Reserves Recommendation
6	To Fund Collective Bargaining Agreement for School Custodial		Raise & Appropriate or Transfer / Available Funds	School Committee	Reserves Recommendation
7	To Fund Collective Bargaining Agreement for School Clerical		Raise & Appropriate or Transfer / Available Funds	School Committee	Reserves Recommendation
8	To Fund Collective Bargaining Agreement for NEPBA Police Civilian Dispatchers		Raise & Appropriate or Transfer / Available Funds	Town Manager; authorized by BOS	Reserves Recommendation
9	To Fund Collective Bargaining Agreement for NEPBA Police Officers – Group (A) Patrolmen		Raise & Appropriate or Transfer / Available Funds	Town Manager; authorized by BOS	Reserves Recommendation
10	To Fund Collective Bargaining Agreement for NEPBA Police Officers – Group (B) Superior Officers		Raise & Appropriate or Transfer / Available Funds	Town Manager; authorized by BOS	Reserves Recommendation
11	To Fund Collective Bargaining Agreement for IAFF Firefighters		Raise & Appropriate or Transfer / Available Funds	Town Manager; authorized by BOS	Reserves Recommendation
12	To Vote from Free Cash a Sum of Money to the Debt Stabilization Fund	\$6,000,000	Raise & Appropriate or Transfer / General Fund Free Cash	Finance Committee	Reserves Recommendation

Article Number	Purpose	Value	Funding Source	Submitted by:	Finance Committee Recommendation
13	Fiscal Year 2019 Budget Amendment	\$3,000,000	Raise & Appropriate or Transfer / Available Funds	Town Manager; authorized by BOS	Reserves Recommendation
14	To Fund Fiscal Year 2019 Town Capital Budget	\$6,000,000	Raise & Appropriate or Transfer / Available Funds	Town Manager; authorized by BOS	Reserves Recommendation
15	To Fund Fiscal Year 2019 School Capital Budget	\$6,000,000	Raise & Appropriate or Transfer / Available Funds	Town Manager; authorized by BOS	Reserves Recommendation
16	To Fund Sewer Manhole Repairs from Inflow and Infiltration Funds	\$50,000	Transfer and Appropriate / Available Inflow and Infiltration Funds	Town Manager; authorized by BOS	Reserves Recommendation
17	To Fund the Sum of \$400,000 to Reconstruct the Intersection of Whipple Road at Andover Road and the Authorize the BOS to Acquire Easements	\$400,000	Raise & Appropriate, Transfer from Available Funds or Borrow	Town Manager; authorized by BOS	Reserves Recommendation
18	To Fund Phase II Frost Street Drainage	\$500,000	Raise & Appropriate, Transfer from Available Funds or Borrow	Town Manager; authorized by BOS	Reserves Recommendation
19	To Fund Town Capital Budgets from Previous Town Meeting Articles	\$3,000,000	Transfer & Appropriate / Unexpended Balances	Town Manager; authorized by BOS	Reserves Recommendation
20	Fox Hill Cemetery Expansion	\$3,000,000	Raise & Appropriate, Transfer from Available Funds or Borrow	Town Manager; authorized by BOS	Reserves Recommendation
21	To Vote from Free Cash a Sum of Money to the Stabilization Fund	\$6,000,000	Raise & Appropriate or Transfer / General Fund Free Cash	Finance Committee	Reserves Recommendation
22	To Vote from Free Cash a Sum of Money to the Land Bank Account	\$6,000,000	Raise & Appropriate or Transfer / General Fund Free Cash	Finance Committee	Reserves Recommendation
23	To Vote from Free Cash a Sum of Money to Fund the Snow and Sand Deficit	\$1,000,000	Transfer & Appropriate / Free Cash	Finance Committee	Reserves Recommendation

Article Number	Purpose	Value	Funding Source	Submitted by:	Finance Committee Recommendation
24	To Vote from Free Cash a Sum of Money to be Applied or Expended for the Purpose of Reducing the Fiscal Year 2018 Tax Levy	\$6,000,000	Transfer / General Fund Free Cash	Finance Committee	Reserves Recommendation
25	Community Preservation Committee Appropriation Recommendations	\$1,607,285	Transfer from Community Preservation Fund	Community Preservation Committee	Reserves Recommendation
26	Rescind Borrowing Authorizations			Town Manager; authorized by BOS	Reserves Recommendation

Local Acceptance of State Statutes

27	To Remove BMEA from Civil Service			Town Manager; authorized by BOS	Reserves Recommendation
28	To Create a Conservation Commission Fund			Conservation Commission	Reserves Recommendation
29	Authorization to Apply to the Department of Environmental Protection State Revolving Fund Clean Water Low Interest Loan Program			Town Manager; authorized by BOS	Reserves Recommendation

Medical Marijuana

30	To Establish a 3% Adult-Use Marijuana Tax			Town Manager; authorized by BOS	Reserves Recommendation
31	To Amend Medical Marijuana General By-Law			Town Manager; authorized by BOS	Reserves Recommendation
32	To Amend Medical Marijuana By-Law Overlay District			Town Manager; authorized by BOS	Reserves Recommendation
33	To Create a General By-Law for Adult-Use Marijuana			Town Manager; authorized by BOS	Reserves Recommendation
34	To Create a Zoning By-Law for Adult-Use Marijuana Overlay District			Town Manager; authorized by BOS	Reserves Recommendation
35	To Create Zoning By-Law for Adult-Use Marijuana Overlay District Map			Town Manager; authorized by BOS	Reserves Recommendation

Article Number	Purpose	Value	Funding Source	Submitted by:	Finance Committee Recommendation
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General By-Laws

36	To Establish Wastewater Connection Compliance Regulation			Town Manager; authorized by BOS	Reserves Recommendation
37	Increased Fines for Signage			Town Manager; authorized by BOS	Reserves Recommendation

Easements & Land Use

38	To Authorize the Board of Selectmen to Acquire Easements on Baldwin Road			Town Manager; authorized by BOS	Reserves Recommendation
39	To Authorize the Board of Selectmen to Accept a Road Easement from Parcel 47-29-1 Located at the Intersection of Nashua Road and Rangeway Road			Town Manager; authorized by BOS	Reserves Recommendation
40	To Accept Roads as Public Ways			Town Manager; authorized by BOS	Reserves Recommendation

Zoning By-Law Articles

41	To Amend Zoning By-Laws to Add PUD District			Town Manager; authorized by BOS	Reserves Recommendation
42	To Amend Zoning Map Changes to Add PUD Overlay Districts			Town Manager; authorized by BOS	Reserves Recommendation

Petitioners Articles

43	Petitioners Article			Petitioner	Reserves Recommendation
44	Petitioners Article			Petitioner	Reserves Recommendation

**PRELIMINARY WARRANT
OCTOBER 2, 2018
ANNUAL FALL TOWN MEETING**

Middlesex, ss.

To Any Constable in the Town of Billerica

Greetings,

You are hereby authorized and requested to notify and warn the inhabitants of said Town of Billerica qualified by law to vote in Elections and Town Affairs, to meet at the Maurice A. Buck Memorial Auditorium, Town Hall, 365 Boston Road, Billerica, MA on Tuesday, October 2, 2018 at 7:30 PM and subsequent Thursdays and Tuesdays until all of the business in the Warrant shall have been acted upon, then and there to vote on the following articles:

ARTICLE 1 - TO APPOINT ONE MEMBER TO THE BOWERS FUND

To see if the Town will vote to appoint one (1) member to the Bowers Fund for a term of five (5) years; or act in relation thereto.

Submitted by the Board of Selectmen

Finance Committee has not yet made final recommendation.

Article 1 Explanation: The Bowers Fund was established in the late 1800's when the Bower sisters left their entire estate to the Town of Billerica, approximately \$11,000, with the express intent of assisting the poor of Billerica. The current expendable balance in the fund is \$716.15 and the principal balance is \$132,053.91. Town Meeting appoints members to the Bowers Fund. Committee member Eleanor Shea's term is expiring and she is requesting that he be reappointed.

ARTICLE 2 - TO HEAR REPORTS OF TOWN DEPARTMENTS, COMMITTEES & OFFICERS

To see if the Town will vote to hear and act upon the reports of Town Departments, Committees and Officers; or act in relation thereto.

Submitted by the Town Manager; authorized by the Board of Selectmen

Finance Committee has not yet made final recommendation.

Article 2 Explanation: This article provides an opportunity to hear and act upon reports of Town Meeting Committees.

**ARTICLE 3 - TO FUND COLLECTIVE BARGAINING AGREEMENT –
SCHOOL ADMINISTRATORS**

To see if the Town will raise and appropriate or transfer from available funds a sum of money to fund the first year cost items contained in the successor Collective Bargaining Agreement between the Town of Billerica School Committee and the Billerica Administrators Group affiliated with the Massachusetts Association of Professional School Administrators; or act in relation thereto.

Submitted by the School Committee

Finance Committee has not yet made final recommendation.

Article 3 Explanation: This article seeks to fund a Collective Bargaining Agreement between the Billerica School Committee and the Billerica Administrators Group affiliated with the Massachusetts Association of Professional School Administrators. This contract has a term from July 1, 2018 through June 30, 2021.

**ARTICLE 4 - TO FUND COLLECTIVE BARGAINING AGREEMENT –
TEACHERS**

To see if the Town will raise and appropriate or transfer from available funds a sum of money to fund the first year cost items contained in the successor Collective Bargaining Agreement between the Town of Billerica School Committee and the Billerica Federation of Teachers, Local 1677, AFT-MA, AFT, AFL-CIO; or act in relation thereto.

Submitted by the School Committee

Finance Committee has not yet made final recommendation.

Article 4 Explanation: At the time of printing, there was no Collective Bargaining Agreement.

**ARTICLE 5 - TO FUND COLLECTIVE BARGAINING AGREEMENT –
SCHOOL PARAPROFESSIONALS**

To see if the Town will raise and appropriate or transfer from available funds a sum of money to fund the first year cost items contained in the successor Collective Bargaining Agreement between the Town of Billerica School Committee and the Billerica Federation of Teachers, Local 1677, AFT-MA, AFT, AFL-CIO, Paraprofessionals; or act in relation thereto.

Submitted by the School Committee

Finance Committee has not yet made final recommendation.

Article 5 Explanation: At the time of printing, there was no Collective Bargaining Agreement.

**ARTICLE 6 - TO FUND COLLECTIVE BARGAINING AGREEMENT –
SCHOOL CUSTODIAL**

To see if the Town will raise and appropriate or transfer from available funds a sum of money to fund the first year cost items contained in the successor Collective Bargaining Agreement between the Town of Billerica School Committee and the American Federation of State, County and Municipal Employees, AFL-CIO, Council 93, Local 2747, Custodial Employees; or act in relation thereto.

Submitted by the School Committee

Finance Committee has not yet made final recommendation.

Article 6 Explanation: At the time of printing, there was no Collective Bargaining Agreement.

**ARTICLE 7 - TO FUND COLLECTIVE BARGAINING AGREEMENT –
SCHOOL CLERICAL**

To see if the Town will raise and appropriate or transfer from available funds a sum of money to fund the first year cost items contained in the successor Collective Bargaining Agreement between the Town of Billerica School Committee and the American Federation of State, County and Municipal Employees, AFL-CIO, Council 93, Local 2747, Clerical Employees; or act in relation thereto.

Submitted by the School Committee

Finance Committee has not yet made final recommendation.

Article 7 Explanation: At the time of printing, there was no Collective Bargaining Agreement.

**ARTICLE 8 - TO FUND COLLECTIVE BARGAINING AGREEMENT - NEPBA POLICE
CIVILIAN DISPATCHERS**

To see if the Town of Billerica will vote to raise and appropriate or transfer from available funds a sum of money to fund the first year cost items contained in the successor Collective Bargaining Agreement between the Town and NEPBA Police Civilian Dispatchers (New England Police Benevolent Association, Inc.); or act in relation thereto.

Submitted by the Town Manager; authorized by the Board of Selectmen

Finance Committee has not yet made final recommendation.

Article 8 Explanation: At the time of printing, there was no Collective Bargaining Agreement.

ARTICLE 9 - TO FUND COLLECTIVE BARGAINING AGREEMENT - NEPBA POLICE OFFICERS - GROUP (A) PATROLMEN

To see if the Town of Billerica will vote to raise and appropriate or transfer from available funds a sum of money to fund the first year cost items contained in the successor Collective Bargaining Agreement between the Town and NEPBA (New England Police Benevolent Association, Inc.) Group (A) Patrolmen; or act in relation thereto.

Submitted by the Town Manager; authorized by the Board of Selectmen

Finance Committee has not yet made final recommendation.

Article 9 Explanation: At the time of printing, there was no Collective Bargaining Agreement.

ARTICLE 10 - TO FUND COLLECTIVE BARGAINING AGREEMENT - NEPBA POLICE OFFICERS - GROUP (B) SUPERIOR OFFICERS

To see if the Town of Billerica will vote to raise and appropriate or transfer from available funds a sum of money to fund the first year cost items contained in the successor Collective Bargaining Agreement between the Town and NEPBA (New England Police Benevolent Association, Inc.) Group (B) Superior Officers; or act in relation thereto.

Submitted by the Town Manager; authorized by the Board of Selectmen

Finance Committee has not yet made final recommendation.

Article 10 Explanation: At the time of printing, there was no Collective Bargaining Agreement.

**ARTICLE 11 - TO FUND COLLECTIVE BARGAINING AGREEMENT - IAFF
FIREFIGHTERS**

To see if the Town of Billerica will vote to raise and appropriate or transfer from available funds a sum of money to fund the first year cost items contained in the successor Collective Bargaining Agreement between the Town and IAFF Firefighters (International Association of Firefighters); or act in relation thereto.

Submitted by the Town Manager; authorized by the Board of Selectmen

Finance Committee has not yet made final recommendation.

Article 11 Explanation: At the time of printing, there was no Collective Bargaining Agreement.

**ARTICLE 12 - TO VOTE FROM FREE CASH A SUM OF MONEY TO THE DEBT
STABILIZATION FUND**

To see if the Town will vote to raise and appropriate or transfer from General Fund Free Cash the sum of \$6,000,000 to the Debt Stabilization Fund; or act in relation thereto.

Submitted by the Finance Committee

Finance Committee has not yet made final recommendation.

Article 12 Explanation: The Town, through the Board of Selectmen, has established a Debt Stabilization Policy that maintains the same level of appropriation from the tax levy year to year - \$9.066 million. This is accomplished in the following two ways:

- Transferring a minimum amount of free cash and or retained earnings annually in the amount of \$1.8 million to the Debt Stabilization Fund.
- To appropriate the difference of any year that is lower than \$9.066 million to Debt Stabilization.

The balance in the Debt Stabilization Account is used to minimize the tax levy impact that would otherwise be realized with addition of sewer debt and school capital debt. At the time the warrant was printed, the Department of Revenue had not yet certified Free Cash and Enterprise Water and Sewer Retained Earnings Funds as of July 1, 2018. The Debt Stabilization Fund balance as of June 30, 2018 is \$17,232,143.

ARTICLE 13 - FISCAL YEAR 2019 BUDGET AMENDMENT

To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$3,000,000 to amend various Fiscal Year 2019 budget line items; or act in relation thereto.

Submitted by the Town Manager; authorized by the Board of Selectmen

Finance Committee has not yet made final recommendation.

Article 13 Explanation: This article is presently a placeholder for any anticipated budget changes to be made this year.

ARTICLE 14 - TO FUND FISCAL YEAR 2019 TOWN CAPITAL BUDGET

To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$6,000,000 to fund the Fiscal Year 2019 Town Capital Budget; or act in relation thereto.

Submitted by the Town Manager; authorized by the Board of Selectmen

Finance Committee has not yet made final recommendation.

Article 14 Explanation: This article is a placeholder. These decisions will be made when the free cash numbers become available prior to Town Meeting.

ARTICLE 15 - TO FUND FISCAL YEAR 2019 SCHOOL CAPITAL BUDGET

To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$6,000,000 to fund the Fiscal Year 2019 School Capital Budget; or act in relation thereto.

Submitted by the School Committee

Finance Committee has not yet made final recommendation.

Article 15 Explanation: This article is a placeholder. These decisions will be made when the Free Cash numbers become available prior to Town Meeting.

ARTICLE 16 - TO FUND SEWER MANHOLE REPAIRS FROM THE INFLOW AND INFILTRATION FUND

To see if the Town will vote to transfer and appropriate from the Inflow and Infiltration (I&I) Fund the sum of \$50,000 for the repairs of Sewer Manholes Structures; or act in relation thereto.

Submitted by the Town Manager; authorized by the Board of Selectmen

Finance Committee has not yet made final recommendation.

Article 16 Explanation: Many sewer manholes town-wide are in need of repairs due to pavement failures around the Manhole Casting. Repairs will require the removal of materials around the casting, adjustment of casting and pavement application around casting. The I&I Fund balance as of June 30, 2018 is \$181,723.

ARTICLE 17 - TO FUND THE SUM OF \$400,000 TO RECONSTRUCT THE INTERSECTION OF WHIPPLE ROAD AT ANDOVER ROAD AND TO AUTHORIZE THE BOARD OF SELECTMEN TO ACQUIRE EASEMENTS

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow the sum of \$400,000 for the installation of Traffic Signals and intersection improvements and to authorize the Board of Selectmen to acquire by gift, purchase or eminent domain the taking easements for roadway, drainage, utility, and/or sidewalk purposes associated with the Traffic Signal Improvements Project; to authorize the Selectmen to execute any documents or instruments necessary to effect said easements; and to raise and appropriate, transfer from available funds, or authorize the borrowing of a sum of money for the payment of property damages and other costs/expenses related said easement acquisitions; or act in relation thereto.

Submitted by the Town Manager; authorized by the Board of Selectmen

Finance Committee has not yet made final recommendation.

Article 17 Explanation: At the Fall 2017 Town Meeting the Town appropriated \$394,000 to fund the design for three locations that included the intersection of Whipple Road and Andover Road. This article is to fund construction and to acquire an easement and/or takings if the design requires it.

ARTICLE 18 - TO FUND PHASE II FROST STREET DRAINAGE

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow the sum of \$500,000 for the Phase II Drainage Replacement on Frost Street.

Submitted by the Town Manager; authorized by the Board of Selectmen

Finance Committee has not yet made final recommendation.

Article 18 Explanation: Phase I was funded at the 2015 Fall Town Meeting.

ARTICLE 19 - TO FUND TOWN CAPITAL BUDGETS FROM PREVIOUS TOWN MEETING ARTICLES

To see if the Town will vote to transfer and appropriate from unexpended balances from previously approved Town Meeting articles the sum of \$3,000,000 to fund various Town Capital Budgets; or act in relation thereto.

Submitted by the Town Manager; authorized by the Board of Selectmen

Finance Committee has not yet made final recommendation.

Article 19 Explanation: This is a placeholder to re-appropriate funds for other Capital Projects.

ARTICLE 20 - FOX HILL CEMETERY EXPANSION

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow the sum of \$3,000,000 for expansion of the Fox Hill Cemetery; or act in relation thereto.

Submitted by the Town Manager; authorized by the Board of Selectmen

Finance Committee has not yet made final recommendation.

Article 20 Explanation: As of February 1, 2018 the total number of graves in the current inventory was 220. Fifty graves with headstones and 170 back graves with flat markers. The Town sells approximately 150 graves annually. With approximately 18 months of inventory remaining, it is essential that the Town expand the cemetery for future needs. The project will take two years of construction to complete.

ARTICLE 21 - TO VOTE FROM FREE CASH A SUM OF MONEY TO THE STABILIZATION FUND

To see if the Town will vote to raise and appropriate or transfer from General Fund Free Cash the sum of \$6,000,000 to the Stabilization Fund; or act in relation thereto.

Submitted by the Finance Committee

Finance Committee has not yet made final recommendation.

Article 21 Explanation: The purpose of this fund is to set money aside to be used at a later time for unforeseen or unanticipated circumstances. The current balance of the Town Stabilization Fund is \$4,573,277 for the Town and \$706,632 for the School Department. At the time this warrant was printed, the Department of Revenue had not yet certified Free Cash as of July 1, 2018.

ARTICLE 22 - TO VOTE FROM FREE CASH A SUM OF MONEY TO THE LAND BANK ACCOUNT

To see if the Town will vote to raise and appropriate or transfer from General Fund Free Cash the sum of \$6,000,000 to the Land Bank Account; or act in relation thereto.

Submitted by the Finance Committee

Finance Committee has not yet made final recommendation.

Article 22 Explanation: The Land Bank Account was established by special legislation. The balance as of September 1st of the Town Land Fund is \$526,383. At the time this warrant was printed, the Department of Revenue had not yet certified Free Cash as of July 1, 2018.

ARTICLE 23 - TO VOTE FROM FREE CASH A SUM OF MONEY TO FUND THE SNOW AND SAND DEFICIT

To see if the Town will vote to transfer and appropriate from Free Cash of the General Operating Budget the sum of \$1,000,000 to fund the Snow and Sand Deficit; or act in relation thereto.

Submitted by the Finance Committee

Finance Committee has not yet made final recommendation.

Article 23 Explanation: To be presented at Town Meeting. At the time this warrant was printed, the Department of Revenue had not yet certified Free Cash as of July 1, 2018.

ARTICLE 24 - TO VOTE FROM FREE CASH A SUM OF MONEY TO BE APPLIED OR EXPENDED FOR THE PURPOSE OF REDUCING THE FISCAL YEAR 2018 TAX LEVY

To see if the Town will vote to transfer from General Fund Free Cash the sum of \$6,000,000 to be applied or expended for the purpose of reducing the Fiscal Year 2018 Tax Levy; or act in relation thereto.

Submitted by the Finance Committee

Finance Committee has not yet made final recommendation.

Article 24 Explanation: To be presented at Town Meeting. At the time this warrant was printed, the Department of Revenue had not yet certified Free Cash as of July 1, 2018.

ARTICLE 25 - COMMUNITY PRESERVATION COMMITTEE APPROPRIATION
RECOMMENDATIONS

To determine whether the Town will vote to transfer from the Community Preservation Fund or otherwise fund for community preservation purposes the amounts shown below for the referenced projects; and, in connection therewith, to authorize the Board of Selectmen to acquire any interests in land that may be necessary to effectuate the purposes of this vote, or to grant any interests in land as may be necessary to comply with G.L. c.44B; and further, to authorize the Board of Selectmen to execute any documents or instruments necessary to effectuate the purpose of this Article; all in accordance with Massachusetts General Laws c. 44B or other applicable law; with sums appropriated hereunder to be expended under the direction of the Town Manager; or act in relation thereto.

Item	Project/Description	Category	Source				Total Amount Recommended
			Housing Reserve	Open Space and Recreation Reserve	Historic Preservation Reserve	CPA Fund Balance	
A	Billerica Affordable Housing Trust – Affordable unit purchasing	Community Housing					\$160,000
<i>Under the direction of Billerica's Affordable Housing Trust, the Billerica Housing Authority (BHA) will pursue the purchase of affordable housing units. As a provider of safe, decent and affordable housing opportunities for residents, the BHA and Affordable Housing Trust will use CPA funding to help build a reserve to be used as "seed" funds/deposit for new family and elderly housing opportunities for Billerica residents in need. The project supports the CPC's plan for ensuring long range affordability for residents, can help achieve the goal to develop rental and ownership options for senior citizens, disabled residents and veterans laid out in Billerica's Housing Production Plan.</i>							
B1	Billerica Public Library – Preservation needs assessment	Historic Preservation					\$6,135
<i>The Billerica Public Library is the repository for documents integral to maintaining the history of the town of Billerica. Many of these paper documents are old and sometimes in dire need of restoration and preservation. The Billerica Public Library is seeking funds to perform a Preservation Assessment (risks, policies, storage, equipment, and handling) of the current situation. Billerica's Master Plan identifies the objective of enhancing Billerica's civic education programs and instills pride in the town's rich heritage; a goal this project helps achieve.</i>							
B2	Billerica Historical Society – Clara Sexton Memorial Museum preservation	Historic Preservation					\$101,000
<i>The Billerica Historical Society is seeking CPA funding for the restoration and preservation of the Clara Sexton Memorial Museum located at 36 Concord Road. The funds will help the Society replace windows and repaint the property. This is an important initiative as the project demonstrates a public benefit that is significant in the history, archeology, architecture or culture of the town, which is one of the criteria for the CPC.</i>							
B3	Town of Billerica – Howe School	Historic Preservation					\$420,000

<i>The Town of Billerica seeking CPA funds for the Howe School. These funds will be used for the 100% design and construction cost estimation to make the building habitable and accessible to the public. This is a necessary first step to prepare the Town to go out to bid for the construction improvements, and offers the opportunity to work towards Billerica's goal of developing programming and key projects to promote opportunities for everyday interactions with the town's history and resources.</i>							
B4	Middlesex Canal Association – Middlesex Canal Museum	Historic Preservation					\$100,000
<i>The Middlesex Canal Museum – operating out of the Faulkner Mill in North Billerica – is in the process of permitting and preparing for the preservation and rehabilitation of 2 Old Elm Street as a new museum. This former brick woolen warehouse needs significant renovation, the majority of which are being funded by the Museum. The Canal Association is seeking funds for masonry improvements (corbeling to accept new roof trusses, two new entrances, and repointing of bricks). This work allows a Billerica the chance to "Protect, preserve, enhance, restore and/or rehabilitate historic, cultural, architectural or archaeological resources of significance, especially those that are threatened," a criteria from Billerica's CPC Plan.</i>							
C1	Town of Billerica – Yankee Doodle Bike path	Open Space/Recreation					\$367,000
<i>The Town of Billerica has been moving ahead on the design for the Yankee Doodle Bike Path. The Town is currently at the 25% design stage and is seeking to advance to 75% design stage. The CPA funds will be used to advance the recreational initiatives laid out in Billerica's Open Space and Recreational Plan to "Improve, expand, and increase access to active and passive recreational opportunities."</i>							
C2	Town of Billerica – Peggy Hannon Rizza Complex	Open Space/Recreation					\$433,200
<i>The Town of Billerica is seeking CPA funds to be used for design costs at the Peggy Hannon Rizza Complex. The current field configuration and condition is inefficient and needs to be rehabilitated. This project will use CPA funding to leverage existing recreational locations, and maximize the land already owned by the Town which is a benchmark for eligibility for CPA projects.</i>							
C3	Billerica Recreation Department – Disc Golf course at Vietnam Veteran's Park	Open Space/Recreation					\$19,950
<i>The Billerica Recreation Department is seeking funds to design and install a Disc Golf Course at Vietnam Veteran's Park (VVP). This activity will become an attraction for residents and help further the VVP as a meeting place for friends and family, while providing a fun and free entertainment option for the residents of Billerica. In addition to leveraging existing recreational locations for multiple uses, this project aligns well with Billerica's Open Space and Recreation Plan: "Improve public awareness of conservation and recreational resources and their social, economic, and environmental benefits to the Town."</i>							
			\$160,000	\$160,000	\$160,000	\$1,127,285	\$1,607,285

This article authorizes the appropriation of funds from the Community Preservation Fund for the completion of specific projects as listed in the above chart and allowed under the Community Preservation Act. These projects will expend a total of \$160,000 (10%) for Community Housing, \$627,135 (39%) for Historic Preservation, and \$820,150 (51%) for Open Space/Recreation. Town Meeting may reduce or reject but may not increase the appropriation from the Community Preservation Fund for any item proposed by the Committee.

Submitted by the Community Preservation Committee

Finance Committee has not yet made final recommendation.

Article 25 Explanation: The Community Preservation Committee received applications for projects to use funds within the Community Preservation Fund, and the eight projects described above will be recommended to Town Meeting for approval.

ARTICLE 26 - RESCIND BORROWING AUTHORIZATIONS

To see if the Town will vote to rescind borrowing authorizations previously approved at Town Meeting; or act in relation thereto.

Submitted by the Town Manager; authorized by the Board of Selectmen

Finance Committee has not yet made final recommendation.

Article 26 Explanation: This article will rescind previous borrowing authorizations.

ARTICLE 27 - TO REMOVE BMEA FROM CIVIL SERVICE

To see if the Town will vote to authorize and direct the Board of Selectmen to petition the Legislature to pass an act to exempt DPW positions in the Billerica Department of Public Works from General Law, Chapter 31 (Civil Service); or act in relation thereto.

Submitted by the Town Manager; authorized by the Board of Selectmen

Finance Committee has not yet made final recommendation.

Article 27 Explanation: This article was precipitated by an agreement between the Town and the BMEA Union to remove DPW employees from Civil Service. This was agreed to during the last negotiated contract cycle.

ARTICLE 28 - TO CREATE A CONSERVATION COMMISSION FUND

To see if the Town will vote to create a Conservation Commission Fund pursuant to M.G.L. Chapter 40, Section 8C, to be listed in the Town of Billerica as Capital Outlays of which the Town Treasurer shall remain the custodian; or act in relation thereto.

Submitted by the Conservation Commission

Article 28 Explanation: The purpose of the article is to establish a fund, as authorized under M.G.L. Chapter 40, Section 8C, into which monies obtained through funding by Town Meeting, grants and donations may be expended by majority vote of the Conservation Commission for the purposes authorized by M.G.L. Chapter 40, Section 8C.

ARTICLE 29 - AUTHORIZATION TO APPLY TO THE DEPARTMENT OF ENVIRONMENTAL PROTECTION STATE REVOLVING FUND CLEAN WATER LOW INTEREST LOAN PROGRAM

To see if the Town will vote to apply to the DEP SRF Clean Water Low Interest Loan Program to establish a Trust of up to \$400,000 to provide low interest loans to residents that qualify for relief to connect to Town sewer. Loan preference shall be based on financial need and cost; or act in relation thereto.

Submitted by the Town Manager; authorized by the Board of Selectmen

Finance Committee has not yet made final recommendation.

Article 29 Explanation: The DEP requires Town Meeting Authorization to establish an SRF Trust for the Clean Water Loan Program.

ARTICLE 30 - TO ESTABLISH A 3% ADULT-USE MARIJUANA TAX

To see if the Town will vote to accept the provisions of Massachusetts General Laws Chapter 64N, Section 3 to impose a 3% local sales tax on the sale or transfer of marijuana or marijuana products by a marijuana retailer operating within the Town of Billerica; or act in relation thereto.

Submitted by the Town Manager; authorized by the Board of Selectmen

Article 30 Explanation: The purpose of this article is to establish a tax authorized under M.G.L. Chapter 64, Section 3 to impose a 3% sales tax on any sale or transfer of marijuana in the Town of Billerica. These monies will be transferred into the General Fund and will be used to offset any new services provided by the Town due to legalization of marijuana.

ARTICLE 31 - TO AMEND MEDICAL MARIJUANA GENERAL BY-LAW

To see if the Town will vote to remove the current Medical Marijuana General By-Law and replace it with a new Medical Marijuana General By-Law as follows:

XXVI MEDICAL MARIJUANA BY-LAW

Whereas, Massachusetts voters approved the legal cultivation, processing, distribution, sale and use of marijuana for medical purposes through Chapter 369 of the Acts of 2012, An Act for the Humanitarian Medical Use of Marijuana; and

Whereas, nothing in that Act or its implementing regulations at 105 CMR 725 supersedes Massachusetts law prohibiting the possession, cultivation, transport, distribution, or sale of marijuana for nonmedical purposes; and

Whereas; the prevention of the illegal sale and use of marijuana, particularly by the town's youth, is a public health priority; and

Whereas; Registered Marijuana Dispensaries and similar clinics in other jurisdictions have been found to present unique and challenging threats to public health and safety; and

Whereas, the state regulation at 105 CMR 725.600 allows for lawful local oversight and regulation, including fee requirements; and

Whereas, reasonable and effective local oversight of the cultivation, processing, distribution, sale and use of marijuana for medical purposes is needed to protect community health and safety while ensuring legitimate patient access;

Therefore, in furtherance of its mission to protect, promote, and preserve the health and wellbeing of all Billerica residents, particularly the most vulnerable, and pursuant to the authority granted to it under M.G.L. c 111 § 31, the Town enacts a Regulation to Ensure Safe Access to Medical Marijuana in the Town of Billerica as follows:

1. GUIDELINES

- 1.1 The Billerica Board of Health ("BOH") and The Billerica Board of Selectmen (BOS)-may issue guidelines for the implementation of this By-Law, including but not limited to

definitions of terms used in the State regulations and in the guidelines. In the event of a conflict between this By-Law and the guidelines, as either may be amended, the By-Law shall control.

2. PERMITTING

- 2.1. Any proposed Registered Marijuana Dispensary (“RMD”) shall obtain an Operating Permit in the form and manner prescribed by the Board of Health and a Marijuana Establishment License in the form and manner prescribed by the Board of Selectmen as may be further set forth in the Guidelines.
- 2.2 In order to support execution of responsibilities set forth in this regulation, an annual Operating Permit fee shall be assessed in an amount that shall be set by the Board of Health and may be amended by the BOH following a public meeting on the fee structure.
- 2.3 The RMD operator shall post the Operating Permit in a clear and conspicuous manner.
- 2.4 No Dispensary Agent shall sell or otherwise distribute marijuana or marijuana products within the town of Billerica without first obtaining a Marijuana Establishment ~~Dispensary Agent~~ Permit issued annually by the BOH and a Marijuana Establishment License issued annually by the BOS. For purposes of this regulation, Marijuana Establishment Agent will include board member, director, employee, executive, manager, or volunteer of marijuana Establishment, who is at least 21 years of age and who has received approval from the Cannabis Control Commission Employee includes a consultant or contractor who provides on-site services to a Marijuana Establishment related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of marijuana.
- 2.5 As part of the Permit application process, the applicant will be provided with all appropriate By-Laws and regulations. Each applicant is required to sign a statement declaring that the applicant has read said By-Laws and regulations.
- 2.6 Each applicant is required to provide proof by means of a valid government-issued photographic identification

containing the bearer's date of birth that the applicant is 21 years old or older.

- 2.7 Each applicant is required to provide proof of a current Dispensary Agent registration, issued by the CCC& DPH, before a Permit can be issued.
- 2.8 In order to support execution of responsibilities set forth in this regulation, a ~~Dispensary Marijuana Establishment~~ Agent Permit fee shall be assessed in an amount that shall be set by the Board of Health.
- 2.9 All ~~Dispensary Marijuana Establishment Licenses Agent~~ and Operating Permits expire annually on December 31st and shall be valid for a maximum term of one year, renewable annually on January 1st.
- 2.10 No permit issued under this regulation may be transferred to any other person or entity.

3. REQUIREMENTS AND PROHIBITIONS

- 3.1 The cultivation, processing, distribution, sale and use of marijuana for medical purposes shall be conducted in compliance with all laws, ordinances, regulation or policies applicable to similar activities. This shall include, but not be limited to compliance with Food Service Health Permit requirements, Weights and Measures requirements, Noise Regulations, Public Nuisance bylaws, Clean Air bylaws, Workplace Smoking and E- Cigarette Regulations, State and local Building Codes, and any and all requirements associated with zoning and permitting.
- 3.2 ~~In no instance shall an Operating Permit be issued to any RMD that is within a radius of one thousand feet of a school, daycare center, or any facility in which children commonly congregate.~~ As defined in Section 4B, 4C, and 4D of the Adult Use Marijuana Overlay District no Marijuana Establishment shall be located within 500 feet of the listed establishments unless demonstrated otherwise.
- 3.3 The cultivation, processing, distribution, or sale of marijuana for medical purposes shall not exempt any person or entity from complying with all state and local laws, ordinances, regulation and policies. Violation of any other such law shall constitute a violation of this regulation and be subject to the

finances and penalties described herein. Nothing in this Regulation gives any immunity under federal law or poses an obstacle to federal enforcement of federal law.

- 3.4 The issuance of an Operating Permit under this regulation shall be conditioned on Registration approval by the Massachusetts CCC & DPH as required by state law and regulation. Any revocation of an RMD's state registration shall result in an automatic suspension of that RMD's Operating Permit and License.
- 3.5 The Marijuana Establishment shall submit a management and operations profile ~~security plan~~ for review to the BOS, BOH, Planning Board and Billerica Police Department detailing all security measures taken to ensure patient and community safety and eliminate unauthorized access to the premises. The BOH and/or Police Department may issue guidelines or other procedure setting forth specific security requirements. Unless specified by any other state or local requirement or agreement as to the hours of operation of a, the Board of Health, in consultation with the Board of Selectmen Planning Board, and Police Department, may set limitations on the hours of operation of any .
- 3.6 Each RMD must hold an annual community meeting to provide abutters and community residents with an opportunity to comment on the RMD's operating practices, policies and plans.
- 3.7 RMDs must offer a secure patient or personal caregiver home delivery system that serves every address within Billerica and provides patient or personal caregiver home delivery service to any patient or personal caregiver residing in Billerica who suffers a physical incapacity to access transportation as described by 105 CMR 725.035(A)(2).
- 3.8 A RMD shall submit a plan for review to the BOH detailing its plans to provide reduced cost or free marijuana to patients with documented verified financial hardship as required by 105 CMR 725.100(A)(6). If said plan is deemed insufficient to ensure adequate patient access, no Operating Permit shall be issued.
- 3.9 The BOH may set further limitations on signage and advertising of RMDs, and may require the distribution of educational materials. Signage limitations may include, but need not be limited to those set forth in 105 CMR

725(105)(L), including restrictions on the use of images related to marijuana or marijuana paraphernalia, size and visibility of marijuana displays from outside a RMD. Educational materials to be distributed may include a “patients’ bill of rights” along with information on addiction and treatment resources

- 3.10 A RMD may not sell any products other than marijuana. For purposes of this subsection, “marijuana” may include Marijuana Infused Products, marijuana seeds, and other products that facilitate the use of marijuana for medical purposes, such as vaporizers. RMDs may not sell any tobacco product, or other nicotine delivery product, including e- cigarette cartridges or liquids that contain nicotine.
- 3.11 RMDs shall submit annual reports to the BOH, BOS, Planning Board and Police Department in a form and manner determined by the BOH.
- 3.12 The issuance or renewal of an Operating Permit may be conditioned up the approval of any plan or compliance with this By-Law or any guideline or requirement issued under the authority of this By-Law.
- 3.13 Issuance and maintaining a ~~Marijuana Establishment Dispensary Agent~~ Permit and License shall be conditioned on an applicant’s ongoing compliance with current Commonwealth of Massachusetts requirements and policies regarding marijuana sales.
- 3.14 A ~~Marijuana Establishment Dispensary Agent~~ Permit and License will not be renewed if the Permit Holder has failed to comply with any corrective action plan and/or has not satisfied any outstanding Permit suspensions.
- 3.15 ~~Marijuana Establishment Dispensary~~ Agents must present their state Registration Card and ~~Dispensary Marijuana Establishment Agent~~ Permit and License to any law enforcement official or municipal agent who questions the agent concerning their marijuana-related activities.
- 3.16 Inhaling, exhaling, burning or carrying any lighted or vaporized substance in any manner or form, including marijuana used for medical or any other purpose in a

workplace shall constitute a violation of this regulation and shall be subject to the fines and penalties of applicable laws and regulations.

3.17 Consumption of Marijuana in public places will be banned in the Town of Billerica.

4. **ENFORCEMENT AND PENALTIES**

4.1 Authority to inspect RMDs for compliance and to enforce this regulation shall be granted to the BOH, the Building Commissioner, and the Billerica Police Department.

4.2 Any person may register a complaint under this By-Law to initiate an investigation and enforcement with the BOH, the Building Commissioner, and the Billerica Police Department. Unscheduled compliance inspections by the BOH shall be conducted at a minimum of three inspections annually.

4.3 It shall be the responsibility of the ~~Marijuana Establishment RMD~~ Occupancy Permit holder and/or individual in charge of the ~~Marijuana Establishment-RMD~~ to ensure compliance with all applicable sections of this By-Law. Any ~~Marijuana Establishment RMD~~ found to be in violation of any of the provisions of this By-Law may receive a written warning citation, Operating Permit suspension, ~~Marijuana Establishment Dispensary~~ Agent Permit suspension, Operating Permit revocation, or ~~Marijuana Establishment~~ Agent revocation. For any violation, the BOH ~~or BOS~~ may order the ~~Marijuana Establishment RMD~~ permit ~~or license~~ holder appear for a hearing and/or enter into a corrective action plan to address any and all violations and prevent future violations.

4.4 No provision, clause or sentence of this section of this By-Law shall be interpreted as prohibiting the BOS, BOH, Building Commissioner or Planning Board from suspending or revoking any license or permit issued by and within the jurisdiction of such department or agency for repeated or egregious violations of this regulation.

4.5 The BOH and the BOS may file a complaint in any court of competent jurisdiction and/or pursue any other remedy as warranted by law to enforce the provisions of this regulation.

- 4.6 A violation of Section 3.17 Consuming Marijuana in Public will be liable for a fine of \$100 for the first offense, \$200 for the second offense, and \$300 for the third, and any subsequent offense.

5. APPEALS

- 5.1 Any ~~Marijuana Establishment RMD~~ Operating Permit holder, ~~Marijuana Establishment-Dispensary~~ Agent, or any person or entity charged with violation of any provision of this regulation shall receive a citation from a designated agent of the ~~BOH~~Town of Billerica. Such citation and any subsequent hearing notification shall be deemed a Notice of Action within the meaning of 801 CMR 1.02(6).
- 5.2 Any ~~Marijuana Establishment RMD~~ Operating Permit holder, ~~Marijuana Establishment-Dispensary~~ Agent, or any person or entity cited for violation of this regulation wishes to appeal the findings or rulings of the ~~BOH~~Town of Billerica shall file a written appeal, and any supporting memoranda and documents, within twenty-one (21) days of the date the violation notice is issued. The ~~BOH~~appropriate Town Agency shall conduct an Administrative Hearing in accordance with procedures in its guidelines to determine the facts of the violation, the appropriate corrective action measures, term of suspension, if any, and/or issue a permit revocation order. ~~The BOH~~Such Town Agency shall file any response to the appeal within fifteen (15) days after the hearing is closed.
- 5.3 Failure to comply with any corrective action plan, suspension or revocation, shall result in automatic suspension of the permit.

6. RETALIATION

- 6.1 No person, retailer, or employer shall discharge, refuse to hire, refuse to serve or in any manner retaliate or take any adverse action against any employee, applicant, customer or person because such employee, applicant, customer or person takes any action in furtherance of the enforcement of this regulation or exercises any right conferred by this regulation.

7. SEVERABILITY

- 7.1 If any provision, clause, sentence, paragraph or word of this By-Law or the application thereof to any person, entity or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this article which can be given effect without the invalid provisions or application and to this end the provisions of this By-Law are declared severable.

8. EFFECTIVE DATE

- 8.1 This By-Law shall take effect on ~~January 1, 2019~~~~June 1, 2014.~~
(ASTM 05/2014 – Art. 27

SEVERABILITY

It is hereby declared that sections, paragraphs, sentences, clauses and phrases of these By-Laws are severable and if any phrase, clause, sentence, paragraph or section of these By-Laws shall be declared unconstitutional or otherwise invalid by the valid judgment of a court of competent jurisdiction such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of these By-Laws.

Or act in relation thereto.

Submitted by the Town Manager; authorized by the Board of Selectmen

Finance Committee has not yet made final recommendation.

Article 31 Explanation: Modifications needed to be made to accommodate the addition of an Adult Use Marijuana By-Law.

ARTICLE 32 - TO AMEND MEDICAL MARIJUANA BY-LAW OVERLAY DISTRICT

To see if the Town will vote to remove the current Medical Marijuana Zoning By-Law Overlay District and replace it with a new Medical Marijuana Zoning Overlay By-Law as follows:

MEDICAL MARIJUANA OVERLAY DISTRICT

1. Establishment: The Medical Marijuana Overlay District (“MMOD”) is established as an overlay district. The boundaries of the MMOD are shown on the Zoning Map on file with the Town Clerk. Within the MMOD, all requirements of the underlying district(s) remain in effect, except where these regulations provide an alternative to such requirements. Land within the MMOD may be used either for (1) a Registered Marijuana Dispensary (“RMD”), in which case the requirements set forth in this section shall apply; or (2) a use allowed in the underlying district, in which case the requirements of the underlying district shall apply. If the provisions of the MMOD are silent on a zoning regulation, the requirements of the underlying district shall apply. If the provisions of the MMOD conflict with the requirements of the underlying district, the requirements of the MMOD shall control.
2. Purpose: To provide for the placement of RMDs, in accordance with the Humanitarian Medical Use of Marijuana Act, G.L. c.94C, App. §1-1, et seq., in locations suitable for lawful medical marijuana facilities and to minimize adverse impacts of RMDs on adjacent properties, residential neighborhoods, historic districts, schools, playgrounds and other locations where minors congregate by regulating the siting, design, placement, security, and removal of RMDs.
3. Definitions: where not expressly defined in the Zoning By-Laws, terms used in the MMOD By-Law shall be interpreted as defined in the Humanitarian Medical Use of Marijuana Act, G.L. c.94C, App. §1-1, et seq. and the Department of Public Health Regulations promulgated thereunder, 105 CMR 725.001, et seq., and otherwise by their plain language.
 - a. Registered Marijuana Dispensary: also known as a Medical Marijuana Treatment Center, means a not-for-profit entity registered under 105 CMR 725.100, that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana-infused products (“MIPs”), tinctures, aerosols, oils, or ointments), transfers, transports, sells,

distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

4. Location

- a. RMDs may be permitted in the MMOD pursuant to a Special Permit ~~granted by the Planning Board.~~
 - b. RMDs may not be located within ~~500~~ 1,000 feet of the following:
 - (1) School, including a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university
 - (2) Child Care Facility
 - (3) Library
 - (4) Playground
 - (5) Public Park
 - (6) Youth center
 - (7) Public swimming pool
 - (8) Video arcade facility or
 - (9) Similar facility in which minors commonly congregate in an organized, ongoing, formal basis;
 - c. The distance under this section is measured in a straight line from the nearest point of the property line of the protected uses identified in Section 4.b. to the nearest point of the property line of the proposed RMD.
 - d. The distance requirement may be ~~reduced to 250 feet by waiver if: reduced by twenty five percent or less, but only if:~~
 - (1) The applicant demonstrates that the RMD would otherwise be effectively prohibited within the municipality.
 - (2) The applicant demonstrates that the RMD will employ adequate security measures to prevent diversion of medical marijuana to minors who are not qualifying patients pursuant to 105 CMR 725.004.
5. Procedure: The Planning Board shall be the Special Permit Granting Authority (SPGA) for a RMD special permit.
- a. Application: In addition to the materials required under Section 6.E and Section 13.B of this By- Law, the applicant shall submit the following:

- (1) A copy of its registration as an RMD from the Massachusetts Department of Public Health (“DPH”).
- (2) A detailed floor plan of the premises of the proposed RMD that identifies the square footage available and describes the functional areas of the RMD, including areas for any preparation of MIPs.
- (3) Detailed site plans that include the following information:
 - (a) Compliance with the requirements for parking and loading spaces, for lot size, frontage, yards and heights and coverage of buildings, and all other provisions of this By-Law.
 - (b) Convenience and safety of vehicular and pedestrian movement on the site and for the location of driveway openings in relation to street traffic.
 - (c) Convenience and safety of vehicular and pedestrian movement off the site, if vehicular and pedestrian traffic off-site can reasonably be expected to be substantially affected by on-site changes.
 - (d) Adequacy as to the arrangement and the number of parking and loading spaces in relation to the proposed use of the premises, including designated parking for ~~home~~ delivery vehicle(s), as applicable.
 - (e) Design and appearance of proposed buildings, structures, freestanding signs, screening and landscaping.
 - (f) Adequacy of water supply, surface and subsurface drainage and light.
 - (g) Facilities for eliminating odors and other operational effects that may constitute a nuisance.
- (4) A description of the security measures, including employee security policies, approved by DPH for the RMD.
- (5) A copy of the emergency procedures approved by DPH for the RMD.
- (6) A copy of the policies and procedures for patient or personal caregiver home- delivery approved by DPH for the RMD.
- (7) A copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between RMDs approved by DPH.
- (8) A copy of proposed waste disposal procedures.
- (9) A description of any waivers from DPH regulations issued for the RMD.
 - b. The Planning Board shall refer copies of the application

to the Building Department, Fire Department, Police Department, Board of Health, Conservation Commission, and the Engineering Division of the Department of Public Works. These boards/departments shall review the application and shall submit their written recommendations. Failure to make recommendations within 35 days of referral of the application shall be deemed lack of opposition.

- c. After notice and public hearing and consideration of application materials, consultant reviews, public comments, and the recommendations of other town boards and departments, the Planning Board may act upon such a permit.
6. Special Permit Conditions on RMDs: The Planning Board shall impose conditions reasonably appropriate to improve site design, traffic flow, public safety, protect water quality, air quality, and significant environmental resources, preserve the character of the surrounding area and otherwise serve the purpose of this section. In addition to any specific conditions applicable to the applicant's RMD, the Planning Board shall include the following conditions in any special permit granted under this By-Law:
- a. Hours of Operation, including dispatch of home deliveries.
 - b. The permit holder shall file a copy of any Incident Report required under 105 CMR 725.110(F) with the Building Commissioner, Police Chief, and the Planning Board within 24 hours of creation by the RMD. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations.
 - c. The permit holder shall file a copy of any summary cease and desist order, quarantine order, summary suspension order, order limiting sales, notice of a hearing, or final action issued by DPH or the Division of Administrative Law Appeals, as applicable, regarding the RMD with the Building Commissioner, Police Chief, and Planning Board within 48 hours of receipt by the RMD.
 - d. The permit holder shall provide to the Building Commissioner and Police Chief, the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder.
 - e. The special permit shall lapse within five (5) years of its issuance. If the permit holder wishes to renew the special permit, an application to renew the special permit must be submitted at

- least 120 days prior to the expiration of the special permit.
- f. The special permit shall be limited to the current applicant and shall lapse if the permit holder ceases operating the RMD.
 - g. The special permit shall lapse upon the expiration or termination of the applicant's registration by DPH.
 - h. The permit holder shall notify the Building Commissioner, Police Chief, and Planning Board in writing within 48 hours of the cessation of operation of the RMD or the expiration or termination of the permit holder's registration with DPH.
7. Exemption from RMD Special Permit Requirement: RMDs that demonstrate that they are protected pursuant to the agricultural exemption under G.L. c.40A §3 are not required to obtain a special permit, but shall apply for Site Plan Approval pursuant to Section 6 of this By-Law.
8. Prohibition Against Nuisances: No use shall be allowed in the MMOD which creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.
9. Prohibition Against Consumption: No marijuana shall be burned, smoked, eaten, or otherwise consumed or ingested on the premises of a MMOD
- ~~8.—~~Prohibition Against Delivery: No Marijuana Establishment shall deliver marijuana or marijuana products to consumers off-site.
10. Building: All aspects of a MMOD relative to the cultivation, possession, processing, sales, distribution, dispensing or administration of marijuana, marijuana products, or related supplies must take place at a fixed location within a fully enclosed building, products must not be visible from the exterior of the building, and no drive through service is permitted A MMOD shall not be located in a trailer, storage freight, mobile structure, container, motor vehicle or other similar movable enclosure.
- ~~9-11.~~ A MMOD may be involved in the use permitted by its definition. MMOD establishments may only be located in buildings with other uses, including other types of marijuana establishments, only if the marijuana establishment is separated by full walls from the other use. No outside storage of marijuana, marijuana products, or related supplies is permitted.

12. Emergency Response Plan: All MMOD shall meet with the Billerica Fire Department and the Billerica Police Department to discuss and identify emergency plans/contingency plans for the site prior to the issuance of a certificate of occupancy. This plan shall also include how the Billerica Police will access the Close Circuit Television. A written Emergency Response Plan shall be filed with the Billerica Fire Department and the Billerica Police Department.
13. Odor Control: The MMOD shall provide an odor control plan that provides for proper and adequate ventilation at such facilities in such a manner so as to prevent pesticides, insecticides or other chemicals used in the cultivation or processing of marijuana or marijuana related products from being dispersed or released outside the facilities. All resulting odors, smoke, vapor, fumes, gases and particulate matter from marijuana or its processing or cultivation shall be effectively confined to the premises or so disposed of so as to avoid any air pollution. No odor from marijuana establishments may be noxious or cause a public nuisance.
- ~~10.~~14. Severability: The provisions of this By-Law are severable. If any provision, paragraph, sentence, or clause of this By-Law or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this By- Law.

(Amended: 5/06/2014, Article 25)

Article 32 Explanation: Modifications needed to be made to accommodate the addition of an Adult Use Marijuana By-Law.

ARTICLE 33 - TO CREATE GENERAL BY-LAW FOR ADULT-USE MARIJUANA

To see if the Town will vote to amend the Town of Billerica General By-Laws by inserting a new chapter entitled “Adult Use Marijuana By-Law” for the purpose of regulating marijuana not medically prescribed as defined in Massachusetts General Laws Chapter 94G; This by-law shall read as follows:

XXVI ADULT USE MARIJUANA BY-LAW

Whereas, Massachusetts voters approved the legal cultivation, processing, distribution, sale and use of marijuana for Adult Use purposes through Chapter 334 of the Acts of 2016, The Regulation and Taxation of Marijuana Act ; and

Whereas, nothing in that Act or its implementing regulations at 935 CMR 500 supersedes Massachusetts law; and

Whereas; the prevention of the illegal sale and use of marijuana, particularly by the town’s youth, is a public health priority; and

Whereas; Registered Marijuana Dispensaries and similar clinics in other jurisdictions have been found to present unique and challenging threats to public health and safety; and

Whereas, the state regulation at 935 CMR 500 allows for lawful local oversight and regulation, including fee requirements; and

Whereas, reasonable and effective local oversight of the cultivation, processing, distribution, sale and use of marijuana for medical purposes is needed to protect community health and safety while ensuring legitimate patient access;

Therefore, in furtherance of its mission to protect, promote, and preserve the health and wellbeing of all Billerica residents, particularly the most vulnerable, and pursuant to the authority granted to it under M.G.L. c 111 § 31, the Town enacts The Regulation and Taxation of Marijuana Act in the Town of Billerica as follows:

9. GUIDELINES

- 1.1 The Billerica Board of Health (“BOH”) and The Billerica Board of Selectmen (BOS), may issue guidelines for the implementation of this By-Law, including but not limited to definitions of terms used in the State regulations and in the guidelines. In the event of a conflict between this By-Law

and the guidelines, as either may be amended, the By-Law shall control.

10. PERMITTING

- 10.1. Any proposed Marijuana Establishment shall obtain an Operating Permit in the form and manner prescribed by the Board of Health and Marijuana Establishment License in the form and manner prescribed by the Board of Selectmen as may be further set forth in the Guidelines.
- 2.11 In order to support execution of responsibilities set forth in this regulation, an annual Operating Permit fee shall be assessed in an amount that shall be set by the Board of Health and may be amended by the BOH following a public meeting on the fee structure.
- 2.12 The Marijuana Establishment operator shall post the Operating Permit in a clear and conspicuous manner.
- 2.13 No Marijuana Establishment Agent shall sell or otherwise distribute marijuana or marijuana products within the town of Billerica without first obtaining a Marijuana Establishment Permit issued annually by the BOH and a Marijuana Establishment License issued annually by the BOS. For purposes of this regulation, Marijuana Establishment Agent will include board member, director, employee, executive, manager, or volunteer of marijuana establishment, who is at least 21 years of age and who has received approval from the Cannabis Control Commission Employee includes a consultant or contractor who provides on-site services to a Marijuana Establishment related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of marijuana.
- 2.14 As part of the Operating Permit application process set forth by the Board of Health, the applicant will be provided with all appropriate By-Laws and regulations. Each applicant is required to sign a statement declaring that the applicant has read said By-Laws and regulations.
- 2.15 Each applicant is required to provide proof by means of a valid government-issued photographic identification

containing the bearer's date of birth that the applicant is 21 years old or older.

- 2.16 Each applicant is required to provide proof of a current Marijuana Establishment Agent registration, issued by the CCC, before an Operating Permit can be issued.
- 2.17 In order to support execution of responsibilities set forth in this regulation, a Marijuana Establishment Agent Operating Permit fee shall be assessed in an amount that shall be set by the Board of Health.
- 2.18 All Marijuana Establishment Licenses and Operating Permits expire annually on December 31st and shall be valid for a maximum term of one year, renewable annually on January 1st.
- 2.19 No Operating Permit or Marijuana Establishment License issued under this regulation may be transferred to any other person or entity.

11. REQUIREMENTS AND PROHIBITIONS

- 3.18 The cultivation, processing, distribution, sale and use of marijuana for Adult Use purposes shall be conducted in compliance with all laws, ordinances, regulation or policies applicable to similar activities. This shall include, but not be limited to compliance with Food Service Health Permit requirements, Weights and Measures requirements, Noise Regulations, Public Nuisance bylaws, Clean Air bylaws, Workplace Smoking and E-Cigarette Regulations, State and local Building Codes, and any and all requirements associated with zoning and permitting.
- 3.19 As defined in Section 4B, 4C, and 4D of the Adult Use Marijuana Overlay District no Marijuana Establishment shall be located within 500 feet of the listed establishments unless demonstrated otherwise.
- 3.20 The cultivation, processing, distribution, or sale of marijuana for Adult Use purposes shall not exempt any person or entity from complying with all state and local laws, ordinances, regulation and policies. Violation of any other such law shall constitute a violation of this regulation and be subject to the fines and penalties described herein.

Nothing in this Regulation gives any immunity under federal law or poses an obstacle to federal enforcement of federal law.

- 3.21 The issuance of an Operating Permit and Marijuana Establishment License under this regulation shall be conditioned on Registration approval by the Massachusetts CCC as required by state law and regulation. Any revocation of an Marijuana Establishment's state registration shall result in an automatic suspension of that Marijuana Establishment's Operating Permit and License.
- 3.22 Marijuana Establishment's shall submit a management and operations profile, and security plan for review to the BOS, BOH, Planning Board and Billerica Police Department detailing all security measures taken to ensure patient and community safety and eliminate unauthorized access to the premises. The BOH and/or Police Department may issue guidelines or other procedure setting forth specific security requirements. Unless specified by any other state or local requirement or agreement as to the hours of operation of a Marijuana Establishment, the Board of Health, in consultation with the Board of Selectmen Planning Board, and Police Department, may set limitations on the hours of operation of any Marijuana Establishment.
- 3.23 The BOH may set further limitations on signage and advertising of Marijuana Establishment but not more restrictive than those applied to retail establishments selling alcoholic beverages within the municipality. Signage limitations may include those set forth in 935 CMR 500 including restrictions on the use of images related to marijuana or marijuana paraphernalia, size and visibility of marijuana displays from outside a Marijuana Establishment.
- 3.24 A Marijuana Establishment may not sell any products other than marijuana. For purposes of this subsection, "marijuana" may include Marijuana Infused Products, marijuana seeds, and other products that facilitate the use of marijuana for medical purposes, such as vaporizers. Marijuana Establishment's may not sell any tobacco product, or other nicotine delivery product, including e-cigarette cartridges or liquids that contain nicotine. – In

CCC cannot sell nicotine or alcohol

- 3.25 Marijuana Establishments shall submit annual reports to the BOH, BOS, Planning Board and Police Department in a form and manner determined by the BOH.
- 3.26 The issuance or renewal of an Operating Permit and License may be conditioned up the approval of any plan or compliance with this By-Law or any guideline or requirement issued under the authority of this By-Law.
- 3.27 Issuance and maintaining a Marijuana Establishment Permit and License shall be conditioned on an applicant's ongoing compliance with current Commonwealth of Massachusetts requirements and policies regarding marijuana sales.
- 3.28 A Marijuana Establishment Permit and License will not be renewed if the Permit Holder has failed to comply with any corrective action plan and/or has not satisfied any outstanding Permit suspensions.
- 3.29 Marijuana Establishment Agent must present their state Registration Card and Marijuana Establishment Permit to any law enforcement official or municipal agent who questions the agent concerning their marijuana-related activities.
- 3.30 Inhaling, exhaling, burning or carrying any lighted or vaporized substance in any manner or form, including marijuana used for recreational or any other purpose in a workplace shall constitute a violation of this regulation and shall be subject to the fines and penalties of applicable laws and regulations.
- 3.31 Consumption of Marijuana in public places will be banned in the Town of Billerica.

12. ENFORCEMENT AND PENALTIES

- 4.7 Authority to inspect Marijuana Establishments for compliance and to enforce this regulation shall be granted to the BOH, and the Billerica Police Department.

- 4.8 Any person may register a complaint under this By-Law to initiate an investigation and enforcement with the BOH, the Building Commissioner, and the Billerica Police Department. Unscheduled compliance inspections by the BOH shall be conducted at a minimum of three inspections annually.
- 4.9 It shall be the responsibility of the Marijuana Establishment Occupancy Permit holder and/or individual in charge of the Marijuana Establishment to ensure compliance with all applicable sections of this By-Law. Any Marijuana Establishment found to be in violation of any of the provisions of this By-Law may receive a written warning citation, Operating Permit suspension, Marijuana Establishment Agent Permit suspension, Operating Permit revocation, or Marijuana Establishment Agent revocation. For any violation, the BOH or BOS may order the Marijuana Establishment permit or license holder appear for a hearing and/or enter into a corrective action plan to address any and all violations and prevent future violations.
- 4.10 No provision, clause or sentence of this section of this By-Law shall be interpreted as prohibiting the BOS, BOH, Building Commissioner or Planning Board from suspending or revoking any license or permit issued by and within the jurisdiction of such department or agency for repeated or egregious violations of this regulation.
- 4.11 The BOH and the BOS may file a complaint in any court of competent jurisdiction and/or pursue any other remedy as warranted by law to enforce the provisions of this regulation.
- 4.12 A violation of Section 3.17 Consuming Marijuana in Public will be liable for a fine of \$100 for the first offense, \$200 for the second offense, and \$300 for the third, and any subsequent offense.

13. APPEALS

- 5.4 Any Marijuana Establishment Operating Permit holder, Marijuana Establishment Agent, or any person or entity charged with violation of any provision of this regulation shall receive a citation from a designated agent of the Town of Billerica. Such citation and any subsequent

hearing notification shall be deemed a Notice of Action within the meaning of 801 CMR 1.02(6).

- 5.5 Any Marijuana Establishment Operating Permit holder, Marijuana Establishment Agent, or any person or entity cited for violation of this regulation wishes to appeal the findings or rulings of the Town of Billerica shall file a written appeal, and any supporting memoranda and documents, within twenty-one (21) days of the date the violation notice is issued. The appropriate Town Agency shall conduct an Administrative Hearing in accordance with procedures in its guidelines to determine the facts of the violation, the appropriate corrective action measures, term of suspension, if any, and/or issue a permit revocation order. Such Town Agency shall file any response to the appeal within fifteen (15) days after the hearing is closed.
- 5.6 Failure to comply with any corrective action plan, shall result in automatic suspension of the permit.

14. RETALIATION

- 6.1 No person, retailer, or employer shall discharge, refuse to hire, refuse to serve or in any manner retaliate or take any adverse action against any employee, applicant, customer or person because such employee, applicant, customer or person takes any action in furtherance of the enforcement of this regulation or exercises any right conferred by this regulation.

15. SEVERABILITY

- 7.1 If any provision, clause, sentence, paragraph or word of this By-Law or the application thereof to any person, entity or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this article which can be given effect without the invalid provisions or application and to this end the provisions of this By-Law are declared severable.

16. EFFECTIVE DATE

- 8.1 This By-Law shall take effect on January 1, 2019

Or act in relation thereto.

Submitted by the Town Manager; authorized by the Board of Selectmen.

Finance Committee has not yet made final recommendation.

Article 33 Explanation: On December 31, 2018 the Town of Billerica's Adult Use Marijuana Moratorium will expire. The Town voted in favor of Question 4 in the November 2016 Elections to legalize marijuana. This article will insert regulations that govern the use in the Town of Billerica.

**ARTICLE 34 - TO CREATE ZONING BY-LAW FOR ADULT-USE MARIJUANA
OVERLAY DISTRICT**

To see if the Town will vote to amend the Zoning By-Law to establish an Adult Use Marijuana Overlay District By-law. It shall read as follows:

ADULT USE MARIJUANA OVERLAY DISTRICT

1. Establishment: The Adult Use Marijuana Overlay District (“AUMOD”) is established as an overlay district. The boundaries of the AUMOD are shown on the Zoning Map on file with the Town Clerk. Within the AUMOD, all requirements of the underlying district(s) remain in effect, except where these regulations provide an alternative to such requirements. Land within the AUMOD may be used either for (1) a Marijuana Establishment in which case the requirements set forth in this section shall apply; or (2) a use allowed in the underlying district, in which case the requirements of the underlying district shall apply. If the provisions of the AUMOD are silent on a zoning regulation, the requirements of the underlying district shall apply. If the provisions of the AUMOD conflict with the requirements of the underlying district, the requirements of the AUMOD shall control.
2. Purpose: To provide for the placement of Marijuana Establishments, in accordance with The Regulation and Taxation of Marijuana Act, as it is amended, and regulations promulgated thereunder, in locations suitable for lawful adult use marijuana facilities and to minimize adverse impacts of Marijuana Establishments on adjacent properties, residential neighborhoods, historic districts, schools, playgrounds and other locations where minors congregate by regulating the siting, design, placement, security, and removal of Marijuana Establishments.
3. Definitions: where not expressly defined in the Zoning By-Laws, terms used in the AUMOD By-Law shall be interpreted as defined in the Regulation and Taxation of Marijuana Act and the Cannabis Control Regulations promulgated thereunder, 935 CMR 500, et seq., and otherwise by their plain language.
4. Location
 - a. Marijuana Establishments may be permitted in the AUMOD pursuant to a Special Permit.
 - b. Marijuana Establishments may not be located within 500 feet of the following:
 - (1) School, including a public or private elementary, vocational, or secondary school or a public or private

- college, junior college, or university
 - (2) Child Care Facility
 - (3) Library
 - (4) Playground
 - (5) Public Park
 - (6) Youth center
 - (7) Public swimming pool
 - (8) Video arcade facility or
 - (9) Similar facility in which minors commonly congregate in an organized, ongoing, formal basis;
- c. The distance under this section is measured in a straight line from the nearest point of the property line of the protected uses identified in Section 4.b. to the nearest point of the property line of the proposed Marijuana Establishment.
- d. The distance requirement may be reduced to 250 feet by a waiver if:
- (1) The applicant demonstrates that the AUMOD would otherwise be effectively prohibited within the municipality; and
 - (2) The applicant demonstrates that the Marijuana Establishment will employ adequate security measures to prevent diversion of marijuana to minors.
5. Procedure: The Planning Board shall be the Special Permit Granting Authority (SPGA) for a Marijuana Establishment special permit.
- a. Application: In addition to the materials required under Section 6.E and Section 13.B of this By- Law, the applicant shall submit the following:
- (1) A copy of its license to operate the Marijuana Establishment issued by the Cannabis Control Commission
 - (2) A detailed floor plan of the premises of the proposed Marijuana Establishment that identifies the square footage available and describes the functional areas of the Marijuana Establishment, including areas for any preparation of edible marijuana-infused products (“MIPs”).
 - (3) Detailed site plans that include the following information:
 - (a) Compliance with the requirements for parking and

loading spaces, for lot size, frontage, yards and heights and coverage of buildings, and all other provisions of this By-Law.

- (b) Convenience and safety of vehicular and pedestrian movement on the site and for the location of driveway openings in relation to street traffic.
 - (c) Convenience and safety of vehicular and pedestrian movement off the site, if vehicular and pedestrian traffic off-site can reasonably be expected to be substantially affected by on-site changes.
 - (d) Adequacy as to the arrangement and the number of parking and loading spaces in relation to the proposed use of the premises, including designated parking for delivery vehicle(s), as applicable.
 - (e) Design and appearance of proposed buildings, structures, freestanding signs, screening and landscaping.
 - (f) Adequacy of water supply, surface and subsurface drainage and light.
 - (g) Facilities for eliminating odors and other operational effects that may constitute a nuisance.
- (4) A description of the security measures, including employee security policies, approved by the CCC for the Marijuana Establishment.
 - (5) A copy of the emergency procedures approved by the CCC for the Marijuana Establishment.
 - (6) A copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between Marijuana Establishments approved by the CCC.
 - (7) A copy of proposed waste disposal procedures.
 - (8) A description of any waivers from CCC regulations issued for the Marijuana Establishment.
- b. The Planning Board shall refer copies of the application to the Building Department, Fire Department, Police Department, Board of Health, Conservation Commission, and the Engineering Division of the Department of Public Works. These boards/departments shall review the application and shall submit their written recommendations. Failure to make recommendations within 35 days of referral of the application shall be deemed lack of opposition.
- c. After notice and public hearing and consideration of application materials, consultant reviews, public comments, and the recommendations of other town boards and departments, the Planning Board may act upon such a permit.

6. Special Permit Conditions on Marijuana Establishments: The Planning Board shall impose conditions reasonably appropriate to improve site design, traffic flow, public safety, protect water quality, air quality, and significant environmental resources, preserve the character of the surrounding area and otherwise serve the purpose of this section. In addition to any specific conditions applicable to the applicant's Marijuana Establishment, the Planning Board shall include the following conditions in any special permit granted under this By-Law:
 - a. The permit holder shall file a copy of any Deficiency Statement issued to it pursuant to 935 CMR 500 with the Building Commissioner, Police Chief, and the Planning Board within 24 hours of issuance.
 - b. The permit holder shall file a copy of any summary cease and desist order, quarantine order, summary suspension order, order limiting sales, notice of a hearing, or decision issued by the CCC or court of competent jurisdiction, as applicable, regarding the Marijuana Establishment with the Building Commissioner, Police Chief, and Planning Board within 48 hours of receipt by the Marijuana Establishment.
 - c. The permit holder shall provide to the Building Commissioner and Police Chief, the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder.
 - d. The special permit shall lapse within five (5) years of its issuance. If the permit holder wishes to renew the special permit, an application to renew the special permit must be submitted at least 120 days prior to the expiration of the special permit.
 - e. The special permit shall be limited to the current applicant and shall lapse if the permit holder ceases operating the Marijuana Establishment.
 - f. The special permit shall lapse upon the expiration or termination of the applicant's license issued by the CCC.
 - g. The permit holder shall notify the Building Commissioner, Police Chief, and Planning Board in writing within 48 hours of the cessation of operation of the Marijuana Establishment or the expiration or termination of the permit holder's license issued by the CCC.

7. Prohibition Against Nuisances: No use shall be allowed in the AUMOD which creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.
8. Prohibition against Consumption: No marijuana shall be burned, smoked, eaten, or otherwise consumed or ingested on the premises, driveways, or parking areas of a Marijuana Establishment.
9. Prohibition against Delivery: No Marijuana Establishment shall deliver marijuana or marijuana products to consumers off-site.
10. Building: All aspects of a Marijuana Establishment relative to the cultivation, possession, processing, sales, distribution, dispensing or administration of marijuana, marijuana products, or related supplies must take place at a fixed location within a fully enclosed building, products must not be visible from the exterior of the building, and no drive through service is permitted. A Marijuana Establishment shall not be located in a trailer, storage freight, mobile structure, container, motor vehicle or other similar movable enclosure.
11. A marijuana establishment may be involved in the use permitted by its definition. Retail marijuana establishments may only be located in buildings with other uses, including other types of marijuana establishments, only if the marijuana establishment is separated by full walls from the other use. No outside storage of marijuana, marijuana products, or related supplies is permitted.
12. Emergency Response Plan: All marijuana establishments shall meet with the Billerica Fire Department and the Billerica Police Department to discuss and identify emergency plans/contingency plans for the site prior to the issuance of a certificate of occupancy. This plan shall also include how the Billerica Police will access the Close Circuit Television. A written Emergency Response Plan shall be filed with the Billerica Fire Department and the Billerica Police Department pursuant to M.G.L.A. c. 94G, § 12.
13. Odor Control: The Marijuana Establishment shall provide an odor control plan that provides for proper and adequate ventilation at such facilities in such a manner so as to prevent pesticides, insecticides or other chemicals used in the cultivation or processing of marijuana or marijuana related products from being dispersed or released outside

the facilities. All resulting odors, smoke, vapor, fumes, gases and particulate matter from marijuana or its processing or cultivation shall be effectively confined to the premises or so disposed of so as to avoid any air pollution. No odor from marijuana establishments may be noxious or cause a public nuisance.

14. Severability: The provisions of this By-Law are severable. If any provision, paragraph, sentence, or clause of this By-Law or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this By- Law.

(Amended: 5/06/2014, Article 25)

Or act in relation thereto.

Submitted by the Town Manager; authorized by the Board of Selectmen.

Finance Committee has not yet made final recommendation.

Article 34 Explanation: On December 31, 2018 the Town of Billerica's Adult Use Marijuana Moratorium will expire. The Town voted in favor of Question 4 in the November 2016 Elections to legalize marijuana. This article will insert Zoning Overlay District Language for Adult Marijuana Use.

**ARTICLE 35 - TO CREATE ZONING BY-LAW FOR ADULT-USE MARIJUANA
OVERLAY DISTRICT MAP**

To see if the Town will vote to amend the Zoning By-Law and Zoning Map to establish the following areas on Republic Road, Esquire Road and Sterling Road as an Adult Use Marijuana Overlay Districts:

Map 38 Parcels 5-2, 5-6, 11-1, 15-1, 25, 28, 30-1, 30-2, 30-3-1, 30-5 and 33;

Map 39 Parcels 18-1, 18-2, 18-3, 18-4, 33-1 and 93-1;

Map 48 Parcels 5-2, 5-3, 7, 11-1, 16-1, 23-1, 24, 25, 26, 27-1, 29, 30, 32, 34, 36-1, 37-1, 38, 39, 41-3, 43, 44, 45-1, 46-1, 48, 49, and 53;

Map 58 Parcel 17.

Or act in relation thereto.

Submitted by the Town Manager; authorized by the Board of Selectmen

Finance Committee has not yet made final recommendation.

Article 35 Explanation: On December 31, 2018 the Town of Billerica's Adult Use Marijuana Moratorium will expire. The Town voted in favor of Question 4 in the November 2016 Elections to legalize marijuana. This article will insert Zoning Overlay District Language for Adult Marijuana Use.

**ARTICLE 36 - TO ESTABLISH WASTEWATER CONNECTION COMPLIANCE
REGULATION**

To see if the Town will vote to amend the Town of Billerica General By-Laws Article VIII: Public Utilities, Chapter 2: Sewers, by inserting a new section: 2.4 Penalties. It shall read as follows:

Any person who exceeds the time limit provided for in Art.VIII Section. 2.1 shall be fined in an amount determined as 60% of an average annual residential wastewater bill as determined by the Superintendent of Public Works based on the average consumption for a single family household in the previous year.

Additionally, any household that does not connect to the system within the a year of receiving notice to connect will be subject to a \$1,000 connection fee within the first year of violation, a \$2,000 connection fee within the second year of violation and a \$3,000 connection fee thereafter. Any resident that has already received a letter of notification to connect or has the capacity to connect to Town Sewer has a year from the enactment of this by-law to connect without a fee and will then be subject to the same fee schedule as previously outlined.

This By-Law may also be enforced by the non-criminal procedures allowed by M.G.L., Chapter 40, Subsection 21D. The Director of the D.P.W. or designee shall be the enforcing authority of this By-Law.; or act in relation thereto.

Submitted by the Town Manager; authorized by the Board of Selectmen.

Finance Committee has not yet made final recommendation.

Article 36 Explanation: The Town of Billerica has made significant investments in sewer infrastructure throughout the Town. Currently the Town has no recourse if a resident does not tie in. This penalty will allow the Town to continue its investments and finish the project in a financially sustainable fashion.

ARTICLE 37 - INCREASED FINES FOR SIGNAGE

To see if the Town will vote to amend Section 16E of the General By-Laws of the Town of Billerica by adding a subsection 16E:2 as follows:

The fines for violation of portable signs shall be \$150 for the first offense, \$250 for the second offense and \$350 for all incidents thereafter.

Or act in relation thereto.

Submitted by the Town Manager; authorized by the Board of Selectmen

Finance Committee has not yet made final recommendation.

ARTICLE 38 - TO AUTHORIZE THE BOARD OF SELECTMEN TO ACQUIRE EASEMENTS ON BALDWIN ROAD

To see if the Town will vote to authorize the Board of Selectmen to acquire by gift, purchase or eminent domain the taking of easements for roadway, drainage, utility, and/or sidewalk purposes associated with roadway improvements on Baldwin Road; to authorize the Selectmen to execute any documents or instruments necessary to effect said easements; and to raise and appropriate, transfer from available funds, or authorize the borrowing of a sum of money for the payment of property damages and other costs/expenses related said easement acquisitions; or act in relation thereto.

Submitted by the Town Manager; authorized by the Board of Selectmen

Finance Committee has not yet made final recommendation.

Article 38 Explanation: The Department of Public Works is looking at improving Baldwin Road between Kimbrough Road and Kensington Drive that includes linking sidewalks on Baldwin Road. This will require easements and/or taking to be obtained by the Town in order to complete construction work.

ARTICLE 39 - TO AUTHORIZE THE BOARD OF SELECTMEN TO ACCEPT A ROAD EASEMENT FROM PARCEL 47-29-1 LOCATED AT THE INTERSECTION OF NASHUA ROAD AND RANGEWAY ROAD

To see if the Town will vote to authorize the Board of Selectmen to accept by gift an easements for roadway, drainage, utility, and/or sidewalk purposes associated with assisted living proposed on Nashua Road at Rangeway Road; and to authorize the Selectmen to execute any documents or instruments necessary to effect said easements; or act in relation thereto.

Submitted by the Town Manager; authorized by the Board of Selectmen

Finance Committee has not yet made final recommendation.

Article 39 Explanation: Hawthorn Development, LLC is developing the parcel. The Town has required the developer to do some improvements adjacent to the parcel which will be incorporated into future improvements at that intersection. Having the developer grant the Town an easement as part of their project will make it easier for the Town for future improvement as well as cost savings for easement compensation.

ARTICLE 40 - TO ACCEPT ROADS AS PUBLIC WAYS

To see if the Town will vote to accept the following listed roads as public ways in accordance with the layouts adopted by the Board of Selectmen and on file with the Town Clerk; and to authorize the Board of Selectmen to acquire by gift, purchase, or eminent domain, such interests in land as are necessary to provide for the use and maintenance of said ways for all purposes for which public ways are used in the Town of Billerica; or act in relation thereto.

The roads are as follows:

Road	From	To	Length
Apple Orchard Dr			908'
Brandon St	<i>Treble Cove Rd</i>	<i>Dead End</i>	702'
Brandon St	<i>Walton St</i>	<i>Dead End</i>	671'
Brandon St	<i>Liberty Dr</i>	<i>Dead End</i>	1,759'
Clermore Rd			1,006'
Fardon St			2812'
French St			2,129'
Gail Ann Dr	<i>Fox Hill Rd</i>	<i>Dead End</i>	675'
Gilman Rd	<i>Nashua Rd</i>	<i>Moran Rd</i>	453'
Gilman Rd	<i>Greenough Rd</i>	<i>Estey Rd</i>	527'
Gilman Rd	<i>Estey Rd</i>	<i>James Rd</i>	674'
Jamieson Way			545'
James Road			229'
Lexington Farms Way			498'
Linnell Cir			3365'
Suburban Park Drive			2,092'
Terry Ln			554'
Westwood Av	<i>Near Carmena Rd</i>	<i>Old Middlesex Tpk</i>	913'

Submitted by the Town Manager; authorized by the Board of Selectmen

Finance Committee has not yet made final recommendation.

Article 40 Explanation: The Department of Public Works had identified the above listed roads as candidates for street acceptance. We have acceptance plans on file and the roads are in good condition as they were recently paved as part of the Town's Sewering Program.

ARTICLE 41 - TO AMEND ZONING BY-LAWS TO ADD PUD DISTRICT

To see if the Town will vote to amend the Zoning By-Laws by adding a new Planned Unit Development (PUD) district, to be designated as PUD-IP, for the purpose of promoting higher and better uses of properties within the Town's Industrial Parks, as substantially on file at the Town Clerk's Office; as reads as follows:

Additional Use and Dimensional Requirements as to PUD-IP

The following paragraphs shall serve as the basic Use and Dimension Requirements to which all PUD-IP projects shall adhere within each PUD-IP overlay district and shall be used by the Planning Board to evaluate any proposed project.

a. Parcel Size and Eligibility

The minimum size of a PUD-IP development parcel shall be 5 acres. A development parcel may consist of land in more than one ownership, provided that all land comprising the parcel lies entirely within the PUD-IP overlay district and is contiguous. Lots separated by a street or right-of-way or private way may be considered contiguous for this purpose. Proposed developments may include pre-existing buildings provided that all PUD requirements are satisfied by each new or existing building and for the PUD as a whole. More than one principal building may be located on a lot.

b. Permitted Uses in PUD-IP

A PUD-IP may contain any or all of the uses allowed in a PUD. Adult Uses are expressly prohibited in a PUD-IP District.

To encourage and promote the establishment of business amenity uses (such as restaurants and retail) permitted within portions of a PUD-IP district that are within 300 feet of a Town boundary, no multifamily dwellings shall be built pursuant to a PUD-IP Special Permit on land that is within 300 feet of a Town boundary for a period of seven years after the adoption of the Zoning Bylaw placing such land within the PUD-R overlay district.

In recognition of increased density and economic benefits to the applicant pursuant to a PUD-IP Plan, the Planning Board may consider and condition the number and interior layout of bedrooms in each residential unit that are being proposed by the developer in evaluating the criteria pursuant to this Section.

c. Intensity of Use in PUD-R

The basic permitted intensity of the residential use in a PUD-IP development shall not be greater than 0.90 FAR for a PUD-IP development that is more than 300 feet from a municipal boundary.

For mixed use development that devotes at least 5% of the total square footage to amenity uses such as restaurants and retail, the developer can increase the intensity to 1.0 FAR. In order to assist in making this calculation, plans submitted for a PUD-IP Special Permit that contain such a use shall show what portion and area of the development parcel will be put to such use. Land under dwellings, residential court yards, residential driveways, non-structured parking areas that serve only residential uses and roadways that serve only residential uses shall not be counted as part of the development parcel in calculating the FAR.

Areas which have been counted to satisfy the intensity limit for residential use may not be counted also to satisfy the intensity limit for commercial use and areas which have been counted to satisfy the intensity limit for commercial use may not be counted also to satisfy the intensity limit for residential use.

If rental, a minimum of ten percent (10%) of the total number of dwelling units shall be restricted as affordable "in perpetuity" and shall contain some form of subsidy. If for sale, affordability requirement shall not apply. Dwelling units meeting these requirements would be eligible for inclusion on the Chapter 40B Subsidized Housing Inventory maintained by the Massachusetts Department of Housing and Community Development (DHCD) and would move the Town closer to maintaining its 10% affordable housing goal as outlined in its Affordable Housing Planned Production Plan.

d. Dimensional Requirements

Each PUD-IP development shall be governed by the dimensional requirements of this Section. These requirements apply only to the subject parcel as a whole, not to individual lots created within the PUD-IP.

Height

The maximum building height within a PUD-IP shall be as follows:

(1) The maximum building height as to a residential building shall be 50 feet except that a residential building that is less than 50 feet from the PUD-IP parcel boundary that abuts a residential property shall not exceed 40 feet in height, and shall not be closer than 50 feet from such residential property. A residential building that is at least 100 feet from dwellings that are outside of a PUD-IP and in existence at the time of Preliminary PUD-IP Plan submission may have a maximum height of

55 feet, excepting that a dwelling that is within 300 feet of the Town boundary may have a maximum height of 60 feet.

(2) The maximum height of a commercial building shall be 65 feet. Height shall be measured in the manner defined in Section 2 of this Bylaw.

Setbacks and Buffers in a PUD-IP

The extent of buffering and setbacks shall in every case be based upon the following criteria as reviewed by the Planning Board:

- Existing topography
- Existing vegetation
- Existing and Proposed Structures within and outside the PUD-IP district

Non-residential Setbacks

All non-residential buildings shall be located at least 50 feet from the boundary of the PUD parcel, excepting a boundary which is also the Town boundary. The Planning Board will have the discretion to grant relief on front and side setbacks to coincide with the pedestrian environment. Nonresidential buildings (except structured parking) shall not be located less than 100 feet from dwellings outside of a PUD and in existence at the time of Preliminary PUD Plan submission without the written consent of the owner of such dwellings and shall not be less than 50 feet from dwellings in the PUD parcel. There shall be a landscaped and/or naturally vegetated buffer at least 50 feet wide where a nonresidential area of a PUD-IP parcel abuts residential properties outside the PUD-IP district.

Residential Setbacks

All residential buildings within a PUD-IP shall be at least 20 feet from the PUD-IP parcel boundary, which 20 foot strip shall be landscaped and/or naturally vegetated except that a residential building that abuts a residential zone not in the PUD-IP shall be no closer than 50 feet (excluding a parcel boundary that is also a Town boundary) and a dwelling that is over 35 feet in height must be at least 40 feet from the PUD-IP parcel boundary (excluding a parcel boundary that is also a Town boundary). Natural vegetation shall be preserved in the minimum setback area along the PUD-IP parcel boundaries that abut property used for residential purposes. Buildings within the PUD-IP which contain residential units shall be no closer than 15 feet to each other. The Planning Board may allow the required 20 foot residential setback strip for dwellings in a PUD-IP parcel to be measured from the outer boundary of an abutting parcel.

Open Space

A PUD-IP shall set aside at least 25% of its total parcel area as required open space. Required Open Space may include wetlands and water bodies; vegetated/landscaped area, including buffers; pedestrian paths, side-walks, and covered walkways; public plazas and hard surfaced recreation areas. Required Open Space shall have a minimum dimension of 20 feet (which may include the dimension across a water body) and shall be open to occupants within the PUD-IP; access by the general public is required.

Recreation Connection

Any development within a PUD-IP should make every attempt to connect to existing recreation uses nearby, such as bike and walking trails. The inclusion of bike racks will be included as part of the site design. Additionally, to promote pedestrian safety and healthy living, a sidewalk connection to recreational locations is desired.

Parking

Parking within the PUD-IP will be calculated at a minimum of 1.25 spaces per unit for residential developments, and the commercial parking calculations will follow the PUD guidelines. The Planning Board may also waive some factor of parking if reduced parking is shown to not cause a detriment to the neighborhood.

Shared Parking

Shared parking may be approved by the Planning Board as part of the PUD-IP decision subject to the following criteria:

- (1) Shared parking areas must be shown on a plan, be definable, be separated by topography from other shared parking areas, and be in close proximity to the uses they serve
- (2) Parking needs between the uses sharing parking areas shall be shown by the applicant to be different in terms of the times of the peak needs with little overlap of such peak needs
- (3) The number of parking spaces for a shared parking area shall be at least the required number for the larger of the needs
- (4) An executed lease or other form of agreement between or referencing the parties sharing parking must be filed with the Planning Board and the Town Clerk prior to issuance of a building permit for the uses sharing the parking, such agreement shall be approved as to form, only, by Town Counsel
- (5) If uses, or parties in interest noted in subsection d. above, change for the areas delineated on the PUD-IP plan, then a modification subject to the requirements of this Section shall be filed and decided upon by the Planning Board prior to the issuance of building permits for the proposed areas.

Or act in relation thereto.

Submitted by the Town Manager; authorized by the Board of Selectmen

Finance Committee has not yet made final recommendation.

Article 41 Explanation: A Planned Unit Development (PUD) is an overlay district that allows for a mix of uses on a collection of parcels identified by a municipality. Billerica has PUD language within its zoning, and this new language for a PUD-IP district is targeted to industrial parks and parcels in the community. The businesses in Billerica have expressed interest in the addition of amenities, such as retail, restaurants, and housing, to promote a “live, work, play” lifestyle to the workforce that they are attempting to attract. The lack of amenities forces some businesses to consider leaving Billerica. The addition of this district language can increase commercial activity, give greater site design standards for construction, focus mixed-use development, promote pedestrian safety, provide significant tax revenue and lower infrastructure costs and lessen the effects of suburban sprawl.

ARTICLE 42 - TO AMEND ZONING MAP CHANGES TO ADD PUD OVERLAY DISTRICTS

To see if the Town will vote to amend the Zoning Map by placing the properties listed on the table below titled “*Technology Park PUD-IP Parcel Inventory*” within the Planned Unit Development-IP (“PUD-IP”); or act in relation thereto.

Technology Park PUD-IP Parcel Inventory	
Parcel Number	Address
77-165-0	262 CONCORD RD
86-108-2	270 CONCORD RD
86-108-3	290 CONCORD RD
86-108-5	300 CONCORD RD
95-120-4	TECHNOLOGY PARK DR
95-120-2	TECHNOLOGY PARK DR
95-129-10-6	600 TECHNOLOGY PARK DR
95-129-10-7	800 TECHNOLOGY PARK DR
95-129-4-1	900 TECHNOLOGY PARK DR
95-129-4-2	700 TECHNOLOGY PARK DR
95-129-5-1	880 TECHNOLOGY PARK DR
95-129-6-2	1000 TECHNOLOGY PARK DR
95-129-8-1	1400 TECHNOLOGY PARK DR
95-129-9	1100 TECHNOLOGY PARK DR

Submitted by the Town Manager; authorized by the Board of Selectmen

Finance Committee has not yet made final recommendation.

Article 42 Explanation: The placement of a PUD-IP district should be placed in areas identified for increased amenity development. Technology Park located just off Route 3 has significant opportunities for redevelopment and new construction, and although the area is already zoned industrial or business, a PUD-IP could deter marginal and unsustainable uses.

ARTICLE 43 - PETITIONERS ARTICLE - TO AMEND GENERAL BY-LAW ARTICLE I, TOWN MEETING

To see if the Town will vote to amend General By-Law Article I, Section 1.1(C), by changing “7:30 PM” to “7:00 PM”; or act in relation thereto.

Submitted by Kimberly J. Conway and Messrs. Conway, Deslaurier, Giroux, Gagliardi, Mahoney, Peters and Madames Gagliardi, Mahoney, Conway and Peters.

Finance Committee has not yet made final recommendation.

Article 43 Explanation: Proposed wording would state that Town Meetings are to commence at 7:00 PM and shall continue by adjourned sessions on consecutive Tuesday and Thursday evenings until all of the business in the warrant has been acted upon.

ARTICLE 44 - PETITIONERS ARTICLE**RESOLUTION:**

Be it resolve that the Town of Billerica (Town) vote to reaffirm that voting in all Federal, State and Municipal elections is the exclusive right and privilege of United States Citizens, and further, that the Town urges all non-citizens who desire to participate in our Federal, State and Municipal Elections, seek and obtain US Citizenship, through the citizenship process.

Be it further resolved that the Town will vote to instruct its Representatives in the Massachusetts Legislature and the United States House and Senate, to vote against any legislation or Constitutional Amendment that would alter the qualifications of voters in all Federal, State and Municipal elections and to defend voting as the exclusive right and privilege of United States Citizens in all Federal, State and Municipal elections.

Submitted by Anthony M. Ventresca and Messrs. Chin, MacLeod, Torre, Robertson, Robertson and Madames Bova, Doyle, Torre, Robertson and Robertson.

Finance Committee has not yet made final recommendation.

And you are hereby directed to serve this Preliminary Warrant by posting true and attested copies thereof, one copy at the Town Hall, one copy at the Billerica Public Library, one copy at the Billerica Police Station, one copy at the Belly Buster Diner, one copy at Pinehurst Post Office, one copy at the Center Post Office, Boston Road, one copy at Market Basket, Town Plaza, Boston Road, one copy at the West Billerica Fire Station, one copy at the Nutting Lake Post Office, one copy at Augusta Market, 599 Boston Road, one copy at the Ninety-Nine Restaurant, Lexington Road, one copy at the Pinehurst Fire Station, one copy at the East Billerica Fire Station, one copy at the North Billerica Post Office and one copy at the North Billerica Fire Station.

Given under our hands this 23rd day of August 2018.

BOARD OF SELECTMEN



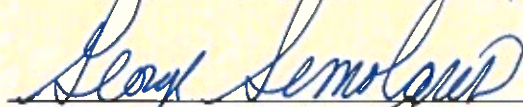
KIMBERLY J. CONWAY, CHAIRMAN



ANDREW N. DESLAURIER, VICE CHAIRMAN



EDWARD J. GIROUX, SECRETARY



GEORGE J. SIMOLARIS, MEMBER



MICHAEL S. ROSA, MEMBER

A true copy attest



Constable, Town of Billerica