

**TOWN OF MARION
TOWN MEETING WARRANT**



**SPECIAL TOWN MEETING
at Sippican School Auditorium
Spring Street
October 22, 2018
6:30 p.m.**

***BRING THIS COPY WITH YOU
TO TOWN MEETING***

TOWN OF MARION
TOWN MEETING WARRANT
For the Special Town Meeting to be Held
October 22, 2018



Plymouth, ss:

To either of the Constables of the Town of Marion in the Commonwealth of Massachusetts

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are directed to notify and warn the inhabitants of the Town of Marion qualified to vote in Town election and Town affairs to meet at the Sippican School Auditorium in said Marion, on Monday, the 22nd day of October next, at 6:30 o'clock in the evening, then and there to act on the following Articles, to wit:

Article S1: To see if the Town will vote to appropriate \$500,000 for the purpose of financing the following water pollution facility projects: repair, replacement and/or upgrade of septic systems, pursuant to agreements with Board of Health and residential property owners including without limitation all costs thereof as defined in Section 1 of Chapter 29 C of the General Laws; and to determine whether it is appropriate that this sum shall be raised by borrowing from the Massachusetts Clean Water Trust or otherwise, or to take any action thereon.

Finance Committee will make recommendation at Special Town Meeting

Article S2: To see if the Town will vote to raise and appropriate or transfer from available funds in the Treasury the sum of \$65,000 to be expended by the Water Dept. to purchase one (1) 4x4 pick-up truck with plow and that, to meet this appropriation, the sum of \$65,000 be transferred from Water Enterprise Retained Earnings; or take any other action thereon.

Finance Committee will make recommendation at Special Town Meeting

Article S3: To see if the Town will vote to raise and appropriate or transfer from available funds in the Treasury (Free Cash) the sum of \$55,000 to purchase the electric vehicles presently leased by the town (three BMW I3s and one Nissan Leaf) at the termination of the leases; or take any other action thereon.

Finance Committee will make recommendation at Special Town Meeting

Article S4: To see if the Town will vote to raise and appropriate from available funds in the Treasury (Free Cash) the sum of \$160,000 to be expended by the Department of Public Works to purchase one (1) new ten-wheel dump truck with plow and sander; or take any other action thereon.

Finance Committee will make recommendation at Special Town Meeting

Article S5: To see if the Town will vote to raise and appropriate from available funds in the Treasury (Free Cash) the sum of \$50,000 to be expended by the Department of Public Works to purchase one (1) used six-wheel dump truck with plow and sander; or take any other action thereon.

Finance Committee will make recommendation at Special Town Meeting

Article S6: To see if the Town will vote to amend the Marion General Bylaws by adding a new Chapter 120 of the Code of the Town of Marion, entitled "Stretch Energy Code" for the purpose of regulating the design and construction of buildings for the effective use of energy, pursuant to Appendix 115.AA of the Massachusetts Building Code, 780 CMR, the Stretch Energy Code, including future editions, amendments or modifications thereto, with an effective date of January 1, 2019, as follows:

Chapter 120 - Stretch Energy Code

120-1 Definitions

International Energy Conservation Code (IECC) – The IECC is a building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency, and is updated on

a three-year cycle. The baseline energy conservation requirements of the MA State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.

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

120-2 Purpose

The purpose of the Stretch Energy Code (780 CMR 115.AA) is to provide a more energy efficient alternative to the Base Energy Code applicable to the relevant sections of the building code for new buildings.

120-3 Applicability

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

120-4 Stretch Code Enforceability

The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA, including any future additions, amendments or modifications, is herein incorporated by reference into the Town of Marion General By-Laws, Chapter 120. The Stretch Code is enforceable by the Building Commissioner or local building inspector.

Or take any other action thereon.

Finance Committee has no recommendation, as no financial impact

Article S7: To see if the Town will amend the Chapter 230 of the Code of the Town of Marion by deleting Article XVIII - §230-18.1 in its entirety and inserting in place thereof the following Section 230-18 and by inserting a new Article XIX – 230-19.1 as follows:

ARTICLE XVIII. ADULT USE MARIJUANA ESTABLISHMENTS

§ 230-18.1 Purpose.

The purposes of this bylaw are:

- A. To exercise lawful regulation of adult use marijuana establishments, consistent with G.L. c. 94G, *Regulation of the Use and Distribution of Marijuana Not Medically Prescribed*; 935 CMR 500.000 et seq., *Adult Use of Marijuana*; and in accordance with the Town of Marion's authority pursuant to G.L. c40A et seq.; and
- B. To protect community health and safety by imposing reasonable safeguards on the operation of adult use marijuana establishments within the Town, including limitations on the siting of such facilities to locations appropriate to such use.

§ 230-18.2 Applicability.

- A. No adult use marijuana establishment shall operate within the Town except in conformity with this Bylaw; and with all requirements of G.L. c. 94G and 935 CMR 500.000 et seq., inclusive.
- B. This Bylaw does not regulate Medical Marijuana Treatment Centers or Registered Marijuana Dispensaries. See Section 230-17 of this Bylaw.

§ 230-18.3 Definitions.

Unless otherwise indicated, terms used throughout this regulation shall be defined as they are in 935 CMR 500.000 et seq. and in General Law, Chapter 94G, §1.

As used in this article, the following terms shall have the meanings indicated:

ADULT USE MARIJUANA ESTABLISHMENT

Means a Marijuana Establishment lawful under G.L. c. 94G, *Regulation of the Use and Distribution of Marijuana Not Medically Prescribed*, and conforming to the requirements of 935 CMR 500 et seq., *Adult Use of Marijuana*.

COMMISSION

Means the Massachusetts Cannabis Control Commission.

CONSUMER

Means a person who is at least 21 years of age.

CONTROLLING PERSON

Means an officer, board member or other individual who has a financial or voting interest of 10 percent or greater in a Marijuana Establishment.

EDIBLE MARIJUANA PRODUCTS

Means a Marijuana Product that is to be consumed by humans by eating or drinking.

HOST COMMUNITY

Means a municipality in which a marijuana establishment is located or in which an applicant has proposed locating a marijuana establishment.

HOST COMMUNITY AGREEMENT

Means the agreement reached between the Town of Marion and a marijuana establishment.

MANUFACTURE

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

MARIJUANA

Means all parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C and 94G; provided that "Marijuana" shall not include: (1) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; (2) hemp; or (3) the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products. Marijuana also includes marijuana products except where the context clearly indicates otherwise.

MARIJUANA ACCESSORIES

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

MARIJUANA CULTIVATOR

Means an entity licensed to cultivate, process and package marijuana, to deliver marijuana to Marijuana Establishments and to transfer marijuana to other Marijuana Establishments, but not to consumers.

MARIJUANA ESTABLISHMENT

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

MARIJUANA ESTABLISHMENT AGENT

Means a board member, director, employee, executive, manager, or volunteer of a Marijuana Establishment, who is 21 years of age or older. 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.

MARIJUANA PRODUCT MANUFACTURER

Means an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to Marijuana Establishments and to transfer marijuana and marijuana products to other Marijuana, but not to consumers.

MARIJUANA PRODUCTS

Means products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or

consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

MARIJUANA RETAILER

Means an entity licensed to purchase and deliver marijuana and marijuana products from Marijuana Establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to Marijuana Establishments and to consumers.

MARIJUANA TRANSPORTER

Means an entity, not otherwise licensed by the Commission, which is licensed to purchase, obtain, and possess marijuana and marijuana products solely for the purpose of transporting, temporary storage, sale and distribution to marijuana establishments not for sale to consumers.

MASSACHUSETTS RESIDENT

Means a person whose primary residence is located in Massachusetts.

PARAPHERNALIA

Means “drug paraphernalia” as defined in M.G.L. c. 94C, § 1.

PREMISES

Means any indoor or outdoor location over which a social consumption operation or its agents may lawfully exert substantial supervision or control over entry, property or the conduct of persons.

PROCESS OR PROCESSING

Means to harvest, dry, cure, trim and separate parts of the marijuana plant by manual or mechanical means, except it shall not include manufacture as defined in 935 CMR 500 et seq.

PROVISIONAL MARIJUANA ESTABLISHMENT LICENSE

Means a certificate issued by the Commission confirming that a Marijuana Establishment has completed the application process.

REGISTRANT

Means the holder of a registration card or a license, or a healthcare provider as that term is defined in 935 CMR 500 et seq.

REGISTRATION CARD

Means an identification card issued by the Commission to a Marijuana Establishment or laboratory agent. The registration card allows access into Commission-supported databases. The registration card facilitates identification by the Commission and law enforcement authorities of those individuals who are exempt from Massachusetts criminal and civil penalties Ch. 369 of the Acts of 2012, 105 CMR 725.000, 935 CMR 500.000, and the Act.

RESEARCH FACILITY

Means an entity licensed to do or engage in research projects assigned by the Commission.

SPECIAL PERMIT GRANTING AUTHORITY (SPGA)

Means the Marion Planning Board.

UNREASONABLY IMPRACTICABLE

Means that the measures necessary to comply with the regulations, ordinances or bylaws adopted pursuant to this chapter subject licensees to unreasonable risk or require such a high investment of risk, money, time or any other resource or asset that a reasonably prudent businessperson would not operate a Marijuana Establishment.

§ 230-18.4 Eligible locations.

Adult use marijuana establishments may be allowed by special permit in the Limited Industrial Zoning District, subject to all requirements of this Zoning Bylaw, the requirements of the Planning Board, and of 935 CMR 500.000 et seq.

§ 230-18.5 General requirements and conditions.

The following requirements and conditions shall apply to all adult use marijuana establishments and are conditions precedent to the application for a building permit for an adult use marijuana establishment:

- A. An adult use marijuana establishment shall be allowed only by special permit from the permit granting authority, in compliance with all requirements of § 230-7.2 and § 230-7.4B and § 230-7.4E of the Zoning Bylaw, in addition to the particular requirements of § 230-18.6, below.
- B. Adult use marijuana establishments shall obtain site plan approval from the Planning Board in compliance with the requirements of Article IX and Section 230-9.1C of the Zoning Bylaw.
- C. Adult use marijuana establishments shall have executed a legally binding Host Community Agreement with the Marion Board of Selectmen in which the parties shall have agreed, among other matters, to the payment to the Town of fees as provided by law.
- D. No adult use marijuana establishments shall be located within 300 feet of a residential zoning district, or within 500 feet of any lot containing a school, child-care facility, or playground or religious organization providing care for children through grade 12.
- E. Signs for all marijuana establishments must be approved by the special permit granting authority through site plan review pursuant to Article IX of the Zoning Bylaw, and consistent with the provisions of 935 CMR 500.105(pertaining to “Marketing and Advertising Requirements”).

§ 230-18.6 Special permit requirements.

An adult use marijuana establishment shall be allowed only by special permit and only if the same is in accordance with all relevant state laws and applicable regulations, G.L. c. 40A, § 9, the requirements of § 230-7.2 of the Zoning Bylaw, and with the additional requirements contained in this section (§ 230-18.6), below.

- A. Uses. A special permit for adult use marijuana establishments shall be limited to one or more of the following uses:
 - 1. Cultivating marijuana for adult use;

2. Processing and packaging of marijuana for adult use, including marijuana that is in the form of smoking or vaping materials, food products, oils, aerosols, ointments and other products; or
3. Retail sale or distribution of marijuana for use only by adults 21 years of age or older, as that term is defined in 935 CMR 500.002.

B. Application. In addition to the application requirements set forth in the rules of the special permit granting authority, a special permit application for an Adult Use Marijuana Establishment shall include the following:

1. The name and address of each Controlling Person related to the Adult Use Marijuana Establishment;
2. Copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the establishment;
3. If premises are the subject of a lease, evidence of the property owner's assent to the application;
4. Proposed security measures for Adult Use Marijuana Establishments demonstrating compliance with all requirements of 935 CMR 500.110, "Security Requirements for Marijuana Establishments," including but not limited to secure storage areas, limited-access areas. Security measures shall be reviewed and approved by the Police Department pursuant to 935 CMR 500.110.
5. Proposed operations and maintenance manual for the Adult Use Marijuana Establishments demonstrating compliance with all the requirements of 935 CMR 500.110, "Security Requirements for Adult Use Marijuana Establishments," including but not limited to procedures for limiting access to the facility to persons authorized under 935 CMR 500.110; and procedures for transport of marijuana and/or Marijuana Infused Products (MIPs).
6. The Host Community Agreement executed by the applicant and the Marion Board of Selectmen.

- C. Hours of operation. The hours of operation of an Adult Use Marijuana Establishment shall be established by the special permit granting authority consistent with applicable state laws and regulations.
- D. Transferability of a special permit. Special permits are presumed to be non-transferable and may be transferred only with the written approval of the special permit granting authority, following compliance with the procedural and substantive requirements of this Bylaw and relevant state law.
- E. A marijuana retailer may only sell marijuana and marijuana accessories. The sale of other products or offer of other services must be merely incidental to the sale of marijuana and marijuana accessories. In addition, a special permit for the sale of marijuana and marijuana accessories shall contain the following conditions of approval:
 - 1. A marijuana retailer is prohibited from holding a tobacco sales permit for the same location.
 - 2. A marijuana retailer is prohibited from holding a liquor license or selling or distributing any alcoholic beverage in any form at the same location.
 - 3. All self-service displays of marijuana products are prohibited.
 - 4. All vending machines containing marijuana products are prohibited.
- F. Special Permit Criteria. The Planning Board shall issue a special permit for a marijuana retailer only upon a showing of compliance with the terms, conditions, and criteria of Section 230-7.2 of the Zoning Bylaw and the terms, conditions, and criteria of the Host Community Agreement is entered into between the Marion Board of Selectmen and the applicant.

ARTICLE XXIX GENERAL

§ 230-19.0 Severability.

If any provision of this Bylaw or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this Bylaw, to the extent it can be given effect, or the

application of those provisions to the persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Bylaw are severable.

Or take any other action thereon.

Finance Committee has no recommendation, as no financial impact

Article S8: To see if the Town will vote to amend the Code of the Town of Marion by amending Section 230-4.2 – Table of Principal Uses by inserting a new line item under Section N: Other Uses as follows:

	R	RE	GB	LB	MB	LI	MSOD
Adult Use marijuana establishments	N	N	N	N	N	PB	N

Or take any other action thereon.

Finance Committee has no recommendation, as no financial impact

Article S9: To see if the Town will vote to amend the Code of the Town of Marion by amending Section 230-7.6 – Additional Special Permit Regulations by inserting a new line item “J” as follows:

J. Section 230-8.18 Adult Use of Marijuana

Or take any other action thereon.

Finance Committee has no recommendation, as no financial impact

Article S10: To see if the Town will vote to amend the Code of the Town of Marion by amending Chapter 109 (Animal Control) by striking said Chapter 109 in its entirety and inserting in place thereof the following: (CHANGES TO EXISTING BYLAWS INDICATED BY UNDERLINING)

Article I
Dog Control

§ 109-1 Definitions.

[Amended 4-28-2003 ATM by Art. 19]

As used in this bylaw, the following terms shall have the meanings indicated:

ANIMAL CONTROL OFFICER

The person or persons employed by the Town as the enforcement officer.

COMMERCIAL KENNEL

A single premises, with a collection of 11 or more dogs, three months or older, that are maintained for any purpose, or where four or more litters per year are raised, or where the boarding or grooming of dogs is performed as a business.

DOG POUND

Any premises designated by action of the Town for the purpose of impounding dogs and caring for all dogs found running at large in violation of this bylaw.

FIERCE, VICIOUS OR DANGEROUS DOG

A dog that either:

- A. Without justification, attacks a person or domestic animal, causing physical injury or death; or
- B. Behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal.

HOBBY KENNEL

A single premises with a collection of five to ten dogs, three months or older, that are housed, groomed, bred, boarded, trained, or sold, or where fewer than four litters per year are raised.

HOUSEHOLD KENNEL

A single premises with a collection of up to four dogs, three months or older, that are maintained as household pets on a lot, not maintained for breeding purposes.

LICENSE PERIOD

The time between January 1st through December 31st, both dates inclusive.

OWNER

Any person, group of persons or corporation owning or keeping or harboring a dog or dogs.

RESTRAINT

A dog is under restraint within the meaning of this bylaw if it is under the control and beside a competent person and obedient to that person's command or within the property limits of its owner or keeper.

§ 109-2 Enforcement.

The Animal Control Officer or Animal Control Officers shall enforce the provisions of this bylaw.

§ 109-3 Restraint required.

The owner shall keep his dog under restraint at all times.

§ 109-4 Impoundment fees.

Any dog impounded hereunder may be reclaimed as herein provided upon payment by the owner to the Animal Control Officer of the sum of \$100 for each day such dog is kept.

§ 109-5 Confinement of certain dogs.

- A. The owner shall confine within a building or secure enclosure every fierce, dangerous or vicious dog and not take such dog out of such building or secure enclosure unless such dog is securely muzzled and upon a leash. The Animal Control Officer may destroy any such dog which is found not to be so confined and without such a muzzle.
- B. The owner shall confine within a building or secure enclosure any dog that has been impounded more than twice by the Animal Control Officer and not take such dog out of such building or secure enclosure unless such a dog is well secured by a leash. Failure to do so may result in such dog being taken permanently.

§ 109-6 Beaches.

[Added 4-27-1998 ATM by Art. 26; amended 5-18-2009 ATM by Art. 24]

It shall be unlawful for any person to permit any dog owned by him and/or under his care or control to be present on any beach owned by the Town of Marion from May 1 through October 1. From October 2 through April 30, dogs may be present on any beach owned by the Town of Marion, provided they are under the control of their owner. It is the owner's responsibility to provide a "pooper scooper" or some other device capable of removing dog waste from the beach property. Failure of the owner to remove dog waste shall be subject to the penalties described in § 109-7.

§ 109-7 Violations and penalties.

Penalties for the violation of § 109-6 shall be assessed and collected in accordance with the procedure established under MGL c. 140, § 173A (noncriminal disposition of complaints for violation of dog control laws). The fines, beginning at the second offense are \$50, thereafter to \$60 for the third offense, and \$100 for the fourth and each subsequent offense within the calendar year.

Article II
Licensing

[Added 4-28-2003 ATM by Art. 19]

§ 109-8 Dog licenses.

Pursuant to the terms of Massachusetts General Laws, Chapter 140, Sections 137A, 139(a), 173 and 173A, this Article II Licensing Section, including § 109-9 Kennel licenses, supplements the provisions of Massachusetts General Laws, Chapter 140, Section 137 through 174E, and certain provisions of the Marion Zoning Bylaw. Those statutes and regulations should be reviewed in order to obtain a complete understanding of the licensing provisions for dogs within the Town.

§ 109-9 License required; tags; fees.

- A. The owner or keeper of a dog in the Town of Marion is subject to these regulations when the dog reaches the age of three months. This section shall not apply to a person having a kennel license.
- B. There shall be a fee that is paid by the owner for each license and tag and any replacement tag issued by the Town Clerk. All

fees under this section shall be determined by the Board of Selectmen and may be changed from time to time as it deems appropriate. No fee shall be charged for a license for a dog owned by a person aged 70 years or over. **[Amended 5-19-2008 ATM by Art. 21]**

- C. The Town Clerk shall record each license issued, the name of the owner or keeper of each dog so licensed, and the name, registered number and description of each dog. The owner or keeper of any dog so licensed shall state upon the license form the breed, color, weight and special markings of the dog. Such books shall be open to the public for inspection during the usual office hours of the Town Clerk.
- D. The owner or keeper shall cause said dog to wear around its neck or body a collar or harness to which the tag shall be securely attached. In the event that any tag is lost, defaced, or destroyed, the owner or keeper shall obtain substitute tags from the Town Clerk.
- E. The licensing period shall be for one year. The deadline for procurement of a dog license is established as December 30th of each year. License renewal may be applied for within 30 days prior to the expiration date. New residents must apply for a license within 30 days of establishing residence. No fee shall be charged for a dog specially trained to lead or serve a blind or deaf person upon presentation to the Town Clerk of a certificate of such training.
- F. A license fee shall not be refunded because of a subsequent death, loss, spaying or neutering, or removal from the Town of such dog, nor because a license fee has been mistakenly paid to the Town.
- G. No dog license shall be issued to any person who has been convicted of cruelty to animals as defined in MGL c. 272, § 77, 80A, 94 or 95.
- H. The provisions of this section shall not apply to institutions licensed under MGL c. 140, § 174D, to shops licensed under MGL c. 129, § 39A, to any person operating a licensed kennel or where otherwise provided by law.

§ 109-10 **Kennel licenses.**

- A. Any owner or keeper of a household kennel, hobby kennel, or commercial kennel shall obtain a kennel license; provided, however, that before the Town Clerk issues such license, the owner or keeper provides the Town Clerk a completed application with:
- An opinion in writing by the Building Commissioner that the proposed kennel application meets the kennel definitions described in § 109-1.
 - An opinion in writing by the Animal Control Officer that the maintenance of a kennel will not result in a health hazard.
The issuance of a hobby kennel or commercial kennel license shall be contingent upon an inspection by the Animal Control Officer to ensure that the basic standards of cleanliness and proper care and confinement of said dogs exists on the premises, and the maintenance of a kennel will not result in a health hazard or be injurious to the health of the neighbors by reason of prospective noise or otherwise.
- B. A special permit for a hobby kennel or commercial kennel must meet the provisions and requirements of the Marion Zoning Bylaw pursuant to § 230-7.2, § 230-7.4, and § 230-7.6
- C. The kennel license shall be issued by the Town Clerk and there shall be a fee for such kennel license, to be paid by the owner. All fees under this section shall be determined by the Board of Selectmen, and may be changed from time to time as it deems appropriate.
- D. A kennel license shall be in lieu of any other license required for a dog, for the period of time the dog is kept in such kennel per MGL c. 140, § 137A. The owner or keeper of such kennel shall renew the license prior to the commencement of each succeeding license period.
- E. While at large, each dog in a kennel shall wear a collar or harness with a tag securely attached. The tag shall have the number of the kennel license, the name of the town that issued the kennel license, and the year that the license was issued. Such tag shall be in the form prescribed and furnished by the Town Clerk and shall be issued by the Town Clerk.

- F. If a kennel owner desires to increase the capacity of his/her kennel during a license period, or its use, he/she shall apply to the Town Clerk with a new kennel application.
- G. The Town Clerk shall issue, without charge, upon written application and written approval of the Board of Appeals, a kennel license to any domestic charitable corporation, incorporated in the commonwealth, exclusively for the purpose of protecting animals from cruelty, neglect, or abuse or for the relief of suffering except for commercial kennels which shall require compliance with § 230-7.4 of the Zoning Bylaw, provided that there is compliance with the terms and conditions of this Chapter.
- H. A veterinary clinic, office, or hospital shall not be considered a kennel unless it contains an area for the grooming or selling of dogs, or for the boarding of dogs for other than medical or surgical purposes. If it is considered a kennel, the owner or keeper shall, before the Town Clerk issues such license, provide the Town Clerk with the written approval of the Board of Appeals or special permitting authority.
- I. All holders of kennel licenses shall notify the Town Clerk, in writing, of the sale of any dog or puppy, which includes the description of the animal, the age, color, breed, identifying marks, sex, and whether the dog has been spayed or neutered. The kennel owner shall forward a copy of such notice to the Clerk of the city or town in which the new owner of the dog resides.

§ 109-11 Violations and penalties.

[Added 4-27-1999 ATM by Art. 25]

- A. Whoever violates any provision of § 109-9 or 109-10 of these rules and regulations shall be punished by a fine of not less than \$25, which shall be paid to the Town.
- B. If any person refuses to answer, or answers falsely, questions of a police officer or an Animal Control Officer, pertaining to his/her ownership of a dog, he/she shall be punished by a fine of not less than \$25, which shall be paid to the Town.
- C. If the dog as to which any violation occurs was unlicensed at the time of such violation, a fine of not less than \$25 nor more than \$50 shall be paid by the owner to the Town, and the owner or keeper of such dog will be required to immediately procure all delinquent licenses and tags, as well as the current license and tag.

§ 109-12 Issuance and revocation of licenses; kennel inspections; complaints.

- A. Violation of any substantive provisions of this Chapter shall be grounds for the revocation of a license issued for a kennel pursuant to this Chapter. The Town Clerk may revoke or suspend any license upon receiving a written directive from the Board of Selectmen that was based on information concluding a kennel is operating in violation of this Chapter from the Animal Control Officer or the Chief of Police or his/her designee. Prior to such revocation, the Board of Selectmen shall hold a public hearing during which the kennel licensee shall have been offered, in writing, an opportunity to be heard. In such case of suspension of said license, the Board of Selectmen may reinstate such kennel license and impose conditions and regulations upon the operation of the kennel.
- B. If an applicant is shown to have withheld or falsified any material information on the application, the Town Clerk may refuse to issue or may revoke a license.
- C. The Animal Control Officer or the Chief of Police of the Town of Marion or other persons authorized under the General Laws may at any time inspect or cause to be inspected any kennel, and if, in his or her judgment, the same is not being maintained in a sanitary and humane manner, or if records are not properly kept as required by law, the Board of Selectmen shall by order revoke or suspend such license. In the case of suspension, the Board of Selectmen may reinstate such license and impose conditions and regulations upon the operation of said kennel.
- D. Upon the petition of six or more citizens filed with the Board of Selectmen setting forth they are aggrieved or annoyed to an unreasonable extent by one or more dogs at a kennel located in Town, because of: 1) excessive barking 2) vicious disposition or vicious actions or 3) any other conditions connected with the kennel that constitute a public nuisance, the Board of Selectmen shall, within fourteen (14) days of the filing of such petition, give notice to all parties concerned of a public hearing to be held within twenty-eight (28) days after the date of such notice. The Board of Selectmen shall, within fourteen (14) days after the public hearing, investigate or cause to be investigated the subject matter of the petition and shall, by order, either suspend or revoke the kennel license, otherwise regulate the kennel, or dismiss the petition. Written notice of any order under this section revoking, suspending or reinstating a license

shall be mailed forthwith to the office issuing such license and to the holder of the license.

- E. Any person maintaining a kennel after the license has been so revoked, or while such license is so suspended, shall be charged a fee of \$50 per day up to \$250 (MGL c. 140, § 137C).

Or take any other action thereon.

Finance Committee has no recommendation, as no financial impact

Article S11: To see if the Town will vote to amend the Code of the Town of Marion by amending Section 230-4.2 – Table of Principal Uses by inserting two (2) new line items substantially as follows:

	R	RE	GB	LB	MB	LI	MSOD
<u>K. Miscellaneous Commercial Uses</u>							
<u>Commercial kennel</u>	BA(3)	N	BA	BA	N	BA	N
<u>M. Accessory Uses</u>							
<u>Hobby kennel</u>	BA	N	BA	BA	N	BA	N

Notes:

- 3. A minimum lot size of 4 acres is required.

Or take any other action thereon.

Finance Committee has no recommendation, as no financial impact

Article S12: To see if the Town will vote to amend the Code of the Town of Marion by inserting in Section 230-7.4 – Uses authorized by special permit a new Section G substantially as follows:

G. Commercial kennel and Hobby kennel. A Commercial kennel and Hobby kennel may be granted a special permit by the Board of Appeals, provided the following criteria are met:

- (1) The structure will provide the basic standards of cleanliness and proper care and confinement of said dogs on the premises.
- (2) The structure will not result in a health hazard or be injurious to the health of the neighbors by reason of prospective noise or otherwise.

Or take any other action thereon.

Finance Committee has no recommendation, as no financial impact

Article S13: To see if the Town will vote to reduce and amend the “Minimum Side and Rear Setback” for District Residence E, contained in Table 5.1A, entitled Dimensional Requirements Table, which is contained in Article V, §230-5.1 of the Code of the Town of Marion, from 20 feet to 10 feet; or take any other action thereon.

Finance Committee has no recommendation, as no financial impact

And you are directed to serve this Warrant by posting up attested copies thereof, one at the Elizabeth Taber Library, one at the Town House and one at the Marion Post Office, all in said Marion, fourteen days at least before the time of holding said meeting aforesaid.

Hereof fail not to make due return of this Warrant with your doings thereon to the Town Clerk at the time and place of meeting aforesaid.

Given our hands this 18th day of September in the Year Two Thousand and Eighteen.

Norman A. Hills, Chairman

Randy L. Parker, Vice-Chairman

John P. Waterman, Clerk

BOARD OF SELECTMEN

A true copy, ATTEST:

I, John B. Garcia, being a duly appointed constable of the Town of Marion, in the County of Plymouth, Commonwealth of Massachusetts, hereby make affidavit that legal notice of the meeting called under this Warrant has been served on the voters of said Town of Marion by posting up attested copies in not less than three public places within the said Town on September 21, 2018 said date being fourteen days, at least, before the date of the meeting, in accordance with Chapter 64, Section 3 of the Code of the Town of Marion..

JOHN B. GARCIA, CONSTABLE

**MARION TOWN HOUSE
Two Spring Street
Marion, MA 02738**

ECRWSS

**POSTAL PATRON
Marion, MA 02738**

**PRSRT STD
U. S. Postage
PAID
Rochester, MA
Permit #115**