

# TOWN OF WINCHENDON

Telephone: 978-297-2766  
Fax: 978-297-2769

Town Clerk



109 Front Street, Dept. 3  
Winchendon, Massachusetts, 01475-1758

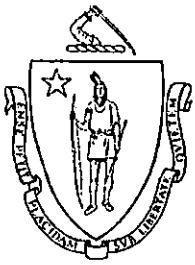
January 27, 2020

The following amendments to the Winchendon Zoning Bylaws were approved at the Special Town Meeting held on October 28, 2019 and were approved by the Attorney General on January 27, 2020.

Claims of invalidity by reason of any defect in the procedure of adoption or amendment may only be made within 90 days of the posting of this notice. Copies of the Zoning Bylaws may be examined and obtained at the office of the Town Clerk.

Posted: 1/28/2020

By: Richard Blount Constable



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION  
10 MECHANIC STREET, SUITE 301  
WORCESTER, MA 01608

MAURA HEALEY  
ATTORNEY GENERAL

(508) 792-7600  
(508) 795-1991 fax  
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January 27, 2020

Wendy A. Stevens, Town Clerk  
Town of Winchendon  
109 Front Street  
Winchendon, MA 01475

**Re: Winchendon Special Town Meeting of October 28, 2019 -- Case # 9645  
Warrant Articles # 17, 18 and 20 (Zoning)**

Dear Ms. Stevens:

**Articles 17, 18 and 20** - We approve Articles 17, 18 and 20, and the map amendments related to Articles 17, 18 and 20, from the October 28, 2019 Winchendon Special Town Meeting. We will return the approved maps to you by regular mail. Our comments regarding Article 18 are provided below.

**Article 18** - Article 18 amends the Town's zoning by-laws, Article 4.6, "Special Zoning Districts' to create the Lake Monomonac Overlay District (LMOD) and amend the Town's zoning map to show the LMOD. Article 4.6, LMOD, provides in its entirety as follows:

4.6.1 Purpose. Recognizing that the parcels in this area of Town do not meet the requirements of the R40 zone in which they are located, the purpose of the Lake Monomonac Overlay District is to allow owners reasonable use of their properties without detriment to abutters and the general community.

4.6.2 District Delineation. The Lake Monomonac Overlay District is hereby established and is identified on the Town of Winchendon Zoning Map. The boundaries of the LMOD are shown on the Winchendon Zoning Map on file with the Town Clerk.

4.6.3 Use Regulations. The Lake Monomonac Overlay District is established as an overlay district to all other districts. All development, including structural and non-structural activities, whether permitted by right or by Special Permit must be in compliance with Chapter 131, Section 40 of the General Laws and with the requirements of the Massachusetts State Building Code.

4.6.4 Modifications to the Underlying Districts

1. Permissible setbacks from property lines within the Lake Monomonac Overlay District shall match those of the R10 zoning district.

2. No other property regulations, dimensional or otherwise, shall be altered by the Lake Monomonac Overlay District.
3. All commercial occupancies within the Lake Monomonac Overlay District shall require full site plan review.

The by-law provides that the LMOD is established as an overlay district and that “all development, including structural and non-structural activities, whether permitted by right or by Special Permit must be in compliance with” the state Wetlands Act (G.L. c. 131, § 40) and the state Building Code. Section 4.6.3, “Use Regulations.” However, the by-law does not identify what uses are allowed by right, allowed by special permit, or prohibited in the LMOD. General Laws Chapter 40A, Section 4, provides in pertinent part, that any zoning by-law that divides the Town into districts shall be uniform within the district for each class or kind of structures or uses permitted. See SCIT, Inc. v. Planning Board of Braintree, 19 Mass. App. Ct. 101 (1984) (holding that a by-law that required a special permit for *all* uses in a business district violated the uniformity requirement embodied in G.L. c. 40A, § 4). The Town may wish to amend Article 4.6 at a future Town Meeting to make it clear what uses are allowed by right, allowed by special permit, or prohibited in the LMOD. The Town should consult with Town Counsel with any questions on this issue.

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

Very truly yours,

MAURA HEALEY  
ATTORNEY GENERAL

*Nicole B. Caprioli*

By: Nicole B. Caprioli  
Assistant Attorney General  
Municipal Law Unit  
10 Mechanic Street, Suite 301  
Worcester, MA 01608  
(508) 792-7600 ext. 4418

cc: Town Counsel Lauren F. Goldberg



OFFICE OF  
**TOWN CLERK**  
TELEPHONE 297-2766  
WINCHENDON, MASS. 01475

October 29, 2019

To whom it may concern:

I CERTIFY that at the Winchendon Special Town Meeting held on October 28, 2019, the Town voted the following:

**ARTICLE 17**

To see if the town will vote to amend Article 4.6 Special Zoning Districts to eliminate the Golf/Residential Overlay District (GROD), or act in relation thereto.

(submitted by Planning Board)

**BOARD OF SELECTMEN: 5-0 Recommend**

**FINANCE COMMITTEE: 5-0 Recommend**

**PLANNING BOARD: 5-0 Recommend**

***VOTED: APPROVED (2/3 Majority 87%) to amend the Zoning Bylaw by deleting Article 4.6, Special Zoning Districts to eliminate the Golf/Residential Overlay District (GROD).***

TRUE COPY ATTEST:

Wendy A. Stevens,  
Town Clerk



OFFICE OF  
**TOWN CLERK**  
TELEPHONE 297-2766  
WINCHENDON, MASS. 01475

October 29, 2019

To whom it may concern:

I CERTIFY that at the Winchendon Special Town Meeting held on October 28, 2019, the Town voted the following:

**ARTICLE 18**

To see if the town will vote to amend Article 4.6 Special Zoning Districts to create the following: **Lake Monomonac Overlay District (LMOD)** and amend the Town's Zoning Map to include the Lake Monomanac Overlay District as depicted on the plan on file with the Town Clerk.

4.6 LAKE MONOMONAC OVERLAY DISTRICT (LMOD)

4.6.1 Purpose. Recognizing that the parcels in this area of Town do not meet the requirements of the R40 zone in which they are located, the purpose of the Lake Monomonac Overlay District is to allow owners reasonable use of their properties without detriment to abutters and the general community.

4.6.2 District Delineation. The Lake Monomonac Overlay District is hereby established and is identified on the Town of Winchendon Zoning Map. The boundaries of the LMOD are shown on the Winchendon Zoning Map on file with the Town Clerk.

4.6.3 Use Regulations. The Lake Monomonac Overlay District is established as an overlay district to all other districts. All development, including structural and non-structural activities, whether permitted by right or by Special Permit must be in compliance with Chapter 131, Section 40 of the General Laws and with the requirements of the Massachusetts State Building Code.

4.6.4 Modifications to the Underlying Districts

1. Permissible setbacks from property lines within the Lake Monomonac Overlay District shall match those of the R10 zoning district.
2. No other property regulations, dimensional or otherwise, shall be altered by the Lake Monomonac Overlay District.
3. All commercial occupancies within the Lake Monomonac Overlay District shall require full site plan review;

or act in relation thereto.

(submitted by Planning Board)

A TRUE COPY ATTEST  
  
Town Clerk

BOARD OF SELECTMEN: 4-1 Recommend

FINANCE COMMITTEE: 5-0 Recommend

PLANNING BOARD: 3-1-1 Recommend

*VOTED: APPROVED (2/3 Majority) to amend the Zoning Bylaw by inserting a new Article 4.6 Special Zoning Districts to create the following: Lake Monomonac Overlay District (LMOD) as printed in the warrant and amend the Town's Zoning Map to include the Lake Monomonac Overlay District as depicted on the plan on file with the Town Clerk.*

TRUE COPY ATTEST:



Wendy A. Stevens,  
Town Clerk



OFFICE OF  
**TOWN CLERK**  
TELEPHONE 297-2766  
WINCHENDON, MASS. 01475

October 29, 2019

To whom it may concern:

I **CERTIFY** that at the Winchendon Special Town Meeting held on October 28, 2019, the Town voted the following:

**ARTICLE 20**

To see if the town will vote to amend Article 6.12.5.2 Adult Use/Medical Marijuana Facilities Retail Overlay District and the Town's Zoning Map to eliminate "E. Stuffin' Things" overlay and extend the existing "C.Hillview Business Park/Rte. 140" overlay to the Route 12/Route 140 intersection to include surrounding properties as specified on the proposed Winchendon Zoning Map on file with the Town Clerk, or act in relation thereto.

(Submitted by Planning Board)

**BOARD OF SELECTMEN: 4-1 Recommend**

**FINANCE COMMITTEE: Not Recommend 3-2**

**PLANNING BOARD: 5-0 Recommend**

***VOTED: APPROVED (2/3 Majority) to amend the Zoning Bylaw, Article 6.12.5.2 Adult Use/Medical Marijuana Facilities Retail Overlay District and the Town's Zoning Map to eliminate "Stuffin' Things" overlay and extend the existing "C. Hillview Business Park/Rte. 140" overlay to the Route 12/Route 140 intersection to include surrounding properties as specified on the proposed Winchendon Zoning Map on file with the Town Clerk.***

TRUE COPY ATTEST:

Wendy A. Stevens,  
Town Clerk