

2010 ANNUAL TOWN MEETING

Commonwealth of Massachusetts

Middlesex, ss.

To any Constable in the Town of Weston, Greetings:

In the name of The Commonwealth you are hereby required to notify and warn the voters of said Town, qualified to vote in elections and Town affairs, to meet in the auditorium of the Town Hall in said Town, on Saturday, the eighth day of May, 2010, at 8:00 o'clock A.M. to act on Article 1 and Question 1 of this warrant for which polls will be open from 8:00 o'clock A.M. until 6:00 o'clock P.M. in said auditorium; and to meet in the auditorium of the Senior High School in said Town, and also in the gymnasium of the Senior High School if the number of voters in attendance shall exceed the capacity of the auditorium, on Monday, the tenth day of May, 2010 at 7:45 o'clock P.M. to act upon the remaining articles of this warrant.

ARTICLE 1: TO BRING IN THEIR VOTES FOR THE FOLLOWING TOWN OFFICERS TO BE VOTED FOR ON ONE BALLOT

	<u>For a term of</u>
A Moderator	One Year
One Selectman	Three Years
One Assessor	Three Years
Two Members of the School Committee	Three Years
Two Members of the Recreation Commission	Three Years
One Member of the Planning Board	Five Years
One Member of the Planning Board (to fill a vacancy)	Three Years
Two Library Trustees	Three Years
One Member of the Board of Health	Three Years
One Commissioner of Trust Funds	Three Years
Three Measurers of Lumber	One Year

And to give their vote, Yes or No, on the following questions:

BALLOT QUESTION NO. 1: PROPOSITION 2½ DEBT EXCLUSION

Shall the Town of Weston be allowed to exempt from the provisions of Proposition two and one-half, so called, the amounts required to pay for the bond(s) issued in order to design, engineer, construct and equip the following, including all costs incidental and related thereto: (1) High School Science Lab Design Fees; (2) School Technology – Phase 3; (3) DPW Drainage Improvement Projects; (4) DPW Equipment Replacement; (5) Fire Department Ambulance Replacement; (6) Fire Department Communications Equipment; (7) Technology-Twin Storage Area Network Devices; (8) Technology - Telephone Systems, Phase 2; and (9) School Bus Replacements?

Yes _____ No _____

SUMMARY

State law provides for an exemption from the limits of Proposition two and one-half of those amounts required to pay for the debt service for bonds approved by the voters. Question 1 would exempt the debt service for the bonds issued for projects previously approved at the November 2009 Special Town Meeting and for bonds that will be issued for projects to be considered at the May 2010 Annual Town Meeting:

Projects approved at previous town meetings:

- 1. High School Science Lab – Design Fees (Article 2, 11/30/09) \$730,000
- 2. School Technology – Phase 3 (Article 3, 11/30/09) 350,000

Projects to be considered by Town Meeting, 2010

- 3. DPW Drainage Improvement Projects (Article 12) 200,000
- 4. DPW Equipment Replacement (Article 13) 230,000
- 5. Fire Department – Ambulance Replacement (Article 14) 230,000

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6. Fire Department – Communications Equipment (Article 15)	100,000
7. Technology-Twin Storage Area Network Devices (Article 16)	150,000
8. Technology-Telephone Systems, Phase 2 (Article 17)	300,000
9. School Bus Replacements (Article 18)	<u>236,937</u>
Total	\$2,526,937

It should be noted that projects 3-9 have not yet been approved by Town Meeting. Separate articles will appear in the Annual Town Meeting Warrant to appropriate the funds and authorize borrowing for each purpose. A two-thirds vote of Town Meeting in favor is required for approval. This ballot question is only to exempt the debt service from the limits of Proposition two and one-half, should these items be approved by Town Meeting.

The debt service for these projects will be approximately \$45,087 in fiscal year 2011, \$424,600 in fiscal year 2012, then decreasing each year until the bond reaches maturity. The number of years until maturity varies between three and twenty years depending on the type of project. This Proposition two and one-half debt exemption shall be deemed approved if a majority of the persons voting thereon vote "yes."

FINANCE/BUDGET ARTICLES

ARTICLE 2: APPROPRIATE THE FISCAL YEAR 2011 OPERATING BUDGET

To raise and appropriate and transfer from available funds such sums of money as may be necessary to defray the costs of government and other Town charges for the fiscal year beginning July 1, 2010, and to fix the salaries and compensation of elected officials of the Town on an annual basis for the said period; or take any other action relative thereto.

Article 2 Explanation: The recommended fiscal year 2011 operating budget can be found on pages 6-9. It is anticipated that the following available funds will be transferred to fund a portion of the operating budget:

1. Undesignated Fund Balance (free cash)	\$2,200,000
2. Accrued Income-Well Litigation Settlement	85,000
3. Well Litigation Settlement Account (principal)	250,000
4. Cemetery Trust Fund	40,000
5. Overlay Surplus	315,000
6. Josiah Smith Tavern Trust Fund	<u>6,000</u>
Total	\$2,896,000

The Finance Committee unanimously supports adoption of this Article.

ARTICLE 3: APPROPRIATE THE FISCAL YEAR 2011 WATER ENTERPRISE BUDGET

To raise and appropriate and transfer from receipts the following sums of money to operate the Water Division of the Department of Public Works during fiscal year 2011, under the provisions of M.G.L. Chapter 44, section 53F½:

	Expended <u>FY08</u>	Expended <u>FY09</u>	Appropriated <u>FY10</u>	Recommended <u>FY11</u>
Salaries	235,418	250,097	266,206	268,687
Expenses	226,532	218,224	215,280	215,280
MWRA Assessment/ Water Purchases	1,307,050	1,669,522	1,555,565	1,400,000
Debt Service (non-exempt)	109,793	105,267	160,661	235,405
Capital Outlay	<u>47,260</u>	<u>456,586</u>	<u>87,500</u>	<u>13,500</u>
Total	\$1,926,053	\$2,699,696	\$2,285,212	\$2,132,872

Or take any other action relative thereto.

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Article 3 Explanation: The decrease in the MWRA Assessment is due to less water having been used during calendar year 2009. Debt service includes 20% of the cost of construction of the new DPW facility, and an additional capital project: water main rehabilitation, to be considered under Article 19. The operating expenses for the Water Division are entirely funded by water fee revenue.

The Finance Committee unanimously supports adoption of this Article.

ARTICLE 4: APPROPRIATE THE FISCAL YEAR 2011 RECREATION ENTERPRISE BUDGET

To raise and appropriate and transfer from receipts the following sums of money to operate the Recreation Department during fiscal year 2011, under the provisions of M.G.L. Chapter 44, section 53F½:

Table with 5 columns: Category, Expended FY08, Expended FY09, Appropriated FY10, Recommended FY11. Rows include Salaries, Expenses, Community Center, and Total.

Or take any other action relative thereto.

Article 4 Explanation: Program fees cover approximately 70 percent of the salaries and expenses for this department; the remaining 30 percent is funded by property taxes. The budget has been reduced overall due to reductions in program participation and corresponding revenue.

The Finance Committee unanimously supports adoption of this Article.

ARTICLE 5: APPROPRIATE THE FISCAL YEAR 2011 BROOK SCHOOL APARTMENTS ENTERPRISE BUDGET

To raise and appropriate and transfer from receipts the following sums of money to operate the Brook School Apartments during fiscal year 2011, under the provisions of Chapter 76 of the Acts of 2009 and M.G.L. Chapter 44, section 53F½:

Table with 5 columns: Category, Expended FY08, Expended FY09, Appropriated FY10, Recommended FY11. Rows include Salaries, Expenses, Repairs and Replacements, Payment in Lieu of Taxes, Debt Service, and Total.

Or take any other action relative thereto.

Article 5 Explanation: Funding for the operation of the Brook School Apartments comes from rental income and the Community Preservation Fund, which is covering the cost of the debt service for construction of thirteen affordable units completed as part of the expansion project in 2004.

The Finance Committee unanimously supports adoption of this Article.

ARTICLE 6: APPROPRIATE TO STABILIZATION FUND

To raise and appropriate a sum of money to the Stabilization Fund, as provided under M.G.L. Chapter 40, section 5B, as amended, to be used for any lawful purpose, capital budget program or purpose for which the Town may borrow; or take any other action relative thereto.

Article 6 Explanation: A stabilization fund is a type of reserve fund. The Board of Selectmen has adopted a comprehensive financial reserve policy for the Town. This policy calls for establishing a Stabilization Fund of \$2,000,000 by fiscal year 2013. This Stabilization Fund will be used for catastrophic or emergency events or when certain revenue sources are below prior year levels, which typically occurs during a recession. Currently the Town has approximately \$1.4 million in this Stabilization Fund. An appropriation of \$250,000 is anticipated. A copy of the Town's reserve policy can be found on the Town's website, www.weston.org. A two-thirds vote of Town Meeting is required to appropriate both to and from the Stabilization Fund.

The Finance Committee unanimously supports adoption of this Article.

ARTICLE 7: APPROPRIATE TO PENSION LIABILITY STABILIZATION FUND

To raise and appropriate a sum of money to the Pension Liability Stabilization Fund, as provided under M.G.L. Chapter 40, section 5B, as amended, to be used to fund outstanding pension liability for employees, or take any other action relative thereto.

Article 7 Explanation: By statute, all towns are required to fully fund their outstanding pension liability by 2028. Any additional amounts that the Town can contribute to this liability above the Middlesex Retirement System (MRS) annual assessment will reduce our future liability. The fiscal year 2011 MRS assessment is based on a January 1, 2008 actuarial study, and does not take into account last year's losses to MRS investments. In order to not lose ground in funding this future liability and risk an unexpected increase in the MRS assessment at some point in the future, setting aside this additional contribution in a stabilization fund now is a good fiscal management practice. An appropriation of \$200,000 is anticipated and will add to the Town's overall reserve levels. A two-thirds vote of Town Meeting is required to appropriate both to and from the Stabilization Fund.

The Finance Committee unanimously supports adoption of this Article.

**ARTICLE 8: APPROPRIATE TO OTHER POST EMPLOYMENT BENEFITS (OPEB)
TRUST FUND**

To raise and appropriate or transfer from available funds a sum of money to the Other Post Employment Benefits (OPEB) Trust Fund, to be used to pay the costs of post employment benefits; or take any other action relative thereto.

Article 8 Explanation: This article allows the Town to continue to fund its future liability for other post employment benefits (retiree health insurance) for Town of Weston retirees. Beginning with the fiscal year 2008 audit, the Town was required to disclose this liability. The 2009 Annual Town Meeting accepted Chapter 479 of the Acts of 2008 establishing a trust fund for this purpose. An appropriation of \$60,000 is anticipated. In addition, there is a balance in the Town's health insurance trust fund that will be proposed to be transferred to the OPEB trust fund.

The Finance Committee unanimously supports adoption of this Article.

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ARTICLE 9: CONTINUE DEPARTMENTAL REVOLVING FUNDS

To continue revolving funds for certain Town departments pursuant to the provisions of M.G.L. Chapter 44, section 53E½ for the fiscal year beginning July 1, 2010:

Revolving Fund	Authority to Spend	Revenue Source	Use of Fund	FY11 Budget
Recreation Skating Programs	Recreation Director	Program Fees	Program Costs	\$50,000
Historic Marker	Historical Commission	Program Fees	Costs Related to Purchase of Historic Markers	\$1,500
Josiah Smith Tavern	Town Manager	Rental Fees from Women's Community League	Building Repairs and Maintenance (Improvements)	\$30,000
Council on Aging Special Programs	Council on Aging Director	Program Fees	Program Expenses	\$25,000
Town Building Rentals	Town Manager	Rental Fees Town Hall	Utilities, Cleaning, Building Monitor	\$6,000
Board of Health	Health Director	Insurance Reimbursement, Flu Clinics	Public Health Education, Outreach, Health Clinics, Emergency Preparedness	\$20,000
Affordable Housing Monitoring	Town Manager	Fees from Original Sale and Resale of Affordable Homes	Monitoring Costs, including Salaries and Benefits	\$35,000

Or take any other action relative thereto.

Article 9 Explanation: A Revolving Fund established under the provisions of M.G.L. Chapter 44, section 53E½ must be authorized annually by vote of the Town Meeting. The Fund is credited with only the departmental receipts received in connection with the programs supported by such Revolving Fund, and expenditures may be made from the Revolving Fund without further appropriation. All of the Revolving Funds listed above were previously authorized by Town Meeting. Please see Appendix 4 for a report on these Revolving Funds.

The Finance Committee unanimously supports adoption of this Article.

ARTICLE 10: ACCEPT CHAPTER 90 ROAD IMPROVEMENT FUNDS

To authorize the Board of Selectmen to permanently construct, reconstruct, resurface, alter or make specific repairs upon all or portions of various Town Ways and to authorize the expenditure of such sums of money as may be received for the fiscal year commencing July 1, 2010 provided or to be provided by the Commonwealth of Massachusetts through the Massachusetts Department of Transportation; or take any other action relative thereto.

Article 10 Explanation: State law requires that Town Meeting approve the use of funds received from the State for road construction purposes, including engineering or addressing traffic improvements. In fiscal year 2011, it is anticipated that the Town will receive \$366,217 from the State for this purpose.

The Finance Committee unanimously supports adoption of this Article.

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ARTICLE 11: APPROVE PROPERTY TAX DEFERRAL INCOME LIMITS

To establish fiscal year 2011 income eligibility limits under Chapter 421 of the Acts of 2004, An Act Authorizing the Town of Weston to Regulate Certain Property Tax Exemption Eligibility Requirements for the Elderly; or take any other action relative thereto.

Article 11 Explanation: Several years ago, Weston obtained special legislation to change the eligibility criteria for the property tax deferral program, allowing the Board of Selectmen to set the interest rate for residents over 60 who defer their property taxes. For fiscal year 2011, the rate has been set at 4 percent. This legislation also allows the Board of Selectmen, with Town Meeting approval, to establish the income eligibility limit for this program each year. The Board of Selectmen is recommending that the income limit remain at \$70,000 for fiscal year 2011. Ratification of this amount is required by Town Meeting.

The Finance Committee unanimously supports adoption of this Article.

CAPITAL IMPROVEMENT BUDGET ARTICLES

ARTICLE 12: APPROPRIATE FOR DEPARTMENT OF PUBLIC WORKS – DRAINAGE IMPROVEMENTS

To appropriate a sum of money for the construction or reconstruction of surface drains and all incidental costs related thereto, to be spent under the direction of the Town Manager, the money so appropriated to be raised by borrowing under the authority of M.G.L. Chapter 44, section 7, or any other enabling authority, and to authorize the Town Treasurer, with the approval of the Board of Selectmen, to issue bonds or notes; or take any other action relative thereto.

Article 12 Explanation: This request is part of the ongoing program to correct drainage problems in town. Future projects on the high priority list include Glen Road, the Shady Hill Road/Ledgewood Road area, Summer Street, Pine Street, and Wellesley Street. These funds will also be used for a variety of public/private partnerships whereby both the Town and property owner contribute to resolve deficient drainage systems which are on both public ways and private property. The estimated request for this article is \$200,000. A two-thirds vote of Town Meeting is required for approval of this article.

The Finance Committee unanimously supports adoption of this Article.

ARTICLE 13: APPROPRIATE FOR DEPARTMENT OF PUBLIC WORKS - EQUIPMENT REPLACEMENT

To appropriate a sum of money to pay costs of acquiring departmental equipment for the Department of Public Works and for the payment of all incidental costs related thereto, to be spent under the direction of the Town Manager, the money so appropriated to be raised by borrowing under authority of M.G.L. Chapter 44, section 7, or any other enabling authority, and to authorize the Town Treasurer, with the approval of the Board of Selectmen, to issue bonds or notes for this purpose; or take any other action relative thereto.

Article 13 Explanation: This year's proposed equipment replacement program includes: 1) 1 ton dump truck with plow – replacing a 1997 Ford F350 dump truck (46,514 hard miles) and will be used for stormwater and highway maintenance and snow plowing; 2) multi-purpose tractor – replacing a 1997 Bombardier Sidewalk Tractor (2,513 engine hours) and will be used for snow plowing, snow blowing, sidewalk sweeping, and roadside vegetation maintenance; 3) heavy duty pickup truck – replacing a 2001 Ford F250 pickup truck (122,427 miles) and will be used by the Parks & Cemeteries Supervisor for normal work duties, DPW emergencies, and snow plowing. The amount expected to be requested under this article is \$230,000. A two-thirds vote of Town Meeting is required for approval of this article.

The Finance Committee unanimously supports adoption of this Article.

ARTICLE 14: APPROPRIATE FOR FIRE DEPARTMENT - AMBULANCE REPLACEMENT

To appropriate a sum of money for the cost of departmental equipment for the Fire Department and all incidental costs related thereto, to be spent under the direction of the Town Manager, the money so appropriated to be raised by borrowing under the authority of M.G.L. Chapter 44, section 7, or any other enabling authority, and to authorize the Town Treasurer, with the approval of the Board of Selectmen, to issue bonds or notes; or take any other action relative thereto.

Article 14 Explanation: This request is for the purchase of a new ambulance to replace Rescue 1. The current Rescue 1 would then become Rescue 2, replacing a Ford E-350, which is 10 years old and has over 70,000 miles on it. The Department's vehicle replacement program calls for replacing an ambulance every 5 years, disposing of the older ambulance and making the newer ambulance the second responder. The Fire Department responds to more than 1,000 ambulance calls each year. The amount expected to be requested is \$230,000. A two-thirds vote of Town Meeting is required for approval of this article.

The Finance Committee unanimously supports adoption of this Article.

ARTICLE 15: APPROPRIATE FOR FIRE DEPARTMENT – COMMUNICATIONS EQUIPMENT

To appropriate a sum of money to pay costs of expanding the Town's fiber optic communications network, purchasing and installing fire communications equipment, and all incidental costs related thereto, to be spent under the direction of the Town Manager, the money so appropriated to be raised by borrowing under the authority of M.G.L. Chapter 44, section 7, or any other enabling authority, and to authorize the Town Treasurer, with the approval of the Board of Selectmen, to issue bonds or notes for this purpose; or take any other action relative thereto.

Article 15 Explanation: This request is to continue the ongoing upgrade of the Fire Department's radio communication system. Equipment at receiver sites will be changed to make all equipment compatible. In addition, the fiber optic network will be expanded to add receive sites and work toward eliminating dead spots that exist in the town. These improvements to the communications system used by the Fire Department are essential for public and employee safety. The amount expected to be requested is \$100,000. A two-thirds vote of Town Meeting is required for approval of this article.

The Finance Committee unanimously supports adoption of this Article.

ARTICLE 16: APPROPRIATE FOR TECHNOLOGY – TWIN STORAGE AREA NETWORK DEVICES

To appropriate a sum of money to pay costs of purchasing computer hardware, to be spent under the direction of the School Committee, the money so appropriated to be raised by borrowing under the authority of M.G.L. Chapter 44, section 7, or any other enabling authority, and to authorize the Town Treasurer, with the approval of the Board of Selectmen, to issue bonds or notes; or take any other action relative thereto.

Article 16 Explanation: This request is to purchase two mass data storage devices, one to be located in the Town Hall, and the other to be located in the High School. The two devices will back each other up with live versions of all essential data and will backup virtual images of all essential servers. Any disruption to the operation of a building or network would be mitigated within minutes or hours, rather than days or weeks. This is an essential part of disaster recovery planning for the Municipal and School Departments and will enable email system redundancy options as well as the capacity to move forward with future plans for electronic portfolios of student work. The amount expected to be requested under this article is \$150,000. A two-thirds vote of Town Meeting is required for approval of this article.

The Finance Committee unanimously supports adoption of this Article.

ARTICLE 17: APPROPRIATE FOR TECHNOLOGY – TELEPHONE SYSTEMS, PHASE 2

To appropriate a sum of money to pay costs of upgrading the Town's communications network, purchasing and installing data processing and telephone equipment, and all incidental costs related thereto, to be spent under the direction of the School Committee, the money so appropriated to be raised by borrowing under the authority of M.G.L. Chapter 44, section 7, or any other enabling authority, and to authorize the Town Treasurer, with the approval of the Board of Selectmen, to issue bonds or notes for this purpose; or take any other action relative thereto.

Article 17 Explanation: Telephone systems throughout municipal and school departments are in need of replacement. These systems are of varying ages and states of challenge. During fiscal year 2008, a study was done to determine the best course of action. Based on this report, there is a plan to integrate and centralize these systems. The report also highlighted a number of issues, including safety concerns about caller ID, 9-1-1, and the ability to distinguish the origin of a call. The municipal and school departments will also benefit from better communication tools that provide these basic services as well as merging all Town buildings into one phone system, utilizing the efficiencies of our own fiber network for internal calling. The second phase will allow us to move forward with the major implementation, to include all town and school buildings on our fiber network. The telephone systems for the DPW facility and Field School will be included in the costs for those building projects. The amount expected to be requested under this article is \$300,000. A two-thirds vote of Town Meeting is required for approval of this article.

The Finance Committee unanimously supports adoption of this Article.

ARTICLE 18: APPROPRIATE FOR SCHOOL BUS REPLACEMENTS

To appropriate a sum of money to pay costs of acquiring school buses and all incidental costs related thereto, to be spent under the direction of the School Committee, the money so appropriated to be raised by borrowing under authority of M.G.L. Chapter 44, section 7, or any other enabling authority, and to authorize the Town Treasurer, with the approval of the Board of Selectmen, to issue bonds or notes for this purpose; or take any other action relative thereto.

Article 18 Explanation: This is for the ongoing replacement of school buses. It is expected that three buses will be replaced in fiscal year 2011. National guidelines recommend replacement of vehicles that are either 10 years old or have reached 130,000 miles. These three vehicles exceed the recommended replacement guidelines. The amount to be requested under this article is \$236,938. A two-thirds vote of Town Meeting is required for approval of this article.

The Finance Committee unanimously supports adoption of this Article.

ARTICLE 19: APPROPRIATE FOR WATER MAIN REHABILITATION

To appropriate a sum of money to pay costs of laying and relaying water mains of not less than six inches but less than sixteen inches in diameter, and all incidental costs related thereto, to be spent under the direction of the Town Manager, the money so appropriated to be raised by borrowing under the authority of M.G.L. Chapter 44, section 8, or any other enabling authority, and to authorize the Town Treasurer, with the approval of the Board of Selectmen, to issue bonds or notes for this purpose; or take any other action relative thereto.

Article 19 Explanation: This request is part of a program to replace old, unlined, cast iron and asbestos transite water mains. These types of water mains were installed as early as 1923 and are a source of water quality complaints and potential violations of drinking water standards. The only solution is to replace or reline the pipes. This appropriation is to replace 870 linear feet of asbestos transite water main in a section of Robin Road that was installed in 1950. The design for this project will be completed by the DPW's engineering division. The amount expected to be requested under this article is \$100,000, to be funded from water rates. A two-thirds vote of Town Meeting is required for approval of this article.

The Finance Committee unanimously supports adoption of this Article.

ARTICLE 20: APPROPRIATE FOR BROOK SCHOOL APARTMENTS – ROOF AND ENERGY EFFICIENCY IMPROVEMENTS

To appropriate a sum of money for the cost of engineering services for plans and specifications and for making extraordinary repairs to the Brook School Apartments, and all incidental costs related thereto, to be spent under the direction of the Town Manager, the money so appropriated to be raised by borrowing under the authority of M.G.L. Chapter 44, section 7, or any other enabling authority, and to authorize the Town Treasurer, with the approval of the Board of Selectmen, to issue bonds or notes for this purpose; or take any other action relative thereto.

Article 20 Explanation: This request is for funds for engineering services to develop plans and specifications to replace the roofs of Buildings A, B, and C and waterproof the building envelope of Building C, as well as funds for replacing windows in Building B that are failing and no longer energy efficient. The amount expected to be requested under this article is \$141,000, to be funded from Brook School Apartments rents. A two-thirds vote of Town Meeting is required for approval of this article.

The Finance Committee unanimously supports adoption of this Article.

ARTICLE 21: AUTHORIZE FEASIBILITY STUDY FOR MINUTEMAN REGIONAL VOCATIONAL TECHNICAL HIGH SCHOOL

To approve the sum of \$725,000 of borrowing authorized by the Minuteman Regional Vocational Technical School District, for the purpose of paying costs of a feasibility study to consider options for making improvements to the District's high school building located at 758 Marrett Road, Lexington, Massachusetts, which options shall include, but not be limited to renovating, reconstructing, expanding, remodeling and adding to the District's high school, or any combination of the foregoing, said sum to be expended at the direction of the School Building Committee. The Massachusetts School Building Authority's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any costs of the Project that the District incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the District, and that the total amount of the borrowing authorized by this vote shall be reduced by any grant amount set forth in the Feasibility Study Agreement that may be executed between the District and the MSBA, or take any other action relative thereto.

Article 21 Explanation: The cost of this feasibility study will be shared among the 16 member towns of the Minuteman Regional Vocational Technical School District. Weston's share is estimated to be \$5,172 over 5 years, from fiscal year 2012 to fiscal year 2016. The school was constructed in 1974 and has had no significant renovations since.

The Finance Committee takes no position on this Article.

ZONING/LAND USE ARTICLES

ARTICLE 22: AMEND ZONING BY-LAW – PERSONAL WIRELESS SERVICE OVERLAY DISTRICT

To amend the Weston Zoning By-law, Article VIII of the Town's By-Laws, by making the revisions shown below, with all of the new provisions shown in bold text and all of the deleted provisions shown in strikeout text; all existing provisions that are not being amended and which are not shown in bold or strikeout are included for informational purposes only:

A. By amending Section II, Definitions, by inserting the new definitions alphabetically in the Section, with new text in bold and deleted text in strikeout as shown below:

CO-LOCATION

The use of a building or structure already occupied by a Personal Wireless Service Facility by the Personal Wireless Service Facility(ies) of additional Personal Wireless Service(s).

PERSONAL WIRELESS SERVICES

Shall have the same meaning as in the Telecommunications Act of 1996, 47 USC §332(c)(7)(C), including, but not limited to, commercial mobile services, including but not limited to, cellular services, personal communications services, advanced wireless services, and broadband wireless services.

WIRELESS COMMUNICATIONS FACILITIES PERSONAL WIRELESS SERVICE FACILITY

Any and all materials, equipment, **cabling**, storage structures, monopoles, towers, satellite dishes and/or **antennas** intended for transmitting or receiving **Personal Wireless Services**. ~~telecommunications services including, but not limited to radio, television and cellular telephone services, except as may be incidental to a residential use.~~

B. By amending Section IV, Establishment of Districts and Boundaries, by inserting the new text as shown below in bold:

B. DISTRICT BOUNDARIES

6. **Personal Wireless Service Overlay Districts.**

There shall be two Personal Wireless Service Overlay Districts. Personal Wireless Service Overlay District I ("PWSOD I") shall consist of the land designated on the Weston Assessors Maps as:

- Map # 53: Massachusetts Turnpike Authority land "ballfield," located east of Liberty Mutual Insurance Company, Riverside Road;
- Maps # 49 & 55: 668 South Avenue, Massachusetts State Police Barracks.
- Map # 27, Parcel # 75-10: Town of Weston Police Station and
- A portion of Map # 27, Parcel #74, described as follows:

All that certain Parcel of land located on the southerly side of Boston Post Road By-Pass (Route 20) and described as follows:

SOUTHEASTERLY by land of Town of Weston (Weston Police Station) three hundred seventy-two and 61/100 (372.61) feet;

SOUTHERLY by land of Town of Weston (Weston Highway Department) fifty and 00/100 (50.00) feet;

NORTHWESTERLY by land of the Town of Weston (Weston Highway Department) three hundred thirty-three (333) feet approximately;

NORTHERLY by land of the Commonwealth of Massachusetts (Boston Post Road By-Pass, Route 20) sixty-five (65) feet approximately; containing 0.4 acres, more or less.

Town of Weston Highway Department

- **Map # 8, Parcel # 34: Weston Market, 284 North Avenue;**
- **Map # 59 , Parcels # 23-20 (P/O 58): Leo J Martin Golf Course, Park Road;**
- **Map # 58, Parcel # 23-20: Leo J Martin Golf Course, Park Road;**
- **Map # 33, Parcels # 16 and 28-10: Weston Golf Club;**
- **Map # 34, Parcel # 16 (P/O 33): Weston Golf Club;**
- **Map # 46, Parcel # 4: Pine Brook Country Club;**
- **Map # 45, Parcel # 4 (P/O 46): Pine Brook Country Club;**
- **Map # 11: Campion Residence and Renewal Center Parking Lot, across Concord Road from Campion Center, Concord Road;**
- **Map # 19, Parcel # 35 (P/O 23):Town of Weston Solid Waste Transfer Station;**
- **Map # 18, Parcel # 35 (P/O 23): Town of Weston Solid Waste Transfer Station; Map # 23, Parcel # 35: Town of Weston Solid Waste Transfer Station;**
- **Map # 24, Parcel # 6: Weston Mobil Gas Station, 88 Boston Post Road.**

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Personal Wireless Service Overlay District II ("PWSOD II") shall consist of the land designated on the Weston Assessors Maps as:

- Map # 52, Parcel # 1: 134 South Avenue;
- Map # 41, Parcels # 38 & 39: 75 Norumbega Road, 85 Norumbega Road, 99 Norumbega Road, 101 Norumbega Road;
- Map # 49, Parcel # 33: 100 Brown Street, Hazel Hotchkiss Wightman Tennis Center, Inc.
- **Map # 8, Parcel # 35: Shell Gas Station, 290 North Avenue;**
- **Map # 11, Parcel # 8: Champion Residence and Renewal Center, 319 Concord Road;**
- **Map # 51, Parcel # 52: Town of Weston Southside Fire Station, South Avenue;**
- **Map # 24, Parcel # 1: Weston Corporate Center, Biogen Idec, 133 Boston Post Road;**
- **Map # 13, Parcel # 93: Town of Weston Water Tank, Cat Rock Tank;**
- **Map # 41, Parcel # 24: Office Building, 101 River Road;**
- **High Voltage Transmission Poles and Stanchions in the abandoned Boston & Maine (Clinton Division) Railroad Right of Way;**
- **Map # 13, Parcel # 129: Town of Weston North Side Fire Station, North Avenue;**
- **Map # 13, Parcel # 103: Sunrise of Weston, 135 North Avenue;**
- **Map # 8, Parcel # 54-10: Dairy Joy Restaurant, 331 North Avenue;**
- **Map # 38, Parcel # 1: Regis College, 235 Wellesley Street.**

C. By amending Section V, Use Regulations, by inserting the new text as shown below in bold and by deleting the text as shown below in strikeout:

J. PERSONAL WIRELESS SERVICE FACILITY REGULATIONS

1. Purpose and Definitions

In order to conform to the Town's responsibilities under the Federal Telecommunications Act of 1996 in a manner consistent with the protection of health, safety and welfare of the public and the preservation of property values in the Town, the regulations contained in this section of the By-Law shall govern the establishment of any new or altered ~~personal wire service~~**Personal Wireless Service ("PWS")** ~~Facilities~~ in the Town. The Town does not intend this By-Law to prohibit or have the effect of prohibiting the provision of ~~personal wireless service~~**Personal Wireless Services** in the Town. ~~For purposes of this By-law, the terms "personal wireless service" and "personal wireless service facility" shall have the same meanings as in the Telecommunication Act of 1996, 47 USC §332(e)(7)(C).~~

2. Applicability

From the effective date of this By-Law, no building or special permit shall be issued for the placement, construction, erection or modification of any structure to provide for **Personal Wireless Service PWS** ~~Facilities~~ either as a principal use, or as an accessory use in excess of the height limitations contained in Section VI.E, except in a Personal Wireless Service Overlay District as set forth below in Section V.J.3, or as **set forth in section V.J.4.**~~enclosed in a building or other structure, as it existed on December 8, 1997, which is used for either municipal purposes or religious purposes.~~

To the extent that dimensional or use criteria applicable to Personal Wireless Service Facilities differ from such criteria set forth in other sections of this By-Law, the dimensional or use criteria in this section shall apply to Personal Wireless Facilities.

3. Personal Wireless Service Overlay Districts

There shall be two Personal Wireless Service Overlay Districts. Personal Wireless Service Overlay District I ("PWSOD I") shall consist of the land designated on the Weston Assessors Maps as:

- Map # 53: Massachusetts Turnpike Authority land "ballfield," located east of Liberty Mutual Insurance Company, Riverside Road;
- Maps # 49 & 55: 668 South Avenue, Massachusetts State Police Barracks.

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- Map #27, parcel #75-10, Town of Weston Police Station and
- A portion of Map # 27, parcel #74, described as follows:

All that certain Parcel of land located on the southerly side of Boston Post Road By-Pass (Route 20) and described as follows:

SOUTHEASTERLY by land of Town of Weston (Weston Police Station) three hundred seventy-two and 61/100 (372.61) feet;

SOUTHERLY by land of Town of Weston (Weston Highway Department) fifty and 00/100 (50.00) feet;

NORTHWESTERLY by land of the Town of Weston (Weston Highway Department) three hundred thirty-three (333) feet approximately;

NORTHERLY by land of the Commonwealth of Massachusetts (Boston Post Road By-Pass, Route 20) sixty-five (65) feet approximately;

containing 0.4 acres, more or less.

Town of Weston Highway Department

- **Map # 8, Parcel # 34: Weston Market, 284 North Avenue;**
- **Map # 59 , Parcels # 23-20 (P/O 58): Leo J Martin Golf Course, Park Road;**
- **Map # 58, Parcel # 23-20: Leo J Martin Golf Course, Park Road;**
- **Map # 33, Parcels # 16 and 28-10: Weston Golf Club;**
- **Map # 34, Parcel # 16 (P/O 33): Weston Golf Club;**
- **Map # 46, Parcel # 4: Pine Brook Country Club;**
- **Map # 45, Parcel # 4 (P/O 46): Pine Brook Country Club;**
- **Map # 11: Campion Residence and Renewal Center Parking Lot, across Concord Road from Campion Center, Concord Road;**
- **Map # 19, Parcel # 35 (P/O 23):Town of Weston Solid Waste Transfer Station;**
- **Map # 18, Parcel # 35 (P/O 23): Town of Weston Solid Waste Transfer Station; Map # 23, Parcel # 35: Town of Weston Solid Waste Transfer Station;**
- **Map # 24, Parcel # 6: Weston Mobil Gas Station, 88 Boston Post Road.**

Personal Wireless Service Overlay District II ("PWSOD II") shall consist of the land designated on the Weston Assessors Maps as:

- Map # 52, Parcel # 1: 134 South Avenue;
- Map # 41, Parcels # 38 & 39: 75 Norumbega Road, 85 Norumbega Road, 99 Norumbega Road, 101 Norumbega Road;
- Map # 49, Parcel # 33: 100 Brown Street, Hazel Hotchkiss Wightman Tennis Center, Inc.;
- **Map # 8, Parcel # 35: Shell Gas Station, 290 North Avenue;**
- **Map # 11, Parcel # 8: Campion Residence and Renewal Center, 319 Concord Road;**
- **Map # 51, Parcel # 52: Town of Weston Southside Fire Station, South Avenue;**
- **Map # 24, Parcel # 1: Weston Corporate Center, Biogen Idec, 133 Boston Post Road;**
- **Map # 13, Parcel # 93: Town of Weston Water Tank, Cat Rock Tank;**
- **Map # 41, Parcel # 24: Office Building, 101 River Road;**
- **High Voltage Transmission Poles and Stanchions in the abandoned Boston & Maine (Clinton Division) Railroad Right of Way;**
- **Map # 13, Parcel # 129: Town of Weston North Side Fire Station, North Avenue;**
- **Map # 13, Parcel # 103: Sunrise of Weston, 135 North Avenue;**
- **Map # 8, Parcel # 54-10: Dairy Joy Restaurant, 331 North Avenue;**
- **Map # 38, Parcel # 1: Regis College, 235 Wellesley Street.**

4. Special Permit

The Planning Board may, by special permit, authorize the placement, construction, erection or modification of:

- a. A Personal Wireless Service Facility in PWSOD I and PWSOD II, subject to the following limitations:**
- ~~a-~~ **i. A free-standing ground-mounted tower is eligible for a Special Permit**~~PWS structure in PWSOD I only; or and~~
 - ~~b-~~ **ii An antenna mount attached to a building or other structure**~~PWS structure of-, other than a free-standing Personal Wireless Service tower, is eligible for a Special Permit up to 20 feet in height above the height of the building or other structure on which it is mounted in PWSOD I and II; and~~
 - iii. An antenna mount attached to a utility pole in the public way that does not extend more than ten feet above the utility pole is eligible for a Special Permit; or**
- b. A ~~PWS structure~~ Personal Wireless Service Facility in any zoning district that is totally enclosed in a building or other structure barn, or an office, commercial, industrial, religious or municipal building; so long as the barn or other building is not a Dwelling.**~~used for either municipal or religious purposes and existing on December 8, 1997,~~
- c. The foregoing clauses a. and b. are subject to findings by**~~provided that the Planning Board finds, in its judgement, after soliciting and reviewing comments from residents, other Town boards, departments, agencies, and their staff and consultants, that reasonable measures shall be or already have been taken to:~~
- ~~m~~**i. Mitigate against negative impacts on visual quality affecting neighboring properties and streets by incorporating reasonable design, siting and screening methods; and**
 - ~~p~~**ii. Protect against potential damage to neighboring properties and streets from structural failure or collapse or from falling ice.**
- d. In making such findings in c. above, the Planning Board shall consider the extent to which the proposed ~~PWS structure together with any related equipment (collectively the Personal Wireless Service PWS fFacility?)~~, including its antenna mount on a building or other structure or its free-standing ground-mounted tower, if any, meets the following criteria:**
- i. 1) A ground-mounted Personal Wireless Service tower**~~The PWS structure shall be located such that if it were to fall or collapse, it would fall or collapse entirely within the boundaries of the parcel on which it is to be located;~~
 - ii. 2) The Personal Wireless Service PWS fFacility shall be sited, designed and constructed in such a manner that existing vegetation is preserved to the maximum extent practicable;**
 - iii. 3) Any fencing proposed shall be screened by a landscape buffer of evergreen shrubs or trees planted along the exterior side of the fence, with a mature height at least equivalent to the fence height, and no such fencing shall be of razor wire or barbed wire;**
 - iv. 4) Lighting shall be limited to that needed for emergencies and/or as required by the FAA;**
 - v. 5) To the extent technologically feasible, all network interconnections from the Personal Wireless Service PWS fFacility shall be via land lines or by wireless means that do not detract from the appearance of the Personal Wireless Service Facility;**
 - vi. 6) Ground mounted Lattice-style towers and PWS Personal Wireless Services structures requiring three or more legs and/or guy wires for support are prohibited; To approve a ground mounted, freestanding Personal Wireless Services tower, the Planning Board must find that it is of an architectural design that is compatible with the site and its surroundings. Examples of such designs include, but are not limited to, “unipole,” “slick stick,” or “flagpole style” monopoles.**
 - vii. 7) In PWSOD I, the total height of a free-standing Personal Wireless Service tower**~~PWS structure, including attached accessories, shall not exceed 100 feet in height as measured from the existing natural gradeground level at the base of the towerstructure. In PWSOD I and PWSOD II, the height of a PWS structure~~**Personal Wireless Service antenna mount, mounted on a building or other structure, other than a free-standing Personal Wireless Service tower, shall not exceed 20 feet in height above the ridge linehighest**

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- point of the building roof of the building on which it is mounted, or 20 feet in height above the top of the structure on which it is mounted if other than a building. In no event, however, shall the height of a Personal Wireless Service antenna mount mounted PWS structure in PWSOD I and PWSOD II exceed 100 feet as measured from the ground level at the base of the building or other structure on which it is mounted. The Planning Board may limit a proposed free-standing tower or antenna mount to a building or other structure that is not a tower to a lesser height than proposed by an applicant, if the Planning Board finds that the lesser height better satisfies the intent of the By-Law.**
- viii. ~~8)~~ The **Personal Wireless Service PWS** Facility shall be designed to accommodate Co-location of multiple users to the maximum extent technologically practicable in order to reduce the number of **Personal Wireless Service PWS** Facilities which will be required to be located in the Town.
- ix. ~~9)~~ New **Personal Wireless Service PWS** Facilities will be considered only if existing or already approved **Personal Wireless Service** Facilities cannot accommodate the equipment planned for the new facility **and/or such approved Personal Wireless Service Facilities are otherwise impracticable for the applicant to utilize for the provision of Personal Wireless Services. At its discretion, the Planning Board may deny Co-location if the Board finds that Co-location would have a detrimental impact, including a detrimental visual impact, on the neighborhood and the detrimental impact outweighs the benefits of Co-location.**
- x. ~~10)~~ The applicant shall demonstrate that the proposed technology is the safest and least obtrusive to the landscape currently available.
- xi. ~~11)~~ A **Personal Wireless Service Facility** which is proposed to be **totally** enclosed in a building or other structure used for municipal or religious purposes and existing as of December 8, 1997 pursuant to **V.J.4.b. above**, shall be concealed from view and shall not significantly alter the exterior of the existing structure within which the **PWS Personal Wireless Services** structure is to be enclosed. **The Planning Board may permit an extension to such building, if the Planning Board finds: A) the building is in a non-residential zoning district; B) the Personal Wireless Service Facility will be totally enclosed in the extension; C) the extension is consistent with the existing architecture of the building and character of the building's surroundings; and D) the extension does not exceed 20 feet above the highest point of the roof of the building on which it is mounted. For example, a new cupola, spire, or faux chimney could be employed to enclose wireless equipment in accordance with this provision, if the Planning Board finds that the above criteria are satisfied.**
- xii. ~~12)~~ The **Personal Wireless Service PWS** Facility shall be sited and designed in a manner which minimizes its visibility from neighboring residences and streets. **The Planning Board may limit a proposed facility to a lesser height than proposed by an applicant, if the Planning Board finds that the lesser height better satisfies the intent of the By-Laws.**

The Planning Board may waive strict compliance with any of the above-listed criteria, except the height limitations, provided it determines that such would not derogate from the intent of these ~~Interim~~ Regulations.

5. Application

- a. ~~d-~~ The Special Permit Application shall include a site plan **submission** meeting the requirements of Section XI of this By-Law, ~~and the Planning Board's Site Plan Rules and Regulations for Site Plan Approval~~, to the extent applicable. In addition, the application shall include:
- (i) A rendering, model or similar, to-scale representation, accurately depicting the proposed facility within the context of the site on which it is to be located and the surrounding area;
 - (ii) A report or reports prepared by professional engineers describing:

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- (a) the technical, economic and other reasons for the facility height, location and design;
 - (b) the capacity of the facility, including the number and type of transmitters and receivers it can accommodate and the basis for the calculation of the capacity;
 - (c) how the proposed facility complies with all applicable Federal and State standards;
 - (iii) Written official statements of compliance with, or exemption from, the regulations of all federal and state agencies governing ~~personal wireless service facilities~~ **Personal Wireless Service Facilities** or uses, including but not limited to: the FAA, FCC, Massachusetts Aeronautics Commission, and Massachusetts Department of Public Health;
- b. ~~e.~~—The applicant shall pay the reasonable costs for the Planning Board to have independent consultants review the application materials.
- c. ~~f.~~The applicant seeking a special permit for a ~~PWS~~ **Personal Wireless Services** facility shall provide a demonstration of the visual impact of the proposed ~~PWS~~ **Personal Wireless Services** structure by raising a balloon, or a temporary structure, on the proposed site to the height of the proposed structure for such period of time as the Planning Board determines to be necessary.

6. Term

- a. ~~g.~~—Special Permits authorized under this section shall be limited to an initial term of two years and shall be renewed every two years thereafter provided the special permit holder has filed with the Board annual certification demonstrating continuing compliance with the special permit and with applicable federal and state regulatory requirements.
- b. ~~h.~~—Any parts of the **Personal Wireless Service** ~~PWS~~ **Facility** which have not been used for one year shall be dismantled and removed at the owner's expense, **except, extensions to buildings or structures that were permitted for enclosing a Personal Wireless Service Facility may be left intact at the discretion of the landowner for potential future use by other Personal Wireless Service providers, unless explicitly provided otherwise as a condition of the special permit.** The Planning Board may, as a condition of any special permit or renewal granted under this section, require the applicant or special permit holder to post a bond or other financial security with the Town Treasurer in an amount deemed sufficient to cover demolition and removal of the facilities in the event of discontinuance of use.

7. Height Allowance for Public Safety Services

The Planning Board may waive strict compliance with the 100 ft. height limitations for a free-standing ~~PWS structure~~ **tower** in the PWSOD I and allow up to 20 ft. of additional height only if it determines that the additional height is necessary for the provision of public safety services in the Town; that due to the location, elevation, and topography of the site on which the proposed structure is to be located, the additional height will not create an undue impact on nearby residential neighborhoods; and that the existing tree canopy on or surrounding the site is such that it would interfere with effective public safety communications if a lesser height were required.

8. Variances

If an applicant seeks a variance under the Telecommunications Act of 1996 for a Personal Wireless Services Facility, the application shall comply with Section V.J. of this By-Law. In considering an application for a variance, the Zoning Board of Appeals shall apply the requirements of Section V.J. of this By-Law. If a variance is sought from the Zoning Board of Appeals, the applicants shall also apply to the Planning Board for Site Plan Approval.

or take any other action relative thereto.

Article 22 Explanation: The proposed zoning amendments to the Personal Wireless Service Overlay District are the result of recommendations from the Town's master planning effort for wireless facilities. This public process began last October with the hiring of a consultant to assist the Board of Selectmen in developing a plan for addressing future wireless needs consistent with the Federal Telecommunications Act and desires

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of the Town. Four public meetings were held to: 1) discuss the public process; 2) present findings on current wireless coverage in Weston and the geographical areas that contain the greatest wireless "pressure points;" 3) present various ways that additional wireless facilities can be designed and gather community input on least and most preferred methods; and 4) present specific zoning recommendations.

The proposed zoning amendments will improve the Town's control over the placement of wireless facilities. As demand from wireless usage increases, the wireless carriers put pressure on the Town to meet these demands. The proposed zoning amendments will prepare the Town for a new wave of wireless facility development by adding specific sites to the Personal Wireless Overlay Districts ("PWSOD") that have been in the Zoning By-law since 1997. Through a Special Permit process with the Planning Board, PWSOD I allows monopoles, "Pine-o-Poles" and similar architecture on specific sites with height, aesthetic, and setback limitations. PWSOD II allows for wireless facilities to be attached to existing buildings or other structures on specific sites, through a Special Permit process with the Planning Board. PWSOD II does not permit towers. The zoning amendments also propose to allow "invisible" facilities by utilizing existing buildings, other than a dwelling, such as a barn, office building, commercial and industrial buildings, provided that the facility is totally enclosed. Presently, the By-law allows totally enclosed facilities only in municipal and religious buildings. A two-thirds vote of Town Meeting is required to approve this article.

The Finance Committee takes no position on this Article.

ARTICLE 23: AUTHORIZE LEASE OF TOWN LAND – WIRELESS COMMUNICATION FACILITIES

To transfer land under the care, custody and control of the Board of Selectmen for water purposes to the Board of Selectmen for water purposes and for the purpose of leasing, known as "Cat Rock," located off a graveled road that originates at the end of the Bradford Road cul-de-sac, and shown as Parcel 93 on Assessor's Map 13, and to authorize the Board of Selectmen to lease said land or a portion thereof to a telecommunications service provider or providers, for such term of years, which may be longer than twenty years, and on such terms and conditions as the Board of Selectmen may determine, and to further authorize the granting of such utility access easements as are necessary to support such a facility, or take any other action relative thereto.

Article 23 Explanation: This article will permit the Board of Selectmen to lease Town land at this site to telecommunication carriers for wireless communication facilities under the Federal Communications Act of 1996. These facilities may include antennas mounted on the existing water tank and associated supporting equipment. There is no intention to place a cell tower at this location. Placement of these facilities on Town-owned land enables the Town to receive the revenue, provide increased cell phone coverage, and satisfy the Federal Act. A two-thirds vote of Town Meeting is required to approve this article.

The Finance Committee unanimously supports adoption of this Article.

ARTICLE 24: AMEND ZONING BY-LAW – AQUIFER PROTECTION OVERLAY DISTRICTS

To amend the Weston Zoning By-law, Section V. Use Regulations, H. Aquifer Protection Overlay Districts by deleting subsection H, in its entirety, and by substituting therefor the following:

H. AQUIFER PROTECTION OVERLAY DISTRICTS

1. The purpose of the Aquifer Protection Overlay Districts is to preserve and protect the quality and quantity of present and potential drinking water supplies, both public and private, and their recharge areas.

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2. The Aquifer Protection Overlay Districts shall be considered as overlying other districts established by this Zoning By-law. Uses and structures otherwise permitted in the underlying districts shall be subject to the development and use regulations applicable to such districts only to the extent they are not inconsistent with the requirements of the Aquifer Protection Overlay Districts.
3. Permitted Uses: Within the Aquifer Protection Overlay District, no land shall be used except for one or more of the following uses:
 - a. Any use or structure ~~or accessory thereto permitted By-Right~~ **that is permitted as of right or by administrative site plan approval** in the underlying district, **including all necessary excavation and grading.**
 - b. **Any use or structure that is accessory (i.e., customarily incidental to, including, but not necessarily limited to, driveways, underground utilities, storm water systems, landscaping, retaining walls and residential sewage disposal systems) to a structure permitted as of right or by administrative site plan approval in the underlying district, including all necessary excavation and grading;**
 - ~~b. Recreational use of land or water;~~
 - c. Agricultural, horticultural, or forestry uses and structures and all necessary excavation and grading.
 - d. Any use, structure or accessory use or structure that is otherwise allowed by special permit in the underlying zoning district shall continue to be allowed in the Aquifer Protection Overlay District upon issuance of a special permit based upon the underlying zoning; and all necessary excavation and grading to support activity allowed by such special permit relief shall be allowed as of right in the aquifer Protection Overlay District, provided that the excavation and grading occurs six feet or more above maximum high groundwater table elevation.

For the purposes of this section, the term “excavation” shall mean any digging in one area that disturbs more than one cubic yard of material.

4. Special Permit Uses: The following uses and activities may be permitted in the Aquifer Protection Overlay District only by Special Permit granted in accordance with the provisions of Subsection V.H. 6 and Section X of this Zoning By-law. In addition, any uses which are subject to a special permit requirement in the underlying district shall also be subject to the Special Permit findings and conditions set out in Subsection V.H. 6 in addition to the Special Permit provisions in Section X. **For the purposes of this section, the term “excavation” shall mean any digging in one area that disturbs more than one cubic yard of material.**
 - a. ~~Excavation, other than for a structure, or grading resulting in creation of exterior grades between four (4) and six (6) feet above the maximum groundwater table elevation, other than for ponds allowed under Special Permit Uses item "i";~~ **Any use or structure otherwise allowed by special permit in the underlying zoning district that would result in excavation or grading within 6 feet of maximum high groundwater table elevation shall continue to be allowed in the Aquifer Protection Overlay District, provided that a special permit issues in accordance with the zoning in the underlying district and provided that further special permit issues under this section for excavation and grading.**
 - b. Sewage treatment facilities **not allowed in Section V.H.3.b.** ~~public and private, other than a subsurface disposal system, or that allowed by state or local code, for a single family home;~~
 - c. Solid waste transfer station;
 - d. Golf courses;
 - e. Replacement **or expansion** of buried fuel or chemical storage tanks **provided that the new tanks, including underground transmission lines, are upgraded to achieve appropriate environmental protection;**

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- f. Storage of deicing chemicals in amounts exceeding 100 pounds;
 - g. Application of pesticides, herbicides, and fertilizers for commercial purposes;
 - h. Rendering impervious more than fifteen (15) percent of the lot area by structures or paving provided that adequate recharge measures are taken;
 - i. Creation of ponds.
 - j. **Artificial turf fields not used for personal residential use**
5. Prohibited Uses: In addition to the uses not expressly permitted pursuant to Subsections V.H. 3 and V. H. 4, the following uses and activities are specifically prohibited in the Aquifer Protection Overlay District:
- a. New installation of buried storage tanks of liquid petroleum and/or chemical products of any kind;
 - b. Disposal of any hazardous materials or placement of contaminated fill;
 - c. Storage of hazardous materials in quantities greater than those amounts usually associated with household uses;
 - d. Sanitary landfill, junkyard salvage yard, other solid or hazardous waste disposal, or incineration;
 - e. Industrial or commercial uses which discharge processed wastewater on site;
 - f. Disposal of snow that contains deicing chemicals;
 - g. Use of sodium deicing chemicals in excess of one part of sodium chloride to 10 parts of sand;
 - h. ~~Excavation, other than for a structure, or grading resulting in creation of exterior grades within four (4) feet of the maximum high groundwater table elevation, other than for ponds allowed under Special Permit Uses item 4.i.;~~ **Any excavation or grading, within 6 feet of the maximum high groundwater table elevation, for any purpose that is not expressly allowed either by right or by special permit shall be prohibited. For the purpose of this section, the term "excavation" shall mean any digging in one area that disturbs more than one cubic yard of material.**
 - i. Dry cleaning and commercial laundry establishments;
 - j. Motor vehicle sales, service, washing, and repair establishments, and filling stations;
 - k. Truck terminal;
 - l. Commercial wood finishing;
 - m. Electronic component manufacturing or assembly;
 - n. Commercial photo processing;
 - o. Underground transmission lines for chemicals or liquid petroleum products;
 - p. Hotels, motels;
 - q. Motorized boats;
 - r. Outdoor, uncovered storage of pesticides, herbicides, fertilizers, and stockpiled manure not on an impervious base.
1. Special Permit Procedures:
- If the bounds of the Aquifer Protection Overlay District, as delineated on the Aquifer Protection Overlay District Map, are challenged, the burden of proof shall be upon the owner(s) of the land in question to show evidence supporting an alternative location of the boundary.
- a. Any person who desires to obtain a Special Permit shall submit a written application to the SPGA. Each application, together with a filing fee, shall contain a complete description of the proposed use, together with any supporting information and plans which the SPGA may require. The applicant shall file ten (10) copies of the application with the SPGA.

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- b. The application, where applicable, shall include:
 - A complete list of the quantities and names of all chemicals, pesticides, fuels, and other potentially toxic or hazardous materials to be used or stored on the premises accompanied by a description of measures proposed to protect from vandalism, corrosion, and leakage, and to provide for spill prevention and counter-measures;
 - A description of quantities of potentially toxic or hazardous wastes to be generated, indicating storage and disposal method;
 - Evidence of approval by the Department of Environmental ~~Quality Engineering~~ **Protection** of any industrial waste treatment or disposal system and of any wastewater treatment system over 15,000 gallons per day capacity;
 - Analysis by a registered professional engineer experienced in groundwater evaluation and/or geohydrology, with an evaluation of the proposed use including its probable effects or impact on surface and groundwater quality and quantity, and natural flow patterns of water courses.
 - c. The SPGA shall refer copies of the application to the Board of Health, Planning Board, Conservation Commission, Board of Water Commissioners, Hazardous Waste Coordinator, and Town Engineer, who shall review the application and submit recommendations to the SPGA within thirty-five days of the referral date. Failure to submit recommendations to the SPGA within thirty-five days shall be deemed lack of opposition.
7. Required Findings by SPGA: The SPGA shall not issue a Special Permit unless it shall find that the proposed use:
- a. Is in harmony with the purpose and intent of this Zoning By-Law and will promote the purposes of the Aquifer Protection Overlay District;
 - b. Will not be detrimental or injurious to the neighborhood in which it is to take place;
 - c. Is appropriate to the natural topography, soils, and other characteristics of the site to be developed;
 - d. Will not, during construction or thereafter, have an adverse environmental impact on the aquifer or recharge area; and
 - e. Will not adversely affect an existing or potential water supply.
8. Special Permit Conditions: The Special Permit shall include sufficient conditions to satisfy the purpose stated in Section V., Subsection H.1. The conditions may include, but are not limited to, analysis or monitoring of ground and surface waters; hydrogeologic evaluation; erosion, siltation, compaction and sedimentation control; drainage and recharge provisions; and any other limitations or standards deemed necessary by the SPGA. In making a determination regarding the issuance of a Special Permit, the SPGA shall give consideration to the simplicity, reliability, and feasibility of the control measures proposed and the degree of threat to water quality and quantity which would result if the control measures were to fail. The SPGA may require a bond pursuant to Section X, Subsection B.1.

or take any other action relative thereto.

***Article 24 Explanation:** The purpose of this article is to provide clarifications and have the language better reflect the original intent of the by-law provision. Originally adopted in 1988, the purpose of the Aquifer Protection Overlay District (APOD) was to protect the quality and quantity of present and potential drinking water supplies and their recharge areas. Today the purpose is the same however recent by-law amendments and interpretation differ from the intent of the regulation.*

The proposed changes will allow for structures or uses, as permitted in their underlying zoning district either by-right or by special permit, to be allowed along with all their accessory uses typically provided to service or support the structure or use. Further, the proposed changes will no longer prohibit excavation within four feet of maximum high groundwater elevation and include a special permit option provided that the Special Permit Granting Authority is satisfied that the proposed use is in harmony with the intent of this by-law. A two-thirds vote of Town Meeting is required to approve this article.

The Finance Committee takes no position on this Article.

ARTICLE 25: AMEND ZONING BY-LAW – WETLAND AND FLOODPLAIN PROTECTION DISTRICTS

To amend the Weston Zoning By-law, Section IV. Establishment of Districts and Boundaries, B. District Boundaries, 5. Wetlands And Flood Plain Protection Districts by deleting subsection 5, in its entirety, and by substituting therefor the following:

IV.B.5. Wetlands And Flood Plain Protection Districts.

- a. Wetland and Flood Plain Protection - District A - The locations and boundaries of the Wetlands and Flood Plain Protection District A shall be as shown on a map entitled "Wetlands and Flood Plain Protection Districts, Weston, Mass. - 1980" as designated in blue on said map. Said District A shall include those areas identified in blue on said Map including those areas specifically described as follows:
- (i.) All land bordering any natural water body that lies within a horizontal distance of twenty-five (25) feet from the mean high water line except as otherwise shown in blue on the Weston Wetlands and Flood Plain Protection District Map. The mean high water line at a water body is defined as the elevation where vegetation changes from predominantly aquatic to predominantly terrestrial and along a brook, river or stream the elevation on the bank of a channel at which the annual high water has left a definite mark.
 - (ii.) All water bodies encircled by boundary lines of the District A in blue.
 - (iii.) All that land along the following named brooks and their tributaries: Stony Brook, Cherry Brook, Hobbs Brook, Hayward Brook, Bogle Brook and Seaverns Brook and certain unnamed brooks that lie within a horizontal distance of twenty-five (25) feet from the mean high water line along each bank thereof except as otherwise shown on the Weston Wetlands and Flood Plain Protection District Map in blue.
 - (iv.) All those wetlands which may be described as upland swamps or marshes which lie at the source of the brooks or their tributaries or which lie in surface depressions without drainage outlets, as shown on the Weston Wetlands and Flood Plain Protection District Map in blue.
- b. Wetlands and Flood Plain Protection - District B - The location and boundaries of the Wetlands and Flood Plain Protection District B shall include all special flood hazard areas within the Town of Weston that are designated as Zone A and AE as shown on the Middlesex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program effective June 4, 2010. The map panels of the Middlesex County FIRM, that are wholly or partially within the Town of Weston, are map panel numbers 25017C0389E, 25017C0393E, 25017C0394E, 25017C0527E, 25017C0529E, 25017C0531E, 25017C0532E, 25017C0533E and 25017C0534E, all dated and effective June 4, 2010. The exact boundaries of the District B shall be defined by the 100-year base flood elevations as shown on the FIRM and as further defined by the Middlesex County Flood Insurance Study (FIS) report effective June 4, 2010. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk.

and to amend Zoning By-law Section V. Use Regulations, G. Wetlands and Flood Plain Protection Districts (A and B), 3. Wetlands and Flood Plain Protection District B by deleting subsection 3. Wetlands and Flood Plain Protection District B therefrom and substituting the following therefor.

Section V.G.

3. Wetlands and Flood Plain Protection District B

- a. Purposes - In addition to the "Purposes" in Section I of this Zoning By-Law, the purpose of this district shall be to satisfy the requirements of the National Flood Insurance Program by limiting the uses of the lands located in such district to the uses deemed appropriate by such program.
- b. Use Regulations - The Wetlands and Flood Plain Protection District B shall be considered as overlying other districts established by the Weston Zoning By-Law. All uses and structures otherwise authorized by said Zoning By-Law in the portion of the districts so overlaid shall be permitted in the Wetlands and Flood Plain Protection District B, provided that in said District B:

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- (i) All new construction and substantial improvements of nonresidential structures within the District B shall have all utility and sanitary facilities designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy as determined and certified by a registered professional engineer.
- (ii) No encroachments within the District B or its designated regulatory floodway, including fill, structures, of any type, new construction, substantial improvements and other developments shall be permitted which would result in any increase in flood levels in said District and downstream areas during the occurrence of the base flood discharge.

All development in District B, including structural and non-structural activities, whether permitted by right or by special permit shall be in compliance with the following:

- Chapter 131, Section 40 of the Massachusetts General Laws;
- Portions of the Massachusetts State Building Code which address floodplain and coastal high hazard areas (currently 780 CMR 120.G, "Flood Resistant Construction and Construction in Coastal Dunes");
- Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
- Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);
- Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);
- FEMA Mitigation Directorate Technical Bulletin 10-01 "Ensuring that Structures Built on Fill In or Near Special Flood Hazard Areas are Reasonably Safe From Flooding in accordance with the National Flood Insurance Program."

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

and to Amend Zoning By-law Section II. Definitions by adding the following definitions thereto in alphabetical order:

BASE FLOOD

The flood having a one percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION

The flood elevations shown on the FIRM.

FLOODWAY DATA

In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

and to amend Section V. Use Regulations, G. Wetland and Floodplain Protection Districts (A and B), 1. General, by adding the following new subsection:

- c. Base Flood Elevation Data shall be required for the review of all definitive subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.

or take any other action relative thereto.

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Article 25 Explanation: *The purpose of this amendment is to comply with new requirements from the Federal Emergency Management Agency (FEMA). FEMA has updated the Flood Insurance Rate Maps (FIRM) for Weston and all other Massachusetts communities, and in order for Weston to have continued eligibility under the National Flood Insurance Program (NFIP), we must adopt floodplain management regulations that meet the standards of Paragraph 60.3 (d) of the NFIP regulations (44 CFR 59, etc.). A two-thirds vote of Town Meeting is required to approve this article.*

The Finance Committee takes no position on this Article.

ARTICLE 26: AMEND WETLAND AND FLOODPLAN PROTECTION DISTRICT MAPS

To amend the Weston Zoning By-law §IV. Establishment of Districts and Boundaries, B. District Boundaries, 5. Wetlands and Flood Plain Protection Districts as follows:

1. The physical map referred to under Zoning By-law §IV.B.5., which is entitled “Wetlands and Flood Plain Protection Districts, Weston, Mass. -1980” and referred to as the “Wetlands and Flood Plain Protection District Map,” shall be physically amended by:
 - (i) Removing the cross hatching on the map that represents the District B Boundary;
 - (ii) Removing the note in the legend for the map that references the District B boundary;
 - (iii) Adding a note in the legend as follows: “The location and boundary of District B shall be as designated under Zoning By-law §IV.B.5.b;” and
 - (iv) Amending the title of the map by deleting the words “through Oct. 19, 1981” therefrom and substituting the words “through May 2010.”

and

2. Any and all references in Zoning By-law §IV.B.5 to the Wetlands and Flood Plain Protection District Map shall be amended by adding the following language following each such reference: “, as amended through May 2010.”

or take any other action relative thereto.

Article 26 Explanation: *The Wetland and Floodplain Protection District Map requires amendment due to the changes required under Article 25. For example, the amended map makes reference to the Flood Insurance Rate Maps as comprising District B in the Zoning By-law.*

The Finance Committee takes no position on this Article.

GENERAL BY-LAW ARTICLES

ARTICLE 27: AMEND GENERAL BY-LAWS – NOTIFICATION OF WATERCOURSE ALTERATION

To amend Article X of the General By-laws of the Town of Weston by adding a new section as follows:

Section 5. Notification of Watercourse Alteration. In a riverine situation, the Conservation Commission or Agent shall notify the following of any request received by the Conservation Commission to alter or relocate a watercourse:

- Adjacent communities
- National Flood Insurance Program (NFIP) State Coordinator
- National Flood Insurance Program (NFIP) Program Specialist

Or take any other action relative thereto.

Article 27 Explanation: *This article is related to Articles 25 and 26 and provides a procedure whereby the Conservation Commission shall notify the agencies listed in the event of a request to alter or relocate a watercourse.*

The Finance Committee takes no position on this Article.

ARTICLE 28: AMEND GENERAL BY-LAWS – PROHIBITION OF ILLICIT DISCHARGE

To amend the General By-laws of the Town of Weston, by deleting Article XXVII, Section 4 of the By-Laws and renumbering the remaining sections in Article XXVII, and by inserting in the By-Laws as a new Article XXXI, Illicit Discharge, to read as follows:

Article XXXI. Illicit Discharge

1. PURPOSE

Increased and contaminated stormwater runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding. Regulation of illicit connections and discharges to the Town of Weston municipal storm drain system is necessary for the protection of the town's water bodies and groundwater and to safeguard the public health, safety, welfare and the environment.

a) The objectives of this By-law are:

1. to prevent pollutants from entering Weston's municipal separate storm sewer system (MS4);
2. to prohibit illicit connections and unauthorized discharges to the MS4;
3. to require the removal of all such illicit connections;
4. to comply with state and federal statutes and regulations relating to stormwater discharges; and
5. to establish the legal authority to ensure compliance with the provisions of this By-law through inspection, monitoring, and enforcement.

2. DEFINITIONS

For the purposes of this bylaw, the following shall mean:

Authorized Enforcement Agency - The Board of Selectmen or other employees or agents designated by the Board of Selectmen.

Clean Water Act - The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.

Discharge of Pollutants - The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

Groundwater - Water beneath the surface of the ground and not confined in a conduit or container.

Illicit Connection - A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this bylaw.

Illicit Discharge - Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 8. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit.

Municipal Separate Storm Sewer System (MS4) or Municipal Storm Drain System - The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Weston.

National Pollutant Discharge Elimination System (NPDES) General Permit For Storm Water Discharges - A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of stormwater to waters of the United States.

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Non-Stormwater Discharge - Discharge to the municipal storm drain system not composed entirely of stormwater.

Person - Any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to Town Bylaws, administrative agency, public or quasi-public corporation or body, the Town of Weston, and any other legal entity, its legal representatives, agents, or assigns.

Pollutant - Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include, but not be limited to, the following:

- (1) paints, varnishes, and solvents;
- (2) oil and other automotive fluids;
- (3) non-hazardous liquid and solid wastes and yard wastes;
- (4) refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- (5) pesticides, herbicides, and fertilizers;
- (6) hazardous materials and wastes; sewage, fecal coliform and pathogens;
- (7) dissolved and particulate metals;
- (8) animal wastes;
- (9) rock, sand, salt, soils;
- (10) construction wastes and residues; and
- (11) noxious or offensive matter of any kind.

Process Wastewater - Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product. Process wastewater includes water which has increased in temperature as a result of manufacturing or other processes.

Stormwater/Runoff - Rainwater, snowmelt and/or other water that flows off surfaces and across or over the ground surface rather than being absorbed into the soil.

Surface Water Discharge Permit - A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

Toxic or Hazardous Material or Waste - Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

Watercourse - A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

Wastewater - Any sanitary waste, sludge, or septic tank or cesspool contents or discharge, and/or process wastewater.

Waters of the Commonwealth - All waters within the jurisdiction of the Commonwealth of Massachusetts, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

3. APPLICABILITY

This bylaw shall apply to flows entering the municipally owned storm drainage system.

4. AUTHORITY

This bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

5. ADMINISTRATION

The Board of Selectmen is delegated hereby the responsibility and authority to administer, implement and enforce this By-Law. The Board of Selectmen may appoint the DPW Director or the Town Engineer or such other town employee as the Board of Selectmen may from time-to-time determine and designate in writing to aid the Board of Selectmen in the enforcement and/or administration of the By-Law (herein referred to as Authorized Enforcement Agency).

5.1 Entry to Perform Duties Under this Bylaw. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Town Engineer, and other employees designated by the Board of Selectmen may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the Town Engineer deems reasonably necessary.

6. REGULATIONS

The Board of Selectmen shall promulgate rules and regulations to effectuate the purposes of this By-law. Failure to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

7. PROHIBITED ACTIVITIES

- a) Illicit Discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system (MS4), into a watercourse, into a wetland resource area, or into the waters of the Commonwealth, except as exempted in Section 8.
- b) Illicit Connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- c) Obstruction of Municipal Storm Drain System. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the DPW Director or the Town Engineer.

8. EXEMPTIONS

Discharge or flow resulting from fire fighting activities are exempt from the prohibition of non-stormwater discharges.

The following non-stormwater discharges or flows are also exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the municipal storm drain system, and will not damage or threaten public health and the environment:

- a) Waterline flushing and flow from potable water sources;
- b) Springs, natural flow from riparian habitats and wetlands, diverted stream flow and rising groundwater;
- c) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
- d) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, sump pumps or air conditioning condensation;
- e) Discharge from landscape irrigation or lawn watering;

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- f) Water from non commercial car washing;
- g) Discharge from dechlorinated swimming pool or hot tub water (less than one ppm chlorine) provided the pool or hot tub is drained in such a way as not to cause a nuisance;
- h) Discharge from street sweeping, and stormwater runoff containing sand and deicers used for public safety purposes on public or private property;
- i) Emergency repairs to the municipal storm drain system, and any stormwater management structure or practice that poses a threat to public health or safety, or as deemed necessary by the DPW Director or the Town Engineer;
- j) Dye testing, provided verbal notification is given to the DPW Director or the Town Engineer prior to the time of the test;
- k) Non-stormwater discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations, and
- l) Discharge for which advanced written approval is received from the Authorized Enforcement Agency as necessary to protect public health, safety, welfare or the environment.

9. EMERGENCY SUSPENSION OF STORM DRAINAGE SYSTEM ACCESS

The Authorized Enforcement Agency may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the DPW Director or the Town Engineer may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

10. NOTIFICATION OF SPILLS

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants into the municipal drainage system, a wetland resource area or the waters of the Commonwealth, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the Authorized Enforcement Agency. In the event of a release of non-hazardous material, the reporting person shall notify the Authorized Enforcement Agency no later than the next business day. The reporting person shall provide to the Authorized Enforcement Agency written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

11. ENFORCEMENT

- 11.1 The Board of Selectmen, the DPW Director, the Town Engineer, or other authorized agent of the Board of Selectmen shall enforce this By-Law and any regulations, and may pursue all civil and criminal remedies for violations.
- 11.2 Civil Relief. If a person violates the provisions of this By-Law or regulations, or of any permit, notice or order issued thereunder, the Board of Selectmen may seek injunctive relief in a court of competent jurisdiction to restrain the person from activities that would create further violations or to compel the person to perform abatement or remediation of the violation.

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11.3 Orders. The DPW Director or the Town Engineer or other authorized agent of the Board of Selectmen may issue a written order to enforce the provisions of this bylaw or the regulations thereunder, which may include:

- (1) elimination of illicit connections or discharges to the MS4;
 - (2) performance of monitoring, analyses, and reporting;
 - (3) that unlawful discharges, practices, or operations shall cease and desist; and
 - (4) remediation of contamination in connection therewith.
- a) If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the town may, at its option, undertake such work, and expenses thereof shall be charged to the violator.
 - b) Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the town including administrative costs.
 - c) The violator or property owner may file a written protest objecting to the amount or basis of costs with the DPW Director or the Town Engineer within thirty (30) days of receipt of the notification of the costs incurred.
 - d) If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the DPW Director or the Town Engineer affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, 57 after the thirty-first day at which the costs first become due.

11.4 Criminal Penalties.

Any person who violates any provision of this By-law, regulation, order or permit issued hereunder, shall be punished by a fine of not more than \$300. Each day a violation exists shall constitute a separate violation.

11.5 Non-Criminal Disposition.

As an alternative to criminal prosecution or civil action, the town may utilize the non-criminal disposition procedure set forth in M.G.L. Ch. 40, §21D and Article V of the Town By-laws, in which case any police officer of the Town of Weston, the DPW Director, the Town Engineer, and such other persons as are authorized by the Board of Selectmen shall be the enforcing person. If non-criminal disposition is used, any person who violates any provision of this By-law, regulation, order or permit issued thereunder, shall be punished as follows:

- (1) First violation: Warning
- (2) Second violation: \$100
- (3) Third violation: \$200
- (4) Fourth and subsequent violations: \$300
- (5) Each day a violation exists shall constitute a separate violation.

12. APPEALS

The decisions or orders shall be final. Further relief shall be to a court of competent jurisdiction.

12.1 Remedies Not Exclusive. The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

13. SEVERABILITY

The provisions of this bylaw are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this bylaw 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.

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14. TRANSITIONAL PROVISIONS

Residential property owners shall have 180 days from the effective date of the by-law to comply with its provisions provided good cause is shown for the failure to comply with the by-law during that period.

Or take any other action relative thereto.

Article 28 Explanation: The U.S. Environmental Protection Agency (EPA) oversees the National Pollutant Discharge Elimination System (NPDES) Phase II permitting program, whose purpose is to reduce pollutants in US water bodies from stormwater (or drainage) systems in mid-sized municipalities. As part of Weston's Phase II permit, the Town must develop a program to prohibit illicit connections and discharges that may carry pollutants into their Municipal Separate Storm Sewer System (MS4). Illicit connections are connections that are not approved by the Town. Illicit discharges occur whenever non-stormwater runoff is discharged to a water body or wetland, either directly overland or through the MS4.

The Department of Environmental Protection has supplied a by-law template which many Massachusetts communities have adopted and is the basis of Weston's proposed Illicit Discharge By-law. This By-law would allow the Town to prevent pollutants from entering Weston's MS4 system as well as establish the legal authority to ensure compliance with the provisions of this By-law.

The Finance Committee takes no position on this Article.

COMMUNITY PRESERVATION ACT ARTICLES

**ARTICLE 29: APPROPRIATE FOR FISCAL YEAR 2011
COMMUNITY PRESERVATION COMMITTEE OPERATING BUDGET**

To hear and act on the report of the Community Preservation Committee on the fiscal year 2011 Community Preservation budget and to appropriate from the Community Preservation Fund a sum of money to meet the administrative expenses and all other necessary and proper expenses of the Community Preservation Committee for fiscal year 2011; and further, to reserve for future appropriation the amounts as recommended by the Community Preservation Committee: a sum of money for the acquisition, creation and preservation of open space, excluding land for recreational use; a sum of money for acquisition, preservation, rehabilitation and restoration of historic resources; and a sum of money for the acquisition, creation, preservation and support of community housing; and further, to appropriate from the Community Preservation Fund a sum of money for payment of debt service on Community Preservation projects previously approved by Town Meeting, all as recommended by the Community Preservation Committee, or take any other action relative thereto.

Article 29 Explanation: The Community Preservation property tax surcharge will raise over \$1,600,000 in fiscal year 2011, which is expected to be matched, in part, by the State. By law, a minimum of ten percent of Community Preservation funds must be spent or set aside for future spending in each of three categories: open space, historic resources and community housing. The remaining 70% of available funds may be allocated to any one or a combination of the three categories, and in addition, may be appropriated for the acquisition, creation and preservation of land for recreational use or the rehabilitation and/or restoration of recreational land acquired or created with Community Preservation funds.

The administrative expense budget is estimated to be \$80,000 and is funded from the Community Preservation Fund. The administrative expense budget covers the cost of a part-time staff person for the Committee and Committee expenses.

The appropriation for debt service includes \$287,030 for Brook School Apartments and \$489,675 for Case Estates.

The Finance Committee takes no position on this Article.

ARTICLE 30: REDUCE APPROPRIATION FOR CASE ESTATES PURCHASE

To transfer the sum of \$1,185,667 appropriated from the Community Preservation Fund Undesignated Fund Balance for the purpose of partially funding the acquisition of the Case Estates under Article 1 of the November 8, 2006 Special Town Meeting to the Community Preservation Fund Undesignated Fund Balance; or to take any other action relative thereto.

Article 30 Explanation: At the Special Town Meeting on November 8, 2006 voters unanimously approved the purchase of the 62.5-acre Case Estates from Harvard University for \$22,500,000, matching an offer that Harvard has received from a residential developer. The Case Estates Review Committee had recommended acquiring the property to take control and to preserve as open space approximately 30.1 acres of this property, that being a large swath of the land which was dubbed the "Hillcrest Corridor." The allocation of the purchase price to this Hillcrest Corridor is \$8,645,000, based on an independent appraisal done in 2006. The remainder of the purchase price was allocated to the other parcels comprising the Case Estates, including land reserved for potential future municipal use and 10 lots that could be sold for residences if funds were not raised privately to preserve these lots as open space. The acquisition of the Case Estates from Harvard has been stalled by the discovery of residual pesticide contamination affecting about 15 acres of the land. The Board of Selectmen agreed to acquire the property only after Harvard has completed the mitigation of this contamination in accordance with the regulations (the "MCP") established by the state's Department of Environmental Protection. The Selectmen have insisted that Harvard follow a cleanup plan that allows unrestricted future use of the property. Such a plan would require the complete removal and replacement of the contaminated soil. This approach would result in loss of some areas of mature vegetation, but all of the affected areas will be replanted by Harvard as part of its agreement with the Town. In response to concerns from many residents who have followed this long process, Harvard has formulated and offered the town an alternative cleanup plan that, while still compliant with the MCP, would preserve three areas comprising a total of approximately 7 acres where mature vegetation would be lost under the full cleanup plan. This alternative mitigation plan involves a less intrusive approach in these three areas but it also requires that the future use of those 7 acres be restricted to passive recreational uses. Harvard would retain ownership of the three restricted-use parcels created by this approach, but Weston will hold a preservation restriction on that land, easements to permit public access, and an option to acquire the parcels in the future for \$1.00 each. This approach would result in a lower cleanup cost and Harvard has proposed a \$3,000,000 reduction in Weston's purchase price if this alternative is approved by our town meeting vote. A yes vote on this article supports the modified remediation plan and returns to the CPA undesignated fund balance the purchase price savings that are attributable to the land to be acquired with CPA funds. The remainder of the \$3,000,000 reduction in the purchase price will be savings from the Town's general funds which were appropriated for the purchase of the remaining 32.4 acres of the Case Estates. A no vote on this article will result in the execution of the original, full remediation plan, unrestricted future use of all of the land, and no change in the original purchase price.

ARTICLE 31: APPROPRIATE FOR COMMUNITY HOUSING – HOUSING STAFF ASSISTANCE

To appropriate a sum of money for community housing purposes under the Community Preservation Program in order to provide funds for staff assistance for the creation, preservation, and support of community housing; to be spent under the direction of the Town Manager, and as funding therefor, to transfer said sum from the Community Housing allocation of the Community Preservation Fund; or take any other action relative thereto.

Article 31 Explanation: This request will fund hours worked by an existing employee on affordable housing-related issues. This employee is assigned for 12.5 hours/week to establish a Community Housing Office and to provide staffing for the Housing Partnership that was appointed by the Board of Selectmen to develop strategies and tools for creating and retaining affordable and moderate income housing in Weston. The amount expected to be requested under this article is \$22,225.

The Finance Committee unanimously supports adoption of this Article.

ARTICLE 32: APPROPRIATE FOR COMMUNITY HOUSING – 16 LOVE LANE

To appropriate a sum of money and to authorize the Board of Selectmen to acquire by purchase, gift, eminent domain or otherwise for community housing purposes under the Community Preservation Program the fee or other interests in land and structures, which may be an affordable housing restriction, located at 16 Love Lane in the Town of Weston, Massachusetts shown as Assessors Map 31, Block 29, Lot 20, containing 2.45 acres, more or less, and more fully described in a deed recorded in the Middlesex South Registry of Deeds in Book 51582, Page 46, said restriction to be held, managed and controlled by the Board of Selectmen, and provided further that said restriction shall be acceptable to the Town in its sole discretion and shall be acceptable to the Massachusetts Department of Housing and Community Development so that the affordable housing restriction will be approved by the Secretary under M.G.L. Chapter 184, sections 31-32 for perpetual affordability; said sum to be transferred from the Community Housing allocation of the Community Preservation Fund; or take any other action relative thereto.

Article 32 Explanation: The purpose of this article is to purchase an affordable housing restriction on the land and buildings located at 16 Love Lane. This restriction will limit the property's rental rate or sales price to one affordable to a household earning no more than 100% of area median income (currently \$90,200 in Weston for a family of four). Rental rate is further limited by the fair market rent (FMR) published by the United States Department of Housing and Urban Development (HUD). This restriction will contain a right of first refusal for the Town on property transfer and will limit the property's occupancy to an income eligible household. The Massachusetts Department of Housing and Community Development has determined that the current maximum rent for the property is \$1,623 (HUD FMR) and that the current maximum sales price for the property is \$309,000. The Community Preservation Committee commissioned an appraisal of the requested preservation restriction which concluded that the probable value of the proposed restriction was \$1,391,000 as of March 15, 2010. The Board of Selectmen is requesting \$300,000 in CPA funds, a fraction of the restriction's appraised value, to purchase this restriction. The restriction, to be administered by the Board of Selectmen, would be registered with the property deed and would be binding on all future owners.

The Finance Committee takes no position on this Article.

ARTICLE 33: APPROPRIATE FOR HISTORIC RESOURCES – 116-118 CONANT ROAD

To appropriate a sum of money and to authorize the Board of Selectmen to acquire by purchase, gift, eminent domain or otherwise for historic resource purposes under the Community Preservation Program the fee or other interests in land and structures, which may be a historic preservation restriction, located at 116 Conant Rd., shown as Assessors Map 17, Block 61, Lot 10, containing 1.32 acres, more or less, and 118 Conant Road, shown as Assessors Map 17, Block 62, containing 1.84 acres, more or less, in the Town of Weston, Massachusetts, and more fully described in deeds recorded in the Middlesex South Registry of Deeds in Book 7173, Pages 49 and 51, respectively, said restriction to be held, managed and controlled by the Historical Commission and/or Board of Selectmen, said sum to be transferred from the Historic Resources allocation of the Community Preservation Fund; or take any other action relative thereto.

Article 33 Explanation: The purpose of this article is to purchase a historic preservation restriction on the land and buildings located at 116-118 Conant Road, originally constructed as a one bay saltbox prior to 1747 to which a western bay was added circa 1770. Few changes to the 18th century structure have been made and include only a dormer in the main house and some 19th century shed/carriage house additions. The Massachusetts Historical Commission completed a Form B for 118 Conant Rd. in 1968 (one of the first written for a property in Weston) and again in 1979, identifying the property as a historic building worthy of preservation. The Weston Historical Commission commissioned an appraisal of the requested preservation restriction which concluded that the probable value of the proposed restriction was \$350,000 as of March 2, 2010. The Historical Commission is requesting \$250,000 in CPA funds to purchase this restriction. The restriction, to be administered by the Historical Commission, would be registered with the property deed and would be binding on all future owners. It would allow for an addition to the rear of the house, with all plans to be reviewed by the Weston Historical Commission.

The Finance Committee takes no position on this Article.

ARTICLE 34: APPROPRIATE FOR OPEN SPACE – FIELD PRESERVATION

To appropriate a sum of money for the preservation of open space under the Community Preservation Program, to be used for the preservation of several fields under the jurisdiction of the Conservation Commission, to be spent under the direction of the Town Manager, and as funding therefor, to transfer said sum from the Open Space allocation of the Community Preservation Fund; or take any other action relative thereto.

Article 34 Explanation: About three dozen Town fields are maintained by the Weston Conservation Commission and the Weston Forest & Trail Association. \$20,000 from the Community Preservation Fund is requested in this Article to continue the process of preserving fields in high priority areas, which generally requires work to cut them back to their appropriate boundaries--either stone walls or mature trees marking an old fencerow or woodlot edge. Once cleared, the fields would be maintained by annual mowing without further funding from the CPA fund. The Conservation Commission will determine the highest priority fields to be restored. This is the seventh year that funds have been requested for this purpose.

The Finance Committee unanimously supports adoption of this Article.

ARTICLE 35: AMEND LANGUAGE IN VOTES ADOPTED AT PREVIOUS ANNUAL TOWN MEETINGS – REHABILITATION OF RECREATION AREAS

To amend the vote taken under Article 29 of the May 7, 2007 Town Meeting by deleting the words “preserve existing recreation areas and create land for recreational use” and inserting in place thereof the words “rehabilitate existing recreation areas;” and further, to amend the vote taken under Article 24 of the May 14, 2008 Annual Town Meeting by deleting the word “preserve” and inserting in place thereof the word “rehabilitate;” or take any other action relative thereto.

Article 35 Explanation: Article 29 of the 2007 Annual Town Meeting and Article 24 of the 2008 Annual Town Meeting appropriated a total of \$1,250,000 in CPA funds for the preservation and creation of recreational areas. These recreational areas included multiple natural turf playing fields and basketball and tennis courts at the High School, College Pond, Cherrybrook, and Brook School. Approximately \$335,000 remains unspent from these appropriations.

Under existing CPA law, the rehabilitation of recreational areas is only permitted on land acquired or created using CPA funds. In October 2008, the Supreme Judicial Court (SJC) of Massachusetts in the case of Jeffrey Seideman & others vs. City of Newton affirmed a lower court ruling that narrowly defined the terms “creation” and “preservation” as they apply to the use of CPA funds and specifically excluded many expenditures that the Town, and many communities across the state, had previously considered permissible uses of CPA funds. The SJC did, however, take pains to clarify that its ruling would have “no effect on CPA appropriations already expended by municipalities throughout the Commonwealth.” The practical impact of the Seideman ruling was that CPA funded recreation projects for which work had commenced were completed, but planned projects for which the Town had not yet incurred any contractual obligations, High School Field 10 and Brook School Tennis Courts, were halted.

Legislation is now pending (SB90) that would permit the rehabilitation of recreational areas which were not acquired or created using CPA funds. This article seeks to amend the language in the previous Town votes referenced above to comport with the language in SB90, making these projects eligible for funding under the CPA. This article would allow for the expenditure of previously appropriated funds if SB90 passes.

The Finance Committee unanimously supports adoption of this Article.

ARTICLE 36: APPROPRIATE FOR RECREATION – DESIGN FEES

To appropriate a sum of money for rehabilitation of existing recreational areas under the jurisdiction of the Board of Selectmen and School Committee; to be spent under the direction of the Town Manager, and as funding therefor, to transfer said sum from the Unallocated allocation of the Community Preservation Fund; or take any other action relative thereto.

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Article 36 Explanation: This request seeks a total of \$82,500 in design fees for the rehabilitation of Gail Rd. Field and High School Fields 1 & 2. If actual design costs are lower than projected, any remaining funds will be used for the rehabilitation of these fields. This request is made subject to the understanding that it may not be expended unless SB90 is enacted by the state legislature. If SB90 is enacted, as noted above it would permit the rehabilitation of recreational areas not acquired or created using CPA funds.

The Finance Committee unanimously supports adoption of this Article.

STATE LAW ACCEPTANCE AND OTHER

**ARTICLE 37: ACCEPT CHAPTER 73, SECTION 4 OF THE ACTS OF 1986:
(INCREASE IN PROPERTY TAX EXEMPTION LIMITS)**

To accept, for fiscal year 2011, the provisions of section 4 of Chapter 73 of the Acts of 1986, as amended by Chapter 126 of the Acts of 1988, which amends Chapter 59 of the Massachusetts General Laws relative to real estate property tax exemptions and to approve an increase in the amount of 100 percent for each eligible exemption.

Article 37 Explanation: Acceptance of this statute permits the Town to grant an additional property tax exemption to certain taxpayers who are surviving spouses, parents of veterans who died in wartime service, blind persons and those who qualify for an exemption under any one the following clauses of section 5 of Chapter 59 of the Massachusetts General Laws:

Clauses 17, 17C, 17D, 22, 22A, 22B, 22C, 22E, 37, 37A, 41, 41B, 41C, 42, or 43.

Town Meeting approval of the additional exemption, as well as application for the exemption by the taxpayer, must be made annually. The Board of Selectmen has recommended that the amount of the exemption be increased by 100 percent, the maximum amount over the standard amount provided by this State law. This increase in the exemption was first approved by Town Meeting in 2002.

The Finance Committee unanimously supports adoption of this Article.

ARTICLE 38: RESCIND BOND AUTHORIZATION

To rescind all or a part of a certain authorization to borrow funds, which was approved in a prior year, where the purpose of the borrowing has been completed and/or it was unnecessary to borrow the amount approved:

Article 16 May 12, 2008 Annual Town Meeting- Street Light Replacement \$138,000

Article 38 Explanation: The above noted authorization is no longer needed. The cost of the work was about half what was expected, and it was further offset by a rebate from NStar, resulting in a net cost of under \$10,000, which was paid for by the operating budget. It is necessary for Town Meeting to rescind the balance of the bond authorization so it can be removed from the Town's financial records.

The Finance Committee unanimously supports adoption of this Article.

And you are to serve the warrant by posting four attested copies thereof at the Town Hall, at the Kendal Green Railroad Station, at the Town of Weston Transfer Station and on the kiosk at the front of the Weston High School on Wellesley Street by the gymnasium, seven days at least before the time appointed for said meeting.

Hereof fail not to make due return of this warrant with your doings thereon to the Selectmen at the time and place of said meeting.

Given under our hands April 13, 2010.

Steven L. Charlip
Douglas P. Gillespie
Michael H. Harrity
Selectmen of the Town of Weston