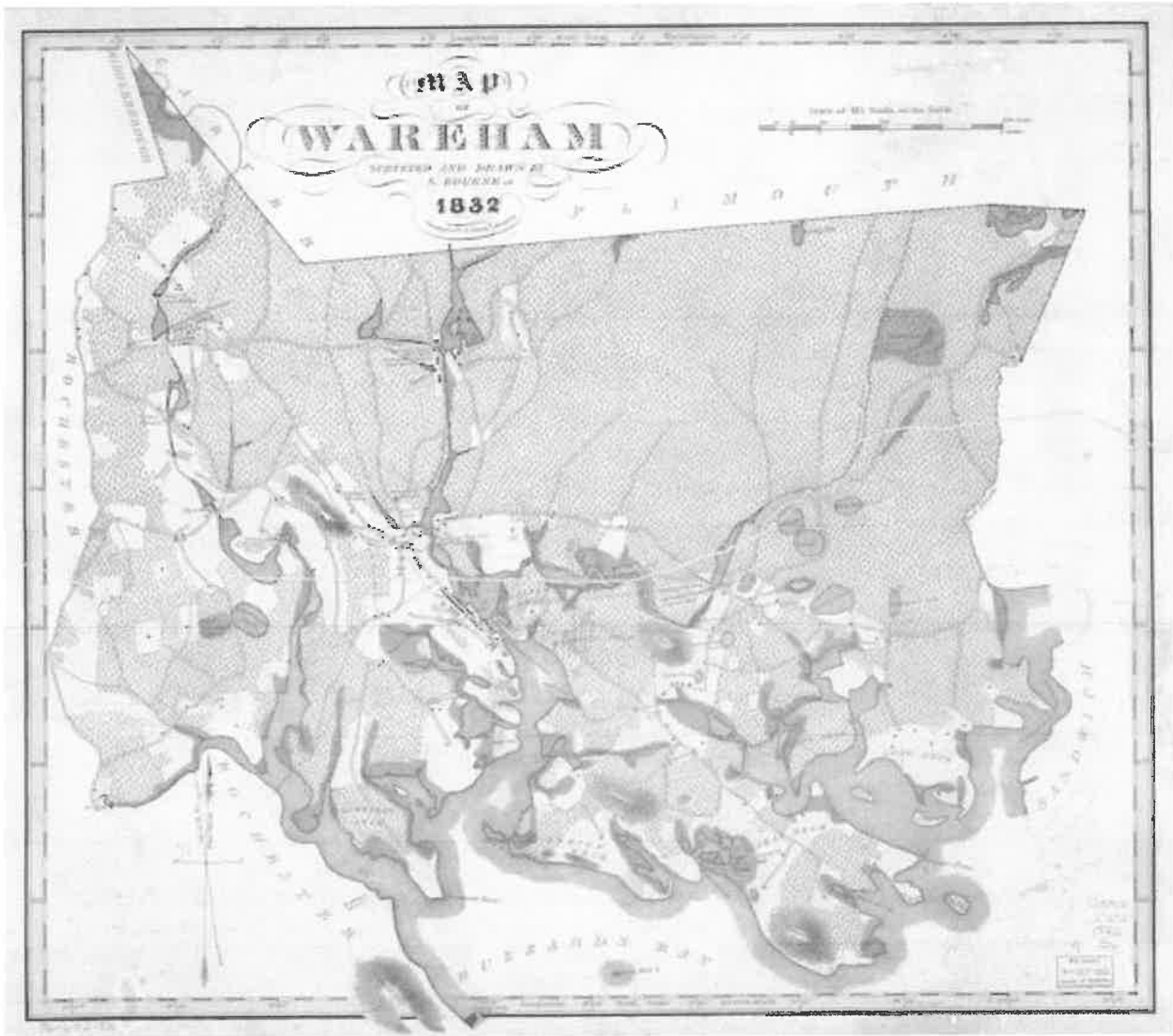


**TOWN OF WAREHAM  
FALL TOWN MEETING  
FINANCE COMMITTEE REPORT  
OCTOBER 23, 2023**



**Finance Committee:**

**Norma Scogin, Chair; Matt Rose, Vice Chair; Julie Moran, Clerk; Gerald Stefanski;  
Dominic Cammarano, Jr.; Joseph R. Smith, Jr.; and Heidi Churchill**

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## FINANCE COMMITTEE REPORT

### ARTICLE 1 - APPROVE AND FUND FY24 CAPITAL PLAN

To see if the Town will vote to transfer a sum of money from available funds and authorize borrowing subject to MGL Chapter 44, Sections 7 or 8 or any other enabling authority, for the purpose of capital improvement projects including replacement of vehicles, equipment, repairs to and improvements to town buildings, facilities and waterways, or to take any action relative thereto.

#### EXPLANATION:

The Town funds most of its capital improvement projects through Certified Free Cash, transferred at Fall Town Meeting.

Inserted by the Select Board at the request of the Town Administrator

Select Board recommends that this article be passed over: 4-0-0

Finance Committee recommends that this article be passed over: 6-0-0

***Finance Committee Recommendation: The Capital Plan would need to be funded through Certified Free Cash. The State has not certified the Town's FY 23 Free Cash so this transfer must be delayed until a later date.***

***See Appendix for copy of the Town's current 5 Year Capital Plan***

### ARTICLE 2 – TRANSFER OF AVAILABLE FUNDS

To see if the Town will vote to transfer a sum of money from available funds to the Stabilization Fund, OPEB Trust Fund, Collective Bargaining Reserve, Benefits Reserve, Unemployment Reserve, Code Enforcement & Derelict Properties, Grant Funding, or to do or act in any manner relative thereto

#### EXPLANATION:

This article seeks to continue the prudent fiscal management of setting aside funds for future liabilities that would could be detrimental to the annual operating budget and some that can be time sensitive.

Inserted by Select Board at the request of the Town Administrator

Select Board recommends that this article be passed over: 4-0-0

Finance Committee recommends that this article be passed over: 6-0-0

***Finance Committee Recommendation: This Transfer of Available Funds requires Certified Free Cash. The State has not certified the Town's FY 23 Free Cash so this transfer must be delayed until a later date.***

**ARTICLE 3 – PRIOR YEAR BILLS & DEFICITS**

To see if the Town will vote to raise and appropriate or transfer from available funds or by any combination of the foregoing, a sum of money to pay unpaid bills and deficits of prior fiscal years, or to do or act in any manner relative thereto.

**EXPLANATION:**

This is a recurring article that is proposed in case of any unforeseen bills or deficits.

Inserted by the Select Board at the request of the Town Administrator

Select Board recommends favorable action: 4-0-0

Finance Committee recommends favorable action: 6-0-0

*Finance Committee Recommendation: For FY 23, the Water Pollution Control Facility received bills after the fiscal year end from Flow Assessment Services LLC in the amount of \$13,650 and from the Onset Water Department in the amount of \$945. The amounts are due and payable.*

**ARTICLE 4 - PEG ACCESS RECEIPTS RESERVED FOR APPROPRIATION**

To see if the Town will vote to transfer a sum of money from the PEG Access Receipts Reserved for Appropriation account to Wareham Community Television (WCTV) for PEG Access Programming, or to do or act in any manner relative thereto.

**EXPLANATION:**

This is a recurring article that transfers the money the Town receives for cable franchise fees to WCTV for Public, Education and Governmental (PEG) Access.

Inserted by the Select Board at the request of the Town Administrator

Select Board recommends favorable action: 4-0-0

Finance Committee recommends favorable action: 6-0-0

*Finance Committee Recommendation: The Town has received \$214,999.52 in PEG Access funds. The amount is available and should be transferred to Wareham Community Television, which provides access to the public to, among other things, live streams and recordings of Town government meetings. This transfer is the appropriate use of the funds.*

**ARTICLE 5 - UNION CONTRACTS**

- A. Wareham Police Sergeants Union NEPBA, Local 181;
- B. Wareham Communication Officers Union NEPBA;
- C. Wareham Superior Officers Union NEPBA Local 180;

or to do or act in any manner relative thereto.

EXPLANATION:

This article seeks to approve and fund three collective bargaining agreements. The funding is available and requires no additional appropriation.

Inserted by the Select Board at the request of the Town Administrator

Select Board recommends [See Addendum]

Finance Committee recommends favorable action as to A and C: 6-0-0

*Finance Committee Recommendation: The Superior Officers Union and Sergeants Union agreements make changes to, among other things, the Civil Service policies and procedures and Wage Schedules. The financial impact of the Superior Officers agreement is \$8,900. The financial impact of the Sergeants agreement is \$17,200. The agreements are satisfactory to the bargaining parties and should be approved. Part B of this Article is not under consideration at this time.*

**ARTICLE 6 - HARBOR SERVICES PERMIT RECEIPTS RESERVED FOR APPROPRIATIONS ACCOUNT / SOFTWARE**

To see if the Town will vote to transfer the sum of \$5,000.00 from the Harbor Services Permits Receipts Reserved for Appropriations Account, to be transferred to the Harbormaster's Maintenance and Improvements account or take any other action relative thereto.

EXPLANATION:

This request will allow our department to fund the following needs:

Vessel Dockage - \$5,000.00

Patrol Boat Dockage

Inserted by the Select Board at the request of the Harbormaster

Select Board recommends favorable action: 4-0-0

Finance Committee recommends favorable action: 6-0-0

*Finance Committee Recommendation: This article is a housekeeping transfer from Harbor Service Permits Receipts to pay for year round dockage necessary for the Harbormaster to keep vessels available for dispatch.*

**ARTICLE - 7 HARBOR SERVICES PERMIT RECEIPTS RESERVED FOR APPROPRIATIONS ACCOUNT / DEBT PAYMENT**

To see if the Town will vote to transfer the sum of \$58,750.00 from the Harbor Services Permits Receipts Reserved for Appropriations Account, to be transferred to the Harbormaster's Maintenance and Improvements account or take any other action relative thereto.

EXPLANATION:

Debt Service for Onset Pier Floating Docks - \$58,750.00

The funding request is for the principal and interest payment towards a permanent bond used to replace the Onset Pier Floating Dock System.

Inserted by the Select Board at the request of the Harbormaster

Select Board recommends favorable action: 4-0-0

Finance Committee recommends favorable action: 6-0-0

***Finance Committee Recommendation: This article is a transfer from Harbor Service permits to pay down the debt on Onset floating dock improvements. The amount is due and should be paid.***

## **ARTICLE – 8 AMENDMENT TO WATERWAY RULES**

To see if the Town will vote to amend DIVISION XIII, Article 1, WATERWAYS RULES, which was adopted by the Town of Wareham during the October 24, 2022 Annual Fall Town Meeting; approved by the Attorney General on May 15, 2023 as follows:

In section 1.02 Definitions

Change the definition of GREAT PONDS to

Great Ponds – Any pond which contained more than ten acres in its natural state, as calculated based on the surface area of lands lying below the natural high water mark. The Department shall presume that any pond presently larger than ten acres is a Great Pond, unless the applicant presents topographic, historic, or other information demonstrating that the original size of the pond was less than ten acres, prior to any alteration by damming or other human activity.

Change the definition of Vessel or Boat to as follows:

Vessel or Boat - watercraft of every description, except a seaplane on the water used or capable of being used as a means of transportation on water.

Change the definition of Personal Watercraft

By deleting:

Includes every description of watercraft propelled by an internal combustion engine commonly referred to as "jet skis" and watercraft shaped like a surfboard propelled by the wind, commonly referred to as "wind surfers".

And substituting

“shall mean a vessel propelled by a water jet pump or other machinery as its primary source of motor propulsion which is designed to be operated by a person sitting, standing or kneeling on the vessel rather than being operated in the conventional manner by a person sitting or standing inside.”

### **In §103.1 HARBOR SERVICES PERMIT GENERAL RULES**

Delete:

No person will keep any vessel within the waters of the Town of Wareham, held by mooring or dock, without first obtaining a Harbor Service Permit from the Harbormaster. This will include all personal watercraft. No vessel may be anchored in the waters of Wareham for more than six (6) consecutive days without a Harbor Service Permit. Anchoring will be prohibited within all designated mooring areas. Anchorage will be at the discretion of the Harbormaster.

And substitute:

No person will keep any vessel within the waters of the Town of Wareham, held by mooring or dock, for more than six (6) consecutive days without obtaining a Harbor Service Permit. This will include all personal watercraft. Temporary or transient anchoring of vessels within designated mooring areas is prohibited. Anchorage will be at the discretion of the Harbormaster.

In section 109.1 VESSELS LEFT ON TOWN OF WAREHAM PROPERTY, BEACHES OR SHORELINE

Amend by removing the sentence: (Only vessels used as tenders are permitted to be left in designated areas)

Insert "Only tenders and kayaks with permits issued by the Harbormaster may be seasonally stored in designated public areas."

Delete in entirety 4

(This section refers to kayak storage)

In §112.1 VESSEL OPERATION

Delete the following language in item 2 B

'unless operating in an area designated for higher speeds.'

In §113.7 DIVERS

Delete 1 & 2 in entirety

Replace with:

Every scuba diver or group of scuba divers while swimming on or under the surface of the waters of the commonwealth shall display for each diver or group of divers as a warning device to boat operators, a diver's flag, so called, constructed of rigidly supported material at least twelve inches by fifteen inches in area of red background with a white diagonal stripe. Such diver's flag shall be displayed on a boat or surface float and shall extend a minimum distance of three feet from the surface of the water. Divers shall remain in an area within one hundred feet of such displayed diver's flag while at or near the surface of the water. A boat operator within sight of a diver's flag shall proceed with caution and within a radius of one hundred feet of such flag shall proceed at a speed not to exceed three miles per hour.

No person shall dive within any navigational channels within Wareham's waterways without notifying the Harbormaster

In §115.3 PENALTIES

Delete:

The Harbormaster, Assistant Harbormaster, Deputy Harbormaster, Natural Resource Officer and any Police Officer of the Town of Wareham, hereinafter referred to as the enforcing officer(s), taking cognizance of a violation of a specific by-law, or rule which he is empowered to enforce, as an alternative to initiating criminal proceedings, may elect to give to the offender a written notice to appear before the clerk of the Wareham District Court at any time during office hours, not later than twenty-one (21) days after the date of such notice.

And substitute:



The provisions of this chapter and all rules and regulations made under the authority thereof shall be enforced by the director, deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police officers and deputy environmental police officers of the division of law enforcement, department of fisheries, wildlife and environmental law enforcement, by harbor masters and assistant harbor masters, by police officers assigned to harbor patrol, by fish and game wardens, by members of the state police, and by city and town police officers assigned to patrol the waters of the Commonwealth  
Or to take any other action relative thereto.

EXPLANATION:

These changes addresses matters required by the Attorney General after review of the Town's Waterways Rules bylaw adopted at Fall Town Meeting in 2022.

Inserted by the Select Board at the Request of the Harbormaster

Select Board recommends favorable action: 4-0-0

Finance Committee recommends favorable action: 6-0-0

***Finance Committee Recommendation: This article amends previously adopted Waterways Rules. The Attorney General approved the Waterways Rules but required changes and clarifications as shown above.***

**ARTICLE – 9 #6 CHAPEL LANE**

To see if the Town will vote to appropriate from the Community Preservation Affordable Housing Reserve Fund, or any other monies available in the Community Preservation undesignated Funds, the sum of \$150,000.00, for a grant to 6 Chapel Lane LLC to construct a 6-unit rental housing property located at 6 Chapel Lane, Wareham MA, and to require an Affordable Housing Preservation restriction on the building, or to do or act in any manner relative thereto.

EXPLANATION:

This is the development of six rental units in three two-story buildings. Each unit will have three bedrooms and will be approximately 1,120 square feet. Each unit will be income restricted to 80% of area median income.

On August 23, 2023, the Community Preservation Committee voted 4-0-0 to submit this article for consideration at the 2023 Fall Town Meeting.

Inserted by the Select Board at the request of the Community Preservation Committee

Select Board recommends favorable action: 4-0-0

Finance Committee recommends favorable action: 4-2-1

***Finance Committee Recommendation: A majority finds that the use of the funds is appropriate for affordable housing. The show of support from some of the neighbors indicates that they are committed to the betterment of the community. There are members of the Finance Committee who passionately believe that CPC funds should never be used by for***

***profit entities. Others maintain that it is not possible to provide adequate affordable housing for the community without for profit participation. The project must meet all requirements of the CPC before the proponents receive any funding.***

#### **ARTICLE – 10 MARKS COVE VISTA**

To see if the Town will vote to appropriate from the Community Preservation Open Space Reserve Fund, or any other monies available in the Community Preservation undesignated Funds, the sum of \$250,000.00, for a grant to the Wareham Land Trust to acquire and protect 3.58 acres (Wareham assessors Map 54, lot 1009) at 120 Cromesett Rd, Wareham MA, and to require a Conservation restriction on parcel, or to do or act in any manner relative thereto.

#### **EXPLANATION:**

CPC funding for the Marks Cove Vista project at 120 Cromesett Road requires that the Town of Wareham acquire a "Real Property" interest, such as a Conservation Restriction, in the property. The Massachusetts Executive Office of Energy and Environmental Affairs, who must approve every CR, requires this language as a condition of approval. This Conservation Restriction acquisition will result in the protection of 3.58 acres of forested upland and salt marsh along the shore of Cedar Island Creek and Marks Cove. The parcel is of high conservation value as it is within the Plymouth/Carver Sole Source Aquifer, and entirely within NHESP Estimated and Priority habitats, in addition to being contiguous with other protected land, the Marks Cove Conservation Area. The Wareham Land Trust will own and manage the property as open space for the benefit of the general public.

On August 23, 2023, the Community Preservation Committee voted 4-0-0 to submit this article for consideration at the 2023 Fall Town Meeting.

Inserted by the Select Board at the request of the Community Preservation Committee

Select Board recommends favorable action: 4-0-0

Finance Committee recommends favorable action: 7-0-0

***Finance Committee Recommendation: The Finance Committee recommends the use of CPC funds for the Marks Cove Vista project. With the funds available and only useable for specific projects we cannot think of a better use. This will protect 3.58 acres overlooking Marks Cove, protecting various natural resources, and preserving a small section of our coastline. It sits adjacent to Town-owned land and near existing walking trails and will be open to the public.***

#### **ARTICLE – 11 WESTGATE PROPERTY**

To see if the Town will vote to appropriate from the Community Preservation Open Space Reserve Fund, or any other monies available in the Community Preservation undesignated Funds, the sum of \$26,000, for a grant to the Town of Wareham, through its Conservation Department, to improve the trail system and construct an observation/sitting deck, at the Douglas S. Westgate Conservation and River Walk property in the Town of Wareham.

or to do or act in any manner relative thereto.

EXPLANATION:

The Westgate Conservation Area is a 50-acre conservation property owned by the Town with a trail system leading to the Weweantic River's edge, where there is an existing clearing and an abandoned pump house that was previously used to pump water to cranberry bogs on the property that are no longer in use. The Town purchased the site for conservation purposes in 2011. To enhance the experience of visitors to the Weweantic River site this project will support building an observation/sitting deck on the foundation of the old pump house, providing a comfortable spot to sit and enjoy the river view.

On August 23, 2023, the Community Preservation Committee voted 4-0-0 to submit this article for Consideration at the 2023 Fall Town Meeting.

Inserted by the Select Board at the request of the Community Preservation Committee

Select Board recommends favorable action: 4-0-0

Finance Committee recommends favorable action: 7-0-0

***Finance Committee Recommendation: The Finance Committee recommends the use of CPC funds to support the upgrades to the Westgate property. This project will create a wonderful addition to a great outdoor space in town and will be accessible to the public. We feel that projects like this are a benefit to the community and a great use for CPC funds.***

**ARTICLE – 12 AFFORDABLE HOUSING TRUST**

To see if the Town will vote to appropriate from the Community Preservation Affordable Housing Reserve Fund, or any other monies available in the Community Preservation undesignated Funds, the sum of \$150,000.00, for a grant to The Wareham Affordable Housing Trust, to be used by the Trustees to provide for the creating and preservation of affordable housing in the Town of Wareham for the benefit of low and moderate income households, or to do or act in any manner relative thereto.

EXPLANATION:

The goal of the Wareham Affordable Housing Trust (Trust) is to create and support affordable housing units and provide rental assistance in the Town of Wareham. The Trust requires funds to meet our requirement to help with the acquisition, creation, preservation, and support of community affordable housing including a rental assistance program. These funds will allow the Trust to respond to requests for affordable housing needs without waiting for a town meeting. The release of funds would be limited to projects that meet the Community Preservation Act guidelines for affordable housing. The Community Preservation Committee would have the final approval to release any payments.

On August 23, 2023, the Community Preservation Committee voted 3/0/1 to submit this article for Consideration at the 2023 Fall Town Meeting.

Inserted by the Select Board at the request of the Community Preservation Committee

Select Board recommends favorable action: 4-0-0

Finance Committee recommends favorable action: 5-2-0

***Finance Committee Recommendation: The Affordable Housing Trust has not been funded since its initial outlay of \$60,000 in 2006. Approval of this article will provide the Trust with \$150,000, allowing it to assist low and moderate income households while promoting the development of affordable housing in town. It is an appropriate use of CPC funds, at least 10% of which must be used for affordable housing.***

**ARTICLE – 13 DELETE LOTTERY REQUIREMENTS FOR TOWN MEETING ARTICLES**

To see if the Town will vote to stop the practice of calling warrant articles by lottery and to accomplish it by deleting Division I, Article I, Section 2 of the Town By-Laws and inserting a new Section 2, which states:

Section 2. Town meetings shall be legally called and all petitions for insertion of any articles in any warrant shall be in accordance with Section 2-4 of the Wareham Home Rule Charter.

Articles at the Annual Spring and Fall Town Meeting and any Special Town Meeting shall be taken up in order as presented in the warrant. Articles which are contingent upon action in another article shall be acted upon in succession. Further, those articles which the Board of Selectmen certifies to the Moderator are of such financial or emergency nature as to warrant action early in the town meeting may be taken out of order.

or to do or act in any manner relative thereto.

**EXPLANATION:**

The lottery system is left over from a time when there were high quorum requirements to take up articles. Since there is now a zero quorum requirement the reason for the lottery system no longer exists. The lottery system can also make it harder for the residents to follow what is happening. Lastly, it makes it difficult for presenters and guests to properly prepare due to the randomness of how articles are called.

Inserted by the Select Board at the request of the Town Administrator

Select Board recommends favorable action: 4-0-0

Finance Committee recommends favorable action: 6-0-0

***Finance Committee Recommendation: Approval of this article will make Town Meetings run more smoothly by taking articles up in the order they appear in the Warrant. With a zero quorum there is no need for a lottery. The language of this provision will make it possible to change the order of articles if needed.***

**ARTICLE – 14 EASEMENT AGREEMENT WITH EVERSOURCE/HAMMOND SCHOOL**

To see if the Town will vote to authorize the Select Board to enter into a lease agreement with NSTAR ELECTRIC COMPANY, d/b/a Eversource Energy, a copy of said lease agreement and exhibit on file with the Town Clerk, for the purpose of distribution of electricity, and lines for control, relay and communication purposes over, across, upon and under a certain parcel of land Town owned land known as the Hammond School, or to do or act in any manner relative thereto.

EXPLANATION:

This article seeks to authorize the Select Board to enter into a lease agreement with Eversource to locate equipment at the Hammond School property. The purpose of this equipment is to create continuity of electrical supply and limit loss of electricity to the residents in the area.

Inserted by the Select Board at the request of the Town Administrator

Select Board recommends favorable action: 4-0-0

Finance Committee recommends favorable action: 6-0-0

***Finance Committee Recommendation: Eversource has requested this easement on Town-owned property. Eversource plans to install equipment to enhance electric service reliability in the vicinity of the Hammond School. This would provide a benefit to the public and should be approved.***

**ARTICLE – 15 ELECTED CONSTABLES**

To see if the Town will vote to decrease the number of elected Constables from 1 to 0 (one to zero) pursuant to M.G.L. c.41, § 2, or to do or act in any manner relative thereto.

EXPLANATION:

The Town of Wareham currently has nine appointed Constables, each appointed for three years. The Town also has one elected Constable. Massachusetts General Law does not require that Towns have elected constables.

Appointed constables in Wareham must apply for appointment and reappointment. New applicants must provide five references including one from a practicing attorney. New applicants and re-appointed constables must receive approval from the Chief of Police in order to be considered for appointment. The elected constable does not need to provide references and is not required to get approval by the Chief of Police.

The Select Board office keeps track of the remittance fees collected from the Constables, recorded on a quarterly basis as required by MGL for elected and appointed constables. The current elected Constable has not forwarded any fees for at least the past three years. The elected Constable was sworn into the office on 8/22/23 despite being elected in May of 2023.

Inserted by the Select Board at the request of the Select Board

Select Board recommends favorable action: 4-0-0

Finance Committee recommends favorable action: 6-0-0

***Finance Committee Recommendation: It is in the interest of the Town to have all Constables subject to the same rules, particularly with regard to background checks and references. There is no need to have one Constable elected and exempted from reasonable requirements. This article should be approved.***

## ARTICLE – 16 ROAD COMMISSIONERS

To see if the Town will vote to petition the General Court for special legislation to rescind Wareham Charter Section 3-9 “Board of Road Commissioners”, with the terms of the Road Commissioners to expire upon adoption, thereby returning the authority of the Road Commission to the Select Board, or take any other action relative thereto.

### EXPLANATION:

This would dissolve the Board of Road Commissioners and require the Select Board to perform duties currently handled by the Board.

Inserted by the Select Board at the request of the Select Board

Select Board recommends favorable action: 4-0-0

Finance Committee recommends favorable action: 6-0-0

***Finance Committee Recommendation: This change will make the processes now handled by the Road Commissioners more efficient. It will also free up the ex officio members (Planning Director, Police Chief, and Director of Municipal Maintenance) to perform their other duties. This article should be approved.***

## ARTICLE – 17 MGL 41 SECTION 110A: SATURDAY OFFICE HOURS

To see if the Town will vote to accept Massachusetts General laws Chapter 41 Section 110A: Office hours on Saturday

Section 110A. Any public office in any city or town may remain closed on any or all Saturdays as may be determined from time to time, in a city by the city council, subject to the provisions of the city charter, or, in a town, by vote of the town at a special or regular town meeting, and the provisions of section nine of chapter four shall apply in the case of such closing of any such office on any Saturday to the same extent as if such Saturday were a legal holiday.

### EXPLANATION:

Under State law, any public office may remain closed on any or all Saturdays the same as if it were a legal holiday. If accepted, Saturday is treated as a holiday and Town offices are not open for Town elections. The Town accepted the provisions of MGL 41 Section 110 on 11/3/1914 (Saturday Half Holiday).

Inserted by the Select Board at the request of the Town Clerk

Select Board recommends favorable action: 4-0-0

Finance Committee recommends favorable action: 7-0-0

***Finance Committee Recommendation: This change would only impact Town elections. Saturday hours could still be necessary for state and federal elections. The change should be approved.***

## **ARTICLE – 18 DELETE ZONING BYLAW SECTION 1216.9**

To see if the Town will vote to amend the Wareham Zoning Bylaw to DELETE Section 1216.9, which exempts Special Permit projects from all of the criteria of the Zoning By-Laws found in Article 12. This would make all Special Permit projects have to conform to Article 12 standards; or to do or act in any manner relative thereto.

### **EXPLANATION:**

Article 12 of the Zoning By-laws provides performance standards relative to land development including regulation of land clearing, erosion protection, control of storm water runoff, etc. all of which are critical to protect the health, safety and property of the Town and its residents. Section 1216.9 currently exempts most projects that require a Special Permit from these performance standards. By deleting this section, these standards will now be applied to projects requiring a Special Permit.

Inserted by the Select Board at the request of the Planning Board

Select Board recommends favorable action: 4-0-0

Finance Committee recommends favorable action: 6-0-0

***Finance Committee Recommendation: This amendment to Article 12 will ensure that projects requiring a Special Permit abide by the Article 12 standards which will help preserve existing trees and forests, protect the water quality of our fragile ecosystems, and otherwise encourage best management practices in land development.***

## **ARTICLE – 19 AMEND ZONING BYLAWS ARTICLE 16**

To see if Town Meeting will vote to amend the Zoning By-Laws, Article 16 to include the following changes:

Change the dictionary reference to “The Merriam-Webster Dictionary, current edition”

Add “ACCESSORY STRUCTURE: A structure that is accessory to and incidental to that of the principle structure and that is located on the same lot.

Add “APPLICANT: An Owner or the Owner’s agent or representative who submits an application, petition, appeal or request to the Zoning Board of Appeals, Planning Board or Select Board in their capacity as a Permit Granting Authority under the By-laws. The term “Applicant” shall also mean a petitioner or appellant under the By-laws.”

Add “ASSISTED LIVING FACILITY: A facility licensed by the State that provides housing and services for individuals who cannot or choose not to live independently.”.

Add “BY-LAWS: The Town of Wareham Zoning By-Laws and applicable Rules and Regulations, including any amendments or modifications.”

Add “COTTAGE: A small frame, one-family dwelling.”

Under DWELLING UNIT, SEASONAL change “Building” to “Inspectional Services”

Add “ELDERLY OR SENIOR HOUSING: Congregate housing units principally for persons 55 years or older. May have common areas and dining services, and may have medical services, but is not an assisted living facility for those people who cannot or choose not to live independently.”

Add to the term FLOOR AREA, GROSS “OR TOTAL”

Add “GENERAL LAWS: The General Laws of the Commonwealth, including all applicable amendments and revisions to the corresponding chapters and sections of any recodification or rearrangement of statutes adopted subsequent to the adoption of the By-laws.”.

Add “ PERMIT GRANTING AUTHORITY: The Select Board, Zoning Board of Appeals or Planning Board, as the case maybe for those uses or purposes prescribed in the By-laws including but not limited to those under Articles 3, 5 and 15 of the By-laws.”

Add “ RULES AND REGULATIONS: Rules and Regulations including any additions or modifications issued by the applicable Zoning Board of Appeals, Planning Board or Select Board for the administration of their respective powers under the By-laws including the conduct of its business and otherwise carrying out the purposes of the General Laws.”

Add “SITE PLAN REVIEW AUTHORITY: The Zoning Board of Appeals or Planning Board as the case may be, designated by the By-laws to conduct site plan review.”

Add “SPECIAL PERMIT GRANTING AUTHORITY: The Select Board, Zoning Board of Appeals or Planning Board as the case may be, designated by the By-laws and of the General Laws for the issuance of special permits.”.

Under STRUCTURE, add “dock” to list of typical structures

Add “TOWN: The Town of Wareham”

Add “TOWN BY-LAWS The Town of Wareham By-laws”

Or to do or act in any matter relative thereto.

Inserted by the Select Board at the request of the Planning Board

EXPLANATION: Article 16 of the Zoning Bylaws provides a list of defined terms commonly appearing in the Zoning Bylaws. This amendment would add additional defined terms reflecting recent changes to the Bylaws or other common terms that have not previously been defined.

The Select Board recommends favorable action: 4-0-0

The Finance Committee recommends favorable action: 6-0-0

***Finance Committee Recommendation: This amendment to Article 16 will provide additional clarity to the Zoning Bylaws to better assist applicants seeking relief or permits for land development and the applicable Boards and/or Town officials involved in the process.***



**ARTICLE – 20 UPDATE ZONING BYLAWS ARTICLE 3**

To see if the Town will vote to amend the Wareham Zoning Bylaw to update Section 320 TABLE OF PRINCIPAL USE REGULATIONS, Section 330 TABLE OF ACCESSORY USE REGULATIONS, and Section 340 USE DEFINITIONS as shown below:

Change Section 320 Section 321 PROVISIONS FOR TABLES OF USES AND USE DEFINITIONS

Change the Use Designation abbreviation for the \* designation to correct the reference from “see Section 390” to correctly read “see Section 380” as follows :

\* The use is subject to special conditions in certain districts, see Section 380.

Change the Use Designation abbreviations for the ‡ designation to add the word “and” between Site Plan Review – Special Permit as follows:

‡ Residential subdivisions on 30 acres or greater are subject to Site Plan Review and Special Permit (Article 15)

Change Section 320 Table of Principal Uses:

Change the designations in the Row for Large-Scale Ground-Mounted Solar Photovoltaic Installations as follows:

PRINCIPAL USE	R130	R60	R43	R30	MR30	WV1	WV2	WV1R
Large-Scale Ground-Mounted Solar Photovoltaic Installations-	SPR, SPP-	SPR, SPP-	N-	N-	N-	N-	N-	N-

PRINCIPAL USE	OV1	OV2	CS	CG	CP	CNF	MAR	INS	IND
Large-Scale Ground-Mounted Solar Photovoltaic Installations-	N-	N-	SPR, SPP-	SPR, SPP-	SPR, SPP-	SPR, SPP-	N-	N-	N-

Change the heading in the “CNF” column to correctly read “CR”.

Change Section 340 USE DEFINITIONS Section 340.2 ANIMAL RELATED USES as follows:  
Change Animal Kennels

From  
Harboring and/or care of more than three dogs for three or more months per year.

To  
Animal Kennel, commercial – a commercial establishment in which (3) three or more dogs or domesticated animals are housed, groomed, bred, boarded, trained, or sold

Change Section 340 USE DEFINITIONS Section 340.5 EDUCATIONAL AND INSTITUTIONAL USES as follows:

Add Municipal Use  
Use of any building, facilities and/or area owned or operated by the Town of Wareham (Town) for the (1) general use and welfare of the Town, its inhabitants or businesses located in the Town or (2) emergency vehicular or pedestrian access over land owned by the Town.

Add Educational Uses, Nonexempt

Educational facilities not exempt from regulation by Ch. 40A, section 3 of the General Laws.

Add Membership Club

Buildings, structures and premises used by a nonprofit social or civic organization or by an organization catering exclusively to members and their guests for social, civic recreational or athletic purposes which are not conducted primarily for gain and provided that there are no vending stands, merchandising or commercial activities except as may be required for membership purposes for such organization.

Change Section 340 USE DEFINITIONS Section 340.6 COMMERCIAL USES as follows:

Banks

Change from:

A freestanding building, with or without a drive-up window, for the custody, loan, or exchange of money; for the extension of credit; and for facilitating the transmission of funds.

To:

A freestanding building, with or without a drive-up window and/or Automated Teller Machine (ATM), for the custody, loan, or exchange of money; for the extension of credit; and for facilitating the transmission of funds.

Change Section 340 USE DEFINITIONS Section 340.7 MARINE USES as follows:

Marinas

Change from: Premises used for wharves, docking, boat liveries, boat yards, yacht clubs, sale of boats and other marine equipment but not including the processing or sale of fish. Indoor marina facilities shall include restaurants, social clubs, and other membership organizations, whether including or not including the serving of alcoholic beverages.

To:

Premises used for wharves, docking, boat liveries, boat yards, boat storage, yacht clubs, sale of boats and other marine equipment but not including the processing or sale of fish. Indoor marina facilities shall include restaurants, social clubs, and other membership organizations, whether including or not including the serving of alcoholic beverages.

Change Section 340 USE DEFINITIONS Section 340.8 UTILITY as follows:

Add

Large-Scale Ground-Mounted Solar Photovoltaic Installation

A solar photovoltaic system that is structurally mounted on the ground and has a minimum Rated Nameplate Capacity of 250 kW DC.

or to do or act in any manner relative thereto.

EXPLANATION:

Article 3 of the Zoning Bylaws indicates the types of uses and accessory uses permitted in various zoning districts, the type of permits required to be obtained for such uses, and definitions of various uses. This amendment to Article 3 corrects clerical errors, adds additional definitions of permitted uses and clarifies the requirement to obtain a Special Permit and Site Plan Review for certain projects including large solar projects.

Inserted by the Select Board at the request of the Planning Board

The Select Board recommends favorable action: 4-0-0

The Finance Committee recommends favorable action: 6-0-0

***Finance Committee Recommendation: This amendment to Article 3 will provide additional clarity as to permitted uses and remove ambiguity as to the types of permits required to undertake land development for certain uses. It should be approved.***

**ARTICLE – 21 ZONING BYLAW ARTICLE 14 CLARIFICATION**

To see if the Town will vote to amend Article 14 of the Zoning By-Law ADMINISTRATION to clarify the administrative process for land use permitting, as shown below:

ARTICLE:

ZONING ADMINISTRATION and ENFORCEMENT

1410 ZONING ADMINISTRATION

1411 Project Review Fees

Fees for the employment of outside consultants selected by a Permit Granting Authority in connection with the review of an application for a Land Use Permit under the By-Laws may be collected from the Applicant and administered subject to and as provided in the applicable Rules and Regulations and Ch. 44, Section 53G of the General Laws. The selection of the consultant shall be in the sole discretion of the Permit Granting Authority.

1412 Land Use - Performance Guaranty

1412.1 Requirements

The Permit Granting Authority as a condition for granting a Special Permit and/or approval of a Site Plan or approval of a Subdivision may require that the faithful and satisfactory construction of all proposed improvements, performance of all conditions and observance of all safeguards in accordance with such grant or approval be secured by a performance guaranty in situations it deems appropriate.

1412.2 Amount of Performance Guarantee

The Permit Granting Authority shall determine the amount of the performance guarantee as set forth in the applicable Rules and Regulations which shall be secured by one, or in part by the other of the methods described below:

1. Cash bond or deposit: By a proper bond or a deposit of money or negotiable securities or letter of credit, sufficient in the opinion of the Permit Granting Authority to secure compliance with the construction requirements, conditions and safeguards included in the Special Permit and/or Site Plan Review or Subdivision. Bond sureties shall be qualified to do business in the Commonwealth of Massachusetts.
2. Covenant (Subdivisions): By covenant running with the land, executed and duly recorded by the Owner of record, whereby the construction requirements, conditions and safeguards included

in the Subdivision approval shall be performed before any Lot may be conveyed other than by a mortgage deed. Nothing herein shall be deemed to prohibit a conveyance of a single deed subject to such covenant of the entire parcel of land, the development of which is governed by such Subdivision approval.

#### 1412.3 Reduction of Security

Until completion and submittal of the final Project Completion Certification as provided in this Article, the sum of any security held may, from time to time be reduced by the Permit Granting Authority by an amount not to exceed fifty percent (50%) of the value of the work originally estimated.

#### 1412.4 Release of Security

Upon the satisfactory completion of the work under the Special Permit and/or Site Plan Review or Subdivision, security or performance of which was given, the Applicant shall send by registered mail to the Authority, a sworn affidavit that the construction, conditions and safeguards in connection with such security given have been complied with by the Applicant and a final Project Completion Certification as provided in this Article of the By-Laws.

If the Permit Granting Authority determines that the construction, conditions and safeguards included in the grant or approval in connection with such security have been complied with by the Applicant, the Permit Granting Authority shall release the interest of the Town in such security, return or release the security to the person who furnished the same or release the covenant by the appropriate instrument, duly acknowledged.

If the Permit Granting Authority determines that the construction, conditions and safeguards included in the grant or approval in connection with such security have not been complied with by the Applicant, the Permit Granting Authority shall specify the construction, conditions or safeguards included in the grant or approval with which the Applicant has not complied in a notice sent by registered mail to the Applicant.

#### 1412.5 Failure to Notify Applicant

If the Permit Granting Authority fails to send such a notice within sixty (60) days after it receives the affidavit of the Applicant, all obligations under the security shall cease and terminate, any deposit shall be returned and any such covenant shall be void.

#### 1412.6 Applicant's Failure to Complete Work

Upon failure of the Applicant to deliver a Project Completion Certification and to complete all work in connection with the project in accordance with the grant or approval to the satisfaction of the Permit Granting Authority and in accordance with the By-laws and Rules and Regulations, the Town shall be entitled to enforce such bond or to realize upon such securities to the extent necessary to complete all such work without delay.

#### 1413 Project Completion Certification

An Applicant shall, upon completion of all work authorized under a Special Permit and/or Site Plan Review or Subdivision approval under this Article, other applicable provisions of the By-laws and applicable Rules and Regulations and prior to obtaining an occupancy permit deliver a Project Completion Certification by undertaking the following:

##### 1. "As-Built" Plan

File two copies of the "as built" plan and electronic copies of the same with the Planning and Community Development Office and the Permit Granting Authority. Such plan shall be certified and signed by a professional engineer and shall show, as actually constructed, all underground public and private utility lines including details of Structures and appurtenances where appropriate, all service connections and ties to same, site elevations, grades and slopes, utility invert elevations and pipe slopes, all parking requirements, curbing, and any other pertinent data relative to the grant or approval.

##### 2. Professional Certification

Provide a written certification from a professional engineer licensed by the Commonwealth of Massachusetts that the project complies with the requirement of the grant or approval, the By-laws and the applicable Rules and Regulations

#### Project Approval

Within thirty (30) days of the submission of the Project Completion Certification, the Permit Granting Authority shall approve the project or submit their recommendation regarding project completion to the Planning and Community Development Office and the Zoning Enforcement Officer.

#### Changes or Improvements

The Applicant shall make any changes and construct or install any improvements required by the Permit Granting Authority to the satisfaction of the Zoning Enforcement Officer and issue a final Project Completion Certification reflecting such changes, construction or installations required by the Permit Granting Authority.

#### Recordation of Project Completion Certification

The Applicant shall promptly record the final Project Completion Certification with the Plymouth County Registry of Deeds and provide proof of recording to the Permit Granting Authority.

#### 1420 APPEALS

##### 1421 Administrative Appeal to Zoning Board of Appeals

The Zoning Board of Appeals (hereinafter "ZBA") shall hear administrative appeals by parties aggrieved by the decision of or failure to act by the Permit Granting Authority including an inability to obtain a permit or enforcement action by the same or by an order or decision of the Building Commissioner or other administrative officer of the Town whether or not previously a party to the proceeding. Such appeals shall be made in accordance with the provisions of Ch. 40A of the General Laws.

##### 1422 Basis of Appeal

An administrative appeal to the ZBA may be taken by any one of the following parties:

1. A person aggrieved by reason of the inability to obtain a permit or enforcement action from a Permit Granting Authority or an administrative officer under the provisions of the By-laws or Ch. 40A, Section 8 of the General Laws
2. A person, including an officer or board of the Town or of any abutting town, aggrieved by an order or decision of the Town Building Commissioner or other administrative officer, in violation of provisions of the By-laws or Ch. 40A, Section 8 of the General Laws

##### 1422.1 Deadline to initiate an appeal; procedure

An appeal shall be initiated within thirty (30) days of the date of the order or decision, by filing a notice of appeal, specifying the grounds thereof, with the Town Clerk, the hearing, record and decision on which shall be in accordance with Ch. 40A, Section 15 of the General Laws.

##### 1422.2 Further Appeals

###### Appealable decisions

Any person aggrieved by a decision of the ZBA, whether or not previously a party to the proceeding or any municipal officer or board or otherwise as provided in Ch. 40A, Section 17 of the General Laws, may appeal to the Superior Court or Land Court or other court as applicable in accordance with the aforesaid Ch. 40A, Section 17.

##### 1422.3 Appeal Process

The appellant shall file a notice of appeal, specifying the grounds thereof, with the Town Clerk in accordance with the provisions of Ch. 40A, Section 17 of the General Laws. The appeal shall be filed within twenty (20) days of the date that the decision is filed with the Town Clerk.

### 1430 Repetitive Appeal or Application – Final Unfavorable Decision

#### 1430.1 Three (3) year restriction

No appeal, application or petition for a Land Use Permit that has been unfavorably and finally acted upon by the respective Permit Granting Authority shall be acted favorably upon by the respective board for a period of three (3) years after the date of final unfavorable action unless upon a properly noticed public hearing, both of the following two conditions are met:

1. All but one member of the Permit Granting Authority shall vote their consent to the refiling of the subject appeal, application or petition within the three (3) year period
2. The applicable Permit Granting Authority finds that there are specific and material changes in the conditions upon which the previous unfavorable action was based and describe those changes in its record of the meeting

#### 1430.2 Procedure

Actions of parties involved in a repetitive petition or application process shall be taken in accordance with Ch. 40A, Section 16 of the General Laws and include notice to the parties in interest as to the time and place of the hearing when the question of such consent will be considered.

### 1440 PROJECT ADMINISTRATION

#### 1441 Site Preparation

##### 1441.1 Purpose

It is the intent of the By-laws to promote the health, safety and welfare of the community's inhabitants by preventing the unnecessary destruction of the natural physical environment. Therefore, in all Districts, no site preparation work shall begin, including the removal of trees, except for purposes of soil testing to obtain required permits, for any project which requires one or more Land Use Permits under the By-Laws until such has been obtained

#### 1442 Site Inspection Program

##### 1442.1 Purpose and authority

All approved land Use applications shall be subject to site inspections. The Permit Granting Authority is responsible for the administration, management and implementation of the site inspection process. The Permit Granting Authority shall adopt Rules and Regulations to implement the site inspection program, including fees required to offset the cost of the inspection services which shall be the responsibility of the Applicant.

##### 1442.2 Site inspections

Site Inspections include, but are not limited to, daily field inspections, field reports, field tests, laboratory work, meetings, conferences and related professional inspection and/or coordination services by the Permit Granting Authority or its representative(s). As a condition of a permit issued under the By-laws, the Applicant shall provide the Town with a "Site Access Certificate" specifying that the Permit Granting Authority and its representative will have unlimited access to the Applicant's land and property for the purpose of inspecting the sitework.

#### 1443 Certificate of Occupancy

No Certificate of Occupancy shall be issued for any Building, Structure or Use, or portion(s) thereof, subject to a Land Use Permit until all of the following requirements have been met:

1. The Building Commissioner or designated Town engineer receives certification from a registered architect, engineer or land surveyor, that all construction (including utilities) has been completed in accordance with the approved Land Use Permit
2. The Building Commissioner and the designated Town engineer verifies that all conditions of the approved Land Use Permit have been met
3. The Building Commissioner and/or the Director of Planning confirms with the Permit Granting Authority, at a regularly scheduled meeting of that Board, that all conditions of the

approved Land Use Permit have been met. Such notification shall be recorded in the minutes of the Permit Granting Authority.

1450 ENFORCEMENT AND VIOLATION

1451 Zoning Enforcement Officer

The Town Building Commissioner shall be the Zoning Enforcement Officer pursuant to Ch. 40A, Section 7 of the General Laws and shall be charged with the enforcement of the Town By-laws, these By-Laws, including any applicable Rules and Regulations issued relative thereto and other applicable laws, codes or regulations. The Zoning Enforcement Officer shall withhold a permit for the construction, alteration or moving of any Building or Structure if the Building or Structure as constructed, altered or moved would be in violation of any provision of the By-laws or applicable Rules and Regulations.

The Zoning Enforcement Officer shall not approve applications of any kind or plans or specifications or intended Uses, which are not in conformity in all respects with the By-laws and applicable Rules and Regulations. No permit or license shall be granted for a new Use of a Building, Structure or land which Use would be in violation of the By-laws or applicable Rules and Regulations. The Zoning Enforcement Officer may from time to time delegate administrative duties under this Article such as conducting inspections, investigations of complaints, assessments, etc. to the Zoning Enforcement Officer's staff and agents including but not limited to engineers and other professionals engaged by the Town.

1452 Enforcement

If the Zoning Enforcement Officer has reason to believe that a provision of the Town By-laws, these By-laws or any applicable Rule or Regulation, any applicable government laws, codes or regulation or any approval, permit, plan, decision or certificate issued thereunder, including any conditions under which it has been issued, has been or is being violated the Zoning Enforcement Officer shall upon such officer's own initiative or upon written complaint of a citizen or Owner of property within the Town make or cause to be made an investigation of the facts, including the inspection of the premises where the violations may exist, and if a violation is found, immediate notice shall be given by the Zoning Enforcement Officer in writing to the Owner or duly authorized agent and the occupants of the premises.

Violations shall include but not be limited to the erection, construction, reconstruction, conversion, and alteration of a Building, Structure or change in Use, increase in intensity, or extension or displacement of Use.

1453 Notice of Violation and Order

If after notice, such violation, the Zoning Enforcement Officer shall institute any appropriate action or proceedings in the name of the Town to prevent, restrain or abate any violations of the By-laws by service of a notice of VIOLATION AND ORDER as provided in Ch. 40A, Section 7 of the General Laws on any Owner or person so responsible for such violation. Such order shall direct the immediate discontinuance of the unlawful action, Use or condition and the abatement of the violation. Any Owner or person so responsible for such violation who has been served with a notice and ceases any work or other activity shall leave the Building, Structure or lot in such condition as not to be or create a hazard or menace to the public safety, health, morals or general welfare.

1454 Prosecution of Violation

If the notice of VIOLATION AND ORDER is not complied with promptly, the Select Board may institute the appropriate action or proceeding at law or equity to prevent any unlawful action, Use or condition and to restrain, correct, or abate such violation.

1460 PENALTIES FOR VIOLATION

1461 Fines

Any person, firm or corporation violating any of the provisions of the By-Law or applicable Rules and Regulations shall be liable for a fine of not more than three hundred dollars (\$300.00) or such higher amount as provided in Ch. 40, Section 21 for each violation. Each day that a violation continues shall constitute a separate offense.

1462 Criminal and Non-Criminal Disposition

Any violation may be enforced by criminal complaint brought in the manner provided in Ch. 40, Sections 21 of the General Laws or alternatively by a noncriminal complaint brought in the manner provided in Ch. 40, Section 21D of the General Laws and otherwise as set forth in the Town By-laws.

or to do or act in any manner relative thereto.

EXPLANATION:

The amendment to Article 14 clarifies and, in certain instances, consolidates zoning administration provisions drawn primarily from Article 15 of the zoning bylaws, including performance guaranty, imposition of project review fees, appeal of adverse action, enforcement of the Zoning bylaws, and penalties for violation.

Inserted by the Select Board at the request of the Planning Board

The Select Board recommends favorable action: 4-0-0

The Finance Committee recommends favorable action: 6-0-0

***Finance Committee Recommendation: This amendment to Article 14 will clarify the administration of land use permits including site work under a permit, security for completion of all permit requirements and explain the role of the Zoning Enforcement Officer in enforcing the Zoning Bylaws. It should be approved.***

**ARTICLE – 22 ZONING BYLAW ARTICLE 15 LAND USE PERMIT CLARIFICATION**

To see if the Town will vote to amend Article 15 of the Zoning By-Law SITE PLAN REVIEW to clarify the regulations, standards, criteria, and other provisions for granting Land Use Permits, as shown below:

**ARTICLE 15: LAND USE PERMITS PERMITTING REQUIREMENTS**

**1510 GENERAL**

**1511 Introduction**

This Article is adopted to promote the general welfare of the Town by encouraging the most appropriate use of land throughout the Town, to protect the health and safety of its inhabitants and to increase the amenities of the Town by defining the regulations, standards, criteria, and other provisions for granting Land Use Permits within the Town all as authorized by, but not limited by the provisions of The Zoning Act, Ch. 40A of the General Laws.

**1512 Applicability**

Land Use in the Town may be permitted as provided in Article 3 and other provisions of the By-laws by:

1. Right
2. Right subject to Site Plan Review
3. Waiver
4. Special Permit



5. Special Permit/Site Plan Review

6. Variance

7. A combination thereof

1513 Definitions

All capitalized terms used in this Article shall have the meaning ascribed to them in Article 16 or elsewhere in the By-laws.

1520 Boards

1521 Land Use Permit Reviewing and Granting Entities

1521.1 Planning Board

Establishment and Composition

There shall be a Planning Board (hereinafter “WPB”) consisting of five (5) members, all residents of the Town, appointed by the Select Board (hereinafter “WSB”) under the provisions of Ch. 41, Section 81A of the General Laws which shall act on all matters within its jurisdiction under the By-laws and in the manner prescribed in said Ch. 41 of the General Laws. The Select Board shall have the authority to appoint one (1) associate member.

Powers

The WPB shall have and exercise all the powers granted to it by Ch. 40A and 41 of the General Laws and the By-laws, subject to any general or specific rules therein contained and subject to any appropriate conditions and safeguards imposed by the WPB. The powers of the WPB include:

1. To hear and decide as the Special Permit Granting Authority, applications for Residential Cluster Developments, Large Ground-Mounted Solar Photovoltaic Installations and for such other Uses as are provided in Article 3, Article 12, this Article and other provisions of the By-laws or the General Laws
2. To review and decide applications for ANR plans
3. To hear and decide as the Permit Granting Authority, applications for Sub-Division approval
4. To hear and decide as the Site Plan Review Authority, applications for Site Plan Review as provided in Article 3, this Article and elsewhere in the By-laws

Rules and Regulations

The WPB shall adopt Rules and Regulations not inconsistent with the provisions of the By-laws for the administration of its powers including the conduct of its business and otherwise carrying out the purposes of the By-laws, said Ch.’s 40A, 41 and other applicable provisions of the General Laws. A copy of such Rules and Regulations is filed in the office of the Town Clerk and posted on the Town Website.

Fees

The WPB may impose reasonable administrative fees and technical review fees for review of any Land Use Permit application received by it.

1521.2 Zoning Board of Appeals

Establishment and Composition

There shall be a Zoning Board of Appeals (hereinafter “ZBA”) consisting of five (5) members and three (3) associate members, all residents of the Town, appointed by the WSB under the provisions of Ch. 40A, Section 12 of the General Laws which shall act on all matters within its jurisdiction under the By-laws and in the manner prescribed in said Ch. 40A and other provisions of the General Laws.

Powers

The ZBA shall have and exercise all the powers granted to it by Ch.’s 40A, 40B and 41 of the General Laws and the By-laws subject to any general or specific rules therein contained and subject to any appropriate conditions and safeguards imposed by the ZBA. The powers of the ZBA include:

1. To hear and decide as the Special Permit Granting Authority applications for Special Permits for those Uses provided in the By-laws including Article 3, Article 13 and this Article and Ch. 40A, Section 9 of the General Laws including applications for all changes, Alterations, or extensions of a Non-Conforming Structure, Lot or Use, except where the WPB or WSB is specifically designated as the Special Permit Granting Authority by the By-laws.
2. To hear and decide as the Permit Granting Authority, appeals or petitions for Variances from the terms of the By-laws with respect to particular Uses, land or Structures including issuance and modification of Use Variances as set forth in Ch. 40A, Section 10 of the General Laws.
3. To hear and decide as the Permit Granting Authority, applications for comprehensive permits for construction of low- or moderate-income housing as set forth in Ch. 40B, Sections 20-23 of the General Laws.
4. To hear and decide appeals taken by any person aggrieved by reason of the inability to obtain a permit or enforcement action from any administrative officer or board under the provisions of Ch. 40A, Sections 8 and 15 of the General Laws.

#### Rules and Regulations

The ZBA shall adopt Rules and Regulations not inconsistent with the provisions of the By-laws for the administration of its powers including the conduct of its business and otherwise carrying out the purposes of the By-laws, said Ch's. 40A, 40B, 41A and other applicable provisions of the General Laws. A copy of such Rules and Regulations is filed in the office of the Town Clerk and posted on the Town Website.

#### Fees

The ZBA may impose reasonable administrative fees and technical review fees for review of any Land Use Permit application received by it.

#### 1521.3 Select Board

The WSB shall be the Special Permit Granting Authority for the properties or Uses designated in:

1. The By-laws, including for properties or Uses in the Tremont Nail Factory Overlay District
2. The Town By-laws or
3. Ch. 40A, Section 9 of the General Laws

#### 1522 Other Reviewing Entities

##### 1522.1 Design Review Board

A Design Review Board may be established by the Planning and Development Office or WPB to provide preliminary design review services to the Permit Granting Authority for projects subject to design review under the By-Laws.

#### 1530 Determination of Required Land Use Permits

##### 1531 Applicability

The provisions of this Article of the By-laws shall not interfere with or annul any other provisions of the By-laws, applicable Rules or Regulations, or any permit, except that, where this Article imposes a greater restriction or limitation on the Use of Buildings, Structures, or premises than is imposed by existing provisions of the By-laws or General Laws, this Article of the By-laws shall control.

##### 1532 Zoning Conformance Review

The Building Commissioner shall determine the applicable Land Use Permits required to obtain a Building Permit for any project subject to the By-laws. An Applicant seeking Land Use Permit(s) shall first submit an application for a Building permit to the Building Commissioner who shall conduct a zoning conformance review to determine the applicable Land Use Permits with reference to Article 3 and other applicable provisions of the By-laws, the General Laws or other governmental laws, codes and regulations. The Applicant promptly shall submit such additional information as the Building Inspector shall reasonably require.

Upon completion of such review, the Building Commissioner shall issue a “Letter of Denial” listing the requirements for zoning compliance including, but not limited to required Land Use Permits. A copy of the “Letter of Denial” shall be included with the Land Use Permit application and provided to the appropriate Permit Granting Authority.

An Applicant for any Land Use Permit shall meet with the Planning and Community Development Office to complete a preliminary project review including preliminary design review if required under the By-Laws prior to submitting a Land Use Permit application to the permit Granting Authority.

#### 1533 Application for Land Use Permit

An Applicant for a Land Use Permit shall submit a complete application to the Permit Granting Authority using the form and including the required information and documents in support of the application as described in the Rules and Regulations of the Permit Granting Authority. An application will not be deemed complete unless and until all such information and documents are received by the Permit Granting Authority. The Permit Granting Authority may, in the course of review of an application for such permit request any additional information it may reasonable require.

#### 1534 Order of Applications for Land Use Permits

##### 1534.1 Relationship to Site Plan Review

Whenever a Use or Structure requires a Special Permit and Site Plan Review pursuant to the requirements of the By-laws, an application for Site Plan Review shall be made simultaneously to the Special Permit Granting Authority.

##### 1534.2 Relationship to Variance

Whenever a Use or Structure requires a Variance for Use or dimension pursuant to the requirements of the By-laws and the resulting Use or Structure also requires license approval from the WSB acting in their capacity as the Select Board and/or in other licensing capacities as the Local Licensing Authority, application shall be made first or simultaneously to the WSB for license approval.

##### 1534.3 Relationship to Special Permit

Whenever a Use or Structure requires a Special Permit pursuant to the requirements of the By-laws and the resulting Use also requires license approval from the WSB acting in their capacity as the Select Board and/or in other licensing capacities as the Local Licensing Authority, application shall be made first or simultaneously to the WSB for license approval.

#### 1540 TYPES OF PROJECTS

##### 1541 Approval Not Required (ANR) Plans

###### 1541.1 Purpose

Ch. 41, Sections 81L- 81P of the Subdivision Control Law contained in the General Laws provides for plans that do not require WPB approval, also known as Approval Not Required (ANR) plans.

###### 1541.2 Criteria

In order for a plan to be eligible for ANR treatment, it must meet Frontage requirements of the By-laws, and provide direct access to the Lot(s) by means of one of the following:

1. A public way or a way that is accepted, used and maintained as a public way
2. A way shown on an approved plan in accordance with the Subdivision Control Law
3. A way in existence when the Subdivision Control Law took effect in the Town and is suitable for the proposed Use of the Lot(s)

###### 1541.3 Procedure

An Applicant should refer to the Subdivision Rules and Regulations of the WPB, the By-laws and Ch. 41, Sections 81L-81P of the General Laws for further information as to the process, procedures and requirements relative to qualification as an ANR plan.

## 1542 Subdivisions

### 1542.1 Purpose

Ch. 41, Sections 81K-81GG of the General Laws known as the Subdivision Control Law was enacted to protect the safety, convenience and welfare of the inhabitants of cities and town by regulating the laying out and construction of ways which are not yet public roads in a proposed subdivision to ensure suitable access to the Lot(s) in the subdivision and adequate access to utilities including water and sewer and in proper cases parks and open space. No person and/or Owner shall make a subdivision of land unless and until first submitting an application and plan to the WPB for its review and approval. Under the Subdivision Control Law, the WPB has authority over creation of Lots as well as the Design and construction of roads, utilities, and drainage servicing the Lots. The WPB has adopted Subdivision Rules and Regulations to fulfill the purpose of the Subdivision Control Law setting forth the process, procedure and requirements for subdivision approval and which have been duly certified by the Town Clerk, are on file with that office and posted on the Town Website.

### 1542.2 Review procedure

The WPB shall:

1. Determine whether a plan requires approval under the Subdivision Control Law
2. Review and approve or disapprove all preliminary and definitive subdivision plans
3. Hold a properly noticed public hearing to review a definitive plan <sup>[SEP]</sup>
4. Obtain performance guaranty
5. Release Lot(s) upon request
6. Advise the ZBA on comprehensive permits that are subdivisions
7. In their sole discretion, grant a waiver of one or more conditions in connection with such subdivision.

### 1543 Pre-Existing Non-Conforming Uses and Structures

The ZBA shall hear and decide applications for all changes or Alterations to or extensions of pre-existing non-conforming Uses, Lots and Structures as the Special Permit Granting Authority. A determination shall be issued in accordance with the standards of Article 13 and other applicable provisions of the By-laws.

## 1550 LAND USE PERMIT REVIEW

### 1551 Design Review

#### 1551.1 Purpose

The purpose of design review is to preserve and enhance the cultural, economic and historical resources of the Town by providing a detailed design review to confirm the consistency of a submitted design with the Master Plan of the Town, applicable Design Guidelines, Rules and Regulations, the By-laws, and the exterior appearance of Building(s) and sites.

#### 1551.2 Uses and Activities Subject to Design Review

The following Uses and activities under the By-laws shall be subject to design review:

1. Requests for Site Plan Review or Special Permit within the WV-1R District are subject to the Design Guidelines and Performance Standards for that District filed with the Town Clerk and posted on the Town website
2. Requests for Special Permit/Site Plan Review of Large Ground-Mounted Photovoltaic Solar Installations are subject to those Design Guidelines and Performance Standards for that Use as provided in the Planning Board's Rules and Regulations.
3. Any construction, Alteration, demolition or removal of a Structure, other than any construction, Alteration, demolition or removal of a 1-Family residence which does not change the 1-Family Use of the Structure or site are subject to those Design Guidelines and Performance Standards for that Use as provided in the Planning Board's Rules and Regulations. This includes all actions except those that are considered to be routine maintenance.

### 1551.3 Design Process

#### Preliminary Design Review

The Design Review Board established under this Article of the By-laws or, if not established, the Planning and Development Office or WPB acting as the Design Review Board, shall conduct preliminary design review of all projects subject to design review under the By-Laws.

Preliminary design review shall be completed prior to submittal of the Land Use application to the Permit Granting Authority by the Applicant. A written report with the results of the preliminary design review including all recommendations shall accompany the application submitted to the Permit Granting Authority.

#### Drawings

An Applicant subject to design review under the By-laws shall provide a set of drawings of the project to the Permit Granting Authority which shall accompany the application for a Land Use Permit under this Article and shall demonstrate compliance with the applicable Design Guidelines and Performance Standards. At a minimum, the drawings shall include, but not be limited to, the following:

1. Proposed Building(s)
2. Neighboring Buildings
3. Property lines
4. Proposed topography modeled at intervals appropriate to describe the land;
5. Location and dimensions of drives, parking areas, walks and paths
6. Location and characteristics of any common open space, usable Open Space or natural Open Space
7. Proposed landscaping
8. Public Streets and roadways
9. Any other significant facilities or Structures deemed appropriate by the Permit Granting Authority
10. A legend that explains the design principles employed in designing the site

The drawings shall accurately reflect the Applicant's proposal and be of sufficient detail to clearly illustrate the nature of the site, the materials used and the Building. The drawings shall be rendered at a scale appropriate to clearly illustrate the proposed project.

### 1551.4 Open Space Design

The design of new or altered Buildings shall insure that valuable Open Space within the Town, when feasible is provided, and that existing Open Space is preserved, protected, left undeveloped and otherwise enhanced. Projects shall be consistent with the Town's Master Plan, Open Space and Recreation Plan, the By-laws and otherwise expressed Open Space goals, policies, objectives and plans.

#### Statement of principles

1. Provide public access to water ways and coastal areas
2. Provide enjoyable and usable private and public Open Space that will add to the amenities of the Town
3. Development or redevelopment shall when feasible provide public and/or private Open Space and enhance adjacent open spaces
4. The scale, proportions, setbacks, height, and roof slopes of proposed Buildings shall be compatible with existing or newly created Open Space
5. Existing landscaping and landforms shall be incorporated into project design and used to the greatest advantage of the design
6. When possible small parks shall be provided with benches and other amenities that are accessible to the general public
7. Off-street parking shall be designed to minimize paved surface areas, wherever possible

#### 1551.5 Preservation and Enhancement of Landscape

The design of new or altered Buildings shall insure the integration of existing vegetation, land forms and water resources into development plans, keeping in mind the relationship of the natural environment to surrounding properties.

##### Statement of principles

1. Promote the skillful use of existing topography, landforms and landscaping, including the preservation of natural landscaping by minimizing tree and soil removal and the restoration of landscaping and wildlife habitat to its natural state
2. Provide landscaping and grading changes that either strengthen or buffer the visual relationship with surrounding areas
3. Provide trees, shrubs and groundcovers noted for longevity, low maintenance requirements, attractive appearance, ability to survive and screening ability
4. Plant evergreens to provide an effective year-round buffer between business and residential areas
5. Provide plantings, planters and flower boxes to visually break up paved areas and/or enhance an ordinary façade
6. Plant additional trees and landscaping in public areas when projects impact the public streetscape

#### 1551.6 Signs and Awnings

The combined impact of Signs and awnings can be part of the attraction of a District. To maximize their effectiveness, every Sign and awning shall be an integral part of its Building and shall be complementary to adjacent Signs and awnings to become part of an overall image with each Sign and awning supporting the other and helping to draw customers. All Signs and awnings shall conform to the maximum area height, number, setback and illumination requirements set forth in the By-laws including but not limited to Article 11 of the By-laws.

##### Statement of Principles

1. Signs and awnings should be compatible throughout the various Districts
2. Signs and awnings on the same Building or on a series of attached Buildings should have consistency of size, location, design, color, texture, lighting, materials and expression
3. Placement of Sign and awnings should be consistent with architectural details and not in conflict with Building details such as cornices, arches, lintels, pediments, windows, pilasters, etc.
4. Signs and awnings should be mounted to align with other Signs on the Building, or installed within the natural sign band formed by the Building's details and cornices
5. Care should be taken that Signs do not overpower the rest of the storefront, and are attractive as designs in themselves
6. The design of lettering, materials and colors shall result in good visibility and be compatible and complementary with other Signs and awnings on the Building
7. Lettering shall be legible and oriented to the pedestrian on the sidewalk and to slow moving traffic.

#### 1551.7 Heritage Structures

The Permit Granting Authority shall insure that a proposed new Building respects adjacent Heritage Structures. When appropriate, the Permit Granting Authority will consult with and request opinions and information from the Historical Commission regarding Heritage Structures.

#### 1551.8 Ancient Ways

The Permit Granting Authority shall consider how the proposed project impacts Ancient Ways. When appropriate, the Permit Granting Authority will consult with and request opinions and information from the appropriate State resource to determine the impact.

#### 1551.9 Endangered Species

The Permit Granting Authority shall consider how the proposed project impacts any endangered species. When appropriate, the Permit Granting Authority will consult with and request opinions and information from the appropriate State resource to determine the impact.

#### 1551.10 Environment Justice Community

The Permit Granting Authority shall consider how the proposed project impacts any Environmental Justice consideration. When appropriate, the Permit Granting Authority will consult with and request opinions and information from the appropriate State resource to determine the impact.

#### 1552 Site Plan Review

##### 1552.1 Purpose

Each Use for which a site plan review submission is required is considered a potentially significant addition to a developing or developed area of the Town, and to a residential neighborhood, commercial or industrial District. The purpose of Site Plan Review is to ensure the design and layout of certain developments permitted as a matter of right or by Special Permit will not result in a detriment to the neighborhood, the District or the environment.

##### 1552.2 Site Plan Review Authority Planning Board

The Site Plan Review Authority shall be the WPB except as provided in this Article and elsewhere in the By-laws.

##### 1552.3 Applicability: Uses Requiring Site Plan Review

Specific types of Uses, as described in Article 3 of the By-laws and as specified in other sections of the By-laws, in the General Laws or other governmental laws, codes and regulations shall be permitted only after notice and a public hearing and the completion of Site Plan Review.

In addition to any other permits or approvals required under Article 3 or any other provisions of the By-Laws, the following Uses shall be permitted only upon the completion of Site Plan Review by the Site Plan Review Authority:

1. Number of Parking Spaces: Any new development expansion or change of Use, other than a 1-Family or 2 Family Development, which would require ten (10) or more parking spaces under the parking schedule in Article 9 of the By-laws, regardless of the number of parking spaces existing on the premises
2. Parcel Size: Any development of any type on a site of thirty (30) acres or more
3. Solar Use: A Large Ground-Mounted Solar Photovoltaic Installation
4. District: Any proposed project in the WV-1R Reinvestment Sub District

##### 1552.4 Application and procedures

Applicants should refer to the applicable Rules and Regulations of the Site Plan Review Authority for requirements as to the contents of the site plan and other required information to be submitted with an application for Site Plan Review.

An Applicant for Site Plan Review shall file an application containing all information and documentation required by the Rules and Regulations of the Site Plan Review Authority and otherwise in accordance with this Article.

##### 1552.5 Conditions

The Site Plan Review Authority in considering a site plan under this section shall ensure, to the degree consistent with the reasonable use of the site for the purposes permitted or permissible by the By-laws and the applicable Rules and Regulations that due consideration has been given to:

1. Protection of adjacent areas against detrimental or offensive uses on the site by provisions of adequate surface water drainage, buffers against lighting, sight, sound, dust, vibration, and the allowance of sun, light, and air
2. Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent Streets, properties or improvements

3. Adequacy of the disposal of sewage, refuse, and other wastes including other production by-products resulting from the Uses permitted or permissible on the site
4. Adequacy of space for off-street loading and unloading of vehicles, goods, products, materials and equipment incidental to the normal operation of the establishment on the site
5. Protection of environmental features on the site and in adjacent areas
6. Promotion of appropriate arrangement of Structures within the site and in relation to existing Structures within the District and neighborhood
7. Coordination with and improvement of systems of vehicular and pedestrian access, drainage, water supply, lighting, landscaping, wetlands, water courses, Buildings and other features that support the neighborhood
8. Compliance with all applicable sections of the By-laws

#### 1552.6 Review Criteria

In evaluating and rendering a decision on an application for Site Plan Review, the Site Plan Review Authority shall consider if the development will achieve the objectives listed below and may require conditions and safeguards deemed necessary to realize those objectives.

##### 1. Natural features

Finished site contours shall reflect the character of the natural site. The Applicant of the proposed development shall make every effort to achieve the following objectives:

- a. Manage or reduce the volume of cut and fill
- b. Manage or reduce the number of removed trees
- c. Manage or reduce the pollutants reaching the water table and protection of the sole source aquifer
- d. Manage or reduce the area of wetland vegetation displaced
- e. Manage or reduce soil erosion
- f. Manage or reduce the area of impervious surface
- g. Manage or reduce the amount of stormwater runoff from the site

##### 2. Relation of Buildings to environment

The proposed development shall visually relate to its environment. Through appropriate scale, massing, and height to ensure that the architecture will be in harmony with the surrounding natural environment and neighborhood.

##### 3. Vehicular circulation

Wherever feasible, vehicular access and circulation shall adhere to the following standards:

- a. Vehicular and pedestrian circulation layouts shall be designed to reduce traffic hazards to pedestrians and vehicles both on and off the site
- b. Street layouts shall be designed to minimize through traffic movement, excessive vehicular travel and excessive speed
- c. Local Streets shall be designed such that their appearance is appropriate to their use
- d. Road way access (ingress and egress points) shall be kept to a minimum commensurate with safety along major abutting Streets
- e. A minimum amount of space shall be devoted to Streets which shall be constructed to adhere to topography
- f. Sufficient off-street parking shall be provided to minimize curbside parking
- g. All Streets shall be designed to the specifications of the applicable Rules and Regulations including Subdivision Rules and Regulations and the General Laws

##### 4. Pedestrian circulation

- a. Sidewalks shall whenever possible be provided along Streets used for pedestrian access to schools, parks and shopping
- b. Sidewalks shall whenever possible be separated from the roadway edge by a landscape border area of at least five (5) feet to increase pedestrian safety



c. Sidewalk ramps for handicapped accessibility shall be provided where appropriate

5. Parking

a. Parking areas shall be designed so that vehicles may exit without backing onto a public Street

b. Parking areas shall be designed so that sanitation, emergency, and other public service vehicles can serve the development without backing unreasonable distances or making hazardous turning movements

c. Parking areas shall be designed so that vehicles cannot extend beyond the perimeter of such areas onto adjacent properties or public rights-of-way

d. Circulation within parking areas shall be designed so that vehicles can proceed safely without danger to pedestrian or other vehicles

e. Parking areas shall be designed to reduce their visual impact from adjacent land uses and from public ways by the use of vegetative buffers, berms, structural screening, such as a fence, or a combination of the above

f. Parking areas shall be designed to provide visual relief from large areas of unbroken pavement by including landscaped islands within the parking area

g. Parking shall otherwise comply with applicable provisions of the By-laws

6. Landscaping

a. All site plans shall be subject to the Landscaping requirements of the By-laws

7. The Site Plan Review Authority may, in its sole discretion grant a waiver of one or more conditions/criteria in connection with such Site Plan Review.

1552.7 Effect of Other Laws

Site Plan Review is supplementary to other sections of the By-laws. It imposes requirements affecting the access, circulation, design, and landscaping of parking areas, and general landscaping and design criteria. The application of this Article shall not interfere with or annul any provisions of the By-laws, applicable Rules or Regulations, or a validly issued permit except where this Article imposes a greater restriction upon the Use of Buildings, Structures or land than is imposed by existing provisions of the General Laws or the By-laws, this Article will control.

1552.8 Relation to Town Conservation Commission Approval

The Applicant shall submit to the Site Plan Review Authority in addition to other requirements for Site Plan Review, either:

1. A Determination of Non-Applicability of the Massachusetts Wetlands Protection Act under Ch. 131, Section 40 of the General Laws and the Town Wetland Protection By-laws issued by the Town Conservation Commission; or

2. An Order of Conditions or Order of Resource Area Delineation covering the proposed work or approving the Wetland Resource Area delineations issued by the Town Conservation Commission for the purpose of protecting those interests described in the Massachusetts Wetlands Protection Act and the Town Wetland Protection By-laws.

The Site Plan Review Authority may issue approval of a Site Plan Review only after receipt of the original or certified copy of either item 1 or item 2, above.

1552.9 Relation to Subdivision Plan

The approval of a Site Plan by the Site Plan Review Authority shall neither oblige the Permit Granting Authority to approve any related preliminary or definitive plan for subdivision, nor substitute for such approval. However, the Site Plan Review Authority may allow an Applicant to combine a submission for a Special Permit and/or a Site Plan Review with a submission for preliminary or definitive Subdivision approval if such submission conforms to all requirements for both a Special Permit and/or a Site Plan Review and Subdivision approval. In such case, the Permit Granting Authority may conduct a combined public hearing for both a Special Permit and/or Site Plan Review and Subdivision approval.

1552.10 Effective Date

No site plan review approval, extension, modification, or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty (20) days have elapsed since the decision was filed in the office of the Town Clerk and no appeal has been filed or that if an appeal has been filed, that it has been dismissed or denied.

1552.11 Recording of The Approved Site Plan

The Applicant shall promptly record each approved Site Plan Review including any extension, modification, or renewal thereof with the Plymouth County Registry of Deeds and shall promptly submit proof of recording to the Site Plan Review Authority.

1552.12 Site Plan Review Lapse of Rights

Unless otherwise provided by the By-laws, approval of a site plan shall lapse two (2) years from the date it is granted if a substantial use thereof has not sooner commenced except for good cause shown, or in the case of a permit for construction, if the construction has not begun by that date, except for good cause shown. The determination of good cause shall be made by the Site Plan Review Authority only after notice and a public hearing. The Site Plan Review Authority, upon written request and notice by the Applicant, may extend the time for those rights for a period of time the Site Plan Review Authority may reasonably determine. The application for an extension beyond the original two (2) year period shall be filed prior to the expiration of such two (2) year time period. The Site Plan Review Authority has sixty (60) days in which to act on the request, and if it fails to do so, the rights may be reestablished only after notice and a new public hearing pursuant to the provisions of the By-laws.

1552.13 Modifications to Approved Site Plan

A request for any modifications to an approved Site Plan Review must be submitted in writing to either the Zoning Enforcement Officer or Director of Planning and Community Development for review and a determination if the modifications are either minor or major.

1. Minor modifications

If such modifications to an approved Site Plan Review are determined to be minor and not substantive, such determination shall be reviewed by the Site Plan Review Authority and, if agreed by a majority vote that the modifications are minor, such modifications may be approved without a public hearing.

2. Major modifications

If such modifications to an approved Site Plan Review are determined to be significant in terms of one of the following such modifications shall be considered major:

- a. Size or location of the Building
- b. Relocation of access and exit curbs
- c. Overall parking layout
- d. Landscaping and buffers
- e. Overall appearance of the Building
- f. Intensity of Use
- g. Relate to conditions specifically addressed in the decision by the Site Plan Review Authority.

A public hearing before the Site Plan Review Authority for these modifications shall be required in accordance with the By-laws. The Site Plan Review Authority shall review the proposed modifications and either approve, approve with conditions or deny the proposed modifications.

1552.14 Administrative Approval for Minor Modifications to Building Exterior or Site

The Director of Planning and Community Development may authorize work to proceed under duly authorized permit(s) without site plan review for minor modifications provided the following criteria are satisfied:

1. The proposed modifications shall not violate any provision of the By-laws

2. The proposed modifications do not result in an expansion of the Building footprint other than expansions required by the Massachusetts Building Code related to means of egress or accessibility
3. The proposed modifications do not change the height or roof lines of any Building
4. The proposed modifications do not result in any substantial change in Lot coverage. The Director of Planning and Community Development shall notify the Site Plan Review Authority of the nature of the request and the decision.

#### 1553 Special Permit

##### 1553.1 Purpose

A Special Permit must be obtained from the Special Permit Granting Authority for certain types of proposed Uses in the Town.

##### 1553.2 Applicability; Uses Requiring A Special Permit

Specific types of Uses, as described in Article 3, this Article and elsewhere in the By-laws, in the General Laws, or in other governmental laws, codes and regulations shall be permitted only upon the issuance of a Special Permit. The particular types of and requirements for Special Permits that the Special Permit Granting Authority may issue under Ch. 40A, Sections 9A-9C of the General Laws include without limitation:

1. Increases in the density or intensity of a Use in a proposed development
2. Multi-family housing in a nonresidential district
3. Transfer Development Rights of land within or between districts
4. Cluster developments
5. Planned unit developments
6. Shared elderly housing
7. Activities that are necessary or critical for scientific research or scientific development
8. Adult bookstores, adult motion picture theatres, adult paraphernalia, adult video stores or establishments which display live nudity
9. Protection of access to direct sunlight for solar energy systems
10. Exclusion of accessory or incidental childcare facilities from maximum permissible floor area calculations

1553.3 Application and Procedure Applicants should refer to the applicable Rules and Regulations of the Special Permit Granting Authority for requirements as to the required documents and information to be submitted with an application for Special Permit.

An Applicant for a Special Permit shall file an application with the Special Permit Granting Authority containing all information and documentation required by the Rules and Regulations of the Special Permit Granting Authority and otherwise in accordance with this Article.

##### 1553.4 Uses requiring a Special Permit and Site Plan Review

Some Uses listed in Article 3, this Article and other provisions of the By-laws, in the General Laws, or in other governmental laws, codes and regulations, require a Site Plan Review as well as a Special Permit. For those requirements, see Site Plan Review section of this Article and applicable Rules and Regulations.

##### 1553.5 Criteria

Special Permits shall be granted by the Special Permit Granting Authority, only after notice and a public hearing and upon its written determination that the adverse effects of the proposed Use will not outweigh its beneficial impacts to the Town or neighborhood, in view of the particular characteristics of the site and of the proposal in relation to that site.

In addition to any specific requirements or factors contained elsewhere in the By-laws and Ch. 40A of the General Laws the determination by the Special Permit Granting Authority shall indicate that the proposed Use will be in harmony with the general purpose and intent of the By-laws, and shall include consideration of each of the following:

1. The Use, Structure or condition as developed will not adversely affect the neighborhood
2. The specific site is an appropriate location and is suitable for such Use, Structure or condition
3. The adequacy of the site size for the proposed Use
4. There will be no nuisance or serious hazard to vehicles or pedestrians as a result of the proposed project
5. Adequate and appropriate facilities will be provided for the proper operation of the proposed Use, Structure or condition. This includes the provision of appropriate sewage treatment facilities which provide for denitrification, when the Special Permit Granting Authority deems such facilities necessary for protection of drinking water supply wells, sole source aquifer, ponds, or saltwater embankments
6. The Use, Structure or condition as proposed does not pose a substantial detriment to the Town or neighborhood in which it is proposed
7. The impact on traffic flow and safety
8. The impact on neighborhood visual character, including views and vistas
9. The adequacy of sewage disposal, water supply and site drainage
10. The adequacy of utilities and other public services
11. The effect of the project on the adequate supply of affordable housing in the Town
12. The decision of the Site Plan Review Authority under this Article
13. The compliance of the project with all applicable sections of the By-laws including, but not limited to, all performance requirements under Articles 7: Design Standards and Guidelines, Article 9: Parking, Article 10: Landscaping and Article 12: Performance Standards and that no other conflicts between the proposed project and the By-laws exists.

#### 1553.7 Conditions

A Special Permit may be granted subject to general or specific provisions set forth therein, and such reasonable conditions, safeguards and limitations on time or use including a performance guaranty, as the Special Permit Granting Authority may deem necessary to serve the purposes of the By-laws. The Special Permit Granting Authority may in its sole discretion also waive one or more conditions as it deems appropriate.

#### 1553.8 Relation to Town Conservation Commission approval

The Applicant shall submit to the Special Permit Granting Authority in addition to other requirements for Special Permit, either:

1. A Determination of Non-Applicability of the Massachusetts Wetlands Protection Act under Ch. 131, Section 40 of the General Laws and the Town Wetlands Protection By-laws issued by the Town Conservation Commission or
2. An Order of Conditions or Order of Resource Area Delineation covering the proposed work or approving the Wetland Resource Area delineations issued by the Town Conservation Commission for the purpose of protecting those interests described in the Wetlands Protection Act and the Town Wetlands Protection By-laws

The Special Permit Granting Authority may issue approval of a Special Permit only after receipt of the original or certified copy of either item 1 or 2, above.

#### 1553.9 Effective date

No special permit, or any extension, modification, or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty (20) days have elapsed since the decision was filed in the office of the Town Clerk and no appeal has been filed or that if an appeal has been filed, that it has been dismissed or denied.

#### 1553.10 Special Permit lapse of rights

Unless otherwise provided by the By-laws a Special Permit shall lapse two (2) years from the date it is granted if a substantial use thereof has not sooner commenced except for good cause shown or in the case of a permit for construction, if the construction has not begun by that date, except for good cause shown. The determination of good cause shall be made by the Special

Permit Granting Authority after notice and a public hearing. The Special Permit Granting Authority, upon written request and notice by the Applicant, may extend the time for those rights for a period of time the Special Permit Granting Authority may reasonably determine. The application for an extension beyond the original two (2) year period shall be filed prior to the expiration of such two (2) year time period. The Special Permit Granting Authority has sixty (60) days in which to act on the request, and if it fails to do so, the rights may be reestablished only after notice and a new public hearing pursuant to the provisions of the By-laws.

#### 1554 Variances

##### 1554.1 Powers

The ZBA shall hear and decide all applications for Variances providing relief from the provisions of the By-laws, including granting a Variance authorizing a Use or activity not otherwise permitted in the District in which the land or Structure is located but only for those Uses included in Article 3 of the By-laws.

##### 1554.2 Criteria

A Variance may be granted by the ZBA only if after notice and a public hearing, it is determined that soil conditions, Lot shape, or topography create an impracticality or limit the location or positioning of a new Structure or addition on a site or location that previously conformed to zoning requirements. An Applicant must demonstrate that a literal enforcement of the By-laws would involve substantial hardship, financial or otherwise, to the Applicant, and that relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the By-laws.

##### 1554.3 Specific Findings

The ZBA shall specifically make findings related to both of the following criteria:

1. Owing to circumstances relating to the soil conditions, shape, or topography of land or Structures and especially affecting such land or Structure but not generally affecting the District in which the land or Structure is located, a literal enforcement of the provisions of the By-laws and Ch. 40A, Section 10 of the General Laws, would involve substantial hardship, financial or otherwise, to the Applicant
2. Relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the By-laws or Ch. 40A, section 10 of the General Laws

##### 1554.4 Conditions, Safeguards, and Limitations

The ZBA may impose such conditions, safeguards and limitations, both of time and use, including the continued existence of any particular Structures, but excluding any condition, safeguard or limitation based upon the continued ownership by the Applicant or any Owner of the land or Structures to which the Variance pertains.

##### 1554.5 Lapse of Rights

Any rights authorized by a Variance shall be exercised within one (1) year of the date of the grant of the Variance or the rights shall lapse. However, the ZBA, upon written request and notice by the Applicant, may extend the time for those rights for a period not to exceed six (6) months. The application for an extension beyond the original one (1) year period shall be filed prior to the expiration of the one (1) year time period. The ZBA has thirty (30) days in which to act on the request, and if it fails to do so, the rights may be reestablished only after notice and a new public hearing pursuant to the provisions of the By-laws.

or to do or act in any manner relative thereto.

**EXPLANATION:**

This clarifying amendment to Article 15 describes the various land use permits, their applicability, and the Town Board responsible for review and issuance. The amendment clarifies the permitting process, including pre-application project review, and describes the applicable criteria the permit granting authority will use in reviewing applications before them. The amendment establishes the need to submit a complete application for a permit or zoning relief; clarifies the order of application for multiple permits and land use permit extension standards; and integrates applicable rules and regulations into the process.

Inserted by the Select Board at the request of the Planning Board

The Select Board recommends favorable action: 4-0-0

The Finance Committee recommends favorable action: 6-0-0

***Finance Committee Recommendation: This amendment will streamline the land use permitting process, clarify and reduce ambiguities about the types of permits required and explain the process and criteria which must be met to obtain them. It should be approved.***

**ARTICLE – 23 ZONING BYLAWS ARTICLES 3 & 5 WIRELESS COMMUNICATIONS**

To see if Town Meeting will vote to amend the zoning bylaws to allow co-location on wireless communications towers, by amending Article 3: Use Regulations, and Article 5: Supplemental Regulations, as described in the following list of amendments:

Amend section 320 TABLE OF PRINCIPAL USE REGULATIONS, by adding the following lines

<b>PRINCIPAL USE</b>	<b>R130</b>	<b>R60</b>	<b>R43</b>	<b>R30</b>	<b>MR30</b>	<b>WV1</b>	<b>WV2</b>	<b>OV1</b>	<b>OV2</b>	<b>CS</b>	<b>CG</b>	<b>CP</b>	<b>CNF</b>	<b>MAR</b>	<b>INS</b>	<b>IND</b>
Wireless Co-Location communication facility, not exceeding 90 feet in height	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Wireless Co-Location communication facility, exceeding 90 feet in height	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ

Amend section 330 TABLE OF ACCESSORY USE REGULATIONS, by adding the following line item:

<b>ACCESSORY USE</b>	<b>R130</b>	<b>R60</b>	<b>R43</b>	<b>R30</b>	<b>MR30</b>	<b>WV1</b>	<b>WV2</b>	<b>OV1</b>	<b>OV2</b>	<b>CS</b>	<b>CG</b>	<b>CP</b>	<b>CNF</b>	<b>MAR</b>	<b>INS</b>	<b>IND</b>
Wireless Co-Location communications facility attached to existing structure not exceeding 60 feet in height	N	N	N	N	N	Y	Y	Y	Y	Y	SPZ	SPZ	Y	Y	Y	Y

Amend section 340 USE DEFINITIONS, by adding the following definitions:

UTILITY

Antenna

The surface from which wireless radio signals are sent and/or received by a wireless service facility.

Carrier

A company that provides wireless service.

Co-location

The use of a single mount on the ground by more than one carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one carrier.

Tower

A structure that is intended to support equipment used to receive and/or transmit electromagnetic waves. Design examples include: lattice tower (self-supporting with multiple legs and cross-bracing structural steel) and monopole (self-supporting with a single shaft).

Wireless Communications Facility

A facility, fixture, structure or equipment for the provision of wireless communications services, as defined by the Federal Telecommunications Act, including antennas and enclosing structures, but not including direct broadcast antennas.

Amend section 540 WIRELESS COMMUNICATIONS FACILITIES by adding the following:

PURPOSE

The purpose of this section is to regulate the design and location of wireless telecommunications service facilities in a manner that minimizes the visual and environmental impacts of such facilities by establishing requirements, guidelines, standards for review, and procedures to permit their installation in the Town of Wareham.

The standards set forth herein are intended to preserve the safety, character, appearance, property values, natural resources and historic structures of the Town; mitigate adverse visual effects through proper design, location and screening; encourage co-location of antennas on a structure where feasible in order to minimize the number of sites and structures required; encourage location of antennas on existing towers; and protect the Town from the effects of uncontrolled development and location of wireless telecommunications towers, wireless service facilities and accessory structures, while recognizing federally granted rights of carriers to provided necessary and marketable telecommunications services and the desire of the public and the Town departments to access and utilize available technologies.

In addition to any applicable sections of the Zoning Bylaw, Section 540 shall apply to all wireless telecommunications service antennas and tower related equipment, fixtures and enclosures, including any modifications to any of these, but shall not apply to Police, Fire, EMS, or any other communications systems used by the Town's public entities.



Amend 543.2 to read:

All towers shall be set back a distance at least equal to the height of the tower from all property lines. Antennas or structures to be used exclusively by a federally licensed amateur radio operator may be closer than the above-described 300 feet, but must be located so as to minimize harm to any nearby structures.

Amend section 544 DESIGN GUIDELINES to add:

Co-Location. To the extent feasible, licensed carriers and Town communication systems shall co-locate on a single wireless telecommunications service monopole or tower. The Town shall reserve the right to place its communications antenna(s) within the top ten (10) percent of the vertical height above ground level of any monopole or tower in order to accommodate its communications needs. It shall remain the licensed carrier's responsibility to ensure that the installation or location of other antenna(s) on the monopole or tower does not cause interference with the Town's communications system. Such facility shall be designed insofar as is reasonable to structurally accommodate foreseeable future users. A new tower or monopole facility shall be considered only after a finding that existing or approved structures or facilities cannot accommodate the equipment planned for the proposed facility.

or to do or act in any manner relative thereto.

**EXPLANATION:**

The amendment would amend the Use Tables in Article 3 and the provisions of Article 5 to require both licensed carriers and the Town, where feasible, to co-locate wireless communication systems on a single cell tower pole.

Inserted by the Select Board at the request of the Planning Board

The Select Board recommends favorable action: 4-0-0

The Finance Committee recommends favorable action: 6-0-0

***Finance Committee Recommendation: This amendment will help avoid construction of additional cell tower poles by requiring co-location of wireless communication systems, including Town emergency notification systems, on existing cell tower poles. It will enhance emergency response.***

**ARTICLE – 24 ZONING BYLAWS ARTICLE 5 LARGE SOLAR BATTERY STORAGE**

To see if the Town will vote to amend Article 5 of the Zoning By-Law, SUPPLEMENTAL REGULATIONS, to add Section 597, to regulate battery storage systems installed in connection with Large -Scale Ground Mounted Solar Photovoltaic Installations:

**597. BATTERY ENERGY STORAGE SYSTEMS**

597.10. Purpose. The purpose of this Section is to advance and protect the public health, safety, welfare, and quality of life by creating regulations for the installation and use of battery energy storage systems that facilitate the collection of solar energy in connection with Large-Scale Ground-Mounted Solar Photovoltaic Installations. All references to battery energy storage systems in this section relate to such systems designed and to be installed in connection with Large-Scale Ground-Mounted Solar Photovoltaic Installation. This section is intended:

1. To provide for the location, construction and operation of battery energy storage systems consistent with best practices and safety protocols;
2. To ensure compatible land uses in the vicinity of the areas affected by battery energy storage systems and to mitigate any potential impacts on abutting and nearby properties; and
3. To mitigate the impacts of battery energy storage systems on environmental resources such as agricultural lands, forests, wildlife, water supply, water quality, aquifers, wetlands and other natural resources.

This Section shall be construed to be consistent with state law, including but not limited to the provisions of General Laws chapter 40A, section 3, and state regulations, including but not limited to the provisions of the State Building Code, State Fire Code, and State Electrical Code. In the event of any conflict between the provisions of this section and the provisions of state law or regulations, the state law and regulations shall prevail.

#### 597.20. Applicability

1. The requirements of this bylaw shall apply to battery energy storage systems at Large-Scale Ground-Mounted Solar Photovoltaic Installation permitted, installed, decommissioned or modified after the effective date of this bylaw,

#### 597.30. General Requirements

1. All permits required by state codes, including but not limited to building permit, an electrical permit, and a fire department permit shall be required for installation of all battery energy storage systems.
2. All battery energy storage systems, all Dedicated Use Buildings, and all other buildings or structures that (a) contain or are otherwise associated with a battery energy storage system and (b) subject to the requirements of the State Building Code, shall be designed, erected, and installed in accordance with all applicable provisions of the State Building Code 780 CMR, State Fire Code 527 CMR 1.00, and State Electrical Code 527 CMR 12.00. All battery energy storage systems shall comply with NFPA 855, Standard for the Installation of Stationary Energy Storage Systems.
3. Energy storage system capacities, including array capacity and separation, are limited to the thresholds contained in NFPA 855.
4. All access roads should be at least 20' wide, constructed of an all-weather surface, and be cleared of obstructions on both sides by at least 2'. A 16' vertical clearance should be maintained for large vehicle access. Access gates erected onsite should be at least 20' wide, accessible via Onset or Wareham Fire Department lock, as applicable. Access to all four sides of each enclosure should be provided where practical.
5. Sufficient water shall be available to the Wareham and/or Onset Fire Department at the site to enable firefighters to address fire events.

#### 597.40. Permitting Requirements for Battery Energy Storage Systems

Battery energy storage systems are subject to this bylaw and require the issuance of a special permit and are subject to Site Plan Review pursuant to Section Article 15. BESS shall comply with the applicable requirements set forth in this bylaw, as well as this Zoning Bylaw, and the Wareham Town Bylaws. The following requirements apply to all subject to this bylaw:

**Utility Connections.** All utility connections including associated equipment and utility equipment shall be placed underground or pad mounted, unless soil conditions, shape, or topography of the site as verified by the Town's Consulting Engineer dictate above ground installation. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

**Signage.** Signage shall comply with the requirements of Article 11 of this Zoning Bylaw and the following additional requirements; in the event of a conflict between the provisions of Article 11 and this section, the requirements of this section shall prevail.

The signage shall be in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, and 24-hour emergency contact information, including reach-back phone number.

As required by the state electrical code, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

Signage compliant with ANSI Z535 shall be provided on doors to rooms, entrances to BESS facilities, and on BESS outdoor containers.

**Lighting.** Lighting of the battery energy storage systems shall be limited to that minimally required for safety, security and operational purposes and shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, shall be shielded to eliminate glare from abutting properties, shall be directed downward, and shall incorporate cut-off fixtures to reduce light pollution.

**Vegetation and tree-cutting.** Areas within thirty feet on each side of battery energy storage systems shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted provided that they do not form a means of readily transmitting fire. Removal of trees should be minimized to the extent possible.

**Setbacks.** Battery energy storage systems shall be set back a minimum of 200 feet from side, rear, and front lot lines that abut or are across a street from residential zoning districts or existing single, two-family, or multi-family structures. The minimum setback areas shall include a vegetated Buffer/Screening Area at least twenty feet wide along all property lines. Access drives and parking are allowed in the setback areas, but shall not intrude into the required Buffer Areas except where necessary to provide access or egress to the property. In addition, a minimum of 10 feet must be maintained, if within a building, between BESS components and all stored combustible materials, hazardous materials, high-piled storage, infrastructure.

**Other Setbacks:** Battery Energy Storage Systems shall be sited at least one hundred fifty feet (150') from abutting properties' wells and septic systems.

**Dimensional.** Battery energy storage systems shall comply with the dimensional limitations for principal structures of the underlying zoning district as provided in the Zoning Bylaw, unless otherwise provided in this bylaw.

**Fencing Requirements.** Battery energy storage systems, including all mechanical equipment, shall be enclosed by a minimum eight foot high fence with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building. Security barriers, fences, landscaping, and other enclosures must not inhibit required air flow to or exhaust from the BESS and components. Electrical equipment greater than 1,000V require a separate and additional means to restrict access. NFPA 855 requires specialty safety systems to be provided based on the BESS chemistry and installed location.

**Screening and Visibility.** Battery energy storage systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area. Such features may not inhibit required air flow to or exhaust from the BESS and components and must comply with the setbacks established in paragraph 6 above.

**Noise:** An Acoustic Study shall be provided in order to ensure that any increase in sound complies with Mass DEP requirement limiting any increase in ambient noise to be less than 10 decibels at the property line.

Batteries. Failed battery cells and modules shall not be stored on the site and shall be removed no later than 30 days after deemed failed by the BESS operator or cell/module manufacturer. The operator shall notify the Onset or Wareham Fire Department, as applicable, in advance if the type of battery or batteries used onsite is to be changed.

Decommissioning Plan. The applicant shall submit with its application a decommissioning plan for BESS to be implemented upon abandonment and/or in conjunction with removal of the facility. The owner or operator of the BESS shall notify the Department of Inspectional Services in writing at least twenty days prior to when a BESS will be decommissioned. Decommissioning of an abandoned or discontinued BESS shall be completed within six months after the facility ceases operation. The decommissioning plan shall include:

- a. A narrative description of the activities to be accomplished, including who will perform that activity and at what point in time, for complete physical removal of all battery energy storage system components, structures, equipment, security barriers, and transmission lines from the site;
- b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations;
- c. The anticipated life of the battery energy storage system;
- d. The estimated decommissioning costs and how said estimate was determined;

The method of ensuring that funds will be available for decommissioning and restoration;

The method by which the decommissioning cost will be kept current;

The manner in which the site will be restored, including a description of how any changes to the surrounding areas and other systems adjacent to the battery energy storage system, such as, but not limited to, structural elements, building penetrations, means of egress, and required fire detection suppression systems, will be protected during decommissioning and confirmed as being acceptable after the system is removed; and

A listing of any contingencies for removing an intact operational energy storage system from service, and for removing an energy storage system from service that has been damaged by a fire or other event.

Decommissioning Fund. The owner and/or operator of the energy storage system, shall continuously maintain a fund or other surety acceptable to the Town, in a form approved by the Planning Board and Town Counsel, for the removal of the battery energy storage system, in an amount to be determined by the Town, for the period of the life of the facility. All costs of the financial security shall be borne by the applicant.

Proof of Liability Insurance. The applicant or property owner shall provide evidence of liability insurance in an amount and type generally acceptable in the industry and approved by the PEDB prior to the issuance of a building permit, and shall continue such insurance in effect until such facility has been decommissioned, removed, and the site restored in accordance with this bylaw.

597.60. Site plan application. For a Battery Energy Storage System the site plan application shall include the following information, in addition to that required by Article 15 of this Zoning Bylaw:

- 1. A one- or three-line electrical diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all State Electrical Code compliant disconnects and over current devices.

A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.

Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the battery energy storage system. Such information of the final system installer shall be submitted prior to the issuance of building permit.

Large-scale fire test data, evaluation information, and calculations, and modeling data. For any of the following, UL 9540A fire test data must be made available to the Planning Board and Fire Department for review: - BESS systems with a capacity of greater than 50kWh - BESS systems with spacing between arrays of less than 3 feet

Safety data sheet (SDS) that address response safety concerns and extinguishment.

A study of potential hydrogeological impacts of firewater runoff in the event of a fire, including effect on nearby groundwater, aquifer, nearby wells, septic systems, wetlands, and other water and natural resources, including Proposed mitigation plans;

A study of potential air quality impacts of a fire event, including effect on residents, environmental impacts, and impacts on plant and animal life.

Commissioning Plan. The system installer or commissioning agent shall prepare a commissioning plan prior to the start of commissioning. Such plan shall be compliant with NFPA 855 and document and verify that the system and its associated controls and safety systems are in proper working condition per requirements set forth in applicable state codes.

Where commissioning is required by the Building Code, battery energy storage system commissioning shall be conducted by a Massachusetts Licensed Professional Engineer after the installation is complete but prior to final inspection and approval. A corrective action plan shall be developed for any open or continuing issues that are allowed to be continued after commissioning. A report describing the results of the system commissioning and including the results of the initial acceptance testing required by applicable state codes shall be provided to Zoning Enforcement Officer and the Onset or Wareham Fire Department, as applicable, prior to final inspection and approval and maintained at an approved on-site location.

Advance Monitoring System. The system design shall include an advance monitoring system which is capable of detecting cell venting, electrolyte leaks from cells, battery coolant leaks, and other early indications of battery failure.

Fire Safety Compliance Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with state codes, including documentation that BESS components comply with the safety standards set forth in subsection 597

Operation and Maintenance Manual. Such plan shall describe continuing battery energy storage system maintenance and property upkeep, as well as design, construction, installation, testing and commissioning information and shall meet all requirements set forth state codes and NFPA 855. Maintenance provisions will be driven by manufacturer requirements for the specific listed system.

Depending on the location of the BESS in relation to and its interaction with the electrical grid, interconnection will be completed per 527 CMR 12.00. System interconnections into utility grids shall be in accordance with NFPA 855. An accessible disconnect is required per 527 CMR 12.00. Prior to the issuance of the building permit, engineering documents must be signed and sealed by a Massachusetts Licensed Professional Engineer.

Emergency Operations Plan. An Emergency Operations Plan compliant with NFPA 855 is required. A copy of the Emergency Operations Plan approved by the Onset or Wareham Fire Department, as applicable, shall be given to the system owner, the local fire department, and local fire code official. For so long as the BESS is operational, the operator shall provide the Fire Department, Police Department, Department of Inspectional Services, and Town Administrator's office with contact information for personnel that can be reached 24 hours per day every day, and this contact information shall be updated by the operator whenever there is a change in the information. The operator shall also be required to have an official representative be present onsite not later than two hours after notification by the Fire Chief, Police Chief, or their designee. A permanent copy shall also be placed in an approved location to be accessible to

facility personnel, fire code officials, and emergency responders. The emergency operations plan shall include the following information:

Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.

Procedures for inspection and testing of associated alarms, interlocks, and controls, including time intervals for inspection and testing.

Procedures to be followed in response to notifications from the Battery Energy Storage Advance Monitoring System or Management System, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.

Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.

Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.

Procedures for safe disposal of battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment and any affected soils from the facility.

Other procedures as determined necessary by the Town to provide for the safety of occupants, neighboring properties, and emergency responders, including containment of firewater runoff. Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures.

597.70. Ownership Changes. If the owner of the battery energy storage system changes or the owner of the property changes, the special permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special permit, site plan approval, and decommissioning plan. A new owner or operator of the battery energy storage system shall notify the Department of Inspectional Services of such change in ownership or operator within 14 days of the ownership change. A new owner or operator must provide such notification to the Building Commissioner in writing and meet with any permitting authority from which the original applicant received a permit.

597.80. Safety

1. System Certification. Battery energy storage systems and equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540 (Standard for battery energy storage systems and Equipment) or approved equivalent, with subcomponents meeting each of the following standards as applicable:

UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications),

UL 1642 (Standard for Lithium Batteries),

UL 1741 or UL 62109 (Inverters and Power Converters),

Certified under the applicable electrical, building, and fire prevention codes as required.

Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540 (or approved equivalent) and applicable codes, regulations and safety standards may be used to meet system certification requirements.

**Site Access.** Battery energy storage systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department.

Battery energy storage systems, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFP 70.

#### 597.90. Abandonment

The battery energy storage system shall be considered abandoned when it ceases to operate consistently for more than 90 days. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, after compliance with any applicable state and federal constitutional requirements, enter the property and utilize the available bond and/or security for the removal of a battery energy storage system and restoration of the site in accordance with the decommissioning plan.

#### 597.95 Definitions

As used in this bylaw, the following terms shall have the meanings indicated. Terms that are not defined herein or elsewhere in this Zoning Bylaw shall be as defined in NFPA 855 if applicable.

**ANSI:** American National Standards Institute

**Battery or batteries:** A single cell or a group of cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this bylaw, batteries utilized in consumer products are excluded from these requirements.

**Battery Energy Storage Management System (BESS):** An electronic system that protects energy storage systems from operating outside their safe operating parameters and disconnects electrical power to the energy storage system or places it in a safe condition if potentially hazardous temperatures or other conditions are detected.

**Cell:** The basic electrochemical unit, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy.

**Commissioning:** A systematic process that provides documented confirmation that a battery energy storage system functions according to the intended design criteria and complies with applicable code requirements.

**Dedicated-Use Building:** A building that is built for the primary intention of housing battery energy storage system equipment, and complies with the following:

The building's only use is battery energy storage, energy generation, and other electrical grid related operations.

No other occupancy types are permitted in the building.

Occupants in the rooms and areas containing battery energy storage systems are limited to personnel that operate, maintain, service, test, and repair the battery energy storage system and other energy systems.

Administrative and support personnel are permitted in areas within the buildings that do not contain battery energy storage system, provided the following:

The areas do not occupy more than 10 percent of the building area of the story in which they are located.

A means of egress is provided from the administrative and support use areas to the public way that does not require occupants to traverse through areas containing battery energy storage systems or other energy system equipment.

**Direct abutter:** an owner of property, as shown on the most recent applicable tax list, that is adjacent to the property(ies) seeking a permit.

**Large-Scale Ground-Mounted Solar Photovoltaic Installation:** a solar photovoltaic system that is structurally mounted on the ground and has a minimum Rated Nameplate Capacity of 250 kW DC.

**Nationally Recognized Testing Laboratory (NRTL):** A U.S. Department of Labor designation recognizing a private sector organization to perform certification for certain products to ensure that they meet the requirements of both the construction and general industry OSHA electrical standards.

**NFPA:** National Fire Protection Association.

**Non-Dedicated-Use Building:** All buildings that contain a battery energy storage system and do not comply with the dedicated-use building requirements.

**Non-Participating Property:** Any property that is not a participating property.

**Non-Participating Residence:** Any residence located on non-participating property.

**Participating Property:** A battery energy storage system host property or any real property that is the subject of an agreement that provides for the payment of monetary compensation to the landowner from the battery energy storage system owner (or affiliate) regardless of whether any part of a battery energy storage system is constructed on the property.

**This bylaw:** Section 597 of the Zoning Bylaw

**UL:** Underwriters Laboratory

**USE REGULATIONS**

**ARTICLE 3: Updates to Sections 320, 330, and 340**

**Change Section 320 Table of Principal Uses:**

Add a Row for below Large-Scale Ground-Mounted Solar Photovoltaic Installations as follows:

PRINCIPAL USE	R130	R60	R43	R30	MR30	WV1	WV2	WV1R
Utility								
Large-scale ground-mounted Solar Photovoltaic Installations	SPR, SPP	SPR, SPP	N	N	N	N	N	N
Battery energy storage in connection with solar energy facilities zoning	SPR, SPP	SPR, SPP	N	N	N	N	N	N

PRINCIPAL USE	OV1	OV2	CS	CG	CP	CN	MAR	INS	IND
Utility									
Large-scale ground-mounted Solar Photovoltaic Installations	N	N	SPR, SPP	SPR, SPP	SPR, SPP	SPR, SPP	N	N	N
Battery energy storage in connection with solar energy facilities zoning	N	N	SPR, SPP	SPR, SPP	SPR, SPP	SPR, SPP	N	N	N

or to do or act in any manner relative thereto



**EXPLANATION:**

Section 590 of Article 5 of the Zoning Bylaws provides standards and requirements for construction, siting, and installation of large scale ground-mounted solar installations. This amendment adds a new sub-section 597 containing a comprehensive set of requirements for installation of solar battery systems to facilitate collection of solar energy for these installations. Subsection 590 describes the required permits (special permit and site plan review), conditions and criteria, including applicable state and federal regulations, governing installation, siting, and decommissioning of associated battery systems to further safeguard the health, safety and welfare of the public.

Inserted by the Select Board at the request of the Planning Board

The Select Board recommends favorable action: 4-0-0

The Finance Committee recommends favorable action: 6-0-0

***Finance Committee Recommendation: This amendment creates a comprehensive framework governing installation of battery storage systems based on current knowledge of this emerging technology while balancing the need to provide for the safety and protection of the Wareham community and its sensitive resources.***

**ARTICLE 25 – AMEND ZONING BYLAW SECTION 590, SOLAR ENERGY**

To see if the Town will vote to amend Article 5 of the Zoning By-Law, SUPPLEMENTAL REGULATIONS, Section 590 Solar Energy Generation Facilities to establish standards and requirements for siting of solar energy generating while protecting the health, safety and welfare of the public:

590 Solar Energy Generation Facilities

591. Purpose

The purpose of section 590 of the Wareham Zoning By-Law is to encourage the responsible use of solar energy generation facilities, encourage construction and operation of Large-Scale Ground-Mounted Solar Photovoltaic Installations in previously disturbed areas to minimize ecological impacts, to provide standards for the placement, design, construction, monitoring, modification and removal of Large-Scale Ground-Mounted Solar Energy Facilities that address public safety, minimize impacts on Environmental Justice Communities such that no person is deprived of the freedom from excessive or unnecessary glare or noise, scenic, natural and historic resources of the Town and provide adequate financial assurance for decommissioning. Section 590 of the Wareham Zoning By-Law aims to balance the rights of landowners to use their land to develop solar energy systems while protecting the health, safety, and welfare of the public by protecting the Plymouth/Carver Sole Source Aquifer upon which all residents rely for drinking water, and the abundant small streams that feed the watersheds and estuaries leading to Buzzards Bay.

Section 590 of the Wareham Zoning By-Law encourages the use of solar energy systems and protects solar access consistent with Massachusetts General Laws Chapter 40A Section 3 and Section 9B (Solar Access) and Green Communities Act M.G.L. Chapter 25A Section 10. This section of the Wareham Zoning By-Law is consistent with Wareham’s 2020 Master Plan and 2017-2024 Open Space and Recreation plan as they recognize the need to protect water and

wildlife habitat resources while providing opportunities to increase resiliency from the effects of climate change with green infrastructure and conservation of forests and farmland.

Section 590 of the Wareham Zoning By-Law seeks to satisfy the MA state guidance that strongly discourages siting such projects in forested areas such as the globally rare Pine Barrens.

Section 590 of the Wareham Zoning By-Law strongly discourages locations that result in significant loss of ecosystem values and natural resources, including farm and forest land, and encourages rooftop siting, as well as locations in industrial and commercial districts, or on vacant, previously disturbed land.

Section 590 of the Wareham Zoning By-Law recognizes that significant tree cutting is problematic because of the important water management, cooling, and climate benefits trees provide. According to Tufts.edu, forests pull about one-third of all human-caused carbon dioxide emissions from the atmosphere each year. Researchers have calculated that ending deforestation and allowing mature forests to keep growing could enable forests to take up twice as much carbon.<sup>1</sup>

#### Applicability

As provided in Section 320 of the Wareham Zoning By-Law, all Large-Scale Ground-Mounted Solar Photovoltaic Installations proposed to be constructed after the effective date of Section 590 of the Wareham Zoning By-Law shall require a Special Permit and be subject to Site Plan Review in accordance with Article 15 of this Zoning By-Law and the additional standards of this section.

Section 590 of the Wareham Zoning By-Law also regulates physical modifications that materially alter the type, configuration, or size of these installations or related equipment that occur after the effective date.

The provisions set forth in section 590 of the Wareham Zoning By-Law shall take precedence over all other sections when considering applications related to the construction, operation, and/or repair of Large-Scale Ground-Mounted Solar Photovoltaic Installations unless there is a conflict within provisions of Section 590, the MORE RESTRICTIVE section shall take precedence.

#### Compliance with Laws, Ordinances and Regulations

The construction and operation of all Large-Scale Ground-Mounted Solar Photovoltaic Installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements.

All Large-Scale Ground-Mounted Solar Photovoltaic Installations must meet all the Land Use and Siting Criteria, per 225 CMR 20.05(5)(e).

#### Special Permit Granting Authority (SPGA)

In accordance with Section 320, the Planning Board shall be the Special Permit Granting Authority for Large-Scale Ground-Mounted Solar Photovoltaic Installations requiring a Special Permit under this by-law.

#### Site Plan Review Authority

In accordance with Section 320, the Planning Board shall be the Site Plan Review Authority for Large-Scale Ground-Mounted Solar Photovoltaic Installations under this by-law. This shall supersede any other review performed by a Town board.

#### Application for Special Permit and Site Plan Review

<sup>1</sup> <https://now.tufts.edu/articles/curb-climate-change-easy-way-don-t-cut-down-big-trees#:~:text=Forests%20pull%20about%20one%2Dthird,up%20twice%20as%20much%20carbon.>

In order to obtain a Special Permit and to request Site Plan Review, an applicant shall file an application for a Special Permit, a Site Plan Review application, and site plan in accordance with Section 320 and Article 15 of the Wareham Zoning By-Law.

No Large-Scale Ground-Mounted Solar Photovoltaic Installations shall be approved or constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the large ground-mounted solar energy facilities owner or operator's intent to install an interconnected customer-owned generator and that the electrical grid can safely transmit the proposed power output of the installation.

Off-grid systems shall be exempt from this requirement.

Such plans shall contain the following specific information for an application to be considered complete:

Landscape plan including sizes, types and numbers of plantings and details. Existing vegetation and other unique land features shall be preserved where feasible.

Proposed changes to the landscape of the project area grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures.

Plans of the Large-Scale Ground-Mounted Solar Photovoltaic Installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures.

Certification from a professional engineer that the construction of the Large-Scale Ground-Mounted Solar Photovoltaic Installation meets the Performance Standards set forth 225 CMR 20.05(5)(e)6.

A stormwater management plan detailing the existing environmental and hydrological conditions of the project area, proposed alterations of the project area and all proposed components of the drainage system and any measures for the detention, retention, or infiltration of water, for the protection of water quality and protection from flooding shall be prepared in accordance with Article 1260 et seq. of these Zoning By-Laws, including the Massachusetts Stormwater Management Handbook Vol 1 and 2, including any updates thereon.<sup>2</sup> Specific attention shall be paid to the potential for negative effects on streams, such as silting from runoff and wetlands, groundwater, well water, and the Plymouth Sole Source Aquifer.

A description of the Solar Photovoltaic Installation and the technical, economic and other reasons for the proposed location and design shall be prepared and signed by a registered professional engineer.

Confirmation prepared and signed by a registered professional engineer that the Solar Photovoltaic Installation complies with all applicable Federal and State standards.

One or three line electrical diagram detailing the Solar Photovoltaic Installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.

Documentation of the major system components to be used, including the photovoltaic panels, mounting system, inverters, on-site accessory battery storage, and any other associated equipment, provided that all on-site battery storage shall be subject to review and approval under Section all provisions of state law and this Wareham Zoning By-Law.

Documentation of the sound generated by equipment used in the production of electrical energy, including any proprietary documentation.

An operation and maintenance plan (see also section 596 on decommissioning). Such plan should include:

Monitoring of the site.

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<sup>2</sup> Added by vote of October 24, 2022 Fall Town Meeting.

Regular (not less than annual) inspection of the property, the visual screening, the fencing, and all other equipment installed as part of the project. The inspection shall identify all repairs and maintenance required to maintain the fencing, noise buffering and visual screening. A plan and timeline for effecting the maintenance shall be submitted to the SPGA on a yearly basis.

Regular (windblown, litter, etc) trash and debris removal from the site.

A description of property and landscape maintenance plan, including all required vegetative plantings and screening.

The operations and management plan must include active maintenance of the vegetation for the duration of the project. Use of herbicides and pesticides shall be prohibited for the maintenance of the project site except where necessary in dual use agriculture in accordance with the Pesticide Control Act. Landscape Requirements should include all requirements listed in Article 10 of the Zoning Bylaw.

An incident response plan.

An assessment of the impact on the environment formatted in a before / after method so that it is easy to measure and understand the changes that the proposed Solar Photovoltaic Installation will have on the property and the property abutters. Such reports will be conducted by a party mutually agreed upon by the Planning Board and the prospective developer.

An evaluation of the impact on the wildlife, habitat, and endangered species to determine potential harm to wildlife and habitat by the proposed Solar Photovoltaic Installation. The evaluation will be conducted by a party mutually agreed upon by the SPGA and the prospective developer. The prospective developer will provide letters or other communications from local, state, and federal authorities with jurisdiction to review the site or development.

Line of Sight study to determine visual impact from all directions. All panels and equipment associated with the Solar Photovoltaic Installation should be invisible to any residential home in Wareham, as well as from any public or private road. The Study will be conducted by a party mutually agreed upon by the SPGA and the prospective developer

All applicants must provide a historical and cultural heritage evaluation on the potential impact of the Solar Photovoltaic Installation. The evaluation(s) will be conducted by a party mutually agreed upon by the SPGA and the prospective developer. The prospective developer will provide letters or other communications from local, state, and federal authorities with jurisdiction to review the site or development.

An alternative use analysis that addresses other siting options with various environmental impacts. Financial impacts are not sufficient reason for approval of project with significant environmental impact

Siting

No Solar Photovoltaic Installation shall be constructed, installed or modified without first obtaining a building permit.

Prohibited Siting

Solar Photovoltaic Generation Units sited on the following types of parcels are not allowed: Permanently protected open space, categorized under Article 97 of the Massachusetts Constitution,

A Wetland Resource Area, not including Buffers, unless authorized by the regulatory body, such as an Order of Conditions issued by the local Conservation Commission; or State Historic Register properties

Land that is Priority Habitat, Core Habitat, Estimated Habitat, and/or Critical Natural Landscape or where at least 50 percent of the parcel's area is designated as Priority Habitat, Core Habitat, and/or Critical Natural Landscape

Large-Scale Ground-Mounted Solar Photovoltaic Installations sized greater than 5,000kW DC.

As-of-Right Siting

The following types of solar facilities are allowed subject to Section 320:

Small-Scale Ground-Mounted Solar Photovoltaic Installations (less than 250 kW DC) are permitted as-of-right in all districts when connected behind the meter.

Roof-mounted or building-mounted solar energy facilities are permitted as-of-right in all districts when connected behind the meter.

#### Restricted Siting

Large-Scale Ground-Mounted Solar Photovoltaic Installations sized between 250kw and 5,000kW are allowed, subject the applicant obtaining a Special Permit and Site Plan Review, in the R-130, R-60, CG, CS, IND, CR districts. A Site Plan Review by the Planning Board shall be required for the following categories of projects wherever located:

Ground-mounted solar energy facilities sited on a Brownfield,

Ground-mounted solar energy facilities sited on Eligible landfills,

Ground-mounted solar energy facilities sited on sand and/or gravel pits,

Canopy mounted solar energy facilities,

Public Utility solar energy facilities,

Ground-mounted solar energy facilities within a farm or existing agricultural land,

Ground-mounted solar energy facilities sited on land that has been previously disturbed.

#### Design Standards.

Unless otherwise expressly provided by Section 590 of the Wareham Zoning By-Law requirements of the underlying zoning district shall apply, except and in addition, the following design standards which shall apply.

Large-Scale Ground-Mounted Solar Photovoltaic Installations shall meet the following standards:

No such installation shall be segmented or broken into separate ownerships so as to avoid the prohibitions of the by-law.

Meet the requirements and standards for industrial uses found in Article 7: Design Standards and Guidelines of this Zoning By-Law.

The distance shall be 75 feet from the residential property line which may be increased to reduce or eliminate visibility and noise at the discretion of the SPGA.

Required separation in commercial and industrial districts, the distance shall be 25 feet which may be increased to reduce visibility and noise at the discretion of the SPGA

The front, side, and rear yard depth shall be in accordance with Article 6 of the Wareham Zoning By-Law; provided, however, that where the lot abuts or is across the street from or is enclosed within a Residential Neighborhood, the front yard setback for all structures including fencing and vegetated buffer shall not be less than 75 feet, and may be more, as determined at the sole discretion of the SPGA, depending on visibility of the facility because of the density of vegetation and/or topography.

Earthen berms and landscape plantings will be required according to Article 10: Landscaping, of this Zoning By-Law.

Significant regrading of the site is prohibited. Any and all soil removal must be approved and consistent with Article III, Earth Removal Regulations of the Town By-Law.

No removal of all field soils;

Existing leveled field areas left as is without disturbance;

Where soils need to be leveled and smoothed, such as filling potholes or leveling, this shall be done with minimal overall impact with all displaced soils returned to the areas affected.

#### Landscaping:

No removal of all field soils,

All vegetative screening will be designed with plants that include a diversity of native species, including deciduous and evergreen plants.

A mix of native species including evergreen and deciduous trees, as well as native bushes and plants to be used as ground cover sufficient to maintain soil integrity and minimize soil erosion must be established and maintained for the life of the project or other seeding protocol; as required by the SPGA and in accordance with state requirements.

Appropriate use of geotextile fabrics,

The SPGA will consider the quality of the landscape plan and the methods used to provide a visual buffer and noise barrier between the PV array and the residences around it.

Ballasts, screw-type, or post driven pilings and other acceptable minimal soil impact methods that do not require footings or other permanent penetration of soils for mounting are required, unless the need for such can be demonstrated; the use of chemically treated timbers to mount solar panels is prohibited.

Any soil penetrations that may be required for providing system foundations necessary for additional structural loading or for providing system trenching necessary for electrical routing shall be done with minimal soils disturbance, with any displaced soils to be temporary and recovered and returned after penetration and trenching work is completed;

No concrete or asphalt in the mounting area other than ballasts, poles for mounting solar panels, or other code required surfaces, such as transformer or electric gear pads shall be permitted;

Address existing soil and water resource concerns that may be impacted to ensure the installation does not disturb an existing soil and water conservation plan or to avoid creating a negative impact to soil and water conservation best management practices, such as stimulating erosion or water run-off conditions;

All Large-Scale Ground-Mounted Solar Energy Installation shall be required to be fenced only if necessary for public safety, as determined by the SPGA and any applicable state or federal law. Any fencing used shall be permeable to allow small wildlife to pass through, and designed to blend into the surrounding landscape.

All appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other and shall be screened from the view of public rights-of-ways and persons not on the parcel, in all residential districts.

Battery storage systems may be included in a project only when accessory to the PV array collection system utilized for solar power generated as part of the approved project. Hazards associated with the battery storage will be identified and addressed in the system's operation and management plan as a requirement for the Special Permit. The items to address in the operation and management plan shall include; noise, fire, hazardous material management, firewater runoff, air quality, protection of the Plymouth/Carver Sole Source Aquifer, protection of the environment, and water resources, or other requirements that the Zoning By-Law may require. Access roads and driveways shall be designed to limit visibility into the site with minimum disturbance necessary to gain appropriate access to and around the arrays. Setbacks shall not be disturbed by access roads, except where allowed by the Planning Board for access to the site. Lighting of solar energy facilities shall be consistent with state and federal law. Lighting of appurtenant structures shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Lighting of the Solar Photovoltaic Installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution. Lighting shall be Night Sky program compliant.

There shall be no signs, except announcement signs, no trespassing signs or any signs required to warn of danger. A sign is required that identifies the owner and operator with an emergency telephone number where the owner and operator can be reached on a twenty-four hour basis.

All utility connections shall be underground except to the extent that underground utilities are not feasible in the reasonable determination of the board review.

Inverters and transformers shall be sited so as to minimize sound impact to residences. Noise levels at the nearest residential receptors will be determined for all equipment in combination, and must be at background levels for the district in which the receptors are located, and if not, will require mitigation that must be approved as conditions of the Special Permit issued by the SPGA.

Solar photovoltaic panels should be positioned so as not to cast glare to abutting uses by providing screening methods. Setbacks shall provide for adequate screening of noise and glare from abutting uses and structures. Techniques such as dense natural vegetated plantings of native plants, earthen berms and/or increased setbacks will be required, depending upon site specific conditions. Setbacks shall not be disturbed by access roads, except where allowed by the Planning Board authority for access to the site. Setbacks shall not be used for any purpose other than natural vegetation or other screening required by the reviewing board. Setbacks from property lines shall be as provided above for the type of large ground-mounted solar energy facilities.

The Solar Photovoltaic Installation owner, operator or their successors shall provide a copy of the project summary, electrical schematic, and site plan to the applicable fire chief. Upon request the Solar Photovoltaic Installation owner, operator or their successors shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the large ground-mounted solar energy facilities shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

The Solar Photovoltaic Installation owner, operator or their successors shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures and planting and maintaining healthy native plants for vegetative visual screening.

Site access shall be maintained to a level acceptable to the applicable fire chief and Emergency Medical Services. The Solar Photovoltaic Installation owner, operator or their successors shall be responsible for the cost of maintaining the large ground-mounted solar energy facilities and any access road(s), unless accepted as a public way.

#### Abandonment or Decommissioning

The Solar Photovoltaic Installation owner, operator or their successors in interest shall remove any ground-mounted solar energy facility which has reached the end of its useful life or has been abandoned. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Planning Board by certified mail 60 days prior to the proposed date of discontinued operations and plans for removal.

Decommissioning shall consist of but not limited to:

Physical removal of all below-grade foundations, mounting structures, supports, solar energy structures, equipment, security barriers and transmission lines from the site.

Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

Stabilization and re-vegetation of the site as necessary to minimize erosion. The SPGA may allow the Solar Photovoltaic Installation owner, operator or their successors to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

Abandonment: Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the Solar Photovoltaic Installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. If the Solar Photovoltaic Installation owner, operator or their successors fail to remove the installation in accordance with the requirements of this section within 150 days of abandonment

or the proposed date of decommissioning, the Town may enter the property and physically remove the installation.

Proponents of Solar Photovoltaic Installations shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the Town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Town, equivalent to 200 percent of the cost of removal and compliance with the additional requirements set forth herein.

The amount of the cost of removal and reconditioning shall not be reduced by any expected or estimated amounts to be recovered through the re-sale or recycling of materials. Such surety will not be required for municipal- or state-owned facilities.

The Proponent shall submit a fully inclusive estimate of the costs associated with removal and reconditioning, prepared by a qualified engineer. The submission shall include a mechanism for calculating and adjusting the increased value of the surety removal costs due to inflation and a regular review (not less than every five-years) and adjustment of the estimate shall be conducted and the Planning Board shall make any necessary adjustments to the value of the surety, which the Proponent shall honor. In no case will the surety be reduced.

#### Criteria for Special Permit and Site Plan Review and Approval

A Special Permit may be granted and a Site Plan approved under this section if the Planning Board finds that the provisions of Article 15 have been met and each of the design review standards set forth above have been met and that the location of the ground-mounted solar energy facilities is suitable and that the size and design are the minimum necessary for that purpose.

The Planning Board shall also impose, in addition to any applicable conditions specified in this section, such conditions as it finds reasonably appropriate to safeguard the neighborhood, public or otherwise serve the purposes of this section, including, but not limited to: screening, lighting, noise, fences, modification of the exterior appearance of the structures, limitation upon size, method of access or traffic features, parking, removal upon cessation of use or other requirements. Such conditions shall be imposed in writing and the applicant may be required to post bond or other surety for compliance with said conditions in an amount satisfactory to the Planning Board.

The Special Permit and Site Plan approval shall lapse if substantial use or construction has not commenced within two years of the date of issuance, except for good cause shown (including but not limited to appeals of the grant of the Special Permit and approval of the Site Plan or litigation enjoining the construction under the Special Permit or Site Plan), and provided further that such construction, once begun, shall be actively and continuously pursued to completion within a reasonable time.

#### Article 16 Revisions to Definitions

**As-of-Right Siting:** As-of-Right Siting shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development requires a building permit and may be subject to site plan review to determine conformance with local zoning ordinances or bylaws. Projects cannot be prohibited, but can be reasonably regulated where necessary to protect public health, safety or welfare by the Inspector of Buildings, the Select Board, or the Planning Board.

**Environmental Justice Communities:** A neighborhood is defined as an Environmental Justice population if one or more of the following four criteria are true: 1) the annual median household income is not more than 65 per cent of the statewide annual median household income; 2) minorities comprise 40 per cent or more of the population; 3) 25 per cent or more of households lack English language proficiency; or 4) minorities comprise 25 per cent or more of the population and the annual median household income of the municipality in which the



neighborhood is located does not exceed 150 per cent of the statewide annual median household income.

**Large-Scale Ground-Mounted Solar Photovoltaic Installation / Large-Scale Ground Mounted Solar Energy Facilities:** A solar photovoltaic system that is structurally mounted on the ground and has a minimum Rated Nameplate Capacity of 250 kW DC.

**On-Site Solar Photovoltaic Installation:** A solar photovoltaic installation that is constructed at a location where other uses of the underlying property occur. This would include Dual-Use installations as defined in the Massachusetts SMART program.

**Off-Grid System:** A solar photovoltaic installation where all energy generated on the installation site is consumed on that site and does not send any energy into the electrical grid for distribution.

**Permanently protected open space:** Areas shown on the BioMap2 image layer of the MassGIS database, further described at <https://www.mass.gov/service-details/biomap2-conserving-biodiversity-in-a-changing-world>

**Pine Barrens:** Consist of outwash from the last glacial maximum, which left thick glacial deposits of sand and gravel, providing the geologic foundation for a rare pine barren ecosystem. This forest and its fire-dependent pitch pine, the endangered Plymouth red-bellied turtles and other globally rare plant communities on top of deep deposits of glacially-deposited sands which filter and protect the Plymouth/Carver Sole Source Aquifer.

**Disturbed Land or Disturbed Area:** Previously Developed Areas or Previously Disturbed Areas including agricultural land: An area or a land is disturbed if it has been the subject of human activity that has changed the land's surface, being changes that remain clear and observable and includes agricultural areas.

Includes the built environment such as impermeable surfaces like large rooftops, parking lots, as well as land that was subject to earth removal and land in active agricultural use.

Does not include wetlands, bogs or associated forested upland.

**Priority Habitat, Core Habitat, Estimated Habitat, and/or Critical Natural Landscape:** Areas shown on the BioMap2 image layer of the MassGIS database, further described at <https://www.mass.gov/service-details/biomap2-conserving-biodiversity-in-a-changing-world>

**Project Area:** The land under the Solar Photovoltaic including all areas within any fencing, all components of the system including all supporting structures, buffers, setbacks, access ways, vegetative screening, and any other land disturbed during installation.

**Rated Nameplate Capacity:** The maximum rated output of electric power production of the solar photovoltaic system in Direct Current (DC).

**Residential neighborhood:** shall consist of at least 3 [three] occupied houses with at least one common lot line and a common street for access

**Small-Scale Ground-Mounted Solar Photovoltaic Installation:** A solar photovoltaic system that is structurally mounted on the ground and has a minimum Rated Nameplate Capacity of under 250 kW DC and less than one acre in size.

**Solar Energy:** Radiant energy received from the sun that can be collected in the form of heat or light by a solar energy system.

**Solar Energy System:** A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage, and distribution of solar energy for space heating or cooling, electricity generation, or water heating.

**Solar Photovoltaic Array:** An arrangement of solar photovoltaic panels.

**Solar Photovoltaic Generation Units:** An arrangement of solar photovoltaic panels.

**Solar Photovoltaic Installation:** A solar energy system that converts solar energy directly into electricity through an arrangement of solar photovoltaic panels.

Solar Photovoltaic Installation Site Plan [or Special Permit] Review: A review by the site plan reviewing authority [or special permit granting authority] to determine conformance with the town's zoning bylaws.

State Historic Register: The Inventory of Historic and Archeological Assets, maintained by the Massachusetts State Historic Preservation Office

Wetland Resource Area: Those resources identified in 310 CMR 10.00 et seq. or to do or act in any manner relative thereto.

**EXPLANATION:**

Article 25 is a revision to the Solar Bylaw passed at Spring 2022 Town Meeting. It provides standards and requirements for construction, siting, and installation of large scale ground-mounted solar installations. It also adds a comprehensive set of requirements for installation of solar battery systems to facilitate collection of solar energy for these installations to further safeguard the health, safety and welfare of the public.

Inserted by the Select Board at the request of the Planning Board

Select Board recommends that this article be passed over: 4-0-0

Finance Committee recommends that this article be passed over: 6-0-0

***Finance Committee Recommendation: Due to the timing of the Attorney General's ruling on the existing Solar Bylaw, Article 25 should be passed over and reviewed further to comply with required changes.***

**ARTICLE 26 – CONSTRUCTION COST FOR WPCF PROJECTS – CLARIFIER AND HEADWORKS UPGRADES**

To see if the Town will vote to appropriate \$36,000,000 for the construction of the WPCF Clarifier Upgrade and Headworks Project; including, but not limited to replacement of the headworks, secondary clarifier upgrades/replacement, and other work at the Water Pollution Control Facility (WPCF), as well as the payment of all other costs incidental and related thereto; to determine whether this amount shall be transferred from available funds, borrowing or otherwise, or to do or act in any manner relative thereto.

**EXPLANATION:**

The WPCF headworks system is made up of the structures and equipment at the beginning of the wastewater treatment process, including gates and flow controls, metering equipment, pumps, mechanical screens, and grit removal systems. Debris (such as baby wipes) and grit (like sand) are removed from the wastewater stream, as are materials like trash, branches, orange peels, and more. This process is critical to protect downstream equipment, help control odors, and ensure that the facility can operate efficiently. The components of the existing headworks facility are at the end of their useful life and are unable to adequately perform these functions, requiring costly repairs and replacements of pumps and other expensive equipment downstream in the process. The existing clarifiers are well past their life expectancy and are not up to current industry standards, resulting in inefficiencies and extra repair and maintenance. The complete failure of these major structures is possible and could be catastrophic. The project has been identified as urgent. The Town approved the design phase of this project at Fall Town Meeting 2022.

Inserted by the Select Board at the request of the Sewer Commissioners

The Select Board recommends favorable action: 2-1-1

The Finance Committee recommends favorable action: 5-1-0

***Finance Committee Recommendation: The Finance Committee recommends approval to borrow funds for the upgrades to the WPCF. Very favorable financing, including 0% interest and principal forgiveness of 10% or more is available if the Town approves this article and completes its application for funds by October 31, 2023. The project is a step toward implementation of a required Comprehensive Wastewater Management plan. As we understand that further actions need to be taken, the failure to act could lead to a major failure and possible state or federal penalties. If we do not act, the cost of any upgrades or repair to these components will be higher going forward. No viable alternative is on the table at this point. The issue of expanding who pays for the sewer is not on the table at this time. Favorable action on this article will not affect consideration of that issue going forward. The Finance Committee understands the difficulties surrounding this matter but no matter what the future holds for our town we still need this facility now.***

#### **ARTICLE 27 - BYLAW CORRECTION/STORMWATER PERMIT**

To see if Town Meeting will amend Division 5 Article 11 article 1 of the General Bylaws to change paragraph 3 Administration so that the permitting authority for Stormwater permits is changed from the Board of Health to the Planning Board.

Or to do or act in any manner relative thereto.

#### **EXPLANATION:**

The Planning Board currently reviews stormwater management as part of its site plan review/special permit process and is better equipped than the Board of Health perform this function for the Town.

Inserted by the Select Board at the request of the Director of Planning

The Select Board recommends favorable action: 2-1-1

The Finance Committee recommends favorable action: 5-1-0

***Finance Committee Recommendation: The Planning Board is the best entity to grant or deny Stormwater Permits.***

#### **ARTICLE 28 – ACCEPT CANDLE PAPER LANE**

Petitioned Article: To see if the Town will vote to accept the Select Board’s layout of Candle Paper Lane as a public way, as petitioned by abutters, or take any action relative thereto.

Petitioned by Evelyn Rose

#### **EXPLANATION:**

Candle Paper Lane is currently privately owned. Residents request that the Town accept a layout of the road.

Petitioned by Evelyn Rose

The Select Board recommends further study: 3-0-1

The Finance Committee refers to Town Meeting: 6-0-0

***Finance Committee Recommendation: The Finance Committee took no action and refers this article to Town Meeting floor. The Planning Board has determined that additional work is required before the Town can accept Candle Paper Lane as a public way. Therefore, there is no Select Board-approved layout of Candle Paper Lane to accept.***

## **ARTICLE 29 - GIFT OF BENCH**

Petitioned Article: To see if the Town will accept the gift of a Granite bench to be located at Swift's Beach, donated from Mr. Ciro Tenaglia. The Tenaglia family will pay for the concrete foundation for both the gifted bench and for an existing bench that has fallen into disrepair, the gifted bench itself and the cost of installation on MBLU 50/B 2/.

### **EXPLANATION:**

Mr. Tenaglia would like to donate a bench in the memory of his wife, Antonietta (Zizza) Tenaglia, who was a mainstay at Swifts Beach for decades. Mrs. Tenaglia loved sitting at Swifts Beach and looking out over the water with family, friends and neighbors at all times throughout the year. There is a bench down there now but it was not built on a concrete pad, so the asphalt that it sits on has fallen into disrepair. Mr. Tenaglia has spoken to Municipal Maintenance and has generously offered to pay to provide a concrete pad for the existing bench when he has the concrete pad put in place for the to-be donated bench, so the existing bench does not become no longer safe to use.

Petitioned by Brenda Eckstrom

Select Board recommends [See Addendum]

Finance Committee refers to Town Meeting: 7-0-0

***Finance Committee Recommendation: As of July 11, 2023, there is a moratorium on the placement of memorial objects on Town property due to maintenance responsibilities. This article conflicts with that written policy.***

## **ARTICLE 30 – AMEND THE CHARTER**

Petitioned Article: To see if the Town will vote to petition the State Legislature to Amend the Town's Home Rule Charter to add Section 7-10, Charter Compliance, to Article 7, General Provisions of the Charter as follows:

7-10 Charter Compliance

(a) Charge

The committee shall take action only after receiving a written complaint, filed by 1 or more voters of the town, alleging a violation of this charter by reason of an act or a failure to act by the town administrator, Town Clerk, moderator, the board of selectmen, the school committee, the finance committee, board of assessors, or a member of such board or committee, or any other board, committee or commission, or a member of such, or any Town employee who has

knowingly taken any action or failed to take any action in their official capacity in violation of any of the terms or provisions of this Charter.

**(b) Complaint**

The complaint shall state the specific section of this charter that is the subject of the violation, the individual, board or committee responsible for the violation and the act or failure to act resulting in the violation. The complaint shall be filed with the Town Clerk who shall immediately send a copy to each member of the committee via certified mail, return receipt requested, or via email if proof of service is acknowledged by recipient. The Town Clerk shall also immediately send a copy of the complaint to the Chairman of the Charter Compliance Committee. In the event that the complaint is against the Town Clerk, the town administrator shall execute the responsibilities of the Town Clerk within this section.

**(c) Action by the Town**

Within 21 days after receipt of the complaint by the Town Clerk, the Charter Compliance Committee shall hold a meeting to vote whether to dismiss the complaint without further action. If the committee so votes, the chairman shall give written notification to the Town Clerk, citing the Committee's reason(s) for dismissal. The Town Clerk shall forward the complainant. If the committee votes to not dismiss the complaint, the chairman shall set a time and date for a hearing and send notice of the hearing to the Town Clerk, the complainants and the individual, board or committee named in the complaint via certified mail, return receipt requested, or via email if proof of service is acknowledged by recipient.

The Town Clerk shall post the hearing notice without delay, on the Town's website and the Town's Bulletin Board. The Chairman of the Charter Compliance Committee shall cause the hearing notice to be published in a newspaper of general circulation for at least 7 days before the hearing date. The hearing shall occur within 45 days after the date on which the complaint was received by the Town Clerk.

At the public hearing, the Charter Compliance Committee shall receive testimony from the complainant and from the official, board, or commission, or members of the official body against whom or which the charges were made and from such witnesses as either party may bring forward.

Within 14 days after the hearing, the committee shall vote on whether there has been a violation of this charter as alleged in the complaint and shall mail a notice of its decision to the complainant, to the individual, board or committee named in the complaint and to the Town Clerk. The Town Clerk shall post a copy of the decision at the town hall and on the town's website. The decision shall be posted on the Town's Bulletin Board for no less than 30 days and shall be maintained on-line for at least 7 years.

If the committee determines that there has been a violation of this charter as alleged by the complaint, the committee shall determine what recompense, if any, is due from a letter of apology to requesting resignation. And if, following its vote, there continues to be a violation, the committee may contact town counsel who may file a complaint on behalf of the town with the superior court.

Nothing in this article shall limit the right to seek enforcement of this charter as otherwise provided by law.

**(d) Membership**

The Charter Compliance Committee consists of 5 members who shall be appointed through a blind selection process by the town moderator for 3-year overlapping terms, so arranged that a nearly equal number will expire each year. The blind selection process will consist of any registered voter to submit an application in a sealed envelope with the words "Charter Compliance Committee" written on it to the Town Clerk. Once the Town Clerk has 5 or more envelopes, he/she shall notify the moderator who shall randomly select 5 envelopes, which shall

be opened at the Town Clerk's office. No appointee shall be a town employee, have a contract with the Town in any capacity, or be a member of an existing board, committee or commission, or have been any of these in the past 5 years, except having been on the Charter Compliance Committee.

The Members may serve up to two terms consecutive terms and then may resubmit an application in the manner prescribed above.

(e) Protection against reprisals

In the event that charges are filed pursuant to the terms of this Section by any employee of the Town, that employee shall be deemed to enjoy the protection afforded by MGL Chapter 149, section 185, Massachusetts whistleblower law.

#### EXPLANATION:

Government accountability is about maintaining trust between government and citizens. Accountability is especially important in local government. For local governments, core values such as integrity, adherence to the law, and transparency should provide the foundation for every decision and policy.

A Charter is an instrument that establishes a body politic and its controlling organizational structure that prescribes powers, privileges, rights, liberties and duties of its citizens. It doesn't matter if the government achieves results if the government does not adhere to the laws that are set out in the Charter, by which all citizens are expected to abide.

Local governments answer to state and federal laws and guidelines for effective operations. But most of all, they answer to the people they serve. The accountability chain between the electorate and elected officials is a vital, indispensable element of democratic government.

Petitioned by Brenda Eckstrom

Select Board recommends [See Addendum]

Finance Committee recommends favorable action: 0-7-0

***Finance Committee Recommendation: The committee felt that procedures are in place to accomplish what this article is trying to do, and that this would add another unnecessary layer of bureaucracy.***

#### ARTICLE 31 – AMEND BYLAWS: AFFORDABLE HOUSING

Petitioned Article: To see if the Town will vote to amend the Wareham Zoning Bylaws Sections to ARTICLE 8 as follows:

##### **830. LOCAL INITIATIVE PROGRAM – LOCAL ACTION UNITS – AFFORDABLE HOUSING – NEW CONSTRUCTION**

831: PURPOSE: To create a Local Initiative Program to provide the residents of Wareham the ability to have some control over, and to benefit from, the State's Affordable Housing Requirements by allowing residents to use the State's minimum zoning allowances, as conditioned within this zoning bylaw, to create affordable housing **that meets the DHCD's LIP requirements and receives approval by DHCD so the units created under this Zoning bylaw** shall be included in the Town's Subsidized Housing Inventory (SHI).

832: GENERAL PROVISIONS: A single family or two-family residence may be constructed, subject to the following standards and provisions, if 100% of the unit(s) are deed restricted as Affordable. **The term "Affordable" is used to mean "Income Eligible Household" as defined**

**in MGL c.40B ss.20, and 760 CMR ss. 56.02 as being rented in an amount not to exceed 70% of the Fair Market Rate (FMR) or bought in an amount not to exceed 80% of the Fair Market Rate (FMR) by someone whose total annual household income does not exceed 80% earnings of the Area Median Income (AMI), as identified by HUD's median family incomes, derived from the American Community Survey and / or the Massachusetts Department of Housing and Community Development Income guidelines.**

**833: DEVELOPMENT STANDARDS – GENERAL**

**833.1: LOT SIZE:** Any property to be developed under this bylaw shall consist of a lot that is shown on an Approved Plan, created and approved prior to January first, nineteen hundred and seventy-six, which contains at least five thousand (5,000) square feet of area and fifty (50) feet of frontage and shall be a lot that was joined in common ownership with others due to previous changes in the Town's zoning.

**833.2: SETBACKS:** Development of the property shall comply with the pre-existing, nonconforming setbacks that existing properties in the same zoning area are required to abide by.

**833.3: SIZE:** The construction of the proposed dwelling shall have a footprint of at least fifteen percent (15%) of the lot area, but shall not exceed twenty percent (25%) of coverage. Based on a 5,000 square foot lot, the dwelling shall have a 750 to 1,250 square feet footprint. The dwelling shall not exceed 35 feet in height. **All bedrooms must meet state sanitary code requirements for the accommodation of two or more persons (100 square feet minimum). In addition, all units created under this bylaw shall meet the following minimum square footage requirements and bathroom requirements to satisfy DHCD's Design & Construction Standards:**

**833.4: WATER and SEWER:** The lot shall be served by a public water system adequate in terms of fire protection and domestic use. The lot shall also be within an area served by sewer, or shall be required to comply with Title V Sanitary Regulations without needing to obtain a Special Permit or Variance from the Board of Health.

**833.5: PERMITTING:** As this is a Local Initiative Program, **the town or sponsor** shall file a "Local Action Unit" Application with the Select Board, or their designee. As part of the application, the owner shall provide a copy of the original plan or Assessor's records that identify the lots that are currently joined under existing zoning, and a plan showing the proposed lot divided off the current property, and that the 5,000 square feet of area and 50 feet of frontage shall be satisfied for both the proposed lot and the contributing property.

**Upon approval by the Select Board, a completed LIP Application (for Local Action Units), signed by the town's chief executive officer, along with DHCD's LIP Regulatory Agreement and Declaration of Restrictive Covenants for LAUs (the "Regulatory Agreement"), which includes the terms of affordability and the rights and responsibilities of the parties and an Affirmative Fair Housing Marketing and Resident Selection Plan ("AFHMP") that a developer or owner must follow in marketing and selecting residents for the units. DHCD must approve the application and documents before any dwelling unit is included in the town's SHI.**

**833.6: FEES and APPROVALS:** The Application Fee shall be \$100. The Inspectional Service (Building, Electricity, Plumbing) Fees, sewer connection fees, shall be calculated at fifty-percent of existing fees. The Select Board shall utilize staff to determine the appropriateness of the proposed Local Action Unit(s). The Select Board, or their designee, shall provide approval within 45 days of the application. If the proposal is rejected by **the** designee, the applicant may appeal to the Select Board. If it is rejected by the Select Board, the applicant may file an appeal in accordance with M.G.L. c. 40A, § 17.

833.7: DEED RESTRICTION REQUIREMENT: Once approved by the Town, the owner may do one of three options;

833.71: The current owner may choose to sell the newly recognized lot for a price not to exceed ten percent (10%) of the sale price of an affordable three-bedroom home, as determined by the Massachusetts Department of Housing and Community Development for someone making 80% of the median income for the statistical market. **Any engineering costs and filing fees to subdivide the lots, may be recouped in the sale.** A deed restriction, in a manner and form approved by the Select Board, shall be placed on the property at the time of the sale. A copy of the deed restriction shall be filed with the Registry of Deeds and the following Town Departments: Select Board, Inspectional Services, Assessors, Wastewater, and any other department the Select Board deem necessary.

833.72: The current owner may choose to **subdivide the property as described section 833.71 but instead of selling the lot, they could maintain ownership while an affordable unit is constructed that they themselves sell through the lottery process.** The property shall be sold **at a price not to exceed what a credit worthy buyer making no more than 80% of the median income for the statistical market.** The owner shall be able to profit up to twenty percent (20%) of the construction costs, which includes the value of the newly accepted lot calculated as ten percent (10%) of the sale price of an affordable three-bedroom home, as determined by the Massachusetts Department of Housing and Community Development for someone making 80% of the median income for the statistical market. A deed restriction, in a manner and form approved by the Select Board, shall be placed on the property at the time of the sale. A copy of the deed restriction shall be filed with the Registry of Deeds and **with** the following Town Departments: Select Board, Inspectional Services, Assessors, Wastewater, and any other department the Select Board deem necessary.

833.73: The current owner may choose to develop the property, and keep it for rental income. The rental price shall be determined by DHCD rental limits **not to exceed 70% of the FMR (Fair Market Rent)** for someone making **no more than 80%** of the median income for the statistical market. A deed restriction, in a manner and form approved by the Select Board **that complies with DHCD Guidelines**, shall be placed on the property prior to the issuance of a building permit, and another with the Select Board's approved form, at the time of an occupancy permit is issued. A copy of the deed restriction shall be filed with the Registry of Deeds and the following Town Departments: Select Board, Inspectional Services, Assessors, Wastewater, and any other department the Select Board deem necessary.

833.8: **A town's affordable housing percentage is determined by dividing the number of SHI-eligible units by the number of year-round housing units as reported by the latest decennial U.S. Census. The Town may suspend and reinstitute this bylaw, as needed, by a simple majority vote of Town Meeting.**

#### **840. LOCAL INITIATIVE PROGRAM – LOCAL ACTION UNITS – AFFORDABLE HOUSING – EXISTING PROPERTIES**

841: PURPOSE: To create a Local Initiative Program to provide the residents of Wareham the ability to have some control over, and to benefit from, the State's Affordable Housing Requirements by allowing residents to participate in and benefit from creating additions into deed restricted affordable apartments; to be allowed to deed restrict existing "in-law" apartments as affordable; and to provide "Amnesty" to residents with illegal apartments, **by** allowing them to bring the illegal apartment up to code **and in compliance with DHCD guidelines** without penalties and to deed restrict it affordable; as conditioned within this zoning bylaw, to create affordable units that shall be included in the Town's Subsidized Housing Inventory (SHI).



842: GENERAL PROVISIONS: A single family residence may construct an **accessory** apartment or add on a traditional apartment, subject to the following standards and provisions if the unit is deed restricted as Affordable. **The term “Affordable” is used to mean “Income Eligible Household” as defined in MGL c.40B ss.20, and 760 CMR ss. 56.02** is defined as being able to be **rented in an amount not to exceed 70% of the FMR (Fair Market Rate)** to someone whose total annual household income does not exceed 80% earnings of the Area Median Income (AMI) or less, as identified by HUD’s median family incomes, derived from the American Community Survey and / or the Massachusetts Department of Housing and Community Development Income guidelines.

843: DEVELOPMENT STANDARDS – GENERAL

843.1: LOT SIZE: Any property that is to be developed under this bylaw shall consist of a lot with at least 50 feet of frontage and at least a 5,000 square foot lot. The proposed addition shall conform with and complement other homes in the neighborhood.

843.2: SETBACKS: The construction of an addition under this bylaw shall comply with the preexisting, non-conforming setbacks that existing properties in the same zoning area are required to abide by.

843.3: SIZE: The construction of the addition shall limit the total dwelling footprint to no more than **thirty percent (30%)** of lot coverage. Based on a 5,000 square foot lot, the entire dwelling shall have a **1,500 square foot maximum** footprint. The dwelling shall not exceed 35 feet in height, **and the size of affordable dwelling unit shall comply with DHCD guidelines.**

843.4: WATER and SEWER: The lot shall be served by a public water system adequate in terms of fire protection and domestic use. The lot shall also be within an area served by sewer, or shall be required to comply with Title V Sanitary Regulations without needing to obtain a Special Permit or Variance from the Board of Health.

843.5: ACCESS and EGRESS: All units that are to be developed under this bylaw shall have a legal access and egress, as determined by the State Building Code.

843.6: “IN-LAW” CONVERSIONS: An “in-law” apartment for this bylaw shall be defined as an apartment that consists of one bedroom or less, with a kitchen area, bathroom and sitting area. Any property that was granted a Board of Appeals Special Permit or Variance in the past to construct an in-law apartment with conditions that it could not be rented, may apply for the in-law apartment to be counted as a “Local Action Unit.” The applicant shall provide a copy of the Zoning Board Decision to the Select Board with the application. Upon approval, the Select Board, or its designee, shall grant a deed restriction **that complies with DHCD requirements** that shall be filed with the Registry of Deeds allowing the “in-law” apartment to be rented, as long as the rent shall not **exceed 70% of the FMR (Fair Market Rent) to be rented by someone whose income does not exceed eighty percent (80%)** of Area Median Income (AMI) as determined by the U.S. Department of Housing and Urban Development. **Upon approval by the Select Board, a completed LIP Regulatory Application (for Affordable Accessory Apartments), signed by the town’s chief executive officer, along with DHCD’s LIP Regulatory Agreement for Accessory Apartments and the Town’s Affirmative Fair Housing Marketing Plan that meets DHCD’s required guidelines applicable to accessory apartments shall be submitted for approval.**

843.7: PERMITTING: As this is a Local Initiative Program, the current owner of an existing property shall file a “Local Action Unit” Application with the Select Board, or their designee. As part of the application, the owner shall provide a plot plan showing the proposed addition and the proposed floor plan. It shall not exceed the square footage of the original house. The Board shall also consider and approve plans of an existing home being modified or remodeled by the interior only, which takes a portion of the floor space and / or a level and makes it an apartment. The

rents **shall be an amount not to exceed 70% of the FMR (Fair Market Rent)** that can be afforded by people who **do not exceed eighty percent (80%)** of Area Median Income (AMI) as determined by the U.S. Department of Housing and Urban Development. The Deed Restriction shall be filed by the owner before an occupancy permit shall be issued.

843.8: FEES and APPROVALS: The Application Fee shall be \$100. The Inspectional Service (Building, Electricity, Plumbing) Fees, sewer connection fees, shall be calculated at fifty-percent (50%) of existing fees. The Select Board shall utilize staff or its designee to determine the appropriateness of the proposed Local Action Unit(s). The Select Board, or their designee, shall provide approval within 45 days of the application. If the proposal is rejected by a staff designee, the applicant may appeal to the Select Board. If it is rejected by the Select Board, the applicant may file an appeal in accordance with M.G.L. c. 40A, § 17.

843.9: DEED RESTRICTION REQUIREMENT: A copy of the deed restriction shall be filed with the Registry of Deeds and **with** the following Town Departments: Select Board, Inspectional Services, Assessors, Wastewater, and any other department the Select Board deem necessary.

844.0: **A town's affordable housing percentage is determined by dividing the number of SHI-eligible units by the number of year-round housing units as reported by the latest decennial U.S. Census. The Town may suspend and reinstitute this bylaw, as needed, by a simple majority vote of Town Meeting.**

EXPLANATION:

These changes are intended to address issues raised by the Attorney General in response to the previously submitted bylaw.

Petitioned by Brenda Eckstrom

Select Board recommends [See Addendum]

Finance Committee recommends favorable action: 0-6-1

***Finance Committee Recommendation: The committee felt more clarification and input from the town was needed. The Planning Director reports that no applications have been made under this bylaw. He has offered to meet with the petitioner to make it a functional bylaw. That seems the better course of action.***

## **APPENDIX**

The Capital Planning Committee (CPC) is responsible for managing the Town of Wareham's Capital Improvement Program. This Five Year Capital Program is developed and maintained through interviewing and working with the Town Administrator, Town Department Heads, Wareham Public School Superintendent, and Wareham Pollution Control Facility Sewer Commissioners. On an annual basis, the CPC reviews the supporting information, cost estimates and time scheduling for each expenditure. The actual yearly expenditures are finalized by the Town Administrator based on Town Balance Sheet considerations and Free Cash availability.

The current Five Year Capital Program follows:

Dept & Rank	DESCRIPTION	FY2024	FY2025	FY2026	FY2027	FY2028	EXTRA ORDINAR Y
<b>Board of Health</b>							
1'24	vehicle - pickup/suv	40000					
1'26	vehicle - pickup/suv		40000				
1'28	vehicle - pickup/suv					40000	
<b>Total BO Health</b>		<b>40000</b>	<b>0</b>	<b>40000</b>	<b>0</b>	<b>40000</b>	
<b>EMS</b>							
F21	*New Ambulance (3 yr lease) (110k)						
S23	*4 - styker life pack defibrulators (155k)						
S23	*balance of f21 new ambulance (220k)						
1'24	New Ambulance (3 yr lease)	400000					
2'24	Captain SUV	70000					
1'27	New Ambulance				425000		
<b>Total EMS</b>		<b>470000</b>	<b>0</b>	<b>0</b>	<b>425000</b>	<b>0</b>	
<b>Natural Resources</b>							
F21	*onset pier survey (188k)						
S23	*replace patrol boat (650k)						
SS23	*bayview park (1080k)						
1'25	2 patrol vehicles 3/4 ton 4X4 w/equipment		150000				
2'25	Onset pier renovation engineering		660000	200000	200000		
3'25	engineering Tempest Knob boat ramp		65000				
1'27	harbor plan				65000		
1'28	besse park pier renovations (fy27)					495000	
2'28	work boat/motor replacement					92000	
3'28	dredging Tempest Knob boat ramp					500000	
future	renovate Onset pier						11.0M
<b>Total Natural Resources</b>		<b>0</b>	<b>875000</b>	<b>200000</b>	<b>265000</b>	<b>1087000</b>	<b>11.0M</b>
<b>Wareham free Library</b>							
SS22	*roof (580k)						

Dept & Rank	DESCRIPTION	FY2024	FY2025	FY2026	FY2027	FY2028	EXTRA ORDINAR Y
S23	*exterior rehabilitation (300k)						
1'24	hvac	750000					
1'25	gutters		16000				
1'24	carpeting	39100					
<b>Total Library</b>		<b>789100</b>	<b>16000</b>	<b>0</b>	<b>0</b>	<b>0</b>	
<b>Inspection Services</b>							
S23	*3 fuel efficient vehicles(100k)						
<b>Total Inspection Services</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	
<b>IT-Systems</b>							
F19	*2 virtual servers (380k)						
S23	*3yr contract cyber monitoring (150k)						
S23	*desktops - dual factor authorization (100k)						
1'24	replace Computer/Peripheral/Firewall/ Switch	50000					
2'24	virtual server refresh	200000					
3'24	video surveillance - library	24000					
1'25	technology replacements		50000				
2'25	Building Access Control		350000				
3'25	GPS Tracking		20000				
1'26	technology replacements			50000			
2'26	Document Management			40000			
1'27	technology replacements				50000		
2'27	financial software				1000000		
1'28	technology replacements					50000	
2'28	virtual server replacement					300000	
<b>Total IT-systems</b>		<b>274000</b>	<b>420000</b>	<b>90000</b>	<b>1050000</b>	<b>350000</b>	
<b>Municipal Maint.</b>							
S23	*10 wheeler w/plow package (375k)						
S23	*leaf vac (100k)						
S23	*3/4 ton pickup with plow package (80k)						

WAREHAM 5 YEAR CAPITAL PLAN SPRING TOWN MEETING 2024

Dept & Rank	DESCRIPTION	FY2024	FY2025	FY2026	FY2027	FY2028	EXTRA ORDINAR Y
1'24	3500 Utility truck with plow	95000					
2'24	Surf Rake	85000					
3'24	6-Wheeler Class 8 with plow	350000					
4'24	Wacker Sidewalk Machine	160000					
5'24	Mechanical/Vac Sweeper	350000					
1'25	Rubber Tires Excavator		350000				
2'25	Chipper Box Truck		180000				
3'25	10-Wheeler with plow		375000				
4'25	Asphalt Box		60000				
1'26	1 ton truck 3500 with plow			85000			
2'26	1 ton truck 3500 with plow			85000			
3'26	park mower			55000			
4'26	Lowbed Trailer			100000			
1'27	6 wheeler class 8 with plow				350000		
2'27	Skid Steer Track Machine				150000		
3'27	Fork Lift				50000		
2'28	Tub Grinder					600000	
3'28	Roll Off Truck					400000	
1'28	Front End Loader					400000	
<b>Total Municipal Maintenance</b>		<b>1040000</b>	<b>965000</b>	<b>325000</b>	<b>550000</b>	<b>1400000</b>	
<b>Police</b>							
S23	*tasers and body camera pilot program (75k)						
ongoing	Cruiser Replacement (capital lease)		170000	170000	170000	170000	
ongoing	operational capital equipment		38500	38500	38500	38500	
1'24	Upgrade Records Management	600000					
1'24	police body cameras	350000					
2'24	utility vehicle - gator	28000					
<b>Total police</b>		<b>978000</b>	<b>208500</b>	<b>208500</b>	<b>208500</b>	<b>208500</b>	

Dept & Rank	DESCRIPTION	FY2024	FY2025	FY2026	FY2027	FY2028	EXTRA ORDINAR Y
<b>Town Bldgs</b>							
1'24	Library and Hammond building evaluations	100000					
2'24	Upgrade of Town Hall Boilers	500000					
1'24	Upgrade of MSC Generators	190000					
1'25	Upgrade of MSC Boilers		500000				
2'25	Tremont Nail Factory 3 roof replacements		450000				
3'25	Upgrade MSC elevators		750000				
1'26	MSC Front HVAC			400000			
2'26	Resurface Police Parkinfg Lot			200000			
3'26	Police Station Permitter Fencing			40000			
1'27	resurface Town Hall/MSC parking lot				250000		
2'27	Municipal Maintenance Admin Building				500000		
3'27	Town Hall Fire Alarm Installation				80000		
1'28	Hammond School Siding					520000	
2'28	Update Fire System Tremont Nail					400000	
3'28	Library Renovation					2000000	
4'28	Hammond Renovation					2000000	
Hold	Elm Street dam						1.3M
<b>Total Town Bldgs</b>		<b>790000</b>	<b>1700000</b>	<b>640000</b>	<b>830000</b>	<b>4920000</b>	<b>1.3M</b>
<b>Town Cemeteries</b>							
1'24	upgrade Agawam cemetery	35000					
2'24	upgrade Centre cemetery	55000					
1'25	Agawam land clearing and stumping		100000				
2'25	Centre land clearing and stumping		100000				
1'26	Agawam preparation for grave lots			400000			
2'26	Centre preparation for grave lots			400000			
<b>Total Town Cemeteries</b>		<b>90000</b>	<b>200000</b>	<b>800000</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>School Dept</b>							
ongoing	new vans/buses		400000	400000	400000	400000	

WAREHAM 5 YEAR CAPITAL PLAN SPRING TOWN MEETING 2024

Dept & Rank	DESCRIPTION	FY2024	FY2025	FY2026	FY2027	FY2028	EXTRA ORDINAR Y
F21	*fire alarm system hs (280k)						
S23	*replace middle school roof - complete (7491k)						
SS23	*whs boiler balance after msba funding (720k)						
1'24	fire alarm system hs	620000					
2'24	2 transit vans	136000					
1'24	replacement 5 steel doors hs/ms	25000	25000	25000	25000	25000	
4'24	technology hs/ms	100000					
1'25	roof top hvac units		264000	264000	264000	264000	
2'25	3 dump and p/u trucks		8000	8000	8000		
3'25	building management system hvac hs&ms		300000				
4'25	faucets hs&ms		10000	10000	10000	10000	
	boilers ms						???
<b>Total School Dept</b>			<b>1007000</b>	<b>707000</b>	<b>707000</b>	<b>699000</b>	
<b>total Town Roads</b>			<b>3000000</b>	<b>3000000</b>	<b>3000000</b>	<b>3000000</b>	
<b>WPCF</b>							
F22	*narrows force main replacement (6m)						
1'25	Generators-plant		1000000				
ongoing	rehab pump stations	550000	550000	550000	550000	550000	
ongoing	aeration tanks structure/values	500000	500000	1000000	1000000	1000000	
ongoing	replace clarifiers	425000	425000	425000	425000	425000	
ongoing	Kettle stations pump replacements	200000	200000	200000	200000	200000	
ongoing	infra structure pipe replacement	2000000	2000000	2000000	2000000	2000000	
ongoing	repair manholes	100000	100000	100000	100000	100000	
SS23	*headworks engineering (2m)						
SS23	*clarifier engineering (2m)						
SS23	*smith st low pressure engineering (2m)						
SP23	*swift beach line pipe (3m)						
1'25	scada replacement		4000000				
2'25	aeration blowers - pump stations		2000000				
3'25	sludge holding tanks all 8)		618000				



WAREHAM 5 YEAR CAPITAL PLAN SPRING TOWN MEETING 2024

<b>Dept &amp; Rank</b>	<b>DESCRIPTION</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>	<b>FY2028</b>	<b>EXTRA ORDINAR Y</b>
6'25	headworks - new structure	18000000					
6'25	clarifiers - new structure	18000000					
1'26	12th street pipe replacement			1000000			
2'26	3 pump stations coastal resilience (grant 1.5 m wip)			2000000	2000000	2000000	
5'26	lining force mains			10000000			
1'27	septage tanks				528000		
	onset beach infra structure/collection						4 M
	update plant capacity						105M
<b>Total WPCF</b>		<b>39775000</b>	<b>11393000</b>	<b>16375000</b>	<b>5903000</b>	<b>5375000</b>	<b>109M</b>
<b>SUMMARY</b>							
	total Board of Health	40000	0	40000	0	40000	
	total EMS	470000	0	0	425000	0	0
	total Nnatural Resources	0	875000	200000	265000	1087000	11M
	total Library	789100	16000	0	0	0	
	total Inspection Services	0	0	0	0	0	
	total IT Systems	274000	420000	90000	1050000	350000	
	total Municipal Maintenance	1040000	965000	325000	550000	1400000	
	total Police	978000	208500	208500	208500	208500	
	total Town Bldgs	7900000	1700000	640000	830000	4920000	1.3M
	total Town Cementeries	90000	200000	800000	0	0	
	total Wareham Public Schools	881000	1007000	707000	707000	699000	
	total Town roads	3000000	3000000	3000000	3000000	3000000	
	<b>Total Town and Schools Excludes WPCF</b>	<b>8352100</b>	<b>8391500</b>	<b>6010500</b>	<b>7035500</b>	<b>11704500</b>	<b>12.3m</b>
<b>Total WPCF</b>		<b>39775000</b>	<b>11393000</b>	<b>16375000</b>	<b>5903000</b>	<b>5375000</b>	<b>109M</b>