

**TOWN OF MEDWAY
WARRANT FOR 2023
FALL TOWN MEETING**

NORFOLK ss:

To either of the Constables of the Town of Medway

GREETING:

In the name of the Commonwealth of Massachusetts, you are hereby required to notify and warn the inhabitants of said Town who are qualified to vote in Town affairs to meet at the Medway High School Auditorium, 88 Summer Street, on Monday, November 13, 2023, at 7:00 PM, then and there to act on the following articles:

ARTICLE 1: (Citizens' Petition: Firearm Discharge)

To request the town to vote to prohibit the discharge of a firearm within 1500 FT. of a residential dwelling.

CITIZENS' PETITION

SELECT BOARD RECOMMENDATION: Approve

FINANCE COMMITTEE RECOMMENDATION: To Be Determined

ARTICLE 2: (Prior Year Bills)

To see if the Town will vote to transfer \$150 from the Fiscal Year 2024 Building Department Contracted Services Account and \$229.80 from the Council on Aging Department Other Purchased Services Account for the purpose of paying prior year, unpaid bills of the Town, or act in any manner relating thereto.

SELECT BOARD

SELECT BOARD RECOMMENDATION: Approve

FINANCE COMMITTEE RECOMMENDATION: Approve

ARTICLE 3: (Free Cash Transfer to Facility Stabilization Fund)

To see if the Town will vote to transfer \$1,000,000 from Certified Free Cash to the Capital Stabilization Fund, or act in any manner thereto.

SELECT BOARD

SELECT BOARD RECOMMENDATION: Approve

FINANCE COMMITTEE RECOMMENDATION: Approve

ARTICLE 4: (Free Cash Transfer to General Stabilization Fund)

To see if the Town will vote to transfer \$100,000 from Certified Free Cash to the General Stabilization Fund, or act in any manner thereto.

SELECT BOARD

SELECT BOARD RECOMMENDATION: **Approve**

FINANCE COMMITTEE RECOMMENDATION: **Approve**

ARTICLE 5: (CPA Funds: 158 Main Street Repair Design Work)

To see if the Town will transfer from Community Preservation Act Funds a sum of money for the engineering and design of repairs to the historic Ide House, 158 Main Street, including all associated legal, incidental and other related costs, or act in any manner relating thereto.

SELECT BOARD

SELECT BOARD RECOMMENDATION: **To Be Determined**

FINANCE COMMITTEE RECOMMENDATION: **Approve**

ARTICLE 6: (Transfer from Ambulance Receipts Fund to Purchase New Ambulance)

To see if the Town will vote to transfer \$435,000 from Ambulance Receipts Reserves for the purpose of purchasing and equipping a new ambulance, and for the payment of all other incidental and related costs, or act in any manner relating thereto.

SELECT BOARD

SELECT BOARD RECOMMENDATION: **Approve**

FINANCE COMMITTEE RECOMMENDATION: **Approve**

ARTICLE 7: (Free Cash Transfer: Opioid Settlement Abatement Funding)

To see if the Town will vote to transfer the sum of \$85,814.36 from Certified Free Cash to be expended in accordance with the Massachusetts State-Subdivision for Statewide Opioid Settlement Funds; funds to be used for all of the purposes allowed by law, including those outlined in applicable opioid-litigation settlement documents, a document prepared by the Substance Addiction Bureau of the Commonwealth's Office of Health and Human Services Department, found at <https://www.mass.gov/doc/massachusetts-abatement-terms/download> entitled "Abatement Strategies", and consistent with any state guidelines or regulations further clarifying allowable uses of opioid litigation settlement funds, to supplement and strengthen resources available to communities and families for substance use disorder prevention, harm reduction, treatment, and recovery, or act in any manner relating thereto.

SELECT BOARD

SELECT BOARD RECOMMENDATION: **Approve**

FINANCE COMMITTEE RECOMMENDATION: **Approve**

ARTICLE 8: (Free Cash Transfer: Capital Items)

To see if the Town will vote to appropriate the sum of \$347,800 from Certified Free Cash for the purpose of funding the following capital items, including associated engineering, personnel, maintenance and legal service costs, and for the payment of all other costs incidental or related thereto:

Project	Department	Cost
Community Farm Structure Foundation	Town Manager	\$50,000
158 Main St Barn Repair	Town Manager	25,000
Replacement Technology Equipment	Info. Services	37,800
McGovern School Asbestos Tile Abatement	School	130,000
Student Transport Vans	School	105,000
Total		\$347,800

Or act in any manner relating thereto.

SELECT BOARD

SELECT BOARD RECOMMENDATION: Approve

FINANCE COMMITTEE RECOMMENDATION: Approve

ARTICLE 9: (Borrowing: High School Culvert Replacement - Design)

To see if the Town will vote to raise and appropriate, borrow, or transfer \$260,000 for the purpose of funding engineering and design of the Medway High School driveway culvert replacement, including the associated legal and technical services costs, and for the payment of all other incidental and related costs, or act in any manner relating thereto.

SELECT BOARD

SELECT BOARD RECOMMENDATION: Approve

FINANCE COMMITTEE RECOMMENDATION: Approve

ARTICLE 10: (Raise and Appropriate: Supplement FY24 Building Department Budget)

To see if the Town will raise and appropriate the sum of \$11,700 to supplement the Fiscal Year 2024 Building Department Budget, or act in any manner relating thereto.

SELECT BOARD

SELECT BOARD RECOMMENDATION: Approve

FINANCE COMMITTEE RECOMMENDATION: Approve

ARTICLE 11: (Raise and Appropriate: Supplement FY24 Unemployment Expense Account)

To see if the Town will raise and appropriate the sum of \$75,000 to supplement the Fiscal Year 2024 unemployment expense account, or act in any manner relating thereto.

SELECT BOARD

SELECT BOARD RECOMMENDATION: **Approve**

FINANCE COMMITTEE RECOMMENDATION: **Approve**

ARTICLE 12: (Repurpose Water Enterprise Borrowing)

To see if the Town will vote to transfer the sum of \$374,850 from the funds authorized for the Brentwood water infrastructure project pursuant to the vote taken under Article 11 of the June 8, 2020, Annual Town Meeting, which are no longer needed for such purposes, to the water meter replacement infrastructure program, or act in any manner relating thereto.

SELECT BOARD

SELECT BOARD RECOMMENDATION: **Approve**

FINANCE COMMITTEE RECOMMENDATION: **Approve**

ARTICLE 13: (Repurpose Monetary Articles – Town)

To see if the Town will vote to transfer the sum of \$32,000 from the funds authorized by the votes taken under the prior Town Meeting Articles as shown in Table 1 below, which amounts are no longer needed for such purposes, to the projects and in the amounts listed in Table 2 below, or act in any manner relating thereto.

TABLE 1

Town Meeting Date	Article	Description	Transfer From Amount
5/8/23 (Annual)	7	Replace Kubota Tractor (Veh. 342)	\$30,000
5/10/21 (Annual)	11	Signage and One-Way Traffic Flow	2,000
		Total	\$32,000

TABLE 2

Town Meeting Date	Article	Description	Transfer to Amount
5/8/23 (Annual)	7	Replace 2005 International (Veh. 215)	\$30,000
New Project		Library Elevator Repair	2,000
		Total	\$32,000

SELECT BOARD

SELECT BOARD RECOMMENDATION: **Approve**

FINANCE COMMITTEE RECOMMENDATION: **Approve**

ARTICLE 14: (Repurpose Monetary Articles – School)

To see if the Town will vote to transfer the sum of \$49,000 from the funds authorized by the votes taken under the prior Town Meeting Articles as shown in Table 1 below, which amounts are no longer needed

for such purposes, to the projects and in the amounts listed in Table 2 below, or act in any manner relating thereto.

TABLE 1

Town Meeting Date	Article	Description	Transfer From Amount
5/10/21 (Annual)	7	Door Hardware Project	17,788.50
5/9/22 (Annual)	7	Memorial School First Floor Painting	25,270.00
5/9/22 (Annual)	7	Memorial School Window Glazing	3,370.50
5/9/22 (Annual)	7	High School First Floor Painting	1,821.00
5/9/22 (Annual)	7	High School Acid Neutralizer Tank	750.00
		Total	\$49,000

TABLE 2

Town Meeting Date	Article	Description	Transfer to Amount
New Project		Memorial School Roof Evaluation and Replacement Design	\$49,000
		Total	\$49,000

SCHOOL DEPT

SELECT BOARD RECOMMENDATION: **Approve**

FINANCE COMMITTEE RECOMMENDATION: **Approve**

ARTICLE 15: (Accept MGL Ch. 90, Sec. 20A, Parking Regulations)

To see if the Town will vote to accept the provisions of Massachusetts General Laws Chapter 90, Section 20A, regarding enforcement of parking regulations and appointment of a parking clerk, or act in any manner relating thereto.

SELECT BOARD

SELECT BOARD RECOMMENDATION: **Approve**

FINANCE COMMITTEE RECOMMENDATION: **Approve**

ARTICLE 16: (Amend General Bylaws: Handicapped Parking)

To see if the Town will vote to amend the General Bylaws by inserting a new article entitled “Handicapped Parking” as follows, with the Town Clerk to assign the correct number for the Bylaw and to make such changes as to numbering and the like to bring the Bylaw into conformance with the form of the Bylaws, or act in any manner relating thereto.

Handicapped Parking

Sec. 1.

No person shall allow, permit, or suffer any motor vehicle or trailer to:

(A) stand or park within parking spaces designated as reserved for vehicles issued handicapped or disabled veteran number plates or parking identification pursuant to the methods specified in G.L. c. 40, §21(23) and G.L. c. 40, §22; or

(B) stand or park in such a manner as to obstruct a curb ramp designated for use by handicapped persons as a means of egress to a street or public way.

Sec. 2.

Any person or body that has lawful control of any way, property or place as appears in G.L. c. 40, §21(23)(a) shall provide handicapped parking according to the formula contained therein. Further, such handicapped spaces shall be identified in accordance with G.L. c. 23, §21(23)(b).

Sec. 3

The Chief of Police or his/her designee may issue temporary handicapped parking identification (permit) to any person upon application with supporting medical affidavit signed by a licensed physician designating the applicant as physically handicapped. Said temporary permit shall be issued with an expiration date not to exceed sixty (60) days from date of issue and shall be displayed from the interior rear-view mirror of any vehicle parked in a designated handicapped parking space. The unauthorized use of a temporary permit shall be punishable by a fine of \$50.00 with each incident constituting a separate offense.

Sec. 4

This bylaw may be enforced through the non-criminal disposition pursuant to G.L. c. 40, §21D. The penalty for violations of this bylaw shall be \$100 as provided in G.L. c. 40, §21(24). This bylaw shall be enforced by the Police Department. If any unauthorized vehicle is found in violation of the provisions of the bylaw and the identity of the driver cannot be determined, the owner or the person in whose name such vehicle is registered shall be held prima facie responsible for such violation.

Or act in any manner related thereto.

POLICE DEPT

SELECT BOARD RECOMMENDATION: Approve

FINANCE COMMITTEE RECOMMENDATION: Approve

ARTICLE 17: (Addition to General Bylaws: Vehicle Removal Authorization)

To see if the Town will vote to amend the General Bylaws by inserting a new article entitled "Vehicle Removal Authorization" as follows, with the Town Clerk to assign the correct number for the Bylaw and to make such changes as to numbering and the like to bring the Bylaw into conformance with the form of the Bylaws, or act in any manner relating thereto.

Vehicle Removal

The Chief of Police, or such Sergeants, officers in charge, or other officers of higher rank in the Police Department as they may from time to time designate, may remove, to some convenient place, through the agency of a person or persons acting on behalf of said police department, any motor vehicles on such ways or portions thereof, and whoever violates such rules, regulations in violation of any rules, regulations or orders which prohibits the parking or standing of all motor vehicles on such ways, or any under the town's control including parking lots within the curtilage of all school property or portions thereof, or order shall be liable for charges for the removal and storage of such vehicle as well as subject to punishment by fine.

If a vehicle is removed pursuant to such rules, regulations or orders, such vehicles shall be held until all charges lawfully paid and, if in the calendar year in which such vehicle is so aggregate have been affixed to said vehicle as provided in Chapter 90, Section 20A ½ of General Laws, until due notice has been received that either the fines provided in such notice have been paid or security for payment therefor has been deposited.

Motor vehicles owned by the Commonwealth or a political subdivision thereof or by the United States government or any instrumentality thereof or registered by a member of a foreign diplomatic corps or by a foreign consular office who is not a citizen of the United States and bearing distinctive number plates or otherwise conspicuously marked as so owned or registered, or any other vehicle specifically exempt by law, shall not, however, be subject to such removal.

Liability shall be imposed for the reasonable cost of such removal, and for the storage charges, if any, resulting therefrom, upon the owner of such vehicle. Neither the removal nor storage of a motor vehicle under the provisions of this section shall be deemed to be services rendered or work performed by the Town and/or police department of the Town. The contractor shall be liable to the owner of such vehicle for any damage caused to its arising out of negligence in the course of such removal and storage.

Or act in any manner related thereto.

POLICE DEPT

SELECT BOARD RECOMMENDATION: Approve

FINANCE COMMITTEE RECOMMENDATION: Approve

ARTICLE 18: (Addition to the General Bylaws: Pedestrian Control)

To see if the Town will vote to amend the General Bylaws by inserting a new article entitled “Pedestrian Control” as follows, with the Town Clerk to assign the correct number for the Bylaw and to make such changes as to numbering and the like to bring the Bylaw into conformance with the form of the Bylaws, or act in any manner relating thereto.

Pedestrian Control

(1) Pedestrians Crossing Ways or Roadways.

Pedestrians shall obey the directions of police officers directing traffic and whenever there is an officer directing traffic, a traffic control signal, or a marked crosswalk within 300 feet of a pedestrian, no such pedestrian shall cross a way or roadway except within the limits of a marked crosswalk and as hereinafter provided in 720 CMR 9.00.

(2) Pedestrian Actuation.

- (a) At a traffic control signal location where pedestrian indications are provided but which are shown only upon actuation by means of a pedestrian push button, no pedestrian shall cross a roadway unless or until the pedestrian control signal push button has been actuated and then cross only on the proper pedestrian signal indication. At traffic control signal locations where no pedestrian indication is provided, pedestrians shall cross only on the green indication. If necessary, the green indication shall be actuated by the pedestrian by means of a push button.
- (b) At a traffic control signal location, pedestrians shall yield the right of way to vehicles of a funeral or other procession or authorized emergency vehicle while in performance of emergency duties regardless of the signal indication given, and they shall not attempt to cross the roadway

until such vehicles or procession has passed at which time pedestrians shall then cross the roadway only as provided in 720 CMR 9.00.

(3) Pedestrian Obedience to Traffic Control Signals. Traffic control signal color indications and legends shall have the pedestrian commands ascribed to them in 720 CMR 9.09(3) and no other meanings, and every pedestrian shall comply therewith, except when otherwise directed by an officer.

(a) The Walking Person symbol or the Word "Walk". Whenever the Walking Person symbol or the single word "walk" is illuminated, pedestrians facing such indication may proceed across the roadway and in the direction of such signal only. The walking person symbol or "WALK" indication means that there may or may not be possible conflict of pedestrians with turning vehicles.

(b) Red Alone or "Don't Walk". Whenever the words "Don't Walk" or the Up-raised Hand symbol are illuminated in a traffic control signal where pedestrian indications are provided, pedestrians approaching or facing such indication shall wait on the sidewalk, edge of roadway or in the pedestrian refuge area of a traffic island and shall not enter upon or cross a roadway until the proper indication is illuminated in the traffic control signal, but any pedestrian who has partially completed his crossing on the walk indication shall proceed or return to the nearest sidewalk or safety island on the yellow indication, the red indication, the Up-raised Hand symbol or when the words "Don't Walk" are illuminated by rapid intermittent flashes.

(c) Green Alone. At traffic control signal locations where no pedestrian indication is given or provided, pedestrians facing the signal may proceed across the roadway within any marked crosswalk in the direction of the green indication.

(d) Yellow Alone, Red Alone, Flashing Up-raised Hand symbol or Flashing "Don't Walk". Pedestrians approaching or facing a yellow, red, or flashing "Don't Walk" illuminated indication shall not start to cross a roadway.

(e) Flashing Red or Yellow. At any traffic control signal location where a flashing red, or flashing yellow indication is being given facing a crosswalk, pedestrians shall actuate, where provided, the pedestrian signal indication and cross the roadway only on the Up-raised Hand symbol or "Walk" indication when such indication is in operation. If no pedestrian signal is provided, pedestrians shall cross within crosswalks with due care.

(4) Pedestrian Crossings and Use of Roadways.

(a) No pedestrian shall suddenly leave a sidewalk or safety island and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield the right of way.

(b) Pedestrians shall at all times attempt to cross a roadway using the right half of crosswalks.

(c) Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway whenever the sidewalk is open to pedestrian use.

(d) Where sidewalks are not provided, any pedestrian walking along and upon an undivided highway shall, when practicable, walk only on the left side of the roadway on its unfinished shoulder facing traffic which may approach from the opposite direction. On any divided highway pedestrians not in violation of 720 CMR 9.08(2) shall walk only on the right side of the roadway on the unfinished shoulder.

(e) Persons alighting from the roadway side of any vehicle parked at the curb or edge of roadway in urban areas within 300 feet of a marked crosswalk shall proceed immediately to the sidewalk or edge of roadway adjacent to vehicle and shall cross the roadway only as authorized by 720 CMR 9.00.

(f) It shall be unlawful for any person to actuate a pedestrian control signal or to enter a marked crosswalk unless a crossing of the roadway is intended.

(5) Crossing at Non-Signalized Locations. Every pedestrian crossing a roadway in an urban area at any point other than within a marked crosswalk shall yield the right of way to all vehicles upon the roadway. At a point where a pedestrian tunnel or overpass has been provided, pedestrians shall cross the roadway only by the proper use of the tunnel or overpass.

(6) Pedestrians Soliciting Rides or Business. No person shall stand in a roadway for the purpose of soliciting a ride, employment or business from the operator or occupant of any vehicle without the written permission of the board or officer having control of such roadway or highway.

(7) Obedience of Bridge Signals. No pedestrian shall enter or remain upon any bridge or approach thereto beyond the bridge signal, gate or barrier after a bridge operation signal indication has been given.

(8) Exemptions. The provisions of 720 CMR 9.09 governing the use of State highways by pedestrians shall not apply to pedestrians actually engaged in work upon a roadway closed to travel or under construction or repair, to municipal, state, federal or public service corporation employees while in the performance of their duties, to officers engaged in the performance of their public duties or to pedestrians acting in an emergency when such emergency necessitates departure from any part of 720 CMR 9.00.

Effect of 720 CMR 9.00. The provisions of 720 CMR 9.00 for driving so far as they are the same in effect as those of any existing rules and regulations heretofore made by the Commissioners of the Department shall be construed as a continuation thereof, but all other existing rules and regulations for driving are hereby expressly repealed. This repeal shall not, however, affect any punishment or penalty imposed or any complaint or prosecution pending at the time of passage hereof for any offense committed under any of the said rules and regulations hereby repealed.

If any section, sub-section, sentence, clause or phrase of 720 CMR 9.00 is for any reason unconstitutional, such decision shall not affect the validity of the remaining portion of 720 CMR 9.00. The Commissioners of the Department hereby declare that they would have passed 720 CMR 9.00 and each section, sub-section, sentence, clause or phrase thereof, irrespective of the fact that anyone or more sections, sub-sections, sentences, clauses or phrases be declared unconstitutional.

REGULATORY AUTHORITY 720 CMR 9.00: M.G.L. c. 85, §§ 2 and 2E.

Or act in any manner related thereto.

POLICE DEPT.

SELECT BOARD RECOMMENDATION: **Approve**

FINANCE COMMITTEE RECOMMENDATION: **Approve**

ARTICLE 19: (Amend General Bylaws: Town Officers and their Duties)

To see if the Town will vote to amend the General Bylaws, Article 3, Town Officers and their Duties, Section 3.13, Medway Affordable Housing Trust, subsection 3.13(e), Composition, as follows, with new language to be inserted as shown in **bold**, or act in any manner relating thereto.

- (e) Composition – The Trust shall have at least five Trustees at all times. The Trustees shall be appointed by the Select Board. **At least one of the Trustees shall be a member of the Select Board and one shall be a member of the Affordable Housing Committee.** In making appointments, the Select Board shall endeavor to provide a broad-based membership including affordable housing advocates, legal, banking, financial, and real estate professionals, and other members of the local business community.

Or act in any manner related thereto.

SELECT BOARD

SELECT BOARD RECOMMENDATION: Approve

FINANCE COMMITTEE RECOMMENDATION: Approve

ARTICLE 20: (Amend General Bylaws: Town Officers and their Duties)

To see if the Town will vote to amend the General Bylaws, Article 3, Town Officers and their Duties, Section 3.9, Zoning Board of Appeals, by deleting Section 3.9 in its entirety, or act in any manner relating thereto.

SELECT BOARD

SELECT BOARD RECOMMENDATION: Approve

FINANCE COMMITTEE RECOMMENDATION: Approve

ARTICLE 21: (Amend General Bylaws: Stormwater Management and Land Disturbance)

To see if the Town will vote to amend the Medway General Bylaws, Article 26, Stormwater Management and Land Disturbance, as follows, with new language to be inserted as shown in **bold**, and deleted language as shown in ~~striketrough~~:

Amend the following definitions in Section 26.3:

Common Plan of Development - A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan. This Bylaw shall apply to land or parcels of land that are held in common ownership (including ownership by related or jointly-controlled persons or entities) as of the effective date of this Bylaw. A development shall not be segmented or phased in a manner to avoid compliance with this Bylaw. For example, if a developer buys a twenty-acre lot and builds roads, installs pipes, and runs electricity with the intention of constructing homes or other structures sometime in the future, this would be considered a larger common plan of development or sale. If the land is parceled off or sold, and construction occurs on **separate** plots ~~that are less than one acre by separate~~, independent builders, this activity still would be subject to stormwater **and land disturbance** permitting requirements if the smaller plots were included on the original site plan.

Land Disturbance – An action to alter the existing **surface**, vegetation and/or underlying soil of a site, such as demolition, clearing, grading, site preparation (e.g., excavating, cutting and filling), soil compaction, construction, and movement and stockpiling of top soils.

New Development – Any construction activities or land alteration resulting in total land disturbances of ~~greater than 20,000 square feet or greater acre~~ **greater** (or activities that are part of a larger common plan of development disturbing greater than 20,000 square feet) on an area that ~~is has not previously been~~ developed which will now include impervious cover.

Permitting Authority — The Conservation Commission or Planning and Economic Development Board (PEDB) as described in Section 26.5.3.

Redevelopment – Any construction, land alteration, or improvement of impervious surfaces resulting in total land disturbances ~~greater than~~ 20,000 square feet **or greater** (or activities that are part of a larger

common plan of development disturbing **20,000 square feet or greater** ~~greater than one acre~~) that does not meet the definition of New Development (see above).

SECTION 26.5 LAND DISTURBANCE AND CONSTRUCTION ACTIVITY

Section 26.5.1. Applicability

This section shall apply to all activities in which the limit of work results in disturbance of:

- a. 20,000 square feet or more; or
- b. Review for removal, disturbance, alteration, or addition of 10,000 square feet or more of impervious surface.

Section 26.5.2. Land Disturbance Permit

26.5.2.1. Land Disturbance Permit Required

Except as authorized by the applicable board or commission, no person shall perform any applicable land disturbance activity without a Land Disturbance Permit. Normal maintenance and improvement of land in agricultural or aquacultural use, as defined by the Wetlands Protection Act regulations 310 CMR 10.04, ~~are~~ **is** exempt. Roadway and utilities improvement and maintenance undertaken by the Town ~~are~~ **is** also exempt from permitting but such road work that involves increasing impervious surface by more than a single lane width shall comply with MS4 General Permit requirements.

26.5.2.2. Outside Consultants and Fees

In connection with Land Disturbance Permit applications involving technical, legal, or other issues as to which the **Permitting Authority** considers it necessary or desirable to engage an outside consultant or consultants, such as engineers, lawyers, planners, licensed site professionals, or other appropriate professionals, to advise the **Permitting Authority** on those issues, the **Permitting Authority** may, in its sole discretion, require that the **Applicant** pay a reasonable review fee sufficient to enable the Board to retain consultants of its choice, said fee to be deposited into a special separate account established pursuant to Mass. G.L. c. 44, 53G.

26.5.2.3 Rules and Regulations.

The Conservation Commission and the Planning and Economic Development Board shall promulgate Land Disturbance Permit Rules and Regulations to implement the Land Disturbance Permit process provided herein. The Rules and Regulations shall include but are not limited to application requirements, procedures for submission and review of applications, filing and review fees, performance standards, waivers, decision criteria, construction monitoring, reporting and enforcement.

Section 26.5.3. Coordinated Permitting

The Conservation Commission shall be the **Permitting Authority** for Land Disturbance permits, except that, if subdivision, site plan, or special permit approval from the Planning and Economic Development Board (PEDB), is required, and there are no activities subject to the Conservation Commission jurisdiction under the Wetland Protection Act or the Town's Wetland Protection Bylaw, Land Disturbance Permits shall be reviewed and issued by the PEDB as a component of those other permits, including the fees, regulations, timing, notice and hearing requirements of those other permits.

Section 26.5.4. Application

A completed application for a Land Disturbance Permit **that complies with the requirements of the Stormwater Management and Land Disturbance Rules and Regulations (hereinafter "Land Disturbance Rules and Regulations")** shall be filed **with the Permitting Authority and when**

applicable, shall be submitted in conjunction with any other permit application to the applicable Permitting Authority as established in 25.5.3. A permit must be obtained prior to the commencement of any applicable land disturbing activity. The Land Disturbance Permit Application package shall include **the following in addition to any other requirements set forth in the Land Disturbance Rules and Regulations:**

- a. a completed Land Disturbance Application Form with original signatures of Applicant and all Owners;
- b. Erosion and Sediment Control Plan ~~as specified in 26.5.6. of this Bylaw;~~
- c. Drainage calculations in compliance with the most current Massachusetts Stormwater Management Standards and the National Oceanic and Atmospheric Administration (NOAA) Atlas 14+ precipitation rates as may be updated;
- d. Narrative on how the project meets the most current Massachusetts Stormwater Management Standards;
- e. Construction sequencing or phasing plan;
- f. Stormwater Operations and Maintenance Plan during Construction;
- g. Post-Construction Stormwater Management Plan ~~as specified in 26.5.8. of this Bylaw;~~
- h. Long-Term Stormwater Operations and Maintenance Plan ~~as specified in 26.5.9. of this Bylaw;~~
- i. Other permits already received for the project;
- j. Request for Waivers from the provisions of 26.5 of this Bylaw if necessary;
- k. Application and/or filing fee when applicable; and,
- l. ~~An electronic copy of all materials submitted.~~ **Calculation of limit of work.**

Section 26.5.5. Waivers

The Permitting Authority may waive strict compliance with any requirement of this Bylaw or the Rules and Regulations promulgated hereunder, where:

- a. Such action is allowed by federal, state and local statutes and/or regulations; or
- b. **a waiver** is in the public interest; or ~~and/or~~
- c. **a waiver** is not inconsistent with the purpose and intent of this Bylaw; or, ~~or,~~
- d. **the requirement does not apply to the particular site or situation under review; or**
- e. **a waiver would permit a superior design.**

Any Applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that **the waiver request meets the criteria of this section.** ~~strict application of the Bylaw does not further the purposes or objectives of this Bylaw.~~ All waiver requests shall be discussed and voted on at the public hearing for the project. If in the opinion of the Permitting Authority, additional time or information is required for review of a waiver request, it may continue the review to a date certain announced at the

meeting. ~~In the event the applicant objects to a continuance, or fails to provide requested information, the waiver request may be denied after thirty days.~~

Section 26.5.6. Erosion and Sediment Control Plan

26.5.6.1. Applicability

An Erosion and Sediment Control Plan (ESCP) is required of all construction site operators performing land disturbance activities under the jurisdiction of this Bylaw. The ESCP shall be submitted with the Land Disturbance Permit and shall contain sufficient information to describe the nature and purpose of the proposed development, pertinent conditions of the site and the adjacent areas, and proposed erosion and sedimentation controls. **Details of the Erosion and Sediment Control Plan content are described in the Land Disturbance Rules and Regulations.** The Applicant shall submit such material as is necessary to show that the proposed development will comply with the design requirements listed in 26.5.6.2. below.

26.5.6.2. Design Requirements

The design requirements of the Erosion and Sediment Control Plan are:

- a. Minimize total area of disturbance and protect natural resources;
- b. Sequence activities to minimize simultaneous areas of disturbance;
- c. Minimize soil erosion and control sedimentation during construction and document that proposed measures can handle the point precipitation frequencies for rates within a twenty-four hour period for a 100-year storm as provided in the NOAA Atlas 14+, recognizing that prevention of erosion is preferred over sedimentation control;
- d. Protect slopes on the construction site;
- e. Protect all storm drain inlets and armor all newly constructed outlets;
- f. Divert uncontaminated water around disturbed areas;
- g. Install and maintain all Erosion and Sediment Control measures in accordance with the manufacturer's specifications and good engineering practices;
- ~~h. Use perimeter controls to prevent off-site transport of sediment;~~
- h. Stabilize construction site entrances and exits, **and use perimeter controls** to prevent off-site vehicle tracking of sediment;
- ~~j. Inspect and report stormwater controls at consistent intervals.~~
- i. Protect and manage on and off-site material storage areas (overburden and stockpiles of dirt, borrow areas, or other areas used solely by the permitted project are considered a part of the project)
- j. Comply with applicable federal, state, and local laws and regulations including waste disposal, sanitary sewer or septic system regulations, and air quality requirements, including dust control;
- k. Prevent significant alteration of habitats mapped by the Massachusetts Natural Heritage & Endangered Species Program as Endangered, Threatened or Of Special Concern, Estimated Habitats of Rare Wildlife and Certified Vernal Pools, and Priority Habitats of Rare Species from the proposed activities;

- l. Institute interim and permanent stabilization measures, which shall be instituted on a disturbed area as soon as practicable but no more than 14 days after construction activity has temporarily or permanently ceased on that portion of the site;
- m. Properly manage on-site construction and waste materials; including but not limited to, discarded building materials, concrete truck wash out, chemicals, litter, and sanitary wastes. These wastes may not be discharged to the MS4.

26.5.6.3. Erosion and Sedimentation Control Plan Content

The Plan shall contain the following information:

- a. ~~Names, addresses, and telephone numbers of the owner, applicant, and person(s) or firm(s) preparing the plan;~~
- b. ~~Title, date, north arrow, names of abutters, scale, legend, and locus map;~~
- c. ~~Location and description of natural features including:~~
 1. ~~Watercourses and water bodies, wetland resource areas and all floodplain information, including the 100-year flood elevation based upon the most recent Flood Insurance Rate Map, or as calculated by a professional engineer for areas not assessed on these maps;~~
 2. ~~Existing vegetation including tree lines, canopy layer, shrub layer, and ground cover, and trees with a caliper twelve inches or larger, noting specimen trees and forest communities; and~~
 3. ~~Habitats mapped by the Massachusetts Natural Heritage & Endangered Species Program as Endangered, Threatened or of Special Concern, Estimated Habitats of Rare Wildlife and Certified Vernal Pools, and Priority Habitats of Rare Species within five hundred feet of any construction activity.~~
- d. ~~Lines of existing abutting streets showing drainage and driveway locations and curb cuts;~~
- e. ~~Existing soils, volume and nature of imported soil materials;~~
- f. ~~Topographical features including existing and proposed contours at intervals no greater than two feet with spot elevations provided when needed;~~
- g. ~~Surveyed property lines showing distances and monument locations, all existing and proposed easements, rights of way, and other encumbrances, the size of the entire parcel, and the delineation and number of square feet of the land area to be disturbed;~~
- h. ~~Drainage patterns and approximate slopes anticipated after major grading activities~~
- i. ~~Limit of work with a calculation indicating its area;~~
- j. ~~Location and details of erosion and sediment control measures with a narrative of the construction sequence/phasing of the project, including both operation and maintenance for structural and non-structural measures, interim grading, and material stockpiling areas;~~

- ~~k. Path and mechanism to divert uncontaminated water around disturbed areas, to the maximum extent practicable;~~
- ~~l. Location and description of industrial discharges, including stormwater discharges from dedicated asphalt plants and dedicated concrete plants, which are covered by this permit;~~
- ~~m. Location and description of and implementation schedule for temporary and permanent seeding, vegetative controls, and other stabilization measures;~~
- ~~n. A description of provisions for phasing the project where a 20,000 square foot area or greater is to be altered or disturbed;~~
- ~~o. Timing, schedules, and sequence of development including clearing, stripping, rough grading, construction, final grading, and vegetative stabilization;~~
- ~~p. A maintenance schedule for the period of construction;~~
- ~~q. Plans must be stamped and certified by a qualified Professional Engineer registered in Massachusetts or a Certified Professional in Erosion and Sediment Control; and~~
- ~~r. Such other relevant information as is required by the applicable permitting authority.~~

Section 26.5.7. Stormwater Operations and Maintenance Plan during Construction

26.5.7.1. Applicability

The Applicant shall submit a narrative titled “Stormwater Operations and Maintenance Plan (O&M) during Construction,” which describes ~~the~~ how the project site will be managed during construction.

26.5.7.2. Stormwater Operations and Maintenance Plan during Construction Content

The narrative shall include:

- a. Good housekeeping practices, such as but not limited to, street sweeping, erosion **and sediment** control **inspections and** repairs, inspections of any pre-existing stormwater systems;
- b. Storage of materials and waste products inside or under cover;
- c. Routine inspections and maintenance of stormwater best management practices (BMPs);
- d. Spill prevention and response;
- e. Proper management of deicing chemicals and snow;
- f. Protection and stabilization of soils;
- g. Storage use and use of fertilizers, herbicides, and pesticides;
- h. Operations and maintenance of **sanitary** ~~septic~~-systems;
- i. **Routine inspections of vehicles and equipment for leaks, spills, and other sources of pollutants.**

26.5.7.3. Reports

Reports shall be submitted bi-weekly to the **Permitting Authority** and after any storm event resulting in 0.25 inches of precipitation or more within twenty-four hours.

Section 26.5.8. Post-Construction Stormwater Management Plan

26.5.8.1. Applicability

The application for a Land Disturbance Permit shall include a Post-Construction Stormwater Management Plan. ~~including a Long Term Operations and Management Plan. This~~ **The** Post-Construction Stormwater Management Plan shall contain sufficient information for the applicable ~~reviewing~~ **Permitting Authority** to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the Applicant for reducing adverse impacts from stormwater. The Plan shall be designed to meet the most current Massachusetts Stormwater Management Standards ~~as set forth in 26.5.8.3 and DEP Stormwater Management Handbook Volumes I and II.~~ **and utilize NOAA Atlas 14+ precipitation rates as may be updated from time to time. Applicant's design shall reflect the most stringent requirements for stormwater management, whether it be federal, state, or local requirements. Details of the requirements for the Post-Construction Stormwater Management Plan content are described in the Land Disturbance Permit Rules and Regulations.**

26.5.8.2. Post-Construction Stormwater Management Plan Contents

~~The Plan shall fully describe the project in drawings, and narrative. It shall include:~~

- ~~a. A locus map,~~
- ~~b. The existing zoning, and land use at the site,~~
- ~~c. The proposed land use,~~
- ~~d. The location(s) of existing and proposed easements,~~
- ~~e. The location of existing and proposed utilities,~~
- ~~f. The site's existing & proposed topography with contours at two foot intervals,~~
- ~~g. The existing site hydrology,~~
- ~~h. A description & delineation of existing stormwater conveyances, impoundments, and wetlands on or adjacent to the site or into which stormwater flows,~~
- ~~i. A delineation of 100-year flood plains, if applicable,~~
- ~~j. Estimated seasonal high groundwater elevation (November to April) in areas to be used for stormwater retention, detention, or infiltration,~~
- ~~k. The existing and proposed vegetation and ground surfaces with runoff coefficients for each,~~
- ~~l. A drainage area map showing pre and post construction watershed boundaries, drainage area and stormwater flow paths,~~
- ~~m. A description and drawings of all components of the proposed drainage system including:~~
 - ~~1. locations, cross sections, and profiles of all brooks, streams, drainage swales and their method of stabilization,~~

- ~~2. all measures for the detention, retention or infiltration of water,~~
- ~~3. all measures for the protection of water quality,~~
- ~~4. the structural details for all components of the proposed drainage systems and stormwater management facilities,~~
- ~~5. notes on drawings specifying materials to be used, construction specifications, and typicals, and~~
- ~~6. expected hydrology with supporting calculations.~~
- ~~n. Proposed improvements including location of buildings or other structures, impervious surfaces, and drainage facilities, if applicable,~~
- ~~o. Timing, schedules, and procedures to ensure proper functioning and operation of the system,~~
- ~~p. A maintenance schedule,~~
- ~~q. Documentation of consideration of the use of low impact design and green infrastructure,~~
- ~~r. A final (and for longer term projects an annual) report documenting compliance with the plan, including receipts as applicable, and~~
- ~~s. Any other relevant information requested by the applicable permitting authority.~~

~~26.5.8.3.~~ 26.5.8.2 Stormwater Design Requirements

a. Low Impact Development

Projects shall use Low Impact Development (LID) site planning and design strategies ~~to the maximum extent feasible~~ **unless infeasible** and shall comply with the following requirements:

- 1. Reduce runoff and pollutant loading by managing runoff as close to its source as possible;**
- 2. Utilize integrated LID and individual small-scale stormwater management practices (isolated LID practices) to promote the use of natural systems for infiltration, evapotranspiration, the harvesting and use of rainwater, and reduction of flows to drainage collection systems;**
- 3. Reduce impervious cover;**
- 4. Conserve and protect natural lands, especially open space landscapes, high quality wildlife habitat, and existing farmland;**
- 5. Utilize compact building design and increasing density to prevent sprawl, enhance walkability, and preserve more undisturbed natural areas;**
- ~~a. No new stormwater conveyances (e.g. outfalls) may discharge untreated stormwater directly to or cause erosion in wetlands or waters of the Commonwealth.~~
- ~~b. For new development sites: stormwater management systems must be designed to:~~
 - 1. Stormwater management systems must be designed to meet the most current Massachusetts Stormwater Standards and utilize NOAA Atlas 14+ precipitation rates as may be updated.**

- 1) ~~Not allow new stormwater conveyances to discharge untreated stormwater in accordance with Massachusetts Stormwater Handbook Standard 1;~~
 - 2) ~~Control peak runoff rates in accordance with Massachusetts Stormwater Handbook Standard;~~
 - 3) ~~Recharge groundwater in accordance with Massachusetts Stormwater Handbook Standard;~~
 - 4) ~~Eliminate or reduce the discharge of pollutants from land uses with higher pollutant loads as defined in the Massachusetts Stormwater Handbook in accordance with Massachusetts Stormwater Handbook Standard 5;~~
 - 5) ~~Protect Zone II or Interim Wellhead Protection Areas of public water supplies in accordance with Massachusetts Stormwater Handbook Standard 6;~~
 - 6) ~~Implement long term maintenance practices in accordance with Massachusetts Stormwater Handbook Standard 9; and~~
2. ~~Require that~~ All stormwater management systems **shall** be designed to:
 - a. Retain the volume of runoff equivalent to, or greater than, one inch multiplied by the total post-construction impervious surface area on the site, ~~AND/OR~~
 - b. Remove 90% of the average annual load of Total Suspended Solids (TSS) **AND 60% of the average annual load of Total Phosphorus (TP)** generated from the total post-construction impervious area on the site ~~AND 60% of the average annual load of Total Phosphorus (TP) generated from the total post-construction impervious surface area on the site~~. Pollutant removal shall be calculated consistent with EPA Region 1's BMP Performance Extrapolation Tool or other BMP performance evaluation tool provided by EPA Region 1, where available. If EPA Region 1 tools do not address the planned or installed BMP performance, any federally or State approved BMP design guidance or performance standards (e.g. State stormwater handbooks and design guidance manuals) may be used to calculate BMP performance. The required removal percentage is not required for each storm; it is the average removal over a year that is required.
- c. For redevelopment sites:
1. Stormwater management systems on redevelopment sites shall meet **the most current Massachusetts Stormwater Standards and utilize NOAA Atlas 14+ precipitation rates as may be updated.** ~~the following sections of part 2.3.6.a.ii.3 of the MS4 General Permit as most recently amended, to the maximum extent feasible:~~
 - a) ~~Part 2.3.6.a.ii.3(a) (Massachusetts Stormwater Standard 1);~~
 - b) ~~Part 2.3.6.a.ii.3(b) (Massachusetts Stormwater Standard 2)~~
 - c) ~~Part 2.3.6.a.ii.3(c) (Massachusetts Stormwater Standard 3); and~~
 - d) ~~The pretreatment and structural best management practices requirements of 2.3.6.a.ii.3(d) and 2.3.6.a.ii.3(e) (Massachusetts Stormwater Standards 5 and 6).~~
 2. Stormwater management systems on redevelopment sites shall also improve existing conditions **and** ~~by requiring that stormwater management systems~~ be designed to:
 - a. Retain the volume of runoff equivalent to, or greater than, 0.80 inch multiplied by the total post-construction impervious surface area on the site; ~~AND/OR~~
 - b. Remove 80% of the average annual post-construction load of Total Suspended Solids (TSS) **AND 50% of the average annual load of Total Phosphorus (TP)** generated from

the total post-construction impervious area on the site ~~AND 50% of the average annual load of Total Phosphorus (TP) generated from the total post construction impervious surface area on the site.~~ Pollutant removal shall be calculated consistent with EPA Region 1's BMP Performance Extrapolation Tool or other BMP performance evaluation tool provided by EPA Region 1 where available. If EPA Region 1 tools do not address the planned or installed BMP performance any federally or State approved BMP design guidance or performance standards (e.g. State stormwater handbooks and design guidance manuals) may be used to calculate BMP performance.

3. Redevelopment activities that are exclusively limited to maintenance and improvement of existing roadways, (including widening less than a single lane, adding shoulders, correcting substandard intersections, improving existing drainage systems, and repaving projects) shall improve existing conditions ~~where feasible~~ **unless infeasible** and are exempt from the MS4 General Permit part 2.3.6.a.ii.4(a), ~~part 2.3.6.a.ii.4(b) and part 2.3.6.a.ii.4(e).~~ Roadway widening or improvements that increase the amount of impervious area on the redevelopment site by greater than or equal to a single lane width shall meet the requirements of part 2.3.6.a.ii.4 ~~(a) — (e)~~ of MS4 General Permit as most recently amended ~~fully~~.

~~3) Stormwater management systems on redevelopment sites may utilize offsite mitigation within the same USGS HUC10 as the redevelopment site to meet the equivalent retention or pollutant removal requirements in part 2.3.6.a.ii.4(b) of the MS4 General Permit, as most recently amended;~~

- d. All stormwater management systems must have a Long-Term Operation and Maintenance plan prepared in accordance with Section 26.5.9. to ensure that systems function as designed.
- e. **No new stormwater conveyances (e.g. outfalls) may discharge untreated stormwater directly to or cause erosion in wetlands or waters of the Commonwealth.**
- ~~f. When one or more of the Standards cannot be met, an applicant may demonstrate that an equivalent level of environmental protection will be provided.~~

~~26.5.8.4.~~ 26.5.8.3. Recording

The Post-Construction Stormwater Management Plan shall be recorded at the Registry of Deeds along with the decision of the applicable **Permitting Authority**.

Section 26.5.9. Long-Term Operation and Maintenance Plan

26.5.9.1. Applicability

A Long-Term Operation and Maintenance Plan (O&M Plan) is required at the time of application for all projects. The maintenance plan shall be designed to ensure compliance with the Permit, this Bylaw and the Massachusetts Stormwater Standards are met in all seasons and throughout the life of the system. The applicable **Permitting Authority** shall make the final decision of what maintenance option is appropriate in a given situation. The applicable **Permitting Authority** will consider natural features, proximity of site to water bodies and wetlands, extent of impervious surfaces, size of the site, the types of stormwater management structures, and potential need for ongoing maintenance activities when making this decision. The Long-Term Operation and Maintenance Plan shall remain on file with the applicable **Permitting Authority** and **the Department of Public Works. Adherence to the O&M Plan** shall be an ongoing requirement.

26.5.9.2. Plan Contents

The Long-Term Operation and Maintenance Plan shall include:

- a. The name(s) of the owner(s) for all components of the system;
- b. Maintenance agreements that specify:
 1. The names and addresses of the person(s) responsible for operation and maintenance,
 2. The person(s) responsible for financing maintenance and emergency repairs,
 3. A maintenance schedule for all ~~drainage structures, including swales and ponds~~ **structural and non-structural stormwater BMPs**,
 4. A list of easements to the town with the purpose and location of each, **if applicable**,
 5. The signature(s) of the owner(s) acknowledging **responsibility of maintenance**.

26.5.9.3. Stormwater Management Easement(s).

- a. Stormwater management easements may be required for areas used for off-site stormwater control., ~~unless a waiver is granted by the applicable permitting authority.~~
- b. Stormwater management easements shall be provided to the Town by the property owner(s) as necessary to comply with the Post-Construction **Stormwater** Management Plan and Long-Term Operation and Maintenance Plans for:
 1. access for facility inspections and maintenance, preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100-year storm event.
 2. direct maintenance access by heavy equipment to structures requiring regular cleanout.
- c. The purpose of each easement shall be specified in the Long-Term Operation and Maintenance agreement signed by the property owner.
- d. Easements along with a plan illustrating their location shall be recorded with the Norfolk County Registry of Deeds prior to issuance of a Certificate of **Project** Completion by the applicable **Permitting Authority**.

26.5.9.4. Changes to Long-Term Operation and Maintenance Plan

- a. The owner(s) of the stormwater management system must notify the Department of Public Works of changes in ownership or assignment of financial responsibility.
- b. The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of this Bylaw by mutual agreement of the Department of Public Works and the Responsible Parties. Proposed amendments must be in writing and signed by all Responsible Parties. Responsible Parties shall include owner(s), persons with financial responsibility, and persons with operational responsibility. Proposed amendments must be described in detail along with reasons why the Town should consider them. Amendments will not be considered until at least three years after Project Completion as defined in 26.5.12-14.

- c. ~~A report shall be provided annually to the Department of Public Works on the anniversary date of the permit. The Report shall include documentation of compliance with the Plan, including photographs, and receipts as applicable.~~

26.5.9.5. Recording

The Long-Term Operation and Maintenance Plan shall be recorded at the Registry of Deeds along with the decision of the applicable Permitting Authority and the Post-Construction Stormwater Management Plan.

26.5.9.6. Reports

The property owner shall provide an annual report to the Permitting Authority and Department of Public Works by December 15. The Report shall include documentation of compliance with the O&M Plan, including photographs, and maintenance receipts as applicable.

Section 26.5.10. Inspection and Site Supervision

26.5.10.1. Pre-construction Meeting ~~Prior to starting~~ clearing, excavation, construction, or land disturbing activity, the Applicant, the Applicant's technical representative, the general contractor or any other person with authority to make changes to the project, shall meet with appropriate Town staff and/or designated agents, to review the permitted plans and their implementation.

26.5.10.2. Construction Inspection

The applicable Town staff or its designated agent shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the Permittee wherein the work fails to comply with the Land Disturbance Permit as approved. The **Land Disturbance** Permit and associated plans for grading, stripping, excavating, and filling work, bearing the signature of approval of applicable Permitting Authority, shall be maintained at the site during the progress of the work. In order to obtain inspections, the Permittee shall notify applicable Permitting Authority at least two working days before each of the following events:

- a. Erosion and sediment control measures are in place and stabilized;
- b. Site clearing has been substantially completed;
- c. Rough grading has been substantially completed;
- d. Installation of physical control measures;
- e. Final grading has been substantially completed;
- f. Close of the construction season; and
- g. Final landscaping (permanent stabilization) and project final completion.

A written report of these inspections shall be provided to both the Permittee and the applicable Permitting Authority **by the Town staff or designated agent**. Such inspections may be combined with other inspections required under any other permits issued to authorize the project.

26.5.10.3. Permittee Inspections and Reporting

The Permittee or Permittee's agent shall conduct and document inspections of all control measures no less than weekly during construction or as specified in the **Land Disturbance** Permit, and prior to and following anticipated storm events. The purpose of such inspections will be to determine the overall effectiveness of the control plan, and the need for maintenance or additional control measures. The

Permittee or Permittee's agent shall submit reports to the applicable Permitting Authority or designated agent as outlined in section 26.5.7.

26.5.10.4. Access Permission

To the extent permitted by law, or if authorized by the Owner/Permittee or other party in control of the property, the applicable Permitting Authority, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this Bylaw and may make or cause to be made such examinations, surveys or sampling as the applicable Permitting Authority deems reasonably necessary to determine compliance with the permit.

Section 26.5.11. Surety

In instances where the proposed Land Disturbance does not require a special permit or site plan approval from the Planning and Economic Development Board, the applicable Permitting Authority may require the Permittee to post a performance guarantee in a form acceptable to Town Counsel and the Town Treasurer before the start of land disturbance activity. The Permitting Authority shall consider the size of the overall project, the potential environmental harms if work is not completed in compliance with the Permit, any unique topographical or other natural features of the site, the extent of mitigation needed, and other relevant factors in determining whether a performance guarantee is necessary to protect the interests of this Bylaw. The form of the surety shall be in an amount deemed sufficient by the applicable Permitting Authority to ensure that the work will be completed in accordance with the permit. If the project is phased, the applicable Permitting Authority may release part of the surety as each phase is completed in compliance with the Permit, but the surety may not be fully released until the applicable Permitting Authority has received the final report as required by 26.5.12. and has issued a Certificate of Completion. The amount of the surety shall be sufficient to ensure that the site may be stabilized, including a minimum of six inches of loam seeded over any disturbed area along with erosion controls plus 25% contingency.

Section 26.5.12. Final Reports

Upon completion of the work, the Permittee shall submit to the applicable Permitting Authority a report ~~(including certified as-built construction plans in accordance with 2.3.6.a.iii of the of the MS4 General Permit, as most recently amended) from a~~ **from the Professional Engineer of record (P.E.), surveyor, or Certified Professional in Erosion and Sediment Control (CPESC), certifying that all erosion and sediment control devices, and approved changes and modifications, have the project has been completed in accordance with the conditions of the approved Permit and the approved plans and including an as-built plan as described in Section 26.5.13.** Any deviations should be noted in the cover letter. **The Final Report shall include the Long-Term Operation and Maintenance Plan as described in 26.5.9.**

Section 26.5.13. Certified As-built Plans

The As-built Plans must depict all on site controls, both structural and non-structural, designed to manage stormwater and demonstrate that the proposed work was completed in accordance with the approved Land Disturbance Permit. As-built construction plans must be stamped by a Professional Engineer (P.E.) and a Massachusetts Land Surveyor.

Section 26.5.13.4. Project Completion

~~The issuing authority~~ Permitting Authority will issue a ~~letter~~ document certifying completion upon receipt and approval of the Final Reports and As-built Plans and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this Bylaw. Such certification may be a component of Conservation Commission Certificate of Compliance or a PEDB Certificate of Completion. A copy of the ~~letter~~ **Certificate, and Final Report, and As-built Plans** shall be submitted by the ~~issuing~~ **Permitting Authority** to the Department of Public Works.

SECTION 26.6. ENFORCEMENT

Section 26.6.1. Applicability

The Director of the Department of Public Works or the Director's designee shall enforce 26.4 of this Bylaw, and the applicable Permitting Authority or an authorized agent shall enforce 26.5 of this Bylaw, (herein the "enforcing authority"), including associated regulations, and may issue orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

Or act in any manner related thereto.

PLANNING AND ECONOMIC DEVELOPMENT BOARD

SELECT BOARD RECOMMENDATION: **Approve**

FINANCE COMMITTEE RECOMMENDATION: **Approve**

ARTICLE 22: (Amend General Bylaws: New Tree Bylaw)

To see if the Town will vote to amend the General Bylaws by adding new Article 31 entitled "Tree Preservation" and by amending Article 27 of the General Bylaws to create a new revolving fund, as follows:

ARTICLE 31 TREE PRESERVATION

31.1. **PURPOSE:** The intent of the Tree Preservation Bylaw (Tree Bylaw) is:

- a) To promote and protect the public health, safety, and general welfare of the residents by providing for the regulation of the planting, maintenance, protection, and removal of trees within the Town of Medway;
- b) To recognize and appreciate that trees produce oxygen, capture carbon dioxide from the atmosphere, provide air purification, prevent soil erosion, control flooding, assist in water purification, contribute to the quality of life by providing cooling shade, provide habitat for wildlife, reduce noise levels, and aesthetically enhance the landscape;
- c) To preserve and protect trees and their canopies as an important environmental and cultural resource that enhances the Town of Medway's natural character and heritage;
- d) To protect the people in the Town of Medway from personal injury and property damage caused by the improper planting, maintenance, protection, or removal of trees;
- e) To protect property values by maintaining a healthy and vigorous community forest;
- f) To allow for the protection of certain trees during demolition and/or construction activity by designating areas of a lot where trees shall be protected and requiring mitigation for trees removed via replanting or collection of fees to support the Town's tree planting and maintenance efforts.

31.2. **DEFINITIONS:** For the purposes of this Tree Bylaw, the following definitions shall apply:

Certified Arborist: A professional arborist possessing current certification issued by the International Society of Arboriculture (I.S.A.) and/or the Massachusetts Arborist Association (M.A.A.).

Certificate of Exemption: A document approved and authorized by the Permitting Authority stating that the applicant/property is exempt from the regulations under this Bylaw. The Permitting Authority shall issue a Certificate of Exemption if the proposed activity does not have potential to harm a Protected Tree.

Commission: The Town of Medway Conservation Commission.

Conservation Permits: Written permit to perform activities in or on resource areas or areas protected by the Town of Medway Bylaw Article 21.

Construction: Building of structure(s) on a vacant or occupied lot; or additions to a structure on a lot that increases the total structure's square feet (of existing foundation) by 50% or greater.

Demolition: Removal of an existing structure with slab or foundation which is equal to 250 square feet or greater.

Diameter at Breast Height (DBH): The diameter of a tree trunk four and one-half feet above the existing grade at the base of the tree. If a tree splits into multiple trunks below four and one-half feet above the existing grade, the DBH shall be the measurement taken at the narrowest point beneath the split.

Invasive Species: Any plant listed on the most recent version of the Massachusetts Prohibited Plant List as published by the Massachusetts Department of Agriculture.

Lot Clearing: Removal of 75% or more of the Tree Canopy on a vacant lot.

Permitting Authority: Medway Conservation Commission, Conservation Agent, or the Tree Warden.

Protected Tree: Any existing tree with a DBH of six inches or greater that has any portion of its trunk within a Tree Preservation Area at grade level. Invasive Species (as defined herein) shall not be considered Protected Trees.

Tree Mitigation Fund: An account established pursuant to (M.G.L. c. 44 § 53E½) for the deposit of contributions in lieu of tree replanting as required by this Tree Bylaw.

Tree Preservation Area: The minimum front, side, and rear yard setback areas of a parcel as specified in Section 6.1 or other provisions of the Zoning Bylaw.

Tree Protection and Mitigation Plan: A plan submitted to the Permitting Authority for approval prior to the commencement of demolition, construction, or tree removal on a property on which a Protected Tree is located.

Tree Removal: Mechanical demolition of a living tree, or any act (a) that has caused a tree to die within the previous 12 months or (b) is likely to cause significant decline or death as determined by the Permitting Authority.

Tree Removal Permit Application: Written request to remove a Protected Tree in the Tree Preservation Area. The application must include a Tree Protection and Mitigation Plan.

Tree Removal Permit: Formal permission granted to remove a tree within the Tree Preservation Area via written permit.

31.3. SCOPE AND APPLICABILITY

31.3.1. The requirements of this Bylaw and all applicable rules and regulations apply to the following:

- a. Proposed demolition of existing residential or non-residential structures if construction includes removal of trees in the Tree Preservation Area.
- b. Proposed construction on a developed lot if construction includes removal of trees in the Tree Preservation Area.
- c. Proposed construction of any building or structure on a lot with no residential or non-residential structure on it.
- d. Proposed lot clearing of 75% or more of Tree Canopy on a vacant lot.

31.3.2. The following are exempt from the requirements of this Bylaw and all applicable rules and regulations:

- a. Public Shade Trees pursuant to M.G.L. Chapter 87.
- b. Emergency projects necessary for public safety, health, and welfare, as determined by the Permitting Authorities.
- c. Trees severely damaged as the direct result of a natural disaster.
- d. A period of an emergency such as a tornado, windstorm, flood, or other natural disaster.
- e. Trees that are hazardous as determined and confirmed in writing by a Certified Arborist or the Tree Warden.
- f. Trees currently infected by a disease or insect infestation of a permanent nature, as determined and confirmed in writing by a Certified Arborist or the Tree Warden.
- g. New construction (only), the construction of new driveways or entryways to the property. Width of driveways/entryways should follow the public safety requirements of Fire and Police regulations. This exemption does not include clearing of trees outside the footprint of the proposed driveway/entryway and sightlines to the lot proposed for development. For single family homes, this does not include requests for a second driveway or entryway if the lot has an existing driveway or entryway.

31.4. TREE PROTECTION AND MITIGATION

31.4.1 In connection with any activity regulated by this Bylaw, see Section 31.3, no person shall Remove a Protected Tree within a Tree Preservation Area without first applying for and receiving a Tree Removal Permit or Certificate of Exemption in accordance with this Bylaw. No building permit or Land Disturbance Permit shall be issued for any use, site, construction, or structural alteration that is subject to this Bylaw until the issuance of a Tree Removal Permit by the Permitting Authority if applicable to the project.

31.4.2. PROTECTION DURING DEMOLITION AND/OR CONSTRUCTION: Each Protected Tree to be retained on the property shall be shielded by the establishment of a fenced off Tree Preservation Area. The Tree Preservation Area shall be delineated on the submitted Tree Protection and Mitigation Plan, shall be installed prior to any demolition or site work, and shall remain in place until work is completed on the property, excluding final landscaping.

31.4.3. MITIGATION: The removal of a Protected Tree(s) from a property in connection with one or more of the circumstances set forth in Section 31.3.1 shall require mitigation based upon aggregate DBH of Protected Tree(s) removed. Mitigation shall be achieved by satisfying one or a combination of the following provisions:

- a. Replanting of Trees: For each inch of DBH of the Protected Tree(s) removed trees shall be replanted in accordance with the following:
 1. Each tree proposed for planting must have a minimum caliper of one inch or greater.
 2. Replacement Trees shall be determined as follows:
 - a. 6" -8" caliper trees proposed for removal, replaced with 1 tree for every 1 removed;
 - b. 8"-20" caliper trees proposed removal, replaced with 2 trees for every 1 tree removed;
 - c. Greater than 20" caliper tree proposed for removal, replaced with 3 trees for every 1 tree removed; and
 - d. All proposed replacement trees shall be native and shall not consists of non-native, cultivars or invasive species.
- b. Contribution to the Town of Medway Tree Mitigation Fund: The Commission shall establish a Tree Mitigation Fund contribution schedule with assigned value per inch of DBH of Protected Tree(s) to be removed and not otherwise mitigated. Tree Mitigation Fund contributions shall be received by the Town Conservation Commission, prior to the start of any tree removal and construction of any portion of the proposed project on the lot. Mitigation measures shall be identified in the submitted Tree Protection and Mitigation Plan. The removal or proposed removal of a Protected Tree(s) that has been mitigated for, in conjunction with a previous applicable permit, shall not require additional mitigation under subsequent permits, unless such mitigation has not been completed or otherwise assured.
- c. Contribution rate schedule.

12" Diameter at Breast Height (DBH) and Less	\$25 per inch
Greater than 13" DBH but no more than 18" DBH	\$50 per inch
Greater than 18" DBH	\$75 per inch

31.4.4. UNAUTHORIZED REMOVAL: The removal of any Protected Tree not identified on the Tree Protection and Mitigation Plan shall require mitigation at the rate specified in Section 31.4.3. In addition, any person removing a Protected Tree not identified on the Tree Protection and Mitigation Plan in violation of this Bylaw shall be subject to enforcement pursuant to Section 31.9.1.

31.5. TREE REMOVAL PERMIT PROCEDURE:

31.5.1. APPLICATION:

- a. The application for a Tree Removal Permit must include a Tree Preservation and Mitigation Plan documented, prepared, dated, and signed by a Certified Arborist.

- b. Tree Removal Application Submittal: Prior to the issuance of a permit in connection with one or more of the circumstances set forth in Section 31.3.1 on a property which a Protected Tree is located, the applicant shall submit a Tree Removal Application to the Commission when filing a separate Conservation Application as part of the filing documents. If there is no Conservation Application being submitted as part of the project review, the Tree Removal Application shall be submitted to the Conservation Agent, who will make a decision with the recommendation of the Tree Warden for review and determination.
- c. Tree Removal Application Requirements: Tree Removal Permit Application must include a Tree Preservation and Mitigation Plan documented, prepared, dated, and signed by a Certified Arborist. The plan shall be a to-scale survey or site plan that indicates the applicable Tree Preservation Area, existing improvements, proposed construction and/or demolition, Protected Trees, and preservation and maintenance procedures in accordance with this Bylaw and the Rules and Regulations in effect at the time. It must also specify any tree removals and proposed mitigation measures per the requirements of this Bylaw.
- d. Re-Submittal: If demolition or construction has not commenced within twelve months of the date that a Tree Removal Permit Application was submitted for a property, or if removal of a previously unidentified Protected Tree is necessary during construction, an amended Tree Removal Permit Application shall be submitted identifying any changes from the previous plan, if any, and associated mitigation measures, if any.

31.5.2. ISSUANCE OR DENIAL

- a. If the Tree Protection and Mitigation Plan is consistent with the protection and mitigation requirements contained herein and any established Rules and Regulations, then the Permitting Authority may issue an approval to any applicable permit. Applicant shall be sent a notice of this decision within 21 days of the vote at a public meeting and by Certified Mail Return Receipt. If the proposal does not meet or satisfy these requirements of this Bylaw, the Permitting Authority shall notify the applicant and the appropriate Town Department that all applicable permits should be denied due to lack of meeting requirements of this Bylaw. Applicant shall be sent a notice of this decision within 21 days of the vote at a public meeting and by Certified Mail Return Receipt. If the Permitting Authority fails to act on an application within thirty days after the application has been made, it shall be deemed to be approved. This time limit may be extended by mutual agreement of the applicant and Permitting Authority.
- b. All Tree Removal Permits shall be recorded at the Norfolk County Registry of Deeds and shall run with the land.

31.6. MAINTENANCE OF PROTECTED AND REPLANTED TREES:

- a. Protected Trees: Each Protected Tree retained shall be maintained in good health for a period of no less than twenty-four months from the date of final inspection, or issuance of a Certificate of Occupancy if applicable. Should such tree die or significantly decline in the opinion of the Tree Warden and/or Conservation Commission or Certified Arborist, within this twenty-four-month period, the owner of the property shall be required to provide mitigation consistent with the requirements for the removal of a Protected Tree as contained herein within nine months from said determination.

- b. Replanted Trees: All new trees planted to mitigate the removal of Protected Tree(s) shall be maintained in good health for a period of no less than twenty-four months from the date of planting. Should such tree die within this twenty-four-month period, the owner of the property shall be responsible for replacing the tree with a tree equal to or greater than the size of the original Replanted Tree at installation; such replacement tree shall be planted within nine months of the death or serious decline of the original Replanted Tree.

31.7. CERTIFICATE OF EXEMPTION

A. APPLICATION:

- a. Applicant shall submit a Certificate of Exemption Application to the Commission when filing a separate Conservation Application as part of the filing documents. If there is no Conservation Application being submitted as part of the project review, the Certificate of Exemption Application shall be submitted to the Conservation Agent for review and determination.

B. ISSUANCE OR DENIAL:

- b. If the proposed Building Activity does not have potential to harm a Protected Tree, the Permitting Authority may issue any applicable permit or notify the appropriate Town Department. If the proposal does not meet or satisfy these requirements, the Permitting Authority shall notify the applicant and the appropriate Town Department that all applicable permits shall not be issued until the requirements are met. If the Permitting Authority fails to act on an application within thirty days after the application has been made, it shall be deemed to be approved.

31.8. TREE MITIGATION FUND There is hereby established a Town of Medway Tree Mitigation Fund ("Tree Fund") pursuant to M.G.L. c. 44 § 53E½. Any contributions collected per Section 31.4.3 of this Tree Bylaw shall be deposited in the Tree Mitigation Fund and shall be used solely for the purpose of buying, planting, and maintaining trees within residential neighborhoods and Town-owned properties in the Town of Medway.

31.9. ADMINISTRATION

31.9.1. ENFORCEMENT: The Permitting Authorities are hereby authorized to enforce all the provisions of the Tree Bylaw. Anyone who violates any provision of this Bylaw shall be punishable by a fine of not more than three hundred dollars for each offense. As an alternative means of enforcement, the enforcing person may impose noncriminal penalties pursuant to G.L. c. 40, §21D and Article 19 of the Town's General Bylaws, in accordance with the following schedule:

Bylaw	Noncriminal Penalty Schedule	Noncriminal Penalty	Enforcement Agent
Tree Preservation Bylaw	1 st Offense 2 nd Offense 3 rd & each subsequent offense	\$100 \$200 \$300	Conservation Agent

31.9.2. APPEAL

- a. Any person aggrieved by a decision of the Tree Warden or Conservation Agent under this Bylaw may file an appeal with the Commission. Said appeal must be in writing and must be received by the Commission within ten business days of issuance of the written decision. The Commission shall conduct a public hearing on the appeal and shall give the public notice thereof, at the expense of the applicant. Public notice shall include mailed notice to all persons owning land within 100 feet of any part of the applicant's land at least 14 days before said hearing. The Commission shall rule within 20 days of the close of the public hearing.
- b. Appeals of final decisions of the Commission shall be pursuant to G.L. c. 249, § 4.
- c. No Protected Trees shall be removed while an appeal is pending.

31.10. RULES AND REGULATIONS

The Commission may promulgate or amend Rules and Regulations which pertain to the administration of this Tree Bylaw and shall file a copy of said rules in the office of the Town Clerk. Such rules may prescribe the size, form, contents, style, and number of copies of plans and expense specifications, the procedure for the submission and approval of such plans, and the procedure for determining final compliance with these regulations. The adoption or amendment of Rules and Regulations shall be after a public hearing to receive comments on the proposed or amended Rules and Regulations.

And to amend Article 27 of the General Bylaws, Revolving Funds, to add a new Revolving Fund as follows:

Program or Purpose	Authorized Representative or Board to Spend	Departmental Receipts
Planting trees	Conservation Commission	Tree Preservation Mitigation Payments

With an annual spending limit of \$20,000.

Or act in any manner related thereto.

CONSERVATION COMMISSION

SELECT BOARD RECOMMENDATION: To Be Determined

FINANCE COMMITTEE RECOMMENDATION: Approve

ARTICLE 23: (Amend General Bylaws: New Noise Bylaw)

To see if the Town will vote to amend the General Bylaws by adding a new article entitled "Prohibition of Excessive Noise" as follows, with the Town Clerk to assign the correct number for the Bylaw, or act in any manner relating thereto.

Restrictions on hours of certain commercial activity. Except in an emergency, and except as permitted by statute or the chief of police as herein provided, no person shall undertake or perform any outdoor commercial activity involving construction, earth moving, yard maintenance, home improvement, or the delivery or pick up of equipment or supplies for use therein, except during the following periods of time:

Monday through Friday: 7AM. until 7PM. Saturday, Sunday, and state observed holidays: 8 a.m. until 7 p.m. The foregoing regulated activity includes, but is not limited to, the use of equipment powered by electric or internal combustion engines. Upon application, the chief of police or the chief's designee may issue permits for the conduct of necessary commercial outdoor activity which could not be performed during the otherwise permitted times without serious suffering, loss, damage, or public inconvenience. This bylaw shall not apply to snow removal operations, nor shall it apply to residents performing work on their own residential property or properties.

The emptying of the contents of the dumpster(s)/collection bin(s) by a contractor shall not commence before 7AM and not continue after 7PM. The Board of Health may modify these hours, if, in its reasonable judgment, is convinced that the public health and safety or public welfare would be better served and a nuisance would not be created. The Board of Health shall be guided in this regard by the location, proximity to residential property, frequency of emptying, resulting noise and other factors deemed appropriate.

Violations. Any person who violates any section of this bylaw shall be subject to a fine as follows:

Maximum fine allowed: \$300.00

Enforcement agent: Select Board or its Designee

Fine Schedule: First offense - Warning
Second offense - \$100.00
Third offense - \$200.00
Fourth and each subsequent offense - \$300.00 maximum per day. Each day to constitute a separate violation.

SELECT BOARD

SELECT BOARD RECOMMENDATION: Approve

FINANCE COMMITTEE RECOMMENDATION: Approve

ARTICLE 24: (Amend Zoning Bylaw: Schedule of Uses – BESS)

To see if the Town will vote to amend the Zoning Bylaws, Section 5.4, Table 1: Schedule of Uses, by adding a new use as follows, or act in any manner relating thereto.

TABLE 1: SCHEDULE OF USES													
	AR-I	AR-II	VR	CB	VC	NC	BI	EI	ER	W I	Form-Based Districts		
											OGV C	OGB P	OG N
E. INDUSTRIAL AND RELATED USES													
Tier 2 Battery Energy Storage System (not otherwise exempt from zoning pursuant to G.L. c. 40A or other state law)	N	N	N	N	N	N	N	N	PB	N	N	N	N

PLANNING AND ECONOMIC DEVELOPMENT BOARD

SELECT BOARD RECOMMENDATION: Approve

FINANCE COMMITTEE RECOMMENDATION: Approve

ARTICLE 25: (Amend Zoning Bylaw: Section 8.4 Open Space Residential Devlt.)

To see if the Town will vote to amend Section 8.4 Open Space Residential Development, as follows, with new language to be inserted as shown in **bold**, and deleted language as shown in ~~strike through~~:

Amend Section 8.4.E as follows:

E. Use Regulations. An OSRD special permit may provide for any of the following uses as determined by the Planning and Economic Development Board:

Detached single-family dwellings

Two attached single-family dwellings ~~up to a maximum of five per building~~

~~Local convenience retail, up to a maximum of 7,500 sq. ft. of gross floor area~~

~~Community center~~

And by amending Section 8.4.F.5 as follows:

5. In order to allow flexibility and creativity in siting buildings while also promoting privacy, buildings shall be separated as follows:

Type/Size of Building	Average Separation (linear feet)
Single family detached dwelling units with 2500 sq. ft. or less of habitable space	20
Two or three attached dwelling units with an average of 2500 sq. ft. or less of habitable space each	
Single family detached dwelling units with more than 2500 sq. ft. of habitable space	30
Four or five Two attached dwelling units with an average of 2500 sq. ft. or less more of habitable space each	
Four or five attached dwelling units with an average of more than 2500 sq. ft. of habitable space each	35

Or act in any manner relating thereto.

PLANNING AND ECONOMIC DEVELOPMENT BOARD

SELECT BOARD RECOMMENDATION: Approve

FINANCE COMMITTEE RECOMMENDATION: Approve

ARTICLE 26: (Amend Zoning Bylaw: Mitigation)

To see if the Town will vote to amend the Zoning Bylaw, Section 3.5, Site Plan Review, Section 3.5.4.I as follows, with new language to be inserted as shown in **bold**, and deleted language as shown in ~~strikethrough~~:

I. In its site plan decision, the Board may require reasonable mitigation measures to offset adverse impacts of the development on the community, including:

~~1. — Requirements for off-site improvements up to a maximum value of six percent of the total development cost of the proposed project to improve the capacity and safety of roads, intersections, bridges, pedestrian access, water, sewer, drainage, and other public facilities and infrastructure including traffic signals and controls, or municipal services, sufficient to service the development project. The total development cost shall mean the total of the cost or value of land and all development related improvements and shall be determined on the basis of standard building or construction costs published in the *Engineering News Record* or other source acceptable to the Board for the relevant type of structure(s) and use (s).~~

21. Donation and/or dedication of land for right-of-way to provide for roadway and/or intersection widening or improvements.

~~32. Unless the Board determines that adequate means of pedestrian travel is already provided to the site, Ssidewalks shall to be provided along the entire frontage of the subject property along existing public ways, including the frontage of any lots held in common ownership with the parcel(s) within five years prior to the submission of the application for site plan review and approval. In those instances where the Board determines that sidewalk construction is not feasible or practical, the Board may require as mitigation that the Applicant will fund sidewalk construction elsewhere in the community by making a payment in lieu of sidewalk construction to the Town.~~

Or act in any manner relating thereto.

PLANNING AND ECONOMIC DEVELOPMENT BOARD

SELECT BOARD RECOMMENDATION: Approve

FINANCE COMMITTEE RECOMMENDATION: Approve

ARTICLE 27: (Amend Zoning Bylaw: Kennel Definition)

To see if the Town will amend the Zoning Bylaws, Section 2, Definitions, “Kennel”, as follows, with new language to be inserted as shown in **bold**, and deleted language as shown in ~~strikethrough~~:

Kennel: One pack or collection of dogs on a single premises, whether maintained for breeding, boarding, sale, training, hunting or other purposes, and including any shop where dogs are on sale, and also including every pack or collection of more than ~~four~~ **three** dogs three months old or over owned or kept on a single premises irrespective of the purposes for which they are maintained.

Or act in any manner related thereto.

PLANNING AND ECONOMIC DEVELOPMENT BOARD

SELECT BOARD RECOMMENDATION: **Approve**

FINANCE COMMITTEE RECOMMENDATION: **Approve**

ARTICLE 28: (Amend Zoning Bylaw: Housekeeping)

To see if the Town will vote to amend the Zoning Bylaw as follows, with new language to be inserted as shown in **bold**, and deleted language as shown in ~~strikethrough~~:

- (1) Change “Department of Housing and Community Development” wherever it appears in the Zoning Bylaw to “Executive Office of Housing and Livable Communities” and “DHCD” to “EOHLC”
- (2) Change references to General Bylaws from Roman numerals to numbers, and correct the numbers of any General Bylaw references, to be consistent with General Bylaw amendments enacted at the May 2023 Town Meeting.
- (3) Amend Section 1.1 Title as follows:
The ~~full~~ title of this Bylaw ~~shall be~~ **is** the "Zoning Bylaw of the Town of Medway, Massachusetts." This Bylaw ~~shall be~~ **is sometimes** referred to herein as "this Zoning Bylaw" or "these Bylaws."
- (4) Delete Section 1.8, Temporary Moratorium, in its entirety.
- (5) Amend Section 5.4, Table 1, Schedule of Uses, D. Business Uses, to provide that Construction Contracting Services are allowed by special permit from the Planning and Economic Development Board such that “SP” is replaced with “PB” in the following districts: Central Business, Neighborhood Commercial, Village Commercial and Oak Grove Village Center.
- (6) Delete Sections 8.11.D.2, 8.11.D.4, and 8.11.D.5 (solar mitigation); and Sections 8.12.F.10, 8.12.F.11, and 8.12.F.12 (BESS mitigation) and re-number the remaining sub-sections accordingly.
- (7) Amend Section 8.4.K.4 (OSRD), to change the reference from “sub-section K below” to read “sub-section L below”; and amend Section 8.4.G.1.f (5) to change the reference from “sub-section E above” to “sub-section F above”; and amend Section 8.4.J.3.a to change the reference from “Section 5.5.3” to “Section 8.4”.
- (8) Amend Central Business Zoning District, Section 10.4.C.1.a to read:

 (a) Rowhouse (RH) ~~on Common Lot as set forth in TABLE 9.4.C.1.A~~
- (9) Amend Section 3.5.4.G by adding: **This deadline schedule shall not apply to those site plan applications where an Applicant is also simultaneously seeking a special permit from the Board; with respect to such site plan applications, the deadline for final action on the site plan application shall be the same deadline as for the related special permit application.**
- (10) Amend Section 3.1.C as follows:

 C. No premises, and no building erected, altered, or in any way changed as to construction or use under a permit or otherwise, shall be occupied or used without a certificate of occupancy issued by the Building Commissioner. **No certificate of occupancy** ~~Such permit shall not be issued until~~ the premises, structure, and its uses and accessory uses comply in all respects with this Zoning Bylaw, ~~and if applicable, a site plan certificate of completion shall be issued.~~

Or act in any manner related thereto.

PLANNING AND ECONOMIC DEVELOPMENT BOARD

SELECT BOARD RECOMMENDATION: **Approve**

FINANCE COMMITTEE RECOMMENDATION: **Approve**

ARTICLE 29: (Amend Zoning Bylaw: EV Parking)

To see if the Town will vote to amend Section 7, General Regulations, Section 7.1.1.E.4, Electric Vehicle Parking, by adding new language to subsection c as follows:

All Electric Vehicle Charging Station parking spaces shall be clearly marked for electric vehicle parking only. Signage and pavement markings for such spaces shall comply with signage or marking that is provided in the Manual on Uniform Traffic Control Devices (MUTCD) for electrical vehicle charging spaces, if any. If there are no provisions in the MUTCD for such signage or markings, each Electric Vehicle Charging Station parking space shall be marked by a sign at the head of the parking space stating “Electric Vehicle Parking Only While Charging”; each sign shall be a minimum of 18 inches wide and two feet tall, located between 5 feet and 6 feet off the ground; and a pavement marking that shall be a minimum of 24 inches wide and 28 inches tall and depict the electric vehicle parking symbol.

Or act in any manner relating thereto.

PLANNING AND ECONOMIC DEVELOPMENT BOARD

SELECT BOARD RECOMMENDATION: **Approve**

FINANCE COMMITTEE RECOMMENDATION: **Approve**

ARTICLE 30: (Amend Zoning Bylaw: Central Business District)

To see if the Town will vote to amend the Zoning Bylaw, Section 10 Central Business District Development Standards, by adding a new section 10.3.D.7 as follows:

7. The maximum height of a mixed use building may be extended by no more than 12 additional feet and one additional story by special permit from the PEDB if the proposed development includes a provision for permanently protecting a portion of the development as conservation or open space land, beyond the requirements for open space established in this bylaw, by means of a conservation restriction, conveyance to the Town, or conveyance to a nonprofit organization, the principal purpose of which is the conservation of open space. The minimum requirements for open space required by this bylaw include the minimum open space percentage set forth in Section 6.1; all required front, side and rear setbacks; all streetscape treatments, transitional buffers, and other requirements set forth in Section 10.2.E; outdoor amenity spaces; and any other applicable requirements in the Zoning Bylaw that require any portion of the site to remain in an open or undeveloped state. In determining whether to grant a special permit for the additional height, the Board shall consider the following factors: whether the proposal provides for better site design; whether the proposal helps mitigate any impacts on abutting properties; whether the proposal increases the protection of wetlands and other sensitive environmental areas; and

whether the proposal helps to protect important topographical features and reduce land disturbance, filling, and cutting. In any case where the land is not conveyed to the Town, a restriction enforceable by the Town shall be recorded providing that such land shall be kept in an open or natural state and not to be developed. All conservation restrictions must be approved by Town Counsel.

Or act in any manner related thereto.

PLANNING AND ECONOMIC DEVELOPMENT BOARD

SELECT BOARD RECOMMENDATION: Approve

FINANCE COMMITTEE RECOMMENDATION: Approve

ARTICLE 31: (Street Acceptance – High School Road)

To see if the Town will vote to accept as a public way the roadway known as High School Road, as heretofore laid out by the Select Board and shown on a plan entitled “Street Acceptance Plan of Land High School Road Medway Massachusetts”, dated October 17, 2023, and prepared by Guerriere & Halnon, Inc., on file in the office of the Town Clerk, and, further, to transfer the care, custody and control of the foregoing roadway from the School Committee for school purposes to the Select Board for public way purposes, and to accept said roadway as a public way.

And further to authorize the Select Board and town officers to take any and all related actions necessary or appropriate to carry out the purposes of this article;

Or to act in any manner relating thereto.

SELECT BOARD

SELECT BOARD RECOMMENDATION: Approve

FINANCE COMMITTEE RECOMMENDATION: Approve

ARTICLE 32: (Authorize Power Purchase Agreement)

To see if the Town will vote to authorize the School Superintendent to (i) enter into one or more agreements with one or more owners of renewable energy facilities for terms of more than 20 years for the purchase of electricity and/or net metering/on-bill credits, and (ii) take any actions and execute any other documents and ancillary agreements necessary, convenient, or appropriate to accomplish the foregoing and to implement and administer the net metering credit purchase agreements, all of which agreements and documents shall be on such terms and conditions and for such consideration as the School Superintendent, in consultation with the School Committee, deems in the best interests of the Town;

Or act in any manner relating thereto.

SCHOOL DEPARTMENT

SELECT BOARD RECOMMENDATION: Approve

FINANCE COMMITTEE RECOMMENDATION: Approve

ARTICLE 33: (Accept MGL Ch. 90, Sec. 17C, 25MPH Speed Limit)

To see if the Town will vote to accept the provisions of General Laws Chapter 90, Section 17C, in the interest of public safety, allowing the Select Board to establish a speed limit of 25 miles per hour on any roadway inside a thickly settled or business district in the Town on any way that is not a state highway; or act in any manner relating thereto.

POLICE DEPT.

SELECT BOARD RECOMMENDATION: Approve

FINANCE COMMITTEE RECOMMENDATION: Approve

And you are hereby directed to serve this warrant by posting printed attested copies thereof in Town Hall, the Public Library, the Main Post Office and on the Town's website at least FOURTEEN (14) days before the day of said meeting. Hereof fail not and make due return of this warrant with your doings thereon to the Clerk of said Town at or before the time of said meeting.

Given under our hands in Medway, this 23rd day of October 2023.

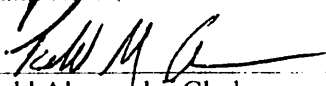
A TRUE COPY:

THE TOWN OF MEDWAY SELECT BOARD

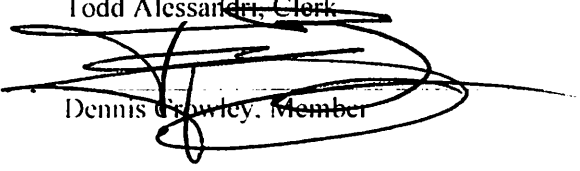
Glenn Trindade, Chair



Frank Rossi, Vice-Chair

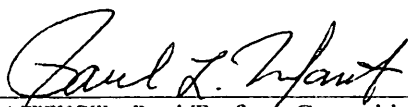


Todd Alessandri, Clerk



Dennis Crowley, Member

Maryjane White, Member



ATTEST: Paul Trufant, Constable