

**W A R R A N T**

**THE COMMONWEALTH OF MASSACHUSETTS  
ESSEX, SS.**

To Either of the Constables of the Town of Andover

Greeting:

In the name of the Commonwealth you are hereby required to notify and warn the Inhabitants of said Town who are qualified to vote in Elections and Town Affairs to meet and assemble at the designated polling place. All nine precincts: Precinct One, Precinct Two, Precinct Three, Precinct Four, Precinct Five, Precinct Six, Precinct Seven, Precinct Eight and Precinct Nine are to vote at the Field House, Andover High School, Shawsheen Road, in said Andover, on

**TUESDAY, THE TWENTY-SEVENTH DAY OF MARCH, 2007**

at seven o'clock A.M. to act upon the following articles:

**ARTICLE 1.** To elect a Moderator for one year, two Selectmen for three years, two School Committee members for three years and one member of the Andover Housing Authority for one year.

All of the above candidates are to be voted on one ballot. The polls will be open from seven o'clock A.M. to eight o'clock P.M.

After the final action on the preceding Article One, the said meeting shall stand adjourned by virtue of Chapter 39, Section 20 of the Massachusetts General Laws, to Monday, April 23, 2007, at seven o'clock P.M. in the Field House, Andover High School, Shawsheen Road, in said Andover, then and there to begin acting upon articles that follow in this Warrant.

**Election Not Required by Ballot**

**ARTICLE 2.** To elect all other officers not required by law to be elected by ballot or take any other action related there.

On request of the Town Clerk

**Salaries of Elected Officials**

**ARTICLE 3.** To establish the salaries of the elected officers for the ensuing year or take any other action related thereto.

On request of the Town Clerk

**FY-2008 Budget**

**ARTICLE 4.** To see if the Town will vote to determine what sums of money the Town will raise and appropriate, including appropriations from available funds, to defray charges and

expenses of the Town, including debt and interest, and to provide for a reserve fund for the Fiscal Year beginning July 1, 2007 and ending June 30, 2008 or take any other action related thereto.

On request of the Town Manager

### **Capital Projects Fund Appropriation – FY-2008**

**ARTICLE 5.** To see if the Town will vote to raise by taxation and appropriate the sum of \$2,800,000 for the purpose of funding the Fiscal Year 2008 appropriation for the Capital Projects Fund or take any other action related thereto.

On request of the Town Manager

### **Budget Transfers**

**ARTICLE 6.** To see if the Town will vote to transfer from amounts previously appropriated at the 2006 Annual Town Meeting as authorized by MGL Chapter 44, Section 33B or take any other action related thereto.

On request of the Town Manager as recommended by the Finance Director

### **Supplemental Budget Appropriations**

**ARTICLE 7.** To see if the Town will vote to transfer from available funds a sum of money to supplement appropriations voted at the April 2006 Annual Town Meeting or take any other action related thereto.

On request of the Town Manager as recommended by the Finance Director

### **Free Cash**

**ARTICLE 8.** To see what amount the Town will vote to permit the Assessors to use in free cash to reduce the Fiscal Year 2008 tax rate and to affect appropriations voted at the 2007 Annual Town Meeting.

On request of the Town Manager as recommended by the Finance Director

### **Unexpended Appropriations**

**ARTICLE 9.** To see what disposition shall be made of unexpended appropriations and free cash in the treasury.

On request of the Town Manager as recommended by the Finance Director

### **General Housekeeping Articles**

**ARTICLE 10.** To see if the Town will vote the following consent articles or take any other action related thereto:

A. Grant Program Authorization

To see if the Town will vote to authorize the Board of Selectmen and/or the Town Manager to apply for, accept and enter into contracts from time to time for the expenditure of any funds allotted to Andover by the Commonwealth of Massachusetts or the U. S. Government under any State or Federal grant program or take any other action related thereto.

On request of the Town Manager

B. Road Contracts

To see if the Town will vote to authorize the Town Manager to enter into a contract with the Massachusetts Highway Department Commissioners or the Federal Government for the construction and maintenance of public highways in the Town of Andover for the ensuing year or take any other action related thereto.

On request of the Town Manager

C. Town Report

To act upon the report of the Town officers or take any other action related thereto.

On request of the Town Manager

D. Property Tax Exemptions

To see if the Town will vote to accept the provisions of Section 4, Chapter 73 of the Acts of 1986 as amended by Chapter 126 of the Acts of 1988 to allow an additional property tax exemption for Fiscal Year 2008 for those persons who qualify for property tax exemptions under Massachusetts General Laws Chapter 59, Section 5 or take any other action related thereto.

On request of the Board of Assessors

E. Contracts in Excess of Three Years

To see if the Town will vote in accordance with the provisions of Massachusetts General Laws Chapter 30B, Section 12(b), to authorize the Town Manager or the Superintendent of Schools to solicit and award contracts for terms exceeding three years but no greater than five years, including any renewal, extension or option, provided in each instance the longer term is determined to be in the best interest of the Town by a vote of the Board of Selectmen or the School Committee, as appropriate, or take any other action related thereto.

On request of the Town Manager

F. Accepting Easements

To see if the Town will vote to authorize the Board of Selectmen and the School Committee to accept grants of easements for streets, water, drainage, sewer and utility purposes

on terms and conditions the Board and the Committee deem in the best interests of the Town or take any other action related thereto.

On request of the Town Manager

G. Granting Easements

To see if the Town will vote to authorize the Board of Selectmen and the School Committee to grant easements for water, drainage, sewer and utility purposes on terms and conditions the Board and the Committee deem in the best interests of the Town or take any other action related thereto.

On request of the Town Manager

H. Rescinding of Bond Authorizations

To see if the Town will vote to rescind unissued bond authorizations from prior Town Meetings or take any other action related thereto.

On request of the Finance Director

**Unpaid Bills**

**ARTICLE 11.** To see if the Town will vote to transfer from available funds a sum of money to pay unpaid bills for which obligation was incurred in prior fiscal years or take any other action related thereto.

On request of the Town Accountant

**Chapter 90 Authorizations**

**ARTICLE 12.** To see if the Town will vote to authorize the Town to acquire any necessary easements by gift, by purchase or by right of eminent domain for Chapter 90 Highway Construction or any other federal or state aid program for road or sidewalk improvements or take any other action related thereto.

On request of the Town Manager

**Stabilization Fund**

**ARTICLE 13.** To see if the Town will vote to create a Stabilization Fund for the purpose of funding future one-time unforeseen costs of the Town, and to see if the Town will vote to transfer and appropriate a sum of money from available funds to the Stabilization Fund in accordance with MGL Chapter 40, Section 5B, as amended by Chapter 46, Sections 14 and 50 of the Acts of 2003, or take any other action related thereto.

On request of the Town Manager

**Revolving Accounts**

**ARTICLE 14.** To see if the Town will vote to authorize the following revolving funds for certain Town departments under Massachusetts General Laws, Chapter 44, Section 53E1/2 for the fiscal year beginning July 1, 2007 or take any other action related thereto:

| <b>Revolving Fund</b>                           | <b>Authorized to Spend</b>    | <b>Use of Fund</b>   | <b>Revenue Source</b>                               | <b>FY-2008 Limit</b> |
|---|-------------------------------|--|---|----------------------|
| A. Community Development & Planning Department  | Division Heads                | Advertising legal hearing notice expenses for permit applications      | Applicant Fees                                      | \$70,000             |
| B. Memorial Hall Library-Lost/Damaged Materials | MHL Director                  | Replacement of lost/damaged library materials                          | Restitution payments /charges to borrower or patron | \$20,000             |
| C. Health Clinic                                | Public Health Director        | Clinic supplies and other expenses                                     | Clinic participant fees                             | \$30,000             |
| D. Division of Community Services               | Community Services Director   | Trips, ticket sales and special programs and activities                | Participant fees                                    | \$350,000            |
| E. Division of Youth Services                   | Youth Services Director       | All programs and activities expenses, part-time help                   | Participant fees                                    | \$225,000            |
| F. Field Maintenance                            | Plant and Facilities Director | Field maintenance, upgrade and related expenses                        | Field rental fees                                   | \$80,000             |
| G. Division of Elder Services                   | Elder Services Director       | Senior programs, classes and activities                                | Participant fees                                    | \$200,000            |
| H. Public Safety                                | Chief of Police               | Maintenance and purchase of public safety radio and antennae equipment | Lease agreements for antenna users                  | \$50,000             |
| I. Memorial Hall Library Audio/Visual           | MHL Director                  | Purchase of audio/visual materials                                     | Rental of audio/visual materials                    | \$36,000             |
| J. School Photocopy Fees                        | School Dept.                  | Photocopy Center Costs   | External Private Groups                             | \$7,000              |

|                |              |  |   |          |
|----------------|--------------|--|---|----------|
| K. Solid Waste | DPW Director | Offset Compost Monitoring and Cleanup Expenses | Contractor permit fees, revenues from sale of compost | \$15,000 |
|----------------|--------------|--|---|----------|

On request of the Finance Director

**School Roof Replacement Program – One-Year Plan**

**ARTICLE 15.** To see if the Town will vote to appropriate the sum of \$ 3,700,000 to pay costs of reconstructing various school roofs, and for the payment of all other costs incidental and related thereto; and that to meet this appropriation, the Treasurer, with the approval of the Selectmen, is authorized to borrow said sum under and pursuant to Chapter 44, Section 7, Clause(3A) of the Massachusetts General Laws, or any other enabling authority and to issue bonds or notes of the Town therefore, or take any other action related thereto.

On request of the Plant & Facilities Director

**School Roof Replacement Program – Five-Year Plan – Debt Exclusion Contingent Appropriation**

**ARTICLE 16.** To see if the Town will vote the sum of \$ 12,045,000 to pay costs of reconstructing various school roofs and for the payment of all other costs incidental and related thereto; and that to meet this appropriation, the Treasurer, with the approval of the Selectmen, is authorized to borrow said sum under and pursuant to Chapter 44, Section 7, Clause(3A) of the Massachusetts General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefor provided, however, that any authorized borrowing hereunder shall be contingent on the passage of a vote at a Town Election to exempt the amounts required to pay any bonds or notes issued pursuant to this vote from the limitations imposed by Proposition 2 ½ in accordance with Massachusetts General Laws , Chapter 59, Section 21C(k) and (m), or take any other action related thereto.

On request of the Plant & Facilities Director

**Sidewalk Reconstruction Program – One-Year Plan**

**ARTICLE 17.** To see if the Town will vote the sum of \$1,190,000 to pay costs of reconstructing sidewalks within the Town and for the payment of all other costs incidental and related thereto; and that to meet this appropriation, the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow said sum under and pursuant to Chapter 44, Section 7, Clauses (5) and (6) of the Massachusetts General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefore, or take any other action related thereto.

On request of the Department of Public Works Director

**Sidewalk Reconstruction Program – Five-Year Plan – Debt Exclusion Contingent Appropriation**

**ARTICLE 18.** To see if the Town will vote the sum of \$ 5,578,000 to pay costs of reconstructing sidewalks within the Town and for the payment of all other costs incidental and related thereto; and that to meet this appropriation, the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow said sum under and pursuant to Chapter 44, Section 7, Clauses (5) and (6) of the Massachusetts General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefore, provided that any authorized borrowing hereunder shall be contingent on the passage of a vote at a Town Election to exempt the amounts required to pay any bonds or notes issued pursuant to this vote from the limitations imposed by Proposition 2 ½ in accordance with Massachusetts General Laws , Chapter 59, Section 21C(k) and (m), or take any other action related there.

On request of the Department of Public Works Director

**Accumulated Employee Benefit Account**

**ARTICLE 19.** To see if the Town will vote to raise by taxation or by transfer from available funds and appropriate a sum not to exceed \$400,000 to the Accumulated Employee Benefit Account for funding accrued employee vacation and sick leave liabilities upon being eligible for retirement under the Andover Contributory Retirement System and terminating employment with the Town, or take any action related thereto.

On request of the Town Accountant

**Elderly/Disabled Transportation Program**

**ARTICLE 20.** To see if the Town will vote to appropriate and raise by taxation a sum not to exceed \$12,000 for the purpose of continuing to provide for an elderly and disabled transportation subsidy program or take any other action related thereto.

On request of the Council on Aging

**Mutual Aid for Health Emergencies**

**ARTICLE 21.** To see if the Town will authorize the Board of Health to enter into a Memoranda of Understanding with other communities in the Commonwealth of Massachusetts to provide mutual aid and assistance in responding to public health emergencies, on terms and conditions the Board of Health deems in the best interest of the Town, or take any other action related thereto.

On request of the Board of Health

**Accept MGL, Chapter 39, Section 23D – Boards, Committees & Commissions which conduct Adjudicatory Hearings**

**ARTICLE 22.** To see if the Town will vote to accept Massachusetts General Laws Chapter 39, Section 23D for all Town Boards, Committees and Commissions which conduct adjudicatory hearings, including but not limited to, the Board of Selectmen, Zoning Board of Appeals, Planning Board, Conservation Commission, Board of Health, Ballardvale Historic District Commission, Board of Assessors and Stormwater Committee, to take any other action related thereto.

On request of Town Counsel

**Land Transfer – Youth Center (1)**

**ARTICLE 23.** To see if the Town will vote to transfer the care, custody, control and management of a parcel of land containing approximately 35,000 square feet more or less shown as Parcel A on a plan entitled \_\_\_\_\_ by \_\_\_\_\_, dated \_\_\_\_\_ to the Board of Selectmen for municipal purposes, said plan being on file in the Office of the Town Clerk, and if a Youth Center is not built on said property, then the land shall revert back to the School Committee, or take any other action related thereto.

On petition of Gerald H. Silverman and others

**Land Transfer – Youth Center (2)**

**ARTICLE 24.** To see if the Town will vote to transfer the care, custody, control and management of a parcel of land containing approximately 36,400 square feet more or less shown as Parcel A on a plan entitled “Plan Showing Proposed Youth Center” Scale 1” = 40’, dated November 14, 2006, to the Board of Selectmen for municipal purposes, said plan being on file in the Office of the Town Clerk, and if a Youth Center is not built on said property, then the land shall revert back to the School Committee, or take any other action related thereto.

On petition of Gerald H. Silverman and others

**Zoning Bylaw Amendment – Exempt Municipal Senior Centers and Municipal Youth Centers from Dimensional Requirements**

**ARTICLE 25.** To see if the Town will vote to amend Section 4.1.3. (Exceptions and Special Requirements) of the Andover Zoning Bylaw by adding new Sections 4.1.3.5. and 4.1.3.6. as follows:

“5. Municipal Senior Center. Land and structures used for a municipal Senior Center are exempt from the lot area, frontage, building setback and off-street parking and leading requirements of this bylaw.

6. Municipal Youth Center. Land and structures used for a municipal Youth Center are exempt from the lot area, frontage, building setback and off-street parking and loading requirements of this bylaw.”

or take any other action related thereto.

On petition of Gerald H. Silverman and others

### **Youth Center Easements**

**ARTICLE 26.** To see if the Town will vote to authorize the School Committee to grant, and the Board of Selectmen to accept, any and all easements in and across real property at Doherty Middle School in order to construct and operate a Youth Center, including, but not limited to, easements for drainage, utilities, access, grading and communications, or take any other action related thereto.

On petition of Gerald H. Silverman and others

### **Town Building Maintenance and Renovation**

**ARTICLE 27.** To see if the Town will vote to appropriate \$955,000 for the purpose of paying costs of constructing, adding to, remodeling, reconstructing and making extraordinary repairs to and equipping various Town buildings and for the payment of all other costs incidental and related thereto; and that to meet this appropriation, authorize the Treasurer, with the approval of the Board of Selectmen, to borrow said sum under and pursuant to Chapter 44, Section 7, Clauses (3) and (3A) of the Massachusetts General Laws, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor, or to take any other action related thereto.

On request of the Plant and Facilities Director

### **School Building Maintenance and Renovation**

**ARTICLE 28.** To see if the Town will vote to appropriate \$1,065,000 for the purpose of paying costs of constructing, adding to, remodeling, reconstructing and making extraordinary repairs to and equipping various School buildings and for the payment of all other costs incidental and related thereto; and that to meet this appropriation, authorize the Treasurer, with the approval of the Board of Selectmen, to borrow said sum under and pursuant to Chapter 44, Section 7, Clauses (3) and (3A) of the Massachusetts General Laws, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor, or to take any other action related thereto.

On request of the Plant and Facilities Director

### **Land Transfer for Senior Center Addition and Patio**

**ARTICLE 29.** To see if the Town will vote to transfer the care, custody and control of the land shown on a “Plan Showing Land to be Transferred from the Control of the School Department to the Inhabitants of the Town of Andover,” Brian W. Moore, Town Engineer, January 18, 2007, on file with the Town Clerk’s Office to the Board of Selectmen for purposes of expanding the Andover Senior Center to include a patio and addition or take any other action related thereto.

On request of the Town Manager

### **Zoning Bylaw Amendment – Re-zone Punchard Avenue**

**ARTICLE 30.** To see if the Town will vote to amend the Andover Zoning Bylaw pursuant to Section 2.3 (District Boundaries) and make the appropriate changes to the Zoning Map of Andover, Mass. to re-zone to Mixed-Use Zone (MU) from Single Family Residence A (SRA) the parcels of land situated on the Southerly and Northerly side of Punchard Avenue designated by the Town of Andover as 1, 3, 5, 6, 7 and 9 Punchard Avenue and comprising Assessor Parcels 73, 72, 71, 46, 70 and 69 on Assessors Map 39, or take any other action related thereto.

On petition of Philip F. Sullivan and others

**Transfer of Property at 37 River Street to Conservation Commission**

**ARTICLE 31.** To see if the Town will vote to transfer the care, custody and control of property at 37 River Street, Town Assessor Map 139, Parcel 146, to the Conservation Commission, or take any other action related thereto.

On request of the Board of Selectmen

**Town Bylaw Amendment – Section 21 – Soliciting**

**ARTICLE 32.** To see if the Town will vote to amend the Town Bylaws, Article XII, Section 21, Soliciting, as follows:

“Add the phrase “sales agent” after transient vendor in the first sentence of subsection a.

Add a new subsection c. to read: No person shall enter upon the property of another or engage in soliciting at any residence which has conspicuously posted a “No Solicitors” sign.”

or take any other action related thereto.

On request of the Chief of Police

**Community Preservation Act**

**ARTICLE 33.** To see if the Town will vote to accept Section 3 to Section 7, inclusive of Chapter 44B of the General Laws (the Massachusetts Community Preservation Act) and to approve a surcharge on real property of not more than three percent of the real estate tax levy against real property as determined annually by the Board of Assessors and to vote to accept one or more exemptions:

Exemption #1 – Property owned and occupied as a domicile by a person who would qualify for low income housing or low or moderate income senior housing in the Town;

Exemption #2 – For class three, commercial and class four, industrial properties as defined in Section 2A of General Laws, Chapter 59; and

Exemption #3 – For \$100,000 of the value of each taxable parcel of residential real property

or take any other action related thereto.

On petition of John P. Hess and others

**Community Preservation Act Bylaw**

**ARTICLE 34.** To see if the Town will vote to add the following General Bylaw:

**Chapter 1. Establishment**

There is hereby established a Community Preservation Committee, consisting of nine (9) voting members pursuant to Massachusetts General Laws, Chapter 44B. The composition of the committee, the appointment authority and the term of office for the committee members shall be as follows:

One member of the Conservation Commission as designated by the Commission for a term of three years.

One member of the Preservation Commission as designated by the Commission for a term of three years.

One member of the Planning Board as designated by the Board for a term of three years. One member to be appointed by the Town Manager, subject to the confirmation by the Board of Selectmen, representing the interest of parks and recreation for a term of one year and thereafter a term of three years.

One member of the Andover Housing Partnership Committee as designated by the Committee for an initial term of one year and thereafter for a term of three years.

One member of the Housing Authority as designated by the Authority for an initial term of two years and thereafter for a term of three years.

Three members to be appointed by the Town Manager, subject to the confirmation by the Board of Selectmen, one member to be appointed for a term of one year and thereafter for a term of three years and two members to be appointed for a term of two years and thereafter for a term of three years.

Should any of the Commissions, Boards or Committees who have appointment authority under this Chapter be no longer in existence for whatever reason, the appointment authority for that Commission, Board or Committee shall become the responsibility of the Town Manager subject to the confirmation of the Board of Selectmen.

**Chapter 2. Duties**

(1) The Community Preservation Committee shall study the needs, possibilities and resources of the Town regarding Community Preservation. The Committee shall consult with existing municipal boards, including the Conservation Commission, the Preservation Commission, the Planning Board, the Andover Housing Partnership Committee and Housing Authority or persons acting in those capacities or performing like duties, in conducting such

studies. As part of its study, the Committee shall hold one or more public informational hearings on the needs, possibilities and resources of the Town regarding Community Preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the Town.

(2) The Community Preservation Committee shall make recommendations to the Town Meeting for the acquisition, creation and preservation of open space, for the acquisition and preservation of historic resources, for the acquisition, creation and preservation of land for recreational use, for the creation, preservation and support of community housing and for rehabilitation or restoration of such open space, historic resources, land for recreational use and community housing that is acquired or created as provided in this section. With respect to community housing, the Community Preservation Committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

(3) The Community Preservation Committee may include in its recommendation to the Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with Community Preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with Community Preservation.

#### Chapter 3. Requirement for a quorum and cost estimates

The Community Preservation Committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the Community Preservation Committee shall constitute a quorum. The Community Preservation Committee shall approve its action by majority vote. Recommendations to the Town Meeting shall include their anticipated costs.

#### Chapter 4. Amendments

This chapter may be amended from time to time by a majority vote of the Town Meeting, provided that the amendments would not cause a conflict to occur with Massachusetts General Laws, Chapter 44B.

#### Chapter 5. Severability

In case any section, paragraph or part of this chapter be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

#### Chapter 6. Effective Date

Following Town Meeting approval, this chapter shall take effect immediately upon approval by the Attorney General of the Commonwealth. Each appointing authority shall have forty-five (45) days after approval by the Attorney General to make their initial appointments. Should any appointing authority fail to make their appointment within that allotted time, the Town Manager shall make the appointment.”

or take any other action related thereto.

On petition of John P. Hess and others

**DPW – Water Division – Vehicle Replacements**

**ARTICLE 35.** To see if the Town will vote to transfer the sum of \$148,000 from water reserves and appropriate \$148,000 for the purpose of replacing water division vehicles or take any other action related thereto.

On request of the Department of Public Works Director

**Dascomb Road – Osgood Street Sewer Extension**

**ARTICLE 36.** To see if the Town will vote to raise by borrowing and appropriate \$200,000 for the purpose of paying costs of constructing sewer mains along Dascomb Road and Osgood Street, including, but not limited to, all costs associated with design, construction, land acquisition by eminent domain, and for the payment of all other costs incidental and related thereto; and that to meet this appropriation, authorize the Treasurer, with the approval of the Board of Selectmen, to borrow said sum under and pursuant to Chapter 44, Section 7, Clause (1) of the Massachusetts General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefor, and further, that betterments shall be assessed to recover costs of the project, which betterments shall be assessed using the uniform unit method or take any other action related thereto.

On request of the Department of Public Works Director

**Granli Drive Open Space – Taking of Land by Eminent Domain**

**ARTICLE 37.** To see if the Town will authorize the Board of Selectmen to take by gift, purchase or eminent domain, to be held in the care, custody and control of the Conservation Commission, a parcel of land shown on a plan of land entitled “Definitive Plan of Granli Estates, Subdivision Plan of Land in Andover, Mass. of Granli Drive”, prepared by Dana F. Perkins & Associates, Inc. Engineers, dated 10/16/84, revised 12/15/84 and 2/7/85, drawn for Charles & Avedis A. Vartabedian, which plan is recorded with Essex North District Registry of Deeds as Plan Number 9819. The parcel to be taken is shown as Parcel “A” on said plan, containing 11.8 acres of land, and to award no damages for said eminent domain taking, or take any other action relative thereto.

On request of the Planning Board

**Acquire Granli Drive**

**ARTICLE 38.** To see if the Town will vote to accept Granli Drive as a public way and authorize the Board of Selectmen to acquire by eminent domain, gift, purchase, otherwise any fee, easement or other interest in land known as Granli Drive as shown on a plan entitled “Definitive Plan of Granli Estates, Subdivision Plan of Land in Andover, Mass. Of Granli Drive”, prepared by Dana F. Perkins & Associates, Inc. Engineers, dated 2/7/85 (revised), said plan being recorded in the Essex North Registry of Deeds as Plan Number 9819, and on file in

the Office of the Town Clerk, and as constructed, and to award no damages for said taking or payment for said acquisition, and to appropriate and raise by taxation, transfer from available funds or borrowing or any combination thereof a sum of \$2,000, for required engineering services, legal services, repairs and improvements to Granli Drive and expenses incidental thereto, or take any other action related thereto.

On petition of Richard W. Perry and others

### **Pedestrian Foot Bridge across the Shawsheen River**

**ARTICLE 39.** To see if the Town will vote to appropriate the sum of \$15,000 as the Town portion or a pedestrian foot bridge across the Shawsheen River, connecting North Main Street with playgrounds and trails off Burnham Road in Shawsheen Village. The \$150,000 cost of the bridge will be funded through the Massachusetts Highway Department which requires ten percent funding from the local community, or take any other action related thereto.

On petition of Robert Marsh and others

### **Conservation Acquisition of Unclaimed Land**

**ARTICLE 40.** To see if the Town will vote to authorize the Board of Selectmen and Conservation Commission to acquire by gift, purchase or eminent domain, with no amount to be paid as damages or compensation, the following unclaimed land adjacent to conservation land and Harold Parker State Park to be under the care, custody and control of the Conservation Commission: The parcel defined by the boundaries of the adjacent properties at Jenkins Road; Map 14-12A (64R Jenkins Road) recorded in the Registry of Deeds at Book 1239, Page 617, Map14-12 (64 Jenkins Road) recorded at the Registry of Deeds as Book 1239, Page 673 and the surrounding lots recorded at the Registry of Deeds within Harold Parker State Forest 35 (Book 550 Page 218), 38 (Book 597, Page 227), 39 (Book 363, Page 141), 40 (Book 363, Page 146), 41 (Book 593, Page 86), all of which is approximately eleven acres, or take any other action related thereto.

On request of the Conservation Commission

### **Kirkland Drive Sewer Construction**

**ARTICLE 41.** To see if the Town will vote to appropriate the sum of \$250,000 for the construction of a sanitary sewer line, including costs incidental and related thereto, in Kirkland Drive and to authorize the Board of Selectmen to acquire any necessary easements by gift, purchase or eminent domain and that to raise this appropriation, the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow said sum under and pursuant to Chapter 44, Section 7(1) of the General Laws, or any other enabling authority, and to issue bonds or notes of the Town herefore; sewer betterments are to be assessed by the Board of Selectmen, acting in its capacity as Sewer Commissioners, based upon the uniform unit method, or take any other action related thereto.

On petition of John P. Kennedy, Leslie S. Malis and others

## **General Bylaw Amendment – The Building and Property Maintenance Code**

**ARTICLE 42.** To see if the Town will vote to amend the General Bylaws, Article XII. Miscellaneous Bylaws, by adding a Section 42 to read:

“1. The Building and Property Maintenance Code

Findings and Declaration of Policy

It is hereby found and declared that there exist in the Town structures used for residential and non-residential use which are, or may become in the future, sub-standard with respect to structure, equipment or maintenance, or further, that such conditions, including but not limited to, structural deterioration, lack of maintenance and appearance of exterior of premises, infestation, lack of maintenance or upkeep of essential utilities and facilities, existence of fire hazards, inadequate provisions for light and air, unsanitary conditions and overcrowding, constitute a menace to the health, safety, morals, welfare and reasonable comfort of the citizens and inhabitants of the Town. It is further found and declared that, by reason of lack of maintenance and because of progressive deterioration, certain properties have the further effect of creating blighting conditions and initiating slums, and that if the same are not curtailed and removed, the aforesaid conditions will grow and spread and will necessitate in time the expenditure of large amounts of public funds to correct and eliminate the same, and that, by reason of timely regulations and restrictions as herein contained, the growth of slums and blight may be prevented and the neighborhood and property values thereby maintained the desirability and amenities of residential and non-residential uses and neighborhoods enhanced and the public health, safety and welfare protected and fostered.

Purpose

The purpose of this code is to protect the public health, safety, morals and welfare by establishing minimum standards governing the maintenance, appearance, condition and occupancy of residential and non-residential premises; to establish minimum standards governing utilities, facilities and other physical components and conditions essential to make the aforesaid facilities fit for human habitation, occupancy and use; to fix certain responsibilities and duties upon occupants; to authorize and establish procedures for the inspection of residential and non-residential premises; to fix penalties for the violations of this code; and to provide for the repair, demolition or vacation of premises unfit for human habitation or occupancy or use.

2. Building and Property Maintenance

Maintenance Required

All buildings and structures, and all parts thereof, shall be maintained in a safe, sanitary and non-hazardous manner. All means of egress, devices, safeguards and equipment shall be kept in good working order. The exterior of all premises and the condition of all buildings, structures and components thereon shall be maintained so as to prevent and repair deterioration, so that the appearance thereof shall reflect a level of maintenance in conformity with all applicable laws and ordinance regulations of the Commonwealth and the Town of Andover and

so as to insure that the property itself may be preserved safely and that hazards to public health and safety are avoided.

### 3. Maintenance Standards

#### Maintenance of Structures

Each owner and occupant shall keep all exterior components of every structure in good repair, including but not limited to, walls, roofs, chimney, cornices, gutters, downspouts, drains, porches, steps, landings, fire escapes, exterior stairs, windows, shutters, doors, storefronts, signs, marquees and awnings.

All surfaces shall be covered with a protective coating, such as paint, plastic or other material which preserves the structure and does not contribute to deterioration.

All surfaces shall be maintained free of deterioration, including but not limited to, broken glass, loose or missing shingles or siding, crumbling brick, stone and mortar and peeling, scaling or deteriorated paint.

Overhanging structures, including canopies, marquees, signs, awnings, exterior stairways, fire escapes and other structures with overhanging extensions shall be maintained in good repair, be securely anchored to the structure and be protected from rust and other signs of decay by application of a weather protective material such as paint. Non-operative or broken electrical signs shall be repaired or removed. All obsolete signs and sign structures shall be removed.

Except for display merchandise in non-residential buildings, no storage of materials, goods, stock or inventory shall be permitted in building openings ordinarily exposed to public view unless such areas are screened from public view. All such screening shall be of clean material and will be maintained in a good state of repair.

#### Maintenance of Accessory Structures

Each accessory structure shall be subject to the Maintenance Standards set forth above. Further, each structure shall:

Provide weatherproof usable space and shall not harbor rodents, termites or other vermin.

In residential zones, all outdoor storage for a continuous period exceeding fifteen days shall be within enclosed buildings or it shall be effectively screened from view. However, the storage of functional items such as children's play structures, firewood and operable vehicles and bicycles shall be exempt from this provision.

Inoperable vehicles must be removed from the premises.

#### Maintenance of Premises and Landscape Elements

All premises and landscape elements shall be maintained in a safe and sanitary condition, including but not limited to, steps, walks, driveways, fences, retaining walls, trees, shrubs, grass

and weeds. If any such area or object constitutes a danger to health or safety, it shall be repaired, replaced or removed.

All paved driveways and walks which exist within the public right-of-way shall be maintained in safe condition.

All fences, retaining walls or similar structures shall be firmly anchored in the ground and maintained in good structural repair. Wooden elements or other elements subject to deterioration from weathering shall be maintained with chemicals or paint to preserve the element and to retard deterioration.

Weeds, grass and shrubs shall be kept trimmed and kept from becoming overgrown.

Trees and shrubs which have branches projecting into the public right-of-way, including public sidewalks, public places or public highways, shall be kept trimmed to prevent interference with any person or vehicle lawfully using the right-of-way.

Trees and shrubs afflicted with a form of decay or vegetation sickness which can be transmitted to other trees or shrubs shall be removed or shall be treated or sprayed by the owner or occupant of the property so as to eliminate the risk of any such decay or vegetation sickness being transmitted to other trees. Dead trees in proximity to rights-of-ways, buildings, structures or congregations of people which may endanger such objects shall be removed.

All yards, courts or lots shall be kept free of accumulations of trash, garbage, waste, rubbish, refuse, junk and other noxious or offensive materials or substances which may cause a fire hazard or may act as a breeding place for vermin or insects. Storage of miscellaneous items must be within enclosed structures or screened.

All portions of all premises shall be graded so that there is no pooling of water or recurrent entrance of water into any basement or cellar.

#### 4. Administrative Provisions

##### Public Health Director

The Public Health Director shall be responsible for all inspections, enforcement and investigations on violations of the provisions of this code, subject to direction, oversight and determination of the Board of Health. Said Director may utilize the services of the agents of the Health Department in the enforcement of this code.

##### Unfit Building or Property

It is declared that violations of this code shall constitute a nuisance to the persons and property abutting an unfit building or property.

The Director, upon written complaint filed by a resident or an employee or agent of the Health Department, may cause to be made a code review of a property thought to violate this ordinance. The term "resident", as used herein, shall be synonymous with a party in interest as defined in General Laws, Chapter 40A.

If the Director, upon investigation, determines that a violation of this code exists, he/she shall cause to be served upon the owner of and parties in interest in such building or property a Notice of Order. Such order shall list the violations, the general activities to correct the violations, the time frame within which the violations shall be corrected, and shall further direct that the owner should submit a proposed remedial plan to be approved by the Director of Public Health. The notice shall also state that a hearing on this matter may be held before the Board of Health on a determination of whether or not a violation exists, and, if so, what cures are necessary regarding the violations.

The owner or parties in interest shall possess the right to file a request for hearing with the Board of Health on or before seven days of receipt of notice of the order, and, at a hearing thereon, shall have the right to file an answer to the order, to appear in person, to have an attorney present and to give testimony on the order and any violations thereon.

### Result of Hearing

If, after such notice and hearing, the Board of Health determines that there are violations of this code, then it may issue orders appropriate and fit under Sections 122, 123 and 125 of General Laws, Chapter 111, authorizing and ordering an abatement of the violations, as well as authorizing entry for the purpose of abatement by officers and employees of the Town of Andover.

Such orders may include requiring the repair, alteration or improvement of said building to be made by the owner within a reasonable time, which time shall be set forth in the order, or, if the building is in such condition as to make it dangerous to the health and safety of persons on or near the premises, then to refer the matter to the Building Commissioner for appropriate proceedings under the General Laws.

Should an appeal not be made of the Director's order, then such order shall have the force and effect of an order of the Board of Health under Section 30 and Section 122 of Chapter 111 of the General Laws.

### Failure to Comply

If the owner fails to comply with the order to repair, alter or improve the building or property, and, if the Board of Health so authorizes, said Director may cause such building or property to be repaired, altered or improved as provided for under said Section 125 of Chapter 111 of the General Laws.

### Costs

The owner of the property shall be responsible under Section 125 of Chapter 111 of the General Laws for any costs to which the municipality is exposed in abating the violations of this ordinance and said Director shall, on behalf of the Board of Health, seek recovery in contract for said costs and may further lien the premises as provided for in General Laws, Chapter 111, Section 125.

Penalty

Any person, firm or corporation violating any unappealed order of the Director, or, an appealed and affirmed order of the Director by said Board of Health shall be fined One Hundred Fifty Dollars (\$150.00) per day per violation for each day said owner shall continue to fail to comply with said order. For purposes of convenience, an order may list more than one violation and more than one required corrective action. Each failure to comply, with a separate required corrective action, shall constitute a separate offense.”

or take any other action related thereto.

On petition of John P. Kennedy and others

**Acceptance of MGL, Chapter 41, Section 100B – Indemnification of Medical Expenses incurred by Retired Police Officers and Firefighters Injured in the Line of Duty**

**ARTICLE 43.** To see if the Town will vote to accept the provisions of Massachusetts General Laws Chapter 41, Section 100B, allowing it to exercise discretion in indemnifying police officers and firefighters who have retired on an accidental disability and who continue to incur medical expenses on and after their retirement as a result of the on-the-job injury that resulted in their receiving an accidental disability pension, or take any other action related thereto.

On request of the Chief of Police

**Acceptance of MGL, Chapter 32B, Section 18 – Mandatory Medicare Extension Plans for Retirees**

**ARTICLE 44.** To see if the Town will vote to accept Section 18 of Chapter 32B of the Massachusetts General Laws authorizing the Town to require all retirees, their spouses and dependents who are enrolled in Medicare Part A at no cost to a retiree, their spouse or dependents, or eligible for coverage thereunder at no cost to a retiree, their spouse or dependents, be required to enroll in a Medicare health benefits supplement plan offered by the Town, or take any other action related thereto.

On request of the Town Manager

**Zoning Bylaw Amendment – Re-zone 175 Haverhill Street (Merrimack College)**

**ARTICLE 45.** To see if the Town will vote to amend the Andover Zoning Bylaw pursuant to Section 2.3 (District Boundaries) and make the appropriate changes to the Zoning Map of Andover, Mass. to re-zone to Mixed Use (MU) from Single Family Residence B (SRB) the parcel of land situated on the southerly side of Haverhill Street owned by Merrimack College designated by the Town of Andover as 175 Haverhill Street and comprising Assessor Parcel 5 on Assessor Map 1, or take any other action related thereto.

On request of the Planning Board

**Water Distribution Improvements**

**ARTICLE 46.** To see if the Town will vote to transfer the sum of \$500,000 from water reserves and appropriate \$500,000 for the purpose of replacing and/or cleaning old water mains including costs incidental and related or take any other action related thereto.

On request of Department of Public Works Director

**Water Treatment Plant – Pump Replacements**

**ARTICLE 47.** To see if the Town will vote to transfer the sum of \$250,000 from water reserves and appropriate \$250,000 for the purpose of replacing water pump drive units and control equipment including costs incidental and related or take any other action related thereto.

On request of Department of Public Works Director

**Zoning Bylaw Amendment – Mixed Use District**

**ARTICLE 48.** To see if the Town of Andover will vote to amend the Andover Zoning By-law Article VIII, Section 4.1.4.4., by deleting the following language:

Mixed Use District. New Structures and additions to existing structures shall not be erected within fifty feet to the nearest outside wall of an existing dwelling.

and replacing it with:

“Mixed Use District

- a. New structures and additions to existing structures shall not be erected within fifty feet of the nearest outside wall of an existing residential structure.
- b. No single establishment of a Business or Commercial Use as described in Appendix A Table 1 Section 3.1.3.C Table of Use Regulation, shall exceed 65,000 SF of gross floor area. A single establishment shall be defined as having independent access, egress and exit ways as required by State Building Code.”

or take any other action related thereto.

On request of the Planning Board

**Zoning By-law Amendments to Section 9.6. Design Review**

**ARTICLE 49.** To see if the Town will vote to amend the Andover Zoning Bylaw by replacing the text:

“9.6.1. Design Advisory Group. A Design Advisory Group (DAG) is hereby established, consisting of 5 members to be appointed by the Town Manager, comprising one nominee of the Planning Board, one nominee of the Historic Commission, one nominee of the Chamber of

Commerce and 2 others. Members shall, if possible, include an architect, a landscape architect and a resident from within or near a General Business District. Members shall serve for 3 years or until their successors are appointed, except that, of the 5 members first appointed, one shall serve for 3 years, 2 shall serve for 2 years, and 2 shall serve for one year.

9.6.2. Pre-application Review. A permit applicant for any of the following is strongly urged to consult with the Design Advisory Group prior to seeking a permit: (1) a new building, alteration or sign within any area zoned for General Business; or (2) a new sign within any area zoned for Mixed Use. The DAG shall provide assistance in relating that proposal to the guidelines for the district. This may involve explaining these and other applicable guidelines, reviewing proposals, suggesting good examples of how others have responded in similar cases and maintaining information regarding other sources of design assistance.

9.6.3. Mandatory Review. Whether or not requested by the applicant, the DAG shall review all applications for building permits, special permits or variances for proposals located in areas zoned for General Business if involving new construction, exterior alteration or a sign larger than 6 square feet; provided, however, that the lack of a report from the DAG shall not be sufficient reason to delay action on a proposal which otherwise could be acted upon by the Building Inspector, Special Permit Granting Authority or Board of Appeals. An extra copy of all usual submittals required for such proposals shall be provided to the DAG through the Inspector of Buildings. The DAG review shall preferably be done in consultation with the applicant and his designer. The DAG shall make an advisory report in writing to the applicant and as follows:

1. For building permits: to the Inspector of Buildings regarding any changes to which the applicant has voluntarily agreed.
2. For special permits: to the Special Permit Granting Authority regarding effect on the amenity of the neighborhood, as provided in Section 9.4.2.
3. For variances: to the Board of Appeals regarding possible detriment to the public good or derogation from the intent or purpose of the by-law, as provided in Section 9.2.2.2.

9.6.4. Design Review in the General Business District. The following guidelines indicate ways in which design of new development and change can be made supportive of Andover's General Business Districts. These guidelines are not mandatory, but degree of consistency with them shall be considered by the Special Permit Granting Authority in acting upon special permits and by the Board of Appeals in acting upon variances.

1. Promote safety by avoiding pedestrian or vehicular hazards within the site or egressing from it. Facilitating access by emergency vehicles and facilitating visual surveillance by occupants, neighbors and passers by.
2. Protect the natural environment by reducing the number of mature trees removed, reducing the volume of earth materials cut or filled, reducing soil erosion during and after construction and reducing the extent of alteration in the amount, timing and location of stormwater runoff from the site.

3. Serve functional needs by avoiding inconvenience to pedestrians because of stormwater ponding and flow, by assuring accessibility by the handicapped and by providing microclimate control.
4. Promote a pedestrian-oriented business area by applying the following:
  - a. To provide continuous visual interest and accessibility to the pedestrian, a major portion of the building facade at the street level which faces the street should be transparent. Bay windows and recessed doorways are particularly encouraged.
  - b. To maintain visual continuity, the entire lot width should be fully occupied by a building wall, fence, gate, shrubs or other landscape elements or as a pedestrian connection.
  - c. Building detailing should provide small-scale elements of interest from a pedestrian viewing distance.
5. Promote enhancement of the established visual character of Andover's General Business Districts by the following:
  - a. Buildings need not conform to any specific style of architecture. Enhancement of the districts' diversity of styles is welcomed.
  - b. On the other hand, new efforts should avoid the removal, obscuring or disruption of existing structures of historic value.
  - c. The appearance of materials characteristic of the area is preferred. These materials include brick and other unit masonry (painted or unpainted), granite and other cut stone and painted clapboard. Uncharacteristic materials include rough, imitation or reflective materials such as unpainted wood, field stone, stucco, exposed metal, imitation materials (e.g., false brick siding), mirror glass, porcelain enamel or polished stone. Such appearance should generally be avoided; however, variation within the range of characteristic materials, colors and textures is encouraged when they are compatible with surrounding buildings.
  - d. To retain the small-scale character of Andover and to promote diversity of design, a single building with a width of more than forty feet facing a public way should, where feasible, be divided visually into sub-elements, preferably expressing the functional diversity within the building.
  - e. To provide visual relief from buildings and hard materials, landscape treatment using shrubs, trees, flower boxes and other greenery around buildings or in recessed places is encouraged.

- f. Major visual exposure comes not only from the building front; therefore, full attention should be given to the treatment of sidewalks, landscaping, parking areas and the building wall at the rear and sides.

with the following text:

“9.6.1. Design Review Board. A Design Review Board (DRB) is hereby established, consisting of 5 members to be appointed by the Town Manager, comprising one nominee of the Planning Board, one nominee of the Preservation Commission, one nominee of the Chamber of Commerce and 2 others. Members shall, if possible, include an architect, a landscape architect and a resident from within or near a General Business or Mixed Use District. Members shall serve for 3 years or until their successors are appointed, except that, of the 5 members first appointed, one shall serve for 3 years, 2 shall serve for 2 years, and 2 shall serve for one year.

9.6.2. Pre-application Review. A permit applicant for any of the following shall consult with the Design Review Board prior to seeking a permit: (1) a new building, exterior alteration affecting an elevation visible from the public way (excluding ordinary repair and maintenance with similar materials, landscape elements, storm windows and doors, air conditioners, reconstruction after natural disasters, paint, and traffic control devices) or sign within any area zoned for General Business and Mixed Use District; or (2) a new structure built by or for the use of the Town of Andover in any district. The DRB shall provide assistance in relating that proposal to the guidelines for the district. This may involve explaining these and other applicable guidelines, reviewing proposals, suggesting good examples of how others have responded in similar cases and maintaining information regarding other sources of design assistance.

1. In the case of exterior alterations and new structures built by or for the use of the Town of Andover, the Inspector of Buildings will refer all requests to the chairperson or designated individual for a determination of applicability. The applicant will be notified within five (5) -business days if the request requires the review of the DRB or is granted a waiver.

9.6.3. Mandatory Review. Whether or not requested by the applicant, the DRB shall review all applications for building permits, special permits or variances for proposals located in areas zoned for General Business and Mixed Use if involving new construction, exterior alteration or a sign larger than 6 square feet; provided, however, that the lack of a report from the DRB shall not be sufficient reason to delay action on a proposal which otherwise could be acted upon by the Building Inspector, Special Permit Granting Authority or Board of Appeals. An extra copy of all usual submittals required for such proposals shall be provided to the DRB through the Inspector of Buildings. The DRB review shall preferably be done in consultation with the applicant and his designer. The DRB shall provide a report in writing to the applicant and as follows:

1. For building permits: to the Inspector of Buildings regarding any relevant changes.
2. For special permits: to the Special Permit Granting Authority (SPGA) as provided in Section 9.4.2.
3. For variances: to the Board of Appeals as provided in Section 9.2.2.2.

9.6.4. Design Review in the General Business District and the Mixed Use District.

Consideration of the following shall be considered by the Special Permit Granting Authority in acting upon special permits and by the Board of Appeals in acting upon variances:

1. Promote safety by avoiding pedestrian or vehicular hazards within the site or egressing from it. Facilitating access by emergency vehicles and facilitating visual surveillance by occupants, neighbors and passers by.
2. Serve functional needs by avoiding inconvenience to pedestrians by assuring accessibility by the handicapped and by providing microclimate control.
3. Promote a pedestrian-oriented business area by applying the following:
  - a. To provide continuous visual interest and accessibility to the pedestrian, a major portion of the building facade at the street level which faces the street should be transparent. Bay windows and recessed doorways are particularly encouraged.
  - b. To maintain visual continuity, the entire lot width should be fully occupied by a building wall, fence, gate, shrubs or other landscape elements or as a pedestrian connection.
  - c. Building detailing should provide small-scale elements of interest from a pedestrian viewing distance.
4. Promote enhancement of the established visual character of Andover's General Business Districts by the following:
  - a. Buildings need not conform to any specific style of architecture. Enhancement of the districts' diversity of styles is welcomed.
  - b. On the other hand, new efforts should avoid the removal, obscuring or disruption of existing structures of historic value.
  - c. The appearance of materials characteristic of the area is preferred. These materials include brick and other unit masonry (painted or unpainted), granite and other cut stone and painted clapboard. Uncharacteristic materials include rough, imitation or reflective materials such as unpainted wood, field stone, stucco, exposed metal, imitation materials (e.g., false brick siding), mirror glass, porcelain enamel or polished stone. Such appearance should generally be avoided; however, variation within the range of characteristic materials, colors and textures is encouraged when they are compatible with surrounding buildings.
  - d. To retain the small-scale character of Andover and to promote diversity of design, a single building with a width of more than forty feet facing a

public way should, where feasible, be divided visually into sub-elements, preferably expressing the functional diversity within the building.

- e. To provide visual relief from buildings and hard materials, landscape treatment using shrubs, trees, flower boxes and other greenery around buildings or in recessed places is encouraged.
- f. Major visual exposure comes not only from the building front; therefore, full attention should be given to the treatment of sidewalks, landscaping, parking areas and the building wall at the rear and sides.

9.6.5. The Design Review Board may promulgate, after due notice and public hearing, rules and regulations to effectuate the purposes of this bylaw.” or take any other action related thereto.

On request of the Design Review Task Force

**Town Bylaw Amendment – Affordable Housing Trust Bylaw**

**ARTICLE 50.** To see if the Town will vote to adopt the following bylaw establishing an Affordable Housing Trust, pursuant to Massachusetts General Laws, Chapter 44, Section 55C, as amended by Chapter 109 of the Acts of 2006:

“Affordable Housing Trust Fund

1. Name of the Trust

The trust shall be called the “Town of Andover Affordable Housing Trust Fund.”

2. Purpose

The purpose of the Trust shall be to provide for the preservation and creation of affordable housing in the Town of Andover for the benefit of low and moderate income households. In furtherance of this purpose, the Trustees are hereby authorized, in accordance with the procedures set forth herein, to acquire by gift, purchase or otherwise real property, personal property, or money, both tangible and intangible, of every sort and description; to use such property, both real and personal, and money in such manner as the Trustees shall deem most appropriate to carry out such purpose, provided however, that all property and money held by the Trust and the net earnings thereof shall be used exclusively for the preservation and creation in the Town of Andover of affordable housing for the purposes for which this Trust was formed.

3. Tenure of Trustees

There shall be a Board of Trustees consisting of not less than five nor more than seven Trustees who shall be appointed by the Board of Selectmen. One of the Trustees shall be the Town Manager. Only persons who are residents of the Town of Andover shall be eligible to hold the office of Trustee. Trustees shall serve for a term of two years, except that two of the initial trustee appointments shall be for a term of one year, and may be re-appointed at the discretion of

the Board of Selectmen. Any Trustee who ceases to be a resident of the Town of Andover shall cease to be a Trustee hereunder and shall promptly provide a written notification of the change in residence to the Board and to the Town Clerk. Any Trustee may resign by written instrument signed and acknowledged by such Trustee and duly filed with the Town Clerk. If a Trustee shall die, resign, or for any other reason cease to be a Trustee hereunder before his/her term of office expires, a successor shall be appointed by the Board of Selectmen to fill such vacancy provided that in each case the said appointment and acceptance in writing by the Trustee so appointed is filed with the Town Clerk. No such appointment shall be required so long as there are five Trustees in office. Upon the appointment of any succeeding Trustee and the filing of such appointment the title to the Trust estate shall thereupon and without the necessity of any conveyance be vested in such succeeding Trustee jointly with the remaining Trustees. Reference to the Trustee shall mean the Trustee or Trustees for the time being hereunder.

4. Meetings of the Trust

The Trust shall meet at least quarterly at such time and at such place as the Trustees shall determine. Notice of all meetings of the Trust shall be given in accordance with the provisions of the Open Meeting Law, G.L. Chapter 39, Sections 23A, 23B and 23C. A quorum at any meeting shall be a majority of the Trustees qualified and present in person.

5. Powers of Trustees

The Board of Trustees shall have the following powers which shall be carried out in accordance with and in furtherance of the provisions of G.L. Chapter 44, Section 55C:

- (1) with the approval of the Board of Selectmen, to accept and receive real property, personal property or money, by gift, grant, contribution, devise, or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the trust in connection with any ordinance or bylaw or any general or special law, or any other source, including money from G.L. Chapter 44B;
- (2) with the approval of the Board of Selectmen, to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;
- (3) with the approval of the Board of Selectmen and Town Meeting, to sell, lease, exchange, transfer or convey any real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertakings relative to trust real property as the Trustees deem advisable notwithstanding the length of any such lease or contract;
- (4) with the approval of the Board of Selectmen, to sell, lease, exchange, transfer, or convey any personal property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertakings relative to trust personal property notwithstanding the length of any such lease or contract;

- (5) to execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the board engages for the accomplishment of the purposes of the trust;
- (6) to employ advisors and agents, such as accountants, appraisers and lawyers as the trustees deem necessary;
- (7) to pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the trustees deem advisable;
- (8) to apportion receipts and charges between income and principal as the trustees deem advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;
- (9) with the approval of the Board of Selectmen, to participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution, to vote any securities or certificates of interest, and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;
- (10) with the approval of the Board of Selectmen, to deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the trustees may deem proper and to pay, out of trust property, such portion of expenses and compensation of such committee as the board, with the approval of the Board of Selectmen, may deem necessary and appropriate;
- (11) to carry property for accounting purposes other than acquisition date values;
- (12) with the approval the Board of Selectmen and the approval of Town Meeting by a two-thirds majority vote, to incur debt, to borrow money on such terms and conditions and from such sources as the trustees deem advisable, and to mortgage and pledge trust assets as collateral;
- (13) with the approval of the Board of Selectmen, to disburse trust funds for the purpose of making loans or grants in furtherance of the creation or preservation of affordable housing in Andover upon such terms as the Trustees shall deem most appropriate to carry out such purposes;
- (14) to make distributions or divisions of principal in kind;
- (15) to comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and

subject to the provisions of G.L. Chapter 44, Section 55C, to continue to hold the same for such period of time as the board may deem appropriate;

- (16) to manage or improve real property and, with the approval of the Board of Selectmen and Town Meeting, to abandon any property which the trustees determine not to be worth retaining;
- (17) to invest the funds of the trust, and to hold all or part of the trust property uninvested for such purposes and for such time as the trustees may deem appropriate; and
- (18) to extend the time for payment of any obligation to the trust.

6. Funds Paid to the Trust

Notwithstanding any general or special law to the contrary, all moneys paid to the trust in accordance with any zoning by-law, exaction fee, or private contribution shall be paid directly into the trust and need not be appropriated or accepted and approved into the trust. General revenues appropriated into the trust become trust property and these funds need not be further appropriated to be expended. All moneys remaining in the trust at the end of any fiscal year, whether or not expended by the board within one year of the date they were appropriated into the trust, remain trust property.

7. Acts of Trustees

A majority of Trustees may exercise any or all of the powers of the Trustees hereunder and may execute on behalf of the Trustees any and all instruments with the same effect as though executed by all the Trustees. No Trustee shall be required to give bond. No license of court shall be required to confirm the validity of any transaction entered into by the Trustees with respect to the Trust Estate.

8. Liability

Neither the Trustees nor any agent or officer of the Trust shall have the authority to bind the Town, except in the manner specifically authorized herein. The Trust is public employer and the Trustees are public employees for the purposes of G.L. Chapter 258. The Trust shall be deemed a municipal agency and the Trustees special municipal employees for the purposes of G.L. Chapter 268A.

9. Taxes

The Trust is exempt from G.L. Chapter 59 and 62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the Commonwealth or any subdivision thereto.

10. Custodian of Funds

The Town Treasurer shall be the custodian of the funds of the Trust. The books and records of the Trust shall be audited annually by an independent auditor in accordance with accepted accounting practices for municipalities.

11. Governmental Body

The Trust is a governmental body for purposes of Sections 23A, 23B and 23C of G.L. Chapter 39.

12. Board of the Town

The Trust is a board of the Town for purposes of G.L. Chapter 30B and Section 15A of G.L. Chapter 40 but agreements and conveyances between the trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the town shall be exempt from said Chapter 30B.

13. Duration of the Trust

This Trust shall be of indefinite duration, until terminated in accordance with applicable law. Upon termination of the Trust, subject to the payment of or making provisions for the payment of all obligations and liabilities of the Trust and the Trustees, the net assets of the Trust shall be transferred to the Town and held by the Board of Selectmen for affordable housing purposes. In making any such distribution, the Trustees may, subject to the approval of the Board of Selectmen, sell all or any portion of the Trust property and distribute the net proceeds thereof or they may distribute any of the assets in kind. The powers of the Trustees shall continue until the affairs of the Trust are concluded.

14. Execution of Documents

The Board of Selectmen may authorize the Trustees to execute, deliver, and record with the Registry of Deeds any documents required for any conveyance authorized hereunder, or to carry out the purposes and powers of the Trust.

15. Titles

The title to the various Articles herein are for convenience only and are not to be considered part of said Articles nor shall they affect the meaning or the language of any such Article.”

or take any other action related hereto.

On request of Housing Trust Fund Board of Trustees

**Acquisition of 15 Blanchard Street – MGL Ch. 61A Agriculture/Horticulture Use**

**ARTICLE 51.** To see if the Town will vote to authorize the Board of Selectmen to raise and appropriate the sum of \$2,100,000.00 for the acquisition by gift, purchase or eminent domain, and for expenses related to said acquisition, which includes a deposit in the sum of \$100,000.00

upon the execution of a purchase and sale agreement, the fee interest in approximately 12.92 acres of land, now or formerly owned by Armand H. Garabedian and B. Sandra Garabedian with a property address of 15 Blanchard Street, and shown on Assessors' Map 199, Lot 7A, for general municipal purposes, and to meet said appropriation the Treasurer with the approval of the Board of Selectmen is authorized to borrow \$2,100,000.00 in accordance with Massachusetts General Laws Chapter 44 or any other enabling authority, and to issue any bonds or notes that may be necessary for that purpose, and that the Town Manager be authorized to file on behalf of the Town of Andover any applications for funds in any way connected with the scope of this acquisition, and that the Town Manager and the Board of Selectmen be authorized to enter into all agreements and execute any and all instruments, and take any other action as may be necessary on behalf of the Town of Andover to effect said acquisition, or take any other action related thereto.

On request of the Board of Selectmen

### **Bridge Repairs**

**ARTICLE 52.** To see if the Town will vote to appropriate \$100,000, or some other amount, for the purpose of paying costs of bridge repairs in and for the Town, and for the payment of all other costs incidental and related thereto; and that to meet this appropriation, authorize the Treasurer, with the approval of the Board of Selectmen, to borrow said sum under and pursuant to Chapter 44, Section 7, Clause (4) of the Massachusetts General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefor, or to take any other action related thereto.

On request of the Department of Public Works Director

### **Town Bylaw Amendment – Wetland Protection Bylaw**

**ARTICLE 53.** To see if the Town will vote to amend the Wetland Protection Bylaw, Article XIV, Section 3, fourth paragraph, Exceptions, as follows:

Delete Section 3. Exceptions

“3. The application and permit required by this by-law shall not be required for work which is performed in connection with the ordinary maintenance or improvement of a single- or two-family house lawfully in existence or for which a building permit had been issued on or before January 1, 1999, including, but not limited to, building additions, septic system replacements and sewer connections, and the conversion of lawn to accessory uses such as decks, sheds, patios and pools.”

Add Section 3. Exceptions

“3. The application and permit required by this by-law shall not be required for work which is performed in connection with the ordinary maintenance or improvement of a single- or two-family house lawfully in existence or for which a building permit had been issued on or before January 1, 1999, including, but not limited to, building additions, septic system replacements and sewer connections, and the conversion of lawn to accessory uses such as decks, sheds, patios and

pools; except the application and permit required by this bylaw shall apply to the construction of free standing structures which have a footprint greater than 500 square feet.”

or take any other action related thereto.

On request of the Conservation Commission

### **Andover Salt Balance Study**

**ARTICLE 54.** To see if the Town will vote to raise and appropriate the sum of \$75,000 from water reserves for the purposes of implementing the recommendations of the Andover Salt Balance Study, including the installation of an in-stream weir and monitoring station in Fish Brook, or take any other action related thereto.

On request of the Fishbrook Watershed Advisory Committee

### **Sale of Tax Title Land**

**ARTICLE 55.** To see if the Town will vote to authorize the Town Manager, with the approval of the Board of Selectmen, to sell at public auction the following parcels of property acquired by the town by foreclosure of tax titles under Chapter 60, Section 80 of the Massachusetts General Laws, and give proper deeds and other instruments in connection therewith: 2 Pepperidge Circle, Town Assessor Map 190, Parcel 34; 3 Monahan Lane, Map 207, Parcel 58; 5 Monahan Lane, Map 207, Parcel 57; 8 Agawam Lane, Map 50, Parcel 15; and 129 Summer Street, Map 4, Parcel 53N, or take any other action related thereto.

On request of the Board of Selectmen

### **Off-Street Parking Program**

**ARTICLE 56.** To see if the Town will vote to transfer the sum of \$40,000 from off-street parking receipts and appropriate \$40,000 for the purpose of purchasing and installing a pay-and-display unit at the Town House parking lot between Barnard Street and Park Street, including costs incidental and related or take any other action related thereto.

On request of the Chief of Police

### **Street Name Change – Woodman Ridge Road**

**ARTICLE 57.** To see if the Town will change the name of that portion of High Plain Road shown as “Woodman Ridge Road (formally “Old” High Plain Road)” on the “Plan of Land in Andover, MA, Showing Portion of Old High Plain Road to be Re-named Woodman Ridge Road”, which is also shown as a portion of the road designated as High Plain Road on: (i) Subdivision Plan of Land in Andover, MA, entitled Woodman Ridge”, which is recorded at the Essex North District Registry of Deeds on Plan No. 13957; (ii) a “Plan of Land owned by Roger C. Davideit, West Andover, MA”, recorded at the Essex North District Registry of Deeds as Plan No. 3544; and (iii) a portion of the roadway designated as High Plain Road as shown on a plan entitled “Plan of Road in the Town of Andover, Essex County, laid out as a Highway by the

Department of Public Works, May 24, 1960” (Layout No. 4952, Sheet 1 of 2), all of said plans are filed with the Office of the Town Clerk, Andover, MA, or take any other action related thereto.

On petition of Mark B. Johnson and others

**Recreation Park Ballfield Lighting Project**

**ARTICLE 58.** To see if the Town will vote to appropriate \$105,000, or some other amount, for the purpose of paying costs of replacing outdoor lighting at Recreation Park, and for the payment of all other costs incidental and related thereto; and that to meet this appropriation, authorize the Treasurer, with the approval of the Board of Selectmen, to borrow said sum under and pursuant to Chapter 44, Section 7, Clause (14) of the Massachusetts General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefor, or to take any other action related thereto.

On request of the Town Manager

**General Bylaw Amendment – Notice to Direct Abutters of Proposed Zoning Changes**

**ARTICLE 59.** In order to provide direct abutters proper and timely notice of proposed zoning changes, the following amendments to the Town Bylaws are proposed:

“Article II, Town Meetings; Voting

Section 2 – Add the following language to paragraph 1:

For any warrant article involving a zoning amendment, the petitioner of the warrant article must notify all direct abutters, in writing, at the time of filing the warrant article which must also be at least thirty (30) days prior to the date of the Town Meeting thereon.

Article XII, Miscellaneous Bylaws

Section \_\_\_\_ (to be determined)

For any Planning Board public hearing that involves a zoning amendment, the party seeking the zoning amendment must notify all direct abutters, in writing, at least fourteen (14) days prior to the date of the public hearing.”

or take any other action related thereto.

On petition of Diane M. McCarron and others

**Amendment to the General Bylaws – Stormwater Management & Erosion Control Bylaw**

**ARTICLE 60.** To see if the Town will vote to amend the General Bylaws of the Town, by adding the following:

## “Stormwater Management & Erosion Control

### 1. Purposes

- A. Increased volumes of stormwater, contaminated stormwater runoff from impervious surfaces, and soil erosion and sedimentation are major causes of:
1. impairment of water quality in lakes, ponds, streams, rivers, wetlands and groundwater.
  2. decreased flow in lakes, ponds, streams, rivers, wetlands and groundwater;
  3. contamination of drinking water supplies;
  4. erosion of stream channels;
  5. alteration or destruction of aquatic and wildlife habitat;
  6. flooding;
  7. overloading or clogging of municipal and private catch basins and storm drainage systems; and
  8. flooding and erosion on abutting properties.

The United States Environmental Protection Agency has identified sedimentation from land disturbance activities and polluted stormwater runoff from land development and redevelopment as major sources of water pollution, impacting drinking water supplies, natural habitats, and recreational resources. Regulation of activities that result in the disturbance of land and the creation of stormwater runoff is necessary for the protection of the *Town of Andover* water bodies and groundwater resources, to safeguard the health, safety, and welfare of the general public and protect the natural resources of the Town.

- B. The objectives of this Bylaw are to:
1. protect water resources;
  2. require practices that eliminate soil erosion and sedimentation;
  3. control the volume and rate of stormwater runoff resulting from land disturbance activities in order to minimize potential impacts of flooding;
  4. require practices to manage and treat stormwater runoff generated from new development and redevelopment;
  5. protect groundwater and surface water from degradation or depletion;
  6. promote infiltration and the recharge of groundwater;
  7. prevent pollutants from entering the municipal and private storm drain system;
  8. prevent flooding and erosion to abutting properties;

9. ensure that soil erosion and sedimentation control measures and stormwater runoff management practices are incorporated into the site planning and design process and are implemented and maintained;
10. ensure adequate long-term operation and maintenance of stormwater best management practices;
11. require practices to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at construction sites that may cause adverse impacts to water quality;
12. comply with state and federal statutes and regulations relating to stormwater discharges; and
13. establish the Town of Andover legal authority to ensure compliance with the provisions of this Bylaw through inspection, monitoring and enforcement.

## 2. Definitions

**ABUTTER:** The owner(s) of land abutting the land disturbance site.

**AGRICULTURE:** The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act (M.G.L. c. 131 § 40) and its implementing regulations (310 CMR 10.00).

**ALTERATION OF DRAINAGE CHARACTERISTICS:** Any activity on an area of land that changes the water quality, or the force, quantity, direction, timing or location of runoff flowing from the area. Such changes include, but are not limited to: change from distributed runoff to confined, concentrated discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

**APPLICANT:** Shall be the owner of record of all of the land shown on any plan submitted for approval to the Stormwater Committee in accordance with the Stormwater Management Bylaw and Regulations, any person or persons acting on behalf of the applicant for purposes of preparing and submitting plans and documents to the Stormwater Committee, and may include engineers, surveyors, contractors or attorneys, and may also include any person or persons having an equitable interest in the land under an agreement or option to purchase the land. The owner shall certify in writing the identity of each applicant who is authorized to submit plans and/or documents and act on behalf of the owner. Without such certification an applicant shall not act on behalf of the owner. The applicant shall submit the title reference or references from the Essex County Registry of Deeds indicating the owner of record. All applications shall include original signatures of all owners.

**AUTHORIZED ENFORCEMENT AGENCY:** The Stormwater Committee and its employees or agents who will be in charge of enforcing the requirements of this bylaw.

**BEST MANAGEMENT PRACTICE (BMP):** An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

**CONSTRUCTION AND WASTE MATERIALS:** Excess or discarded building or construction site materials that may adversely impact water quality, including but not limited to concrete truck washout, chemicals, litter and sanitary waste.

**CLEARING:** Any activity that removes the vegetative surface cover and/or organic layer. Clearing activities generally include grubbing activity as defined below.

**DESIGN CRITERIA:** Engineering design criteria as contained in the Stormwater Regulations authorized under this bylaw.

**DETENTION:** The temporary storage of storm runoff; used to control the peak discharge rates, and which provides settling of pollutants.

**DEVELOPMENT:** The modification of land to accommodate a new use or expansion of use, usually involving construction.

**DISTURBANCE OF LAND:** Any action, including clearing and grubbing, that causes a change in the position, location, or arrangement of soil, sand, rock, gravel, or similar earth material.

**ENVIRONMENTAL SITE MONITOR:** A Professional Engineer, or other trained professional selected by the Stormwater Committee and retained by the holder of a Land Disturbance Permit to periodically inspect the work and report to the Stormwater Committee.

**EROSION:** The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

**ESTIMATED HABITAT OF RARE WILDLIFE AND CERTIFIED VERNAL POOLS:** Habitats delineated for state-protected rare wildlife and certified vernal pools for use with the Wetlands Protection Act Regulations (310 CMR 10.00) and the Forest Cutting Practices Act Regulations (304 CMR 11.00).

**GRADING:** Changing the level or shape of the ground surface.

**GRUBBING:** The act of clearing land surface by digging up roots and stumps.

**IMPERVIOUS SURFACE:** Any material or structure on or above the ground that limits water infiltrating the underlying soil. Impervious surface includes without limitation: roads, paved parking lots, sidewalks, sports courts and rooftops. Impervious surface also includes soils, gravel driveways, and similar surfaces with a runoff coefficient (Rational Method) greater than 85.

**LAND-DISTURBING ACTIVITY or LAND DISTURBANCE:** Any activity, including clearing and grubbing, that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.

**LAND-DISTURBANCE PERMIT:** A permit issued by the Stormwater Committee.

**LOT:** An area of land in one ownership, with definite boundaries, used, or available for use, as the site of one or more buildings.

**MASSACHUSETTS ENDANGERED SPECIES ACT:** (M.G.L. c. 131A) and its implementing regulations at (321 CMR 10.00) which prohibit the "taking" of any rare plant or animal species listed as Endangered, Threatened, or of Special Concern.

**MASSACHUSETTS STORMWATER MANAGEMENT POLICY:** The Policy issued by the Department of Environmental Protection, as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act MGL c. 131 s. 40 and the Massachusetts Clean Waters Act MGL c. 21, ss. 23-56. The Policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

**MUNICIPAL STORM DRAIN SYSTEM or MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4):** The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Andover.

**OPERATION AND MAINTENANCE PLAN:** A plan developed by a Massachusetts licensed professional engineer (PE) describing the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

**OUTFALL:** The point at which stormwater flows out from a discernible, confined point source or concentrated conveyance into waters of the Commonwealth.

**OUTSTANDING RESOURCE WATERS (ORWs):** Waters designated by Massachusetts Department of Environmental Protection as ORWs. These waters have exceptional sociologic, recreational, ecological and/or aesthetic values and are subject to more stringent requirements under both the Massachusetts Water Quality Standards (314 CMR 4.00) and the Massachusetts Stormwater Management Standards. ORWs include vernal pools certified by the Natural Heritage Program of the Massachusetts Department of Fisheries and Wildlife and Environmental Law Enforcement, all Class A designated public water supplies with their bordering vegetated wetlands, and other waters specifically designated.

**OWNER:** Shall be the owner of record of all the land shown on any plan submitted. The owner shall submit the title reference or references from the Essex County Registry of Deeds indicating the owner of record.

**PERMITTEE:** The person who holds a land disturbance permit and therefore bears the responsibilities and enjoys the privileges conferred thereby.

**PERSON:** An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

**POINT SOURCE:** Any discernible, confined, and concentrated conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, concentrated fissure, or container from which pollutants are or may be discharged.

**PRE-CONSTRUCTION:** All activity in preparation for construction.

**PRIORITY HABITAT OF RARE SPECIES:** Habitats delineated for rare plant and animal populations protected pursuant to the Massachusetts Endangered Species Act and its regulations.

**PRIVATE STORM DRAIN SYSTEM or PRIVATE SEPARATE STORM SEWER SYSTEM:** The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system that is not owned and maintained by the Town.

**RECHARGE:** Addition of stormwater runoff to the groundwater by natural or artificial means.

**REDEVELOPMENT:** Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites.

**RESPONSIBLE PARTIES:** Owner(s), persons with financial responsibility, and persons with operational responsibility.

**RETENTION:** The holding of stormwater runoff in a basin without release except by means of evaporation, infiltration, or emergency bypass.

**RUNOFF:** Rainfall, snowmelt, or irrigation water flowing over the ground surface.

**SEDIMENT:** Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.

**SEDIMENTATION:** The process or act of deposition of sediment.

**SITE:** Any lot or parcel of land or area of property where land-disturbing activities are, were, or will be performed.

**SLOPE:** The incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.

**SOIL:** Earth materials including duff, humic materials, sand, rock and gravel.

**STABILIZATION:** The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or retard erosion.

**STORMWATER:** Stormwater runoff, snow melt runoff, surface water runoff and drainage.

**STORMWATER COMMITTEE:** A Committee of the Town of Andover consisting of one staff member from the Planning Division, Conservation Division, Health Division, Building Division and Department of Public Works.

**STORMWATER MANAGEMENT PLAN AND NARRATIVE:** A document containing narrative, drawings and details prepared by a Massachusetts licensed qualified professional engineer (PE) which includes structural and non-structural best management practices to manage and treat stormwater runoff generated from regulated development activity. A stormwater management plan also includes an Operation and Maintenance Plan describing the maintenance requirements for structural best management practices.

**STRIP:** Any activity which removes the vegetative ground surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.

**TSS:** Total Suspended Solids. Material, including but not limited to trash, debris, soils, sediment and sand suspended in stormwater runoff.

**VERNAL POOLS:** Vernal pools are seasonally wet basin depressions that do not support breeding populations of fish, because of periodic drying. Vernal Pools serve as breeding sites for unique organisms and may be protected by state, local and federal laws. Specifically Vernal Pools are isolated depressions or closed basins which temporarily confine water during periods of high water table and high input from spring runoff or snowmelt or heavy precipitation, and support populations of non-transient microorganisms, serve as breeding habitat for select species of amphibians or contain a variety of wetland plant species. They serve as temporarily flooded amphibian breeding habitat, as well as habitat for other wildlife. These pools are characteristically small; they rarely exceed 150 feet in width, however a given pool may vary in size from year to year depending on the amount of rainfall or snowmelt. In the absence of those habitat functions, the areas will be considered isolated vegetated wetlands. The existence of either a confined basin depression; evidence of amphibian and/or reptiles species that breed only in vernal pools; the presence of fairy shrimp or their eggs; or documented presence of water in a confined basin depression for at least two continuous months in the spring and/or summer will verify the existence of a vernal pool.

**WATERCOURSE:** A natural or man-made channel through which water flows, including a river, brook, or stream.

**WETLAND RESOURCE AREA:** Areas specified in the Massachusetts Wetlands Protection Act M.G.L. c. 131, s.40 and Regulations promulgated thereunder and in the Town of Andover Wetland Protection By-law and Regulations.

**WETLANDS:** Wet meadows, marshes, swamps, bogs, areas where groundwater, flowing or standing surface water or ice provide a significant part of the supporting substrate for a plant community for at least five months of the year; emergent and submergent communities in inland waters; that portion of any bank which touches any inland water.

### 3. Authority

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

### 4. Applicability

Except as permitted by the Stormwater Committee in a land disturbance permit or as otherwise provided in this Bylaw, no person shall perform any land disturbance involving disturbance of 40,000 square feet or more of land.

#### A. Regulated Activities. Regulated activities shall include, but not be limited to:

1. Land disturbance of 40,000 square feet or more of land associated with construction or reconstruction of structures.
2. Development or redevelopment involving multiple separate activities in discontinuous locations or on different schedules if the activities are part of a larger common plan of development that all together disturbs 40,000 square feet or more of land.
3. Paving or other change in surface material over an area of 40,000 square feet or more of land.
4. Construction of a new drainage system or alteration of an existing drainage system or conveyance disturbing 40,000 square feet or more of land.
5. Any other activity on an area of land of 40,000 square feet or more that changes the water quality, or the force, quantity, direction, timing or location of runoff flowing from the area. Such changes include, but are not limited to: change from distributed runoff to confined, concentrated discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.
6. The Town of Andover is not exempt from the provisions of this Bylaw.

#### B. Exempt Activities. The following activities are exempt from the requirements of this Bylaw:

1. Normal maintenance and improvement of Town owned public ways and appurtenances to the public ways.
2. Normal maintenance and improvement of land in agricultural use.
3. Repair of septic systems when required by the Board of Health for the protection of public health.

4. Normal maintenance of currently existing landscaping, gardens or lawn areas associated with a single-family dwelling.
- C. Activities Allowed to Request Exemption. Areas of land that have had a Stormwater Management review either through the Conservation Commission or Planning Board using the Design Criteria as defined in this bylaw and Regulations may request an exemption from the requirements of this bylaw. Requests must include a plan of the area of land reviewed and approved by either the Planning Board or Conservation Commission accompanied by a sign-off from the issuing authority.

The Stormwater Committee will review each request on an individual basis and issue a decision as to whether the exemption is granted or whether the applicant is required to file for a permit.

## 5. Administration

- A. The Stormwater Committee shall administer this bylaw. The Stormwater Committee shall consist of one staff member from the Planning Division, Conservation Division, Health Division, Building Division and Department of Public Works as appointed by the Town Manager on recommendation by the Department Director. The Town Manager shall designate a Chair of the Committee.
- B. The Stormwater Committee and its agents shall review all applications for a land disturbance permit, conduct inspections, issue a final permit and conduct any necessary enforcement action.
- C. The Stormwater Committee may adopt and periodically amend Stormwater Regulations relating to Land Disturbance Permits, exemption or waiver applications; permit terms or conditions, Design Criteria, additional definitions, enforcement, fees (including application, inspection, and/or consultant fees), or other procedures and administration of this Bylaw after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation, at least seven (7) days before the hearing date. After public notice and hearing, the Stormwater Committee may promulgate rules and regulations to effectuate the purposes of this Bylaw. Failure by the Stormwater Committee to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Bylaw.
- D. The Stormwater Committee will refer to the policy, criteria and information including specifications and standards of the latest edition of the Massachusetts Stormwater Management Policy or with Design Criteria as described in Andover's Subdivision Regulations, whichever is more stringent in the protection of the Town's environmental and infrastructure resources, for execution of the provisions of this Bylaw.

- E. All meetings of the Stormwater Committee are subject to the Open Meeting Law. A notice in the local newspaper of a hearing on the Land Disturbance Application and that the Stormwater Committee is accepting comments on the Land Disturbance Application shall be published at the applicant's expense, at least five (5) business days before the hearing date. The Land Disturbance Application shall be available for inspection by the public during normal business hours at the Town offices. Comments may be submitted to the Stormwater Committee during business hours at the Town Offices.
- F. Filing an application for a land disturbance permit grants the Stormwater Committee or its agent, permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions.
- G. The Stormwater Committee may:
  - i. Approve the Application and issue a permit if it finds that the proposed plan will protect water resources and meets the objectives and requirements of this Bylaw;
  - ii. Approve the Application and issue a permit with conditions, modifications, requirements for operation and maintenance requirements of permanent structural BMPs, designation of responsible party, or restrictions that the Stormwater Committee determines are required to ensure that the project will protect water resources and will meet the objectives and requirements of this Bylaw; or
  - iii. Disapprove the application and deny a permit if it finds that the proposed plan fails to meet the objectives and requirements of this Bylaw and its Regulations. If the Stormwater Committee finds that the applicant has submitted insufficient information to describe the site, the work, or the effect of the work on water quality and runoff volume, the Stormwater Committee may disapprove the application, denying a permit.
- H. The Stormwater Committee shall take final action on an Application within 60 days of receipt of a complete application. If, in the Stormwater Committee's opinion, additional time or information is required for review, the Stormwater Committee by written agreement of the applicant may continue a consideration of the request to a date certain announced at the meeting.
- I. Failure to take action shall be deemed to be approval of said application. Upon certification by the Town Clerk that the allowed time has passed without the Stormwater Committee's action, the Land Disturbance Permit shall be issued by the Stormwater Committee.
- J. Appeals of Action by the Stormwater Committee. A written decision of the Stormwater Committee shall be final when it is executed by the Stormwater Committee or its chair or acting chair and filed in the Town Clerk's office. Further relief of a decision by the Stormwater Committee made under this Bylaw

shall be reviewable in the Superior Court or Land Court in accordance with the applicable law. The remedies listed in this Bylaw are not exclusive of any other remedies available under any applicable federal, state or local law. No work shall commence until the applicable appeal period has passed with no appeal or if an appeal has been filed, the appeal has been finally resolved by adjudication or otherwise.

- K. All activity permitted by the Land Disturbance Permit must be completed within one-year of permit issuance. Extensions of time can be granted by the Stormwater Committee upon formal written request by the applicant. Should the one-year pass without an extension being granted the permit is then considered revoked.

## 6. Permits & Procedures

Permit Procedures and Requirements shall be defined and included as part of any rules and regulations promulgated as permitted under Section 5 of this Bylaw.

## 7. Fees

The Stormwater Committee shall establish fees, subject to approval of the Board of Selectmen, to cover expenses connected with application review and monitoring permit compliance. The fees shall be sufficient to cover Town secretarial staff and professional staff. The Stormwater Committee is also authorized to charge the applicant fees to pay a Registered Professional Engineer or other professional consultant to advise the Stormwater Committee on any or all aspects of the project. The applicant for a Land Disturbance Permit may be required to establish and maintain an escrow account to cover the costs of said consultants.

## 8. Surety

The Stormwater Committee may require the permittee to post before the start of land disturbance activity, a surety bond, or other acceptable security. The form of the bond shall be approved by Town Counsel, and be in an amount deemed sufficient by the Stormwater Committee to insure that the work will be completed in accordance with the permit. If the project is phased, the Stormwater Committee may release part of the bond as each phase is completed in compliance with the permit but the bond may not be fully released until the Stormwater Committee has issued a certificate of completion.

## 9. Waivers

- A. The Stormwater Committee may waive strict compliance with any requirement of this by-law or the rules and regulations promulgated hereunder, where the activity:
  - 1. is allowed by federal, state or local statutes and/or regulations, or
  - 2. is in the public interest, and is not inconsistent with the purpose and intent of this bylaw and its regulations.

- B. Any applicant may submit a written request to be granted such a waiver at the time of submission. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that the activity is allowed by federal, state or local statutes and/or regulations or is in the public interest and is not inconsistent with the purpose and intent of this bylaw and its regulations.
- C. All waiver requests shall be discussed and a decision will be made at the time of final action by the Stormwater Committee.
- D. If in the Stormwater Committee's opinion, additional information is required for review of a waiver request, the Stormwater Committee may continue a consideration of the waiver request to a date certain announced at the meeting. In the event the applicant fails to provide requested information, the waiver request shall be denied.

#### 10. Enforcement

- A. The Stormwater Committee or its authorized agent shall enforce this Bylaw, its regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- B. Orders. The Stormwater Committee or its authorized agent may issue a written order to enforce the provisions of this Bylaw or the regulations thereunder, which may include:
  1. a requirement to cease and desist from the land-disturbing activity until there is compliance with the Bylaw or provisions of the land-disturbance permit;
  2. maintenance, installation or performance of additional erosion and sediment control measures;
  3. monitoring, analyses, and reporting;
  4. remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity;
  5. compliance with the Operation and Maintenance Plan;
  6. If the enforcing person determines that abatement or remediation of erosion and sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed;
  7. Fines. Any person who violates any provision of this Bylaw, regulation, order or permit issued there under, shall be punished by a fine of not more than \$ 300.00. Each day or part thereunder that such violation occurs or continues shall constitute a separate offense;

8. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Stormwater Committee may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D, which has been adopted by the Town, in which case the Stormwater Committee or authorized agent shall be the enforcing person. The penalty for each violation shall be \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

#### 11. Severability

If any provision, paragraph, sentence, or clause of this Bylaw shall be held invalid for any reason, all other provisions shall continue in full force and effect.”

or take any other action related thereto.

On request of the Department of Public Works

#### **Acceptance of Chapter 55 of the Acts of 2006 – Increase Accidental Death Payment to Surviving Children**

**ARTICLE 61.** To see if the Town will vote to accept Chapter 55 (d)ii of the Acts of 2006 which would provide for an increase in the accidental death benefit for surviving children to an amount equal to the benefit provided for in Massachusetts General Laws Chapter 32, Section 7(2)(a)(iii) for accidental disability retirees, or take any other action related thereto.

On request of the Andover Contributory Retirement Board

#### **Fireworks**

**ARTICLE 62.** To see if the Town will provide funding in the amount of \$11,000 for a Fireworks Program as part of the Fourth of July Program from available funds or take any other action related thereto.

On petition of Gerald H. Silverman and others

#### **Street Acceptance Articles**

**ARTICLE 63.** To see if the Town will vote to accept and name as a public way any or all of the following five (5) streets: Green Meadow Lane, Stirling Street, Whittemore Terrace, Andover Country Club Lane and Canterbury Street as further described below:

- A) Green Meadow Lane, as shown on a plan approved by the Andover Planning Board entitled “Lot Layout Plan Green Meadow Lane, Greenwood & Chandler Roads, Andover, Massachusetts”, dated September 8, 2003 and recorded in the Essex North District Registry of Deeds as Plan Number 14580.

- B) Stirling Street and Whittemore Terrace, as shown on a plan approved by the Andover Planning Board entitled “Definitive Subdivision Plan of Land, Stirling Woods, Andover, Massachusetts”, dated April 29, 1998 (revised) and recorded in the Essex North District Registry of Deeds as Plan Number 13424.
- C) Andover Country Club Lane, as shown on plan approved by the Andover Planning Board entitled “Definitive Subdivision of Section 5, Plan of Land in Andover, Massachusetts of Andover Country Club”, dated April 6 1990 and recorded in the Essex North Registry of Deeds as Plan Number 12026 as modified on plan approved by the Andover Planning Board entitled “Definitive Subdivision of Section 5, Modification Plan of Land, Andover Country Club, Andover, Massachusetts”, dated July 8, 1994 and recorded in the Essex North Registry of Deeds as Plan Number 12513.
- D) The remaining portion of Canterbury Street, as shown on plan approved by the Andover Planning Board entitled “Definitive Subdivision of Section 5, Modification Plan of Land, Andover Country Club, Andover, Massachusetts”, dated July 8, 1994 and recorded in the Essex North Registry of Deeds as Plan Number 12513.

or take any other action related thereto.

On request of the Board of Selectmen

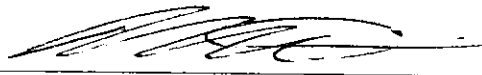
### **Shawsheen Sewer Pumping Station Improvements**

**ARTICLE 64.** To see if the Town will vote to appropriate \$750,000, or some other amount, for the purpose of paying costs of upgrades to the Shawsheen (Tantalion Road) Sewer Pump Station, including but not limited to replacement of existing magnetic drive units, motors and instrument controls, and for the payment of all other costs incidental and related thereto; and that to meet this appropriation, authorize the Treasurer, with the approval of the Board of Selectmen, to borrow said sum under and pursuant to Chapter 44, Section 7, Clause (1) of the Massachusetts General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefor, or to take any other action related thereto.

On request of the Department of Public Works Director



Pursuant to the foregoing Warrant, I, the subscriber, one of the Constables of the Town of Andover, have notified the Inhabitants of said Town to meet at the time and place and for the purposes stated in said Warrant, by posting a true and attested copy of the same on the Town Hall, on each school house, and in no less than five other public places where bills and notices are usually posted and by publication in the *ANDOVER TOWNSMAN*. Said warrants have been posted and published fourteen days.



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Ronald Bertheim, Constable