



Select Board Meeting – Amended 3.10.2023

Monday, March 13, 2023

Executive Session 6:30 PM

Regular Session 7:00 PM

Lifelong Learning Room at The Robb Center
30 Whittier Court, Andover, MA 01810

RECEIVED
TOWN CLERK'S OFFICE

2023 MAR 10 PM 1:34

TOWN OF ANDOVER, MASS

I. Call to Order – 6:30 P.M.

II. Executive Session

Board to vote to go into Executive Session pursuant to Purpose 7 to comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements (Open Meeting Law, G.L. c. 30A, s. 22); specifically, to perform a review and approval of executive session minutes from 2018 - 2023 and to determine whether all or portions thereof may be publicly released and to return to Open Session.

III. Opening Ceremonies

A. Moment of Silence/Pledge of Allegiance

IV. Communications/Announcements/Liaison Reports

V. Citizens Petitions and Presentations

VI. Regular Business

A. Board of Registrars Appointment

Board to consider nominees for appointment to the Board of Registrars of Voters and to appoint a registrar for a term expiring March 31, 2026. The Democratic Town Committee nominates Emran Baqui of 5 Peach Tree Path. The Republican Town Committee nominates Jennifer Zhang of 3 Windemere Drive.

B. Town Governance

Board to discuss and consider voting to accept the Town Governance Study Committee's recommendations on the following communication initiatives:

- Facilitation of enhanced pre-Town Meeting event for discussion of warrant articles.
- Providing Town Meeting education resources to residents.
- Providing welcome packets to new residents.
- Aggressively advertising "News Flashes."
- Providing a regular digest to residents conveying information about the administration and public bodies.
- "Tagging" website videos of public meetings to allow residents to easily find portions of meetings.

C. Hacienda Way

Board to receive an update on Hacienda Way.

D. Acceptance of Grant of Easements

Board to discuss and consider voting to accept three grants of easements from Dipankar and Sonal Biswas of 168 Greenwood Road, Anastasia Driscoll and Jessica Valkenberg of 170 Greenwood Road, and Hung Ngoc Nguyen of 172 Greenwood Road.

E. Extension of Land Disposition Agreement Negotiation Period

Board to discuss and consider voting to extend the period during which the Town and Minco Development Corp. may negotiate the Land Disposition Agreement in connection with the Town's disposition of the former Town Yard.

F. Annual Town Meeting Articles

Board to consider voting to take a position on the following articles:

P4	Fiscal Year 2024 Budget
P5	Fiscal Year 2024 Capital Projects Fund
P6	Financial Housekeeping Articles (A-I) A. Budget Transfers B. Supplemental Budget Appropriations C. Stabilization Fund D. Free Cash E. Unexpended Appropriations F. Unexpended Appropriations Capital Projects Fund G. Fiscal Year 2024 Revolving Accounts H. PEG Access and Cable Related Expenses I. Pension Obligation Bond Stabilization Fund Transfer
P7	Home Rule Petition for Excess Levy Capacity
P19	Capital Projects from General Fund Borrowing
P20	Capital Projects From Free Cash
P21	Capital Projects From Water and Sewer Enterprise Funds
P36	Zoning Bylaw Recodification
P39	Town Bylaw Amendment – Stormwater Management and Erosion Control

G. Update on Barron v. Southborough

Town Counsel to provide the Board with an update on Barron v. Southborough.

VII. Consent Agenda

A. Appointments by the Town Manager

Board to vote that the following appointments by the Town Manager be approved.

Department	Name	Position	Rate/Term	Date of Hire
Andover Police Department	Jenna Couture <i>(Joshua Barbosa)</i>	Dispatcher	\$54,140.78/yr	3/14/2023
Memorial Hall Library	Jennifer Burke <i>(Kathy MacDonald)</i>	Library Assistant	\$28.64/hr	3/20/2023
Facilities	Trevor O'Shea <i>(Stephen Winget)</i>	Junior Custodian	\$25.06/hr	3/20/2023

VIII. Adjourn

If any member of the public wishing to attend this meeting seeks special accommodations in accordance with the Americans with Disabilities Act, please contact Kathryn Forina in the Town Manager's Office at 978-623-8215 or by email at kathryn.forina@andoverma.us

MEETINGS ARE TELEVISED ON
COMCAST CHANNEL 22 AND VERIZON CHANNEL 45



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VII. **Consent Agenda**

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Department	Name	Position	Rate/Term	Date of Hire
Andover Police Department	Jenna Couture (Joshua Barbosa)	Dispatcher	\$54,140.78/yr	3/14/2023
Memorial Hall Library	Jennifer Burke (Kathy MacDonald)	Library Assistant	\$28.64/hr	3/20/2023

Facilities	Trevor O'Shea (Stephen Winget)	Junior Custodian	\$25.06/hr	3/20/2023
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COMCAST CHANNEL 22 AND VERIZON CHANNEL 45



Town of Andover
Town Clerk's Office

36 Bartlet Street
Andover, MA 01810
978-623-8230
townclerk@andoverma.us

Austin P. Simko,
Assistant Town Manager & Town Clerk

January 26, 2023

Matthew Bausemer
Chair, Democratic Town Committee
9 Greenbriar Circle
Andover, MA 01810

Dear Mr. Bausemer,

The term of office of Amy Sennett, a Democratic Party member of the Board of Registrars of Voters, expires on March 31, 2023. Ms. Sennett has informed me that she is still considering whether she wishes to be reappointed to the board. She will inform you and myself of her intentions in the coming weeks. In any event, the following outlines the Committee's options at this time.

Massachusetts General Laws Chapter 51 Section 15 provides that in the case of a vacancy or expiration of the term of office of a Registrar, the Select Board, as appointing authority, "shall so appoint their successors that as nearly as possible the members of the board (of registrars) shall represent the two leading political parties ... in no case shall an appointment be made as to cause a board (of registrars) to have more than two members ... of the same political party." As currently configured, not including Ms. Sennett's seat, the board has one Republican member, one Democratic member, and myself sitting as an unenrolled member. That means that the seat at issue can be filled by either a Republican or a Democratic member.

In accordance with Massachusetts General Laws, Chapter 51, Section 15, the Town of Andover is hereby notifying the Democratic Town Committee of the right to nominate up to three (3) persons to fill the seat currently held by Ms. Sennett at the expiration of her current term of office. The Committee may, within 45 days of receipt of this letter, submit to the Select Board the names of its nominees who must be residents of the Town of Andover and members of the Democratic Party.

Please note that the elections reform bill, Chapter 111 of the Acts of 2014, has expanded the duties and responsibilities of Registrars of Voters, including periodic election laws training, and responsibility for early voting and post election audits.

If you have any questions, please do not hesitate to contact me at 978-623-8230.

Sincerely,



Austin P. Simko
Assistant Town Manager & Town Clerk

cc: Select Board
Andrew Flanagan, Town Manager
Amy Sennett, Registrar



Town of Andover
Town Clerk's Office

36 Bartlet Street
Andover, MA 01810
978-623-8230
townclerk@andoverma.us

Austin P. Simko,
Assistant Town Manager & Town Clerk

January 26, 2023

Ms. Evelyn Curley
Chair, Republican Town Committee
55 Tewksbury Street
Andover, MA 01810

Dear Ms. Curley,

The term of office of Amy Sennett, a Democratic Party member of the Board of Registrars of Voters, expires on March 31, 2023.

Massachusetts General Laws Chapter 51 Section 15 provides that in the case of a vacancy or expiration of the term of office of a Registrar, the Select Board, as appointing authority, "shall so appoint their successors that as nearly as possible the members of the board (of registrars) shall represent the two leading political parties ... in no case shall an appointment be made as to cause a board (of registrars) to have more than two members ... of the same political party." As currently configured, not including Ms. Sennett's seat, the board has one Republican member, one Democratic member, and myself sitting as an unenrolled member. That means that the seat at issue can be filled by either a Republican or a Democratic member.

In accordance with Massachusetts General Laws, Chapter 51, Section 15, the Town of Andover is hereby notifying the Republican Town Committee of the right to nominate up to three (3) persons to fill the seat currently held by Ms. Sennett at the expiration of her current term of office. The Committee may, within 45 days of receipt of this letter, submit to the Select Board the names of its nominees who must be residents of the Town of Andover and members of the Republican Party.

Please note that the elections reform bill, Chapter 111 of the Acts of 2014, has expanded the duties and responsibilities of Registrars of Voters, including periodic election laws training, and responsibility for early voting and post election audits.

If you have any questions, please do not hesitate to contact me at 978-623-8230.

Sincerely,



Austin P. Simko
Assistant Town Manager & Town Clerk

cc: Select Board
Andrew Flanagan, Town Manager
Amy Sennett, Registrar

GRANT OF EASEMENTS

Dipankar Biswas and Sonal Biswas, husband and wife, as tenants by the entirety, of 168 Greenwood Road, Andover, Massachusetts 01810 (hereinafter called collectively the "Grantor"), for consideration paid of less than One Hundred Dollars grant to THE INHABITANTS OF THE TOWN OF ANDOVER, a municipal corporation organized and existing under the laws of Massachusetts with its usual place of business at 36 Bartlet Street, Andover, Massachusetts 01810 (hereinafter called the "Grantee"), with QUITCLAIM COVENANTS, the easements described herein.

PERPETUAL EASEMENT

In addition to, and not in limitation of, the rights granted in the Order of Taking by the Inhabitants of the Town of Andover dated April 24, 1972 and recorded with North Essex District Registry of Deeds in Book 1191, Page 656, the perpetual right and easement to locate, relocate, erect, construct, reconstruct, install, lay, dig up, operate, maintain, patrol, inspect, repair, replace, alter, change the location of, extend or remove one or more pipes for the drainage of surface water and all necessary and proper conduits, conductors, pipes, foundations, fittings, and fixtures and other apparatus, equipment and fixtures deemed necessary for the purposes specified above, as the Grantee may from time to time desire along, upon, under and across the land of the Grantor shown as the area marked "50' Wide Drainage Easement, George H. Belanger, Jr. and Ida M. Belanger, former Boston & Maine R.R. Layout, Map 148, Lot 13," on Plan of Land entitled: "Plan of Drainage Easement, George H. Belanger, Jr. and Ida M. Belanger to Inhabitants of the Town of Andover, Massachusetts, Scale 1" = 40', March, 1972, John Avery, Jr., Town Engineer," recorded with North Essex District Registry of Deeds as Plan No. 6590 ("Easement Area"), and also shown on Land Court Plan No. 35854B as "Inhabitants of the Town of Andover Drain Easement," and also shown as "Exist. 50'

Wide Drainage Easement (Bk. 1191, Page 656 - Pl. 6590)" on Lot 1 on "Plan of Land, 170 Greenwood Road, Andover, MA, Assessors Map 148, Lot 18," recorded as Plan No. 17559.

This Grant of Easement includes the perpetual right and easement at any time and from time to time and without any further payment therefor to cut and trim trees, brush, overhanging branches and other obstructions on said strip of land to the extent that the Grantee deems necessary to clear and keep clear and operate safely the said pipes; and the right to enter said Easement Area for access thereto for all the above purposes.

The Grantor agrees that such drainage pipe or pipes and each and every part thereof, whether fixed to the realty or not, shall be and remain the property of the Grantee.

TEMPORARY EASEMENT

The right and easement along, upon, above, under and across the Easement Area described above for the purpose of bringing and placing on said Easement Area all construction materials, personnel, tools, equipment, vehicles and appliances necessary to: remove and dispose of waste located within the temporary construction easement area; without limitation, construct landfill features on Town of Andover property proximate to the Easement Area including but not limited to the landfill cap anchor trench, detention basins, berms, swales, landfill gas collector trench, landfill gas monitoring wells, and plantings; access other land of the Town of Andover property from the landfill property adjacent to the Easement area, transport arsenic-impacted and other wetland soils across the Easement Area from land of the Town of Andover west of the Easement Area to the landfill for disposal, and the right and easement to cut and trim trees, brush, overhanging branches and other obstructions to the extent that the Grantee deems necessary, and the right to enter said Easement Area for access thereto for all the above purposes.

By its acceptance of this Grant the Grantee, for itself and its respective successors and assigns, agrees that this temporary construction easement shall automatically terminate and be of no further force or effect at such time as the Massachusetts Department of Environmental Protection accepts the

ACCEPTANCE OF SELECT BOARD

We, the undersigned Select Board of the Town of Andover, Massachusetts, accept the foregoing Grant of Easements to said Town.

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

On this _____ day of _____, 2023, before me, the undersigned notary public, personally appeared _____

Select Board for the Town of Andover, proved to me through satisfactory evidence of identification, which were _____, to be the persons whose names are signed on the preceding or attached document and acknowledged to me that they signed it voluntarily for its stated purposes.

Notary Public
My Commission Expires: _____

Certification of the Landfill Closure, and the accepted Certification is recorded at the Registry of Deeds.

By its acceptance of this Grant of these perpetual and temporary easements, the Grantee, for itself and its respective successors and assigns, agrees that upon the completion of any work hereunder which disturbs the surface of said strips of land, it will restore the surface thereof to substantially the same condition it was in immediately prior to such work.

The easements granted herein are easements in gross and the location of the Easement Area cannot be changed without the express written consent of the Grantee.

For the Grantor's title see deed recorded with Essex North District Registry of Deeds in Book 15535, Page 78.

WITNESS the execution hereof under seal this 27 day of Feb, 2023.

Dipankar Biswas

Dipankar Biswas

Sonal Biswas

Sonal Biswas

COMMONWEALTH OF MASSACHUSETTS

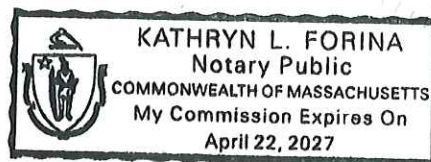
Essex, ss.

On this 27th day of February, 2023, before me, the undersigned notary public, personally appeared Dipankar Biswas and Sonal Biswas, proved to me through satisfactory evidence of identification, which was Driver's License, to be the persons whose names are signed on the preceding or attached document and acknowledged to me that they signed it voluntarily for its stated purposes.

Kathryn L. Forina

Notary Public

My Commission Expires: April 22, 2027



CONSENT OF MORTGAGEE

Hanscom Federal Credit Union, holder of a Mortgage dated July 6, 2020 from Dipankar Biswas and Sonal Biswas and recorded with Essex North District Registry of Deeds on July 10, 2020 in Book 16390, Page 295 hereby assents to the foregoing Grant of Easements to the Town of Andover.

Mortgagee:
Hanscom Federal Credit Union

By: _____

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

On this _____ day of _____, 2023, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was _____, to be the persons whose name is signed on the preceding document and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires: _____

GRANT OF EASEMENTS

Anastasia Driscoll and Jessica A. Valkenburg, being married, Tenants by the Entirety, of 170 Greenwood Road, Andover, MA 01810 (hereinafter called collectively the "Grantor"), for consideration paid of less than One Hundred Dollars grant to THE INHABITANTS OF THE TOWN OF ANDOVER, a municipal corporation organized and existing under the laws of Massachusetts (hereinafter called the "Grantee"), with QUITCLAIM COVENANTS, the easements described herein.

PERPETUAL EASEMENT

In addition to, and not in limitation of, the rights granted in the Order of Taking by the Inhabitants of the Town of Andover dated April 24, 1972 and recorded with North Essex District Registry of Deeds in Book 1191, Page 656, the perpetual right and easement to locate, relocate, erect, construct, reconstruct, install, lay, dig up, operate, maintain, patrol, inspect, repair, replace, alter, change the location of, extend or remove one or more pipes for the drainage of surface water and all necessary and proper conduits, conductors, pipes, foundations, fittings, and fixtures and other apparatus, equipment and fixtures deemed necessary for the purposes specified above, as the Grantee may from time to time desire along, upon, under and across the land of the Grantor located within the land shown as the area marked "50' Wide Drainage Easement, George H. Belanger, Jr. and Ida M. Belanger, former Boston & Maine R.R. Layout, Map 148, Lot 13," on Plan of Land entitled: "Plan of Drainage Easement, George H. Belanger, Jr. and Ida M. Belanger to Inhabitants of the Town of Andover, Massachusetts, Scale 1" = 40', March, 1972, John Avery, Jr., Town Engineer," recorded with North Essex District Registry of Deeds as Plan No. 6590 ("Easement Area"), and also shown on Land Court Plan No. 35854B as "Inhabitants of the Town of Andover Drain Easement," and also shown as "Exist. 50' Wide Drainage Easement (Bk. 1191, Page 656 - Pl. 6590)" on Lot 2 on "Plan

of Land, 170 Greenwood Road, Andover, MA, Assessors Map 148, Lot 18," recorded as Plan No. 17559.

This Grant of Easement includes the perpetual right and easement at any time and from time to time and without any further payment therefor to cut and trim trees, brush, overhanging branches and other obstructions on said strip of land to the extent that the Grantee deems necessary to clear and keep clear and operate safely the said pipes; and the right to enter said Easement Area for access thereto for all the above purposes.

The Grantor agrees that such drainage pipe or pipes and each and every part thereof, whether fixed to the realty or not, shall be and remain the property of the Grantee.

TEMPORARY EASEMENT

The right and easement along, upon, above, under and across the Easement Area described above for the purpose of bringing and placing on said Easement all construction materials, personnel, tools, equipment, vehicles and appliances necessary to: remove and dispose of waste located within the temporary construction easement area; without limitation, construct landfill features on Town of Andover property proximate to the Easement Area including but not limited to the landfill cap anchor trench, detention basins, berms, swales, landfill gas collector trench, landfill gas monitoring wells, and plantings; access other land of the Town of Andover property from the landfill property adjacent to the Easement area, transport arsenic-impacted and other wetland soils across the Easement Area from land of the Town of Andover west of the Easement Area to the landfill for disposal, and the right and easement to cut and trim trees, brush, overhanging branches and other obstructions to the extent that the Grantee deems necessary, and the right to enter said Easement Area for access thereto for all the above purposes.

By its acceptance of this Grant the Grantee, for itself and its respective successors and assigns, agrees that this temporary construction easement shall automatically terminate and be of no further force or effect at such time as the Massachusetts Department of Environmental Protection accepts the

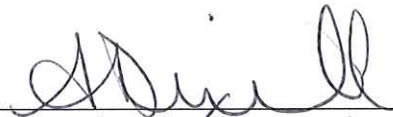
Certification of the Landfill Closure, and the accepted Certification is recorded at the Registry of Deeds.

By its acceptance of this Grant of these perpetual and temporary easements, the Grantee, for itself and its respective successors and assigns, agrees that upon the completion of any work hereunder which disturbs the surface of said strips of land, it will restore the surface thereof to substantially the same condition it was in immediately prior to such work.


The easements granted herein are easements in gross and the location of the Easement Area cannot be changed without the express written consent of the Grantee.

For the Grantor's title see deed recorded with Essex North District Registry of Deeds in Book 15352, Page 240.

WITNESS the execution hereof under seal this 8 day of February, 2023.



Anastasia Driscoll




Jessica A. Valkenburg

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

On this 8th day of February, 2023, before me, the undersigned notary public, personally appeared Anastasia Driscoll and Jessica A. Valkenburg, who proved to me through satisfactory evidence of identification, which was MDL, to be the persons whose names are signed on the preceding or attached document and acknowledged to me that they signed it voluntarily for its stated purposes.


Notary Public Jamie M. Doherty
My Commission Expires: December 26, 2025



JAMIE M. DOHERTY
Notary Public
Commonwealth of Massachusetts
My Commission Expires
December 26, 2025

ACCEPTANCE OF SELECT BOARD

We, the undersigned Board of Selectmen of the Town of Andover, Massachusetts, accept the foregoing Grant of Easements to said Town.

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

On this _____ day of _____, 2023, before me, the undersigned notary public, personally appeared _____

Select Board for the Town of Andover, proved to me through satisfactory evidence of identification, which were _____, to be the persons whose names are signed on the preceding or attached document and acknowledged to me that they signed it voluntarily for its stated purposes.

Notary Public
My Commission Expires: _____

CONSENT OF MORTGAGEE

Bank of America, NA, holder of a mortgage from Anastasia Driscoll and Jessica A. Valkenburg dated May 17, 2019 and recorded with Essex North District Registry of Deeds on May 30, 2019 in Book 15862, Page 244, hereby assents to the foregoing Grant of Easements to the Town of Andover.

Mortgagee:

Bank of America, NA

By: _____

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

On this _____ day of _____, 2023, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was _____, to be the persons whose name is signed on the preceding document and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires: _____

CONSENT OF MORTGAGEE

Mortgage Electronic Registration Systems, Inc., holder of a mortgage from Anastasia Driscoll and Jessica A. Valkenburg dated January 3, 2018 and recorded with Essex North District Registry of Deeds on January 3, 2018 in Book 15352, Page 195, hereby assents to the foregoing Grant of Easements to the Town of Andover.

Mortgagee:

Mortgage Electronic Registration
Systems, Inc.

By: _____

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

On this _____ day of _____, 2023, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was _____, to be the persons whose name is signed on the preceding document and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires: _____

GRANT OF EASEMENTS

Hung Ngoc Nguyen, a married man of 172 Greenwood Road, Andover, MA 01810 (hereinafter called the "Grantor"), for consideration paid of less than One Hundred Dollars grant to THE INHABITANTS OF THE TOWN OF ANDOVER, a municipal corporation organized and existing under the laws of Massachusetts with a usual place of business at 36 Bartlet Street, Andover, Massachusetts 01810 (hereinafter called the "Grantee"), with QUITCLAIM COVENANTS, the easements described herein.

PERPETUAL EASEMENT

In addition to, and not in limitation of, the rights granted in the Order of Taking by the Inhabitants of the Town of Andover dated April 24, 1972 and recorded with North Essex District Registry of Deeds in Book 1191, Page 656, the perpetual right and easement to locate, relocate, erect, construct, reconstruct, install, lay, dig up, operate, maintain, patrol, inspect, repair, replace, alter, change the location of, extend or remove one or more pipes for the drainage of surface water and all necessary and proper conduits, conductors, pipes, foundations, fittings, and fixtures and other apparatus, equipment and fixtures deemed necessary for the purposes specified above, as the Grantee may from time to time desire along, upon, under and across the land of the Grantor shown as the area marked "50' Wide Drainage Easement, George H. Belanger, Jr. and Ida M. Belanger, former Boston & Maine R.R. Layout, Map 148, Lot 13," on Plan of Land entitled: "Plan of Drainage Easement, George H. Belanger, Jr. and Ida M. Belanger to Inhabitants of the Town of Andover, Massachusetts, Scale 1" = 40', March, 1972, John Avery, Jr., Town Engineer," recorded with North Essex District Registry of Deeds as Plan No. 6590 ("Easement Area"), and also shown on Land Court Plan No. 35854B as "Inhabitants of the Town of Andover Drain Easement," and also shown as "Exist. 50'

Wide Drainage Easement (Bk. 1191, Page 656 - Pl. 6590)" on Lot 2 on "Plan of Land, 170 Greenwood Road, Andover, MA, Assessors Map 148, Lot 18," recorded as Plan No. 17559.

This Grant of Easement includes the perpetual right and easement at any time and from time to time and without any further payment therefor to cut and trim trees, brush, overhanging branches and other obstructions on said strip of land to the extent that the Grantee deems necessary to clear and keep clear and operate safely the said pipes; and the right to enter said Easement Area for access thereto for all the above purposes.

The Grantor agrees that such drainage pipe or pipes and each and every part thereof, whether fixed to the realty or not, shall be and remain the property of the Grantee.

TEMPORARY EASEMENT

The right and easement along, upon, above, under and across the Easement Area described above for the purpose of bringing and placing on said Easement all construction materials, personnel, tools, equipment, vehicles and appliances necessary to: remove and dispose of waste located within the temporary construction easement area; without limitation, construct landfill features on Town of Andover property proximate to the Easement Area including but not limited to the landfill cap anchor trench, detention basins, berms, swales, landfill gas collector trench, landfill gas monitoring wells, and plantings; access other land of the Town of Andover property from the landfill property adjacent to the Easement area, transport arsenic-impacted and other wetland soils across the Easement Area from land of the Town of Andover west of the Easement Area to the landfill for disposal, and the right and easement to cut and trim trees, brush, overhanging branches and other obstructions to the extent that the Grantee deems necessary, and the right to enter said Easement Area for access thereto for all the above purposes.

By its acceptance of this Grant the Grantee, for itself and its respective successors and assigns, agrees that this temporary construction easement shall automatically terminate and be of no further force or effect at such time as the Massachusetts Department of Environmental Protection accepts the

Certification of the Landfill Closure, and the accepted Certification is recorded at the Registry of Deeds.

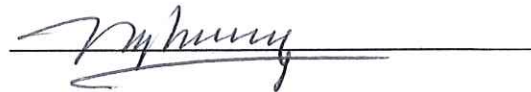
By its acceptance of this Grant of these perpetual and temporary easements, the Grantee, for itself and its respective successors and assigns, agrees that upon the completion of any work hereunder which disturbs the surface of said strips of land, it will restore the surface thereof to substantially the same condition it was in immediately prior to such work.

The easements granted herein are easements in gross and the location of the Easement Area cannot be changed without the express written consent of the Grantee.

For the Grantor's title see deed recorded with Essex North District Registry of Deeds in Book 16285, Page 157.

WITNESS the execution hereof under seal this 9 day of December, 2022.

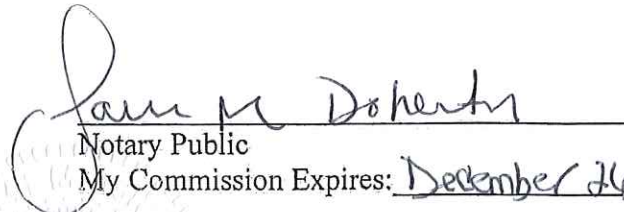
Hung Ngoc Nguyen



COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

On this 9th day of December, 2022, before me, the undersigned notary public, personally appeared Hung Ngoc Nguyen, who proved to me through satisfactory evidence of identification, which was MDL 561958642, to be the person whose name is signed on the preceding or attached document and acknowledged to me that they signed it voluntarily for its stated purposes.



Notary Public
My Commission Expires: December 26, 2025



JAMIE M. DOHERTY
Notary Public
Commonwealth of Massachusetts
My Commission Expires
December 26, 2025

ACCEPTANCE OF SELECT BOARD

We, the undersigned Select Board of the Town of Andover, Massachusetts, accept the foregoing Grant of Easements to said Town.

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

On this _____ day of _____, 2022, before me, the undersigned notary public, personally appeared _____

Select Board for the Town of Andover, proved to me through satisfactory evidence of identification, which were _____, to be the persons whose names are signed on the preceding or attached document and acknowledged to me that they signed it voluntarily for its stated purposes.

Notary Public
My Commission Expires: _____

CONSENT OF MORTGAGEE

Mortgage Electronic Registration Systems, Inc., holder of a mortgage from Hung Ngoc Nguyen dated May 20, 2021 and recorded with Essex North District Registry of Deeds on May 25, 2021 in Book 16945, Page 95, hereby assents to the foregoing Grant of Easements to the Town of Andover.

Mortgagee:

Mortgage Electronic Registration
Systems, Inc.

By: _____

COMMONWEALTH OF MASSACHUSETTS

, ss.

On this _____ day of _____, 2022, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was _____, to be the persons whose name is signed on the preceding document and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires: _____

Approval of Extension of Land Disposition Agreement Negotiation Period

Pursuant to Section V. of the Request for Proposals to Redevelop the Former Town Yard, which was issued by the Town on March 8, 2021, the Town hereby extends to May 1, 2023 the period during which the Town and Minco Development Corp. may negotiate the Land Disposition Agreement.

_____, 2023

Alex J. Vispoli, Chair

Melissa Danisch, Selectwoman

Laura M. Gregory, Vice Chair

Christian C. Huntress, Selectman

Ann W. Gilbert, Clerk

Select Board members of: Andover, Massachusetts

ARTICLE P4	FISCAL YEAR 2024 BUDGET
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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, 2023 and ending June 30, 2024, or take any other action related thereto.

On request of the Town Manager

ARTICLE P5	FISCAL YEAR 2024 CAPITAL PROJECTS FUND
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To see if the Town will vote to raise by taxation and appropriate the sum of money for the purpose of funding the Fiscal Year 2024 appropriation for the Capital Projects Fund, or take any other action related thereto.

On request of the Town Manager

- A. **Budget Transfers** To see if the Town will vote to transfer from amounts previously appropriated at the May 2022 Annual Town Meeting as authorized by Massachusetts General Laws Chapter 44, Section 33B, or take any other action related thereto.

On request of the Chief Financial Officer

- B. **Supplemental Budget Appropriations** To see if the Town will vote to transfer from available funds a sum of money to supplement appropriations voted at the May 2022 Annual Town Meeting, or take any other action related thereto.

On request of the Town Manager

- C. **Stabilization Fund** To see if the Town will vote to appropriate and raise from taxation or available funds a sum of money to the Stabilization Fund in accordance with Massachusetts General Laws Chapter 40, Section 5B, as amended by Chapter 46, Sections 14 and 50 of the Acts of 2003 and Chapter 218 of the Acts of 2016, or take any other action related thereto.

On request of the Town Manager

- D. **Free Cash** To see what amount the Town will vote to permit the Assessors to use in Free Cash to reduce the Fiscal Year 2024 tax rate and to affect appropriations voted at the May 2022 Annual Town Meeting, or take any other action related thereto.

On request of the Chief Financial Officer

- E. **Unexpended Appropriations** To see what disposition shall be made of unexpended appropriations and Free Cash in the treasury, or take any other action related thereto.

On request of the Chief Financial Officer

- F. **Unexpended Appropriations Capital Projects Fund** To see what disposition shall be made of unexpended appropriations in the Capital Projects Fund, or take any other action related thereto.

On request of the Chief Financial Officer

- G. **Fiscal Year 2024 Revolving Accounts** To see if the Town will vote to authorize the following expenditure limits for revolving funds for certain Town departments under Massachusetts General Laws, Chapter 44, Section 53E½ for the fiscal year beginning July 1, 2023, or take any other action related thereto:

Revolving Fund	FY2024 Limit
Community Development & Planning Department	\$20,000
Memorial Hall Library-Lost/Damaged Materials	\$20,000
Health Clinic	\$60,000
Division of Recreation	\$1,000,000
Division of Youth Services	\$400,000
Field Maintenance	\$150,000
Division of Elder Services	\$225,000
Police Communications	\$50,000
School Photocopy Fees	\$10,000
Compost Program	\$60,000
Solid Waste	\$40,000
Stormwater Management	\$5,000
Fire Rescue	\$100,000
Health Services	\$100,000
Professional Development Institute	\$50,000
Student Technology Rental	\$200,000

On request of the Chief Financial Officer

- H. PEG Access and Cable Related Expenses** To see if the Town will vote to appropriate cable franchise fees and other cable-related revenues to support PEG access services, cable related expenses, and oversight of the cable franchise agreements for fiscal year 2024, which begins on July 1, 2023, or take any other action related thereto.

On request of the Chief Financial Officer

- I. Pension Obligation Bond Stabilization Fund Transfer** To see if the Town will vote to appropriate and raise from taxation or transfer from available funds a sum of money to the Pension 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 action related thereto.

On request of the Chief Financial Officer

ARTICLE P7	HOME RULE PETITION FOR EXCESS LEVY CAPACITY
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To see if the Town will vote to petition the General Court to the end that legislation be adopted that would permit the Town to use the excess levy capacity resulting from the town's pension obligation bond issuance solely for the purposes of paying pension obligation bond debt service, funding post-employment benefits liabilities, and funding capital projects. This provision shall remain in effect until 2040. Such legislation shall be in precisely the form as may be approved by the Town Meeting; provided, however, that the General Court may make clerical or editorial changes to form only to the legislation as approved by the Town Meeting, unless the Select Board shall have approved any amendments to petitioned legislation that are within the scope of the general public objectives of this petition, before enactment by the General Court; or to take any other action relative thereto.

On request of the Town Manager

ARTICLE P19	CAPITAL PROJECTS FROM GENERAL FUND BORROWING
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To see if the Town will vote to raise by taxation, borrowing, transfer from available funds or by any combination thereof and appropriate the sum of \$4,850,000 to pay costs of purchasing capital equipment, making infrastructure improvements, or for purchasing services and materials related to capital improvements, as more particularly described below, including the payment of any other costs incidental and related thereto, or take any other action related thereto.

CIP #	Project	Amount	Statutory Citation
DPW-7b	Public Works Vehicles – Large	\$455,000	C 44 Sec 7(1)
FAC-5	Town Parks and Playground Improvements	\$625,000	C 44 Sec 7(1)
FAC-6	Major Town Projects	\$900,000	C 44 Sec 7(1)
FAC-7	Town / School Energy Initiatives	\$470,000	C 44 Sec 7(1)
FR-1	Fire Rescue Vehicles	\$975,000	C 44 Sec 7(1)
IT-3	IT Infrastructure	\$300,000	C 44 Sec 7(1)
SCH-5	Major School Projects	\$1,125,000	C 44 Sec 7(1)

*On request of the Director of Public Works, Director of Facilities, Fire Chief,
and Chief Information Officer*

ARTICLE P20	CAPITAL PROJECTS FROM FREE CASH
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To see if the Town will vote to transfer from available funds and appropriate the sum of \$1,919,128 to pay costs of purchasing capital equipment, infrastructure, or for purchasing services and materials related to capital improvements, as more particularly described below, including any other costs incidental and related thereto, or take any other action related thereto.

CIP #	Project	Amount
IT-1	Annual Staff Device Refresh	\$456,238
IT-2	Annual Student Device Refresh	\$257,890
POL-1	Police Vehicle Replacement	\$205,000
DPW-2	Minor Sidewalk Repairs	\$250,000
DPW-4	Town Sidewalk Program	\$750,000

On request of the Chief Information Officer, Chief of Police and Director of Public Works

ARTICLE P21	CAPITAL PROJECTS FROM WATER AND SEWER ENTERPRISE FUNDS
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To see if the Town will vote to raise by taxation, borrowing, transfer from available funds or by any combination thereof and appropriate the sum of \$13,360,000 to pay costs of purchasing capital equipment, making infrastructure improvements, and purchasing services and materials related to making capital improvements, as more particularly described below, including the payment of any other costs incidental and related thereto, or take any other action related thereto.

CIP #	Project	Amount	Statutory Citation
DPW-14	Water Main Replacement / Distribution Improvements Project (Water Enterprise Borrowing)	\$6,000,000	Ch 44 Sec 8 (5)
DPW-16	Water Treatment Plant SCADA System Upgrades (Water Enterprise Borrowing)	\$2,500,000	Ch 44 Sect 8 (4)
DPW-18	Water Treatment GAC Replacement (Water Enterprise Borrowing)	\$560,000	Ch 44 Sec 8 (7A)
DPW-25	Shawsheen River Sewer Interceptor Improvements (Sewer Enterprise Borrowing)	\$2,200,000	Ch 44 Sec 8 (14)
DPW-30	Inflow/Infiltration (I/I) Removal Program (Sewer Enterprise Reserves)	\$300,000	N/A
DPW-34	Lead Service Replacements (Water Enterprise Borrowing)	\$1,800,000	Ch 44 Sec 8 (5)

On request of the Director of Public Works

ARTICLE P36	ZONING BYLAW RECODIFICATION
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To see if the Town will vote to amend and recodify the Zoning Bylaw Article VIII by making the following changes:

1. Delete, in their entirety, the following provisions of the existing Zoning Bylaw last printed with the date September 2020 and amended through Annual Town Meeting of June 5, 2021:

- Section 1.0 Purpose and Authority
- Section 2.0 Districts
- Section 3.0 Use Regulations
- Section 4.0 Dimensional Requirements
- Section 5.0 General Regulations
- Section 6.0 Special Regulations
- Section 7.0 Special Residential Regulations
- Section 8.0 Special District Regulations
- Section 9.0 Administration and Procedures
- Section 10.0 Definitions
- Appendix A
 - Table 1-Table of Use Regulations
 - Table 2-Table of Dimensional Requirements
 - Table 3-Table of Off-Street Parking Requirements
 - Table 4-Parking Dimensions

2. Substituting the following provisions and their subparts found in the Zoning Bylaw, Article VIII dated January 10, 2023, on file in the offices of the Town Clerk and Community Development & Planning:

- Section 1.0 Purpose and Authority
- Section 2.0 Districts
- Section 3.0 Use Regulations
- Section 4.0 Dimensional Requirements
- Section 5.0 General Regulations
- Section 6.0 Special Regulations
- Section 7.0 Special Residential Regulations
- Section 8.0 Special District Regulations
- Section 9.0 Administration and Procedures
- Section 10.0 Definitions
- Appendix A
 - Table 1-Table of Use Regulations
 - Table 2-Table of Dimensional Requirements
 - Table 3-Table of Off-Street Parking Requirements
 - Table 4-Parking Dimensions

And further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Andover Code of Bylaws or do or take any other action related thereto.

On request of the Director of Planning and Land Use

To see if the Town will vote to amend the Town Bylaws, Article XVI Stormwater Management and Erosion Control as follows:

By updating the Purpose and Objective section, the definitions section and to update the titling of Massachusetts Stormwater Management Policy to Massachusetts Stormwater Handbook where applicable throughout the sections of the bylaw.

STORMWATER MANAGEMENT AND EROSION CONTROL

§ 1. Purpose and Objective.

- A. The United States Environmental Protection Agency has identified sedimentation and polluted stormwater runoff from land disturbance, land development and redevelopment activities as major sources of water pollution.
- B. The purpose of this bylaw is to prevent or diminish the impacts of sedimentation and polluted stormwater from land disturbance, land development and redevelopment activities by controlling runoff and preventing soil erosion and sedimentation from site construction and development. The bylaw is necessary to protect 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.
- C. The objectives of this bylaw are to comply with state and federal statutes and regulations relating to stormwater discharges and to establish the Town of Andover's legal authority to ensure compliance with the provisions of this bylaw through inspections, monitoring and enforcement by:
 - (1) Protecting water resources;
 - (2) Controlling the volume and rate of stormwater;
 - (3) Requiring practices to manage and treat stormwater runoff generated from new development and redevelopment;
 - (4) Protecting groundwater and surface water from degradation or depletion;
 - (5) Promoting infiltration and the recharge of groundwater;
 - (6) Preventing pollutants from entering ~~the Andover's~~ municipal separate storm sewer system (MS4) and as well as private storm drain systems;
 - (7) Preventing flooding and erosion to abutting properties;
 - (8) Ensuring that soil erosion and sedimentation control measures and stormwater runoff management practices are incorporated into site

- planning and design process and are implemented and maintained;
- (9) Ensuring adequate long-term operation and maintenance of stormwater best management practices; and
 - (10) Requiring 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.

§ 2. Definitions.

ABUTTER — The owner(s) of land adjacent to 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 (MGL 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 Planning Board in accordance with the Stormwater Management Bylaw and Regulations.

AUTHORIZED ENFORCEMENT AGENCY — The Town of Andover Planning Board, its employees or agents designated to enforce this bylaw.

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

CERTIFICATE OF COMPLETION — A document issued by the Planning Board which confirms that all documents and final reports have been submitted and all work required by the terms of a stormwater management permit has been satisfactorily completed in accordance with this bylaw and its regulations.

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

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.

DEP STORMWATER MANAGEMENT STANDARDS: The set of stormwater regulations promulgated by the Massachusetts Department of Environmental Protection under the following:

- The Wetland Protection Regulations (310 CMR 10.00) adopted pursuant to the Massachusetts Wetlands Protection Act G.L. c. 131, § 40; and
- The 401 Water Quality Certification for Discharge of Dredged or Fill Material, Dredging, and Dredged Material Disposal in Waters of the United States within the Commonwealth, adopted pursuant to the Massachusetts Clean Waters Act G.L. c. 21, §§ 26-53.

DESIGNATED AGENT — Any person or entity designated by the Planning Board and approved by the Town Manager to assist in the administration, implementation and enforcement of the Stormwater Management and Erosion Control bylaw and Regulations.

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

DETENTION — The temporary storage of storm runoff.

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 Planning Board or its designee and retained by the Planning Board at the permit holder's expense to periodically inspect the work and report to the Planning Board.

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 0.70 or a runoff Curve Number (SCS Method) greater than 85.

LAND-DISTURBING ACTIVITY OR LAND DISTURBANCE — Any activity that alters the existing vegetation and/or underlying soil of a site, including such as clearing, grading, site preparation (e.g., excavating, cutting and filling), soil compaction, movement, stockpiling of top soils, and grubbing, or other action that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.

LOW IMPACT DEVELOPMENT (LID):- The design of a site development or redevelopment employing systems and practices that use or mimic natural processes that result in the infiltration, evapotranspiration or beneficial use of stormwater, to protect water quality and associated aquatic habitat. LID is an approach to land development (or re-development) that works with nature to manage stormwater as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features, minimizing effective imperviousness to create functional and appealing site drainage that treats stormwater as a resource rather than a waste product. Practices include but are not limited to minimizing impervious surfaces, capturing rainfall or runoff for subsequent use on-site, promoting infiltration and evapotranspiration, and the use of vegetation-based stormwater treatment practices.

MASSACHUSETTS ENDANGERED SPECIES ACT — MGL 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 HANDBOOK POLICY — The ~~policy handbook~~ issued by the Department of Environmental Protection, as amended, that describes how to apply DEP's Stormwater Management Standards as promulgated under ~~coordinates the requirements prescribed by state regulations promulgated under the authority of~~ the Massachusetts Wetlands Protection Act, MGL c. 131, § 40, and the Massachusetts Clean Waters Act, MGL c. 21, §§ 23-56.

MASSACHUSETTS WETLANDS PROTECTION ACT — MGL c. 131, § 40, and its implementing regulations (310 CMR 10.00).

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.

NEW DEVELOPMENT:- Any construction or disturbance of land that is currently in a natural vegetated state. New development also includes any disturbance beyond existing impervious and disturbed areas that is contiguous to redevelopment projects.

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.

PAVEMENT — The surface of an area which consists of bituminous concrete, cement concrete, or paving bricks made of masonry or stone.

PAVING, OVERLAY — The placement of pavement on top of an existing impervious surface. The underlying impervious surface is sometimes milled (partially ground down in thickness) before the overlay is placed.

PAVING, RECLAMATION — A procedure whereby existing pavement is broken and pounded into small fragments.

PERMITTEE — The person who holds a stormwater management 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.

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. Any construction, land alteration, or improvement of impervious surfaces that does not meet the definition of new development. The following activities are considered redevelopment:~~

(a) Maintenance and improvement of existing roadways including widening less than a single lane, adding shoulders, correcting substandard intersections, improving existing drainage systems, and repaving; and

(a)(b) Development, rehabilitation, expansion, and phased projects on previously developed sites provided the redevelopment results in no net increase in impervious area.

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 or directed through a pipe or culvert.

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, silt, clay and gravel.

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

STORMWATER — Stormwater runoff, snowmelt runoff, surface water runoff and drainage.

STORMWATER CONTROL MEASURE (SCM) – A technique, measure, or structural control that is designed to remove pollutants, control quantity, and improve the quality of stormwater runoff before the water discharges to the MS4 or Wetland Resource Area.

STORMWATER MANAGEMENT PERMIT — A permit issued by the Planning Board pursuant to this bylaw.

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 nonstructural 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 — Temporary bodies of fresh water which provide critical habitats for a number of vertebrate and invertebrate wildlife species.

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 MGL c. 131, § 40 and regulations promulgated thereunder and in the Town of Andover Wetland Protection Bylaw and Regulations.¹

WETLANDS — Wet meadows, marshes, swamps, bogs, areas where groundwater, flowing or standing surface water or ice provides 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.

A. No person may undertake a construction activity that results in a land disturbance of 43,560 square feet or more without a stormwater management permit from the Planning Board.

(1) Land disturbances. Land disturbances of 43,560 square feet or more, including multiple separate activities which in aggregate disturb 43,560 square feet or more, whether on one parcel or adjacent parcels held in common ownership, shall require a stormwater management permit.

(2) Paving and impervious material. An increase of new pavement or other impervious material, reclamation of existing pavement, or a combination of both totaling 43,560 square feet or more shall require a stormwater management permit.

¹ Editor's Note: See Art. XIV, Wetlands Protection By-Law.

- (3) 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 publicways, appurtenances to the publicways, and private and public utilities.
 - (2) Normal maintenance and improvement of land in agricultural use.
 - (3) Repair of septic systems when required by the Board of Health or the Massachusetts Department of Environmental Protection for the protection of public health.
 - (4) Normal maintenance of currently existing landscaping, gardens or lawn areas associated with an existing use.
 - (5) Overlaying of existing impervious surface.
 - (6) Areas of land that have had a stormwater management review and approval either through the Conservation Commission or Planning Board using design criteria that at a minimum comply with the latest edition of the Massachusetts Stormwater ~~Management Handbook~~ ~~Policy~~ or with design criteria as described in Town of Andover's Subdivision Rules and Regulations² or with the Town of Andover Stormwater Management and Erosion Control Regulations, whichever is more stringent in the protection of the Town's resources.

§ 5. Administration.

- A. The Planning Board, as the permit granting authority, shall administer, implement, and enforce this bylaw. Any powers granted to or duties imposed upon the Planning Board in this bylaw may be delegated to designated agents upon a majority vote of the Planning Board. Should the Planning Board designate an agent, such agent shall be approved by the Town Manager.
- B. The Planning Board may adopt and periodically amend rules and regulations to effectuate the purposes of this bylaw. Failure by the Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.
- (1) Adoption of and revisions to regulations may only be made 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 14 days before the hearing date.
- C. The Planning Board shall refer to the criteria and information, including specifications and standards, of the latest edition of the Massachusetts Stormwater ~~Management Policy Handbook~~ or to the design criteria as described in the Town of Andover's Subdivision Rules and

² Editor's Note: See Art. XIII, Subdivision Rules and Regulations.

Regulations³ or to the Town of Andover Stormwater Management and Erosion Control Regulations, whichever is more stringent in the protection of the Town's environmental and infrastructure resources, for execution of the provisions of this bylaw.

- D. The Planning Board may waive strict compliance with any requirement of this bylaw or the regulations promulgated hereunder, where:
 - (1) Such action is allowed by federal, state or local statutes and/or regulations; and
 - (2) Is in the public interest; and
 - (3) Is not inconsistent with the purpose and intent of this bylaw and its regulations.

§ 6. Permits and procedures.

Projects requiring a stormwater management permit shall be subject to the Town of Andover Stormwater Management and Erosion Control Regulations promulgated under Section 5 of this bylaw in addition to the procedures as set forth below.

A. Application.

- (1) An application package shall be filed with the Planning Board and other departments as specified in the regulations.
- (2) The Planning Board shall review the application for completeness and compliance with this bylaw and its regulations.

B. Public meetings.

- (1) The Planning Board shall hold a public meeting on all applications for stormwater management permits for the purpose of reviewing the application and accepting public input.
- (2) Notice of the public meeting shall be given by posting and by first-class mailings to abutters and abutters to abutters within 300 feet of the property line of the project site at least seven days prior to the meeting.
- (3) The Board shall make the application available for inspection by the public during business hours at the Planning Division.

C. Actions. The Planning Board may:

- (1) Approve the application and issue a permit if it finds that the proposed plan meets the objectives and requirements of this bylaw and its regulations;
- (2) Approve the application and issue a permit with conditions, modifications, or restrictions that the Board determines meet the

³ Editor's Note: See Art. XIII, Subdivision rules and Regulations.

objectives and requirements of this bylaw and its regulations;

- (3) Disapprove the application and deny a permit if the Planning Board 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; and
- (4) Disapprove the application and deny a permit if it finds that the proposed plan fails to meet the objectives and requirements of this bylaw or its regulations.

D. Time for action by the Board.

- (1) Within 45 days of the filing of an application for a stormwater management permit, the Planning Board or its designated agent shall:
 - i. Evaluate the application to ensure that it is complete prior to distribution;
 - ii. Distribute the complete application to boards and departments for technical review as specified in the regulations; and
 - iii. Arrange agenda time for a public meeting before the Planning Board.
- (2) Within 60 days of the filing of the application, an interdepartmental review shall be held.
 - i. Following the Interdepartmental review but prior to the Planning Board public meeting, the Town Engineer shall provide a written recommendation for action on the application. Such recommendation shall itemize all instances where the applicant has failed to meet the specifications and standards of the latest edition of the Massachusetts Stormwater ~~Management Policy~~ Handbook or of the design criteria as described in the Town of Andover's Subdivision Rules and Regulations⁴ or of the Town of Andover Stormwater Management and Erosion Control Regulations.
- (3) Within 90 days of the filing of an application for a stormwater management permit, the Planning Board shall hold a public meeting.
- (4) Once begun, the public meeting may not continue for more than 60 days unless such time is extended by written agreement between the applicant and the Board to a date certain announced at the meeting.
- (5) The Planning Board shall take final action within 21 days of the close of the public meeting discussion.

E. Failure to act.

⁴ Editor's Note: See Art. XIII, Subdivision Rules and Regulations.

- (1) Upon certification by the Town Clerk that the allowed time has passed without the Planning Board's action, failure to take such action shall be deemed to be approval of said application and a stormwater management permit shall be issued.

F. Appeals of action by the Planning Board.

- (1) A written decision of the Planning Board shall be final when it is executed by the Planning Board or its Chair or Acting Chair and filed in the Town Clerk's office. Further relief of a decision by the Planning Board made under this bylaw shall be 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.
- (2) 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.

G. Permit duration.

- (1) All activity permitted by this bylaw must be completed within one year of permit issuance. Extensions of time can be granted by the Planning Board upon formal written request by the applicant. If one year passes without an extension being granted, the Board may revoke the permit.

H. Certificate of completion.

- (1) The Planning Board will issue a certificate of completion upon receipt and approval of final reports and documentation as specified in the regulations.

I. Public record.

- (1) The following documents shall be recorded at the Essex Registry of Deeds at the applicant's expense and proof of recording provided to the Planning Division:
 - i. The stormwater management permit.
 - ii. The approved operation and maintenance plan.
 - iii. The certificate of completion.

§ 7. Persons aggrieved.

Any person aggrieved by a decision or action of a designated agent appointed by the Planning Board under § 5A, including but not limited to matters regarding completeness of application, inspections, and compliance with technical design criteria, may, within 30 days of such decision or action, request a public meeting with the Planning Board. In such cases, following the decision of the Planning Board, the provisions of § 6F(1) shall apply.

§ 8. Consultants.

At the applicant's expense, the Planning Board may retain independent consultants as needed to advise the Board on any and all aspects of a specific project. Independent consultants may include but are not limited to registered professional engineers and environmental site monitors.

§ 9. Fees.

The Planning Board shall establish fees, subject to approval of the Select Board, to cover expenses connected with application review, mailings and monitoring permit compliance. The fees shall be sufficient to cover direct and indirect costs to the Town of processing and reviewing the application. Provided that a revolving fund for such purpose is established by the Town in accordance with the provisions of MGL c. 44, § 53E 1/2, the Planning Board is also authorized to collect fees from the applicant in amounts sufficient to pay a registered professional engineer and such other professional consultants as the Planning Board requires to advise the Planning Board on any and all aspects of the project. The fees for such professional engineers and consultants shall be paid to the Town for deposit into the revolving fund.

§ 10. Security.

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

§ 11. Enforcement.

- A. The Planning Board or its designated 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. Entry. The Planning Board or its agents shall have the authority, with prior approval from the property owner or pursuant to court process, to enter upon privately owned land for the purpose of performing their duties under this bylaw.
- C. Orders. The Planning Board or its designated 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 its regulations;
 - (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.

- D. 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.
- E. Criminal penalty. Any person who violates any provision of this bylaw, regulation, order or permit issued thereunder, shall be punished by a fine in an amount of \$300. Each day or part thereunder that such violation occurs or continues shall constitute a separate offense.
- F. Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Planning Board may elect to utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D, which has been adopted by the Town, in which case the Planning Board or designated agent shall be the enforcing person. The penalty for each violation shall be \$300. ~~eE~~Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

§ 12. 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.

And further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Andover Code of Bylaws or take any other action related thereto.

On request of the Planning Board