

**WARRANT FOR TOWN MEETING
MONDAY, APRIL 27, 2009**

**CONCORD-CARLISLE REGIONAL HIGH SCHOOL
7:00 PM**

**TOWN OF CONCORD
TOWN HOUSE
CONCORD, MA 01742**

**PRESORT STANDARD
U.S. POSTAGE PAID
PERMIT No. 51**

**RESIDENTIAL CUSTOMER
LOCAL 01742**

PUBLIC HEARINGS

All at 7:30 P.M., Alcott School Auditorium

FINANCE COMMITTEE Town Budget & Articles including Capital Community Preservation Committee Article(s)	* Monday, February 23
FINANCE COMMITTEE School Budget & Articles	** Wednesday, February 25
BOARD OF SELECTMEN	*** Monday, March 2
PLANNING BOARD	**** Wednesday, March 4

At 7:30 PM, Town House, Hearing Room

FINANCE COMMITTEE Enterprise Fund Budgets & Articles	***** Monday, March 23
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PUBLIC HEARING - SNOW DATES

*** Snow date for this day will be Tuesday, February 24**
**** Snow date for this day will be Thursday, February 26**
***** Snow date for this day will be Tuesday, March 3**
****** Snow date for this day will be Thursday, March 5**
******* Snow date for this day will be Tuesday, March 24**

In case of snow call 978-318-3006 for cancellation information & website notices available at www.concordma.gov

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February 2009

Dear Concord Voter:

We encourage you to read these articles carefully and to participate in our Town Meeting process.

Over the next several months, you will have numerous opportunities to participate actively in the democratic process of Town Government by electing Town Officials, attending hearings and taking action at Town Meeting on the wide range of subjects described in the accompanying Warrant. This brief introduction summarizes the activities leading up to the elections and to the Town Meeting.

TOWN CAUCUS: Nominations of candidates for election are made at the Town Caucus (which was held on Monday, January 26, 2009, at 7:30 PM at the Alcott School Auditorium). The Caucus is a non-partisan meeting which is open to all registered voters. It may nominate two candidates for each elective office. Caucus nominees will be on the ballot for the Town Election which will be held on Tuesday, March 31, 2009. The deadline for unregistered residents to register to vote at the Town Election is Wednesday, March 11, 2009.

WARRANT: The publication of the Warrant is the first event leading up to Town Meeting. The Warrant serves as the agenda for the Meeting; it is a combination of proposals by the Town's committees and professional staff, and those brought by petitions signed by at least 10 registered voters. Each Article on the Warrant represents a separate agenda item and describes the subject on which the voters at Town Meeting will be asked to take action. Any Motion made under an Article at Town Meeting must fit within the scope of that Article as presented in the Warrant. The Motion will often be more specific, however. For example, estimated amounts may be replaced by more precise figures in appropriation Articles, or the details of a zoning Article may be refined to make the intended action more workable as a result of discussion during the hearing process.

Some Articles provide for various funding methods. The phrase, "**raise and appropriate**" means funding through the property tax levy. The phrase "**transfer from available funds**" means funding through monies already on hand in the Town treasury and not already reserved or committed for other purposes. Finally, the Treasurer may be authorized "**with the approval of the Board of Selectmen, to borrow ...**". This means the issuance of debt for which the Town commits its credit to make future repayment of the loan with interest. The Motion made under a financial Article will always specify the financing method from among the possible options. The amount of money in the Motion may vary up or down from the amount appearing in the Article text.

Does the majority always rule? Some votes require super majority votes in accordance with State Law. These include Articles authorizing the issuance of debt and zoning bylaws. You will be informed by the Moderator when a Motion is made under an Article whether a 2/3rds or other super majority vote is required for passage.

PUBLIC HEARINGS: Following publication of the Warrant, a series of public hearings will be held in the Alcott School Auditorium and the Town House Hearing Room as shown on the schedule at the end of this section. All are welcome and encouraged to attend the hearings which provide an opportunity to gain an in-depth understanding of the background and issues and serve three distinct purposes:

- Following a presentation by the sponsor of an Article, citizens have the opportunity to ask questions and obtain information and may provide their own input.
- The hearings aid various Boards and Committees in deciding what recommendations they will make to the voters at Town Meeting on those Articles.
- Sponsors of an Article hear the same input and may decide to modify or withdraw their proposal before final presentation at Town Meeting.

After the hearings, the Finance Committee, which consists of fifteen (15) citizens appointed by the Moderator, will prepare its report to the Town. This report summarizes the Town's financial position, reports on various issues, and makes recommendations to Town Meeting on each Article with financial impact. The recommendations of the Selectmen on all Articles are also included in the report.

SCHEDULE OF PUBLIC HEARINGS Held at the Alcott School Auditorium			
Committee	Articles	Time	Date
Finance Committee: Town Budget & Articles Including Capital Community Preservation Committee Article (s)	3, 7, 8, 13-19, 23, 29-34, 42, 45, 46, 50, 53, 57	7:30 PM	Monday, February 23
Finance Committee: School Budgets & Articles	9-12	7:30 PM	Wednesday, February 25
Board of Selectmen	1, 2, 4-6, 35, 43, 48, 49, 51, 52, 54-56.	7:30 PM	Monday, March 2
Planning Board	36-40, 44, 47	7:30 PM	Wednesday, March 4
Held at the Town House in the Hearing Room			
Finance Committee: Enterprise Funds Budgets & Articles	20-22, 24-28, 41	7:30 PM	Monday, March 23

SPECIAL ARRANGEMENTS OR NEEDS: Anyone with a disability requiring special arrangements for the Public Hearings or Town Meeting should contact Douglas Meagher, Assistant Town Manager/ADA Coordinator at (978) 318-3000.

TOWN MEETING: On Monday, April 27, 2009 at 7:00 PM, Town Meeting will convene at the Concord-Carlisle Regional High School. All registered voters are eligible to attend and vote.

The deadline for unregistered residents to register to vote at the Town Meeting is Wednesday, March 11, 2009. Attendees must check in with the Town Clerk's staff in the lobby. (The section letters along the aisles are used by the Tellers in counting standing votes, but do not relate in any way to the precinct in which a voter resides).

The Moderator, who presides at the Meeting, is elected each year at the Annual Town Election. The Moderator will be on the stage, as will the Town Clerk. The Finance Committee and Selectmen, along with the Town Manager, will be seated at tables at the front of the Auditorium.

The Moderator will call each Article and its sponsor will make a Motion. After the Motion has been seconded, debate will start according to Town Meeting Rules of Order as set forth in the book, Town Meeting Time. The Moderator will recognize the speakers, rule on Motions and amendments with respect to conformance to parliamentary procedure, and call for votes. The recommendations of Town Committees may be made on each Article. For additional information on the conduct of the Meeting, refer to the pamphlet "Concord Town Meeting Traditions and Procedures" which is available from the Town Clerk's office in the Town House or in the lobby as you enter Town Meeting.

Article Three, "Meeting Procedure," has been submitted by the Finance Committee to address the special constraints placed on Town Meeting by "Proposition 2½." Additional information on the Town's status relative to Proposition 2½ will be presented in the Report and Recommendations of the Concord Finance Committee to be published and mailed to all residents in April.

We will again use a Consent Calendar, which is intended to expedite action on Articles that are expected to be non-controversial. (A full explanation will appear in the Finance Committee Report which will be mailed to residents in April.) Also consistent with our recent procedures, certain Articles that attract a high level of community interest may be scheduled for specific dates and times. (Please watch for advance notice in the local media.) Other Articles will be taken up in accordance with the order of the Warrant until the conclusion of the Warrant.

Town Meeting is an important democratic institution open to all Concord registered voters. The procedures are simple, and all have a right to attend and be heard. On each Article you will hear a formal presentation and recommendations from citizen committees. You may speak on the issues if you wish, and then cast your vote. By this process, the decisions made are based on the collective will and wisdom of the Meeting. We encourage your active participation, particularly for those Articles that are of greatest importance to you.

If you would like to serve your community as a volunteer member of a Town Board or Committee, or on a short-term assignment, bring yourself to the attention of the appointing authorities by filling out a "Green Card" and submitting it to the Secretary to the Board of Selectmen in the Town House. See pages 49 and 50 of this Warrant for further information and a tear-out copy of the "Green Card."

Respectfully,
Gregory P. Howes

Stanly E. Black

Virginia McIntyre

Anne D. Shapiro

Jeffrey S. Wieand

Edward N. Perry

MODERATOR

BOARD OF SELECTMEN

**THE COMMONWEALTH OF MASSACHUSETTS
WARRANT FOR THE ANNUAL TOWN MEETING 2009**

Middlesex, ss.

To any of the Constables of the Town of Concord, in said County, Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby required to notify the legal voters of said Town of Concord, qualified to vote at Town Meeting for the transaction of Town affairs, to meet at 7:00 AM, on Tuesday, the thirty-first day of March next, as follows

Those residing in Precinct No. 1 – at 141 Keyes Road, Dept. of Planning & Land Management;

Those residing in Precinct No. 2 - at the Harvey Wheeler Community Center in said Concord;

Those residing in Precinct No. 3 - at the Harvey Wheeler Community Center in said Concord;

Those residing in Precinct No. 4 - at the Ripley School in said Concord;

Those residing in Precinct No. 5 - at the Hunt Gymnasium in said Concord;

by posting a printed copy of this Warrant, by you attested, at the Town House and in at least one public location in each precinct in Concord, at least seven days before the said thirty-first day of March, then and there to act on the following articles:

ARTICLE 1. To bring in their votes on one ballot for the following Town Officers:

One Moderator	for one year
Two for Board of Selectmen	for three years
Two for School Committee	for three years
One for Housing Authority	for five years

The polls will be open at 7:00 AM, and will be closed at 8:00 PM.

You are further required in the name of the Commonwealth of Massachusetts to notify the legal voters of said Town of Concord, as aforesaid, to meet at the Concord-Carlisle Regional High School, 500 Walden Street, in said town, on Monday, the twenty-seventh day of April next, at seven o'clock in the evening, then and there to act upon the following articles:

CHOOSE TOWN OFFICERS

ARTICLE 1. To choose all necessary Town Officers and Committees.

HEAR REPORTS

ARTICLE 2. To hear and act upon the reports of Town Officers and Committees.

MEETING PROCEDURE

ARTICLE 3. To determine whether the Town will adopt a rule of the meeting governing requirements on Motions and amendments to Motions made at this meeting under Articles concerned with expenditures, in order to assure compliance with the requirements of Chapter 59, Section 21C of the Massachusetts General Laws and Acts, and amendments thereof and additions thereto (generally referred to as "Proposition 2 ½"), or take any other action relative thereto.

SECRET BALLOT VOTING PROCEDURE

ARTICLE 4. To determine whether the Town will vote to establish a rule for the 2009 Town Meeting which will permit less than a majority of those present to require that a matter shall be voted on by secret ballot, or take any other action relative thereto.

RATIFY PERSONNEL BOARD CLASSIFICATION ACTIONS

ARTICLE 5. To determine whether the Town will vote to ratify the Personnel Board's actions to amend the Classification and Compensation Plan as follows:

1. Add the classification title of "Recreation Coordinator" to Grade Number MP-3 of the Compensation Plan for Managerial-Professional employees, effective July 1, 2008.
2. Make all other changes to the Classification and Compensation Plan voted by the Personnel Board between January 5, 2009, and April 27, 2009.

or take any other action relative thereto.

PERSONNEL BYLAW AMENDMENT – EMPLOYMENT STATUS DEFINITIONS

ARTICLE 6. To determine whether the Town will vote to amend the Definitions and Employment Status sections of the Personnel Bylaw as follows:

DEFINITIONS

Delete the definitions of "Administrative/Clerical/Library Employees", "Laboring Employees" and "Managerial/Professional Employees."

Delete the definitions of "Limited Status Position", "Regular Position" and "Temporary Position" and replace with the following definitions:

"Limited Status Position" - a position which requires the services of an employee for either uninterrupted or occasional periods for an annual average of less than 20 hours per week and does not require reappointment for each period of work.

"Regular Position" - a year-round, full-time or part-time position of 20 hours or more per week which requires the services of an employee in continuous employment for an indefinite term.

"Temporary Position" - a full-time or part-time position which requires the services of an employee for a temporary period of time.

Section 4. EMPLOYMENT STATUS

Delete the descriptions of “Regular, Part-time”, “Limited Status”, and “Temporary (Full-time or Part-time)” and replace with the following:

Regular, Part-time: Continuous, year-round employment for less than full-time, but at least 20 hours per week.

Limited Status: Employment for uninterrupted or occasional periods for an annual average of less than 20 hours per week that does not require reappointment for each period of work.

Temporary (Full-time or Part-time): Employment in a seasonal position or for a temporary period of time, either on a full-time or part-time basis.

or take any other action relative thereto.

CLASSIFICATION & COMPENSATION PLAN FOR REGULAR-STATUS POSITIONS

ARTICLE 7. To determine whether the Town will vote to amend the Classification and Compensation Plan for all regular-status Town positions by adopting the following schedules to become effective July 1, 2009, or take any other action relative thereto:

CLASSIFICATION AND COMPENSATION PLAN

Effective July 1, 2009

ADMINISTRATIVE-CLERICAL-LIBRARY

Grade Number & Class Title	Minimum	Mid-Point	Maximum
ACL-1 Recreation Clerk	Hourly 15.07	17.71	20.34
ACL-2 Account Clerk Department Clerk Library Assistant Senior Recreation Clerk Utility Account Clerk	Hourly 16.82	19.77	22.71
ACL-3 Branch Library Assistant Circulation Assistant Senior Account Clerk Senior Department Clerk Senior Library Assistant	Hourly 19.07	22.41	25.75
ACL-4 Administrative Assistant Collections Assistant Retirement Assistant Treasury Assistant	Hourly 20.60	24.21	27.81

ACL-5	Hourly	22.02	25.88	29.73
Assistant Town Clerk Human Resources Assistant Senior Administrative Assistant Senior Circulation/Administrative Assistant Technical Services Assistant				

ACL-6	Hourly	22.79	26.78	30.76
Finance Assistant				

ACL-7	Hourly	25.18	29.59	33.99
Executive Assistant to the Town Manager				

TRADES-CRAFTS-LABOR

<u>Grade Number & Class Title</u>		Minimum	Mid-Point	Maximum
TCL-1	Hourly	14.86	17.46	20.06
Building Custodian				
TCL-2	Hourly	16.79	19.73	22.66
Building Maintenance Custodian Laborer/Truck Driver				
TCL-3	Hourly	18.47	21.70	24.93
Building Systems Custodian Cemetery Specialist Equipment Operator Park & Tree Specialist Water/Sewer System Maintainer				
TCL-4	Hourly	20.67	24.29	27.91
Equipment/Line Operator Master Mechanic Park & Tree Specialist (Aerial) Senior Park & Tree Specialist				
TCL-5	Hourly	22.89	26.90	30.90
Cemetery Supervisor Crew Leader Senior Master Mechanic Treatment Systems Operator				
TCL-6	Hourly	25.71	30.21	34.71
Fleet Supervisor				
TCL-7	Hourly	28.53	33.53	38.52
Public Works Supervisor				

MANAGERIAL-PROFESSIONAL

Annual rates are based on 40 hour base week and will be prorated for part-time schedules.

Grade Number & Class Title	Minimum	Mid-Point	Maximum
MP-1	Annual	40,916	59,328
Aquatics Supervisor			
Engineering Aide			
Engineering Technician			
Recreation Supervisor			
Special Collections Assistant			
MP-2	Annual	46,172	66,950
Assistant Aquatics Coordinator			
Assistant Local Inspector			
Assistant Natural Resources Director			
Budget Analyst			
COA Program Supervisor			
Environmental Health Inspector			
Field Lister			
Information Systems Assistant			
Office Accountant			
Public Health Inspector			
Senior Engineering Technician			
Staff Librarian			
Utility Software Coordinator			
Water Conservation Coordinator			
MP-3	Annual	54,483	79,001
Assistant Human Resources Director			
Assistant Public Works Engineer			
Assistant to the Water/Sewer Superintendent			
Assistant Town Accountant/Retirement System Administrator			
Aquatics Coordinator			
Branch Librarian			
Circulation Supervisor			
Civil Engineer			
Energy Services/Communications Administrator			
Environmental & Regulatory Coordinator			
Fitness Coordinator			
GIS Program Coordinator			
Local Inspector			
Management Analyst			
Recreation Coordinator			
Senior Planner			
Supervisor of Children's Services			

MP-4	Annual	58,248	71,354	84,460
Assistant Recreation Director				
Budget & Purchasing Administrator				
Financial Administrator				
Council on Aging Director				
Curator				
Environmental Services Program Administrator				
Natural Resources Director				
Operations Engineer				
Public Services Coordinator				
Public Works Engineer				
Technical Services Coordinator				
Technology Director				
Telecommunications Coordinator				
MP-5	Annual	62,652	76,749	90,846
Assistant Library Director				
Deputy Fire Chief				
Deputy Treasurer/Collector				
Highway & Grounds Superintendent				
Police Lieutenant				
Public Health Director				
Town Clerk				
MP-6	Annual	69,046	84,581	100,116
Building Commissioner				
Deputy Police Chief				
Human Resources Director				
Town Accountant				
Town Appraiser				
Town Engineer				
Water/Sewer Superintendent				
MP-7	Annual	79,061	96,850	114,639
Director of Planning & Land Management				
Library Director				
Recreation Director				
MP-8	Annual	88,083	107,902	127,720
Deputy Town Manager				
Fire Chief				
Police Chief				
Public Works Director				
MP-9	Annual	96,536	118,257	139,977
Finance Director				

ELECTRICAL LABOR

Grade Number & Class Title		Minimum	Mid-Point	Maximum
EL-1 Meter Reader	Hourly	16.63	19.54	22.45
EL-2 Line Worker, Grade 3 Meter Technician	Hourly	20.30	23.85	27.40
EL-3 Line Worker, Grade 2 Utility Electrician	Hourly	25.75	28.33	30.90
EL-4 Lineworker, Grade 1	Hourly	31.98	35.18	38.37
EL-5 Lead Lineworker	Hourly	33.48	36.83	40.17
EL-6 Line Supervisor	Hourly	36.05	39.66	43.26

ELECTRICAL MANAGEMENT

Annual rates are based on 40 hour base week and will be prorated for part-time schedules.

Grade Number & Class Title		Minimum	Mid-Point	Maximum
EM-1 Meter Supervisor	Annual	55,773	65,533	75,293
EM-2 Electrical Engineer	Annual	64,013	75,215	86,417
EM-3 Assistant CMLP Director Engineering & Operations Manager	Annual	76,144	89,469	102,794
EM-4 CMLP Director	Annual	102,924	120,936	138,947

SWIM & FITNESS

Grade Number & Class Title		Minimum	Mid-Point	Maximum
SF-1 Swim/Fitness Specialist	Hourly	8.00	34.00	60.00

or take any other action relative thereto.

TOWN BUDGET

ARTICLE 8. To determine whether the Town will vote to raise and appropriate money for the following necessary and expedient purposes of the Town for the fiscal year ending June 30, 2010, or take any other action relative thereto:

General Fund Operating Budget				
Item No.	Department	Fiscal 2008 Expenditures	Fiscal 2009 Appropriation	Fiscal 2010 Proposal
General Government				
\$2,176,677 is 6.8% of Total				
1	Town Manager's Office			
	A. Town Manager	258,852	306,180	301,977
	B. Town-Wide Building Maintenance	120,000	135,000	135,000
	C. Human Resource Administration	132,930	156,060	155,952
	Total	511,782	597,241	592,929
2	Legal Services	379,794	270,000	250,000
3	Elections and Registrars			
	A. Elections	43,644	49,003	23,706
	B. Registrars	7,505	10,676	10,062
	Total	51,149	59,679	33,768
4	Town Meeting and Reports	64,080	77,800	77,800
5	Planning			
	A. Planning Administration	232,778	230,428	341,652
	B. Board of Appeals	40,231	45,143	45,149
	C. Natural Resources	168,630	185,956	191,141
	D. Inspections	313,571	348,562	349,511
	E. Health	202,120	219,999	223,732
	Total	957,330	1,030,088	1,151,185
6	141 Keys Road	54,702	63,993	70,995
	Total General Government	2,018,838	2,098,800	2,176,677
Finance and Administration				
\$1,653,705 is 5.2% of Total				
7	Finance Committee	1,275	1,275	3,100
8	Finance			
	A. Finance Administration	194,759	272,639	258,545
	B. Treasurer-Collector	213,204	233,560	240,255
	C. Town Accountant	113,560	124,333	124,638
	D. Assessors	252,229	371,513	377,787
	E. Town Clerk	177,932	201,083	206,434
	Total	951,684	1,203,128	1,207,659
9	Information Systems	301,205	355,300	349,089
10	Town House	95,354	93,897	93,857
	Total Finance and Administration	1,349,518	1,653,599	1,653,705

Public Safety				
\$7,154,398 is 22.4% of Total				
11	Police Department	3,284,855	3,669,176	3,610,385
12	Fire Department	2,948,130	3,268,209	3,250,394
13	West Concord Fire Station	45,433	42,071	47,594
14	Police-Fire Station	249,824	266,513	215,064
15	Emergency Management	29,971	15,810	12,810
16	Dog Officer	17,607	17,626	18,151
	Total Public Safety	6,575,819	7,279,405	7,154,398
Public Works and Facilities				
\$3,341,601 is 10.5% of Total				
17	Public Works			
	A. CPW Administration	137,996	146,318	146,060
	B. Engineering	326,449	411,661	304,373
	C. Highway Maintenance	1,016,005	1,079,709	1,083,487
	D. Parks and Trees	516,401	516,349	544,733
	E. Cemetery	57,063	64,377	66,653
	Total	2,053,913	2,218,414	2,145,306
18	Snow and Ice Removal	803,665	452,000	455,000
19	Street Lighting	59,605	62,660	64,120
20	CPW Equipment	265,000	278,000	278,000
21	Drainage Program	160,000	105,000	205,000
22	Sidewalk Management	90,000	90,000	100,000
23	133/135 Keyes Road	95,477	95,280	94,175
	Total Public Works and Facilities	3,527,661	3,301,354	3,341,601
Human Services				
\$2,398,632 is 7.5% of Total				
24	Library	1,592,482	1,769,465	1,781,235
25	Recreation Administration	82,308	94,731	94,731
26	Hunt Recreation Center	85,009	130,717	75,508
27	Harvey Wheeler Community Ctr.	119,115	126,846	131,456
28	Council on Aging	202,404	219,996	229,177
29	Veterans	31,164	30,334	31,668
30	Ceremonies and Celebrations	23,844	23,865	23,650
31	Visitors' Center and Restroom	25,700	28,414	31,207
	Total Human Services	2,162,026	2,424,369	2,398,632

Unclassified				
\$947,000 is 3.0% of Total				
32	Town Employee Benefits			
	A. Unused Sick Leave	42,367	60,000	60,000
	B. Public Safety Disability	1,898	4,000	4,000
	C. Employee Assistance Program	7,650	8,000	8,000
	Total	51,915	72,000	72,000
33	Reserve Fund*	-	225,000	225,000
	*Transfers totaling \$183,709 were made to other accounts in Fiscal Year 2008			
34	Salary Reserve**	60,000	50,486	550,000
	**Transfers totaling \$365,858 in Fiscal Year 2008 and \$549,514 in Fiscal Year 2009 (to date) were made to other accounts			
35	Land Fund	-	-	15,000
36	Road Improvements	80,000	85,000	85,000
	Total Unclassified	191,915	432,486	947,000
SUBTOTAL FOR REFERENCE ONLY Account 1-42		15,825,777	17,190,013	17,672,013
Joint (Town - CPS)				
\$14,281,119 is 44.7% of Total				
37	Insurance			
	A. Group Insurance	3,600,000	3,845,000	4,152,600
	B. Property/Liability	225,000	225,000	200,000
	Total	3,825,000	4,070,000	4,352,600
38	Unemployment/Workers' Comp.			
	A. Unemployment Comp.	74,079	100,000	100,000
	B. Workers' Comp.	51,934	100,000	100,000
	Total	126,014	200,000	200,000
39	Retirement	2,380,000	2,450,000	2,500,000
40	Social Security and Medicare	494,879	510,000	545,000
41	Debt Service			
	A. Long-Term Debt			
	Town Principal and Interest	1,816,152	2,051,183	2,027,885
	School Principal and Interest	830,271	773,271	991,461
	Subtotal	2,646,423	2,824,454	3,019,346
	Interest on Notes and Other Debt Expense	134,750	275,546	130,654
	Subtotal Within Levy Limit	2,781,173	3,100,000	3,150,000
	B. Excluded Debt	2,550,432	3,247,193	3,533,519
	Total Debt Service	5,331,605	6,347,193	6,683,519
	Total Joint (Town - CPS)	12,157,497	13,577,193	14,281,119
	Total Appropriation	27,983,274	30,767,206	31,953,132

That the appropriation for equipment under these various line items is to be expended by the Town Manager. The Town Manager is authorized to turn in or sell at public auction the surplus equipment, the amount allowed or received therefor to be applied against the purchase of new equipment;

That the sum of \$14,000, state aid to libraries, be transferred to the use of the Library Committee for the purchase of books, periodicals, and subscriptions;

That the Town appropriate and transfer the sum of \$500 from the dog inoculation fees reserve account for the cost of the Board of Health's rabies clinic;

That the appropriation for salary reserve under line item 34 shall be transferred by the Town Manager to the various salary line items in accordance with salary levels established at July 1, 2009 and thereafter pursuant to the salary schedules adopted under Article 7, the implementation of the merit pay plan in accordance with Section 10.2 (2) of the Personnel Bylaws, and collective bargaining agreements. Any such transfers shall be reported periodically by the Town Manager to the Board of Selectmen and the Finance Committee, and a final report shall be issued when all such transfers have been completed for the fiscal year;

That the Town Manager is authorized to enter into inter-municipal agreements for joint provision of public services with one or more cities, towns, or districts pursuant to Chapter 40, Section 4A of the Massachusetts General Laws and Acts and report such agreements to the Board of Selectmen and Finance Committee:

That the Town authorize the sum of \$10,852.24 to be expended from the Title 5 Septic Loans Betterments reserve account to meet the loan payment to the Massachusetts Water Pollution Abatement Trust #T5-1070 due and payable during FY 2010, pursuant to Article 46 of 1997 and the loan totaling \$195,089 issued on July 24, 2003.

PUBLIC SCHOOL BUDGET

ARTICLE 9. To determine whether the Town will vote to raise and appropriate money for the following necessary and expedient purposes of the public schools of the Town for the fiscal year ending June 30, 2010, or take any other action relative thereto:

SCHEDULE A - PUBLIC SCHOOL BUDGET				
Item No.	Department	Fiscal 2008 Adopted	Fiscal 2009 Adopted	Fiscal 2010 School Committee
1	Concord Public Schools Budget/Appropriation	\$26,423,840	\$27,206,200	\$27,699,200

REGIONAL SCHOOL BUDGETS

ARTICLE 10. To determine whether the Town will vote to raise and appropriate money for the following necessary and expedient purposes of the Concord-Carlisle Regional School District and for the Minuteman Vocational Technical Regional School District for the fiscal year ending June 30, 2010, or take any other action relative thereto:

SCHEDULE A - CONCORD-CARLISLE REGIONAL HIGH SCHOOL AND MINUTEMAN REGIONAL HIGH SCHOOL BUDGETS				
Item No.	Department	Fiscal 2008 Adopted	Fiscal 2009 Adopted	Fiscal 2010 School Committee
1	Concord-Carlisle Regional High School Budget Assessment	\$20,365,127 \$12,667,974	\$21,381,332 \$13,488,028	\$22,494,531 \$14,082,173*
*(includes \$13,542,934 assessment for operating budget and \$539,239 assessment for debt exclusion)				
Item No.	Department	Fiscal 2008 Adopted	Fiscal 2009 Adopted	Superintendent's Proposed Budget & Fiscal 2010 Assessment
2	Minuteman Regional High School Budget Assessment	16,745,769 604,702	17,001,622 486,660	17,496,001 (est.) 590,000

CONCORD PUBLIC SCHOOLS RENOVATIONS

ARTICLE 11. To determine whether the Town will vote to raise and appropriate or transfer from available funds in the treasury, or authorize the Town Treasurer with the approval of the Board of Selectmen to borrow by the issuance of bonds or notes under provisions of Chapter 44 Section 7(3A) and 7(9) of the Massachusetts General Laws and Acts, the sum of \$600,000, or any other sum, to be expended under the direction of the School Committee, for remodeling, reconstructing and extraordinary repairs, and related work and equipment at various Concord Public School facilities, or take any other action relative thereto.

CCRS D IMPROVEMENTS

ARTICLE 12. To determine whether the Town will vote to approve the sum of \$750,000, or any other sum, of debt authorized by the Concord-Carlisle Regional School Committee by vote of December 9, 2008, for the purposes of repair and renovation to the school, improvements to safety systems, and to address and plan remediation of space constraints; provided that the amounts required to pay the Town's assessable share of the bonds to be issued by the Concord-Carlisle Regional School District are voted by the Town to be exempt from the limitation of taxes imposed by Chapter 59, Section 21C, of the Massachusetts General Law and Acts, in accordance with clause (k) of said section, or take any other action relative thereto.

APPROPRIATION FROM FREE CASH TO STABILIZATION FUND

ARTICLE 13. To determine whether the Town will vote to appropriate from the certified free cash balance of June 30, 2008 the sum of \$1,000,000 and transfer said sum as of July 1, 2009 into the elementary school debt stabilization fund established under Article 10 of the 2008 Annual Town Meeting, or take any other action relative thereto.

FREE CASH USE

ARTICLE 14. To determine whether the Town will vote to authorize and direct the Assessors to take \$600,000, or any other sum, from free cash to reduce the tax levy for the fiscal year ending June 30, 2010, or take any other action relative thereto.

UNPAID BILLS

ARTICLE 15. To determine whether the Town will vote to raise and appropriate or transfer from available funds in the treasury, monies to pay the unpaid bills of prior years, or take any other action relative thereto.

PROPERTY TAX EXEMPTION

ARTICLE 16. To determine whether the Town will vote to accept the provisions of Section 4 of Chapter 73 of the Acts of 1986 as amended by Chapter 126 of the Acts of 1988, and further to act under the aforesaid statutes to increase by 100% the amount of property tax exemption granted to persons who qualify for said exemption under clauses 17D, 22, 22A, 22B, 22C, 22D, 22E, 37A, and 41C of Section 5 of Chapter 59 of the Massachusetts General Laws and Acts, and amendments thereof and additions thereto, or take any other action relative thereto.

TAX DEFERRAL INCOME LIMITS USING STATE CIRCUIT BREAKER CRITERIA

ARTICLE 17. To determine whether the Town will vote to increase the gross receipts that seniors may have in the prior calendar year to be eligible to defer property taxes under Massachusetts General Laws and Acts Chapter 59, Section 5, Clause 41A from \$40,000 to 100% of the amount established annually by the Commissioner of Revenue as the income limit for single seniors who are not heads of households to qualify for the "circuit breaker" state income tax credit for the preceding state tax year, with such increase to be effective for deferrals granted for taxes assessed for any fiscal year beginning on or after July 1, 2009, or take any other action relative thereto.

CLAUSE 17D TAX EXEMPTION COST OF LIVING ADJUSTMENT

ARTICLE 18. To determine if the Town will vote to accept the provisions of Massachusetts General Laws and Acts Chapter 59, section 5, clause 17E, effective with the fiscal year beginning July 1, 2009, which would adjust the "whole estate" eligibility condition for a property tax exemption under clause 17D by annually increasing this threshold (currently not to exceed \$40,000, exclusive of domicile) by an amount equal to 100% of the increase in the Consumer Price Index published by the United States Department of Labor, Bureau of Labor Statistics for such year, as reported to the Town by the Commonwealth of Massachusetts Department of Revenue, or take any other action relative thereto.

CLAUSE 41C TAX EXEMPTION COST OF LIVING ADJUSTMENT

ARTICLE 19. To determine if the Town will vote to accept the provisions of Massachusetts General Laws and Acts Chapter 59, section 5, clause 41D, effective with the fiscal year beginning July 1, 2009, which would adjust the “gross receipts” and “whole estate” eligibility conditions for a property tax exemption under clause 41C by annually increasing these thresholds (currently: gross receipts of less than \$20,000 if single, \$30,000 if married; whole estate of less than \$40,000 if single, \$55,000 if married, exclusive of domicile) by an amount equal to 100% of the increase in the Consumer Price Index published by the United States Department of Labor, Bureau of Labor Statistics for such year, as reported to the Town by the Commonwealth of Massachusetts Department of Revenue, or take any other action relative thereto.

LIGHT PLANT DEPLOYMENT OF SMART GRID

ARTICLE 20. To determine whether the Town will vote to authorize the Town Treasurer with the approval of the Board of Selectmen, to borrow by the issuance of bonds or notes under the provisions of Chapter 44, Section 8(8) of the Massachusetts General Laws and Acts, the sum of \$4,500,000 or any other sum to be repaid from revenues of the Light Plant, said monies to be expended under the direction and control of the Town Manager for the purpose of designing, purchasing and installing a Smart Grid system which will, among other things, improve energy conservation in the Town, or take any other action relative thereto.

LIGHT PLANT PAYMENT IN LIEU OF TAXES

ARTICLE 21. To determine whether the Town will vote to authorize a transfer of \$355,000, or any other sum, from the Operating Fund of the Light Plant to be used by the Board of Assessors to reduce the tax levy for the fiscal year ending June 30, 2010, or take any other action relative thereto.

LIGHT PLANT EXPENDITURES

ARTICLE 22. To determine whether the Town will vote that the income from sales of electricity and from servicing and jobbing during the ensuing fiscal year together with the balance of operating cash in the Light Plant Fund, be expended without further appropriation under the direction and control of the Town Manager for the expenses of the Light Plant for said fiscal year, as defined in Section 57 of Chapter 164 of the Massachusetts General Laws and Acts, and amendments thereof and additions thereto; and/or for other plant extensions, enlargements, additions, renewals and reconstruction, or take any other action relative thereto.

ROAD REPAIR REVOLVING FUND EXPENDITURES

ARTICLE 23. To determine whether the Town will vote that the income from fees paid by applicants to the Town for permits to dig up, alter, or disturb a public way in accordance with the Motion passed under Article 47 of the 1992 Annual Town Meeting, in an amount not to exceed the sum of \$120,000, or any other sum, be expended without further appropriation for the purpose of repairing, restoring, maintaining and inspecting public ways, to be managed and expended by the Town Manager in accordance with Chapter 44, Section 53 E ½ of the Massachusetts General Laws and Acts, or take any other action relative thereto.

SOLID WASTE DISPOSAL FUND EXPENDITURES

ARTICLE 24. To determine whether the Town will vote that the income from user fees for solid waste disposal services, associated services, and jobbing services by Concord Public Works during the ensuing fiscal year, together with the balance of operating cash in the Solid Waste Disposal Fund, be expended without further appropriation under the direction and control of the Town Manager in accordance with the Motion passed under Article 27 of the 1989 Annual Town Meeting, or take any other action relative thereto.

SEWER SYSTEM EXPENDITURES

ARTICLE 25. To determine whether the Town will vote that the income from user fees, special service fees and jobbing services by the Water and Sewer Division of Concord Public Works during the ensuing fiscal year, together with the balance of operating cash in the Sewer Fund be expended without further appropriation under the direction and control of the Town Manager in accordance with the Motion passed under Article 37 of the 1976 Annual Town Meeting, or take any other action relative thereto.

SEWER IMPROVEMENT FUND EXPENDITURES

ARTICLE 26. To determine whether the Town will vote that the income from sewer improvement fees during the ensuing fiscal year, together with the balance of operating cash in the Sewer Improvement Fund, be expended without further appropriation under the direction and control of the Town Manager in accordance with the Motion passed under Article 25 of the 1989 Annual Town Meeting and applicable state enabling statutes, or take any other action relative thereto.

WATER SYSTEM EXPENDITURES

ARTICLE 27. To determine whether the Town will vote that the income from user fees, special service fees, and jobbing services by the Water and Sewer Division of Concord Public Works during the ensuing fiscal year, together with the balance of operating cash in the Water Fund, be expended without further appropriation under the direction and control of the Town Manager in accordance with the Motion passed under Article 38 of the 1974 Annual Town Meeting, or take any other action relative thereto.

BEEDE SWIM & FITNESS CENTER ENTERPRISE FUND; FY 2010 BUDGET

ARTICLE 28. To determine whether the Town will vote to appropriate the amount required for the total expenses of the Community Pool Enterprise Fund for the fiscal year beginning July 1, 2009 (FY2010) for the operation of the Community Pool, in accordance with Chapter 44, section 53F ½ of the Massachusetts General Laws and Acts, said funds to be expended under the direction of the Town Manager, or take any other action relative thereto.

2009 ROAD PROGRAM

ARTICLE 29. To determine whether the Town will vote to appropriate the sum of \$700,000, or any other sum, for the reconstruction or renovation of roads and streets within the town; and that to meet said appropriation, the Treasurer with the approval of the Board of Selectmen be authorized to borrow the sum of \$700,000, or any other sum, under the provisions of Chapter 44, Sections 7(5) and/or 7(6) of the Massachusetts General Laws and Acts, said funds to be expended under the direction of the Town Manager; and further that the Town Manager be authorized to accept and expend state and/or county grants as may be available for the same purpose, and that the Treasurer, with the approval of the Board of Selectmen, be authorized to borrow up to the amount stipulated in such grant or grants under the provisions of Chapter 44, Sections 6 and/or 6A, of the Massachusetts General Laws and Acts, in anticipation of reimbursement of this amount, or take any other action relative thereto.

CONSIDER FUNDING OUR PUBLIC WORKS PROJECTS PUBLICLY – By Petition

ARTICLE 30. To determine whether the Town of Concord will petition its Congressional representatives to establish a process to make available to counties and municipalities funds that will allow Concord to fund our public works projects (e.g. roads, bridges, schools, sewage systems) publicly, in the form of interest-free loans of monies directly from our US Treasury.

Such issuances of public money are accordance with our US Constitution*, as well as earlier acts of Massachusetts' legislative body and of our US Congress. Lincoln's issuance of US Notes is an outstanding example that pulled us through the war and lead to the rebuilding of our economy. Such loans from the Treasury would save us from having to resort to the private bond market, where we end up paying for such projects 2-3 times over due to interest payments to private parties. Or take any other action relative thereto.

*"Congress shall have the Power....To coin Money, [and] regulate the Value thereof..." Article 1, section 8, paragraph 5

SIDEWALK EXTENSIONS - NEW CONSTRUCTION

ARTICLE 31. To determine whether the Town will vote to appropriate the sum of \$250,000, or any other sum, for the construction, reconstruction and extension of sidewalks at various locations within the town; and that to meet said appropriation, the Treasurer with the approval of the Board of Selectmen be authorized to borrow the sum of \$250,000, or any other sum, under the provisions of Chapter 44, Section 7(6) of the Massachusetts General Laws and Acts, said funds to be expended under the direction of the Town Manager; and further that the Town Manager be authorized to accept and expend state and/or county grants as may be available for the same purpose, and that the Treasurer, with the approval of the Board of Selectmen, be authorized to borrow up to the amount stipulated in such grant or grants under the provisions of Chapter 44, Sections 6 and/or 6A, of the Massachusetts General Laws and Acts, in anticipation of reimbursement of this amount; or take any other action relative thereto.

**TRAFFIC SIGNALIZATION AND INTERSECTION IMPROVEMENTS – THOREAU STREET
AND SUDBURY ROAD**

ARTICLE 32. To determine whether the Town will vote to appropriate the sum of \$150,000, or any other sum, for the installation of traffic signals and controls of the intersection of Sudbury and Thoreau Roads; and that to meet said appropriation, the Treasurer with the approval of the Board of Selectmen be authorized to borrow the sum of \$150,000, or any other sum, under the provisions of Chapter 44, Section 7(14) of the Massachusetts General Laws and Acts, said funds to be expended under the direction of the Town Manager; and further that the Town Manager be authorized to accept and expend state and/or county grants as may be available for the same purpose, and that the Treasurer, with the approval of the Board of Selectmen, be authorized to borrow up to the amount stipulated in such grant or grants under the provisions of Chapter 44, Sections 6 and/or 6A, of the Massachusetts General Laws and Acts, in anticipation of reimbursement of this amount; or take any other action relative thereto.

CAMBRIDGE TURNPIKE DESIGN – ROADWAY AND DRAINAGE IMPROVEMENTS

ARTICLE 33. To determine whether the Town will vote to appropriate the sum of \$300,000, or any other sum, for the cost of engineering services in connection with the State's Cambridge Turnpike – Crosby Corner project (Route 2 and Route 2A intersection at the Lincoln border); and that to meet said appropriation, the Treasurer with the approval of the Board of Selectmen be authorized to borrow the sum of \$300,000, or any other sum, under the provisions of Chapter 44, Section 7(22) of the Massachusetts General Laws and Acts, said funds to be expended under the direction of the Town Manager; and further that the Town Manager be authorized to accept and expend state and/or county grants as may be available for the same purpose, and that the Treasurer, with the approval of the Board of Selectmen, be authorized to borrow up to the amount stipulated in such grant or grants under the provisions of Chapter 44, Sections 6 and/or 6A, of the Massachusetts General Laws and Acts, in anticipation of reimbursement of this amount; or take any other action relative thereto.

COMMUNITY PRESERVATION COMMITTEE APPROPRIATION RECOMMENDATIONS

ARTICLE 34. To determine whether the Town will vote to appropriate the sum of \$1,352,892.54 from the Concord Community Preservation Fund, of which \$84,000 shall be appropriated from the undesignated fund balance as of June 30, 2009, \$103,892.54 from funds previously allocated to the Housing Reserve funds and \$1,165,000 from projected Fiscal Year 2010 Fund Revenues, in accordance with Massachusetts General Laws, Chapter 44B, to be expended under the direction of the Town Manager as follows:

Item	Project/Description	Amount	Category	Source of Funds		
				Prior Year Fund Balance	Prior Year Reserve Funds	FY10 CPA Fund Revenues
A	Concord Housing Authority - Peter Bulkeley Terrace Renovations	\$500,000	Community Housing		\$103,892.54 (Housing Reserve)	\$396,107.46
B	Thoreau Farm Trust - Thoreau Farm Landscape Restoration	10,000	Open Space			10,000
C	Town of Concord - Monument Street/Hutchins Farm Retaining Wall Restoration	112,500	Historic Preservation			112,500

Item	Project/Description	Amount	Category	Source of Funds		
				Prior Year Fund Balance	Prior Year Reserve Funds	FY10 CPA Fund Revenues
D	Concord Free Public Library - Thoreau Books Collection	22,500	Historic Preservation			22,500
E	Bruce Freeman Rail Trail Advisory Committee - Bruce Freeman Rail Trail	125,000	Open Space (20%), Recreation (80%)			125,000
F	Concord Art Association Access Project	122,000	Historic Preservation			122,000
G	Town of Concord - Town House Accessible Entrance	47,700	Historic Preservation			47,700
H	Friends of the Performing Arts (FOPAC) 51 Walden Street Window Restoration	8,000	Historic Preservation	4,000		4,000
I	Concord Scout House, Inc. - Roof Eaves and Wall Restoration	25,000	Historic Preservation			25,000
J	Save Our Heritage - Col. Barrett Farmhouse Restoration	100,000	Historic Preservation			100,000
K	Orchard House Restoration Phase II	50,000	Historic Preservation	50,000		0
L	Town of Concord - W. Concord Fire Station Exterior Restoration	23,000	Historic Preservation			23,000
M	Concord Housing Dev. Corp. - 1245 Elm Street Housing Development	75,000	Community Housing			75,000
N	Town of Concord - Planning Document Update	12,000	Community Housing			12,000
O	Town of Concord - Administrative Expenses	30,000	Administrative	30,000		0
P	Open Space Reserve Fund	90,192.54	Open Space			90,192.54
Total		\$1,352,892.54		\$84,000	\$103,892.54	\$1,165,000

or take any other action relative thereto.

AUTHORIZATION OF LONG-TERM LEASE OF FORMER EMERSON HIGH SCHOOL BUILDING

ARTICLE 35. To determine whether the Town will vote to authorize the Town Manager to enter into a long-term lease agreement , subject to terms and conditions approved by the Board of Selectmen, for the property at 40 Stow Street, the former Emerson High School Building, shown on the Assessors maps as parcel # 0809, for the purpose of continuing the use of that facility as a center for artists and art programs in Concord, and further to authorize the Selectmen and Town Manager to take such action as may be necessary under State law to effectuate said lease, or take any other action relative thereto.

**ZONING BYLAW AMENDMENT
NONCONFORMING USES AND STRUCTURES**

ARTICLE 36. To determine whether the Town will vote to amend Zoning Bylaw Section **7.1 Nonconforming Uses** by deleting the section in its entirety and inserting the following new Section **7.1 Nonconforming Uses and Structures**:

7.1.1 Applicability. This zoning bylaw shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by G.L. c. 40A, s. 5 at which this zoning bylaw, or any relevant part thereof or amendment thereto, was adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no change or substantial extension of such use or any reconstruction, extension or structural change of such structure or any alteration of a structure for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent is undertaken, unless authorized hereunder:

7.1.2 Nonconforming uses. The Board may grant a special permit to change or substantially extend a nonconforming use in accordance with this section only if it determines that such change or substantial extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.

7.1.3 Nonconforming structures. The Board may grant a special permit to reconstruct, extend, alter, or change a nonconforming structure in accordance with this section only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The following types of changes to nonconforming structures may be considered by the Board:

- (a) Reconstructed, extended or structurally changed;
- (b) Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent.

7.1.4 Variance required. Except as provided in subsection 7.1.5, below, the reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, shall require the issuance of a variance. The extension of an exterior wall at or along the same nonconforming distance within a required yard shall require a special permit from the Board.

7.1.5 Nonconforming single and two family residential structures. Nonconforming single and two family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the Building Inspector that such proposed reconstruction, extension, alteration, or structural change does not increase the nonconforming nature of said structure. Where the proposed extension does not increase the square feet contained within the existing structure by more than fifty percent (50%), the following circumstances shall not be deemed to increase the nonconforming nature of said structure:

- (a) alteration to a structure located on a lot with insufficient area which alteration complies with all current setback, yard, building coverage, and building height requirements.
- (b) alteration to a structure located on a lot with insufficient frontage which alteration complies with all current setback, yard, building coverage, and building height requirements.
- (c) alteration to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, yard, building coverage and building height requirements.

In all other cases, the Board may, by special permit, allow such reconstruction, extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

7.1.6 *Abandonment or non-use.* A nonconforming use or structure which has been abandoned, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this zoning bylaw.

7.1.7 *Reconstruction after catastrophe or involuntary demolition.* A nonconforming structure may be reconstructed after a catastrophe or after involuntary demolition in accordance with the following provisions:

- (a) Reconstruction of said premises shall commence within two years after such catastrophe or involuntary demolition.
- (b) Building(s) as reconstructed shall be located on the same footprint as the original nonconforming structure, and shall be only as great in volume and area as the original nonconforming structure.
- (c) In the event that the proposed reconstruction would (i) cause the structure to exceed the volume or area of the original nonconforming structure or (ii) cause the structure to be located other than on the original footprint, a special permit shall be required from the Board.

7.1.8 *Reversion to nonconformity.* No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

Or take any other action relevant thereto.

ZONING BYLAW AMENDMENT FLEXIBLE DEVELOPMENT

ARTICLE 37. To determine whether the Town will vote to delete Zoning Bylaw Section **10. Planned Residential Development (PRD)** in its entirety and substitute the following new Section **10. Flexible Development**, as follows:

10. FLEXIBLE DEVELOPMENT

10.1 Purpose. Flexible Development allows by special permit from the Planning Board an alternative pattern of residential development. The purpose of this section is to:

- a) encourage the preservation of open land for its scenic beauty and to enhance agricultural, open space, forestry, and recreational use;
- b) preserve historical and archeological resources;
- c) protect the natural environment, including the Town's varied landscapes and water resources;
- d) protect the value of real property;
- e) promote more sensitive siting of buildings and infrastructure to provide better overall site planning;
- f) perpetuate the appearance of the Town's traditional New England landscape;
- g) facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;
- h) offer an alternative to standard subdivision development;
- i) promote the development of housing affordable to low and moderate income families;

- j) promote the development of housing options for persons in changed circumstances; and
- k) provide a mechanism to allow greater density where the situation is warranted.

10.2 Definitions. The following terms shall have the following definitions for the purposes of this section:

1. "Contiguous open space" shall mean open space suitable, in the opinion of the Planning Board, for the purpose set forth in this Section 10. Such open space may be separated by the road(s) constructed within the Flexible Development. Contiguous open space shall not include required yards.
2. "Recreational use" shall mean an outdoor recreational activity that does not change the topography or landscape and includes, but is not limited to, hiking, swimming, fishing, equestrian trail riding or hunt, nature study, etc.
3. "Affordable to persons or families qualifying as low income" shall mean affordable to persons in the area under the applicable guidelines of the Commonwealth of Massachusetts Department of Housing and Community Development earning less than 50% of the median income.
4. "Affordable to persons or families qualifying as moderate income" shall mean affordable to persons in the area under the applicable guidelines of the Commonwealth of Massachusetts Department of Housing and Community Development earning more than 50% but less than 80% of the median income.

10.3 Applicability. In accordance with the following provisions, a Flexible Development project may be created, whether a subdivision or not, from any parcel or set of contiguous parcels held in common ownership and located entirely within the Town.

10.4 Procedures. Flexible Development may be authorized upon the issuance of a special permit by the Planning Board. Any person who desires a special permit for Flexible Development shall submit an application in writing in such form as the Board may require and provide supporting plans and details, which shall include the following:

- a) A conventional plan showing the Basic Maximum Number of dwelling units conforming to the requirements for a Preliminary plan as set forth in the Subdivision Rules and Regulations of the Planning Board and in full conformance with, and without waivers from, all zoning requirements, subdivision regulations, health regulations, wetlands regulations and other applicable requirements;
- b) A development plan conforming to the requirements for a Definitive plan as set forth in the Subdivision Rules and Regulations of the Planning Board;
- c) Where wetland delineation is in doubt or dispute, the Applicant shall provide appropriate documentation.
- d) Data on proposed wastewater disposal, which shall be referred to a consulting engineer for review and recommendation.
- e) The Planning Board may also require any additional information necessary to make determinations and assessments cited herein.

10.5 Design Consideration. Each development plan shall follow the Design Process outlined below. When the development plan is submitted, applicants shall be prepared to demonstrate to the Planning Board that this Design Process was considered in determining the layout of proposed streets, house lots, and contiguous open space.

10.5.1 *Understanding the Site.* The first step is to inventory existing site features, taking care to identify sensitive and noteworthy natural, scenic and cultural resources on the site, and to determine the connection of these important features to each other.

10.5.2 *Evaluating Site Context.* The second step is to evaluate the site in its larger context by identifying physical (e.g., stream corridors, wetlands), transportation (e.g., public transit, road and bicycle networks), and cultural (e.g., recreational opportunities) connections to surrounding land uses and activities.

10.5.3 *Designating the Contiguous Open Space.* The third step is to identify the contiguous open space to be preserved on the site. Such open space should include the most sensitive and noteworthy resources of the site, and, where appropriate, areas that serve to extend neighborhood open space networks.

10.5.4 *Location of Development Areas.* The fourth step is to locate building sites, on-site wastewater disposal areas, streets, parking areas, paths and other built features of the development. The design should include a delineation of private yards, public streets and other areas, and shared amenities, so as to reflect and integrated community.

10.5.5 *Lot lines.* Lots, if applicable, shall be laid out in a manner that provides land associated with each dwelling unit, which can be readily used by the owner.

10.6 *Modification of Lot Requirements.* The Planning Board may allow modification of lot size, shape, and other dimensional requirements for lots within a Flexible Development, subject to the following limitations:

- a) Lots having reduced area or frontage shall not have frontage on a street other than a street created by the Flexible Development; provided, however, that the Planning Board may waive this requirement where it is determined that such reduced lot(s) are consistent with existing development patterns in the neighborhood.
- b) Each lot shall have at least 50% of the required front, side and rear yard dimensions of the underlying zoning district. The Buffer Area required under subsection 10.11. 6 below cannot be sued to meet the required front, side and rear yard dimensions.

10.7 *Basic Maximum Number of Dwelling Units.* The Basic Maximum Number of dwelling units allowed in a Flexible Development shall equal the number of lots which could be developed upon the site under a conventional plan in full conformance with, and without waivers from, all zoning requirements, subdivision regulations, health regulations, wetlands regulations and other applicable requirements. The Applicant shall have the burden of proof with regard to the design and engineering specifications for such conventional plan.

10.8 *Density Bonus.* The Planning Board may award a density bonus to increase the number of dwelling units beyond the Basic Maximum Number. The density bonus for the Flexible Development shall not, in the aggregate, be more than two times the Basic Maximum Number, except as provided in section 10.9. Computations shall be rounded to the lowest number. A density bonus may be awarded in the following circumstances:

10.8.1 For each additional five percent (5%) of the site more than the open space required below and set aside pursuant to and consistent with subsection 10.10.4 as contiguous open space that is accessible to and by the public, a bonus of five (5%) percent of the Basic Maximum Number, up to twenty-five percent (25%), may be awarded;

10.8.2 For every building that is not a single-family detached unit, one (1) dwelling unit may be added as a density bonus up to twenty-five percent (25%) of the Basic Maximum Number.

10.8.3 For every dwelling unit that is a one bedroom unit, one (1) dwelling unit may be added as a density bonus up to twenty-five percent (25%) of the Basic Maximum Number may be awarded.

10.8.4 Where the Planning Board determines that the Applicant has prepared a development plan that offers significant amenities and superior design to the residents and/or to the Town, including but not limited to sustainable design, meeting LEED certifiable standards, fully handicapped accessible, and/or environmentally sensitive, a bonus of up to twenty-five percent (25%) of the Basic Maximum Number may be awarded.

10.9 *Affordable Housing Bonus.* The Planning Board may award a density bonus of one additional dwelling unit for every unit built in excess of the Minimum Required Affordable Housing units. This density bonus may exceed two times the Basic Maximum Number, irrespective of the limitation in section 10.8.

10.10 *Minimum Required Affordable Housing.* As a condition of the grant of any special permit for a Flexible Development, a minimum of the total number of dwelling units (the sum of the Basic Maximum Number plus the density bonus units) shall be restricted in perpetuity, as follows:

1. Ten percent (10 %) of the units shall be affordable to persons or families qualifying as low income; or
2. Fifteen percent (15 %) of the units shall be affordable to persons or families qualifying as moderate income.

10.11 *Design Standards.*

10.11.1 *Variety of Buildings.* The Flexible Development may consist of any combination of single-family, two-family, and multifamily residential structures. The architecture of all multifamily buildings shall be residential in character and scale. Not more than eight (8) dwelling units shall be located in a multifamily building.

10.11.2 *Roads.* The principal roadway(s) serving the site shall be designed to conform to the standards of the Town where the roadway is intended for acceptance by the Town. Private ways shall be adequate for the intended use and vehicular traffic and shall be maintained by and association of unit owners or by the Applicant.

10.11.3 *Parking.* Each dwelling unit shall be served by two (2) off-street parking spaces, unless the Planning Board determines that less parking will suffice without detriment to the neighborhood.

10.11.4 *Contiguous Open Space.* A minimum of forty percent (40%) of the parcel shown on the development plan shall be contiguous open space. Any proposed Contiguous Open Space, unless conveyed to the Town, or its Natural Resources Commission, shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in an open state and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

- a) The percentage of the Contiguous Open Space that is wetlands shall not exceed the percentage of the tract that is wetlands; provided, however, that the Applicant may include a greater percentage of wetlands in such open space upon a determination satisfactory to the Planning Board that such inclusion promotes the purposes set forth in subsection 10.1, herein. In no case shall the wetlands constitute more than fifty percent (50%) of the Contiguous Open Space.

- b) The Contiguous Open Space may be used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, or forestry, or for a combination of these uses, and shall be served by suitable access for such purposes.
- c) The Contiguous Open Space shall remain undeveloped, provided that the Planning Board may permit up to five percent (5%) of such open space to be paved or built upon for structures accessory to the dedicated use or uses of the open space such as for pedestrian walks, bike paths, or parking.
- d) Underground utilities to serve the Flexible Development site may be located within the Contiguous Open Space.

10.11.5 Ownership of the Contiguous Open Space. The Contiguous Open Space shall, at the Planning Board's election, be conveyed to:

- a) the Town or its Natural Resources Commission;
- b) a nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above; or,
- c) a corporation or trust owned jointly or in common by the owners of lots within the Flexible Development. If such corporation or trust is utilized, ownership thereof in perpetuity shall pass with conveyance of the lots. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust, which shall provide for mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the Town to perform maintenance of such open space and facilities in the event the trust or corporation fails to provide adequate maintenance, and shall grant the Town an easement for this purpose. In such event, the Town shall first provide fourteen (14) days written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the Town may perform such maintenance and shall assess the cost of performing such maintenance to the trust or corporation. Each individual deed, and the deed for such open space, as well as the trust or articles of incorporation, shall include provisions designed to effect these provisions. The initial deeds for the lots and such open space and the documents creating such trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded.

10.11.6 Buffer Areas. A buffer area of twenty-five feet (25 ft.) shall be provided at the perimeter of the property where it abuts residentially zoned or occupied properties. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance. The Planning Board may waive, or reduce, the buffer requirement (i) where the land abutting the site is the subject of a permanent restriction for conservation or recreation; or (ii) where the land abutting the site is held by the Town for conservation or recreation purposes; or (iii) the Planning Board determines that a smaller buffer will suffice to accomplish the objectives set forth herein.

10.11.7 Stormwater Management. Stormwater management shall be consistent with the requirements for subdivisions set forth in the Rules and Regulations of the Planning Board.

10.12 Decision. The Planning Board may approve, approve with conditions, or deny an application for a Flexible Development after determining whether the Flexible Development better promotes the purposes of Section 10. 1 of this Flexible Development By-Law than would a conventional subdivision development at the same locus.

10.13 Relations to Other Requirements. The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning By-Law.

or take any other action relative thereto.

ZONING BYLAW AMENDMENT
WEST CONCORD INTERIM PLANNING OVERLAY DISTRICT (WC-IPOD)

ARTICLE 38. To determine whether the Town will vote to amend the Zoning Bylaw by adopting a new zoning district and listing the zoning map for that district in Zoning Bylaw Section 2.2 Zoning map and inserting the following paragraph at the end of Zoning Bylaw **Section 2.2 Zoning Map:**

“West Concord Interim Planning Overlay District, Town of Concord, January 5, 2009 (Scale 1” = 200’ consisting of a single sheet). The “West Concord Interim Planning Overlay District” is an overlay district whose boundaries are superimposed on the Business and Industrial Districts in West Concord and established by this Bylaw. The West Concord Interim Planning Overlay District is an interim measure to allow certain activities to continue while the Town undertakes a master plan for the West Concord area, and shall remain in effect until final adjournment of the 2011 Annual Town Meeting. Said West Concord Interim Planning Overlay District map is hereby made part of this Bylaw and shall be filed in the Office of the Town Clerk”

AND, adding a new Section 7.9, as follows:

SECTION 7.9 WEST CONCORD - INTERIM PLANNING OVERLAY DISTRICT (WC-IPOD)

7.9.1 Purpose. The purpose of the West Concord Interim Planning Overlay District (WC-IPOD) is to provide a temporary zoning and regulatory system for the development of land within the district while the Town engages in planning for the area. West Concord center has been the subject of significant commercial and residential growth pressures. Such growth could have an adverse impact on the natural environment, the Town's infrastructure, and service capacity, traffic, the local economy, neighborhood character, and open space. The WC-IPOD provides a mechanism to allow for growth that promotes sound land use planning goals and objectives during the course of the Town's comprehensive planning studies.

7.9.2 Applicability. The WC-IPOD shall be construed as an overlay district. All requirements of the underlying zoning districts (Business and Industrial) shall remain in full force and effect, except where the requirements of the WC-IPOD are more restrictive; in such cases, the requirements of the WC-IPOD shall supersede the underlying zoning regulations.

7.9.3 Permitted and Restricted Uses. The following table identifies all permitted and Special Permit Uses. Uses that are designated as “no” are not permitted and all other uses not present in the table are also not permitted.

[Note: the items that are in bold and italicized print in the chart are the items proposed to be changed; the bold and italic type and this note are for the warrant only.]

Table 1 - Principal Uses for WCC-IPOD		Commercial Districts	Industrial Districts	
4.1	Extensive Uses	B	I	IP
4.1.1	Forestry	yes	yes	yes
4.1.2	Agriculture, horticulture, floriculture, and viticulture	yes	yes	yes
4.1.3	Greenhouse	SP	SP	SP
4.1.4	Earth Removal	SP	SP	SP
4.1.5	Conservation use	SP	SP	SP
4.1.6	Private recreation	SP	SP	SP
4.2	Residential Uses	B	I	IP
4.2.1	Single-family dwelling	yes	no	no
4.2.2	Two-family or additional dwelling unit	SP	no	no
4.2.3	Combined business/residence	SP	no	no
4.2.4	Combined industrial/business/residence	no	SP	no
4.2.5	Residential Compound	SP	no	no
4.2.6	Residential Cluster Development	SP	no	no
4.2.7	Planned Residential Development	SP	no	no
4.2.8	Boarding house	SP	no	no
4.2.9	Hotel and motel	SP	no	no
4.3	Institutional Uses	B	I	IP
4.3.1	Educational	yes	yes	yes
4.3.2	Child care facility	yes	yes	yes
4.3.3	Religious	yes	yes	yes
4.3.4	Philanthropic	SP	SP	SP
4.3.5	Hospital and nursing home	SP	no	no
4.3.6	Assisted living residence	no	no	no
4.3.7	Cemetery	no	no	no
4.3.8	Lodge and club	SP	SP	SP
4.4	Government and Utility Uses	B	I	IP
4.4.1	Municipal use	yes	yes	yes
4.4.2	Underground utility	yes	yes	yes
4.4.3	Above ground utility	yes	yes	yes
4.5	Business Uses	B	I	IP
4.5.1	Retail store	SP	no	no
4.5.2	Personal service shop	SP	no	no
4.5.3	Craft shop	SP	SP	SP
4.5.4	Restaurant	SP	SP	SP
4.5.5	Indoor amusement	no	no	no
4.5.6	Outdoor amusement	no	no	no
4.5.7	Funeral home	SP	SP	SP
4.5.8	Repair shop and building trade	SP	SP	SP
4.5.9	Veterinary and kennel	no	SP	SP
4.5.10	Financial and business office	SP	SP	SP
4.5.11	Professional office	SP	SP	SP
4.5.12	Medical center and laboratory	SP	SP	SP
4.5.13	Auto service station	no	no	no
4.5.14	Auto repair shop	no	no	no

4.5.15	Vehicular dealerships	<i>no</i>	<i>no</i>	<i>no</i>
4.5.16	Boat sales and rental	<i>no</i>	<i>no</i>	<i>no</i>
4.5.17	Parking facility	<i>no</i>	<i>no</i>	<i>no</i>
4.5.18	Transportation services	SP	SP	SP
4.6	Industrial Uses	B	I	IP
4.6.1	Warehouse	<i>no</i>	<i>SP</i>	<i>SP</i>
4.6.2	Storage yard, open-air sales	<i>no</i>	SP	no
4.6.3	R&D and Light Manufacturing	<i>no</i>	<i>SP</i>	<i>SP</i>
4.6.4	Manufacturing, packaging, processing, and testing	<i>no</i>	<i>SP</i>	<i>SP</i>
4.7	Restricted and Prohibited Uses	B	I	IP
4.7.1	Prohibited Uses	no	no	no

7.9.4 *Special Permit Criteria.* In addition to the standards and criteria set forth in Section 11.6, the Planning Board shall consider the suitability and compatibility of the proposed development in light of the "Recommendations for the Village Center Study" dated December 10, 2007; and in compliance with any Design Guidelines that may be adopted by the Planning Board for the West Concord village, including Design Guidelines ratified or modified by the master planning process. The Planning Board shall also consider whether the proposed development will have a significant negative impact on the master planning options for the West Concord village.

7.9.5 *Development Standards.* No existing building or structure shall be increased in gross square footage by more than ten percent of the existing building or structure during the period in which this WC-IPOD is in effect; provided, however, that this provision shall not be exercised in a way that violates the Zoning Act, Massachusetts General Laws and Acts, c. 40A.

7.9.6 *Decision.* The Planning Board may grant a special permit upon a determination, after consideration of all of the factors set forth in this Section 7.9 and in Section 11.6, that the proposed development will not adversely impact the village area identified by the WC-IPOD during the term of this Section 7.9, as set forth below.

7.9.7 *Time Limitation.* The provisions of this Section 7.9 shall expire upon final adjournment of the 2011 Annual Town Meeting.

7.9.8 *Separability.* The provisions of this Section 7.9 are hereby declared separable and if any provision shall be held invalid or unconstitutional, it shall not be construed to affect the validity or constitutionality of any of the remaining provisions of this Section 7.9 or what it will do in relation thereto.

or take any other action relative thereto.

SITE PLAN REVIEW

ARTICLE 39. To determine whether the Town will vote to amend Zoning Bylaw **Section 7.7 Off-street Parking, Loading, and Site Plan Requirements** and **Section 11. Administration and Enforcement** by making the following revisions:

ITEM 1. In **Section 7.7 Off-street Parking, Loading and Site Plan Requirements**, delete subsection *7.7.3 Site Plan Approval* in its entirety and renumber existing Section *7.7.4 Design Standards* and all related subsections as new Section 7.7.3 and change the title of the Section to **Section 7.7. Off-street Parking, Loading and Design Standards**.

ITEM 2. Add a new subsection 11.8 Site Plan Review to **Section 11. Administration and Enforcement** as follows:

11.8 Site Plan Review

11.8.1 Applicability: In all instances specified in Section 4, Table I, Use Regulations, indicating site plan approval, no building permit to establish a new building or to alter substantially an existing building shall be issued by the Building Inspector; no change in use of an existing building or lot shall be permitted; no area for parking, loading, or vehicular access shall be established or substantially altered; and, no exterior light fixtures shall be installed or substantially altered unless a site plan has been submitted and approved in accordance with the requirements set forth in this section.

11.8.2 Site plan compliance: No certificate of occupancy shall be issued by the Building Inspector until the site has been developed in compliance with the approved site plan, unless completion is delayed by seasonal considerations. In such instances, the Building Inspector may issue a temporary occupancy permit and shall require sufficient security to insure full compliance within six (6) months.

11.8.3 Interpretation: Substantial alteration to a building means an alteration of a single building or a group of buildings under one ownership on the same lot or contiguous lots which results in an increase in gross floor area of either five hundred (500) square feet or ten (10) percent of the existing gross floor area, whichever is less. The calculation of substantial alteration shall be determined based upon the aggregate of all expansions undertaken within a consecutive five-year period.

Change in use means a change in part or all of an existing building or lot from one use category to another. However, in a mixed or multi-use building, change or rearrangement of uses that does not result in an increase of required parking or loading spaces shall not be construed as a change in use.

Substantial alteration to areas for parking, loading or vehicular access shall mean a change in the layout or location of parking spaces, an increase in pavement area of more than three hundred (300) square feet, or any relocation, addition or change in driveways. Resurfacing shall not be construed as a substantial alteration unless it involves a change of surface material.

Substantial alteration to exterior lighting shall mean an increase in more than ten (10) percent of the number of exterior light fixtures, an increase in height of any free standing light fixture, or a change in the coloration or an increase in the brightness/luminance produced by a fixture. Change in coloration from non-white light to white light; installation of full cut-off fixtures, positioned to prevent glare and light spillover, and with a height equal to or less than existing free standing light fixtures; and the use of temporary holiday lighting shall not be construed as a substantial alteration. Furthermore, when Site Plan Review is required based solely on the installation or alteration of exterior light fixtures, review by the Board or the Planning Board shall be limited to the proposed exterior lighting and to issues directly related to the proposed exterior lighting.

11.8.4 Procedure: Anyone seeking Site Plan Review shall obtain an application and checklist from the office of the Town Planner. A completed application form, the plan and supporting materials shall be submitted to the Planning Board in accordance with the rules and regulations of the Planning Board in effect at the time.

11.8.5 Site Plan Review: In reviewing the site plan submittal, the following matters shall be considered:

(a) Protection of adjoining premises against seriously detrimental uses by provision for surface water drainage, sound and sight buffers, and preservation of views, light and air;

(b) Convenience and safety of vehicular and pedestrian movement within the site, the location of driveway openings in relation to traffic or to adjacent streets and, when necessary, compliance with other regulations for the handicapped, minors and the elderly;

(c) Adequacy of the methods of disposal of refuse and other wastes resulting from the uses permitted on the site;

(d) Adequacy of the arrangement of parking and loading spaces in relation to the proposed uses of the premises;

(e) Adequacy of the method of exterior lighting for convenience, safety and security within the site and for protection of neighboring properties, roadways and the night sky;

(f) Relationship of structures and open spaces to the natural landscape, existing buildings and other community assets in the area and compliance with other requirements of this Bylaw; and,

(g) Impact on the Town's resources including the effect of the Town's water supply and distribution system, sewage collection and treatment, fire protection, and streets.

11.8.6 Decision: Where a special permit from the Board is required or a variance from the Bylaw is requested in connection with any action subject to Site Plan Review, a site plan decision shall be made by the Board. In such case the Planning Board shall submit a report to the Board concerning the matters described in subsection 11.8.5 prior to any public hearing. In considering a site plan, the Board shall insure a reasonable use of the site consistent with the uses permitted in the district in which the site is located. The Board shall give due consideration to the report of the Planning Board and where the decision of the Board differs from the recommendations of the Planning Board the reasons therefore shall be stated in writing.

Where a special permit or a variance is not required or requested, the Planning Board shall render a site plan decision and shall file its decision with the Town Clerk within ninety (90) days of receipt of an application, unless such time is extended in writing by agreement with the applicant and notice of such extension is filed with the Town Clerk. The Planning Board may impose such appropriate conditions, limitations, and safeguards as will insure compliance with the terms of approval.

11.8.7 Site Plan Review for religious uses, educational uses and child care facilities: The purpose of this section is to ensure that all religious and education uses, and all child care facilities are reasonably regulated in regards to, but not limited to, bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements. The Board and the Planning Board have the authority to place reasonable conditions on the aforementioned issues, but are not permitted to withhold approval of Site Plan Review.

11.8.7.1 In reviewing the site plan submittal for religious uses, educational uses and child care facilities, the following issues shall be considered:

- a) Relationship of the bulk and height of structures and adequacy of open spaces to the natural landscape, existing buildings and other community assets in the area and compliance with other requirements of this Bylaw, which includes, but is not limited to, building coverage requirements, yard sizes, lot areas and setbacks.
- b) Physical layout of the plan as it relates to convenience and safety of vehicular and pedestrian movement within the site, the location of driveway openings in relation to traffic or to adjacent streets and, when necessary, compliance with other regulations for the handicapped, minors and the elderly;
- c) Adequacy of the arrangement of parking and loading spaces in relation to the proposed uses of the premises;
- d) Physical lighting of the site, especially the adequacy of the method of exterior lighting for convenience, safety and security within the site and for protection of neighboring properties, roadways and the night sky.

11.8.7.2 Where a special permit from the Board is required or a variance from the Bylaw is requested in connection with any action subject to site plan review for religious uses, educational uses and child care facilities, site plan approval shall be by the Board. In such case the Planning Board shall submit a report to the Board concerning the matters described in subsection 11.8.7 prior to any public hearing. In considering a site plan for religious uses, educational uses and child care facilities, the Board shall insure a reasonable use of the site consistent with the uses permitted in the district in which the site is located. The Board shall give due consideration to the report of the Planning Board and where the decision of the Board differs from the recommendations of the Planning Board the reasons therefore shall be stated in writing.

11.8.7.3 Where a special permit or a variance is not required or requested, site plan approval for religious uses, educational uses and child care facilities shall be by the Planning Board. The Planning Board shall file its decision with the Town Clerk within ninety (90) days of receipt of an application, unless such time is extended in writing by agreement with the applicant and notice of such extension is filed with the Town Clerk. The Planning Board may impose such appropriate conditions, limitations, and safeguards as will insure compliance with the terms of approval.

11.8.8 *Term of approval:* Site plan approval shall lapse if construction has not commenced within two (2) years from the date of approval. For site plan approval by the Planning Board, an extension of time may be granted for up to six (6) months.

11.8.9 *Appeal.* Decisions of the Planning Board regarding site plan approval shall be appealed as set forth in G.L. Chapter 40A, Section 17 to a court of competent jurisdiction.

ITEM 3. Renumber existing Sections **11.8 Bylaw Construction** and **11.9 Validity and Separability** and all related subsections as new Sections 11.9 and 11.10, respectively.

ITEM 4. Delete the following reference to the old section 7.7.3 and substitute a reference to new Section 11.8 therefore (changes below are underlined for the warrant only):

3.2.4 Site plan approval in accordance with subsection 11.8 is required for a use where the letter “R” appears...

ITEM 5. Renumber references to other subsections as follows:

In the new subsection 7.7.3.8 renumber references to 7.7.4.1 and 7.7.4.2 so the last sentence of the second paragraph shall read, "Parking and loading spaces shall be marked clearly in accordance with the dimensions specified in subsections 7.7.3.1 and 7.7.3.2, above."

In the new subsection 7.7.3.12 renumber references to 7.7.4.1 to 7.7.3.1 so the first sentence shall read, "The Board may, upon advice of the Planning Board, grant relief from the design standards contained in subsection 7.7.3.1 where..."

or take any other action relative thereto.

ZONING BYLAW AMENDMENT RESIDENTIAL COMPOUND

ARTICLE 40. To determine whether the Town will vote to amend Zoning Bylaw **Section 8 Residential Compound** by making the following revisions (changes below are underlined for the warrant only):

ITEM 1. Under subsection 8.2.5 *Open space* insert the phrase "or a land trust satisfactory to the Planning Board" after the word "Town" in the third sentence, so that the sentence reads: "In all cases, a perpetual restriction of the type described in G.L.c. 184 sec. 31 (including future amendments thereto and corresponding provisions of future laws) running to or enforceable by the Town or a land trust satisfactory to the Planning Board shall be recorded in respect of such land."

ITEM 2. Under subsection 8.2.5 *Open space* insert the word "Planning" before the word "Board" twice in the fourth sentence, so that the sentence reads: "Such restrictions shall be in such form and substance as the Planning Board shall prescribe and may contain such additional restrictions on development and use, as the Planning Board may deem appropriate."

ITEM 3. Add a new subsection **8.5 Dedication of Land to the Town** and renumber subsequent subsections as **8.6 Procedure for Approval** and **8.7 Special Permit** as follows:

"8.5 Dedication of Land to the Town

The fee interest of the open space (or a defined portion of the open space) within the Residential Compound may be dedicated to the Town."

or take any other action relative thereto.

WASTEWATER PLANNING CAPACITY STUDY

ARTICLE 41. To determine whether the Town will vote to adopt a resolution supporting the Town Manager's allocation of \$142,000, or any other sum, of Sewer Improvement Funds to investigate wastewater treatment and capacity management alternatives, including continued conservation measures, to accommodate wastewater flows above and beyond those flows necessary to meet existing requirements resulting from development and re-development under current zoning in a range between 320,000 to 600,000 gallons per day, which represents projected wastewater flows associated with objectives referenced in the Comprehensive Long Range Plan and Planned Production Housing Plan and quantified in the Wastewater Planning Task Force Report dated December 2008, and furthermore request that the Wastewater Planning Task Force return to a future Town Meeting to present recommended alternatives, including any requests for debt authorizations required to implement such wastewater treatment capacity alternatives, or take any other action relative thereto.

SEPTIC BETTERMENT LOAN PROGRAM

ARTICLE 42. To determine whether the Town will vote to raise and appropriate the sum of \$2,000,000, or any other sum, for the purpose of financing the following water pollution abatement facility projects: repair, replacement, and/or upgrade of onsite wastewater systems, pursuant to agreements between the Board of Health and residential property owners, including without limitation all costs thereof as defined in Section 1 of Chapter 29C of the Massachusetts General Laws and Acts; that to meet this appropriation the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow \$2,000,000, or any other sum, and under the provisions of Massachusetts General Laws and Acts Chapter 111, Section 127B½ and/or Chapter 29C provided that the Town is able to borrow said amount from the Massachusetts Water Pollution Abatement Trust as provided below; that project and financing costs shall be repaid by the property owners, in accordance with those agreements, but such bonds or notes shall be general obligations of the Town; that the Treasurer, with the approval of the Board of Selectmen, is further authorized to borrow said amount from the Massachusetts Water Pollution Abatement Trust established pursuant to Chapter 29C of the Massachusetts General Laws and Acts and in connection therewith to enter into a loan agreement and/or a security agreement with the Trust and otherwise contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the projects or for the financing thereof; and that the Town Manager is authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expend all funds available for the projects, or take any other action relative thereto.

WETLANDS BYLAW

ARTICLE 43. To determine whether the Town will vote to adopt the following Wetlands Bylaw:

1. Purpose

The purpose of this bylaw is to protect the Town of Concord's wetlands, water resources, flood prone areas, and adjoining upland areas including three major rivers, the Assabet, Sudbury, and Concord and their tributaries by prior review and regulation of activities deemed by the Concord Natural Resources Commission (the Commission) likely to have a significant or cumulative effect on resource area values. These resource area values include, but are not limited to, the following:

public or private water supply,
groundwater,
flood control,
erosion and sedimentation control,
storm damage prevention,
water quality,

prevention and control of pollution,
fisheries
wildlife habitat,
rare species habitat including rare plant
and animal species, and
agriculture,

deemed important to the community (collectively, the "wetland resource area values protected by this bylaw").

This bylaw is subject, however, to the rights and benefits accorded to agricultural uses and structures of all kinds under the laws of the Commonwealth and other relevant bylaws of the Town of Concord.

2. Jurisdiction

Except as permitted by the Commission or as provided in this bylaw or its regulations hereunder, no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas: any freshwater wetlands, marshes, wet meadows, bogs, swamps, springs, banks, beaches, reservoirs, lakes, ponds, and lands under water bodies; intermittent streams, brooks and creeks; certified vernal pools; lands adjoining these resource areas out to a distance of 100 feet known as the buffer zone; perennial rivers, streams, brooks and creeks; lands adjoining these resource areas out to a distance of 200 feet, known as the riverfront area; vernal pool habitats; lands subject to flooding or inundation by groundwater or surface water; (collectively the “resource areas protected by this bylaw”).

3. Exemptions

The following exemptions shall apply and no application or permit is required for:

- A. The following activities in the 100-foot Buffer Zone or the 200-foot Riverfront Area provided the activity is not within any other resource area; there is no regrading; no trees greater than 6 inches diameter breast height are removed, there is no alteration to additional resource areas, and erosion and sedimentation controls are used as needed or as determined by the Commission or agent of the Commission:
 1. Maintaining and repairing existing buildings and structures provided that:
 - i. the footprint remains the same,
 - ii. there is no additional alteration of any resource areas, and
 - iii. there is no heavy equipment or stockpiling within 50 feet of resource areas;
 2. Constructing, maintaining, and repairing unpaved pedestrian walkways for private use provided no use of fill material;
 3. Maintaining and repairing existing stonewalls;
 4. Constructing new fencing provided
 - i. it is greater than 50 feet from the edge of the wetland boundary or 50 feet from the mean annual high water mark of a perennial stream (whichever is further),
 - ii. it does not constitute a barrier to wildlife movement (i.e. the fence is greater than 6 inches from the ground surface);
 5. Stacking cordwood;
 6. Conversion of lawns to decks, sheds, patios, and pools that are accessory to single family homes, provided the activity, including any discharge pipes, is located more than 50 feet from the mean annual high water mark or wetland boundary (whichever is further). The conversion of such uses accessory to existing single family houses is also allowed;
 7. Conversion of patios, pools, sheds, or other impervious surfaces to lawn or natural vegetation;
 8. Activities, such as monitoring wells, exploratory borings, soil sampling, and surveying, that are temporary, have negligible impacts as determined by the Commission, and are necessary for planning and design purposes;
 9. Planting native species of trees, shrubs, or groundcover (excluding turf lawns).
- B. The following activities are exempt in any resource area:
 1. Routine mowing (including river meadows) and maintenance of lawns, gardens, and landscaped areas (including removal of dead or dying trees, as confirmed by a certified arborist, and tree pruning), in existence on the effective date of this bylaw or which are created after such date in accordance of the terms of this bylaw,

2. Work performed for normal maintenance or improvement of land in agricultural use as defined by the Wetlands Protection Act Regulations as 310 CMR 10.00, provided that written notice has been provided to the Commission.

C. Emergency Projects

The applications and permits required by this bylaw shall not be required for emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement; provided that the Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided by this bylaw, if deemed necessary by the Commission. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

D. Utilities and Roads

The applications and permits required by this bylaw shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, sewer, telephone, telegraph, or other telecommunication services, provided that written notice has been given to the Commission 14 days prior to commencement of work, and provided that the work conforms to any performance standards and design specifications in regulations adopted by the Commission.

The applications and permits required by this bylaw shall not be required for maintaining and repairing existing and lawfully located existing roads (excluding bridges and culverts) provided that:

- i. there is no increase in impervious surface
- ii. there is no additional alteration of resource areas
- iii. written notice has been given to the Commission 14 days prior to commencement of work.

4. Definitions

Except as otherwise provided in this bylaw or the regulations hereunder, the definitions of terms and the procedures in this bylaw shall be as set forth in the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00). In addition, the following definitions shall apply in the interpretation and implementation of this bylaw.

The term “alter” shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this bylaw:

- A. Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind
- B. Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics
- C. Drainage, or other disturbance of water level or water table
- D. Dumping, discharging, or filling with any material which may degrade water quality

- E. Placing of fill, or removal of material, which would alter elevation
- F. Driving of piles, erection or expansion of buildings or structures of any kind
- G. Placing of obstructions or dam-like objects in water
- H. Destruction of plant life including removal of trees and shrubs
- I. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters
- J. Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater
- K. Incremental activities that have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.

The term “vernal pool” is defined as any confined basin or depression which has been certified by the Division of Fisheries and Wildlife. The boundary of the resource area for vernal pools shall be the mean annual high-water line defining the depression.

The term “vernal pool habitat” is the area within 100 feet of a certified vernal pool, which provides essential habitat for vernal pool species to complete their life cycle.

5. Applications and Fees

- 5.1 Application. Written application shall be filed with the Commission to perform activities subject to this bylaw. This application shall include the information and plans set forth in the Rules and Regulations of the Commission.
- 5.2 Request for Determination of Applicability. Any person desiring to know whether a proposed activity or an area is subject to this bylaw may in writing request a determination from the Commission. The Commission shall accept a Request for Determination of Applicability (RDA) under the Wetlands Protection Act as a request under this bylaw. Such a request for determination shall contain information and plans specified by the Rules and Regulations of the Commission. The Commission shall issue its order or determination in writing within 21 days of the close of the public hearing thereon unless the applicant authorizes an extension in writing. If the Commission determines that a proposed activity is subject to this bylaw and issues a positive RDA, the applicant may file for approval as outlined in §§ 6.0 – 7.0 of this bylaw.
- 5.3 Request for Wetland Resource Area Approval. Any person desiring to certify, for purposes of this bylaw, the limits of resource areas on a site may file a request for approval of resource area boundaries. This application shall include such information and plans as are set forth in the Rules and Regulations of the Commission to describe and define the wetland resource areas. The Commission shall accept an Abbreviated Notice of Resource Area Delineation (ANRAD) under the Wetlands Protection Act (G.L. Ch. 131 §40) as similar request under this bylaw.
- 5.4 Independent Consultants. The Commission may, at the expense of the applicant, retain an independent consultant for the purpose of providing the Commission with data, analysis, or other information deemed by the Commission to be reasonably necessary or appropriate to assist the Commission in reviewing the application or rendering its decision, in conformity with the provisions of G.L. Ch. 44 § 53G and Rules and Regulations of the Commission. This is intended only to assist in reviewing large or complex projects.

6. Notice and Hearings

- 6.1. Notice. Any person filing a Notice of Intent, Abbreviated Notice of Intent, or Abbreviated Notice of Resource Area Delineation, or an amendment to any of the above permits with the Commission at the same time shall give written notice thereof, by certified mail (return receipt requested) or hand delivered, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 100 feet of the property line of the applicant, including any in another municipality or across a body of water. The notice shall state a brief description of the project or other proposal and the date of any Commission hearing or meeting date if known. The notice to abutters also shall include a copy of the application or request, with plans, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. When a person filing any application is other than the owner, the request, the notice of the hearing and the determination shall be sent by the Commission to the owner as well as to the person making the request.
- 6.2. Public Hearing. The Commission shall conduct a public hearing on any application and a public meeting on the Request for Determination of Applicability, with written notice given at the expense of the applicant, at least five business days prior to the hearing, in a newspaper of general circulation in Concord. The Commission shall commence the public hearing within 21 days from receipt of a completed permit application unless an extension is authorized in writing by the applicant. The Commission shall have authority to continue the hearing to a specific date announced at the hearing, for reasons stated at the hearing, which may include the need for additional information or plans required of the applicant or others as deemed necessary by the Commission. In the event that the applicant objects to a continuance or postponement, the hearing shall be closed and the Commission shall take action on such information as is available.
- A. In order to provide sufficient review time the Commission may continue a public hearing or public meeting if new information is submitted by the applicant, or applicant's agent, less than seven (7) business days before the scheduled public hearing or public meeting.
- B. The Commission may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00).

7. Permits and Conditions.

- 7.1. Administrative Approvals: Activities considered minor in scope and that would predictably have no measurable or cumulative impact upon the resource areas protected by this bylaw, may be reviewed and permitted by the Natural Resource Director.
- 7.2. Decision. If the Commission, after a public hearing and consideration of the general and specific factors set forth below, determines that the activities, which are subject to the application, or the land and water uses which will result therefrom, are likely to have a significant individual or cumulative effect on the resource area values protected by this bylaw, the Commission, within 21 days of the close of the hearing, unless the applicant authorizes an extension in writing, shall issue or deny a permit for the activities requested. The decision shall be in writing.

7.3. Factors. The Commission shall take into account the following factors:

- A. the extent to which the applicant has avoided, minimized and mitigated any such effect;
- B. any loss, degradation, isolation, and replacement or replication of such protected resource areas elsewhere in the community and the watershed, resulting from past activities, whether permitted, unpermitted or exempt; and
- C. foreseeable future activities.

Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

7.4. Specific Factors:

A. Buffer Zone

In reviewing activities within the buffer zone, the Commission shall presume the buffer zone is important to the protection of other resource areas because activities undertaken in close proximity have a high likelihood of adverse impact, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat.

B. Riverfront

In reviewing activities within the riverfront area, the Commission shall presume the riverfront area is important to all the resource area values unless demonstrated otherwise, and no permit issued hereunder shall permit any activities unless the applicant, in addition to meeting the otherwise applicable requirements of this bylaw, has proved by a preponderance of the evidence that (1) there is no practicable alternative to the proposed project with less adverse effects, and that (2) such activities, including proposed mitigation measures, will have no significant adverse impact on the areas or values protected by this bylaw. The Commission shall regard as practicable an alternative which is reasonably available and capable of being done after taking into consideration the proposed property use, overall project purpose (e.g., residential, institutional, commercial, or industrial), logistics, existing technology, costs of the alternatives, and overall project costs.

C. Resource Area Loss.

To prevent resource area loss, the Commission shall require applicants to avoid alteration wherever feasible; to minimize alteration; and, where alteration is unavoidable and has been minimized, to provide full mitigation. The Commission may authorize or require replication of wetlands as a form of mitigation, but only with specific plans, professional design, proper safeguards, adequate security, and professional monitoring and reporting to assure success, because of the high likelihood of failure of replication.

D. Vernal Pools.

The Commission shall presume that all areas meeting the definition of “vernal pools” under §4.0 of this bylaw, including the adjacent vernal pool habitat, perform essential habitat functions. This presumption may be overcome only by the presentation of credible evidence which, in the judgment of the Commission, demonstrates that the basin or depression does not provide essential habitat functions. Any formal evaluation should be performed by an individual who at least meets the qualifications under the wildlife habitat section of the Wetlands Protection Act regulations (310 CMR 10.00).

E. Setbacks

1. The NRC shall presume that any activity or alteration within 25 feet of any freshwater wetlands, marshes, wet meadows, bogs, swamps, springs, banks, beaches, reservoirs, lakes, ponds, and lands under water bodies, intermittent streams, brooks and creeks, and perennial rivers and streams, has a significant individual or cumulative impact upon the resource area values protected by this bylaw and shall be prohibited.

- i. This presumption may be overcome where applicant can clearly demonstrate with credible evidence the proposed activity or alteration would have no individual or cumulative impact upon any of the resource area values protected by this bylaw in accordance with the regulations hereunder. Alternatively, the NRC may waive the setback if it determines that an applicant satisfies the waiver requirements in § 7.6.
- ii. Routine maintenance, repairs and construction on legally preexisting structures or continuation of a legally preexisting use shall not be subject to this setback restriction so long as there is no expansion in the structure. Maintenance, repairs, and construction shall be subject to all other requirements under this bylaw and its regulations hereunder.

7.5. Conditions. Upon the issuance of a permit, the Commission shall impose conditions it deems necessary or desirable to protect said wetland resource area values, and all activities shall be conducted in accordance with those conditions.

7.6. Denial. Where no conditions are adequate to protect said resource area values, the Commission is empowered to deny a permit for failure to meet the requirements of this bylaw. The Commission may also deny a permit:

- A. for failure to submit necessary information and plans requested by the Commission;
- B. for failure to comply with the procedures, design specifications, performance standards, and other requirements in regulations of the Commission; or
- C. for failure to avoid, minimize or mitigate unacceptable significant or cumulative effects upon the resource area values protected by this bylaw.

7.7. Waivers. The Commission may waive specifically identified and requested procedures, design specifications, performance standards, or other requirements set forth in its regulations, provided that:

- A. the Commission finds in writing after said public hearing that there are no reasonable conditions or alternatives that would allow the proposed activity to proceed in compliance with said regulations;
- B. that avoidance, minimization and mitigation have been employed to the maximum extent feasible; and
- C. that the waiver is necessary to accommodate an overriding public interest or to avoid a decision that so restricts the use of the property as to constitute an unconstitutional taking without compensation.

7.8. Expiration of Permit. A permit, Determination of Applicability (DOA), or Order of Resource Area Delineation (ORAD) shall expire three years from the date of issuance. The Commission may extend a permit for one or more periods of up to three years each, upon written request from the applicant made at least 30 days prior to the expiration of the permit.

Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. The Commission may extend a permit for one or more periods of up to five years each, upon written request from the applicant made at least 30 days prior to the expiration of the permit.

Notwithstanding the above, a permit may identify requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all present and future owners of the land.

7.9. Revocation of Permit. For good cause the Commission may revoke any permit, DOA, or ORAD or any other order, determination or other decision issued under this bylaw after notice to the holder, the public, abutters, and town boards, pursuant to §6.0, and after a public hearing.

7.10. Amendment of Permit. Amendments to permits, DOAs, or ORADs shall be handled in the manner set out in the Wetlands Protection Act regulations (310 CMR 10.00) and policies thereunder.

7.11. Recordation of Permit. No work proposed in any application shall be undertaken until the permit, or ORAD issued by the Commission with respect to such work has been recorded in the Middlesex (South) Registry of Deeds or, if the land affected is registered land, in the registry section of the land court for the Middlesex (South) Registry of Deeds, and until the holder of the permit certifies in writing to the Commission that the document has been recorded. If the applicant fails to perform such recording, the Commission may record the documents itself and require the Applicant to furnish the recording fee therefore, either at the time of recording or as a condition precedent to the issuance of a COC.

8. Regulations

After public notice and public hearing, the Natural Resources Commission shall promulgate rules and regulations for the administration of this bylaw, effective when voted and filed with the town clerk. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw.

9. Compliance

9.1. Scope. No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.

9.2. Entry. The Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this bylaw and may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth.

9.3. Enforcement. The Commission shall have authority to enforce this bylaw, its regulations, and permits issued thereunder by letters, phone calls, electronic communication and other informal methods, violation notices, non-criminal citations under G.L. Ch. 40 §21D, and civil and criminal court actions. Any person who violates provisions of this bylaw may be ordered to restore the property to its original condition

and take other action deemed necessary to remedy such violations, or may be fined, or both.

- 9.4. Good Faith. As long as any person in violation demonstrates a reasonable, good faith effort to comply with the terms of the enforcement order as directed by the Commission, the Commission shall refrain from issuing fines. However, the Commission shall resort to issuing fines where the violator ceases to demonstrate a reasonable, good faith effort toward achieving compliance. This provision does not preclude the Commission from issuing fines and simultaneously ordering mitigation or restoration of the effected resource area(s).
- 9.5. Legal Action. Upon request of the Commission, the selectboard and town counsel may take legal action for enforcement under civil law. Upon request of the Commission, the chief of police may take legal action for enforcement under criminal law.
- 9.6. Non-criminal Disposition. As an alternative to criminal prosecution in a specific case, the Natural Resources Director or other designee of the Town Manager may issue a fine for each offense as specified in Appendix A of the Regulations for the Enforcement of Town Bylaws under M.G.L. Chapter 40, §21D and the Bylaw for Non-Criminal Disposition of Violations adopted under Article 47 of the 1984 Town Meeting, as amended.
- 9.7. Fine Schedule: Any person who violates any provision of this bylaw, regulations, permits, or administrative permits issued hereunder, may be subject to the following fine schedule:
 - A. \$100 for the first offense;
 - B. \$200 for the second offense;
 - C. \$300 for the third and subsequent offense.

Each day or a portion thereof during which a violation continues shall constitute a separate offense, and each provision of the bylaw, regulations, or permit violated shall constitute a separate offense. Appeal of this fine shall be made in writing to the Natural Resources Commission.

10. Burden of Proof

Except where a higher burden of proof is specified in this bylaw or regulations adopted by the Commission, the applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by this bylaw. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

11. Appeals

A decision of the Commission shall be reviewable in the superior court in an action filed within 60 days thereof, in accordance with G.L. Ch. 249 §4 as amended .

12. Relation to the Wetlands Protection Act

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act (G.L. Ch. 131 §40), as amended, and regulations (310 CMR 10.00), as amended thereunder.

13. Severability

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit, approval or determination which previously has been issued.

Provided that this Bylaw shall not be applicable to activity that is the subject of a Notice of Intent filed with the Commission before May 6, 2009 and pursuant to the provisions of said Wetlands Protection Act (G.L. Ch. 131 §40); or take any other action relative thereto.

ZONING BYLAW AMENDMENT WETLAND CONSERVANCY DISTRICT

ARTICLE 44. To determine whether the Town will vote to amend the Zoning Bylaw by making the following revisions (changes below are underlined for the warrant only):

ITEM 1. Delete subsections *7.3.2 Purpose*; *7.3.3 Uses permitted without review by the Board*; *7.3.4 Uses permitted subject to review by the Board*; *7.3.5 Procedure for review by the Board* from **Section 7.3 Wetlands Conservancy District**.

ITEM 2. Add a new subsection *7.3.2 Purpose* as follows:

7.3.2 Purpose: The purpose of the Wetlands Conservancy District is to provide preliminary wetlands information in a zoning context for planning purposes without the requirement of delineating actual wetlands in accordance with the Commonwealth of Massachusetts Wetlands Protection Act. Development of a site or property that has wetlands located thereon shall be required to comply with any Order of Conditions issued under the Wetlands Protection Act.

ITEM 3. Delete the following references to the Wetlands Conservancy District (notes within brackets will not appear in the Zoning Bylaw):

Subsection 7.2.3.5 Construction and maintenance of at-grade roads, driveways, utilities and other associated roadway facilities when access to land which is not situated in the Flood Plain [delete “and Wetlands”] Conservancy District [substitute the word “District” for the word “districts”] is not possible because of ownership patterns or the provisions of the Subdivision Rules and Regulations of the Planning Board.

Subsection 7.5.2.3 Wetlands Protection Act: Removal pursuant to an order of conditions issued under the Wetlands Protection Act (G.L. c. 131 sec. 40) when such removal is incidental to a use permitted without review by the Board in the Flood Plain [delete the words “or Wetlands”] Conservancy District [substitute the word “District” for the word “districts”].

or take any other action relative thereto.

STATION 1 POLICE/FIRE RENOVATIONS

ARTICLE 45. To determine whether the Town will vote to raise and appropriate or transfer from available funds in the treasury, or authorize the Town Treasurer with the approval of the Board of Selectmen to borrow money by the issuance of bonds or notes under provisions of Chapter 44, Section 7(3A) of the Massachusetts General Laws and Acts, the sum of \$900,000, or any other sum, for renovations, and any other related work, at the Walden Street Police/Fire Station, said funds to be expended under the direction of the Town Manager, or take any other action relative thereto.

FIRE ENGINE FOR STATION 2

ARTICLE 46. To determine whether the Town will vote to raise and appropriate, or transfer from available funds in the Treasury, or authorize the Town Treasurer with the approval of the Board of Selectmen, to borrow by the issuance of bonds or notes under the provisions of Chapter 44, Section 7(9) of the Massachusetts General Laws and Acts, the sum of \$450,000, or any other sum, for the purchase of Fire Department equipment – to replace the front line Engine at West Concord Station 2, said funds to be expended under the direction of the Town Manager, or take any other action relative thereto.

AMENDMENT TO SIGN BYLAW (By Petition)

ARTICLE 47. To determine whether the Town will vote to amend the Concord Sign Bylaw by inserting the following new Section 14 after Section 13, and by renumbering the subsequent sections or take any other action relative thereto:

“In order to promote a positive environment for small business in Concord, waivers of town sign ordinances and/or by laws may be granted by the appropriate town officials to businesses which are neither franchisees nor part of a larger, multi-location enterprise.

It shall be the policy of the town to grant such waivers when it would be beneficial to the small business, without (1) causing tangible harm to either the town or other businesses or individuals; or (2) violating prevailing standards of good taste.

In determining whatever signage meets prevailing standards, such signage shall be presumed to be acceptable if the small business can demonstrate that (1) it has used such signage in the past in Concord for a period of not less than three (3) years without complaint; or (2) no less than three (3) other establishments in Concord have used similar signage for a period of no less than (1) year.”

BILL TO IMPOSE AN EXCISE ON THE USE OF PLASTIC CARRYOUT BAGS IN CERTAIN STORES (By Petition)

ARTICLE 48. To determine whether the Town will vote to request that the Board of Selectmen ask our Legislative representatives to file and/or support the filing of legislation to amend Massachusetts General Laws Chapter 64, or any other statute or regulation, to impose an excise on the use of plastic carryout bags in certain stores, or take any other action relative thereto.

EXPAND THE MASSACHUSETTS BOTTLE BILL (TO INCLUDE NON-CARBONATED BEVERAGE CONTAINERS – (By Petition)

ARTICLE 49. To determine whether the town will vote to request that the Board of Selectmen ask our Legislative Representatives to file and/or support the filing of legislation to amend Massachusetts General Laws in order to expand the Massachusetts Bottle Bill to include all non-carbonated beverage containers, or take any other action relative thereto.

ACCEPTANCE OF PROPERTY BY DEED IN LIEU OF FORECLOSURE
(12B NUTMEADOW CROSSING)

ARTICLE 50. To determine whether the Town will vote to authorize the Treasurer pursuant to Chapter 60, Section 77C of the Massachusetts General Laws and Acts, to accept title by deed in lieu of foreclosure to the parcels identified as Parcel 3122 on Assessor's Map12B, being Lot 5 as shown on a plan entitled "Subdivision Plan of Land in Concord 8299J," prepared by Snelling & Hilton, Surveyors, dated October 1955, and recorded in Middlesex South Registry District on March 12, 1958, as Certificate #89281, Book 576, Page 131, upon such terms and conditions as he shall determine appropriate, or take any other action relative thereto.

GRANT OF ACCESS EASEMENT TO CONCORD HOUSING AUTHORITY FOR ACCESS TO
BEDFORD STREET PROPERTY

ARTICLE 51. To determine whether the Town will vote to authorize the Board of Selectmen to grant an access easement to the Concord Housing Authority, under terms and conditions agreeable to the Board of Selectmen, for access from Old Bedford Road over the property owned by the Town at the intersection of Old Bedford Road and Bedford Street to the property that is owned by the Concord Housing Authority on Bedford Street and that is adjacent to the Town's property mentioned above, or take any other action relative thereto.

HEYWOOD MEADOW LAND USE CHANGE

ARTICLE 52. To determine whether the Town will vote to ratify as conservation land the portion of Lot B-1 (Concord Assessors Parcel 239), located between the center line of the Mill Brook and Lot A-1 (Concord Assessors Parcel 238) (collectively known as Heywood Meadow) as shown in a plan by Snelling & Hamel Associates, Inc. dated September 8, 2008, on file with the Town Clerk, or take any other action relative thereto.

WRITTEN DEMAND – TAX COLLECTOR FEE

ARTICLE 53. To determine whether the Town will charge for each written demand issued by the tax collector a fee of \$10.00 to be added to and collected as part of the tax, as authorized by Massachusetts General Laws and Acts Chapter 60, Section 15, said charge to be effective as of July 1, 2009, or take any other action relative thereto.

MARIJUANA BYLAW

ARTICLE 54. To determine whether the Town will vote to amend the General Bylaws by inserting the following new section:

No person shall use marijuana, or possess marijuana, as defined in Chapter 94C, Section 1 of the Massachusetts General Laws and Acts, while in or upon any public way or any way to which the public has a right of access, whether in or upon a vehicle, or on foot, or while in or upon any public place or public building or playground, or while in or upon a private parking lot, or a private way to which the public has access as invitees or licensees, or in or upon any private land or place. Persons found violating this bylaw and in possession of less than one ounce of

marijuana shall be subject to a fine in accordance with Appendix A the Non-Criminal Disposition Bylaw. All marijuana being used or possessed in violation of this bylaw shall be seized and safely held until final outcome of the non-criminal disposition,

or take any other action relative thereto.

AMENDMENT TO NON-CRIMINAL DISPOSITION OF VIOLATIONS OF TOWN BYLAWS – APPENDIX A

ARTICLE 55. To determine whether the Town will vote to amend the Town Bylaw providing for the Non-Criminal Disposition of Violations of Town Bylaws adopted at the 1984 Town Meeting by adding the following section to Appendix A of Regulations for the Enforcement of Town Bylaws Under the “Non-Criminal Disposition of Violations of Town Bylaws”,

Bylaw	Fine Schedule	Fine Allowed	Enforcement Agent
Rules and Regulations Enforced by the Marijuana Bylaw	1 st offense and each successive offense	\$100.00	Police Department

or take any other action relative thereto.

TOWN OF CONCORD PUBLIC AWARENESS CAMPAIGN FOR MASS STATE ANTI IDLING LAW (CHAPTER 90; SECTION 16A) – By Petition

ARTICLE 56. To determine whether the Town of Concord will vote to take appropriate action to mount an educational campaign to initiate public awareness on the dangers of car, bus, and truck engine idling in Concord complaint with the State of Massachusetts Anti Idling Law (Chapter 90: Section 16A) or to take any other action relative thereto.

DEBT RESCISSION

ARTICLE 57. To determine whether the Town will vote to rescind the following unused borrowing authorizations, as follows:

Article 60 of 2002 – Alcott School (original authorization \$16,695,000)	\$1,090,000
Article 40 of 2006 – Thoreau School (original authorization \$350,000)	\$250,000
Article 53 of 2006 – Hunt Gym Roof (original authorization \$75,000)	\$30,000
Article 52 of 2004 – Water Supply System Improvements (original authorization \$5,750,000)	\$500,000

or take any other action relative thereto.

Hereof fail not and make due return of this Warrant with your doings thereon, to the Town Clerk, at or before the time of meeting aforesaid.

Given under our hands this 9th day of February in the year two thousand-nine.

Stanly E. Black

Gregory P. Howes

Virginia McIntyre

Anne D. Shapiro

Jeffrey S. Wieand

BOARD OF SELECTMEN

Commonwealth of Massachusetts
Middlesex, ss.
Concord (date)_____

By virtue of this warrant I have notified the legal voters of the Town of Concord to meet at the times and places and for the purposes within named as directed.

Constable of Concord

ATTENTION CITIZENS

The Town of Concord depends upon the immense talent pool possessed by our citizens and we are always seeking interested townspeople to serve on citizen boards and committees, and also to carry out short-term projects. If you are willing to serve your Town on a voluntary basis and desire to participate in shaping the Town's future, please indicate your interest by filling out a "Green Card". Green cards are short forms for listing your areas of interest and any skills relevant to committee or project participation. The form is reproduced on the following page. You may fill it out, and return it to the Administrative Assistant to the Board of Selectmen in the Town House. Additional copies of the form are also available at the Town House, or will be mailed upon request (call 978-318-3001 or 978-318-3000).

You will find the Town Report useful for information on specific activities and responsibilities of the various boards and committees. For further information or to discuss your participation in town government in more detail, please feel free to talk with any member of the Board of Selectmen.

Please understand that, happily, we often have more interested citizens than vacancies on particular committees. For that reason, you may find that you may not be matched up immediately or matched up with a committee that is your top priority. Nonetheless, your indication of interest is strongly encouraged and appreciated.

LAST NAME:	FIRST NAME:	PRECINCT #:	TOWN OF CONCORD COMMITTEE INTEREST		
STREET ADDRESS:			INDICATE COMMITTEE PREFERENCE		
E-MAIL ADDRESS:			1.		
PHONE – HOME:		OFFICE:	2.		
FAX #:		CELL#:	3.		
PLACE OF EMPLOYMENT:			DATE APP'T	COMMITTEE	TERM EXPIRED
PROFESSION/TITLE:					
RELEVANT EXPERIENCE, EDUCATION:					
RELEVANT DEGREES, PROFESSIONAL CERTIFICATES:					

PLEASE CHECK THE ANNUAL TOWN REPORT FOR A COMPLETE LISTING OF COMMITTEES AND COMMITTEE REPORTS, THEIR APPOINTIVE AUTHORITIES, AND TERMS OF OFFICE.

ADDITIONAL COMMENTS:

CARDS WILL BE IN ACTIVE FILE FOR 5 YEARS.

MAIL COMPLETED CARD TO: ADMINISTRATIVE ASSISTANT
BOARD OF SELECTMEN
TOWN HOUSE
PO BOX 535
CONCORD, MA 01742

COMMITTEE LISTING

KEY: + APPOINTED BY MODERATOR
 = APPOINTED BY BOARD OF SELECTMEN
 # APPOINTED BY TOWN MANAGER WITH APPROVAL OF THE BOARD OF
 SELECTMEN
 * APPOINTED BY TOWN MANAGER

=	AFFORDABLE HOUSING COMMITTEE
=	BOARD OF APPEALS
#	BOARD OF ASSESSORS
=	CABLE TV COMMITTEE
*	CEMETERY COMMITTEE
=	COMMUNITY PRESERVATION ACT COMMITTEE
=	CONCORD CULTURAL COUNCIL
*	CONCORD MUNICIPAL LIGHT BOARD
*	COUNCIL ON AGING BOARD
+	FINANCE COMMITTEE
=	HANSCOM FIELD ADVISORY COMMISSION REPRESENTATIVE & ALTERNATE
*	BOARD OF HEALTH
#	HISTORICAL COMMISSION
=	HISTORIC DISTRICTS COMMISSION
=	HUGH CARGILL TRUST COMMITTEE
=	LIBRARY COMMITTEE
*	MAPC REPRESENTATIVE
=	MBTA REPRESENTATIVE
+	MINUTEMAN REGIONAL TECHNICAL HIGH SCHOOL REPRESENTATIVE
#	NATURAL RESOURCES COMMISSION
=	PERSONNEL BOARD
=	PLANNING BOARD
=	PUBLIC CEREMONIES & CELEBRATIONS COMMITTEE
*	PUBLIC WORKS COMMISSION
=	RECORDS & ARCHIVES COMMITTEE
*	RECREATION COMMISSION
=	BOARD OF REGISTRARS
*	RETIREMENT BOARD
=	TRUSTEES OF TOWN DONATIONS
=	WHITE POND ADVISORY COMMITTEE

TOWN ELECTION
Tuesday, March 31, 2009
POLLS OPEN 7AM TO 8PM

The deadline for unregistered residents to register to vote for the Annual Town Election or Annual Town Meeting is Wednesday, March 11, 2009.

In addition to regular office hours, the Town Clerk's Office will hold a special evening voter registration session on Wednesday, March 11, 2009 from 4:30 to 8:00 pm at the Town Clerk's Office, 22 Monument Square.

Voter registration may be done either by mail or in person.
For mail-in registration forms, call the Town Clerk's office at 978-318-3080.
For in-person registration, visit the Town Clerk's office at the Town House
22 Monument Square.
Open Monday-Friday 8:30 AM - 4:30 PM and Thursday evenings until 6:00 PM

TOWN MEETING

BEGINS MONDAY, APRIL 27, 2009

7:00 PM

Concord-Carlisle Regional High School

Adjourned sessions - if necessary

Tuesday	April 28, 2009
Wednesday	April 29, 2009
Monday	May 4, 2009
Tuesday	May 5, 2009