

WARRANT FOR TOWN MEETING
MONDAY, APRIL 26, 2010
7:00 PM
CONCORD-CARLISLE REGIONAL HIGH SCHOOL

TOWN OF CONCORD
TOWN HOUSE
CONCORD, MA 01742

PRESORT STANDARD
U.S. POSTAGE PAID
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RESIDENTIAL CUSTOMER
LOCAL 01742

PUBLIC HEARINGS

All at 7:30 P.M.

PLEASE NOTE CHANGE LOCATION OF THE HEARINGS

FINANCE COMMITTEE Town Budget & Articles including Capital	Town House Hearing Room	* Monday, February 22
FINANCE COMMITTEE School Budget & Articles Community Preservation Committee Articles	Town House Hearing Room	** Wednesday, February 24
BOARD OF SELECTMEN	Town House Hearing Room	*** Monday, March 1
PLANNING BOARD	Willard School Auditorium	**** Wednesday, March 3
FINANCE COMMITTEE Enterprise Fund Budgets & Articles	Town House Hearing Room	***** Monday, March 22

PUBLIC HEARING – SNOW DATES

- * Snow date for this day will be Tuesday, February 23
- ** Snow date for this day will be Thursday, February 25
- *** Snow date for this day will be Tuesday, March 2
- **** Snow date for this day will be Thursday, March 4
- ***** Snow date for this day will be Tuesday, March 23

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

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February 2010

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 25, 2010, at 7:30 PM at the Town House in the Hearing Room). 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 23, 2010. The deadline for unregistered residents to register to vote at the Town Election is Wednesday, March 3, 2010.

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 Town House Hearing Room and the Willard School Auditorium 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 Town House in the Hearing Room			
Committee	Articles	Time	Date
Finance Committee: Town Budget, related Articles and Town Capital Articles	3, 5-7, 10-13, 16, 22, 23, 30-33, 39-40, 57, 58, 69	7:30 PM	Monday, February 22
Finance Committee: School Budgets & Articles Community Preservation Committee Articles	8, 9, 24-29, 34-38	7:30 PM	Wednesday, February 24
Board of Selectmen	1, 2, 4, 59-68, 70	7:30 PM	Monday, March 1
Finance Committee: Enterprise Funds Budgets & Articles	14, 15, 17-21	7:30 PM	Monday, March 22
Held at the Willard School Auditorium			
Planning Board	41-56	7:30 PM	Wednesday, March 3

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

TOWN MEETING: On Monday, April 26, 2010 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 3, 2010. 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 63-65 of this Warrant for further information and a tear-out copy of the "Green Card."

Respectfully,

Stanly E. Black

Gregory P. Howes

Virginia McIntyre

Jeffrey S. Wieand

Edward N. Perry

MODERATOR

Elise F. Woodward

BOARD OF SELECTMEN

**THE COMMONWEALTH OF MASSACHUSETTS
WARRANT FOR THE ANNUAL TOWN MEETING 2010**

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 twenty-third day of March next, as follows, all in said Concord

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;

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

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

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

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 twenty-third 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

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-sixth 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 (generally referred to as "Proposition 2 ½"), or take any other action relative thereto.

The motion to be made by the Finance Committee will specify that every motion to appropriate funds will be required to identify the source of funding. This meeting procedure has been adopted by Town Meeting for a number of years.

SECRET BALLOT VOTING PROCEDURE

ARTICLE 4. To determine whether the Town will vote to establish a rule for the 2010 Annual 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. Remove the classification title of "Energy Services/Communications Administrator" from Grade Number MP-3 of the Compensation Plan for Managerial-Professional employees, effective December 10, 2009.
2. Add the classification title of "Energy Conservation Coordinator" to Grade Number MP-3 of the Compensation Plan for Managerial-Professional employees, effective December 10, 2009.
3. Add the classification title of "Customer Service Administrator" to Grade Number MP-3 of the Compensation Plan for Managerial-Professional employees, effective December 10, 2009.
4. Add the classification title of "Senior Budget & Operations Analyst" to Grade Number MP-3 of the Compensation Plan for Managerial-Professional employees, effective December 10, 2009.
5. Make all other changes to the Classification and Compensation Plan voted by the Personnel Board between January 4, 2010, and April 26, 2010.

or take any other action relative thereto.

The Town Manager has authority to create and modify positions throughout the fiscal year; titles and salary ranges are determined using the Town's established classification system. Under the Personnel Bylaw, the Personnel Board is authorized to approve temporary changes in the Classification and Compensation Plans, pending ratification of such actions at the next Town Meeting. Four actions taken appear in the Warrant; if additional actions are taken, notice will be filed with the Town Clerk and details will be presented at Town Meeting.

CLASSIFICATION & COMPENSATION PLAN FOR REGULAR-STATUS POSITIONS

ARTICLE 6. 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, 2010, or take any other action relative thereto:

**CLASSIFICATION AND COMPENSATION PLAN
Effective July 1, 2010**

ADMINISTRATIVE-CLERICAL-LIBRARY

<u>Grade Number & Class Title</u>	Minimum	Mid-Point	Maximum
ACL-1 Recreation Clerk	Hourly 14.92	17.84	20.75
ACL-2 Account Clerk Department Clerk Library Assistant Senior Recreation Clerk Utility Account Clerk	Hourly 16.66	19.91	23.16

Grade Number & Class Title		Minimum	Mid-Point	Maximum
ACL-3	Hourly	18.89	22.58	26.27
Branch Library Assistant Circulation Assistant Senior Account Clerk Senior Department Clerk Senior Library Assistant				
ACL-4	Hourly	20.40	24.39	28.37
Administrative Assistant Collections Assistant Retirement Assistant Treasury Assistant				
ACL-5	Hourly	21.81	26.07	30.32
Assistant Town Clerk Human Resources Assistant Senior Administrative Assistant Senior Circulation/Administrative Assistant Technical Services Assistant				
ACL-6	Hourly	22.56	26.97	31.38
Finance Assistant				
ACL-7	Hourly	24.93	29.80	34.67
Executive Assistant to the Town Manager				

TRADES-CRAFTS-LABOR

Grade Number & Class Title		Minimum	Mid-Point	Maximum
TCL-1	Hourly	14.72	17.59	20.46
Building Custodian				
TCL-2	Hourly	16.63	19.87	23.11
Building Maintenance Custodian Laborer/Truck Driver				
TCL-3	Hourly	18.29	21.86	25.43
Building Systems Custodian Cemetery Specialist Equipment Operator Park & Tree Specialist Water/Sewer System Maintainer				
TCL-4	Hourly	20.47	24.47	28.47
Equipment/Line Operator Master Mechanic Park & Tree Specialist (Aerial) Senior Park & Tree Specialist				

Grade Number & Class Title		Minimum	Mid-Point	Maximum
TCL-5	Hourly	22.66	27.09	31.52
Cemetery Supervisor Crew Leader Senior Master Mechanic Treatment Systems Operator				
TCL-6	Hourly	25.46	30.43	35.40
Fleet Supervisor				
TCL-7	Hourly	28.25	33.77	39.29
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	40,518	50,517	60,515
Aquatics Supervisor Engineering Aide Engineering Technician Recreation Supervisor Special Collections Assistant				
MP-2	Annual	45,725	57,007	68,289
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				

Grade Number & Class Title		Minimum	Mid-Point	Maximum
MP-3	Annual	53,955	67,268	80,581
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				
Customer Service Administrator				
Energy Conservation Coordinator				
Environmental & Regulatory Coordinator				
Fitness Coordinator				
GIS Program Coordinator				
Local Inspector				
Management Analyst				
Recreation Coordinator				
Senior Budget & Operations Analyst				
Senior Planner				
Supervisor of Children's Services				
MP-4	Annual	57,683	71,916	86,149
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	62,045	77,354	92,663
Assistant Library Director				
Deputy Fire Chief				
Deputy Treasurer/Collector				
Highway & Grounds Superintendent				
Police Lieutenant				
Public Health Director				
Town Clerk				

<u>Grade Number & Class Title</u>		Minimum	Mid-Point	Maximum
MP-6	Annual	68,375	85,247	102,118
Building Commissioner Deputy Police Chief Human Resources Director Town Accountant Town Appraiser Town Engineer Water/Sewer Superintendent				
MP-7	Annual	78,294	97,613	116,932
Director of Planning & Land Management Library Director Recreation Director				
MP-8	Annual	87,227	108,751	130,274
Deputy Town Manager Fire Chief Police Chief Public Works Director				
MP-9	Annual	95,598	119,188	142,777
Finance Director				

ELECTRICAL LABOR

<u>Grade Number & Class Title</u>		Minimum	Mid-Point	Maximum
EL-1	Hourly	16.47	19.69	22.90
Meter Reader				
EL-2	Hourly	20.09	24.02	27.95
Lineworker, Grade 3 Meter Technician				
EL-3	Hourly	25.50	28.51	31.52
Lineworker, Grade 2 Utility Electrician				
EL-4	Hourly	31.66	35.40	39.14
Lineworker, Grade 1				
EL-5	Hourly	33.15	37.06	40.97
Lead Lineworker				
EL-6	Hourly	35.70	39.92	44.13
Line Supervisor				

ELECTRICAL MANAGEMENT

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

<u>Grade Number & Class Title</u>		Minimum	Mid-Point	Maximum
EM-1 Meter Supervisor	Annual	55,231	66,015	76,799
EM-2 Electrical Engineer	Annual	63,391	75,768	88,145
EM-3 Assistant CMLP Director Engineering & Operations Manager	Annual	75,405	90,128	104,850
EM-4 CMLP Director	Annual	101,925	121,826	141,726

SWIM & FITNESS

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

Effectively, with annual adjustments and periodic comprehensive reviews, the Classification & Compensation Plan keeps our salaries competitive in the employment market, maintains internal equity of salary ranges, maintains comparability with salaries of unionized employees, and keeps pace with changes in the cost of living. This Article does not control the amount of the actual salary increases to be received by employees in FY11. The Town Manager and Personnel Board set actual salary increase amounts after Town Meeting, based upon the approved budget.

TOWN BUDGET

ARTICLE 7. 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, 2011, or take any other action relative thereto:

General Fund Operating Budget				
Item No.	Department	Fiscal 2009 Expenses	Fiscal 2010 Appropriation	Fiscal 2011 Proposal
General Government \$ 2,037,276 is 6.2% of Total				
1	Town Manager's Office A. Town Manager B. Town-Wide Building Maintenance C. Human Resources Total	\$ 299,204 135,000 156,857 591,060	\$ 308,507 135,000 158,141 601,648	\$ 286,423 150,000 152,539 588,962
2	Legal Services	219,565	250,000	225,000
3	Elections and Registrars A. Elections B. Registrars Total	29,175 10,539 39,714	23,706 10,062 33,768	33,524 8,328 41,852
4	Town Meeting and Reports	50,124	77,800	77,800
5	Planning A. Planning Administration B. Board of Appeals C. Natural Resources D. Inspections E. Health Total	225,526 43,745 185,418 328,709 225,771 1,009,169	273,103 46,026 193,913 355,133 228,778 1,096,953	230,669 46,026 202,013 336,585 225,881 1,041,174
6	141 Keyes Road	62,400	71,454	62,488
	Total General Government	\$ 1,972,033	\$ 2,131,623	\$ 2,037,276
Finance and Administration \$1,614,062 is 4.9% of Total				
7	Finance Committee	2,615	3,100	3,100
8	Finance A. Finance Administration B. Treasurer-Collector C. Town Accountant D. Assessors E. Town Clerk Total	261,997 228,889 121,811 371,512 189,766 1,173,975	267,785 243,115 125,940 381,937 206,434 1,225,211	233,611 239,952 125,752 355,655 196,497 1,151,467
9	Information Systems	307,912	349,089	357,089
10	Town House	91,988	94,591	102,406
	Total Finance and Administration	\$ 1,576,490	\$ 1,671,991	\$ 1,614,062

General Fund Operating Budget				
Item No.	Department	Fiscal 2009 Expenses	Fiscal 2010 Appropriation	Fiscal 2011 Proposal
Public Safety				
\$7,296,442 is 22.3% of Total				
11	Police Department	3,644,407	3,741,748	3,702,146
12	Fire Department	3,257,520	3,323,137	3,322,820
13	West Concord Fire Station	40,675	47,594	40,443
14	Police-Fire Station	253,656	215,545	200,072
15	Emergency Management	15,494	12,810	12,810
16	Dog Officer	17,607	18,151	18,151
	Total Public Safety	\$ 7,229,358	\$ 7,358,985	\$ 7,296,442
Public Works and Facilities				
3,419,540 is 10.4% of Total				
17	Public Works			
	A. CPW Administration	143,229	151,702	151,695
	B. Engineering	411,602	313,123	286,218
	C. Highway Maintenance	1,079,367	1,098,245	1,084,327
	D. Parks and Trees	516,261	555,077	538,740
	E. Cemetery	57,940	67,420	59,520
	Total	2,208,398	2,185,567	2,120,500
18	Snow and Ice Removal	739,985	455,000	495,000
19	Street Lighting	57,186	64,120	50,000
20	CPW Equipment	278,000	278,000	270,000
21	Drainage Program	105,000	205,000	205,000
22	Sidewalk Management	90,000	100,000	100,000
23	Road Improvements	85,000	85,000	90,000
24	133/135 Keyes Road	94,758	94,763	89,040
	Total Public Works and Facilities	\$ 3,658,327	\$ 3,467,450	\$ 3,419,540
Human Services				
\$2,319,693 is 7.1% of Total				
25	Library	1,757,070	1,781,235	1,711,379
26	Recreation Administration	95,219	97,538	86,940
27	Hunt Recreation Center	112,553	76,281	75,173
28	Harvey Wheeler Community Ctr.	125,921	132,381	132,144
29	Council on Aging	217,932	231,586	234,534
30	Veterans	29,476	31,668	30,222
31	Ceremonies and Celebrations	23,855	23,650	23,483
32	Visitors' Center and Restroom	25,601	31,375	25,818
	Total Human Services	\$ 2,387,627	\$ 2,405,714	\$ 2,319,693

General Fund Operating Budget				
Item No.	Department	Fiscal 2009 Expenses	Fiscal 2010 Appropriation	Fiscal 2011 Proposal
Unclassified \$665,000 is 2.0% of Total				
33	Town Employee Benefits			
	A. Unused Sick Leave	62,500	60,000	80,000
	B. Public Safety Disability	978	4,000	2,500
	C. Employee Assistance Program	8,370	8,000	7,500
	Total	71,848	72,000	90,000
34	Reserve Fund*	-	225,000	225,000
	*Transfers totaling \$78,168 were made to other accounts in Fiscal Year 2009			
35	Salary Reserve**	10,000	4,250	350,000
	**Transfers totaling \$550,013 in Fiscal Year 2009 and \$295,750 in Fiscal Year 2010 (to date) were made to other accounts.			
36	Land Fund	-	15,000	-
	Total Unclassified	81,848	316,250	665,000
SUBTOTAL FOR REFERENCE ONLY Account 1-36		\$ 16,905,684	\$ 17,352,013	\$ 17,352,013
Joint (Town - CPS) \$15,393,950 is 47.0% of Total				
37	Insurance			
	A. Group Insurance	3,666,048	4,152,600	4,465,000
	B. Property/Liability	133,487	200,000	175,000
	Total	3,799,535	4,352,600	4,640,000
38	Unemployment/Workers' Comp.			
	A. Unemployment Comp.	56,781	100,000	100,000
	B. Workers' Comp.	60,703	100,000	100,000
	Total	117,484	200,000	200,000
39	Retirement	2,450,000	2,500,000	2,750,000
40	Social Security and Medicare	512,633	545,000	580,000
41	Debt Service			
	A. Long-Term Debt			
	Town Principal and Interest	2,051,184	2,008,385	2,284,000
	School Principal and Interest	773,270	971,511	748,000
	Subtotal	2,824,454	2,979,896	3,032,000
	Interest on Notes	99,444	140,104	138,000
	Other Debt Expense	6,744	30,000	30,000
	Subtotal Within Levy Limit	2,930,642	3,150,000	3,200,000
	B. Excluded Debt	3,295,166	3,973,397	4,023,950
	Total Debt Service	6,225,808	7,123,397	7,223,950
	Total Joint (Town - CPS)	\$ 13,105,460	\$ 14,720,997	\$ 15,393,950
	Total Appropriation	\$ 30,011,144	\$ 32,073,010	\$ 32,745,963

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 35 shall be transferred by the Town Manager to the various salary line items in accordance with salary levels established at July 1, 2010 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 authorize the sum of \$10,614.98 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 2011, pursuant to Article 46 of 1997 and the loan totaling \$200,000 executed on December 22, 1999 and having a final payment due February 1, 2021.

That the Town authorize the sum of \$70,317 to be expended from the Title 5 Septic Loans Betterments reserve account to meet the loan payment of the Massachusetts Pollution Abatement Trust #T5-05-1234 due and payable during FY 2011, pursuant to Article 50 of 2004 and the loan totaling \$703,170 executed on March 18, 2009 and having a final payment date of July 15, 2018.

The Town Budget Article provides for all General Fund (tax-supported) town operations and activities organized by Town Charter under the direction of the Town Manager. The appropriations to be presented for Town Meeting approval are within the spending guideline set by the Finance Committee in November 2009.

PUBLIC SCHOOL BUDGET

ARTICLE 8. 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, 2011, or take any other action relative thereto:

SCHEDULE A - PUBLIC SCHOOL BUDGET				
Item No.	Department	Fiscal 2009 Adopted	Fiscal 2010 Adopted	Fiscal 2011 School Committee
1	Concord Public Schools Budget/Appropriation	\$27,206,200	\$27,699,200	\$27,699,200

This article provides the annual operating budget for the Concord Public Schools. The proposed budget conforms to the spending guidelines set by the Finance Committee in November 2009.

REGIONAL SCHOOL BUDGETS

ARTICLE 9. 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, 2011, or take any other action relative thereto.

SCHEDULE A - CONCORD-CARLISLE REGIONAL HIGH SCHOOL AND MINUTEMAN REGIONAL HIGH SCHOOL BUDGETS				
Item No.	Department	Fiscal 2009 Adopted	Fiscal 2010 Adopted	Fiscal 2011 School Committee
1	Concord-Carlisle Regional High School Budget Assessment	\$21,381,332 \$13,488,028	\$22,494,531 \$14,082,173	\$23,502,927 \$14,591,803*
*(includes \$14,006,221 assessment for operating budget and \$585,582 assessment for debt exclusion)				
Item No.	Department	Fiscal 2009 Adopted	Fiscal 2010 Adopted	Superintendent's Proposed Budget & Fiscal 2011 Assessment
2	Minuteman Regional High School Budget Assessment	17,001,622 486,660	17,496,001 637,601	16,238,679 591,000 (est.)

This article provides Concord's share of the annual operating budgets for the Concord-Carlisle Regional High School and the Minuteman Regional High School.

ELEMENTARY SCHOOL DEBT STABILIZATION FUND USE

ARTICLE 10. To determine whether the Town will vote to authorize and direct the Assessors to take \$1,000,000, or any other sum, from the Elementary School Debt Stabilization Fund, established by vote under Article 10 of the 2008 Annual Town Meeting, to reduce the tax levy for the fiscal year ending June 30, 2011, or take any other action relative thereto.

The 2008 Annual Town Meeting established this Stabilization Fund and transferred \$2.5 million from Free Cash effective July 1, 2009. Together with interest earned and added to the Fund, the current plan is to use the Fund over a five-year period, beginning in FY2011 and in declining annual amounts, to partially offset the debt service cost of the Alcott, Thoreau and Willard elementary school financing.

FREE CASH USE

ARTICLE 11. 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, 2011, or take any other action relative thereto.

This article seeks Town Meeting approval to allocate a portion of the available General Fund balance to support the 2011 budget.

UNPAID BILLS

ARTICLE 12. 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.

If there are unpaid bills of a prior year, state law requires that such bills be presented to the Town Meeting.

PROPERTY TAX EXEMPTION

ARTICLE 13. 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, or take any other action relative thereto.

State law establishes property tax exemptions for disabled veterans, blind persons, and elderly citizens who meet certain income and asset limitation requirements. A portion of the foregone taxes resulting from these exemptions is reimbursed by the state. Another provision of state law allows municipalities the option of increasing the state-set exemption amounts by up to 100%, without further state sharing of the cost. This option must be voted annually; the Concord Town Meeting has done so since 2001. For example, the senior exemption is set by the state at \$500 and has been increased to \$1,000 by annual votes since 2005.

LIGHT PLANT PAYMENT IN LIEU OF TAXES

ARTICLE 14. To determine whether the Town will vote to authorize a transfer of \$380,000, 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, 2011, or take any other action relative thereto.

This article authorizes the transfer of \$380,000 from the Operating Fund of the Light Plant to the General Fund as a Payment In Lieu Of Taxes (or PILOT) for fiscal year 2011. The amount is determined as the product of the net plant investment of the Light Plant on June 30 and the tax rate at the end of the year. This makes the PILOT equivalent to the amount an investor-owned utility with the same physical plant would pay in property taxes thus avoiding a subsidy from taxpayers to the Light Plant.

LIGHT PLANT EXPENDITURES

ARTICLE 15. 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/or for other plant extensions, enlargements, additions, renewals and reconstruction, or take any other action relative thereto.

This article authorizes the Town Manager, as Manager of the Light Plant, to expend the income received by the Light Plant from the sale of electricity along with other departmental income to be used for the purposes of operating the department for the Fiscal Year. This is a routine annual action.

ROAD REPAIR REVOLVING FUND EXPENDITURES

ARTICLE 16. 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 53E½ of the Massachusetts General Laws, or take any other action relative thereto.

Consistent with Article 47 of the 1992 Annual Town Meeting, this Article authorizes up to \$120,000 of fees collected through the Town's Right-of-Way Street Permit Program to be used in fiscal year 2011 for repairing, restoring, maintaining and inspecting the Town's public ways. This is a routine annual action, with the amount of the authorization dependent upon the available unreserved balance of the Fund at the time of the vote.

SOLID WASTE DISPOSAL FUND EXPENDITURES

ARTICLE 17. 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.

Consistent with Article 27 of the 1989 Annual Town Meeting, this Article authorizes the Town Manager to use cash on hand in the Solid Waste Disposal Fund and user fee revenue in fiscal year 2011 to be used to operate the Town's "pay-as-you-throw" curbside solid waste and recycling collection and disposal program. The Program consists of two major components: curbside collection and disposal including recycling and Drop-Off Days; and the operation and maintenance of the Town's Composting Site including the former landfill. This is a routine annual action.

SEWER SYSTEM EXPENDITURES

ARTICLE 18. 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.

Consistent with Article 37 of the 1976 Annual Town Meeting, this Article authorizes the Town Manager to use cash on hand in the Sewer Fund and fiscal year 2011 revenue for the operation and maintenance and improvement of the Town's sewer system. Similar to the Town's Water and Light Plant Funds, the Sewer Fund is an enterprise fund. The entire cost of operations, maintenance, and capital replacement and renewal is funded by user fees. At the present time approximately one-third of Concord's residences and many businesses and institutions are connected to the Town's municipal sewer system. This is a routine annual action.

SEWER IMPROVEMENT FUND EXPENDITURES

ARTICLE 19. 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.

Consistent with Article 25 of the 1989 Annual Town Meeting, this Article authorizes the Town Manager to use cash on hand in the Sewer Improvement Fund (a sub-fund within the Sewer Enterprise) and fiscal year 2011 fees for constructing and expanding the Town's sewer lines and treatment facility capacities. Sewer improvement fees are charged to certain properties connecting to the sewer system or for expansion. This is a routine annual action.

WATER SYSTEM EXPENDITURES

ARTICLE 20. 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.

Consistent with Article 38 of the 1974 Annual Town Meeting, this Article authorizes the Town Manager to use cash on hand in the Water Fund and fiscal year 2011 revenue for the operation and maintenance and improvement of the Town's water system. Similar to the Town's Sewer and Light Plant Funds, the Water Fund is an enterprise fund. The entire cost of operations, maintenance, and capital replacement and renewal is funded by user fees. Almost all of Concord's residences and businesses/institutions are connected to the Town's municipal water system. This is a routine annual action.

BEEDE SWIM & FITNESS CENTER ENTERPRISE FUND; FY 2011 BUDGET

ARTICLE 21. 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, 2010 (FY2011) 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.

This Article enacts the operating budget for the Community Swim and Fitness Center. The facility is self-supporting from its own revenues. State law applicable to this enterprise fund, adopted by the 2005 Town Meeting, requires that a budget be enacted by Town Meeting. No tax funds are involved. In 2009, Town Meeting appropriated \$2,434.400 for this purpose.

2011 ROAD PROGRAM

ARTICLE 22. 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, 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, in anticipation of reimbursement of this amount, or take any other action relative thereto.

This Article authorizes the Treasurer to borrow \$700,000 for the repair, reconstruction or renovation of Concord's roads. Combined with expected state road aid and \$90,000 requested under Article 7, item 23, funds will be used to protect and replace Concord's 103 miles of public roads. This borrowing is part of the Town Manager's Five-Year Capital Plan, with the debt service cost to be funded within the levy limit.

NAGOG POND WATER SUPPLY SYSTEM IMPROVEMENTS

ARTICLE 23. To determine whether the Town will vote to appropriate the sum of \$1,900,000, or any other sum, for the construction of water supply and water treatment facilities and improvements associated with Nagog Pond reservoir, Nagog dam and the Route 2A pump station including engineering, permitting and other related services and costs necessary for said facilities and improvements; and that to meet this appropriation the Treasurer with the approval of the Board of Selectman be authorized to borrow the sum of \$1,900,000, or any other sum, under the provisions of Section 8 of Chapter 44 of the Massachusetts General Laws, said funds to be expended under the direction of the Town Manager, or take any other action relative thereto.

This \$1,900,000 debt authorization will provide for the rehabilitation of the 60 year old Route 2A pump station including the addition of a new ultraviolet disinfection process to achieve regulatory compliance as required by the Long-term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR) scheduled to go into effect in October 2013. In addition, based on needs identified in the Phase 2 Nagog dam investigation currently underway, engineering design and/or construction will be initiated for the Nagog Dam which was originally constructed in 1909 and, following a 2009 Phase I dam investigation, has been determined to be in poor condition and rated as a significant hazard by the Department of Conservation and Recreation, Office of Dam Safety. Engineering design of the 1,800 foot Nagog Pond water intake line and 6,000 foot suction line are also included within this budget.

CONCORD PUBLIC SCHOOLS RENOVATIONS

ARTICLE 24. To determine whether the Town will vote to raise and appropriate or transfer available funds in the treasury, or authorize the Town Treasurer with the approval of the Board of Selectmen to borrow the sum of \$600,000, or any other sum, under provisions of Section 7 of Chapter 44 of the Massachusetts General Laws, for the purpose of remodeling, reconstructing or making extraordinary repairs for equipment, and for related work at various Concord Public School facilities, or take any other action relative thereto.

This article authorizes the Treasurer to borrow \$600,000 for remodeling, reconstruction and extraordinary repairs, and related work at various Concord Public School facilities. This borrowing is part of the Town Manager's Five-Year Capital Plan, with the debt service cost to be funded within the Levy Limit.

CONCORD PUBLIC SCHOOLS TECHNOLOGY STABILIZATION FUND CREATION AND FUNDING

ARTICLE 25. To determine whether the Town will vote to establish a Stabilization Fund, pursuant to Section 5B of Chapter 40 of the Massachusetts General Laws, for the purpose of reserving funds to lower future tax levy impacts of operating budgets for Concord Public Schools technology equipment replacements and networking service upgrades, said Stabilization Fund to be invested and to retain its own interest earnings as provided by law; and further, that the sum of \$25,000, or any other sum, be transferred from available funds originally appropriated for the operation of the public schools of the town for the fiscal year ending June 30, 2009 and encumbered at that year end for capital equipment purposes, said sum to be transferred into the Concord Public Schools Technology Stabilization Fund effective July 1, 2010, or take any other action relative thereto.

This Article seeks Town Meeting approval to create a Technology Stabilization Fund and authorization to transfer into the newly created fund monies encumbered from prior year school budgets for technology expenses. The Technology Stabilization Fund is invested by the Town Treasurer.

TRANSFER OF FUNDS TO CONCORD PUBLIC SCHOOLS CAPITAL NEEDS STABILIZATION FUND

ARTICLE 26. To determine whether the Town will vote to transfer the sum of \$130,000, or any other sum, from available funds originally appropriated for the operation of the public schools of the town for the fiscal year ending June 30, 2008 and encumbered at that year end for capital purposes, and to transfer the

sum of \$130,000, or any other sum, from available funds originally appropriated for the operation of the public schools of the town for the fiscal year ending June 30, 2009 and encumbered at that year end for capital purposes, said sums to be transferred to the Concord Public Schools Capital Needs Stabilization Fund established by vote under Article 32 of the 2006 Annual Town Meeting, or take any other action relative thereto.

This Article seeks Town Meeting approval to transfer into the existing Capital Needs Stabilization Fund monies encumbered from prior year school budgets for capital expenses. The Stabilization Fund is invested by the Town Treasurer.

CONCORD-CARLISLE REGIONAL SCHOOL DISTRICT TECHNOLOGY STABILIZATION FUND CREATION AND FUNDING

ARTICLE 27. To determine whether the Town will vote to authorize the Concord-Carlisle Regional School District Treasurer to establish a Stabilization Fund, pursuant to Section 16G1/2 of Chapter 71 of the Massachusetts General Laws, for the purpose of reserving funds to lower future tax levy impacts of operating budgets for Concord-Carlisle Regional School District technology equipment replacements and networking service upgrades, said Stabilization Fund to be invested and to retain its own interest earnings as provided by law; and further, that the sum of \$5,800 be transferred from the available year end balance reserved at June 30, 2009 and transferred into said Stabilization Fund effective July 1, 2010, or take any other action relative thereto.

This Article seeks Town Meeting approval for the Regional School District to create a Technology Stabilization Fund and authorization to transfer into the newly created fund monies encumbered from prior year school budgets for technology expenses. The Technology Stabilization Fund is invested by the Concord-Carlisle Regional School District Treasurer. As with any Stabilization Fund, a two-thirds vote of the Town Meeting is required to put money into such fund or to take money out for a specific technology purpose.

CONCORD-CARLISLE HIGH SCHOOL/MSBA FEASIBILITY STUDY

ARTICLE 28. To determine whether the Town will vote to approve the sum of \$1,300,000, or any other sum, of debt authorized by the Concord-Carlisle Regional School Committee to be expended, as advised and recommended by the Regional School Building Committee, and as approved by the Concord-Carlisle Regional School District's appointed Chief Procurement Officer, for the CCHS Feasibility Study & Schematic Design, Concord-Carlisle High School, 500 Walden Street, Concord, MA, for which feasibility study the Concord-Carlisle Regional School District may be eligible for a grant from the Massachusetts School Building Authority. The MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any costs the Concord-Carlisle Regional School District incurs in connection with the feasibility study in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Concord-Carlisle Regional School District, or take any other action relative thereto.

This Article seeks Town Meeting approval to authorize the Concord-Carlisle Regional School District Treasurer to borrow funds for procuring feasibility study and schematic design services. The Massachusetts School Building Authority requires that the Regional School District be authorized to borrow the full amount of the appropriation, including such portion that may be reimbursed by the Authority.

MINUTEMAN CAREER & TECHNICAL HIGH SCHOOL FEASIBILITY STUDY

ARTICLE 29. To determine whether the Town will vote to approve the sum of \$1,100,000, or any other sum of debt authorized by the Minuteman Regional Vocational Technical School District for the purpose of paying costs of a Feasibility Study to consider options for making improvements to the District's High School Building located at 758 Marrett Road, Lexington, MA, which options shall include but not be limited to renovating, reconstructing, expanding, remodeling and adding to the District High School, or any combination

of the foregoing, said sum to be expended at the direction of the School Building Committee, for which feasibility study the Minuteman Regional Vocational Technical School District may be eligible for a grant from the Massachusetts School Building Authority.. The MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any costs the Minuteman Regional Vocational Technical School District incurs in connection with the feasibility study in excess of any grant approved by and received from the MSBA, shall be the sole responsibility of the Minuteman Regional Vocational Technical School District, or take any other action relative thereto.

AMBULANCE REPLACEMENT

ARTICLE 30. 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 Section 7(9) Chapter 44, of the Massachusetts General Laws, the sum of \$200,000, or any other sum, for the purchase of a Fire Department front line ambulance, said funds to be expended under the direction of the Town Manager, or take any other action relative thereto.

This Article authorizes the Treasurer to borrow \$200,000 for the replacement of a front line ambulance. This borrowing is part of the Town Manager's Five-Year Capital Plan, with the debt service cost to be funded within the levy limit.

LOCAL OPTION MEALS EXCISE

ARTICLE 31. To determine whether the Town will vote to accept Section 2(a) of Chapter 64L of the Massachusetts General Laws, to impose a local meals excise of 0.75% (three quarters of one percent) on the sales of restaurant meals originating within Concord, effective July 1, 2010, or take any other action relative thereto.

This General Law enacted in 2009 permits all municipalities, by local option, to adopt a local meals tax. Such tax would be added to the state meals tax and collected by the state for distribution back to the locality.

LOCAL OPTION ROOM OCCUPANCY TAX

ARTICLE 32. To determine whether the Town will vote to amend its local room occupancy excise under Section 3A of Chapter 64G of the Massachusetts General Laws, presently set at 4%, to the rate of 6% effective July 1, 2010, or take any other action relative thereto.

This General Law enacted in 2009 permits the Town to add up to an additional 2% to its existing 4% local room occupancy tax originally enacted in 1986. This tax is collected by the State for distribution back to the locality.

LOCAL OPTION LOCAL INCOME TAX

ARTICLE 33. To determine whether the Town will vote to request the Board of Selectmen to ask our legislative representatives to file and seek passage of legislation that would permit cities and towns the option of adopting a local income tax on residents which would be collected by the state and returned to the municipality to reduce the local residential property tax rate, or take any other action relative thereto.

This article is proposed by the Local Option Local Income Tax Committee which was appointed by the Board of Selectmen to "secure enabling legislation to permit Massachusetts cities and towns to adopt a local income tax." a recommendation of the 2005 Comprehensive Long Range Plan. The article seeks to give municipalities an option to relieve the growing property tax burden on middle and lower income homeowners. Another goal of this article is to attempt to preserve the historical diversity of our community which is threatened by ongoing increases in the property tax. Eighteen (18) other states have adopted this funding mechanism. In Massachusetts such action would require state legislative action and potentially a state constitutional amendment.

Continued Approval of this article does not institute such a tax, nor does it bind the Selectmen to request enabling legislation. The motion is intended to support the Selectmen in further pursuing this funding option. No personal financial information would be released to the Town by the State. The revenue collected would be returned to the Town by the State.

COMMUNITY PRESERVATION COMMITTEE APPROPRIATION RECOMMENDATIONS

ARTICLE 34. To determine whether the Town will vote to appropriate the sum of \$1,046,100, or any other sum, from the Concord Community Preservation Fund, of which up to \$13,855 shall be appropriated from the undesignated fund balance as of June 30, 2009 and up to \$1,032,245 shall be appropriated from projected Fiscal Year 2011 Fund Revenues, in accordance with Chapter 44B of the Massachusetts General Laws, to be expended under the direction of the Town Manager as follows:

Item	Project/Description	Amount	Category	Source of Funds	
				Prior Year Fund Balance	FY10 CPA Fund Revenues
A	Concord Housing Authority – Peter Bulkeley Terrace	\$500,000	Community Housing		\$500,000
B	Concord Public Library Corporation – Fowler Library Renovations	\$375,000	Historic Preservation		375,000
C	Open Space Reserve Fund	87,925	Open Space	\$13,855	74,070
D	Town of Concord – Warner’s Pond Watershed Management Plan	43,175	50% Open Space, 50% Recreation		43,175
E	Concord Scout House, Inc. – Historic Structures Report	10,000	Historic Preservation		10,000
F	Town of Concord – Administrative Expenses	30,000	Administration		30,000
Total		\$1,046,100.00		\$13,855	\$1,032,245

or take any other action relative thereto.

This article authorizes the appropriation of funds from the Community Preservation Fund for the completion of specific projects as listed in the above chart and allowed under the Community Preservation Act. These projects will expend a total of \$500,000 for Community Housing, \$385,000 for Historic Preservation, \$109,512.50 for Open Space, \$21,587.50 for Recreation and \$30,000 for Administration pursuant to the recommendation of the Community Preservation Committee. Town Meeting may reduce or reject but may not increase the appropriation for any item proposed by the Committee.

COMMUNITY PRESERVATION COMMITTEE – PRESERVATION AND ACQUISITION OF THE CAESAR ROBBINS/PETER HUTCHINSON HOUSE

ARTICLE 35. To determine whether the Town will vote to authorize the Town Treasurer with the approval of the Board of Selectmen to borrow the sum of \$300,000, or any other sum, under the provisions of Chapter 44, Section 7 and/or Chapter 44B of the Massachusetts General Laws, with the debt service on said borrowing to be paid from the Community Preservation Act Fund annual revenues, or by raising and appropriating, or by transfer from available funds, for the restoration, preservation, acquisition and/or relocation of the Caesar Robbins House and/or the property upon which it is currently situated at 324 Bedford Street and to authorize such restoration, preservation, acquisition and/or relocation on terms that are acceptable to the Board of Selectmen, said funds to be expended under the direction of the Town Manager, and further to: (a) authorize the Selectmen and/or Town Manager to use the land at 324 Bedford Street for open space and/or the development of community housing, and/or to convey the land for community housing subject to an affordable housing restriction, or as surplus municipal property, on terms acceptable to the Board of Selectmen, (b) authorize the Selectmen and/or Town Manager to place a historic preservation restriction on the house, whether it remains at 324 Bedford Street or is relocated, and/or (c) authorize the Town Manager with the approval of the Board of Selectmen to lease the house to a non-profit organization, and/or (d) authorize the Selectmen and Town Manager to take such actions as may be necessary under State law or otherwise to effectuate the foregoing, or determine whether the Town will vote to take any other action relative thereto.

This Warrant Article proposes to support the preservation of the Caesar Robbins/Peter Hutchinson House at 324 Bedford Street through the use of funds to acquire, relocate, or restore the historic ca. 1780s structure which was built by one of Concord's first freed slaves. The Drinking Gourd Project, a division of the Concord Carlisle Human Rights Council, has applied for \$300,000 to save the building and ultimately convert it into a Civil Liberties Museum which will be open to the public. The CPC proposes that the Treasurer be authorized to borrow \$300,000 for this purpose. Debt service would be paid from CPA Fund local surcharge revenues for the life of the bonds.

AUTHORIZATION OF LONG TERM LEASE ON TOWN PROPERTY AT 34B MONUMENT STREET FOR THE RELOCATION OF THE CAESAR ROBBINS/PETER HUTCHINSON HOUSE

ARTICLE 36. To determine whether the Town will vote to authorize the Town Manager to enter into or approve a long-term lease or sublease agreement, subject to terms and conditions approved by the Board of Selectmen, for the purposes of relocating the Caesar Robbins House to the municipal property at 34B Monument Street, shown on the Assessors maps as parcel # 1261, which lease shall be granted to a non-profit organization that has as one of its goals the preservation of historic properties, for the purpose of preserving the Caesar Robbins House and operating it as a civil liberties museum, and further to: (a) authorize the Selectmen and/or Town Manager to amend or terminate any existing lease or sublease for the property to allow for the long-term lease mentioned above, (b) authorize the Board of Selectmen to accept a confirmatory deed to the property if the Board determines it to be necessary, and (c) authorize the Selectmen and Town Manager to take such actions as may be necessary under State law or otherwise to effectuate the foregoing, or determine whether the Town will vote to take any other action relative thereto.

The purpose of this article is for the Town to enter into a long-term lease on property located at 34B Monument Street for the relocation of the Caesar Robbins House.

CONSERVATION RESTRICTION CONVEYANCE – 335 WALDEN STREET

ARTICLE 37. To determine whether the Town will vote to authorize the Board of Selectmen to transfer the open space land behind 335 Walden Street (a portion of parcel #0249) to the Natural Resources Commission, acting as the Town's Conservation Commission, and thereafter grant a conservation restriction governed by Sections 31, 32, and 33 of Chapter 184 of the General Laws of Massachusetts to the Concord Land Conservation Trust, on terms acceptable to the Board of Selectmen, or take any other action relative thereto.

The open space parcel of land behind 335 Walden Street was purchased with CPA funds approved by Town Meeting in 2008, the use of CPA funds requires that a conservation restriction be placed on land purchased for open space. The 2008 Town Meeting vote approved purchase of the land for open space purposes with a conservation restriction conveyed from the Board of Selectmen to the Natural Resources Commission. The State no longer recognizes the Board of Selectmen and the Natural Resources Commission as separate entities and requires that the conservation restriction be held by a third party.

REVOKE THE COMMUNITY PRESERVATION ACT – (By Petition)

ARTICLE 38. To determine whether the town will vote to revoke (effective Fiscal Year 2011) Article 37 of the Concord Town Meeting held on April 28, 2004 and reject sections 3 to 7, inclusive, of Chapter 44B of the General Laws of Massachusetts, also known as the Community Preservation Act, that established a dedicated funding source to acquire, create and preserve open space, historic resources, land for recreational use and community housing; thereby (1) removing the surcharge of 1.5% on the annual real estate tax levy on real property which has been utilized in Concord, together with matching funds from the Massachusetts Community Preservation Trust Fund, to fund the Community Preservation Act projects – which surcharge excluded (a) the first \$100,000.00 of value of each taxable parcel of residential real property and (b) property owned and occupied as a domicile by any person who qualifies for low income housing or low or moderate income senior housing - and (2) removing the need for the Community Preservation Committee that makes recommendations on the use of the Community Preservation Act funds to Town Meeting, or take any other action relative thereto.

Passage of this article both at Town Meeting and by Town Election ballot would change the way that Concord obtains and allocates funds to acquire, create and preserve open space, historic resources, land for recreational use and community housing.

LAND ACQUISITION – MARSHALL FARM

ARTICLE 39. To determine whether the Town will vote to authorize the Board of Selectmen to acquire by purchase, eminent domain or otherwise for agriculture, open space and/or affordable housing purposes, all or a portion of the property located at 169 Harrington Avenue, as shown on the assessors maps as parcel 2710, containing 1.8 acres, more or less, together with the structures thereon, and further, to determine whether the Town will authorize the Board of Selectmen 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 of the Massachusetts General Laws and Acts, the sum of \$725,000, or any other sum, to be expended by the Board of Selectmen to effect this acquisition, and further to determine whether the Town will vote to authorize the Town Manager to grant a lease or license for all or a portion of this property, under terms and conditions agreeable to the Board of Selectmen to an individual or family actively engaged in farming said property, at a rent at or below market rate, in accordance with applicable law, or take any other action relative thereto.

This article would authorize the Selectmen to acquire the remainder of the Marshall Farms property on Harrington Avenue, including the farm stand, two dwellings, several greenhouses, and approximately 2 acres of land with frontage on Harrington Avenue and frontage on the Assabet River. The Town currently owns 4.6 acres immediately to the west of this property, as well as the 15-acre Harrington House property to the east, of which approximately 6 acres is currently in active agriculture. This acquisition would enable the Town to preserve a long-standing family farm operation, with all of the structures and land necessary to maintain a viable farmstead in the future. It is expected that the entire farm property would be leased to a family or individual willing to continue actively farming the land.

LAND ACQUISITION – SCIMONE FARM ON OLD BEDFORD ROAD

ARTICLE 40. To determine whether the Town will vote to authorize the Board of Selectmen to acquire by purchase, eminent domain or otherwise for agriculture, open space and/or affordable housing purposes, all or a portion of the property located at 505 and 515 Old Bedford Road, as shown on assessors parcels 1040,1041, 1059, 1059-1, and 1187, containing 27.5 acres, more or less, together with the structures thereon, and further, to determine whether the Town will authorize the Board of Selectmen 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 under the provisions of Chapter 44 of the Massachusetts General Laws, the sum of \$2,300,000, or any other sum, to be expended by the Board of Selectmen to effect this acquisition, and further to determine whether the Town will vote to authorize the Board of Selectmen to sell or lease not more than 27.5 ± acres of the property to be used for community housing, on terms acceptable to the Board of Selectmen, any proceeds, donations or revenues allocated from any other source, to be applied to reduce the debt authorization, or take any other action relative thereto.

This article would authorize the Selectmen to acquire all or a portion of the Scimone family land located on Old Bedford Road, most of which is currently in agricultural use. A proposal to purchase the family's approximately 27.5 acres, as well as two dwellings, the farm stand, and several outbuildings, was submitted to the family in December. This land acquisition, if approved, would advance several town goals including the preservation of farmland, open space protection, a modest creation affordable housing, and protection of endangered species habitat. Negotiations with the family are continuing regarding this preservation of one of the last remaining large parcels of land in active agriculture in Concord.

ZONING BYLAW AMENDMENT – NONCONFORMING USES AND STRUCTURES

ARTICLE 41. To determine whether the Town will vote to amend Zoning Bylaw Section 7.1 **Nonconforming Uses**, by changing the method of calculating building extensions to one that is already defined by the bylaw – gross floor area, as follows:

In subsection 7.1.5, delete the words “square feet” and replace them with the words “gross floor area” so that the section reads as follows:

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 gross floor area ~~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:

And, in subsection 7.1.7, delete the word “involuntary” before the word “demolition”, which appears in three locations (the title of the subsection, the opening paragraph and item (a)); and delete the words “volume and area” and replace them with the words “gross floor area” in items (b) and (c), so that the subsection reads as follows:

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 gross floor area ~~volume or area~~ as the original nonconforming structure.
- (c) In the event that the proposed reconstruction would (i) cause the structure to exceed the gross floor area ~~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.

or take any other action relative thereto.

Changes above are shown as strike-through and underline for the warrant only. The amendment to subsection 7.1.5 is necessary to provide clear definition of how to measure existing and proposed floor areas within a building. The term “gross floor area” is already defined within the bylaw. The amendment to subsection 7.1.7 is to address all demolition of nonconforming structures, not just involuntary demolition of such structures. Substituting the phrase “gross floor area” for “volume and area” applies a defined method of calculation and clarifies the interpretation for the Building Inspector. A special permit is still required to build any structure that is larger in gross floor area than the original nonconforming structure.

ZONING BYLAW AMENDMENT – PLANNED RESIDENTIAL DEVELOPMENT

ARTICLE 42. To determine whether the Town will vote to amend **Section 10. Planned Residential Development**, as follows:

In subsection 10.2.2 *Maximum Permissible Density*, delete the words “in the Residence C and Business districts and shall not exceed three times the basic density in all other” and insert the words “all residential districts and in the Business district”, so that the subsection reads as follows:

10.2.2 Maximum Permissible Density: Maximum permissible density within a PRD tract shall not exceed two times the total number of dwelling units obtained through application of subsection 10.2.2.1 (basic density) in all residential districts and in the Business district. In the Limited Industrial Park #1 district

the maximum permissible density shall not exceed three times the total amount allowed by application of Section 10.2.2.1. In no case shall that portion of a PRD which lies outside the Flood Plain and Wetlands Conservancy districts contain less than five thousand (5,000) square feet of upland area for each dwelling unit.

And, in subsection 10.2.3 *Diversity of Dwelling Units*, delete the words “one or more” and replace them with “at least ten percent (10%) of the”, so that the subsection reads as follows:

10.2.3 *Diversity of Dwelling Units:* A mix of diverse housing opportunities shall be provided in all Planned Residential Developments. Such diversity may consist of: a mix in the number of bedrooms available or the gross floor area of the units, a mix of single-family, two-family and multi-family units or a mix of the price or rental rates of the units. If all the units proposed in the Planned Residential Development are market-rate units, then only the basic density shall be permitted. Increases beyond the basic density within the Planned Residential Development may be authorized by the Board only if at least ten percent (10%) of the units are made available as described in subsection 10.2.3.1 and 10.2.3.2. Any increases in density permitted by the Board shall not exceed the limits contained in subsection 10.2.2 and shall be based upon the degree to which the proposed PRD provides a range of low income and affordable dwelling units, in addition to the mix of diverse housing opportunities.

And, in subsection 10.2.3.1 *Low income dwelling units*, delete the words “Executive Office” and replace them with the word “Department”, insert the acronym “(DHCD)”, as shown below, and insert a semi-colon and the phrase “; which can be counted toward the DHCD’s Subsidized Housing Inventory” at the end of the paragraph, so that the subsection reads as follows:

10.2.3.1 *Low income dwelling units* are those units made available to the Concord Housing Authority, or other entity as the Board may direct, either for purchase within the cost limits allowed by the Commonwealth of Massachusetts ~~Executive Office~~ Department of Housing and Community Development (DHCD), or for lease under federal or state rental-assistance programs, or through a long-term contractual agreement; which can be counted toward the DHCD’s Subsidized Housing Inventory.

And, in subsection 10.2.9 *Common Open Space*, add the sentence “At least 50% of the area of common open space shall be upland (land that is not within the Flood Plain Conservancy District or wetlands as defined under the Wetlands Protection Act or the Rivers Protection Act)” at the end of the paragraph as shown below:

10.2.9 *Common Open Space:* All land within the PRD tract which is not covered by buildings, roads, driveways, parking areas or service areas, or which is not set aside as yards, patios, gardens, or similar areas for exclusive or shared use by the residents, shall be common open space. The area of the common open space shall equal at least twenty-five (25) percent of the total area of the PRD tract. At least 50% of the area of common open space shall be upland (land that is not within the Flood Plain Conservancy District or wetlands as defined under the Wetlands Protection Act or the Rivers Protection Act).

or take any other action relative thereto.

Changes above are shown as strike-through and underline for the warrant only. These amendments to Section 10 Planned Residential Development are intended to address concerns raised by the public and the Planning Board when reviewing recent development proposals. The amendments reduce the number of units that can be built, provide clear language that ten percent of the units must be affordable as defined by the State in order to increase the density, and require upland area in the open space calculation.

ZONING BYLAW AMENDMENT GROUNDWATER CONSERVANCY DISTRICT

ARTICLE 43. To determine whether the Town will vote to amend Zoning Bylaw Section **2.2 Zoning Map** by adding the delineated Zone II recharge area of the Acton Water District’s Assabet well field that extends into the Town of Concord and overlaps in part with Concord’s Second Division well to the Groundwater Conservancy District by adopting a new map of said district as follows:

“2.2 Zoning Map

Groundwater Conservancy District, Town of Concord, January 4, 2010 (Scale 1” = 1000’ consisting of a single sheet).

or take any other action relative thereto.

The State’s Department of Environmental Protection, under the Water Management Act Permitting authority, is asking water suppliers across the state to extend groundwater protection of the Zone II water resources to neighboring communities. This amendment will extend Concord’s zoning protection to Acton Water District’s Assabet well field.

**ZONING BYLAW AMENDMENT
WEST CONCORD BUSINESS DISTRICT AND WEST CONCORD INDUSTRIAL DISTRICT**

ARTICLE 44. To determine whether the Town will vote to amend Zoning Bylaw Section **2.2 Zoning Map** by changing those parcels located in West Concord along Main Street, Commonwealth Ave. and Church Street that are currently zoned as “Business” to “West Concord Business” and by changing those parcels located in West Concord on Bradford Street and Beharrell Street that are currently zoned as “Industrial” to “West Concord Industrial” as shown on the “Zoning Map” as follows:

Zoning Districts, Town of Concord, 2010 (Scale 1” = 100’ consisting of 122 sheets).

And, to amend Zoning Bylaw Section 4. Classification of Principal Uses, TABLE I – PRINCIPAL USE REGULATIONS to insert the West Concord Business District and the West Concord Industrial District as provided in the table below:

TABLE I – PRINCIPAL USE REGULATIONS

Principal Uses		Commercial Districts			Industrial Districts	
		B	WCB	Ltd B	WCI	I
4.1	Extensive Uses					
4.1.1	Forestry	yes	yes	yes	yes	yes
4.1.2	Agriculture, horticulture, floriculture, and viticulture	yes	yes	yes	yes	yes
4.1.3	Greenhouse	yes	yes	no	yes	yes
4.1.4	Earth Removal	SP	SP	SP	SP	SP
4.1.5	Conservation use	yes	yes	yes	yes	yes
4.1.6	Private recreation	yes	yes	yes ¹	yes	yes
4.2	Residential Uses					
4.2.1	Single-family dwelling	yes	no	no	no	no
4.2.2	Two-family or additional dwelling unit	SP	no	no	no	no
4.2.3	Combined business/residence	yes	yes	yes ³	no	no
4.2.4	Combined industrial/business/residence	no	no	no	SP	SP
4.2.5	Residential Compound	SP	no	no	no	no
4.2.6	Residential Cluster Development	SP	no	no	no	no
4.2.7	Planned Residential Development	SP	no	no	no	no
4.2.8	Boarding house	yes	no	no	no	no
4.2.9	Hotel and motel	yes	SP	yes ¹	no	no
4.3	Institutional Uses					
4.3.1	Educational	yes	yes	yes	yes	yes
4.3.2	Child care facility	yes	yes	yes	yes	yes
4.3.3	Religious	yes	yes	yes	yes	yes

4.3.4	Philanthropic	yes	yes	SP ⁸	yes	yes
4.3.5	Hospital and nursing home	yes	no	SP ⁶	no	no
4.3.6	Assisted living residence	yes	no	SP ⁸	no	no
4.3.7	Cemetery	yes	no	no	no	no
4.3.8	Lodge and club	yes	SP	no	yes	yes
4.4	Government and Utility Uses					
4.4.1	Municipal use	yes	yes	yes	yes	yes
4.4.2	Underground utility	yes	yes	yes	yes	yes
4.4.3	Above ground utility	yes	yes	SP	yes	yes
4.5	Business Uses					
4.5.1	Retail store	yes	yes	no	no**	no**
4.5.2	Personal service shop	yes	yes	no	no	no
4.5.3	Craft shop	yes	yes	yes	yes	yes
4.5.4	Restaurant	yes	yes	yes	yes	yes
4.5.5	Indoor amusement	yes	yes	SP	yes	yes
4.5.6	Outdoor amusement	yes	yes	yes ¹	yes	yes
4.5.7	Funeral home	yes	SP	yes ³	yes	yes
4.5.8	Repair shop and building trade	yes	yes	no	yes	yes
4.5.9	Veterinary and kennel	no	no	no	yes	yes
4.5.10	Financial and business office	yes	yes	yes*	yes	yes
4.5.11	Professional office	yes	yes	yes*	yes	yes
4.5.12	Medical center and laboratory	yes	no	SP ⁶	yes	yes
4.5.13	Auto service station	yes	SP	yes ¹	yes	yes
4.5.14	Auto repair shop	yes	SP	no	yes	yes
4.5.15	Vehicular dealerships	no	no	no	yes	yes
4.5.16	Boat sales and rental	yes	no	yes ⁵	yes	yes
4.5.17	Parking facility	yes	no	no	SP	SP
4.5.18	Transportation services	SP	SP	no	SP	SP
4.6	Industrial Uses					
4.6.1	Warehouse	yes	no	no	yes	yes
4.6.2	Storage yard, open-air sales	yes	no	yes ⁵	SP	SP
4.6.3	R&D and Light Manufacturing	yes	SP	no	SP	SP
4.6.4	Manufacturing, packaging, processing, and testing	yes	no	no	SP	SP
4.7	Restricted and Prohibited Uses					
4.7.1	Prohibited Uses	no	no	no	no	no

or take any other action relative thereto.

Additions above are shown as shaded for the warrant only. This amendment will separate out the West Concord Business district from other areas of town that are zoned as business districts (Concord Center, Thoreau Street/Depot area, Nine Acre Corner and a small area opposite the Damon Mill are the other areas zoned as business districts) and the West Concord Industrial district from other areas of town that are zoned as industrial districts (Damon Mill area, Domino Drive/Conant Street area and Winthrop Street area). The existing Business district, Limited Business district and Industrial district uses are shown for comparison.

ZONING BYLAW AMENDMENT – CONCORD BUSINESS AND INDUSTRIAL DISTRICTS (By Petition)

ARTICLE 45. To determine whether the Town will vote to amend Zoning Bylaw Section 2.2 Zoning Map by

- 1) changing those parcels located in West Concord along Main Street, Commonwealth Ave. and Church Street that are currently zoned as “Business” to “West Concord Business,” and

- 2) changing those parcels located in West Concord on Bradford Street and Beharrell Street that are currently zoned as “Industrial” to “West Concord Industrial,” and
- 3) changing those parcels located in Concord Center (a. contiguous with the intersection of Main Street and Walden Street, b. contiguous with the intersection of Keyes Road and Lowell Road, and c. contiguous with Monument Street) that are currently zoned as “Business” to “Concord Center Business,” and
- 4) changing those parcels located in Concord contiguous with the intersection of Thoreau Street and Sudbury Road that is currently zoned as “Business” to “Thoreau Depot Business,” and
- 5) changing those parcels located in Concord contiguous with the intersection of Fitchburg Turnpike (Rt. 117) and Sudbury Road that is currently zoned as “Business” to “Nine Acre Corner Business”

as shown on the “Zoning Map” as follows:

Zoning Districts, Town of Concord, 2010 (Scale 1” = 100’ consisting of 122 sheets),

And, to amend Zoning Bylaw Section 4. Classification of Principal Uses, TABLE I – PRINCIPAL USE REGULATIONS to add the Concord Center Business District (CCB), Thoreau Depot Business District (TDB), Nine Acre Corner Business District (NACB), West Concord Business District (WCB) and the West Concord Industrial District (WCI) as provided in the table below:

TABLE I – PRINCIPAL USE REGULATIONS

Principal Uses		Commercial Districts			Industrial Districts	
		B, CCB, TDB, NACB	WCB	Ltd B	WCI	I
4.1	Extensive Uses					
4.1.1	Forestry	yes	yes	yes	yes	yes
4.1.2	Agriculture, horticulture, floriculture, and viticulture	yes	yes	yes	yes	yes
4.1.3	Greenhouse	yes	yes	no	yes	yes
4.1.4	Earth Removal	SP	SP	SP	SP	SP
4.1.5	Conservation use	yes	yes	yes	yes	yes
4.1.6	Private recreation	yes	yes	yes ¹	yes	yes
4.2	Residential Uses					
4.2.1	Single-family dwelling	yes	no	no	no	no
4.2.2	Two-family or additional dwelling unit	SP	no	no	no	no
4.2.3	Combined business/residence	yes	yes	yes ³	no	no
4.2.4	Combined industrial/business/residence	no	no	no	SP	SP
4.2.5	Residential Compound	SP	no	no	no	no
4.2.6	Residential Cluster Development	SP	no	no	no	no
4.2.7	Planned Residential Development	SP	no	no	no	no
4.2.8	Boarding house	yes	no	no	no	no
4.2.9	Hotel and motel	yes	SP	yes ¹	no	no
4.3	Institutional Uses					
4.3.1	Educational	yes	yes	yes	yes	yes
4.3.2	Child care facility	yes	yes	yes	yes	yes
4.3.3	Religious	yes	yes	yes	yes	yes
4.3.4	Philanthropic	yes	yes	SP ⁸	yes	yes
4.3.5	Hospital and nursing home	yes	no	SP ⁶	no	no
4.3.6	Assisted living residence	yes	no	SP ⁸	no	no
4.3.7	Cemetery	yes	no	no	no	no
4.3.8	Lodge and club	yes	SP	no	yes	yes

4.4	Government and Utility Uses					
4.4.1	Municipal use	yes	yes	yes	yes	yes
4.4.2	Underground utility	yes	yes	yes	yes	yes
4.4.3	Above ground utility	yes	yes	SP	yes	yes
4.5	Business Uses					
4.5.1	Retail store	yes	yes	no	no**	no**
4.5.2	Personal service shop	yes	yes	no	no	no
4.5.3	Craft shop	yes	yes	yes	yes	yes
4.5.4	Restaurant	yes	yes	yes	yes	yes
4.5.5	Indoor amusement	yes	yes	SP	yes	yes
4.5.6	Outdoor amusement	yes	yes	yes ¹	yes	yes
4.5.7	Funeral home	yes	SP	yes ³	yes	yes
4.5.8	Repair shop and building trade	yes	yes	no	yes	yes
4.5.9	Veterinary and kennel	no	no	no	yes	yes
4.5.10	Financial and business office	yes	yes	yes*	yes	yes
4.5.11	Professional office	yes	yes	yes*	yes	yes
4.5.12	Medical center and laboratory	yes	no	SP ⁶	yes	yes
4.5.13	Auto service station	yes	SP	yes ¹	yes	yes
4.5.14	Auto repair shop	yes	SP	no	yes	yes
4.5.15	Vehicular dealerships	no	no	no	yes	yes
4.5.16	Boat sales and rental	yes	no	yes ⁵	yes	yes
4.5.17	Parking facility	yes	no	no	SP	SP
4.5.18	Transportation services	SP	SP	no	SP	SP
4.6	Industrial Uses					
4.6.1	Warehouse	yes	no	no	yes	yes
4.6.2	Storage yard, open-air sales	yes	no	yes ⁵	SP	SP
4.6.3	R&D and Light Manufacturing	yes	SP	no	SP	SP
4.6.4	Manufacturing, packaging, processing, and testing	yes	no	no	SP	SP
4.7	Restricted and Prohibited Uses					
4.7.1	Prohibited Uses	no	no	no	no	no

or take any other action relative thereto.

Additions above are shown as shaded for the warrant only. This amendment will separate out the West Concord Business district, Concord Center Business district, Thoreau Depot Business district and Nine Acre Corner district from any other area of town that is zoned as business, and separate the West Concord Industrial district from other areas of town that are zoned as industrial districts (Damon Mill area, Domino Drive/Conant Street area and Winthrop Street area). Only the West Concord Business and Industrial uses are revised. The existing Business district, Limited Business district and Industrial district uses are shown for comparison.

ZONING BYLAW AMENDMENT – FORMULA BUSINESS

ARTICLE 46. To determine whether the Town will vote to amend Zoning Bylaw Section 1 by adding a new definition 1.3.10 Formula Business as follows, and renumbering subsequent paragraphs 1.3.11 Frontage, 1.3.12 Gross floor area and so forth:

1.3.10 Formula business: A type of business activity that maintains a standardized array of services and/or merchandise, name, trademark, logo, service mark, symbol, sign, décor, architecture, layout, uniform, color scheme, menus or similar standardized feature and is substantially the same as seven or more such establishments, regardless of ownership or location. Formula businesses shall not include post offices, churches, schools or government facilities.

And, amend Zoning Bylaw Section 3. USE REGULATIONS by adding a new subsection 3.3 Formula Business, as follows:

3.3 Formula Business

3.3.1 Purpose. The purpose of regulating the number, location and establishment of formula businesses in the West Concord Business district and the West Concord Industrial district is to maintain a) the unique village character, b) the diversity and economic vitality of the district, and c) the quality of life for residents. The preservation of unique architecture, signage, graphic and other design elements maintains a distinctive visual appearance and small-scale eclectic ambiance that will promote the long-term viability of the community's businesses. Preserving a balanced mix of local, regional, and national-based businesses and small- and medium-sized businesses will maintain and promote the long-term economic health of businesses and the community as a whole. These goals are evidenced in the Comprehensive Long Range Plan of 2005, the Village Centers Study of 2007, the Call to Action of 2008, the West Concord Task Force Public Survey of 2009, in committee and public comment in public meetings and public forums of the West Concord Task Force and in the West Concord Master Plan (draft) of 2009.

3.3.2 Limitation on the number of formula businesses in the West Concord Business district and the West Concord Industrial district, combined: The total number of formula businesses in the West Concord Business district and the West Concord Industrial district is limited to not more than ten and no new formula businesses can be established until and unless the Board grants a special permit and an existing formula business closes or relocates outside of the West Concord Business district or the West Concord Industrial district. No existing formula business as of January 1, 2010 can be expanded until and unless the Board grants a special permit.

3.3.3 Criteria for establishment or relocation of a formula business:

- a) The formula business is compatible with existing surrounding uses, and designed and operated in a non-obtrusive manner to preserve the community's distinctive character and ambiance;
- b) The formula business will promote diversity and variety to assure a balanced mix of uses available to serve residents and visitors;
- c) The formula business does not result in an over-concentration of formula businesses in its immediate vicinity;
- d) The formula business contributes to a diverse and appropriate blend of businesses in the community;
- e) The formula business is mutually beneficial to and enhances the economic health of the surrounding uses;
- f) The proposed use, together with the design and improvement, is consistent with the unique character of the district and preserves the distinctive visual appearance of the district. Any permitted formula business shall create a unique visual appearance that is not homogenous with similar businesses in other communities and reflects or complements the distinctive character of the town;
- g) The formula business shall not increase the intensity of use on the site to a level that will adversely impact land uses in the area, pedestrian or motor vehicle traffic or the public welfare.
- h) The formula business shall not exceed 3,000 sq. ft. gross floor area; and
- i) No drive-through facilities are allowed.

or take any other action relative thereto.

This amendment addresses concerns about formula businesses and the potential negative impact on the West Concord Business district and the West Concord Industrial district that have been raised by the community during the master planning process for West Concord. The word "Board" references the Zoning Board of Appeals, which is defined in another part of the Zoning Bylaw.

ZONING BYLAW AMENDMENT – FORMULA BUSINESS (By Petition)

ARTICLE 47. To determine whether the Town will vote to amend Zoning Bylaw Section 1 by adding a new definition 1.3.10 Formula Business as follows, and renumbering subsequent paragraphs 1.3.11 Frontage, 1.3.12 Gross floor area and so forth:

1.3.10 *Formula business*: A type of business activity that maintains a standardized array of services and/or merchandise, name, trademark, logo, service mark, symbol, sign, décor, architecture, layout, uniform, color scheme, menus or similar standardized feature and is substantially the same as seven or more such establishments, regardless of ownership or location. Formula businesses shall not include post offices, churches, schools or government facilities.

And, amend Zoning Bylaw Section 3. USE REGULATIONS by adding a new subsection 3.3 Formula Business, as follows:

3.4 Formula Business

3.3.1 *Purpose*. The purpose of regulating the number, location and establishment of formula businesses in the village centers of Concord is to maintain a) the unique town character, b) economic diversity and vitality, and c) the quality of life for residents. The preservation of unique architecture, signage, graphic and other design elements maintains a distinctive visual appearance and small-scale eclectic ambiance that will promote the long-term viability of the community's businesses. Preserving a balanced mix of local, regional, and national-based businesses and small- and medium-sized businesses will maintain and promote the long-term economic health of businesses and the community as a whole. These goals are evidenced in the Comprehensive Long Range Plan of 2005, the Village Centers Study of 2007, the Call to Action of 2008, the West Concord Task Force Public Survey of 2009, the West Concord Master Plan (draft) of 2009, and in committee and public comment in public meetings and public forums of the West Concord Task Force.

3.3.2 *Limitation on the number of formula businesses*: The number of formula businesses within specified areas shall be limited according to the following table. No new formula business can be established in said areas until and unless an existing formula business closes or relocates outside of the area such that the limit is not exceeded through establishment of said business. No new formula business can be established in said areas unless and until the Board grants a special permit. No existing formula business as of January 4, 2010 can be expanded in said areas until and unless the Board grants a special permit.

Limit	Area
13	Concord Center Business District
12	Thoreau Depot Business District
1	Nine Acre Corner Business District
8	West Concord Business District and West Concord Industrial District, combined

3.3.3 *Criteria for establishment or relocation of a formula business*:

- a) The formula business is compatible with existing surrounding uses, and designed and operated in a non-obtrusive manner to preserve the community's distinctive character and ambiance;
- b) The formula business will promote diversity and variety to assure a balanced mix of uses available to serve residents and visitors;
- c) The formula business does not result in an over-concentration of formula businesses in its immediate vicinity;
- d) The formula business contributes to a diverse and appropriate blend of businesses in the community;
- e) The formula business is mutually beneficial to and enhances the economic health of the surrounding uses;
- f) The proposed use, together with the design and improvement, is consistent with the unique character of the district and preserves the distinctive visual appearance of the district. Any permitted formula business shall create a unique visual appearance that is not homogenous with similar businesses in other communities and reflects or complements the distinctive character of the town;
- g) The formula business shall not increase the intensity of use on the site to a level that will adversely impact land uses in the area, pedestrian or motor vehicle traffic or the public welfare.
- h) The formula business shall not exceed 3,000 sq. ft. gross floor area; and
- i) No drive-through facilities are allowed,

or take any other action relative thereto.

This amendment seeks to address concerns about formula businesses and their potential negative impact on Concord's village center business and industrial districts that have been raised by the community during the development of the Comprehensive Long Range Plan, the Village Centers Study and the master planning process for West Concord. The word "Board" references the Zoning Board of Appeals, which is defined in another part of the Zoning Bylaw.

ZONING BYLAW AMENDMENT – FLOOD PLAIN CONSERVANCY DISTRICT

ARTICLE 48. To determine whether the Town will vote to amend **Zoning Bylaw Section 2.2 Zoning Map** by deleting the third paragraph that references the "Flood Plain Conservancy District" in its entirety and inserting the following paragraph in its place:

Flood Plain Conservancy District, Town of Concord, January 1, 2010 (Scale 1"=1000' consisting of a single sheet). The general boundaries of the Flood Plain Conservancy District includes all special flood hazard areas within the Town of Concord designated as Zone A, AE and AH, on the Middlesex County Flood Insurance Rate Maps (FIRMs) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Middlesex County FIRM that are wholly or partially within the Town of Concord are panel numbers 25017C0244E, 25017C0263E, 25017C0264E, 25017C0356E, 25017C0357E, 25017C0358E, 25017C0359E, 25017C0366E, 25017C0367E, 25017C0376E, 25017C0377E, 25017C0378E, 25017C0379E, 25017C0381E, 25017C0383E, 25017C0386E and 25017C0387E dated June 4, 2010. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report dated June 4, 2010. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk.

And, by amending **Zoning Bylaw Section 2.3.5** to insert a reference to the new Flood Insurance Rate Maps (FIRMs) as follows:

2.3.5 The exact boundaries of the Flood Plain Conservancy District shall be the location on the ground of the 100-year flood contours shown on the FPCD maps or the Middlesex County FIRMs, and as determined by an actual field survey. Supplementary information concerning flood elevations and the limits of the floodway may be found in the Middlesex County "Flood Insurance Study" booklet dated June 4, 2010 ~~June 3, 1988~~ and published by the Federal Emergency Management Agency.

And, by amending **Zoning Bylaw Section 7.2 Flood Plain Conservancy District** by making the following insertions and deletions:

7.2.1 Definitions

7.2.1.1 Flood plain: All flood storage areas along the Concord, Sudbury and Assabet Rivers and their tributaries as designated on the "Flood Plain Conservancy District" Map and all special flood hazard areas designated on the Middlesex County Flood Insurance Rate Maps as Zone A, AE, AH, A1-30 and the 100-year flood boundary and floodway of the FEMA Flood Boundary and Floodway Map dated June 3, 1988 as the foregoing have been amended by the Letter of Map Revision for the Mill Brook effective November 22, 2002.

7.2.1.3 Floodway data: In Zone A, ~~AE, AH, A1-30~~ and along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local and other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

7.2.1.7 Water surface elevation: The height in relation to the National Geodetic Vertical Datum (NGVD) of 1988 of floods of various magnitudes and frequencies in the flood plains of riverine areas.

7.2.5.1 (c) In the case of any proposed alteration or relocation of a watercourse, the following agencies shall also be notified:

- Town of Sudbury; Town Manager, 278 Old Sudbury Road, Sudbury MA 01776
- Town of Acton; Town Manager, 472 Main Street, Acton MA 01720
- Town of Maynard; Town Administrator, 195 Main Street, Maynard MA 01754
- Town of Bedford; Town Manager, 10 Mudge Way, Bedford MA 01730
- Town of Lincoln; Town Administrator, 16 Lincoln Road, Lincoln MA 01773
- Town of Wayland; Town Administrator, 41 Cochituate Road, Wayland MA 01778

- NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, Suite 600-700
Boston, MA 02114-2104

- NFIP Program Specialist
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

or take any other action relative thereto.

Changes above are shown as strike-through (language to be deleted) and underline (language to be added) for the warrant only. This Zoning Bylaw amendment addresses changes to the Federal Emergency Management Agency and National Flood Insurance Program mapping prepared by FEMA in 2009 and keeps the Town in compliance with requirements of the National Flood Insurance Program. Failure to adopt these revisions will result in Concord's suspension from the National Flood Insurance Program.

ZONING BYLAW AMENDMENT – DEFINITION – CEILING HEIGHT

ARTICLE 49. To determine whether the Town will vote to amend the definition of “Gross floor area”, in **Zoning Bylaw subsection 1.3.11** by changing the ceiling height measurement as follows:

Delete the words “seven feet, three inches (7’3”) and replace them with the words “six feet, eight inches (6’8”)”, so that the subsection reads as follows:

1.3.11 Gross floor area: The sum of the horizontal areas of the floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two (2) buildings, not including any space where the floor to ceiling height is less than six feet, eight inches (6’8”) ~~seven feet, three inches (7’3”)~~.

or take any other action relative thereto.

Changes above are shown as strike-through and/or underline for the warrant only. This wording change is needed to reflect a change in the State Building Code which now allows spaces to be considered habitable down to a 6 foot 8 inch ceiling height.

ZONING BYLAW AMENDMENT – TABLE I – PRINCIPAL USE REGULATIONS

ARTICLE 50. To determine whether the Town will vote to amend **TABLE I – Principal Use Regulations** to allow Transportation services by-right in the Industrial Park and Limited Industrial Park districts by changing “SP” to “Y” and to remain a use by special permit in the Business and Industrial districts, per the definition provided below:

4.5.18 Transportation services: The parking or storage of ground transportation vehicles, including but not limited to buses, ambulances, limousines, taxis, liveries, wagons, carriages, or other ground transportation

vehicles. The primary purpose of the business must be to provide transportation services to passengers, whether the vehicle be motorized or animal drawn. All vehicles stored or parked upon the premises must be registered or licensed.

4.5	Business Uses	B	I	IP	LIP
4.5.18	Transportation services	SP	SP	Y	Y

or take any other action relative thereto.

This change will allow Transportation services to be a “by-right” use in the Industrial Park and Limited Industrial Park zoning districts. Site plan review continues to be required.

ZONING BYLAW AMENDMENT – TABLE II – ACCESSORY USE REGULATIONS

ARTICLE 51. To determine whether the Town will vote to amend **TABLE II – Accessory Use Regulations** by changing “Y5” to “SP5” to correct TABLE II and reflect the existing zoning bylaw that allows seasonal catering use by special permit in Limited Business District #5, as shown below,

Uses	Residential Districts				Commercial Districts			Industrial Districts		
	AA	A	B	C	B	LB	MP	I	IP	LIP
5.3.18 Seasonal Catering	N	N	N	N	N	<u>SP⁵</u>	N	N	N	N

And, in subsection 5.3.17, to insert the phrase “to the extent that it is a” in the second sentence, as shown below:

“5.3.17 Seasonal catering: The Board by special permit may authorize the use of a portion of the premises for seasonal catering to customers off-premises. Such seasonal catering shall be limited to the preparation and packaging of food, with delivery and set-up to the extent that it is a customary function of the caterer. Pick-up of food by customers may be permitted if suitable parking is available.”

or take any other action relative thereto.

Changes above are shown as strike-through and/or underline for the warrant only. This proposed change is a correction to the Zoning Bylaw Table II Accessory Use Regulations, to reflect the definition of seasonal catering in the Limited Business District #5 (the South Bridge Boathouse) which requires a special permit.

ZONING BYLAW AMENDMENT – HOME RECREATIONAL FACILITIES

ARTICLE 52. To determine whether the Town will vote to amend **subsection 5.3.1 Home recreational facilities** to add language that related pool buildings and equipment must also comply with the minimum yard setback requirements for a principal structure as follows:

In subsection 5.3.1, insert the words “and any related pool buildings or equipment” after the words “a swimming pool”, insert the word “setback” between the words “yard” and “requirements” and insert the words “for a principal structure in whatever zoning district it is located” at the end of the paragraph, so that the subsection reads as follows:

5.3.1 Home recreational facilities: In the residential districts or for dwellings in the Business or Medical-Professional districts, a swimming pool and any related pool buildings or equipment, tennis court or similar home recreational facility shall be permitted, provided that such facility is used only by the residents of the premises and their guests and shall conform to the minimum yard setback requirements for a principal structure in whatever zoning district it is located.

or take any other action relative thereto.

Changes above are shown as strike-through and/or underline for the warrant only. This amendment is needed to clarify that the intent of the bylaw was to require that not only the home recreational facility but the associated equipment and support structures (e.g. pool houses, filter equipment, etc.) be compliant with the principal structure setbacks for the zoning district in which it lies.

ZONING BYLAW AMENDMENT – MINIMUM LOT AREA

ARTICLE 53. To determine whether the Town will vote to amend **subsection 6.2.2 Minimum lot area** as follows:

In subsection 6.2.2.1,

Insert the words “a minimum of” between the words “1991,” and “fifty (50)”;

Insert the words “of such lot area required in that zoning district” between the word “percent” and “shall be provided”;

Insert the words “outside of” between the words “land located” and “the Flood Plain”, so that the subsection reads as follows:

6.2.2 Minimum lot area:

6.2.2.1 When computing minimum lot area for any lot laid out and submitted for approval by the Planning Board, in accordance with Chapter 41 of the General Laws, after September 1, 1991, ~~not a minimum of~~ fifty (50) percent of such lot area required in that zoning district shall be provided by land located outside of the Flood Plain Conservancy District and Wetlands Conservancy District.

or take any other action relative thereto.

Changes above are shown as strike-through and/or underline for the warrant only. There has been some question about the interpretation of this subsection and a desire to clarify the language for consistency. The intent of the original bylaw was to require that each new lot have at least 50% of the required minimum lot area of the underlying zoning.

ZONING BYLAW AMENDMENT – SPELLING CORRECTIONS

ARTICLE 54. To determine whether the Town will vote to amend **Zoning Bylaw Section 7.7 Off-street Parking, Loading and Design Standards** to correct the spelling of the following words: nurse practitioner, dental hygienist, phlebotomist as listed in Table IV Minimum Parking under Business Uses – Medical center and laboratory, so the section reads as follows:

Three (3) spaces per staff doctor, dentist or other professional [e.g., nurse practitioner, dental hygienist, phlebotomist] plus one (1) space per other employee on the largest shift.

or take any other action relative thereto.

Changes above are shown as strike-through and underline for the warrant only. This amendment will correct spelling errors found in the Zoning Bylaw.

ZONING BYLAW AMENDMENT SOUTHFIELD NEIGHBORHOOD - INTERIM PLANNING OVERLAY DISTRICT

ARTICLE 55. To determine whether the Town will vote to amend the Zoning Bylaw by adopting a new zoning map titled “Southfield Neighborhood - Interim Planning Overlay District” and dated January 1, 2010, listing said map and inserting the following paragraph at the end of ZBL **Section 2.2 Zoning Map**:

“The “Southfield Neighborhood - Interim Planning Overlay District” is an overlay district whose boundaries are superimposed on the Residence C Zoning District in the Southfield Neighborhood, which comprises Southfield Road, Riverdale Road, Pilgrim Road, Dana Road, Garden Road, Southfield Circle and

Riverdale Circle, and established by this Bylaw. The Southfield Neighborhood - Interim Planning Overlay District is an interim measure to allow certain activities to continue while the Town undertakes a study of the Residence C Zoning District, and shall remain in effect until final adjournment of the 2011 Annual Town Meeting. Said Southfield Neighborhood - Interim Planning Overlay District map, dated January 1, 2010, is hereby made part of this Bylaw and shall be filed in the Office of the Town Clerk”.

AND, adding a new Section 7.10, as follows:

SECTION 7.10 Southfield Neighborhood - INTERIM PLANNING OVERLAY DISTRICT

7.10.1 Purpose. The purpose of the Southfield Neighborhood - Interim Planning Overlay District (SN-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. The Southfield Neighborhood has been the subject of significant residential construction and reconstruction. Such activities could have an adverse impact on neighborhood character as it pertains to bulk and scale. The SN-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.

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

7.10.3 Building Permit. No building permit shall be issued for the construction, alteration, extension, or reconstruction of a new or existing single family structure unless in conformance with the requirements of the SN – IPOD.

7.10.4 Special Permit Required. The construction, alteration, extension, or reconstruction of a new or existing single family structure with more than 2.5 stories OR more than 4,200 square feet of gross floor area on a lot with less than 30,000 sq. ft. of area shall require a special permit from the Planning Board. The construction, alteration, extension, or reconstruction of a new or existing single family structure with more than 2.5 stories OR more than 5,000 square feet of gross floor area on a lot with 30,000 sq. ft. or more of area shall require a special permit from the Planning Board. For the purposes of this SN – IPOD only, the term “gross floor area” shall mean “the sum of the horizontal areas of the floors of a building measured from the exterior face of exterior walls, not including any space where the floor to ceiling height is less than six feet, eight inches (6’8”) and including garages and carports, whether attached or unattached, and any covered porches, whether open, screened or enclosed, but excluding basements, under-garages, decks and patios.” In the case of unfinished attic space, height shall be measured from floor, or floor joist, to the collar tie or similar structural element.

7.10.5 Special Permit Criteria. In interpreting the term “neighborhood character” as set forth in Section 11.6, the Planning Board shall review the suitability and compatibility of the proposed construction or reconstruction with regard to:

1. Height and width proportions;
2. Bulk and general massing (footprint, shape, articulation or detail);
3. Façade features, avoiding blank walls;
4. Setbacks in relation to neighboring properties and open space.

7.10.6 Decision. The Planning Board may grant a special permit upon a determination, after consideration of all of the criteria set forth in this Section 7.10 and in Section 11.6, that the proposed construction or reconstruction will not adversely impact the SN-IPOD during the term of this Section 7.10, as set forth below. The Planning Board may impose greater setback requirements than those otherwise required as a condition of any special permit.

7.10.7 *Time Limitation.* The provisions of this Section 7.10 shall expire upon final adjournment of the 2011 Annual Town Meeting.

7.10.8 *Separability.* The provisions of this Section 7.10 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 7.10.

or take any other action relative thereto.

The Interim Planning Overlay District proposed for this neighborhood is intended to address concerns on the rate of change and the size of new houses being constructed as raised by residents in the neighborhood. New houses can be constructed if the size of the house is less than 4,200 sq. ft. or 5,000 sq. ft. if the lot is greater than 30,000 sq. ft.; larger houses would need to seek a special permit prior to issuance of a building permit. The Planning Board intends to take the coming year to consider various zoning options to address the concerns for all properties located in the Residence C and Residence B zoning districts.

SIGN BYLAW AMENDMENT

ARTICLE 56. To determine whether the Town will vote to amend and restate the Town of Concord Sign Bylaw in its entirety as follows, or take any other action relative thereto.

**Town of Concord
Sign Bylaw**

Town Meeting adopted, pursuant to any and all authority, including M.G.L. Chapter 93, Section 29, and Article II of the Amendments to the Mass. Constitution, as amended by Article 89 (the Home Rule Amendment), the following general bylaw:

1. PURPOSE AND INTENT

The purpose and intent of this bylaw shall be to regulate, restrict and place such limitations on the size, location, type and illumination of all signs as will assure that they will (a) be appropriate to the land, building or use to which they are appurtenant; (b) be protective of property values and the safety of the public; and (c) not unnecessarily detract from the historic qualities and characteristics of the Town of Concord.

2. PERMIT REQUIREMENTS

- a) **General.** No sign shall be erected, altered or relocated without a permit issued by the Building Inspector. Where multiple signs are to be attached to a building, the exact location of the signs on the building shall be subject to approval by the Building Inspector at the time the permit is issued, unless the sign is located in the Historic Districts or unless the sign permit is being issued pursuant to a decision of the Board of Appeals.
- b) **Signs in Historic Districts.** Each application with respect to a sign within an Historic District must be accompanied by a certificate of appropriateness from the Historic Districts Commission, unless such sign is exempt from the requirement of such certificate under Section 6 of Statute 1960, Chapter 345.
- c) **Applications.** The applicant must submit to the Building Inspector a completed sign permit application, together with all supporting materials specifying building and sign dimensions, colors, attachment methods, position of the sign, and any other such pertinent information the Building Inspector may require to insure compliance with this bylaw and any other applicable laws. A permit shall be issued only if the sign conforms to the provisions of this bylaw and all other applicable laws.
- d) **Fees.** Fees for sign permits shall be paid in accordance with the schedule of fees for permits set forth in the Building Code.

e) **Nullification.** A sign permit shall become null and void if the work for which the permit was issued has not been completed within a period of six months from the date of the permit provided, however, that the Building Inspector may, in his or her discretion, issue extensions covering a period not to exceed one year from the date of issue of the original permit.

f) **Inspection.** Any sign may be inspected periodically by the Building Inspector for compliance with this bylaw and other requirements of law.

g) **Existing Signs.** Existing signs are defined as those erected before April 9, 1987, and are classified into one of four separate categories. These are:

- (1) Conforming signs which comply with all provisions of this bylaw in its most recently amended form.
- (2) Prohibited signs, as specified in Section 6.
- (3) Non-conforming signs, which do not comply with one or more provisions of this bylaw in its form, prior to the April 1987 Annual Town Meeting, but which are not described as prohibited signs in Section 6.
- (4) Non-conforming protected signs, which fully complied with this bylaw prior to the amendments approved by the April 1987 Annual Town Meeting.

h) **Removal of Existing Signs.**

- (1) Non-conforming signs which are enlarged, reworded, redesigned, replaced, or altered in any way including repainting in a different color or relettering, shall comply immediately with all provisions of this bylaw; and provided further that any such sign which has deteriorated to such an extent that the cost of restoration would exceed thirty-five (35) percent of the replacement value of the sign at the time of replacement shall not be repaired or rebuilt or altered except to conform to the requirements of this bylaw.
- (2) Non-conforming protected signs may remain, and may be altered with the exception of increasing their size, unless the cost of any such alteration shall exceed 50% of the replacement cost for a new conforming sign.

i) **Removal of Signs.** The Building Inspector shall order the removal of any new sign erected or maintained in violation of this bylaw. Fourteen days notice in writing shall be given to the owner of such sign, or of the building, structure, or premises on which such sign is located, to remove the sign or to bring it into compliance with the bylaw.

3. ADMINISTRATION AND PENALTIES

a) **Enforcement.** The Building Inspector is hereby authorized and directed to enforce all of the provisions of this bylaw.

b) **Failure to Act on Permit.** If no sign permit has been issued within 30 days after the application therefor has been made, it shall be deemed to be denied.

c) **Board of Appeals.**

- (1) **Right of Appeal.** Any applicant for a permit, any person who has been ordered by the Building Inspector to incur expense in connection with a sign, and any person dissatisfied with any refusal, order, or decision of the Building Inspector, may appeal to the Board of Appeals within 20 days from the date of such refusal, order, or decision. After notice given to such parties as the Board shall order, the Board of Appeals shall hold a public hearing. Applying the standards in clause (2) below, where applicable, and interpreting this bylaw, the Board shall affirm, annul or modify such refusal, order, or decision. The action of the Building Inspector may be annulled or modified only by a unanimous decision of the Board. If the action of the Inspector is modified or annulled, the Building Inspector shall issue a permit or order in accordance with the decision of the Board.

(2) **Variances in Specific Cases.** The Board of Appeals may vary the provisions of this bylaw in specific cases which appear to them not to have been contemplated by this bylaw, and in cases wherein its enforcement would involve practical difficulties or unnecessary hardship, if, in each instance, desirable relief may be granted without substantially derogating from the intent and purpose of this bylaw but not otherwise. Any decision to vary the provisions of this bylaw shall be unanimous and shall specify any variance allowed and the reasons therefor. Each decision of the Board of Appeals shall be filed in the office of the Town Clerk within thirty days after the hearing and a copy of the decision shall be sent by mail or delivered to the appellant and any other person appearing at the hearing and so requesting in writing. Failure to file such a decision within thirty days after the hearing shall not be deemed to be approval of any variance sought.

(3) **Conditions and Safeguards.** The Board shall set forth appropriate conditions and safeguards whenever in its opinion they are desirable.

d) **Penalties.** Any sign owner or owner of property on which a sign is located who violates or permits a violation of this bylaw, shall be subject to fines as established under the Non-Criminal Disposition Bylaw, said fine to begin after the later of (1) the date of issuance of any written notice given by the Building Inspector or (2) the date of conclusion of any appeal therefrom. Each day the violation persists shall constitute a separate offense.

4. ILLUMINATION

a) Exterior illumination of signs shall be so shaded, shielded or directed that it shall not reflect or shine on or into neighboring premises or into any public street.

b) The intensity of such light shall be deemed acceptable if it does not exceed a factor of 3 above the ambient light intensity at any point on the ground when measured with an incident light meter and the following procedure:

(1) The intensity of the sign illumination, in foot candles, is measured with all normal background and ambient illumination on.

(2) With the sign turned off, the same measurement is repeated.

(3) The ratio of the measurement in (1) to that in (2) shall not exceed 3.

c) No sign shall be illuminated between the hours of 11:00 P.M. and 7:00 A.M. except in those cases where the premises are open for business during such time or unless authorized by the Board of Appeals.

5. SIGNS PERMITTED IN ALL DISTRICTS

a) **Street Banners.** Street banners which are placed within the Town right-of-way at 100-200 Main Street, 1200-1300 Main Street, or Thoreau Street providing notice of a public entertainment or advertising a charitable, religious or educational event, as may be specifically approved by the Town Manager, may be displayed in locations designated by the Town Manager for a period of time not to exceed 8 consecutive days, the first of which shall occur not more than 7 days prior to such entertainment or event. All said banners shall be removed within 24 hours after such entertainment or event.

b) **Temporary Signs.** Permits for temporary signs located on the premises may be issued by the Building Inspector. These signs shall be appropriate to the use being made of the premises (e.g., construction and real estate subdivision signs) and shall conform to the requirements for freestanding signs in the district in which the temporary sign is located.

c) **Form Signs.** Permits for a sign consisting exclusively of a human, animal or product form with or without lettering of any kind may be issued by the Building Inspector only with the approval of the Board of Appeals, if a majority of said Board, after notice and a public hearing, shall find and rule that maintenance of such a sign will not be detrimental or injurious to the neighborhood and that granting

of such a permit will not substantially derogate from the purposes of this bylaw. Any such permit may be revoked by a majority of said Board of Appeals at any time, after notice and a public hearing, whenever any condition attached to the granting of such permit shall be violated or whenever, in the opinion of a majority of said Board, maintenance of the sign would be detrimental or injurious to the neighborhood or would substantially derogate from the purpose of this bylaw.

d) **Churches.** One bulletin or announcement board, identification sign, or entrance marker for each public entrance to the premises upon which the church, synagogue, or other religious institution is located, not exceeding 12 square feet in area, provided that there shall be no more than three such signs for each church or synagogue or other religious institution.

e) **Restaurants.** In addition to other signs permitted by this bylaw, restaurants and other food service establishments may post an actual menu on the building where the premises are located near the main entrance door of the establishment.

6. PROHIBITED SIGNS

a) Signs which advertise an activity, business, product or service no longer produced or conducted on the premises upon which the sign is located are prohibited. No such sign shall remain in place or on vacated premises for more than ninety days from the date the vacancy commenced.

b) Signs which contain or consist of pennants, ribbons, streamers, spinners, other moving devices, strings of light bulbs or other similar devices are prohibited.

c) Signs which have blinking, flashing or fluttering lights or other illuminating devices which have a changing light intensity, brightness or color, are prohibited.

d) Signs illuminated by other than a stationary white or off-white steady light are prohibited.

e) Signs which are pasted or attached to utility poles, trees, fences, or structures such as overpasses and bridges are prohibited. Signs pasted or attached to other signs are prohibited unless such subsidiary portions are an integral part of the total sign design.

f) Mechanically activated signs, other than rotating barber poles, are prohibited.

g) No free standing sign or part thereof shall be more than twenty (20) feet above ground level except that signs may be placed upon a Mansard roof or the roof of a porch provided the twenty (20) foot height limit is complied with. No projecting or wall sign or part thereof may be higher than the wall to which it is attached. Roof mounted signs are prohibited.

h) Signs which are not permanently affixed to a building, structure, or the ground including, but not limited to those used in conjunction with gasoline service station and automobile dealerships, 'sandwich board' or A-frame signs (except when permitted under 8(i)), and signs mounted on a truck or trailer chassis with or without wheels whose primary functions a sign and not for the transport of goods or merchandise, are prohibited.

i) Any new or existing sign not erected pursuant to and in accordance with the requirements of this bylaw, is prohibited.¹

j) Signs on a marquee or canopy are prohibited.²

k) A sign advertising businesses, services or activities located at different premises from the premises on which the sign is located, is prohibited, except street banners pursuant to Section 5a.

¹ See Section 2-G for guidelines pertaining to nonconforming signs.

² See Section 8-E for exception to lettering on awnings.

7. RESIDENCE DISTRICTS.

In a residence district the following signs only are permitted:

- a) A sign of not more than two square feet in area, displaying the street number and/or the name of the occupant of the property. Such sign may include identification of an accessory professional office or other accessory use approved by the Board of Appeals.
- b) Signs pertaining to the lease, or sale of a lot or building, provided that such signs do not exceed a total area of nine square feet nor more than 3-½ feet in any dimension, until such time as all lots, apartments or houses have been rented or sold.
- c) One contractor's sign, not exceeding 12 square feet in area (except as otherwise provided by law) maintained on the property while construction is in progress, and containing information relevant to the project. Such sign shall be removed promptly after completion of construction.
- d) One sign identifying each public entrance to a subdivision or multi-family development such as apartments or town houses, of not more than nine square feet in area, nor more than 3-½ feet in any dimension. In addition, each family unit may carry a single sign of not more than one square foot, without time limit.
- e) One sign, including bulletin or announcement board, identification sign or entrance marker is allowed for the principal entrance to the premises of a church, synagogue, or other religious institution, or school, museum, library, gallery, or other not-for-profit organization, not exceeding twelve (12) square feet in area. One additional sign, not exceeding twelve (12) square feet in area is also allowed if the establishment has frontage on a second public way. Up to nine (9) additional square feet of signage is also allowed to provide information to users on the site, provided that no single sign exceeds three (3) square feet.
- f) For gasoline service stations and farm stands, one identification sign not to exceed twelve (12) square feet in area except when the establishment fronts on Route 2, then twenty-five (25) square feet.

In addition, product identification signs for gas stations and farm stands may be maintained, provided the total of said signs does not exceed nine (9) square feet in area with no single sign to exceed three (3) square feet in area.

In addition, farm stands will be allowed to have additional signage for the specific purpose of advertising products grown on their property. These additional product signs may not exceed twenty-five (25) square feet each, except for farm stands on Route 2, which may have signs of fifty (50) square feet each. There shall not be more than two (2) such product signs per farm stand .

8. BUSINESS, LIMITED BUSINESS AND INDUSTRIAL DISTRICTS

- a) **Total Sign Area.** Unless otherwise hereinafter provided, the total area of all signs erected on a lot shall not exceed one and one-half (1½) square feet in area for each horizontal linear foot of the building face(s) parallel to, or substantially parallel to, a street line. However, if the primary facade is on a parking area, then said facade shall be used to determine the amount of allowable signage.
- b) **Principal Signs.** No more than two principal signs shall be allowed for each business establishment. A principal sign may be a flat wall sign, a projecting sign, or a freestanding sign.
 - (1) The total area of all flat wall signs shall not exceed fifty (50) square feet on any one wall of the business establishment. Flat wall signs shall not project more than twelve (12) inches from the face of the wall. Subject to the approval of the Building Inspector, a flat wall sign may be located anywhere on any wall of a building, provided that it does not conceal any part of a window, and that its length does not exceed seven-eighths (7/8) of the facade of the business establishment.

- (2) A projecting sign shall not extend beyond the curb line or more than 50 inches, exclusive of any supporting structure, from the building. A projecting sign shall not be less than 10 feet from the ground level at the base of the building, over a vehicular way, 10 feet over a sidewalk, or a lesser distance so long as public safety is not endangered nor more than 20 feet from the ground level to the top of the sign. Allowable area of a projecting sign will be computed as one-half ($\frac{1}{2}$) square foot for each horizontal linear foot of the facade of the establishment on which it hangs. Such sign shall not extend above the building, nor be more than twelve (12) square feet in area.
- (3) A freestanding sign shall not exceed fifty (50) square feet of area when the establishment fronts on Route 2, or more than twenty-five (25) square feet of area when the establishment fronts on a street other than Route 2. No more than one freestanding sign shall be permitted on a lot. A freestanding sign shall not extend over a public way.

c) **Secondary Signs.** If a business establishment consists of more than one building, or if a building has secondary frontage on a street or parking area, a secondary sign may be affixed to one wall of each building or to the second side. Secondary signs shall not exceed one square foot for each horizontal linear foot of secondary frontage on a street or parking lot, and said area shall be in addition to the allowed total sign area for each building under Section 8A, but the size of the sign shall not exceed the maximum size allowed under Section B.

d) **Directories.** Where there are three (3) or more businesses on a lot, or there are businesses without an entrance on the street frontage, a directory may be permitted for the purpose of traffic direction and control. The size of the directory shall not exceed nine (9) square feet plus one and one-half ($1\frac{1}{2}$) square feet per business establishment. Such a directory shall be included in the calculation of total permitted sign area for the lot.

e) **Awnings.** Retractable, fabric awnings projecting from the wall of a building for the purpose of shielding the doorway or windows from the elements may include signage on the valance. Such signage shall not be included in the calculation of the total permitted sign area for the lot, provided that no lettering or symbol is greater than six (6) inches in height. No awning may extend within two (2) feet of a curb line.

f) **Unimproved Property.** The area of all signs for business conducted on unimproved lots or lots with a small business office shall not exceed fifty (50) square feet.

g) **Temporary Sale Signs.** In a business district, signs of a temporary nature, advertising special promotions or sale of merchandise, may be attached to or located only within the interior of a window or door, and shall not be considered in calculating the total permitted sign area for the lot.

h) **Signs Painted on Windows.** In a business district, script describing a product or theme and not including the name of the business are permitted. Such signage shall not be included in the calculation of the total permitted sign area for the lot, provided that no lettering or symbol is greater than six (6) inches in height.

i) **Sandwich Boards.** One "A" frame Sandwich Board sign per business premises shall be permitted within the public right-of-way (sidewalk), except in conditions of snow or ice, in addition to the other signs permitted under this Section 8, subject to the following conditions:

(1) The sign shall only be displayed in front of the place of business, adjacent to the buildings only, and not along the curb.

(2) The sign shall not exceed 24" in width and 48" in height.

(3) The sign shall not protrude on the sidewalk in such a way as to obstruct pedestrian traffic or reduce the open sidewalk width to less than four feet.

(4) The sign shall be free of sharp corners, protrusions and devices which could inadvertently cause injury.

(5) Liability insurance coverage shall be carried, and evidence of same may be requested by the Building Inspector. Said insurance must cover personal injuries or property damage which may occur in such areas. Such liability insurance coverage shall be extended to include the Town of Concord as an additional insured on the liability insurance policy in the amount of one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) per occurrence for any and all claims which may arise, for any reason, as a result of the placement of such sign. The business shall also require the insurer to give at least thirty (30) days written notice of termination, reduction or cancellation of the policies to the Town.

(6) In response to specific safety concerns, the Police Department may prohibit sidewalk displays in designated areas during holiday parades or other specified times or days when sidewalk congestion is excessive.

(7) The sign may be displayed only during normal business hours and must be removed from the sidewalk thereafter.

9. BYPASS DISTRICTS

In the Bypass District, the same restrictions on signs shall apply as in Business Districts. In addition, any nonconforming or prohibited sign, not authorized by the Massachusetts Highway Department under the provisions of Section 29 of Chapter 93 of the General Laws shall be removed.

10. INDUSTRIAL PARKS DISTRICTS

In Industrial Parks the same restrictions on signs shall apply as in Business Districts except that a directory sign not to exceed 50 square feet in area may be placed at each public entrance to such park and more than one freestanding sign for the purpose of traffic direction and control may be erected, and shall not be included in the total permissible sign area calculations for the lot(s) within the Park.

11. MEDICAL PROFESSIONAL DISTRICTS

a) **Total Sign Area.** Unless otherwise hereinafter provided, the total area of all signs erected on a lot shall not exceed one and one-half (1½) square feet in area for each horizontal linear foot of the building face(s) parallel to, or substantially parallel to, a street line. However, if the primary facade is on a parking area, then said facade shall be used to determine the amount of allowable signage.

b) **Principal Signs.** No more than two principal signs shall be allowed for each business establishment. A principal sign may be a flat wall sign, a projecting sign, or a freestanding sign.

(1) The total area of all flat wall signs shall not exceed fifty (50) square feet on any one wall of the business establishment. Flat wall signs shall not project more than twelve (12) inches from the face of the wall. Subject to the approval of the Building Inspector, a flat wall sign may be located anywhere on any wall of a building, provided that it does not conceal any part of a window, and that its length does not exceed seven-eighths (7/8) of the facade of the business establishment.

(2) A freestanding sign shall not exceed fifty (50) square feet of area when the establishment fronts on Route 2, or more than twenty-five (25) square feet of area when the establishment fronts on a street other than Route 2. No more than one freestanding sign shall be permitted on a lot. A freestanding sign shall not extend over a public way.

c) **Directories.** Where there are three (3) or more professional businesses on a lot, or there are businesses without an entrance on the street frontage, a directory may be permitted for the purpose of traffic direction and control. The size of the directory shall not exceed nine (9) square feet plus one and one-half (1½) square feet per business establishment. Such a directory shall be included in the calculation of total permitted sign area for the lot.

12. SPECIAL PROVISIONS

a) **Gasoline Station Signs.** In addition to the signs permitted in the foregoing sections, gasoline service stations may maintain product identification signs, provided the total area of said signs does not exceed nine (9) square feet with no single sign to exceed three (3) square feet.

The standard type gasoline pump bearing the name or type of gasoline and the price in usual size and form shall not be deemed a sign within the meaning of this Bylaw.

b) **Public Interest Signs.** Signs containing cautionary messages, such as "Beware of Dog" or "No Trespassing" shall be exempt from the permit requirements of this bylaw, provided they do not exceed two (2) square feet in area.

c) **Directional and Traffic Safety Signs.** Signs indicating "entrance", "exit", "parking", or similar traffic directional information, shall not exceed three (3) square feet in area per sign. Provided these signs are erected on the lot pursuant to a Town or State regulation, they shall not be counted in the maximum sign number and sign area requirements for the lot.

d) **Political, Ideological, Charitable Purposes or Religious or other Personal, Non-commercial Message.** Permanent (longer than 60 days) displays or notices of events for charitable purposes require a permit from the Building Inspector and shall not exceed the maximum dimensional limitations for the district in which they are located. Except as provided in this Section 5(d), temporary display of notices for charitable purposes or expressions of political, religious, ideological or other personal, non-commercial message shall be exempt from the provisions of this bylaw, subject to the following

- 1) No such sign shall be affixed to a tree or utility pole or otherwise erected in a public way, and no such sign shall be erected for longer than sixty (60) days.
- 2) Signs may be erected in the Town's right of way by a homeowner in front of his or her own home, provided: a) there is no protrusion into the public walkway or roadway; b) placement will not damage any plantings that are in the area; c) placement does not pose a hazard to passersby; d) posted signs include the contact information of the sign owner attached in a visible manner to the sign; and e) signs may not be posted for more than two weeks without approval in writing of the Town Manager.
- 3) Signs may be erected on other Town property only with the approval of the Town Manager consistent with the Town's APP #48 policy statement.

Temporary signs erected on Town property or right of way or other disapproved locations not meeting all of the foregoing conditions may be removed and stored at a Town facility awaiting the owner's retrieval for a period not to exceed 30 days, after which they may be discarded.

13. DEFINITIONS

a) "**Sign**" means any object, device, display or structure, or part thereof, which is placed outdoors or which is visible from the outdoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images. "Sign" shall include, without limiting the generality of the foregoing, billboards, pennants, ribbons, streamers, moving devices, strings of lights, awnings, marquees, canopies, vending machines, and similar devices. "Sign" shall not include national or state flags, athletic scoreboards, official announcements or signs of U.S., Massachusetts or Town government (including any signs on Town property or the Town right-of-way) approved by the Board of Selectmen, or temporary holiday decorations customarily associated with any national, local or religious holiday.

b) "**Area of Sign**" - The area of a freestanding or attached sign shall include all lettering and accompanying symbols or designs, together with the background, whether open or enclosed, on which they are displayed. The area shall not include basic supporting framework and bracing.

The area of a sign painted directly upon a building shall include all lettering and accompanying designs or symbols, together with any background of a different color than the finished material of the building face on which the sign is painted.

The area of a sign consisting of individual letters or symbols attached to, or painted directly on, a building, wall, or window shall be the area of the smallest rectangle which encompasses all of the letters or symbols.

A double-faced sign shall be deemed to be one sign having an area equal to the area of one side.

c) "**Business Establishment**" means as independent economic unit, in a single physical location, where a business is conducted.

d) "Ghost sign" means an advertisement that was installed prior to 1960. Such "ghost sign" shall be allowed by sign permit from the Board of Appeals to remain, to be stabilized or restored to the original condition when such sign is considered an important reflection of the everyday social and economic life of years past. Such signs shall not count toward the allowable square footage or allowable number of signs of a business or parcel of land.

e) Other terms shall, where applicable, have the meanings given to them in the Concord Zoning Bylaw.

14. INTERPRETATION AND CONFLICT CLAUSE

These regulations are not intended to interfere with, abrogate or annul any other bylaw, regulation, statute, or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other regulation, bylaw, or other provision of law, whichever provisions are more restrictive or impose higher standards shall apply.

15. SEVERABILITY CLAUSE

The invalidity of any section or provision of this bylaw, or its application to any sign, shall not invalidate any other section or provision, or application of this bylaw.

The amendments are designed to update the bylaw, conform it to current law, and provide some flexibility to Concord businesses without derogating from the general purpose and intent of the Bylaw.

APPROPRIATION OF FUNDS FOR CONCORD'S 375th ANNIVERSARY (By Petition)

ARTICLE 57. To determine whether the Town will vote to appropriate the sum of \$25,000 or any other sum from available funds to be expended under the direction of the Town Manager for the purposes of partially funding celebrations in September 2010 to commemorate the Town's 375th Anniversary of its incorporation, or take any other action relative thereto.

The purpose of this Article is to help fund the planned celebrations for the Town's 375th Anniversary in September 2010.

OLD CALF PASTURE RESTORATION PLAN

ARTICLE 58. To determine whether the Town will vote to raise and appropriate, or transfer from available funds in the treasury the sum of \$14,430 representing the sum paid into the treasury on March 27, 2009 as the result of a Settlement Agreement concerning the unauthorized removal of trees from conservation land known as the Old Calf Pasture executed on behalf of the Town by the Town Manager, or any other sum, to be expended under the direction of the Town Manager upon the request of the Natural Resources Commission for the mowing and other conservation purposes at the Old Calf Pasture; or take any other action relative thereto.

This Article proposes a transfer from Free Cash to fund an appropriation for the maintenance and restoration of the Old Calf Pasture pursuant to an agreement between the Town, the Natural Resources Commission, and Sandra R. Folk utilizing payment received into the General Fund during fiscal year 2009.

WETLANDS BYLAW REGULATIONS

ARTICLE 59. To determine whether the Town will vote to adopt regulations under the approved non-zoning Wetlands Bylaw, as follows:

SECTION 1: GENERAL PROVISIONS

These Regulations are promulgated by the Concord Natural Resources Commission (the Commission) under the authority of the Town of Concord Wetlands Bylaw, Article 43 of 2009 Town Meeting, effective September 10, 2009 (the Bylaw).

The purpose of these Regulations is to effectuate the purpose of the Bylaw and provide guidance for work in sensitive areas. The failure of these Regulations to address all aspects of the Bylaw, or a legal declaration of their invalidity, shall not act to suspend or invalidate the effect of the Bylaw. 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.

Definitions and terms as defined in the Bylaw are used consistently herein.

SECTION 2: PROTECTION OF BUFFER ZONES

The first 25 feet of a Buffer Zone defines the Buffer Zone's inner edge and is designated a No Disturbance Zone. The remaining 75 feet of the Buffer Zone is designated a Limited Disturbance Zone.

2.1 No Disturbance Zone

2.1.1 Presumption of Significance

In accordance with §7.4e of the Bylaw, the Commission shall presume that any activity or alteration within the No Disturbance Zone has a negative impact on the resource area values and thus is prohibited. This presumption may be rebutted where an applicant provides clear and convincing evidence that the resource area values would not be adversely affected, whether individually or cumulatively by the proposed activity. This may be achieved through a qualitative analysis examining each resource area value as it currently exists and as it is projected to exist with and without the proposed activity going forward. In the event that the Commission finds that the presumption has been overcome, it shall make a written determination to this effect, stating its grounds.

Activities listed in §7.4.e.(ii) are not subject to this presumption.

2.1.2 Performance Standards

- (i) Alterations, including but not limited to grading, landscaping, removing of vegetation, filling, excavating, operation of vehicles or machinery, and paving, shall not be permitted in a No Disturbance Zone, except as allowed under the Bylaw.
- (ii) Structures, including but not limited to buildings, porches, decks, pools, sheds, fences, and driveways, shall not be constructed or placed within a No Disturbance Zone. Lawfully located structures in existence before this Bylaw are permitted to remain. Expansions and additions are not permitted. Reconstruction of lawfully located structures may be permitted when no other practicable alternative exists.
- (iii) Notwithstanding any of the foregoing prohibitions, the Commission may allow certain activities or structures in the 25-foot No Disturbance Zone by waiver, as provided in paragraph 4.1.1 of these Regulations, when no other practicable alternative exists. Petitions for a waiver shall be included in writing in the Notice of Intent filed under the Bylaw.

2.2 Limited Disturbance Zone

In accordance with §7.4.a of the Bylaw, the Commission shall presume the protection of the Limited Disturbance Zone is significant to preserving the resource area values protected by the Bylaw. This presumption is rebuttable and may be overcome upon a clear showing that the Buffer Zone does not play a role in the protection of those interests. In the event that the Commission finds that the presumption has been overcome, it shall make a written determination to this effect, stating its grounds.

Alternatively, applicants can demonstrate by a preponderance of the evidence that any activity or alteration within the Limited Disturbance Zone, when considered with proposed mitigation measures, will have no adverse effect upon the resource area values identified in the Bylaw.

SECTION 3: PROTECTION OF CERTIFIED VERNAL POOLS AND VERNAL POOL HABITAT

In accordance with §7.4.d of the Bylaw, an applicant may rebut the presumption that certified vernal pools and vernal pool habitat provide essential habitat functions. Any formal evaluation should be conducted by an individual who at least meets the qualifications under the wildlife habitat section of the Wetlands Protection Act Regulations (310 CMR 10.00). The Commission shall allow limited alterations to areas that, in their existing condition and use, do not serve a significant habitat function, or the Commission may allow limited alterations along with certain prescribed performance standards that protect the resource area values. In the event that the Commission finds that the presumption has been overcome, it shall make a written determination to this effect, stating its grounds.

Alternatively, if an applicant can show by a preponderance of the evidence that the certified vernal pool and its habitat does not and cannot provide habitat for vernal pool species, then the presumption is rebutted. Within areas of lawfully existing lawns, landscaped area, or driveways as of September 10, 2009, this presumption may be overcome by evidence that the lawns, landscaped area, or driveways were lawfully existing prior to September 10, 2009. Such evidence may include, but is not limited to, aerial photographs or land based photographs that clearly show the area in question. In the event that the Commission finds that the presumption has been overcome, it shall make a written determination to this effect, stating its grounds.

SECTION 4: WAIVERS AND MITIGATION

4.1 Waivers

The performance standards for work in wetland resource areas are defined to ensure that the interests protected by the Bylaw are adequately protected. The Commission recognizes that, in certain situations, a waiver of a specific performance standard may be appropriate for a particular project when the waiver is consistent with the intent and purpose of the Bylaw and Regulations.

Upon a written request for a waiver, the Commission shall consider whether the waiver is consistent with the intent and purpose of the Bylaw and these Regulations. The Commission shall act on the request for a waiver and shall provide to the applicant its written decision. A request for a waiver shall be made in writing and be included in a request for approval (e.g. Notice of Intent), and shall include the information outlined in the sections below. The issuance of a waiver is discretionary.

4.1.1 Waivers for 25-Foot No Disturbance Zone

The Commission may grant a waiver from these Regulations for an alteration of a 25-foot No Disturbance Zone in situations where no practicable alternative exists that provides less impact to the resource area values. The Commission may grant a waiver of a performance standard and impose such additional or substituted mitigation requirements, commensurate with the scope of the project's impacts, as it deems necessary.

The applicant shall provide information to the satisfaction of the Commission that:

- (i) there are no reasonable conditions or alternatives that would allow the proposed activity to proceed in compliance with these Regulations;

- (ii) avoidance, minimization, and mitigation have been employed to the maximum extent feasible; and
- (iii) 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.

4.1.2 *Waivers for Certified Vernal Pools and Vernal Pool Habitat*

The Commission may grant a waiver from these Regulations for an alteration of a portion of a certified vernal pool or vernal pool habitat where no practicable alternative exists that would have less impact to the habitat values and where the functioning of the vernal pool as breeding area for species dependent on vernal pools is not impaired.

In addition to the waiver requirements under §4.1.1 of the Regulation, the applicant shall provide information to the satisfaction of the Commission that:

- (i) there are no alternatives to the proposed project with less harmful effects on vernal pool habitat;
- (ii) evidence that sufficient vernal pool habitat will remain; and
- (iii) evidence that likely use and maintenance of the altered area will have no detrimental effect on water quality of the certified vernal pool or quality of the vernal pool habitat.

4.2 **Mitigation**

In cases where a waiver is granted, the Commission may require mitigation measures. These mitigation measures shall be commensurate with the scope of the project's impacts and shall be implemented to offset potential impacts to wetland resource area(s). The mitigation must maintain or improve the natural capacity of a resource area to achieve the interests protected by the Bylaw.

The Commission may require that mitigation be implemented before permitted alterations are initiated.

SECTION 5: PROCEDURES:

5.1 **Application For Permits**

5.1.1 *Application Forms*

Applications under the Bylaw may be combined with applications under the Wetlands Protection Act using the DEP forms current at the time of filing with a supplemental local form maintained by the Division of Natural Resources.

5.1.2 *Checklists*

The Division of Natural Resources shall maintain submission checklists for each application type to guide applicants in submittal requirements. These checklists identify administrative details for submittals including, but not limited to, plan scale and size requirements, number of copies required, and submission deadlines.

5.1.3 *Completeness*

A permit application is not complete until all required application materials have been received by the Commission as listed on the appropriate submission checklist, and specified in the applicable permit application instructions. No hearing or meeting for the proposed project will be scheduled until all required application materials have been received. The Commission may, at any time during the review process, require the submission of extra copies of the application and/or plans.

5.1.4 *Revisions, amendments, and supplemental information*

All revisions, amendments, or supplemented information introduced or referred to by the applicant during the course of the public hearings on the application shall be provided in a form that is consistent with the checklist requirements, including updated application pages as necessary and number of copies.

5.2 Administrative Approvals

For projects that are considered minor in scope and that would predictably have no measurable or cumulative impact upon the resource areas protected by the Bylaw in accordance with §7.1 of the Bylaw, the applicant shall submit a written request for an administrative approval to the Natural Resources Director. Such a request shall include, at a minimum, a plan sufficient to show the location of the proposed activity, and a narrative describing the activity. Such requests shall include information as necessary to demonstrate that a proposed activity meets the criteria identified in §3 or §7.1 of the Bylaw. The Natural Resources Director shall determine on a case by case basis what additional information is necessary to administratively approve a project. Administrative approval requests may also be made by applicants that wish to confirm that an activity is exempt under the Bylaw. The Natural Resources Director shall issue a decision in writing. With the exception of hazard tree removal, or other projects requiring immediate action, the Natural Resources Director shall provide the Natural Resources Commission with a list of pending administrative approvals prior to issuing approval.

Without limiting the generality of the above paragraph, an appeal may be taken to the Commission by any person including an officer or Board in the Town of Concord aggrieved by reason of inability to obtain, or by issuance of, an administrative approval from any administrative officer of the Town of Concord in violation of Article 43 of Town Meeting 2009 or any Bylaw of the Town of Concord adopted thereunder.

or take any other action relative thereto.

In 2009, Town Meeting approved a non-zoning wetlands bylaw to better protect wetland resource areas and the functions they provide. The bylaw went into effect after being approved by the Attorney General this past September. While regulations are typically adopted by the agency that implements the law, in this case the Natural Resources Commission, Town Meeting 2009 added language to the bylaw that requires any regulations adopted by the NRC under the bylaw to be voted and approved by Town Meeting. This Regulation provides guidance how projects may be permitted in sensitive areas including the 25-foot No Disturbance Zone and near Certified Vernal Pools.

RIGHT TO FARM BYLAW

ARTICLE 60. To determine whether the Town will vote to adopt a Right to Farm Bylaw as follows:

Section 1 Legislative Purpose and Intent

The purpose and intent of the bylaw is to state with emphasis the Right to Farm accorded to all citizens of the Commonwealth under Article 97, of the Constitution, and all state statutes and regulations thereunder including but not limited to Massachusetts General Laws Chapter 40A, Section 3, Paragraph 1; Chapter 90, Section 9, Chapter 111, Section 125A and Chapter 128 Section 1A. We the citizens of Concord restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution ("Home Rule Amendment").

The General Bylaw encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Concord by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies. The bylaw shall apply to all jurisdictional areas within the Town.

Section 2 Definitions

The word "farm" shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of agriculture, or accessory thereto.

The words “farming” or “agriculture” or their derivatives shall include, but not be limited to the following:

- farming in all its branches and the cultivation and tillage of the soil;
- dairying;
- production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;
- growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations;
- raising of livestock including horses;
- keeping of horses as a commercial enterprise; and
- keeping and raising of poultry, swine, cattle, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.

“Farming” shall encompass activities including, but not limited to the following:

- operation and transportation of slowing-moving farm equipment over roads within the Town;
- control of pests, including, but not limited to, insects, weeds, predators and disease organism of plants and animals;
- application of manure, fertilizers and pesticides;
- conducting agriculture-related educational and farm-based recreational activities, including agritourism, provided that the activities are related to marketing the agricultural output or services of the farm;
- processing and packaging of the agricultural output of the farm and the operation of a farmer’s market or farm stand including signage thereto;
- maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products; and
- on-farm relocation of earth and the clearing of ground for farming operations.

Section 3 Right to Farm Declaration

The right to Farm is hereby recognized to exist within the Town of Concord. The above-described agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protections of this Bylaw are intended to apply exclusively to those agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right to Farm Bylaw shall be deemed as acquiring any interest in land, or as imposing any land use regulation, which is properly the subject of state statute, regulation, local zoning, or other local bylaws.

Section 4 Disclosure Notification

In order to help promote understanding between farmers and their neighbors, the Town of Concord will from time to time notify residents as follows:

“It is the policy of this community to conserve, protect and encourage the maintenance and improvement of agricultural land for the production of food, and other agricultural products, and also for its natural and ecological value. This disclosure notification is to remind Concord Residents that they will live in a town where farming activities occur. Such farming activities (which may occur on holidays, weekdays, and weekends by night or day) may include, but are not limited to, activities that cause noise, dust and odors. Residents of Concord should expect and accept such conditions from time to time as a normal and necessary aspect of living in a town with farms.”

A copy of the disclosure notification shall be posted in the Town House and be available for distribution from the Planning Board or its designee and may be published on brochures or town websites.

Section 5 Resolution of Disputes

Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other

available remedy, file a grievance with the Board of Selectmen, the Zoning Enforcement Officer, or the Board of Health, depending upon the nature of the grievance. The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have.

The Zoning Enforcement Officer or Board of Selectmen shall forward a copy of the grievance to the Agricultural Committee or its agent which shall review and facilitate the resolution of the grievance, and report its recommendations to the referring Town authority within an agreed upon time frame.

The Board of Health, except in cases of imminent danger or public health risk, shall forward a copy of the grievance to the Agricultural Committee or its agent, which shall review and facilitate the resolution of the grievance, and reports its recommendations to the Board of Health within an agreed upon time frame.

Section 6 Severability Clause

If any part of this Bylaw is for any reason held to be unconstitutional or invalid, such determination shall not affect the remainder of this Bylaw. The Town of Concord hereby declares the provisions of this Bylaw to be severable.

or take any other action relative thereto.

This bylaw will highlight the importance of farming to the Town of Concord, will reiterate that farming is a valued and accepted activity here, and is intended to help promote understanding between farmers and their neighbors.

CONSTRUCTION NOISE BYLAW

ARTICLE 61. To determine whether the Town will vote to amend the Town Bylaws by adding a provision for Construction Noise, as follows:

Section 1. Construction Noise

It shall be unlawful for any person or persons to create, assist in creating, continue or allow to continue any loud noise related to non-public construction activities as outlined below between the hours of 8:00 p.m. to 7:00 a.m. on weekdays and Saturdays which either annoys, disturbs, injures or endangers the reasonable quiet, comfort, repose or the health and safety of others within the Town. Additionally, it shall be unlawful for any person or persons to create, assist in creating, continue or allow to continue any excessive, unnecessary or unusually loud noise related to non-public construction activities as outlined below on Sundays and the following holidays: New Year's, Memorial Day, Fourth of July, Labor Day, Thanksgiving and Christmas.

Construction shall mean those activities requiring a building permit, and shall also include any site preparation, earth removal, grading, assembly, erection, substantial repair, alteration or similar action, including demolition, for or of private streets, structures, utilities or similar non-public property. Construction noise shall be that noise generated by manual or mechanical activities associated with construction.

Section 2. Exemptions

Noise associated with Emergency Work or Emergency Vehicles is exempt from the provisions of this Bylaw. Emergency Work shall mean any work performed in an effort to protect, provide or restore public safety, or work by private or public utilities when restoring utility service. Emergency Vehicles shall mean any vehicle operated in an effort to protect, provide or restore public safety including, but not limited to, ambulances, police vehicles and fire vehicles.

Noise associated with construction activities undertaken with authorization of the Police Chief in order to complete a project, which is in the public interest, in a timely and expeditious manner shall be exempt from the provisions of this Bylaw.

Section 3. Enforcement

Violations under this bylaw shall be enforced under the Town's Non-criminal Disposition Bylaw and fines shall be in accordance with Appendix A of the Town's Non-Criminal Disposition Bylaw.

or take any other action relative thereto.

This new bylaw is proposed in response to neighborhood complaints about construction activities on private property that generate noise prior to 7:00 a.m. or after 8:00 p.m. and will allow the responding Police Officers and Building Inspectors to take enforcement action.

**ADOPTION OF MASSACHUSETTS BUILDING CODE APPENDIX 120.AA,
"STRETCH" ENERGY CODE**

ARTICLE 62. To determine whether the Town will vote to adopt, or authorize the Board of Selectmen to adopt, the portion of the State of Massachusetts Energy Code (780 CMR Appendix 120AA), known as the Massachusetts Stretch Energy Code, in the Town of Concord, as required by State regulation, (the provisions of which are summarized below), or take any other action relative thereto.

1. Purpose

1.1. The purpose of 780 CMR 120.AA is to provide a more energy efficient alternative to the base energy code applicable to the relevant sections of the building code for both new construction and existing buildings. A municipality seeking to ensure that construction within its boundaries is designed and built above the energy efficiency requirements of 780 CMR may mandate adherence to this appendix.

2. Background and definitions

2.1. In 2008 the State of Massachusetts adopted the Green Communities Act (Senate Bill No. 2768) the purpose of which is to provide for renewable and alternative energy and energy efficiency in the Commonwealth.

2.2. The "base building energy code in Massachusetts will be updated in 2010 to the recently published IECC (International Energy Conservation Code) 2009 energy code (this update will happen every year subsequently, with the State adopting the previous years' IECC codes). The "stretch code is similarly based on the IECC 2009 energy code, but with approximately 20% greater building efficiency requirements, and a move towards 3rd party testing and rating of building energy performance.

3. Stretch Code Provisions

Residential - New Construction

New residential buildings 3 stories or less will be required to meet an energy performance standard using the Home Energy Rating System (HERS). The HERS index scores a home on a scale where 0 is a zero-net-energy home, and 100 is a code compliant new home (currently based on the IECC 2006 code). The HERS index has been in use for many years by programs such as Energy Star Homes, and LEED for Homes, and by the Federal IRS for tax credits and energy efficient mortgages. HERS ratings are performed by an independent HERS rater, working with the home builder, and then submitted to the local building code official.

The Massachusetts stretch code requires a HERS index of 65 or less for new homes of 3,000 square feet or above, and 70 or less for new homes below 3,000 square feet (this includes multi-family units in buildings of 3 stories or less).

A HERS index of 65 means that the home is estimated to use 65% as much energy as the same home built to the 2006 energy code, or a 35% annual energy savings.

Residential – Home renovations

Home additions and renovations have two options to meet the stretch code:

- i) The same "performance" approach as new construction but requiring a HERS index of 80 or less for significant changes to homes over 2,000 square feet, or 85 or less for homes below 2,000 square feet.
- ii) A "prescriptive" approach, where specific efficiency measures are required rather than a HERS index number. This utilizes the Energy Star for Homes program prescriptive requirements, and insulation at least equal to IECC 2009.

Commercial –New Construction

The stretch code also applies a performance-based code to commercial buildings, with the option of a prescriptive code for small and medium-sized commercial buildings. Buildings smaller than 5,000 square feet are exempt, as are building renovations, and "specialty" buildings – supermarkets, laboratories, and warehouses– below 40,000 square feet in size, due to their widely differing energy needs. These exempt buildings remain subject to the "base" Massachusetts energy code (IECC 2009 and ASHRAE 90.1-2007).

Large buildings of any type over 100,000 square feet, and “specialty” buildings over 40,000 square feet are required to meet a performance standard set at 20% below the energy usage of the commonly used ASHRAE 90.1-2007 code⁴, demonstrated through modeling by methods and software approved by the BBRs.

Medium-sized commercial buildings, which include residential buildings of 4 stories or more, but that are less than 100,000 square feet, have the option of meeting the same 20% better than ASHRAE 90.1-2007 performance standard, or using a simplified, prescriptive energy code.

The prescriptive code is based on Chapter 5 of the IECC 2009 energy code, and adds incremental efficiency improvements primarily through:

- a. Building envelope elements (walls, roofs, windows, insulation, etc.)
- b. Commissioning requirements to ensure that the energy system of a building operates as designed.
- c. More efficient lighting power densities and improved lighting controls.
- d. A choice of one of three compliance paths: high efficiency HVAC equipment, further lighting energy reductions, or on-site renewable energy.

This prescriptive option for commercial buildings between 5,000 and 100,000 sq. ft. was developed from the Core Performance program of the New Buildings Institute. This program has been developed and used for utility incentive programs in Massachusetts for the past couple of years. The Core Performance program used over 30,000 energy modeling runs to evaluate and rank the most cost effective modifications to the ASHRAE 90.1 code, and has been run specifically with Boston climate data to represent Massachusetts. Certain areas of this prescriptive option were also updated to reflect recent energy code development for future iterations of ASHRAE and IECC codes and refined for specific application in Massachusetts where they are cost-effective.

Appendix 120.AA, known as the “Stretch Code” was adopted by the Massachusetts Board of Building Regulations and Standards in May of 2009 as an optional appendix to the Massachusetts State Building Code. This optional “Stretch Code” was developed in response to a call for improved energy efficiency in the Commonwealth. Cities and towns may adopt the stretch code in place of the “base” building energy code and thereby require approximately 20% greater energy efficiency in new construction. The optional Stretch Code also applies to renovation of existing structures, and may be adopted by any city or town acting through its governing body, following a public hearing.

RIGHT TO DRY BYLAW – (By Petition)

ARTICLE 63. To determine whether the Town will vote to adopt a bylaw prohibiting real estate contracts, agreements or rules from precluding the use of clotheslines on residential properties within the Town of Concord or to take any other action relative thereto.

To enable homeowners to make efficient use of renewable energy services – the sun and wind – to dry clothing.

AUTHORIZATION OF LONG TERM LEASE FOR SOLAR ENERGY

ARTICLE 64. To determine whether the Town will vote to authorize the Town Manager to enter into a long-term license, lease and/or contractual agreements, subject to terms and conditions approved by the Board of Selectmen, involving the property at 509 Bedford Street, the Wastewater Treatment Plant site (Assessors Parcels 1195, 1196, 1197, 1198, 1199, 1200, 1201, and 1213), the property at 1175 Elm Street, the Light Plant headquarters (Assessors Parcel 1999-1), the property at 133/135/141 Keyes Road (Assessors Parcel 1682), and/or the property at 33X Old Bedford Road, the former “Ammendolia land” (Assessors Parcels 4209 and 4210-2), for the purposes of installing solar energy facilities and supplying solar energy, and further to authorize the Selectmen and Town Manager to take such action as may be necessary under State law to effectuate said agreements, or take any other action relative thereto.

The purpose of this article is for the Town to enter into a long term lease and/or purchase power agreement for the purposes of supplying solar energy in Concord.

BAN THE SALE OF WATER IN PLASTIC BOTTLES IN CONCORD (By Petition)

ARTICLE 65. To determine whether the Town will vote to ban the sale of water in plastic bottles in Concord starting January 1, 2011, or take any other action relative thereto.

REVISIONS TO SALE OF TOBACCO TO MINORS BYLAW

ARTICLE 66. To determine whether the Town will vote to amend the Sale of Tobacco to Minors Bylaw as follows:

Section 1 – DECLARATION OF POLICY AND PURPOSE (no changes)

Section 2 – DEFINITIONS (Delete in its entirety and replace as follows):

Section 2 - DEFINITIONS

For the purpose of this bylaw, the following words shall have the following meanings:

- A. **BUSINESS AGENT:** An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.
- B. **EMPLOYEE:** Any individual who performs services for an employer.
- C. **EMPLOYER:** Any individual, partnership, association, corporation, trust or other organized group of individuals, including Concord or any agency thereof, which uses the services of one (1) or more employees.
- D. **MINOR:** Any individual who is under the age of eighteen (18).
- E. **PERMIT HOLDER:** Any person engaged in the sale or distribution of tobacco products directly to consumers who applies for and receives a tobacco sales permit or any person who is required to apply for a tobacco sales permit pursuant to this bylaw, or his or her business agent.
- F. **PERSON:** An individual, employer, employee, retail store manager or owner, or the owner or operator of any establishment engaged in the sale or distribution of tobacco products directly to consumers.
- G. **SELF SERVICE DISPLAY:** Any display from which customers may select a tobacco product without assistance from an employee or store personnel, excluding vending machines.
- H. **TOBACCO PRODUCT:** Cigarettes, cigars, chewing tobacco, pipe tobacco bidis, snuff or tobacco in any forms.
- I. **VENDING MACHINE:** Any automated or mechanical self service device, which upon insertion of money, tokens or any other form or payment, dispenses cigarettes or any other tobacco product.

Section 3 – PERMITS (Delete in its entirety and replace as follows)

Section 3 – PERMITS

- A. No person shall sell or otherwise distribute tobacco at retail within the Town of Concord without first obtaining a tobacco sales permit issued annually by the Concord Board of Health. Only owners of establishments with a permanent, non-mobile location in the Town of Concord are eligible to apply for a permit and sell tobacco products in the specified location in Concord.

- B. As part of the tobacco sales permit application process, the applicant will be provided with this bylaw. Each applicant is required to sign a statement declaring that the applicant has read said bylaw and that the applicant is responsible for instructing any and all employees who will be responsible for tobacco sales regarding both state laws regarding the sale of tobacco and this bylaw.
- C. Each applicant is required to provide proof of a current tobacco sales license issued by the Massachusetts Department of Revenue before a tobacco sales permit can be issued.
- D. The fee for a tobacco sales permit shall be determined by the Concord Board of Health annually. All such permits shall be renewed annually by June 1st.
- E. A separate permit is required for each retail establishment selling tobacco.
- F. Each tobacco sales permit shall be displayed at the retail establishment in a conspicuous place.
- G. No tobacco sales permit holder shall allow any employees to sell cigarettes or other tobacco products until such employee reads this bylaw and state laws regarding the sale of tobacco and signs a statement, a copy of which will be placed on file in the office of the employer, that he/she has read the bylaw and applicable state laws.
- H. A tobacco sales permit is non-transferable. A new owner of an establishment that sells tobacco must apply for a new tobacco sales permit. No new permit will be issued unless and until all outstanding penalties incurred by the previous permit holder are satisfied in full.
- I. Issuance of a tobacco sales permit shall be conditioned on an applicant's consent to unannounced, periodic inspections of his/her retail establishment to ensure compliance with this bylaw.
- J. A tobacco sales permit will not be renewed if the permit holder has failed to pay all fines issued and the time period to appeal the fines has expired.

Section 4 – PROHIBITED ACTS (Delete in its entirety and replace as follows)

Section 4 – PROHIBITED ACTS

- A. No person shall sell tobacco products or permit tobacco products to be sold to a minor; or not being the minor's parent or legal guardian, give tobacco products to a minor. Each person selling or distributing tobacco products shall verify the age of the purchaser by means of government-issued photographic identification containing the bearer's date of birth that the purchaser is 18 years old or older. Verification is required for any person under the age of 27.
- B. All tobacco vending machines are prohibited.
- C. No person shall distribute, or cause to be distributed, any free samples of tobacco products
- D. No person may sell or cause to be sold or distribute or cause to be distributed, any cigarette package that contains fewer than twenty (20) cigarettes, including single cigarettes.
- E. All self service displays of tobacco products are prohibited. All humidors including, but not limited to, walk-in humidors must be locked. The only exception is self service displays that are located in facilities where the retailer ensures that no person younger than eighteen (18) years of age is present, or permitted to enter, at any time.

Section 5 – POSTING (Delete Section A1, A2, A3, A4 and replace as follows)

Section 5 – POSTING

In conformance with and in addition to Massachusetts General Law, Chapter 270, Section 7, a copy of Massachusetts General Laws, Chapter 270, Section 6, shall be posted conspicuously by the owner or other person in charge thereof in the shop or other place used to sell tobacco products at retail. The notice shall be provided by the Massachusetts Department of Public Health and made available from the Concord Board of Health. The notice shall be at least 48 square inches and shall be posted conspicuously by the permit holder in the retail establishment or other place in such a manner so that it may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4) feet or greater than nine (9) feet from the floor.

Section 6 – VIOLATIONS AND PENALTIES

- A. (no changes)
- B. (After the first sentence, as reprinted here in, add the second sentence as shown here in bold and underlined). Except when otherwise provided by law, prosecutions for offenses under this bylaw shall be made by a constable, Police Officer, the Board of Health or their Agent(s). **(Any citizen who desires to register a complaint pursuant to the bylaw may do so by contacting the Concord Board of Health or its designated agent(s) and the Board shall investigate.**
- C. Fines for violations shall be in accordance with Appendix A of the Town's Non-Criminal Disposition Bylaw.

(Delete subsection D in its entirety and replace as follows)

- D. It shall be the responsibility of the permit holder and/or his or her business agent to ensure compliance with Section 4A of this bylaw pertaining to his or her distribution of tobacco. The violator shall receive:
 - 1. In the case of a first violation, a fine of one hundred dollars (\$100)
 - 2. In the case of a second violation within 24 months of the date of the current violation, a fine of two hundred dollars (\$200) shall be assessed and the tobacco sales permit shall be suspended for seven (7) consecutive business days.
 - 3. In the case of three or more violations within a 24 month period, a fine of three hundred (\$300) shall be assessed and the tobacco sales permit shall be suspended for thirty (30) consecutive business days.

(Delete subsection E in its entirety and replace as follows).

- E. Refusal to cooperate with inspections pursuant to this bylaw shall result in the suspension of the tobacco sales permit for thirty (30) consecutive business days.

(Add subsection F as follows)

- F. The Concord Board of Health shall provide notice of the intent to suspend a tobacco sales permit, which notice shall contain the reasons therefore and establish a time and date for a hearing which date shall be no earlier than seven (7) days after the date of said notice. The permit holder or its business agent shall have an opportunity to be heard at such hearing and shall be notified of the Board of Health's decision, and the reasons therefore in writing. After the hearing, the Concord Board of Health will suspend the tobacco sales permit if the Board finds that a sale to a minor occurred. For purposes of such suspensions, the Board shall make the determination notwithstanding any separate criminal or non-criminal proceedings brought in court hereunder or under the Massachusetts General Laws for the same offense. All tobacco products shall be removed from the retail establishment upon suspension of the tobacco sales permit. Failure to remove all tobacco products shall constitute a separate violation of this bylaw.

(Add subsection G as follows)

G. All other violations of this bylaw will be subjected to fines of fifty (\$50) dollars per violation.

Section 7 – VARIANCE(Delete section in its entirety)

Section 8 – SEPARABILITY (No changes to text renumber as Section 7).

or take any other action relative thereto.

The Sale of Tobacco to Minors Bylaw was adopted in 1995 as a mechanism for the Concord Board of Health to further restrict the sale, vending, and distribution of tobacco products to minors as it relates to the protection of the public health. Since that time, statewide regulations governing this area have changed, along with industry practices and public health research about the dangers of tobacco use by adolescents. Changes to our proposed bylaw include but are not limited to, incorporating a broader scope of definitions, permitting restrictions for establishments that sell tobacco products, and additional fines for non-compliance.

REVISIONS TO SMOKING IN FOOD ESTABLISHMENTS BYLAW

ARTICLE 67. To determine whether the Town will vote to amend the Smoking in Food Establishments Local Bylaw as follows:

Smoking in Food Establishments Local Bylaw
(Delete Title in its entirety and replace as follows)

Smoke Free Workplace Bylaw

Section 1: Purpose (unchanged)
Section 2: Authority (unchanged)
Section 3: Severability (unchanged)

Section 4: Definitions (Delete in its entirety and replace as follows):

Section 4: Definitions

As used in this bylaw, the following words shall have the following meanings, unless the context requires otherwise:

- 4.1 “Compensation” – money, gratuity, privilege, or benefit received from an employer in return for work performed or services rendered.
- 4.2 “Employee” – an individual or person who performs a service for compensation for an employer’s workplace, including a contract employee, temporary employee, and independent contractor who performs a service in the employer’s workplace for more than a de minimus amount of time.
- 4.3 “Employer” – an individual, person, partnership, association, corporation, trust, organization, school, college, university or other educational institution or other legal entity whether public, quasi-public, private, or non-profit which uses the services of one (1) or more employees at one (1) or more workplaces, at any one (1) time, including the Town of Concord.
- 4.4 “Enclosed” – a space bounded by walls, with or without windows or fenestrations, continuous from floor to ceiling and enclosed by one (1) or more doors, including but not limited to an office, function room or hallway.
- 4.5 “Outdoor space” – an outdoor area, open to the air at all times and cannot be enclosed by a wall or side covering.

- 4.6 “Retail Tobacco Store” – an establishment which is required to possess a retail food permit whose primary purpose is to sell or offer for sale to consumers, but not for resale, tobacco products and paraphernalia, in which the sale of other products is merely incidental, and in which the entry of persons under the age of 18 is prohibited at all times, and maintains a valid permit for the retail sale of tobacco products as required to be issued by the Concord Board of Health.
- 4.7 “Smoking” – or “Smoke” – the lighting of a cigar, cigarette, pipe or other tobacco product or possessing a lighted cigar, cigarette, pipe or other tobacco or non-tobacco product designed to be combusted and inhaled.
- 4.8 “Smoking Bar” – an establishment that primarily is engaged in the retail sale of tobacco products for consumption by customers on the premises and is required by Mass General Law Ch., 270, Section 22 to maintain a valid permit to operate a smoking bar issued by the Massachusetts Department of Revenue. “Smoking Bar” shall include, but not be limited to, those establishments that are commonly known as “cigar bars” and “hookah bars”.
- 4.9 “Workplace” – an indoor area, structure or facility or a portion thereof, at which one (1) or more employees perform a service for compensation for an employer, other enclosed spaces rented to or otherwise used by the public; and where the employer has the right or authority to exercise control over the space.
- 4.10 “Work space or work spaces” – an enclosed area occupied by an employee during the course of his employment.

Terms not defined herein shall be defined as set forth in MGL, Ch. 270, Section 22 and/or 105 CMR 661. To the extent any of the definitions herein conflict with MGL, Ch. 270, Section 22 and 105 CMR 661, the definition contained in this bylaw shall control.

Section 5: Prohibitions (Delete in its entirety and replace as follows):

Section 5: Prohibitions

- 5.1 It shall be the responsibility of the employer to provide a smoke free environment for all employees working in an enclosed workplace.
- 5.2 Smoking is hereby prohibited in Concord in accordance with MGL, Ch. 270, Section 22 (commonly known as the “Smoke-free Workplace Law”).
- 5.3 Pursuant to MGL, Ch. 270, Section 22(j) smoking is also hereby prohibited in Tobacconist Shops (“Smoke Shops”), Smoking Bars, and Nursing Homes.

Section 6: Enforcement (Delete in its entirety and replace as follows):

Section 6: Enforcement

- 6.1 This bylaw shall be enforced by the Board of Health and its designees.
- 6.2 Any person may register a complaint to initiate an investigation and enforcement with the Board of Health, the local inspection department of the equivalent.
- 6.3 The Board of Health shall have the authority to enforce this bylaw through the use of violation notices, administrative orders, or civil and criminal court actions. Violations may result in fines and other lawful penalties listed in this bylaw.

Section 7: Hearings (delete section in its entirety)

Section 8: Variances (delete section in its entirety)

Section 9: Penalties and Remedies (Delete in its entirety and replace as follows)

Section 9: Penalties and Remedies

- 9.1 Violations are subject to a fine in accordance with Appendix A of the Town’s Non-Criminal Disposition Bylaw
- 9.2 Each calendar day on which violation occurs shall be considered a separate offense.
- 9.3 Violations of Section 5.2 shall be disposed of by a civil penalty using the non-criminal method of disposition procedures contained in Section 21 D of Chapter 40 of Massachusetts General without an enabling ordinance or bylaw. The disposition of fines assessed shall be subject to Section 188 of Chapter 111.
- 9.4 Violations of Section 5.3 may be disposed of by a civil penalty using the non-criminal method of disposition procedures contained in Section 21D of Chapter 40 of Massachusetts General Law.
- 9.5 If an owner, manager or other person in control of a building, vehicle, or vessel violates this bylaw repeatedly, demonstrating egregious noncompliance as defined by regulation of the Department of Public Health, the Board of Health may revoke or suspend the license to operate and shall send notice of the revocation or suspension to the Department of Public Health.

Section 10: (Delete in its entirety and replace as follows)

Section 10: Severability

Each part of these regulations are constructed to be separate, such that if any section, sentence, item, clause, or phrase is held invalid for any reason, the remainder of the regulations shall continue in full force and effect.

Add Sections 11 & 12 as follows:

Section 11: Conflict with other Laws and Regulations

Notwithstanding the provisions of Section 4 of this bylaw, nothing in this bylaw shall be deemed to amend or repeal applicable fire, health or other regulations so as to permit smoking in areas where it is prohibited by such fire, health, or other regulations.

Section 12: Effective Date

This bylaw shall take effect on January 2, 1996.

Amended at the Town of Concord Annual Town Meeting on May 8, 2003.

or take any other action relative thereto.

The Smoking in Food Establishments Bylaw was adopted at a time prior to the Commonwealth of Massachusetts’ prohibition to smoking in restaurants. Since that time, Massachusetts General Law, Chapter 270, Section 22, commonly known as the Massachusetts Smoke-Free Workplace Law, was enacted. The changes proposed to the Local Bylaw include: changing the name, increasing fines for non-compliance, prohibiting the sale of tobacco products in vending machines or by mobile vendors, and prohibiting smoking in Tobacconist Shops (“Smoke Shops”), Hookah Bars, and Nursing Homes.

PUBLIC CONSUMPTION OF MARIJUANA BYLAW

ARTICLE 68. To determine whether the Town will vote to adopt the following bylaw for the Town of Concord:

PUBLIC CONSUMPTION OF MARIJUANA BYLAW

No person shall smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in G.L. Ch. 94C, §1, as amended) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the town; or in or upon any motor vehicle in or on a public way, whether or not the user is operating the vehicle or whether the vehicle is in operation at all; or in any place accessible to the public.

Whoever violates this bylaw shall be subject to a fine as specified in Appendix A of the Regulations for the Enforcement of Town Bylaws under G.L. Ch. 40, §21D and the Bylaw for Non-Criminal Disposition of Violations adopted under Article 47 of the 1984 Town Meeting, as amended. Enforcement shall be carried out by the Police Chief and duly sworn Police Officers who shall have full enforcement powers. Any penalty imposed under this bylaw shall be in addition to any civil penalty imposed under G.L. Ch. 94C, §32L. If a violator fails to pay the fine issued, he or she may be subject to civil contempt proceedings.

or take any other action relevant thereto.

At the November 2008 State Election, voters approved Question 2, which decriminalized the possession of small quantities of marijuana. The civil penalty for offenses is \$100. Adopting a local bylaw will provide the Town with a mechanism to collect the fines in the event the offender fails to pay the \$100 civil penalty in a timely manner. Bylaw offenses carry additional fines of \$100 to \$300 and can be collected through non-criminal procedures.

DEBT RESCISSION

ARTICLE 69 . To determine whether the Town will vote to rescind the following unused borrowing authorization:

Article 32 of 2005 – Burke Land Acquisition (original authorization \$2,750,000)	\$250,000
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or take any other action relative thereto.

This article will remove from the Town's accounting records a debt authorization that was not required to accomplish the purpose of the original article and that was not issued as bonds or notes. This is routine proper fiscal practice.

AMENDMENTS TO HISTORIC DISTRICTS COMMISSION SPECIAL ACT

ARTICLE 70. To determine whether the Town will vote to petition the General Court to further amend Chapter 345 of the Acts 1960, as follows:

By substituting in Section 4, "Concord Antiquarian Society, doing business as The Concord Museum" for "Concord Antiquarian Society", substituting "Trustees of the Concord Free Public Library Corporation" for "Trustees of the Concord Public Library", and substituting "Concord Natural Resources Commission" for "Concord Conservation Commission"; and,

By inserting in Section 4, the following sentence at the end of the second paragraph,: "If the Trustees of the Concord Free Public Library Corporation, the Planning Board, the Natural Resources Commission, or the Concord Antiquarian Society, doing business as the Concord Museum, fail to nominate candidates in accordance with this section within ninety days of a written request by the Board of Selectmen for nominees, the Board of Selectmen may proceed with an appointment to fill the vacancy."; and

By substituting in the third paragraph of Section 8 the words "sixty days" for the words "forty-five days"; and

By inserting in Section 10 immediately after the first sentence the following: "Notice of the action with a copy of the complaint shall be given to the Town Clerk so as to be received within such twenty days."

or take any other action relative thereto.

Our State legislators have requested an update of the 2007 Town Meeting vote to reaffirm that the Town wants to implement changes in the Historic Districts Act that will correct the names of the entities that provide nominees for Historic District Commission (HDC) vacancies; provide a time-frame by which nominees are to be provided to the Board of Selectmen; extends the length of time by which the HDC must hold a hearing on an application; and, ensures that a Town official is notified whenever an appeal of an HDC decision is filed in court

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 8th day of February in the year two thousand-ten.

Stanly E. Black

Gregory P. Howes

Virginia McIntyre

Jeffrey S. Wieand

Elise F. Woodward

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.

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 23, 2010
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 3, 2010.

In addition to regular office hours, the Town Clerk's Office will hold a special evening voter registration session on Wednesday, March 3, 2010 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 26, 2010

7:00 PM

Concord-Carlisle Regional High School

Adjourned sessions - if necessary

Tuesday	April 27, 2010
Wednesday	April 28, 2010
Thursday	April 29, 2010
Monday	May 3, 2010
Tuesday	May 4, 2010