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WARRANT

Burlington Town Meeting



January 25, 2021
7:30 P.M.

Burlington, MA
Burlington High School
Fogelberg Auditorium
and Virtual via WebEx

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Burlington Town Meeting
Monday
January 25, 2021

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WARRANT

BURLINGTON TOWN MEETING

Monday, January 25, 2021

In accordance with the provisions of Chapter 686 of the Acts of 1970 of the Commonwealth of Massachusetts, you are hereby notified that the Town Meeting Representatives of the Town of Burlington will meet in general assembly at the Burlington High School, Fogelberg Auditorium and virtual via WebEx, in said Town, the 25th of January 2021 at seven-thirty o'clock in the evening then and there to act on the following articles of the warrant.

GENERAL ARTICLES

ARTICLE #1

RE: Reports of Town Officers & Committees

To hear and act on the reports of the Town Officers and Committees; or to act in any other manner in relation thereto.

Submitted by the Rules Committee

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

ZONING BYLAW ARTICLES

ARTICLE #2

RE: An Act Relative to Changing the Name of the Board of Selectmen in the Town of Burlington

To see if the Town will vote to amend the Burlington Zoning Bylaw by deleting the word “Selectmen” each time it appears in said bylaw and inserting the term “Select Board” in place thereof, and further, deleting the words “Board of Selectmen” each time it appears and inserting in place thereof the term “Select Board” and further that the Town Clerk be authorized to make clerical, editorial or other adjustments to effectuate the purposes hereof; or to act in any other manner in relation thereto.

Submitted by the Board of Selectmen at the request of the Town Administrator

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

ARTICLE #3

RE: Zoning Bylaw Housekeeping Amendment

To see if the Town will vote to amend the Zoning Bylaw as follows:

- Correct spelling and formatting throughout the Zoning Bylaw.
- Article II: Definitions - Remove the third decimal point and alphabetize the Article, numbering is as follows, 2.1 “A”, 2.2 “B”, 2.3 “C” ...2.26 “Z”.
- Article III: Districts - Correct map references regarding the zoning map and reflect the digitized zoning and overlay maps previously adopted by Town Meeting.
- Article IV: Use Regulations - Correct formatting and references.
- Article VII: General Regulations - Clarify (non-structured) stormwater and “Low Impact Design”.
- Article VIII: Overlay Districts - Update or eliminate many outdated terms and references, like “MDC”.
- Article XII: Planned Development Districts – Update to include electronic permitting similar to what we did in September in Article IX “Administration and Procedures”.

And further Town Meeting permits for the Planning Director in consultation with the Town Clerk to correct spelling and grammatical errors identified that do not have any effect on the substance or meaning of the Zoning Bylaw.

or to act in any other manner in relation thereto.

Submitted by the Board of Selectmen at the request of Planning Board

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

The full text the Zoning Bylaw Housekeeping Amendment Back-up can be found on the Town of Burlington Town Meeting and Planning Department Websites.

FINANCIAL ARTICLES

ARTICLE #4

**RE: Board of Health
Associate Director of Public Health**

To see if the Town will vote to transfer from available funds, or otherwise provide a sum of money not to exceed \$40,000 for the remainder of FY2021 to fund wages for a newly created role for the Board of Health Department for the position of Associate Director of Public Health position; or to act in any other manner in relation thereto.

Amount: \$40,000

Submitted by the Board of Selectmen at the request of
The Board of Health

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

ARTICLE #5

RE: Replenish Reserve Fund

To see if the Town will vote to transfer from Free Cash to the budget line item 92 - Reserve Fund, the sum of \$100,000; or to act in any other manner in relation thereto.

Amount: \$100,000

Submitted by the Board of Selectmen at the request of
the Town Administrator

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

ARTICLE #6

RE: Transportation Infrastructure Fund

To see if the Town will transfer the sum of \$55,253 from Receipts Reserved for Appropriation-Commonwealth Transportation Infrastructure Fund monies to address the impact of transportation network services on municipal roads, bridges and other transportation infrastructure or any other public purpose substantially related to the operation of transportation network services in the city or town including, but not limited to, the complete streets program established in section 1 of chapter 90I of the General Laws and other programs that support alternative modes of transportation; or to act in any other manner in relation thereto.

Amount: \$55,253

Submitted by the Board of Selectmen at the request of
the Town Administrator

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

FINANCIAL ARTICLES - Continued

ARTICLE #7

RE: Transfer from Free Cash to Water Stabilization Fund

To see if the Town will vote to transfer from Free Cash the sum of \$534,141 to the Water Stabilization Fund; or to act in any other manner in relation thereto.

Amount: \$534,141

Submitted by the Board of Selectmen at the request of the Town Administrator

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

ARTICLE #8

RE: Phase 2A MWRA Water Connection

To see if the Town will appropriate \$9,900,000, to be expended under the direction of the Town Administrator, to pay costs of water connection construction under Phase 2A and MWRA entrance fees, and for the payment of all other costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Selectmen, is authorized to borrow said amount under and pursuant to M.G.L. c.44, §8, or any other enabling authority, and to issue bonds or notes of the Town therefor. All or any portion of this borrowing may be undertaken through the Massachusetts Water Resources Authority's Loan Program ("MWRA"). The Treasurer, the Town Administrator, and the Selectmen are authorized to execute and deliver any and all documents and agreements that may be required by the MWRA in connection with any borrowing through the MWRA. Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with M.G.L. c.44, §20, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount; or to act in any other manner in relation thereto.

Amount: \$9,900,000

Submitted by Board of Selectmen at the request of the Town Administrator

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

ARTICLE #9

RE: COVID-19 Testing Program

To see if the Town will vote to raise and appropriate, transfer from available funds or otherwise provide the sum of \$TBD, for the purpose of funding a COVID-19 (SARS-CoV-2) Testing Program, same to be spent under the direction of the School Committee; or to act in any other manner in relation thereto.

Amount: \$ TBD

Submitted by the Board of Selectmen at the request of the School Committee

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

FINANCIAL ARTICLES - Continued

ARTICLE #10

**RE: Amend the FY2021 Operating Budget -
Local Education**

To see if the Town will vote to amend Article #4 of the September 30, 2020 Annual Town Meeting, “Amend the FY 2021 Operating Budget”, by increasing the amount appropriated on line 55, “Local Education”, by \$TBD, for the purpose of funding additional transportation costs related to school schedule changes in response to Covid-19; by means of raise and appropriate, transfer from available funds or otherwise provide the sum; or to act in any other manner in relation thereto.

Amount: \$ TBD

Submitted by the Board of Selectmen at the request of
the School Committee

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

GENERAL ARTICLES - Continued

ARTICLE #11

RE: Alteration of Public Way - Dartmouth Road

To see if the Town will vote to discontinue and abandon that portion of Dartmouth Road as shown on the redlined plan "General Walker Estates, Terra Firma Lane, Burlington, MA, prepared by Dressers, Williams and Way, Inc., dated January 17, 2017, redlined to December 10, 2020, to be further revised by Dressers Williams and Way prior to filing at the Middlesex South Registry of Deeds. Said original plan filed at the Middlesex South Registry of Deeds on March 8, 2017 as Plan 230 of 2017 and which parcels for discontinuance and abandon are shown as Lot "A" including _____ square feet more or less and Lot "B" including _____ square feet more or less and thereafter, that the use thereof is changed from municipal use to for the purpose of conveyance and thereafter authorize the Board of Selectmen to convey Lot "A" to the owner of _ property located at 2 Dartmouth Road, parcel 21-188-0 and Lot "B" to the owner of 4 Dartmouth Road, Parcel 21-189 including any and all utilities located therein; or to act in any other manner in relation thereto.

Submitted by the Board of Selectmen at the request of
Planning Board

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

GENERAL BYLAW ARTICLES

ARTICLE #12

RE: An Act Relative to Changing the Name of the Board of Selectmen in the Town of Burlington

To see if the Town will vote to amend the Burlington General Bylaws by deleting the word “Selectmen” each time it appears in said bylaw and inserting the term “Select Board” in place thereof, and further, deleting the words “Board of Selectmen” each time it appears and inserting in place thereof the term “Select Board” and further that the Town Clerk be authorized to make clerical, editorial or other adjustments to effectuate the purposes hereof; or to act in any other manner in relation thereto.

Submitted by the Board of Selectmen at the request of the Town Administrator

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

ARTICLE #13

RE: Home Rule Petition to Amend Chapter 686 of the Acts of 1970, as Amended - An Act Relative to Changing the Name of the Board of Selectmen in the Town of Burlington

To see if the Town will vote to authorize the Board of Selectmen to file a Home Rule Petition with the Great and General Court amending Chapter 686 of the Acts of 1970, as amended by Chapter 549 of the Acts of 1978, Chapter 469 of the Acts of 1986, Chapter 160 of the Acts of 1993, Chapter 133 of the Acts of 2011 and Chapter 106 of the Acts of 2017, and further by deleting the word “Selectmen” each time it appears in the Special Act and inserting the term “Select Board” in place thereof, and further, deleting the words “Board of Selectmen” each time it appears and inserting in place thereof the term “Select Board”, provided that the General Court may only make clerical or editorial changes of form to the bill unless the Board of Selectmen approves amendments to the bill before enactment by the General Court. The Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of the petition; or to act in any other manner in relation thereto.

Submitted by the Board of Selectmen at the Request of the Town Administrator

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

GENERAL BYLAW ARTICLES – Continued

ARTICLE #14

RE: Amend General Bylaw Article XIV, Burlington Stormwater Management Bylaw governing erosion and sedimentation control for new and redevelopment projects during construction and post-construction periods

To see if the Town will vote to amend the General Bylaws Article XIV to include the following language (cross outs are omissions and bold new language):

6.0 Erosion and Sedimentation Control

6.1 Purpose and Objective

Regulation of discharges to the municipal separate storm sewer system (MS4) is necessary for the protection of Burlington’s water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment. Increased and contaminated **stormwater** ~~storm water~~ runoff associated with developed land uses and the accompanying increase in impervious surface are major causes of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater.

6.1.1 ~~A-~~The harmful impacts of soil erosion and sedimentation are:

1. impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
2. contamination of drinking water supplies;
3. alteration or destruction of aquatic and wildlife habitat;
4. flooding;
5. erosion of stream channels; and
6. overloading or clogging of municipal catch basins and storm drainage systems.

This Bylaw establishes **stormwater** ~~storm water~~ management standards for the temporary and final conditions that result from development and redevelopment projects to minimize adverse impacts offsite and downstream which would be borne by abutters, townspeople and the general public. This Bylaw complies with **state and federal statutes and regulations relating to stormwater discharges including total maximum daily load requirements and with the General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems in Massachusetts, issued by the U.S. Environmental Protection Agency and the Massachusetts Department of Environmental Protection (“MS4 Permit”).** EPA regulations [National Pollutant Discharge Elimination System \(NPDES\) Phase II final rule \(Dec 8, 1999\)](#) requiring regulated municipalities ~~reduce the discharge of pollutants in stormwater to the maximum extent practicable and adopt bylaws to address the control of sources of pollutants entering the municipal storm drain system.~~

6.1.2 ~~B-~~The objectives of this Bylaw are to:

1. Protect ground water and surface water to prevent degradation of drinking water supply;

2. Require practices that eliminate soil erosion and sedimentation and control the volume and rate of ~~stormwater storm-water~~ runoff resulting from land disturbing activities;
3. Promote infiltration and the recharge of groundwater;
4. Ensure that soil erosion and sedimentation control measures and ~~stormwater storm-water~~ runoff control practices are incorporated into the site planning and design process and are implemented and maintained;
5. Require practices to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at a construction site that may cause adverse impacts to water quality;
- 6. Establish minimum construction and post-construction stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;**
7. ~~To p~~Prevent pollutants from entering the Burlington MS4 and to minimize discharge of pollutants from the MS4;
8. ~~To e~~Ensure adequate long-term operation and maintenance of structural ~~stormwater storm-water~~ best management practices so that ~~stormwater storm-water~~ structures work as designed;
9. ~~To e~~Comply with state and federal statutes and regulations relating to ~~stormwater storm-water~~ discharges; and
10. ~~To e~~Establish ~~Burlington's~~ **the legal authority for the Town of Burlington** to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

6.2 Definitions

ABUTTER: The owner(s) of land abutting the activity.

ALTERATION OF DRAINAGE CHARACTERISTICS: Any activity on an area of land that changes the water quality, force, direction, timing or location of runoff from a pre-activity condition. Such changes from a pre-activity condition may include: change from distributed runoff to confined discrete point discharges, change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

APPLICANT: Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision, of the Commonwealth or the Federal government to the extent permitted by law requesting a soil erosion and sedimentation control permit for proposed land-disturbance activity.

AS-BUILT DRAWING: Drawings that completely record and document applicable aspects and features of conditions of a project following construction using Stormwater Management Plans derived from an erosion and sedimentation control permit.

AUTHORIZED ENFORCEMENT AGENCIES: The Burlington Conservation Commission is the lead agency with authority given by this Bylaw to promulgate regulations and policies that support the goals and objectives of this Bylaw. The **Burlington** Conservation Commission, its employees or agents, and the **Burlington** Planning Board, its employees or agents will share the administration and enforcement of this bylaw as detailed herein.

BEST MANAGEMENT PRACTICE (BMP): An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of ~~stormwater storm-water~~ runoff. It **shall** also include schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to ~~stormwater-storm-water~~, receiving waters, or ~~stormwater storm-water~~ conveyance systems.

~~The BOARD—Town of Burlington Planning Board~~

~~The COMMISSION—Town of Burlington Conservation Commission~~

COMMON PLAN OF DEVELOPMENT: A "larger common plan of development or sale" is a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.

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

CLEARING: Any activity that removes the vegetative surface cover.

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

~~DISTURBANCE OF LAND: Any a~~Action to alter the existing vegetation and/or underlying soil of a site, such as clearing, grading, site preparation (e.g., excavating, cutting and filling), soil compaction and movement and stockpiling of topsoils. ~~That causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar material.~~

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

EROSION AND SEDIMENTATION CONTROL PLAN: A document containing narrative, drawings and details developed by a qualified professional engineer (PE), a Certified Professional in Erosion and Sedimentation Control (CPESC) or other qualified professional, which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction related land disturbing activities.

EROSION AND SEDIMENTATION CONTROL PERMIT: A permit with conditions upon a proposed land disturbing activity issued by either the Burlington Conservation Commission or Burlington Planning Board under this Bylaw.

EROSION AND SEDIMENTATION CONTROL APPLICATION PACKAGE. The application materials consisting of a ~~Stormwater Storm-Water~~ Management Plan, an Erosion and Sedimentation Control Plan, and an Operation and Maintenance Plan submitted to either the **Burlington** Conservation Commission or **Burlington** Planning Board (as stipulated within this Bylaw) requesting an Erosion and Sedimentation Control Permit.

GRADING: Changing the level or shape of the ground surface contour by means of excavation, fill, in-place ground modification, or any combination thereof, including the establishment of a grade following demolition of a structure.

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

IMPERVIOUS SURFACE: any surface that prevents or significantly impedes the infiltration of water into the underlying soil. This can include but is not limited to: roads, driveways, parking areas and other areas created using non porous material; buildings, rooftops, structures, artificial turf and compacted gravel or soil.

LAND-DISTURBING ACTIVITY: Any activity that causes a change in the existing soil cover which includes the position or location of soil, sand, rock, gravel, or similar earth material. Land-disturbing activities include, but are not limited to, clearing, grading, filling and excavation. Landscaping activities which involve greater than or equal to 500 **square feet** ~~ft²~~ are considered a land disturbing activity and may be the subject of enforcement action under this Bylaw. Routine landscaping activities which involve less than 500 **square feet** ~~ft²~~ are not considered a land-disturbing activity for the purposes of this Bylaw.

LAND IN AGRICULTURAL USE: Normal maintenance and improvement of land in agricultural or aquacultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.4, ~~are exempt from this bylaw.~~

LOW IMPACT DEVELOPMENT (LID): An ecosystem-based approach to land development and stormwater management that ensures that each development site is designed to protect, or restore, the natural hydrology of the site. This can be achieved by the incorporation of non-structural and natural approaches to new and redevelopment projects to reduce adverse effects on water quality and the natural environment by conserving natural areas, reducing impervious cover and better integrating stormwater treatments.

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

MILL & OVERLAY: A street maintenance technique that requires the removal of the top layer (2") of a street by the grinding action of a large milling machine. After the top layer is removed, a new layer of bituminous pavement is put in its place.

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

NEW DEVELOPMENT: any construction activities or land alteration on an area that has not previously been developed to include impervious cover.

OPERATION AND MAINTENANCE PLAN: A plan setting up the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a **stormwater** ~~storm water~~ management system to ensure that it continues to function as designed.

OWNER: A person with a legal or equitable interest in **the** property.

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

PRE-CONSTRUCTION: All activity in preparation for construction.

REDEVELOPMENT: ~~Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites.~~ **Any construction, land alteration or improvement of impervious surfaces that does not meet the definition of new development.**

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

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

SEDIMENTATION: The process or act of deposition of sediment.

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

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

SOIL: Any earth, sand, rock, gravel, clay or similar material.

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

STANDARD EROSION AND SEDIMENTATION CONTROL PERMIT: ~~An~~ permit issued under this Bylaw containing a standard set of conditions requiring ~~that~~ best management practices be implemented to prevent erosion and sedimentation from the site. This permit applies to sites proposing a land disturbing activity of greater than 10,000 **square feet** ~~ft²~~ but less than 20,000 **square feet** ~~ft²~~.

STORMWATER ~~STORM WATER:~~ **Stormwater** ~~storm water~~ runoff, snow melt runoff, and surface water runoff and drainage.

STORMWATER ~~STORM WATER~~ **MANAGEMENT PLAN:** A plan showing existing and proposed features on a site. This is required as part of the application for an Erosion and Sedimentation Control Permit. See Section 6.8.

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

TOTAL MAXIMIM DAILY LOAD or TMDL: is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that amount to the pollutant’s sources. A TMDL includes load allocations for non-point sources and/or natural background and must include a margin of safety and account for seasonal variations.

TOTAL SUSPENDED SOLIDS (TSS): Total Suspended Solids is a water quality measurement that includes particles suspended in water that will not pass through a filter.

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

WETLAND RESOURCE AREA: Areas specified in either the Massachusetts Wetlands Protection Act G.L. c. 131, § 40 or in Burlington’s Wetland Bylaw (Article XIV).

WETLANDS: Areas characterized by saturated or nearly saturated soils most of the year that are located between terrestrial (land-based) and aquatic (water-based) environments, including freshwater marshes around ponds and channels (rivers and streams), ;common names include marshes, swamps and bogs.

6.3 Authority

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

6.4 Applicability

6.4.1 ~~A~~-No person may undertake a construction activity that results in a land disturbing activity that will disturb equal to or greater than 10,000 **square feet** ~~ft²~~ of land (or will disturb less than 10,000 **square feet** ~~ft²~~ of land but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than 10,000 **square feet** ~~ft²~~ of land) that drains to the Burlington municipal separate storm sewer system, onto an adjacent property, into a municipal / private street, or into a wetland / stream, without an Erosion and Sedimentation Control Permit from either the Burlington Conservation Commission or the Burlington Planning Board.

6.4.2 ~~B~~-Exemptions From Requirement to Obtain Permit (under this Bylaw)

- 1. Roadway projects that do not remove existing pavement down to underlying dirt/soil (i.e. mill and overlay) are exempt as they are not earth-disturbing redevelopment activities.**
2. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04;

3. Maintenance of existing landscaping, gardens or lawn areas associated with a single-family dwelling disturbing less than 10000 ft² ;
4. The construction of fencing that will not substantially alter existing terrain or drainage patterns;
5. Construction of utilities other than drainage (gas, water, electric, cable, telephone, etc.) which will not alter terrain or drainage patterns;
6. As authorized in Burlington's Phase II Small MS4 General Permit, stormwater discharges resulting from the activities identified in Section 6.4 that are wholly subject to jurisdiction under either the Wetlands Protection Act or activities which are subject to Burlington's Bylaw Article XIV and demonstrate compliance with the Massachusetts ~~Stormwater~~ Storm Water Management Policy as reflected in an Order of Conditions issued by the Burlington Conservation Commission, are exempt from compliance with this Bylaw.

6.5 Responsibility for Administration

6.5.1 A-Responsibility. The Burlington Conservation Commission shall be the lead agency that may grant waivers and promulgate regulations to support this Bylaw as specified in Sections ~~6.5.2 5B~~ and ~~6.5.3 5C~~ below. The **Burlington** Conservation Commission and the Burlington Planning Board shall have shared responsibilities to administer and implement this Bylaw. Any powers granted to or duties imposed upon either the **Burlington** Conservation Commission or the **Burlington** Planning Board may be delegated to their respective employees and/or their agents, and with mutual concurrence these duties may be delegated to each other's respective employees and/or their agents.

6.5.2 B- Waiver. The **Burlington** Conservation Commission will be the lead agency to grant a waiver to compliance with this Bylaw. The Commission with input from the Planning Board, may waive strict compliance with any requirement of this bylaw or the rules and regulations promulgated hereunder, where:

1. Such action is allowed by federal, state and local statutes and/or regulations, and
2. is in the public interest, and
3. is not inconsistent with the purpose and intent of this Bylaw.

6.5.3 C- Rules and Regulations. The **Burlington** Conservation Commission will be the lead agency to initiate a change to this Bylaw. The **Burlington** Conservation Commission working with input from the **Burlington** Planning Board may adopt, and periodically amend rules and regulations to effectuate the purposes of this bylaw, by majority vote of the Burlington Conservation Commission, after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation, at least seven (7) days prior to the hearing date.

6.5.4 Stormwater Management regulations, rules or guidance shall identify thresholds and requirements for Abbreviated and Full Erosion and Sedimentation Control Permits required by this Bylaw and consistent with or more stringent than the most recent Small Municipal Separate Storm Sewer System General Permit (MS4).

6.5.5 Failure by The Burlington Conservation Commission to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Bylaw.

6.6 Permits and Procedures

6.6.1 Application. Where a land disturbing activity of 20,000 **square feet** ~~ft²~~ or greater OR a land disturbing activity of 500 cubic yards or greater of earth volume is proposed, the site owner or his/her agent shall file with the **Burlington** Conservation Commission, ~~eleven (11)~~ **three (3)** copies of a completed application package ~~with a cover sheet specified by the Commission (available from the Commission office or the Commission's web site) (one for each Commissioner, 2 office copies, and 2 for distribution to other Boards (Board of health and Planning Board))~~ for an Erosion and Sedimentation Control Permit. Permit issuance is required prior to any site altering activity. While the applicant can be a representative of the site owner, the permittee must be the owner of the site.

6.6.2 The **Burlington** Conservation Commission (through its agent, the **Burlington** Conservation Commission Administrator) may, at its discretion, elect to delegate its authority to the **Burlington** Planning Board to issue an Erosion and Sedimentation Control Permit, in order to expedite the permitting process for an applicant who must appear before the **Burlington** Planning Board for other matters in connection with the proposed work.

6.6.3 Within 7 days of the filing date, the **Burlington** Conservation Commission (through its agent) will make a determination on whether to schedule a formal hearing before the Commission or delegate its authority under this Bylaw to the **Burlington** Planning Board. This determination will be made based on an assessment of the potential for sedimentation and erosion from the proposed land disturbing activity (including grubbing, clearing and/or grading). The Commission's agent will give consideration to the original and proposed grading of the site, existing slopes, the presence of intermittent streams or channels, the size of the site, and/or other factors which may contribute to runoff and erosion potential. Proposed projects where routine erosion and sedimentation controls are needed, will be referred to the Burlington Planning Board for a simultaneous hearing for this permit with other matters in connection with this project.

6.6.4 If the **Burlington** Conservation Commission or its agent delegates its authority under this Bylaw to the **Burlington** Planning Board, the staff of the **Burlington** Conservation Commission will transfer the original application package (and associated copies) to the **Burlington** Planning Board office and notify the applicant in writing of the Commission's decision to refer this application to the **Burlington** Planning Board and that the hearing under this Bylaw will be scheduled before the **Burlington** Planning Board within twenty-one (21) days of the receipt of a complete application or at a time to coincide with other regulatory matters which are being heard by the Board on the same project..

6.6.5 For sites where a land disturbing activity of greater than or equal to 10,000 **square feet** ~~ft²~~ but less than 20,000 **square feet** ~~ft²~~ is proposed, the site owner or his/her agent shall file (at their option) with either the **Burlington** Conservation Commission or the **Burlington** Planning Board, two (2) copies of a completed application package for a Standard Erosion and Sedimentation Control Permit. Permit issuance is required prior to any site altering activity.

While the applicant can be a representative of the site owner, the permittee must be the owner of the site.

6.6.6 Within 7 days of the filing date, the agent of either the **Burlington** Conservation Commission or **Burlington** Planning Board will issue a Standard Erosion and Sedimentation Control Permit under this Bylaw. No public meeting or hearing will be required for sites in this category. For sites in this size category that are not adequately covered by the Standard Erosion and Sedimentation Control Permit, additional special conditions may be appended by the issuing Board or Commission. The issuing Board or Commission may extend the 7 day turnaround time for issuing the Standard Erosion and Sedimentation Control Permit for reasons of insufficient information of which the applicant has been notified in writing.

6.6.7 The Erosion and Sedimentation Control Application package (for sites which propose a land disturbing activity of 20,000 **square feet** ~~ft²~~, or greater, shall include:

1. a completed Application Form with original signatures of all owners;
2. a list of abutters, certified by the Assessor's Office;
3. **three (3)** ~~eleven (11)~~ copies of the **Stormwater** ~~Storm-Water~~ Management Plan and project description referenced in Section 6.7 of this Bylaw;
4. **three (3)** ~~eleven (11)~~ copies of the Erosion and Sediment Control Plan as referenced in Section 6.8 of this Bylaw;
5. **three (3)** ~~eleven (11)~~ copies of the Operation and Maintenance Plan as referenced by Section 6.9 of this Bylaw;
6. payment of the application and review fees.

6.6.8 The Standard Erosion and Sedimentation Control Application package (for sites which propose a land disturbing activity equal to or greater than 10,000 **square feet** ~~ft²~~ but less than 20,000 **square feet** ~~ft²~~ is an application package consisting of an abbreviated **Stormwater** ~~Storm-Water~~ Management Plan, abbreviated Erosion and Sediment Control Plan, and an abbreviated Operations and Maintenance plan as referenced in Section 6.10 of this Bylaw.

6.6.9 Performance Standards

6.6.9.1 Stormwater management systems on new development disturbing more than 1 acre shall be designed to meet an average annual pollutant removal equivalent to 90% of the average annual load of Total Suspended Solids (TSS) related to the total post-construction impervious area on the site AND 60% of the average annual load of Total Phosphorus (TP) related to the total postconstruction impervious surface area on the site

6.6.9.2 Stormwater management systems on redevelopment sites disturbing more than 1 acre shall be designed to meet an average annual pollutant removal equivalent to 80% of the average annual postconstruction load of Total Suspended Solids (TSS) related to the total post-construction impervious area on the site AND 50% of the average annual load of Total Phosphorus (TP) related to the total post-construction impervious surface area on the site.

When determining whether the requirements have been met, the issuing board/commission shall consider all stormwater management practices available and capable of being implemented after taking into consideration costs, existing technology, proposed use, and logistics in light of overall project purposes. Project purposes shall be defined generally (e.g., single family home or expansion of a commercial development). Applicants shall detail how the project will:

1. Comply with the Massachusetts Stormwater Management Standards as further defined in the Massachusetts Stormwater Handbook or its successor.
2. To the extent that the project will discharge, directly or indirectly, to a water body subject to one or more pollutant-specific Total Maximum Daily Loads (TMDLs), implement structural and non-structural stormwater best management practices (BMPs) that are consistent with each such TMDL.
3. To the extent the project will discharge, directly or indirectly, to an impaired water body not subject to a TMDL, implement structural and non-structural stormwater BMPs optimized to remove the pollutant or pollutants responsible for the impairment.
4. Avoid disturbance of areas susceptible to erosion and sediment loss.
5. Use Low Impact Development techniques where adequate soil, groundwater and topographic conditions allow. These may include but not be limited to reduction in impervious surfaces, disconnection of impervious surfaces, bioretention (rain gardens), and infiltration systems.

6.6.9.3 Redevelopment activities that are exclusively limited to maintenance and improvement of existing roadways (excavating down to dirt/soil), including widening less than a single lane, adding shoulders, correcting substandard intersections, improving existing drainage systems, and repaving projects, shall only be required to improve existing drainage conditions where feasible.

6.6.9.4 Further criteria for Stormwater Management Standards shall be defined and included as part of any Rules and Regulations promulgated under Section 6.5.C of this Bylaw.

6.6.10 ~~B~~-Entry

6.6.10.1 Filing an application for a permit grants the issuing Board or Commission and its agents permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions.

6.6.11 ~~C~~-Coordination Between **Burlington** Planning Board and **Burlington** Conservation Commission

6.6.11.1 For sites which propose a land disturbing activity equal to or greater than 10,000 square feet ~~ft²~~ but less than 20,000 square feet ~~ft²~~, the **Burlington** Conservation Commission shall give one copy of the application package to the **Burlington** Planning Board for their records. If the **Burlington** Planning Board is the issuing agency, then the **Burlington** Planning Board shall give one copy of the application package to the **Burlington** Conservation Commission for their records.

6.6.12 ~~D.~~ Fee Structure

6.6.12.1 For sites which propose a land disturbing activity equal to or greater than 20,000 **square feet** ~~ft²~~, the issuing Board / Commission shall obtain with each submission an Application Fee established by the **Burlington** Conservation Commission with input from the **Burlington** Planning Board to cover expenses connected with the public hearing and application review for the Erosion and Sedimentation Control Permit and a technical Review Fee (if requested by the Commission/Board) sufficient to cover professional technical review, if needed. The Commission / Board is authorized to retain a Registered Professional Engineer or other professional consultant to advise the issuing Commission/Board on any or all aspects of these plans as provided by G.L.c. 44, Section 53G. Applicants must pay all review fees due before a permit will be issued. The Commission/Board will not be subject to final action deadlines if the appropriate fees have not been paid.

6.6.12.2 For sites which propose a land disturbing activity equal to or greater than 10,000 **square feet** ~~ft²~~ but less than 20,000 **square feet** ~~ft²~~, a reduced fee schedule will be established by the Commission.

6.6.13 ~~E.~~ Public Hearing

6.6.13.1 For sites which propose a land disturbing activity equal to or greater than 20,000 **square feet** ~~ft²~~, the issuing Commission/Board shall hold a public hearing within twenty-one (21) days of the receipt of a complete application (or a greater timeframe as mutually agreed upon) and shall take final action within either twenty-one (21) days from the time of the close of the hearing or within such longer time period mutually agreed to by both the Commission / Board and the applicant to coincide with other regulatory decisions on the same project. Notice of the public hearing shall be given by publication and posting, and by first-class mailings to abutters (owners of land within three hundred feet from the boundary of the site) at least seven (7) days prior to the hearing. The issuing Commission/Board shall make the application available for inspection by the public during business hours at the issuing Commission/Board office.

6.6.14 ~~F.~~ Information requests

6.6.14.1 The applicant shall submit all additional information requested by issuing Commission/Board to issue a decision on the application.

6.6.15 ~~G.~~ Action by the Issuing Commission/Board

6.6.15.1 For sites which propose a land disturbing activity equal to or greater than 20,000 **square feet** ~~ft²~~, the issuing Commission/Board may:

1. Issue an Erosion and Sedimentation Control Permit based upon determination that the proposed plan meets the Standards in or referenced by Section 6.7 and will adequately protect the water resources of the community and is in compliance with the requirements set forth in this bylaw;

2. Issue an Erosion and Sedimentation Control Permit subject to any conditions, modifications or restrictions required by the issuing Commission/Board which will ensure that the project meets the Standards in or referenced by Section 6.7 and adequately protect water resources, set forth in this bylaw;
3. Disapprove the issuance of an Erosion and Sedimentation Control Permit based upon a determination that the proposed plan, as submitted, does not meet the Standards in referenced by Section 6.7 or adequately protect surface and/or ground water resources, as set forth in this bylaw.

6.6.16 ~~H~~ Failure of the Issuing Commission/Board to Take Final Action

6.6.16.1 Failure of the Issuing Commission/Board to take final action upon an Application for a land disturbing activity equal to or greater than 20,000 **square feet** ~~ft²~~ within either within twenty-one (21) days from the time of the close of the hearing or within such longer time period mutually agreed to by both the Commission / Board and the applicant to coincide with other regulatory decisions on the same project, shall be deemed to be approval of said Application.

6.6.17 ~~I~~ Project Changes

6.6.17.1 The permittee must notify the issuing Commission/Board in writing of any drainage change or alteration in the system authorized in an Erosion and Sedimentation Control Permit before any change or alteration is made. If the issuing Commission/Board determines that the change or alteration is significant, based on the **Stormwater** ~~Storm Water~~ Management Standards in Section 6.7.3 of this Bylaw and accepted construction practices, the issuing Commission/Board may require that an amended application be filed and a public hearing held. The issuing Commission/Board may also require the installation of interim erosion and sedimentation control measures before approving the change or alteration.

6.6.18 ~~J~~ Project Completion

6.6.18.1 ~~No later than two years after~~ **No later than two years after** A~~t~~ completion of the project, the permittee shall submit as-built record drawings of all structural **stormwater** ~~storm-water~~ controls and best management practices implemented for the site. The as-built drawing shall show deviations from the approved plans, if any, and be certified by a Registered Professional Engineer.

6.7 Stormwater ~~Storm Water~~ Management Plan

6.7.1 ~~A~~ For sites which propose a land disturbing activity of 20,000 **square feet** ~~ft²~~ or greater OR a land disturbing activity of 500 cubic yards ~~yd³~~ or greater of earth volume, the application for an Erosion and Sedimentation Control Permit shall consist of submittal of a **Stormwater** ~~Storm Water~~ Management Plan initially to the **Burlington** Conservation Commission. This **Stormwater** ~~Storm Water~~ Management Plan shall contain sufficient information for the issuing Commission/Board to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the applicant for reducing adverse impacts from stormwater. The Plan shall be designed to meet the Massachusetts **Stormwater** ~~Storm Water~~ Management

Standards (or as revised), the DEP ~~Stormwater Storm-Water~~ Management Handbook Volumes I and II (or as revised), and any specific regulations promulgated under this Bylaw.

6.7.2 ~~B-~~Plan Content

6.7.2.1 The ~~Stormwater Storm-Water~~ Management Plan (for sites which propose a land disturbing activity of 20,000 **square feet** ~~ft²~~ or greater) shall fully describe the project in drawings, and narrative. The ~~Stormwater Storm-Water~~ Management Plan shall conform to any detail provided in either regulations or policies promulgated under this Bylaw. The Conservation Administrator may (at his/her discretion) waive some detail requirements described below as long as in his/her opinion, the goals and objectives of this Bylaw are not compromised.

6.7.3 ~~C-~~Standards

6.7.3.1 As stated in Section 6.7.1A, the ~~Stormwater Storm-Water~~ Management Plan shall meet the current Standards of the Massachusetts ~~Stormwater Storm-Water~~ Management Policy and the requirements of the town's MS4 permit. When one or more of the standards cannot be met, an applicant may demonstrate that an equivalent level of environmental protection will be provided.

6.8 Erosion and Sedimentation Control Plan

6.8.1 ~~A-~~Application

6.8.1.1 For sites which propose a land disturbing activity of 20,000 **square feet** ~~ft²~~ or greater or a land disturbing activity of 500 **cubic yards** ~~yd³~~ or greater of earth volume, the Erosion and Sedimentation Control Plan contained within the Stormwater ~~Storm-Water~~ Management Plan shall contain sufficient information to describe the proposed erosion and sedimentation controls. The applicant shall submit such material as is necessary to show that the proposed development will comply with the design requirements referenced in Section 6.8.2~~B~~ below. The Conservation Administrator may (at his/her discretion) waive some detail requirements described below as long as in his/her opinion, the goals and objectives of this Bylaw are not compromised.

6.8.2 ~~B-~~Design

6.8.2.1 The design requirements of the Erosion and Sedimentation Control Plan must conform to any regulations and policies promulgated under this Bylaw.

6.8.3 ~~C-~~Erosion and Sedimentation Control Plan Content

6.8.3.1 The Plan shall at a minimum contain the following information:

1. Names, addresses, and telephone numbers of the owner, applicant, and person(s) or firm(s) preparing the plan;
2. Title, date, north arrow, names of abutters, scale, legend, and locus map;
3. Location and description of natural features

6.8.3.2 The Erosion and Sedimentation Control Plan must conform to the details of any regulations and policies promulgated under this Bylaw.

6.9 Operations and Maintenance Plans

6.9.1 ~~A.~~ For sites which propose a land disturbing activity of 20,000 **square feet** ~~ft²~~ or greater OR a land disturbing activity of 500 **cubic yards** ~~yd³~~ or greater of earth volume, an Operation and Maintenance plan (O&M Plan) is required as part of the **Stormwater** ~~Storm Water~~ Management Plan at the time of application for all projects. Upon request by the applicant, the issuing Commission/Board may delay the completion date of the O&M plan, but in all cases, the O&M Plan must be submitted and approved prior to the completion of the project and before any occupancy takes place.

6.9.2 ~~B.~~ The O&M plan shall be designed to ensure compliance with the Permit, this Bylaw and that the Massachusetts Surface Water Quality Standards, 314, CMR 4.00 are met in all seasons and throughout the life of the system. The issuing Commission/Board shall make the final decision of what maintenance option is appropriate in a given situation. The issuing Commission/Board will consider natural features, proximity of site to water bodies and wetlands, extent of impervious surfaces, size of the site, the types of **stormwater** ~~storm water~~ management structures, and potential need for ongoing maintenance activities when making this decision.

6.9.3 The Operation and Maintenance (O&M) Plan shall remain on file with the issuing Commission/Board and shall be an ongoing requirement in perpetuity. The details of the O&M Plan shall conform to the requirements of any regulations and policies promulgated under this Bylaw. The O&M Plan shall, at a minimum, include:

- A. The name(s) of the owner(s) for all components of the system;
- B. Detail of maintenance agreements;
- C. Detail on **stormwater** ~~storm water~~ management easement(s);
- D. Changes to Operation and Maintenance Plans
 - 1. The owner(s) of the **stormwater** ~~storm water~~ management system must notify the issuing Commission/Board of changes in ownership or assignment of financial responsibility.
 - 2. The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of this bylaw by mutual agreement of the issuing Commission/Board and the Responsible Parties. Amendments must be in writing and signed by all Responsible Parties. Responsible Parties shall include owner(s), persons with financial responsibility, and persons with operational responsibility.

6.10 ~~Abbreviated Standard~~ Erosion and Sedimentation Control Permit

6.10.1 The ~~Abbreviated Standard~~ Erosion and Sedimentation Control Application package (for sites which propose a land disturbing activity equal to or greater than 10,000 **square feet** ~~ft²~~ but less than 20,000 **square feet** ~~ft²~~) is an application package consisting of an abbreviated **Stormwater** ~~Storm Water~~ Management Plan, abbreviated Erosion and Sediment Control Plan, and an abbreviated Operations and Maintenance (O&M) Plan as referenced in Sections 6.7, 6.8 and 6.9 respectively of this Bylaw.

6.10.2 The abbreviated ~~Stormwater~~ Storm-Water Management Plan shall at a minimum contain sufficient information to describe the existing and proposed features of the land (including structures, vegetation, and drainage), and anticipated maintenance requirements of structures. The abbreviated ~~Stormwater~~ Storm-Water Management Plan shall conform to any detail provided in either regulations or policies promulgated under this Bylaw.

6.10.3 The Board/Commission and/or its agents may waive any portion of these submission requirements if in their opinion, sufficient information exists on which to base the issuance of a Standard Erosion and Sediment Control Permit.

6.11 Inspection and Site Supervision

6.11.1 ~~A.~~ Pre-construction Meeting

6.11.1.1 When requested, prior to starting clearing, excavation, construction, or land disturbing activity, the applicant, the applicant's technical representative, the general contractor or any other person with authority to make changes to the project, shall meet with the issuing Commission/Board, to review the permitted plans and their implementation.

6.11.2 ~~B.~~ Commission/Board Inspections

6.11.2.1 The issuing Commission/Board or its designated agents shall make inspections as needed and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the Erosion and Sedimentation Control Permit as approved. If the work conducted to date is approved, an inspection report issued during the inspection will bear the signature of approval of the issuing Commission/Board or its agents that the work may continue. This site inspection report shall be maintained at the site during the progress of the work.

6.11.2.2 In order to obtain inspections, the permittee shall notify the issuing Commission/Board at least two (2) working days before each of the following events if required by the Commission/Board:

1. Erosion and sediment control measures are in place and stabilized;
2. Site Clearing has been substantially completed;
3. Rough Grading has been substantially completed;
4. Final Grading has been substantially completed;
5. Close of the Construction Season; and
6. Final Landscaping (permanent stabilization) and project final completion.

6.11.3 ~~C.~~ Permittee Self-Inspections

6.11.3.1 The permittee or his/her agent shall conduct and document inspections of all control measures) no less than weekly or as specified in the permit, and prior to and following anticipated storm events. The purpose of such inspections will be to determine the overall effectiveness of the control plan, and the need for maintenance or additional control measures. The permittee or his/her agent shall submit ~~monthly~~ **weekly** reports to the issuing Commission/Board or designated agent in a format

approved by the issuing Commission/Board, which may include the signature of the Professional Engineer if required by the issuing Commission/Board.

6.11.4 ~~D-~~Access Permission

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

6.12 Surety

6.12.1 As part of any Erosion and Sedimentation Control Permit, the issuing Commission/Board may require the permittee to post before the start of land disturbing activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by town counsel, and be in an amount deemed sufficient by the issuing Commission/Board to ensure that the work will be completed in accordance with the permit. If the project is phased, the issuing Commission/Board may release part of the bond as each phase is completed in compliance with the permit but the bond may not be fully released until the issuing Commission/Board has received the final report as required by Section 6.13~~2~~ and issued a certificate of completion.

6.13 Final Reports

6.13.1 **Within two years of** ~~Upon~~ completion of the work and if required by the issuing Commission/Board, the permittee shall submit a report (including certified as-built construction plans) from a Professional Engineer (P.E.), surveyor, certifying that all erosion and sediment control devices, and approved changes and modifications, have been completed in accordance with the conditions of the approved permit. Any discrepancies should be noted in the cover letter.

6.14 Enforcement

6.14.1 ~~A-~~The **Burlington** Planning Board and **Burlington** Conservation Commission and their employees and agents shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations. Persons subject to enforcement under this Bylaw include:

1. All permittees who have been issued an Erosion and Sedimentation Control Permit (for project sites which propose a land disturbing activity of 20,000 **square feet** ~~ft²~~ or greater OR a land disturbing activity of 500 **cubic yards** ~~yd³~~ or greater of earth volume)
2. All permittees who have been issued a Standard Erosion and Sedimentation Control Permit (for project sites which propose a land disturbing activity equal to or greater than 10,000 **square feet** ~~ft²~~ but less than 20,000 **square feet** ~~ft²~~)
3. All other persons who have engaged in a Land Disturbing Activity (as defined in this Bylaw as greater than 500 **square feet** ~~ft²~~, who have caused substantial erosion and

sedimentation due to Alteration of Drainage Characteristics, Grading, Grubbing, Clearing, and/or Stripping of soil.

6.14.2 ~~B~~-Orders

6.14.2.1 ~~1~~-The issuing Commission/Board or an authorized agent of the issuing Commission/Board may issue a written order to enforce the provisions of this bylaw or the regulations thereunder, which may include:

1. ~~(a)~~ A requirement to cease and desist from the land-disturbing activity until there is compliance with this Bylaw and its provisions of any permit issued;
2. ~~(b)~~ Maintenance, installation or performance of additional erosion and sediment control measures;
3. ~~(c)~~ Monitoring, analyses, and reporting;
4. ~~(d)~~ Remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity;
- 5. Elimination of illicit connections or discharges to the MS4;**
- 6. Elimination of discharges to the MS4 or, directly or indirectly, into a watercourse or into the Waters of the Commonwealth.**

6.14.2.2 ~~2~~- If the enforcing Board / Commission or its agents determines that abatement or remediation of erosion and sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Board / Commission may, under this Bylaw and subsequent regulation promulgated hereunder, may impose a fine on a daily basis until such time as the abatement or remediation of erosion and sedimentation has been completed. The Town of Burlington, at its option, may seek a court order requiring the property owner to perform the work.

6.14.3 ~~C~~-Criminal Penalty

6.14.3.1 Any person who violates any provision of this bylaw, regulation, order or permit issued there under, shall be punished by a fine. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

6.14.4 ~~D~~- Non-Criminal Disposition

6.14.4.1 As an alternative to criminal prosecution or civil action, Burlington may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, in which case the Conservation Administrator of Burlington shall be the enforcing person. The penalty for the 1st violation shall be \$100 each day or part thereof that such violation occurs. The penalty for the 2nd violation shall be \$300 each day or part thereof that such violation occurs. The penalty for the 3rd and subsequent violations shall be \$300 each day or part thereof for every day that such violation occurs. For the purposes of issuing a non-criminal disposition penalty, both the Burlington Planning Board Director and Burlington Conservation Commission Administrator are named as the specific enforcing agents.

6.14.5 ~~E~~-Appeals

6.14.5.1 The decisions or orders of issuing Commission/Board shall be final. Further relief shall be to a court of competent jurisdiction.

6.14.6 ~~F~~-Remedies Not Exclusive

6.14.6.1 The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

6.15 Filing With Registry of Deeds

6.15.1 The applicant must file the issued Erosion and Sedimentation Control Permit with the Middlesex Registry of Deeds within 21 days from issuance.

6.16 Certificate of Completion

6.16.1 The issuing authority will issue a letter certifying completion upon receipt (with appropriate continuing requirements) and approval of the final reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this Bylaw, noting any exceptions and to which permit condition these exceptions apply. The Certificate of Compliance will stipulate that the permit holder is to remove required erosion controls (unless changed or waived by the Conservation Administrator) within 60 days of the date on the Certificate. This Certificate of Completion will be filed by the applicant at the Middlesex Registry of Deeds within 21 days.

6.17 Severability

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

or to act in any other manner in relation thereto.

Submitted by the Board of Selectmen at the request of
Conservation Department

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

ARTICLE #15

RE: Amend General Bylaw Article XIV – Environment

To see if the Town will vote to amend the General Bylaw Article XIV – Environment by adding a new Section 4.6 entitled Curbside Material Pickup Start Time, as follows:

4.6 Curbside Material Pickup Start Time - The purpose of this bylaw is to set the start time curbside pickup of materials can begin in order to minimize disturbances to residents.

4.6.1 Definitions – Curbside Materials shall include, but not be limited to, trash, refuse, garbage, recyclables, appliances, and yard waste.

4.6.2 Curbside Material Pickup Start Time – Curbside material pickup shall not be allowed before 7:00 AM.

4.6.3 Applicability – This bylaw applies to all zoning districts. This bylaw shall not apply to emergency conditions that warrant Curbside Material pickup. Nothing in this bylaw shall limit the authority of the Select Board to set or limit Curbside Material pickup hours.

4.6.4 Enforcement – This bylaw shall be enforced through non-criminal disposition of the Superintendent of Public Works, his or her designee, or any police officer of the Town of Burlington.

4.6.5 Penalties of Violations – Violators of the bylaw shall be issued a warning on the first violation. Each subsequent violation shall result in a fine of \$300; each day of violation constitutes a separate offense.

or to act in any other manner in relation thereto.

Submitted by the Board of Selectmen at the request of
The General Bylaw Committee

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

THE COMMONWEALTH OF MASSACHUSETTS

To either of the Constables of the Town of Burlington in the County of Middlesex Greeting. You are hereby directed to serve this warrant by posting up attested copies thereof at the billboard at the Town Hall, in said Town, at least fourteen days before the Town Meeting of January 25, 2021 at Burlington High School, Fogelberg Auditorium and virtual via WebEx.

HEREOF FAIL NOT, to make due return of the warrant, with your doings thereon, to the Town Clerk, at the time and place of meeting as aforesaid.

Given under our hands this 14th day of December in the year of our Lord 2020.

Joseph E. Morandi, Chairman

James M. Tigges, Vice Chairman

Robert C. Hogan

Michael S. Runyan

Nicholas C. Priest

SELECTMEN OF BURLINGTON, MASSACHUSETTS

A true copy attest.

_____ Constable

Dated _____

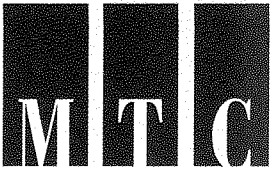
Middlesex ss

Pursuant to the within warrant, I have notified and warned the inhabitants of the Town of Burlington by posting up an attested copy of the same at the billboard in the Town Hall and as within directed, at least fourteen days before Town Meeting of January 25, 2021.

s/s _____
Constable of Burlington

A copy of the warrant was mailed to each Town Meeting Member, the Town Moderator and the Town Clerk on the 8th day of January, 2021.

Attest: Amy E. Warfield, Town Clerk



Mead, Talerman & Costa, LLC
Attorneys at Law

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Newburyport, MA 01950
Phone 978.463.7700
Fax 978.463.7747

www.mtclawyers.com

December 29, 2020

Bill Beyer, Town Moderator
Board of Selectmen
Town of Burlington
29 Center Street
Burlington MA 01803

RE: Town Meeting Warrant

Dear Mr. Moderator and Members of the Board of Selectmen;

Reference is made to the above captioned matter. In that connection, I have reviewed the Warrant for the January 25, 2021 Town Meeting and have found it legal as to form. I will note the following:

- Articles 2 and 3 are amendments to the Zoning Bylaw and as such in accordance with G.L. c. 40A §5 will require a 2/3 vote. I might remind the Moderator that a recommendation of the Planning Board is required as well.
- Article 8 constitutes a borrowing and therefore will require a 2/3 vote in accordance with G.L. c. 44 §8.
- Articles 11 includes a change of use of land and will require a 2/3 vote in accordance with G.L. c. 40 § 15A.

Should you have any questions, please let me know. Otherwise, I will update this letter upon review of the final motions.

Regards,

A handwritten signature in black ink, appearing to be 'Lisa L. Mead', written over a horizontal line.

Lisa L. Mead
Town Counsel

cc: Town Clerk

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