

# **WARRANT**

## **Burlington Town Meeting**



**May 10, 2021 7:30 P.M.**

**Burlington High School  
Burlington, MA  
And Virtual Via WebEx**

# TOWN MEETING WARRANT

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# TOWN MEETING WARRANT

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## **TOWN COUNSEL'S LETTER**

## **WARRANT**

### **BURLINGTON TOWN MEETING**

**Monday, May 10, 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 within locations at the Burlington High School, Fogelberg Auditorium and virtual via WebEx, in said Town, the 10th of May 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 ( )

## **FINANCIAL ARTICLES**

### **ARTICLE #2**

### **RE: Transfer of Funds FY2021/Various Accounts**

To see if the Town will vote to transfer from available funds a sum of money for the purpose of paying for expenses incurred in FY2021 to various accounts same to be expended under the direction of the appropriate authorities; or to act in any other manner in relation thereto.

Amount: \$TBD

Submitted by the Board of Selectmen at the request of  
The Town Accountant

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

### **ARTICLE # 3**

### **RE: Fund FY2022 Operating Budget**

To see if the Town will vote to raise and appropriate, transfer from available funds or otherwise provide a sum of money, \$TBD, sufficient to cover the requests of the various departments for FY2022, or to act in any other manner in relation thereto.

Amount: \$TBD

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

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

### **ARTICLE # 4**

### **RE: Transfer from Free Cash to Stabilization Fund**

To see if the Town will vote to transfer a sum of money from Free Cash place in the Town's Stabilization Account; or to act in any other manner in relation thereto.

Amount: \$TBD

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

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

## **FINANCIAL ARTICLES - Continued**

### **ARTICLE # 5**

#### **RE: Transfer from Free Cash to OPEB Trust Fund**

To see if the Town will vote to transfer a sum of money from Free Cash to place in the Town's OPEB (Other Post-Employment Benefits) Trust Fund; or to act in any other manner in relation thereto.

Amount: \$TBD

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

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

### **ARTICLE # 6**

#### **RE: Fund Revolving Accounts**

To see if the Town will vote to authorize revolving funds for certain Town departments under the Town of Burlington General Bylaws Section 6.6 and M.G.L. Chapter 44, Section 53E ½ for the fiscal year beginning July 1, 2021, or to act in any other manner in relation thereto.

<b>Revolving Fund Name</b>	<b>Department or Board Authorized to Spend</b>	<b>Expenditure Limit</b>
Cross Connection – Backflow Prevention	Public Works	\$80,000
B-line Local Mini Bus	Public Works	\$50,000
Grand View Farm	Board of Selectmen	\$90,000
Nursing Programs & Services	Board of Health	\$40,000
Plan Imaging & Property File Documents	Building Department	\$25,000
Sale of Recyclable Materials, Trash Bags & Toters	Board of Selectmen	\$75,000
Sealer of Weights and Measures	Board of Selectmen	\$20,000
Ice Palace Improvement & Maintenance	Board of Selectmen	\$36,000
Meadowbrook School Maintenance and Improvements	Board of Selectmen	\$105,000

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

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

## **FINANCIAL ARTICLES - Continued**

### **ARTICLE #7**

### **RE: Fund FY 2022 Capital Budget**

To see if the Town will vote to transfer from Free Cash the sum of \$2,716,400 or borrow, raise or appropriate any other amount for the items contained within the following proposed FY2022 Capital Budget, same to be expended under the appropriate authorities as indicated:

<b>PROJECT NUMBER</b>	<b>DEPT.</b>	<b>PROJECT NAME DESCRIPTION</b>	<b>SPENDING AUTHORITY</b>	<b>REQUEST AMOUNT</b>
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#### **FROM FREE CASH (7-1) - (7-19):**

7-1	CLERK	Election Equipment	Town Clerk	\$50,000
	PASSED ( )	DEFEATED ( )	POSTPONED INDEFINITELY ( )	OTHER ( )
7-2	DPW	Vehicle Replacement	Selectmen	\$399,000
	PASSED ( )	DEFEATED ( )	POSTPONED INDEFINITELY ( )	OTHER ( )
7-3	DPW	Drainage Repair/Stream Cleaning	Selectmen	\$200,000
	PASSED ( )	DEFEATED ( )	POSTPONED INDEFINITELY ( )	OTHER ( )
7-4	DPW	Sewer Pump and VFD Upgrade	Selectmen	\$80,000
	PASSED ( )	DEFEATED ( )	POSTPONED INDEFINITELY ( )	OTHER ( )
7-5	DPW	Mill Pond Pump 3 VFD and Control Panel Box	Selectmen	\$40,000
	PASSED ( )	DEFEATED ( )	POSTPONED INDEFINITELY ( )	OTHER ( )
7-6	DPW	Partridge Lane Pump Station Forcemain Design	Selectmen	\$100,000
	PASSED ( )	DEFEATED ( )	POSTPONED INDEFINITELY ( )	OTHER ( )
7-7	DPW	Library Roof	Selectmen	\$350,000
	PASSED ( )	DEFEATED ( )	POSTPONED INDEFINITELY ( )	OTHER ( )
7-8	DPW	Demolition of Town Property (Carpenter House)	Selectmen	\$15,000
	PASSED ( )	DEFEATED ( )	POSTPONED INDEFINITELY ( )	OTHER ( )
7-09	FIRE	Lexipol Policy and Training Solutions	Selectmen	\$36,000
	PASSED ( )	DEFEATED ( )	POSTPONED INDEFINITELY ( )	OTHER ( )
7-10	FIRE	Administrative Vehicle Replacement	Selectmen	\$33,000
	PASSED ( )	DEFEATED ( )	POSTPONED INDEFINITELY ( )	OTHER ( )
7-11	RECREATION	Wildwood Park Sun Shade	Recreation	\$45,000
	PASSED ( )	DEFEATED ( )	POSTPONED INDEFINITELY ( )	OTHER ( )

7-12	RECREATION Overseeder	Recreation	\$18,000
	PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )		
7-13	RECREATION Accessible Van	Recreation	\$58,000
	PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )		
7-14	SCHOOL BHS Turf Field Replacement & Track Resurface School Comm		\$725,000
	PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )		
7-15	SCHOOL Francis Wyman Intercom Replacement	School Comm	\$272,400
	PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )		
7-16	SCHOOL System-wide Sanitary Hygiene Product Dispenser Installation School Comm		\$55,000
	PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )		
7-17	SCHOOL Insulation & Weather Stripping	School Comm	\$187,000
	PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )		
7-18	SELECTMEN Historical Storage Shed	Selectmen	\$28,000
	PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )		
7-19	SELECTMEN Town Common 9/11 Memorial Improvements	Selectmen	\$25,000
	PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )		

Amount: \$2,716,400

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



**FINANCIAL ARTICLES -Continued**

**ARTICLE # 8**

**RE: Chapter 90**

To see if the Town will vote to accept any and all grants relative to the Chapter 90 allocation from the Commonwealth of Massachusetts for the purpose of funding roadway improvements, same to be spent under the direction of the Town Administrator, or to act in any other manner in relation thereto.

Amount: \$1,092,064

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

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

**ARTICLE # 9**

**RE: MWRA I/I Debt Service**

To see if the Town will vote to transfer from the Sewer Inflow/Infiltration fund the sum of \$77,975 for the purpose of paying the FY2022 debt service on the Town's three existing 0% MWRA I/I loans; or to act in any other manner in relation thereto.

Amount: \$77,975

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

**ARTICLE# 10**

**RE: Sewer Enterprise Fund**

To see if the Town will vote to transfer the sum of \$6,412,321 to operate the FY2022 Sewer Services Enterprise, including sewer assessment, maintenance, and debt services, of which \$5,921,284 will come from the FY2022 Sewer Services Enterprise estimated revenue account, and \$491,037 will come from Sewer Services Enterprise Fund retained earnings account; or to act in any other manner in relation thereto.

Amount: \$6,412,321

Submitted by the Board of Selectmen at the request of  
Department of Public Works

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

**FINANCIAL ARTICLES -Continued**

**ARTICLE # 11**

**RE: Transfer to Water Stabilization**

To see if the Town will vote to transfer from the Water Stabilization Fund the sum of \$462,000 or any other sum, to cover the operating expenses and debt service related to the connection to the Massachusetts Water Resources Authority (MWRA) system; or to act in any other manner in relation thereto.

Amount: \$462,000

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

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

**ARTICLE # 12**

**RE: Borrowing - Phase 1 Public Safety  
Communications Network Upgrade and  
Replacement**

To see if the Town will vote to borrow, transfer from available funds, or otherwise provide the sum of \$1,240,000 for the purpose of paying costs for designing, constructing, programming and configuration of Phase I of the Town's Public Safety Communications Network Upgrade and Replacement, and costs incidental or related thereto, same to be spent under the direction of the Town Administrator; that to meet this appropriation, the Treasurer with the approval of the Board of Selectmen is hereby authorized to borrow \$1,240,000 pursuant to General Laws Chapter 44, Sections 7 or 8, or any other enabling authority, and to issue bonds and notes therefor; and further, that any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any 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 Chapter 44, Section 20 of the General Laws, 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: \$1,240,000

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

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

## **FINANCIAL ARTICLES -Continued**

### **ARTICLE # 13**

### **RE: Borrowing - Water Main Upgrade/Replacement**

To see if the Town will vote to borrow, transfer from available funds, or otherwise provide the sum of \$1,500,000, or any other sum, for the purpose of paying costs for funding Water Distribution System Upgrades, and costs incidental or related thereto, same to be spent under the direction of the Town Administrator; that to meet this appropriation, the Treasurer with the approval of the Board of Selectmen is hereby authorized to borrow \$1,500,000 pursuant to General Laws Chapter 44, Sections 7 or 8, or any other enabling authority, and to issue bonds and notes therefor; and further, that any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any 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 Chapter 44, Section 20 of the General Laws, 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: \$1,500,000

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

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

## **FINANCIAL ARTICLES - Continued**

### **ARTICLE # 14**

### **RE: Borrowing - Francis Wyman Pump Station/Forcemain Rehabilitation**

To see if the Town will vote to borrow, transfer from available funds, or otherwise provide the sum of \$4,000,000, or any other sum, for the purpose of paying costs for repairing the forcemain at the Francis Wyman Sewer Pumping Station, and costs incidental or related thereto, same to be spent under the direction of the Town Administrator; that to meet this appropriation, the Treasurer with the approval of the Board of Selectmen is hereby authorized to borrow \$4,000,000 pursuant to General Laws Chapter 44, Sections 7 or 8, or any other enabling authority, and to issue bonds and notes therefor; and further, that any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any 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 Chapter 44, Section 20 of the General Laws, 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: \$4,000,000

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

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

**FINANCIAL ARTICLES -Continued**

**ARTICLE # 15**

**RE: PEG Cable Access Enterprise Fund**

To see if the Town will vote to transfer the sum of \$585,000 to operate the FY2022 Peg Cable Access Enterprise of which \$585,000 will come from the FY2022 PEG Cable Access Enterprise Fund Estimated Revenue Account; or to act in any other manner in relation thereto.

Amount: \$585,000

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

**ARTICLE # 16**

**RE: Transfer from Receipts Reserved Account for  
Ambulance Services**

To see if the Town will vote to transfer from the Receipts Reserved Account for Ambulance Services the sum of \$TBD, or any other sum, to cover the costs associated with operating ambulance services at the advanced life support paramedic level; or to act in any other manner in relation thereto.

Amount: \$TBD

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

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

**FINANCIAL ARTICLES - Continued**

**ARTICLE # 17**

**RE: Tax Abatement Defense Fund**

To see if the Town will vote to raise and appropriate, transfer available funds, or otherwise provide the sum of 200,000 or any other sum to fund legal, appraisal, and consulting services for property tax challenges; or to act in any other manner in relation thereto.

Amount: \$200,000

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

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

**ARTICLE # 18**

**RE: Selectmen - Small Cell Peer Review**

To see if the Town will vote to raise and appropriate, transfer from available funds, or otherwise provide a sum of money for the purpose of completing legal analysis, peer review, or any other consultation or testing required for small cell applications or the Town's small cell and wireless infrastructure; 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

**ARTICLE # 19**

**RE: Fund the Administrative & Professional Compensation Plan**

To see if the Town will vote to adopt the Administrative & Professional Compensation Plan for FY2022, and transfer from the FY2022 Negotiated Settlement Account a sum of money for the purpose of funding the plan, same to be expended under the appropriate authorities; or to act in any other manner in relation thereto.

Amount: \$TBD

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

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

**FINANCIAL ARTICLES - Continued**

**ARTICLE # 20**

**RE: Fund the Part-Time Compensation Plan**

To see if the Town will vote to transfer from the FY2022 Negotiated Settlement a sum of money for the purpose of funding the Part-time Salary Plan (under 20 hours) for FY2022, same to be expended under the appropriate authorities; or to act in any other manner in relation thereto.

Amount: \$TBD

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

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

**ARTICLE # 21**

**RE: Fund the Burlington International Firefighters  
Association Contract**

To see if the Town will vote to transfer from Negotiated Settlement Account a sum of money for the purpose of funding the approved Collective Bargaining Agreement between the Town of Burlington and the Burlington International Firefighters' Association for FY2021, FY2022, and FY2023, same to be spent under the appropriate authority; or to act in any other manner in relation thereto.

Amount: \$TBD

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

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

**ARTICLE # 22**

**RE: Will of Marshall Simonds**

To see if the Town will vote to accept from the Trustees under the will of Marshall Simonds in an amount \$65,656.54 for the improvement of Simonds Park, same to be expended under the direction of the Recreation Commissioners; or to act in any other manner in relation thereto.

Amount: \$65,656.54

Submitted by the Board of Selectmen at the request of  
The Recreation Commissioners

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

**FINANCIAL ARTICLES - Continued**

**ARTICLE # 23**

**RE: Repurpose Article 31 May 2018 Terrace Hall  
Avenue Sidewalk**

To see if the Town will vote to repurpose the funding originally appropriated in Article 31 at May 2018 Annual Town Meeting for the construction of the Terrace Hall Sidewalk or otherwise provide the sum of \$120,000, or any other sum, for the purpose of funding Winter Street Sidewalk, same to be spent under the direction of the Town Administrator, or to act in any other manner in relation thereto.

Amount: \$120,000

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

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

**ARTICLE # 24**

**RE: School Community Custodial Services**

To see if the Town will vote to raise and appropriate, transfer from available funds, or otherwise provide the sum of \$47,464 or any other sum, to be expended under the direction of the Burlington School Committee for the purpose of Community Custodial Fees to fund events which are not school events in order to cover Burlington Scout Organizations, PTO Meetings, Boosters, Citations, Youth Basketball, Youth Volleyball, Youth Baseball Association, Pop Warner, Hockey, Soccer and Skating Associations and other not for profit Burlington Civic Organizations and to act in any manner in relation thereto.

Amount: \$47,464

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

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

**ARTICLE # 25**

**RE School Accrued Liability Reserve Fund**

To see if the Town will vote to establish a reserve fund, under M.G.L. Chapter 40, Section 13d, for future payment of accrued liabilities for earned leave that is due to employees upon retirement or separation of employment, and to designate payment authorization from this fund to require approval from the School Superintendent, Ways & Means Chair, and Town Accountant, or to act in any other manner in relation thereto.

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

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

**GENERAL ARTICLES –**

**ARTICLE # 26**

**RE Alteration of Public Way, Dartmouth Road**

To see if the Town will vote to take the following actions with respect to a public right of way known as Dartmouth Road and shown as “Dartmouth Rd.” on Sheet 2 of a plan entitled “Plan of Land in Burlington,” dated January 28, 1956, prepared by James G. Noonan, Surveyor, recorded with the Middlesex South Registry District of the Land Court (hereinafter, the “Registry District”) as Plan No. 23266<sup>A</sup>, which right of way is referred to in this article as “Dartmouth Road”:

a. Discontinue Dartmouth Road pursuant to M.G. L. c. 82, § 21;

b. Abandon and release the “easement of right of way for highway purposes” over Dartmouth Road taken by the Town pursuant to an Order of Taking dated April 24, 1968, recorded on June 6, 1968 with the Registry District as Document No. 455647;

c. Abandon and release to the record property owners any and all interest that the Town has in utilities existing on, under, or over the portions of Dartmouth Road that have been discontinued and abandoned and are not within the layout of New Dartmouth Road, such that these utilities shall be the sole responsibility of the record property owners;

or to act in any other manner in relation thereto.

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

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



## **GENERAL BYLAW ARTICLES**

### **ARTICLE # 27**

### **RE: Amendment to Town General Bylaws - Bylaw Review Committee (No. of Members)**

To see if the Town will vote to amend Article I, General Provisions, Section 1.0, and Article V Authorities, Commissions and Committees of the General Bylaws, Section 2.0 by changing the number of members of the Bylaw Review Committee, from five (5) to seven (7) members, deleting the current text of Article I, Section 1.0, paragraph 1.1 and Article V, Section 2.0, paragraph 2.3.1 in its entirety and replacing their respective paragraph with the following:

A. Amend Article I, Section 1.0, paragraph 1.1 by omitting the current text and replacing it as follows:  
1.0 These General Bylaws are in addition to the Bylaws and votes of the Town heretofore in effect.

1.1 The General Bylaws, and all special Bylaws, shall be reviewed each year prior to the Annual Town Meeting by a General Bylaw Review Committee of seven (7) members to be appointed by the Moderator within thirty (30) days after each Annual Town Meeting. The General Bylaw Review Committee shall report to the next Annual Town Meeting their recommendations for the amendment, adoption or repeal of Bylaws.

B. Amend Article V, Section 2.0, paragraph 2.3.1 by omitting the current text and replacing it as follows:

#### **2.0 Moderator Appointments**

2.3.1 The General Bylaws, and all special Bylaws, shall be reviewed annually by the General Bylaw Review Committee consisting of seven members to be appointed annually, for a term of three (3) years, by the Moderator within thirty (30) days after the final adjournment of the May Town Meeting. In the absence of an active committee, three (3) members will be appointed for three (3) years, two (2) members will be appointed for two (2) years and two (2) members will be appointed for one (1) year. Thereafter, all appointments shall be three years;

or to act in any other manner in relation thereto.

Submitted by the Board of Selectmen at the request of the  
Bylaw Review Committee

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

**GENERAL BYLAW ARTICLES - Continued**

**ARTICLE # 28**

**RE: Amendment to the Town General Bylaws –  
Rename the Bylaw Review Committee**

To see if the Town will vote to amend the Burlington General Bylaws by deleting the title “Bylaw Review Committee” each time it appears in said bylaw and inserting the term “General Bylaw Review Committee” in place thereof, 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 Bylaw Review Committee

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

## GENERAL ARTICLE

### ARTICLE # 29

**RE: Amend General Bylaw Article XIV, Section 6, 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, Section 6 to include the following language: by replacing the section in its entirety. Or take any action relative thereto.

#### 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 the Town of Burlington's water bodies and groundwater, as well as for ~~and to~~ safeguarding the public health, safety, welfare and the environment. Increased and contaminated stormwater ~~storm~~ water runoff associated with development and redevelopment projects ~~ed 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., including~~

##### 6.1.1 A. The harmful impacts of soil erosion and sedimentation are:

- a4. impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
- b2. contamination of drinking water supplies;
- c3. alteration or destruction of aquatic and wildlife habitat;
- d4. flooding;
- e5. erosion of stream channels; and
- f6. 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 that~~ would be borne by abutters, townspeople and the general public. ~~This Bylaw~~ and complies with all the applicable 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"). detailed in subsequent sections of this Bylaw.~~ 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:

- ~~a1. Protect ground water and surface water to prevent degradation of drinking water supply;~~
- ~~b2. Require practices that eliminate soil erosion and sedimentation and control the volume and rate of **stormwater** storm water runoff resulting from land disturbing activities;~~
- ~~c3. Promote infiltration and the recharge of groundwater;~~
- ~~d4. 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;~~
- ~~e5. 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;~~
- f6. Establish minimum construction and post construction stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;**
- ~~g7. To pPrevent pollutants from entering the Burlington MS4 and to minimize discharge of pollutants from the MS4;~~
- ~~h8. To eEnsure adequate long term operation and maintenance of structural **stormwater** storm water best management practices so that **stormwater** storm water structures work as designed;~~
- ~~i9. To cComply with state and federal statutes and regulations relating to **stormwater** storm water discharges; and~~
- ~~j10. To eEstablish Burlington's the legal authority for the Town of Burlington to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.~~

## 6.12 Definitions

ABBREVIATED EROSION AND SEDIMENTATION CONTROL PERMIT: A permit issued for a land-disturbing activity equal to or greater than 10,000 square feet, but less than 20,000 square feet.

ABUTTER: The owner(s) of land abutting **or within three hundred feet of** 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 ~~ft<sup>2</sup>~~ 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 ~~ft<sup>2</sup>~~ 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 AND~~&~~ OVERLAY:** A street maintenance technique that requires the removal of the top layer (two inches<sup>2</sup>) 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.~~

~~NONPOINT SOURCE POLLUTION: Pollution from many diffuse sources caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and man-made pollutants finally depositing them into a water resource area.~~

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.

PLAN: A technical drawing that shows details of how a building or site will be built or developed.

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.

RESPONSIBLE PARTY: Any entity holding the fee title to the property or other person contracted or obligated by other agreement to implement and maintain pre- and post-construction stormwater BMPs.

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: A 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, ft<sup>2</sup> but less than 20,000 square feet ft<sup>2</sup>~~, or greater than 500 cubic yards.

STORMWATER ~~STORM WATER~~: Rainwater ~~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 6.6.28.

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). C, ~~common~~ names include marshes, swamps and bogs.

## 6.2 Detailed Objectives

This Bylaw complies with Federal and state 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"). It is intended to:

- a. Protect ground water and surface water to prevent degradation of drinking water supply;
- b. Require practices that eliminate soil erosion and sedimentation and control the volume and rate of stormwater runoff resulting from land-disturbing activities;
- c. Promote infiltration and the recharge of groundwater;



- d. Ensure that soil erosion and sedimentation control measures and **stormwater** runoff control practices are incorporated into the site planning and design process and are implemented and maintained;
- e. 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;
- f. Establish minimum construction and post-construction stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
- g. Prevent pollutants from entering the Burlington MS4 and to minimize discharge of pollutants from the MS4;
- h. Ensure adequate long-term operation and maintenance of structural stormwater best management practices so that stormwater ~~storm water~~ structures work as designed;
- i. Comply with Federal and state statutes and regulations relating to stormwater discharges; and
- j. Establish the legal authority for the Town of Burlington to ensure compliance with the provisions of this Bylaw through inspection, monitoring, and enforcement.

### 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

~~6.4.1A.~~ No person may undertake any construction activity that results in a land-disturbing activity that will disturb

- ~~equal to or greater than 10,000 square feet~~ ft<sup>2</sup> of land,
- ~~or will disturb less than 10,000 square feet~~ ft<sup>2</sup> 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~~ ft<sup>2</sup> of land that that drains to
  - the Burlington municipal separate storm sewer system, or
  - onto an adjacent property, or
  - into a municipal / private street, or
  - ~~or~~ into a wetland / stream;

–without an Erosion and Sedimentation Control Permit from either the Burlington Conservation Commission or the Burlington Planning Board. Segmenting projects part of a larger common plan of development or sale to avoid thresholds shall not be permitted.

~~6.4.2 B. Exemptions From Requirement to Obtain Permit (under this Bylaw)~~  
Exemptions from the requirement to obtain a permit (under this Bylaw) are:

- ~~a.~~ a. Roadway projects that do not remove existing pavement down to underlying dirt/soil (i.e. mill and overlay) ~~are exempt~~ as they are not ~~land~~~~earth~~-disturbing redevelopment activities;
- ~~b.~~ b. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04
- ~~c.~~ c. Maintenance of existing landscaping, gardens or lawn areas associated with a single-family dwelling disturbing less than 10,000 ~~square feet~~<sup>2</sup>;
- ~~d.~~ d. The construction of fencing that will not substantially alter existing terrain or drainage patterns;
- ~~e.~~ e. Construction of utilities other than drainage (gas, water, electric, cable, telephone, etc.) which will not alter terrain or drainage patterns;
- ~~f.~~ f. 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 ~~Regulations~~~~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.

~~6.5.12 B.~~ Waiver:

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

- a1. ~~Such~~ action is allowed by Federal, state and local statutes and/or regulations;  
and  
b2. is in the public interest; and  
c3. is not inconsistent with the purpose and intent of this Bylaw.

#### 6.5.23 ~~C.~~ Rules and Regulations:

6.5.2.1 The Burlington Conservation Commission ~~shall~~ 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~~

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

#### 6.6 Standard Erosion and Sedimentation Control Permit ~~Permits and Procedures~~

##### ~~6.6.1 Application: for Standard Erosion and Sedimentation Control Permit~~

~~6.6.1.1 The~~Where a land disturbing activity of 20,000 square feet ft<sup>2</sup> 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 a Standard~~ Erosion and Sedimentation Control Permit. Permit issuance is required prior to any site-altering activity. While the ~~A~~applicant can be a representative of the site owner, the permittee must be the owner of the site.

##### 6.6.1.2 Standard Erosion and Sedimentation Control Application Package

The Standard Erosion and Sedimentation Control Application package shall include:

- a. a completed Application Form with original signatures of all owners plus two (2) copies of the signed form;
- b. a list of abutters within three hundred feet of the proposed activity, certified by the Assessor's Office;
- c. three (3) copies of the Stormwater Management Plan and project description referenced in Section 6.6.2 of this Bylaw;

- d. three (3) copies of the Erosion and Sediment Control Plan as referenced in Section 6.8 of this Bylaw;
- e. three (3) copies of the Operation and Maintenance Plan as referenced by Section 6.6.4 of this Bylaw;
- f. one (1) electronic copy of the complete package; and
- g. payment of the application fees.

#### 6.6.2 Stormwater Management Plan

The Stormwater 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 Management Standards (or as revised), the Massachusetts Stormwater Management Handbook Volumes I and II (or as revised), and any specific regulations promulgated under this Bylaw.

##### 6.6.2.1 Stormwater Management Plan Content

The Stormwater Management Plan shall fully describe the project in drawings and narrative. The Stormwater 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.

##### 6.6.2.2 Standards

The Stormwater Management Plan shall meet the current Standards of the Massachusetts Stormwater Management Policy and the MS4 permit requirements of the Town of Burlington. When one or more of the standards cannot be met, an Applicant may demonstrate an equivalent level of environmental protection will be provided. This determination shall be at the discretion of the Conservation Commission.

#### 6.6.3 Erosion and Sedimentation Control Plan

The Erosion and Sedimentation Control Plan contained within the Stormwater 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 the proposed development will comply with the design requirements referenced in Section 6.6.3.2 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.

##### 6.6.3.1 Erosion and Sedimentation Control Plan Content

The Plan shall at a minimum contain the following information:

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

#### **6.6.3.2 Standards**

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

#### **6.6.4 Operations and Maintenance Plan**

Operation and Maintenance plan (O&M Plan) is required as part of the Stormwater 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.

#### **6.6.4.1 Content**

The O&M Plan shall remain on file with the issuing Commission/Board and shall be an ongoing requirement for the Responsible Parties 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 management easement(s);
- D. Changes to O&M Plans
  1. The owner(s) of the stormwater 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.

#### **6.6.4.2 Standards**

The O&M plan shall be designed to ensure compliance with the Permit and 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 management structures, and potential need for ongoing maintenance activities when making this decision.

#### **6.6.4.3 Recording**

The O&M Plan for a project with a Standard Erosion & Sedimentation Control Permit shall be recorded at the Southern Middlesex Registry of Deeds prior to occupancy. The Applicant shall provide proof to the issuing Commission/Board that the O&M Plan has been filed.

## **6.6.52 Public Hearing**

~~6.6.5.1 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 seven (7) days of the filing date, the Burlington Conservation Commission (through its agent) ~~shall~~ make a determination on whether to schedule a formal hearing before the Commission, or shall delegate its authority under this Bylaw to the Burlington Planning Board. In either case, a formal public hearing is required. This determination ~~shall~~ 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 ~~shall~~ 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. This action will expedite the permitting process for an Applicant who must appear before the Burlington Planning Board for other matters in connection with the proposed work.

~~6.6.5.24~~ 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 ~~shall~~ transfer the original application package (and associated copies) to the Burlington Planning Board office ~~and~~. The Burlington Conservation Commission ~~shall~~ also notify the Applicant in writing of the Commission's decision to refer this application to the Burlington Planning Board. ~~Tand that the Applicant shall also be notified 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.

~~6.6.5.3~~ 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.

## **6.76.5 Abbreviated Erosion and Sedimentation Control Permit**



For sites where a land-disturbing activity of greater than or equal to 10,000 square feet, ft<sup>2</sup>, but less than 20,000 square feet ft<sup>2</sup> 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 an Abbreviated 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.

#### 6.7.1 Content

The application package shall contain an Application Form and a Stormwater Management/Erosion and Sediment Control Plan.

The Stormwater Management/Erosion Control 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.

#### 6.7.2 Standards

The Stormwater Management/Erosion Control Plan shall conform to any detail provided in either regulations or policies promulgated under this Bylaw.

#### 6.7.36 Abbreviated Erosion and Sedimentation Control Permit Issuance

Within seven ~~(7)~~ days of the filing date, the agent of ~~either the Burlington Conservation Commission or Burlington Planning Board~~ will issue an Abbreviated Standard Erosion and Sedimentation Control Permit under this Bylaw. No public meeting or hearing ~~shall~~ be required for sites in this category. For sites in this size category ~~that are~~ not adequately covered by the Abbreviated 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 seven ~~(7)~~ day turnaround time for issuing the Abbreviated 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 ft<sup>2</sup>, or greater, shall include:~~

- ~~a1. a completed Application Form with original signatures of all owners;~~
- ~~b2. a list of abutters within three hundred feet of the proposed activity, certified by the Assessor's Office;~~
- ~~e3. three (3) eleven (11) copies of the Stormwater Storm Water Management Plan and project description referenced in Section 6.7 of this Bylaw;~~
- ~~d4. three (3) eleven (11) copies of the Erosion and Sediment Control Plan as referenced in Section 6.8 of this Bylaw;~~
- ~~e5. three (3) eleven (11) copies of the Operation and Maintenance Plan as referenced by Section 6.9 of this Bylaw;~~
- ~~f6. payment of the application and review fees.~~

~~6.6.8 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,~~

~~ft<sup>2</sup> but less than 20,000 square feet) ft<sup>2</sup> is an application package containing~~sisting 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 one 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 one 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:~~

- ~~a. Comply with the Massachusetts Stormwater Management Standards as further defined in the Massachusetts Stormwater Handbook or its successor;~~
- ~~b. 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;~~
- ~~b. 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;~~
- ~~b. Avoid disturbance of areas susceptible to erosion and sediment loss.~~
- ~~b. Use Low Impact Development techniques where adequate soil, groundwater and topographic conditions allow. These may include, but are not limited to, reduction in impervious surfaces, disconnection of impervious surfaces, bioretention (rain gardens), and infiltration systems.~~

~~6.6.9.3 Redevelopment activities which 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 6.5.3 of this Bylaw.~~

#### 6.8 Performance Standards



6.8.1 At a minimum all projects subject to a Standard Erosion and Sedimentation Control Permit shall comply with the performance standards of the most recent version of the Massachusetts stormwater management standards and The Massachusetts Stormwater Handbook, and this Bylaw.

6.8.2 All projects must consider and, unless infeasible, propose and implement Low Impact Development (LID) Best Management Practices listed in the Massachusetts Stormwater Handbook. Applicants shall demonstrate compliance with design standards for LID BMPs through generally accepted methods. LID BMPs should be considered for their improvements to water quality, and ability to handle water quantity.

6.8.3 Stormwater management systems on new development disturbing more than one 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 post-construction impervious surface area on the site.

6.8.4 Stormwater management systems on redevelopment sites disturbing more than one acre shall be designed to meet an average annual pollutant removal equivalent to 80% of the average annual post-construction 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.

6.8.5 When determining whether the requirements have been met, the issuing commission/board 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:

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

6.8.6 Redevelopment activities 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.

6.8.7 Further criteria for Stormwater Management Standards shall be defined and included as part of any Rules and Regulations promulgated under Section 6.5.3 of this Bylaw.

#### 6.6.910 B-Entry

~~6.6.10.1~~ Filing an application for a permit grants the issuing ~~Board or~~ Commission/Board 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 the 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,  $\text{ft}^2$  but less than 20,000 square feet  $\text{ft}^2$ , 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.~~

#### 6.6.1012 D.Fee Structure

##### 6.6.1042.1 Standard Erosion and Sedimentation Control Permit fee

~~The~~ For sites which propose a land-disturbing activity equal to or greater than 20,000 square feet  $\text{ft}^2$ , the issuing Commission/Board /Commission shall obtain with each submission an Application Fee.~~;~~ ~~The~~at fee shall be 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.

##### 6.6.1042.2 Abbreviated Erosion and Sedimentation Control Permit fee

~~For sites which propose a land-disturbing activity equal to or greater than 10,000 square feet,  $\text{ft}^2$  but less than 20,000 square feet  $\text{ft}^2$ , The Commission will establish 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  $\text{ft}^2$ , 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.~~

#### **6.6.114 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.

#### **6.6.125 G. Action by the Issuing Commission/Board Approval Process for a Standard Erosion Control Permit**

~~6.6.15.1~~ For sites which propose a land disturbing activity equal to or greater than 20,000 square feet ft<sup>2</sup>, ~~t~~The issuing Commission/Board may:

1. ~~1.~~ Issue an Erosion and Sedimentation Control Permit based upon a determination ~~that~~ the proposed plan meets the Massachusetts Stormwater Management Standards ~~in or~~ referenced by Section 6.6.2.27, ~~and will~~ adequately protect<sup>s</sup> the water resources of the community, and ~~is in~~ complies<sup>ance</sup> with the requirements set forth in this Bylaw;

2. ~~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 Massachusetts Stormwater Management Standards ~~in or~~ referenced by Section 6.6.2.27 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 Massachusetts Stormwater Management Standards ~~in or~~ referenced by Sections 6.6.4.2, 6.6.6.2, 6.7.2 or 6.8.7 or adequately protect surface and/or ground-water resources; as set forth in this Bylaw.

#### 3. 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 ft<sup>2</sup>~~—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.

#### **6.6.137 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 Sections 6.6.6.2, 6.6.4.2, 6.7.2 or 6.8 ~~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.

#### **6.6.148 J-Project Completion**

**6.6.18.1** ~~No later than two years after~~ At ~~Upon~~ 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 ft<sup>2</sup> or greater OR a land-disturbing activity of 500 cubic yards yd<sup>3</sup> 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 **Massachusetts** **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 ft<sup>2</sup> 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 MS4 permit requirements of the **Town of Burlington** 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. **This determination shall be at the discretion of the Conservation Commission.**~~

#### **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** ft<sup>2</sup> or greater or a land-disturbing activity of 500 **cubic yards** yd<sup>3</sup> 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 6.8.2B 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:

- ~~—~~Names, addresses, and telephone numbers of the owner, applicant, and person(s) or firm(s) preparing the plan;
- ~~a.~~ Title, date, north arrow, names of abutters, scale, legend, and locus map;
- ~~a.~~ 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.

## 5.8 Operations and Maintenance Plans

~~6.9.1 A.~~ For sites which propose a land-disturbing activity of 20,000 **square feet** ft<sup>2</sup> or greater OR a land-disturbing activity of 500 **cubic yards** yd<sup>3</sup> 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, **and** 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 ~~for the Responsible Parties 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 O&M 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~~, ft<sup>2</sup> but less than 20,000 ~~square feet~~ ft<sup>2</sup>) 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.

#### 6.1511 ~~Inspection and Site Supervision~~

##### 6.1411.1 ~~A.~~ Pre-construction Meeting

~~6.11.1.1~~ When requested, prior to the start of~~starting~~ clearing, excavation~~on~~, construction, or land-disturbing activity, the Aapplicant, the Aapplicant'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.

##### 6.1411.2 \_\_\_\_\_ ~~B.~~ Commission/Board Inspections



6.1411.2.1 The issuing Commission/Board or its designated agents shall make inspections as needed and shall either approve any~~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 from 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.~~

-6.1411.2.2 ~~In order to obtain inspections if~~ inspections are required by the Commission/Board, 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:~~

- a. Erosion and sediment control measures are in place and stabilized;
- b. Site ~~C~~clearing has been substantially completed;
- c. Rough ~~G~~grading has been substantially completed;
- d. Final ~~G~~grading has been substantially completed;
- e. Close of the ~~C~~construction ~~S~~season; and
- f. Final ~~L~~landscaping (permanent stabilization) and project final completion.

### 6.1411.3 ~~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 ~~sh~~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 weekly ~~monthly~~ 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.

### 6.1411.4 ~~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 ~~b~~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.

### 6.1512 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 cash surety ~~bond, an irrevocable letter of credit, cash, or other acceptable security.~~ The ~~form of the bond shall be approved by tTown eCounsel, 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. ~~For a phased If the project is phased,~~ the issuing Commission/Board may release part of the bond upon completion of ~~as each phase is completed~~ in compliance with the permit. The amount released shall be at the discretion of the issuing Commission/Board. However, ~~but~~ the bond may not be fully released until the issuing

Commission/Board has received the final report as required by Section 6.16132 and issued a certificate of completion.

## 6.1613 Final Reports

~~6.13.1~~ ~~Within two years of Upon-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.

## 6.174 Enforcement

~~6.14.1~~ ~~A~~. The Burlington Planning Board and Burlington Conservation Commission and their employees and agents shall enforce this ~~B~~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:

- a. All permittees who have been issued a ~~Standard~~ Erosion and Sedimentation Control Permit ~~(for project sites which propose a land-disturbing activity of 20,000 square feet ft<sup>2</sup> or greater OR a land-disturbing activity of 500 cubic yards yd<sup>3</sup> or greater of earth volume);~~
- a.
- b. All permittees who have been issued an Abbreviated ~~Standard~~ Erosion and Sedimentation Control Permit; ~~and~~
- b. ~~(for project sites which propose a land-disturbing activity equal to or greater than 10,000 square feet, ft<sup>2</sup> but less than 20,000 square feet. ft<sup>2</sup>)~~
- c. All other persons who have engaged in a ~~L~~land-~~D~~disturbing ~~A~~activity (as defined in this Bylaw as greater than 500 square feet-~~ft<sup>2</sup>~~), who have caused substantial erosion and sedimentation due to ~~A~~alteration of ~~D~~drainage ~~C~~characteristics, ~~G~~grading, ~~G~~grubbing, ~~C~~clearing, and/or ~~S~~stripping of soil.

## 6.174.12 ~~B~~Orders

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

- a. ~~(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;
- a.
- b. ~~(b)~~ Maintenance, installation or performance of additional erosion and sediment control measures;
- b.
- c. ~~(c)~~ Monitoring, analyses, and reporting;



- ~~e.~~
- d. ~~(d)~~ Remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity;
- ~~d.~~
- e. Elimination of illicit connections or discharges to the MS4; and
- e.
- f. Elimination of discharges to the MS4 or, directly or indirectly, into a watercourse or into the wWaters of the CCommonwealth.

~~6.174.12.2~~ 2. If the enforcing ~~Board~~ Commission/Board 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/Board 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.

#### 6.174.23 ~~C~~ Criminal Penalty

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

#### 6.174.34 ~~D~~ Non-Criminal Disposition

~~6.14.4.1~~ As an alternative to criminal prosecution or civil action, the Town of 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 ~~agent~~ person. The penalty for the ~~1~~first violation shall be \$100 each day or part thereof ~~that~~ such violation occurs. The penalty for the ~~2~~second violation shall be \$300 each day or part thereof ~~that~~ such violation occurs. The penalty for ~~the 3~~third 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.

#### 6.174.45 ~~E~~ Appeals

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

#### 6.174.56 ~~F~~ Remedies Not Exclusive

~~6.14.6.1~~ The remedies listed in this ~~b~~Bylaw are not exclusive of any other remedies available under any applicable ~~f~~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 ~~twenty one (21)~~ days from issuance.

6.186 Certificate of Completion

Upon determining all work completed under a Standard permit has been satisfactorily completed in conformance with this Bylaw and the Permit, and all required documentation has been submitted per Section 6.14, 6.16.1 ~~t~~The issuing authority shawill issue a ~~letter~~ certifying Certificate of Completion. This Certificate shall upon receipt (with identify appropriate ~~any 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 Completion ~~compliance~~ shawill stipulate ~~that~~ the permit holder is to remove required erosion controls, (unless changed or waived by the Conservation Administrator,) within thirsixty (360) days of the date on the Certificate. ~~This Certificate of Completion will be filed by the applicant at the Middlesex Registry of Deeds within twenty one (21) days.~~

6.197 Severability

~~6.17.1~~ If any provision, paragraph, sentence, or clause of this ~~b~~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 ( )

**GENERAL BYLAWS ARTICLES – Continued**

**ARTICLE # 30**

**RE: Add to General Bylaws of the Town of Burlington  
Article IV, Selectmen**

To see if Town Meeting will vote to add to Article IV, Selectmen, of the General Bylaws:

1.14 Before the Selectmen can approve, disapprove, send a letter of support or commit any other action which involves the construction or renovation of residential housing in Burlington, the Selectmen must hold a public hearing and then have a vote of the Selectmen at a subsequent regular meeting.

1.14.1 Notice of the public hearing shall be advertised in a local newspaper and the town website not less than 30 days prior to the scheduled date of the hearing, and shall include the date, time, place and purpose of the hearing and a description of the residential housing to be considered for building or renovating.

1.14.2 A description of the housing renovations or new construction shall be sent to the Town Clerk and to all Town officers, committees, the Town Meeting, and agencies not less than 60 days prior to the scheduled date of the hearing.

1.14.3 A vote of the Selectmen to approve of housing renovations or new construction shall be taken only at a regular meeting of the Selectmen not less than 5 days subsequent to the public hearing, and the vote shall be recorded and filed with the Town Clerk.

or to act in any other manner in relation thereto.

Submitted by the Board of Selectmen at the request of  
Land Use Committee of Town Meeting

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

## **ZONING BYLAW ARTICLE**

### **ARTICLE # 31**

### **RE: Network Drive at Northwest Park Planned Development District/Zoning Amendment**

To see if Town Meeting will vote to amend the Network Drive at Northwest Park (Formerly Sun Microsystems, Inc.) Planned Development District ("Network Drive PDD") Zoning Provisions, ~~and~~ Use Table and Special Conditions, as originally adopted by Town Meeting on May 19, 1997 and as amended by Town Meeting on May 12, 2008 in order that the property identified as "Residential Development Parcel" as shown on a portion of the PD Premises on the Concept Plan entitled: "Revised Building Envelope Network Drive at Northwest Park", dated March 21, 2008 prepared by Vanasse Hangen Brustlin, Inc., annexed hereto as Exhibit A, be permitted to: (i) develop nine (9) residential dwelling units in a cluster scheme (2 or more connected units) with accessory uses such as, but not limited to, residential parking garages (attached or detached) and such other accessory uses customary to such principal use and (ii) to include the dimensional requirements which shall be the exclusive dimensional requirements applicable to the development of the Residential Development Parcel and (iii) to update the Zoning Provisions to address clerical errors which do not impact the substance of the By-laws, notwithstanding any contrary provisions in the Network Drive PDD, the Use Table, or Zoning By-Laws, including any Overlay District now existing, as follows:

1. To delete Article I – Use Regulations; Article II – Density and Dimensional Requirements; and Article III – Parking and Land Regulations, in its entirety from Section 12.1.4.2.C Planned Development District Zoning Provisions Network Drive and replace with the following:

#### **Article I - Use Regulations:**

The PD Premises consists of approximately 140.61 acres. An additional 17.1 acres, consisting primarily of bordering vegetated wetlands, are located in the Town of Bedford (hereinafter, the PD Premises and the property located in Bedford are collectively referred to as, the "Property"). The Concept Plan provides for a mixed use development of the PD Premises as shown on the plan entitled "PD District Rezoning - Application for Mixed Use Development Kent Road - Burlington, Massachusetts" dated March 13, 1997 revised to May 2, 1997 as prepared by Vanasse Hangen Brustlin, Inc., 101 Walnut Street, Watertown, Massachusetts (hereinafter, the "Plan"), as said Plan may be supplemented, altered or amended by the plan

entitled “Revised Building Envelope Network Drive at Northwest Park”, dated March 21, 2008 prepared by Vanasse Hangen Brustlin, Inc. [\(as approved by the May 12, 2008 Town Meeting\)](#). In no event shall development on the entire PD Premises exceed 1,300,000 square feet of Net<sup>1</sup> Floor Area.

Notwithstanding anything identified on the Concept Plan, it shall not be deemed a material or significant change in the Concept Plan if the Developer elects to combine existing or proposed buildings into one building (subject to the dimensional limitations set forth herein) provided, however, that all development on any such parcel occurs within the confines of the so-called ~~“building envelope”~~ as shown on the Plan entitled “Revised Building Envelope Network Drive at Northwest Park”, dated March 21, 2008, prepared by Vanasse Hangen ~~Brustlin~~[Brustlin](#), Inc., and as approved by the Planning Board of the Town in connection with the issuance of a PD Special Permit and approval of the Site Development and Use Plan for each building as provided under and in accordance with the procedures of 12.1.5 of the Zoning By-Laws.

The Concept Plan also provides Open Space to be allocated amongst Parcels as shown on the Plan.

The permitted uses at the PD Premises by category (“Office”, “Institutional and Recreational” “Retail”, “Residential”, “Commercial”, “Uses in a Wetlands District” and “Accessory Uses” relating to each principal use category) are set forth on the Use Table annexed hereto as Exhibit “A”, dated March 2008 and incorporated herein by reference. Uses in a Wetland District shall be subject to the normal jurisdictional review and approval (if applicable) of the Burlington Conservation Commission. All permitted uses at the PD Premises are subject to the issuance by other Town agencies or boards of all required licenses and approvals normally required for such use. No so-called "warehouse superstores" or "box retailers" shall be permitted within the PD Premises or any part thereof.

For the purposes of the PD Premises, a “lot” shall be defined as a parcel of land used or set aside and available for use as the site of one or more buildings and buildings accessory thereto or for any other definite purpose permitted under the Concept Plan, in one (1) ownership.

<sup>1</sup> Square foot measurements for purposes of all permitted uses shall be calculated on the basis of “net leaseable square feet” which is the space leased by tenant(s) exclusive of common areas, hallways, building foyers, areas devoted to heating, air conditioning, elevators, and other utility areas.

or condominium form of ownership, and which may be divided by a public or private street. Contiguous parcels may be combined to form a single lot.

On Parcel 1, any single user of a permitted use under Section 1.4 (Retail Uses) as set forth in the Use Table annexed hereto as Exhibit A, shall not occupy more than 7,000 Net Square Feet and the aggregate of space occupied by all permitted retail uses under Section 1.4 shall not exceed 55,000 Net Square Feet. The foregoing limitation shall not apply to any cafeteria permitted in the Use Table.

Notwithstanding anything to the contrary contained herein or in the Use Table, that portion of PD Premises shown as the “Residential Development Parcel” on Exhibit B annexed hereto (the “Residential Development Parcel”) shall permit the development of nine (9) residential dwelling units in a cluster scheme (2 or more connected units) with accessory uses such as, but not limited to, residential parking garages (attached or detached), a temporary sales office and such other accessory uses customary to such principal use. In addition, the development of the Residential Development Parcel shall be excluded from the 1,300,000 square feet of Net Floor Area restriction governing development of the PD Premises.

## **Article II - Density and Dimensional Requirements:**

(a) There shall be no density and dimensional requirements applicable to the PD Premises except as summarized below:

- Minimum Frontage ..... 20.0 feet
- Minimum Front Yard ..... 20.0 feet
- Minimum Rear Yard ..... 10.0 feet<sup>2</sup>
- Minimum Side Yard ..... 10.0 feet<sup>1</sup>

<sup>2</sup> Unless any building's outside walls are of fireproof construction and any openings in such walls are protected by a suitable fire restrictive door or shutter or water curtain device, subject to the approval of the Building Inspector in which event the minimum side yard and rear yard shall be 0 feet.

- Maximum Building and Structure Height (Building Height as defined in Section 2.13 of the Zoning By-Laws) 85.0 feet
- Maximum Building and Structure Height (Residential Development Parcel) 40 feet/3 stories
- Maximum Floor Area Ratio <sup>3</sup> 0.25
- Maximum Number of Stories 6
- Maximum Number of Stories (Residential Development Parcel) 3
- Minimum Spacing Between Buildings 20.0 feet <sup>4</sup>
- Maximum Impervious Surface Ratio <sup>4</sup> Not to Exceed 60.0%

(Except as specifically provided to the contrary herein, the foregoing shall be calculated in accordance with the provisions of the Applicable Zoning By-Laws.)

(b) The owner of the PD Premises shall have the right in its discretion from time to time to change the internal lot lines of the PD Premises in accordance with applicable provisions of the laws of the Commonwealth of Massachusetts.

### **Article III - Parking and Land Regulations:**

The maximum parking requirements applicable to the various use categories permitted at the PD Premises shall be as follows. Any use not identified below shall be regulated by the Zoning By-Law relative to parking requirements:

- 4.0 spaces per 1,000 square feet of gross floor area of office use;
- 6.0 spaces for each 1,000 square feet of retail use located on Parcel 2;
- 5.5 spaces for each 1,000 square feet of retail use located on Parcel 1;
- 1.0 space per each keyed hotel room;
- 1.0 space per each 2.5 seats of restaurant use; ~~and~~

<sup>3</sup> For purposes of the Property, the term ~~"Floor Area Ratio"~~ shall mean the ratio of Floor Area, Gross (as defined in the Zoning By-Laws) of all buildings on the Property to the total land area of the Property and not on a lot by lot or parcel by parcel basis. Floor Area Ratio shall not apply to the Residential Development Parcel. ¶

<sup>4</sup> The Maximum Impervious Surface Ratio as shown on the Plan and all other dimensional ~~ratios~~ ratios under the Zoning By-Laws to the extent applicable shall be calculated based upon the Property as a whole and not on a lot by lot or parcel by parcel basis.¶

- 1.0 space per each 3.0 seats of general assembly/conference space; and
- 2.0 spaces per residential dwelling unit (plus visitor parking spaces) located on the Residential Development Parcel.

Typical parking space dimensions shall be as follows:

- Typical parking space -- 9' x 18'
- Compact parking space -- 8' x 15'
- Handicap Accessible Spaces -- 13' x 18', including 5' access aisle
- Handicap Van Accessible Spaces -- 16' x 18', including an 8' access aisle

Upon application of the owner or operator of the PD Premises or any portion thereof to the Planning Board and in accordance with the issuance of a Special Permit by the Planning Board in accordance with the procedures of Section 7.4.0 of the Zoning By-Laws, the Planning Board, in its discretion and subject to such conditions as the Planning Board may impose, shall be permitted to increase the maximum parking ratios aforementioned in Article III from time to time and such change shall not be deemed a material or substantial deviation from the Concept Plan as approved by Town Meeting.

2. To add the following new Section 1.1.1 as a new row to the Exhibit "A" Use Table:

<u>SECTION</u>	<u>USE DESIGNATION</u>	<u>PERMITTED AT PD DISTRICT</u> <u>YES = Permitted as a Matter of Right</u> <u>SP = Special Permit Required</u> <u>TM = Special Permit Required following Town Meeting Approval</u>	<u>PERMITTED USES</u> <u>PARCEL 1 &amp; 2</u> <u>Parcel 1 is all the land southwest of Network Drive</u> <u>Parcel 2 is all the land northeast of Network Drive</u>
<u>1.1.1</u>	<u>Residential (as provided in Article 1 – Use Regulations of the Planned Development District Zoning Provisions.</u>	<u>YES</u>	<u>2</u>



	<a href="#">Network Drive)</a>		
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or to act in any other manner in relation thereto.

Submitted by the Board of Selectmen at the request  
of Network Drive Lot 10 Owner LLC

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

## ZONING BYLAW ARTICLES

### ARTICLE # 32

### RE: South Avenue I Planned Development District/Zoning Amendment

To see if Town Meeting will vote to amend the South Avenue I Planned Development District (“South Avenue PDD”) Use Table, as originally approved by the January 1997 Town Meeting to allow all uses permitted by right or by special permit in the General Business (BG) District and Wetlands District pursuant to the Burlington Zoning Bylaws in effect (including definitions and parking requirements) at the time of application for a Planning Board permit or building permit and/or commencement of use to be permitted on Parcel C and the following additional uses to be permitted by right on Parcel C: (i) medical office (out-patient services only) and (ii) health, sports and fitness clubs and related facilities, as follows:

1. To delete the existing Exhibit “A” Use Table in its entirety and replacing it as follows:

#### EXHIBIT “A” USE TABLE

#### I. USES PERMITTED ON PARCELS A, B and C

Section	Use Designation	Permitted at PD District (Yes – Permitted as Matter of Right SP – Special Permit Required)	Permitted on Parcel A, B or C
<b>1.1</b>	<b>Institutional and Recreational Uses</b>		
1.1.1	Recreational facilities such as health and racquet clubs	YES	A, B
1.1.2	Non-profit private clubs	YES	A, B
1.1.3	Private <del>Museums</del> <u>museums</u> , private art galleries (excluding sales)	YES	B
1.1.4	Places and buildings for public assembly such as facilities for business, cultural and educational gatherings, seminars and presentations	YES	A, B, <del>C</del>

Section	Use Designation	Permitted at PD District (Yes – Permitted as Matter of Right SP – Special Permit Required)	Permitted on Parcel A, B or C
<b>1.2</b>	<b>Restaurant/Hotel</b>		
1.2.1	Hotels/Motels with or without public dining facilities and with or without cooking facilities in individual rooms.	YES	A
1.2.2	Restaurants	YES	B, <del>C</del>
<b>1.3</b>	<b>Retail/ Customer Service Uses</b>		
<del>1.3.1</del>	<del>Banks and other financial institutions</del>	<del>YES</del>	<del>C</del>
1.3.2	Unmanned Automated Teller Facilities.	YES	A, B, <del>C</del>
1.3.3	Acceptance from the public of electronic products and components including, without limitation, computers and telecommunications equipment for servicing	YES	B, <del>C</del>
1.3.4	Retail stores, <del>provided in instance shall there be more than three (3) separate retail establishments on Parcel C as shown on the Concept Plan</del>	YES	C
<u>1.3.5</u>	<u>Medical office (out-patient services only)</u>	<u>YES</u>	<u>C</u>
<u>1.3.6</u>	<u>Health, sports and fitness clubs and related facilities</u>	<u>YES</u>	<u>C</u>
<b>1.4</b>	<b>Wetlands District</b>		
1.4.1	Creation of a pond or pool or other changes in water courses for swimming, fishing, or other recreational uses, agricultural uses, scenic features, drainage improvements	SP	A, B, <del>C</del>
1.4.2	Structures for essential services, which structures shall include roads, ways, sidewalks and drainage	SP	A, B, <del>C</del>
1.4.3	Dredging expressly for mosquito or flood control by an authorized public agency	SP	A, B, <del>C</del>
1.4.4	Periodic maintenance of existing water courses and maintenance for essential services	SP	A, B, <del>C</del>

Section	Use Designation	Permitted at PD District (Yes – Permitted as Matter of Right SP – Special Permit Required)	Permitted on Parcel A, B or C
1.4.5	Temporary, not to exceed three months, storage of materials (excluding fill materials and hazardous and toxic materials) or equipment.	SP	A, B, <del>C</del>
1.4.6	Outdoor noncommercial recreation not specifically permitted by right in <del>4.7.10</del> 1.4.10 below, including public parks, nonpaved playfields, tennis, paddle tennis and similar activities	SP	A, B, <del>C</del>
1.4.7	Discharges from manmade structures into the wetlands	SP	A, B, <del>C</del>
1.4.8	Structures for radio or television transmission by participants in emergency broadcast systems	SP	A, B, <del>C</del>
1.4.9	Conservation of soil, water plants, and wildlife including wildlife management shelters	YES	A, B, <del>C</del>
1.4.10	Outdoor noncommercial recreation limited to nature, study areas, walkways, boating, ice skating or fishing where otherwise legally permitted	YES	A, B, <del>C</del>
1.4.11	Maintenance or repair of existing structures, roadways and utilities	YES	A, B, <del>C</del>
<b>1.5</b>	<b>Accessory Uses</b>		
1.5.1	Restaurants, cafeterias, delicatessens, lunch counters, soda, dairy or ice cream establishments	YES	A, B
1.5.2	Towers and antennas for generation or transmission of telecommunications signals other than radio and television transmitting sites	SP	A, B
1.5.3	Antennas, other than satellite dish antennas, for the purpose of private reception of telecommunication signals, which antennas do not exceed 12 feet in height above the ground or 12 feet above the roof of a building on which they are mounted	YES	A, B, <del>C</del>
1.5.4	Towers, windmills and similar structures that exceed 12 feet in height measured from the ground	SP	A, B, <del>C</del>

Section	Use Designation	Permitted at PD District (Yes – Permitted as Matter of Right SP – Special Permit Required)	Permitted on Parcel A, B or C
1.5.5	Satellite dish antennas that are 8 feet or less across at their greatest width and which do not exceed 12 feet in height above the ground or above the roof of a building	YES	A, B, <del>C</del>
1.5.6	Satellite dish antennas that are greater than 8 feet across at their greatest width and which do not exceed 12 feet in height above the ground or above the roof of a building on which they are mounted	YES	A, B, <del>C</del>
1.5.7	During construction of improvements at the premises off-street outdoor storage of supplies and materials and overnight parking of freight carrying or materials handling vehicles and equipment.	YES	A, B, <del>C</del>
1.5.8	Parking garages and/or parking structures for more than three (3) vehicles, including both enclosed and open garages and structures, above and below ground only as provided in the Concept Plan	YES	A, B, <del>C</del>
1.5.9	The use of roads in the PD Premises for any purposes that roads and ways in the Town of Burlington are used except as provided in 1.5.10, below.	YES	A, B
1.5.10	The use of roads in the PD Premises to access nonresidential property adjoining the PD Premises	<del>P</del> YES	A, B, <del>C</del>
1.5.11	Off-street outdoor overnight parking of freight carrying or materials handling vehicles and equipment or buses	SP	A, B, <del>C</del>
1.5.12	Storage and disposal of oils and fuels/petroleum products including storage for on-site heating purposes	SP	A, B, <del>C</del>
1.5.13	Accessory uses in wetland limited to fences, flagpoles, non-commercial signs and docks	YES	A, B, <del>C</del>

## II. ADDITIONAL USES PERMITTED ON PARCEL C

In addition to the uses permitted above, all uses permitted by right or by special permit in the General Business (BG) District and Wetlands District pursuant to the Burlington Zoning Bylaws in effect (including definitions and Parking requirements if not included in the PDD for a specific use) at the time of application for a Planning Board Permit or Building Permit and/or commencement of use shall be permitted on Parcel C, subject in each instance to the requirements of the issuance of a special permit if so required under said Zoning By-Laws. In the event of any inconsistencies between the Parcel C uses set forth in Table A above of the uses set forth in the BG District, the uses in the BG District shall govern.

## III. GENERAL PROVISIONS

### Water Resource District

Subject to the provisions of Section 8.3.0 of the Zoning By-Laws, the foregoing uses shall be permitted as a matter of right or with a Special Permit in a Water Resource District as set forth in the above Table of Uses.

### Aquifer District

Subject to the provisions of Section 8.3.0 of the Zoning By-Laws, the foregoing uses shall be permitted as a matter of right or with a Special Permit in an Aquifer District as set forth in the above Table of Uses.

or to act in any other manner in relation thereto.

Submitted by the Board of Selectmen at the request  
of Robert Bendetson, Trustee of the  
Bendetson-Portsmouth Realty Trust, u/d/t dated  
November 25, 1981 and amended through July 13,  
2010; Thomasville Limited Partnership and  
Burlington Crossing Retail Business Condominium  
Trust

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

## **ZONING BYLAW ARTICLES**

### **ARTICLE # 33**

### **RE Amend Zoning Map and Rezone Property to the High Rise Industrial(IH) District**

#### **Life Science Cluster “A”**

To see if the Town will vote to amend the Zoning Map of the Town of Burlington to rezone certain property located at:

- 20 South Avenue, said land is further identified as being the parcel as shown generally on the Town of Burlington Assessor’s Map 51 Parcels 7-1, 7-2 and 8-0. To rezone from the General Industrial (IG) District to the **High Rise Industrial (IH) District**, consisting of approximately 5.92 Acres,
- 40 South Avenue, said land is further identified as being the parcel as shown generally on the Town of Burlington Assessor’s Map 51 Parcel 7-0. To rezone from the “South Avenue I” Planned Development District (PD) to the **High Rise Industrial (IH) District**, consisting of approximately 3.30 Acres,

#### **Life Science Cluster “B”**

- 70 Blanchard Road, said land is further identified as being the parcel as shown generally on the Town of Burlington Assessor’s Map 53-2-0. To rezone from the General Industrial (IG) District to the **High Rise Industrial (IH) District**, consisting of approximately 4.93 Acres,
- 76 Blanchard Road, said land is further identified as being the parcel as shown generally on the Town of Burlington Assessor’s Map 53-1-0. To rezone from the General Industrial (IG) District to the **High Rise Industrial (IH) District**, consisting of approximately 2.05 Acres,
- 78 Blanchard Road, said land is further identified as being the parcel as shown generally on the Town of Burlington Assessor’s Map 53-1-1. To rezone from the General Industrial (IG) District to the **High Rise Industrial (IH) District**, consisting of approximately 4.14 Acres,
- 80 Blanchard Road, said land is further identified as being the parcel as shown generally on the Town of Burlington Assessor’s Map 53-1-2. To rezone from the General Industrial (IG) District to the **High Rise Industrial (IH) District**, consisting of approximately 2.16 Acres,

#### **Life Science Cluster “C”**

- 99 South Bedford Street, said land is further identified as being the parcel as shown generally on the Town of Burlington Assessor’s Map 53-7-15. To rezone from the General Industrial (IG) District to the **High Rise Industrial (IH) District**, consisting of approximately 4.96 Acres,
- 111 South Bedford Street, said land is further identified as being the parcel as shown generally on the Town of Burlington Assessor’s Map 53-7-14. To rezone from the General Industrial (IG) District to the **High Rise Industrial (IH) District**, consisting of approximately 1.50 Acres,

- 20 Blanchard Road, said land is further identified as being the parcel as shown generally on the Town of Burlington Assessor's Map 53-7-14. To rezone from the General Industrial (IG) District to the **High Rise Industrial (IH) District**, consisting of approximately 5.64 Acres,

Or to act in any other manner in relation thereto.

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

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



**ZONING BYLAW ARTICLES – Continued**

**ARTICLE # 34**

**RE: Parking Structures and Garages**

**To see if the Town will vote to amend Article VII, Section 7.2.7 Parking Structures and Garages for Uses other Than One-Family Dwellings, by omitting it and replacing it as follows:**

Any parking structure or garage which is authorized by a Special Permit pursuant to Article IV, Section 4.3.2.9, shall NOT be included in the Maximum Aggregate Building-to-Ground Area Percentage (pursuant to Section 5.2.0 of Article V) of the district within which it is built (exclusive of a parking structure within the BG District), and shall be subject to the provisions of Article IX, Section 9.2.0.

**And further by omitting section 7.2.7.1 and replacing it as follows:**

7.2.7.1 Maximum Aggregate Building-to-Ground Area Percentage: Any parking structure or garage which is authorized by a Special Permit pursuant to Article IV, Section 4.3.2.9, 4.3.2.9.1, 4.3.2.9.2 and 4.3.4.9.3 shall NOT be included in the Maximum Aggregate Building-to-Ground Area Percentage (pursuant to Section 5.2.0 of Article V) of the district within which it is built (exclusive of a parking structure within the BG District), and shall be subject to the provisions of Article IX, Section 9.2.0.

or to act in any other manner in relation thereto.

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

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, and as otherwise instructed, at least fourteen days before the Town Meeting being held on May 10, 2021 at Burlington High School 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 12th day of April in the year of our Lord 2021.

James M. Tigges, Chairman

Nicholas C. Priest, Vice-Chairman

Robert C. Hogan, Selectman

Michael S. Runyan, Selectman

Joseph E. Morandi, Selectman

SELECTMEN OF BURLINGTON, MASSACHUSETTS

A true copy attest.

\_\_\_\_\_ Constable

Dated \_\_\_\_\_

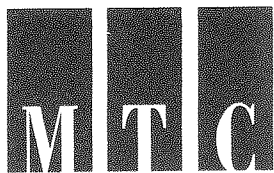
Middlesex ss

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 May 10, 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 23rd day of April, 2021.

Attest: Amy E. Warfield, Town Clerk



Mead, Talerman & Costa, LLC  
Attorneys at Law

30 Green Street  
Newburyport, MA 01950  
Phone 978.463.7700  
Fax 978.463.7747

[www.mtclawyers.com](http://www.mtclawyers.com)

April 12, 2021

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 May 10, 2021 Town Meeting and have found it legal as to form. I will note the following:

- Articles 2 is an article to pay bills of a prior year which requires a 4/5 vote in accordance with G.L. c. 44 § 64.
- Articles 12, 13 and 14 constitutes a borrowing and therefore will require a 2/3 vote in accordance with G.L. c. 44 §8.
- Articles 31, 32, 33 and 34 are proposed zoning changes and will require a 2/3 vote in accordance with G.L. c. 40A § 5.

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 read 'Lisa L. Mead', is written over a horizontal line.

Lisa L. Mead  
Town Counsel

cc: Town Clerk