

SPECIAL TOWN MEETING

**2009
WARRANT**



**TOWN OF TEWKSBURY
COMMONWEALTH OF MASSACHUSETTS**

Finance Committee Public Hearing

April 27, 2009 7:00 p.m.
Town Hall Auditorium

Special Town Meeting

May 5, 2009 7:00 p.m.
Tewksbury Memorial High School

TOWN MEETING GUIDELINES

- ** Voters and Visitors shall have their identification ribbons conspicuously displayed.
- ** Visitors shall sit in the designated VISITORS SECTION unless they are assigned to a designated area.
- ** Standing at the doors or in the aisles inside the gymnasium or auditorium is prohibited.
- ** No one shall enter the gymnasium or auditorium while voting is in progress.
- ** Everyone shall be at a seat so as to allow the vote to be counted without hindrance.
- ** Collecting signatures upon petitions or nomination papers is prohibited in the building where the Town Meeting is being held.
- ** Food and beverages are not allowed in the gymnasium or auditorium as per order of the School Committee.
- ** Smoking is not allowed in the School Building or on School Property.
- ** To prevent active interference with the conduct of the Town Meeting, any person taping, video taping or using any other means of sonic reproduction is assigned to the designated Press Table or the side aisle perimeters of the gymnasium or auditorium.

This meeting is being held at a site which is physically accessible to persons with disabilities.

For further information please call 978-640-4355.

CART services need to be requested as early as possible, as CART providers often fill their schedule 2-3 months in advance. Other reasonable accommodations for disability related needs will be provided upon request.

Middlesex, ss.

To any of the Constables of the Town of Tewksbury, in said County:

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of the Town of Tewksbury, qualified to vote in Town affairs, to meet and assemble at Tewksbury Memorial High School, 320 Pleasant Street, in said Tewksbury on Tuesday, May 5, 2009, at 7:00 p.m. to act on the following articles:

ARTICLE 1

To see if the Town will vote to amend the Tewksbury Zoning Bylaw by adding a new section and to amend Tewksbury Zoning Map Overlay as follows:

8600 Town Center Overlay District

8601. Purpose: The purposes of the Town Center Overlay District (TCOD) are to:

- a) encourage a mix of business, residential, cultural, educational and civic uses;
- b) promote compact development that is pedestrian-oriented and preserves the historic value and character of the area;
- c) minimize impacts on public services and maximize the efficient use of public infrastructure;
- d) increase the town’s tax base by creating a thriving small business environment, attracting new investment and promoting economic development;
- e) provide diverse housing opportunities; and
- f) encourage the reuse of existing underutilized or vacant properties.

The following bylaw is intended to support the goals, objectives and recommendations outlined in the Town’s Master Plan, and the Town of Tewksbury Affordable Housing Plan and Housing Production Strategy. Applications submitted under the TCOD bylaw shall meet the criteria and guidelines outlined in the corresponding Town Center Design Guidelines.

8602. Boundaries. The boundaries of the TCOD shall be as shown on the Town of Tewksbury Town Center Overlay Zoning Map, on file in the office of the Town Clerk.

8603. Relationship to Existing Zoning. The underlying zoning shall remain an integral part of the Tewksbury Zoning Bylaw and shall be neither modified, repealed nor amended by this section. The property owners in the TCOD shall possess all current zoning rights and be subject to the requirements applicable in the underlying zones. In the event that an owner desires to use their property for development as defined herein, the rules and regulations of the TCOD shall apply and by filing an application for development subject to such rules and regulations, the owner shall be deemed to accept and agree to them. Municipal Zoned properties located within the TCOD are not eligible to apply for a permit under the provisions of the TCOD. Where the TCOD provisions are silent on a zoning rule or regulation, the requirements of the underlying zoning shall apply (e.g. off street parking and open space requirements). In addition, projects allowed under the underlying zoning are not eligible to apply under the TCOD unless they meet all of the requirements of the TCOD.

8604. Use Regulations and Definitions. The following uses are allowed in the TCOD subject to the requirements outlined in these TCOD regulations, and provided that all necessary permits, orders, or approvals required by local, state, or federal law are also obtained:

- 1. Residential Uses (as a component of a mixed-use development):
 - a. Multifamily¹
 - b. Artist Lofts: All or a portion of a building that has been converted into an artist’s workspace and living area.
 - c. Assisted living facilities²
- 2. Government, Institutional and Public Service Uses:
 - a. Municipal
 - b. Educational
 - c. Religious
 - d. Post Office
 - e. Recreation
- 3. Business Uses
 - a. Retail Store, not exceeding 7,500 sq. ft. of gross floor area per individual establishment.
 - b. Professional Offices, not exceeding 10,000 sq. ft. of gross floor area per individual office establishment
 - c. Financial Services/Bank
 - d. Restaurant, fast food, general or limited service, not exceeding 4,000 sq. ft. of gross floor area. The square footage requirement does not include a patio or outdoor seating area operated in connection with an indoor-service restaurant
 - e. Hotel, Inn²
 - f. Bed and Breakfast²
 - g. Lodge or Club (Membership)²
 - h. Personal Services²

¹ As defined in Section 7100 of the Tewksbury Zoning Bylaw

² As defined in Section 10000 of the Tewksbury Zoning Bylaw

- i. Artist or Craftsman Studio: Commercial space utilized to create, design, and fabricate paintings, sculptures, statues, photography, furniture and similar art forms.
 - j. Commercial Recreation, Indoor²
 - k. Parking Facility: A public or private parking area or structure that is open to shelter or storage of motor vehicles by residents, customers and employees for permitted uses in the TCOD.
 - l. Day Care Facility²
 - m. Performance Theater: A building or structure designed for theatrical and other staged entertainment services.
 - n. Museum: A depository for collecting and displaying objects having scientific, historical or artistic value for the purposes of education, study and enjoyment.
 - o. Art Gallery: A room or series of rooms where works of art are exhibited.
4. Mixed use development: A single building with the ground floor used primarily for retail, commercial, service or office and the upper floor(s) used for residential use.

8605. Prohibited Uses. Any use not listed above is to be considered prohibited. Drive through services and windows, and Adult Use Establishments are not allowed for any use in the TCOD district.

8606. Site Plan Special Permit. All uses and structures in the TCOD are subject to a Special Permit and Site Plan Special Permit from the Planning Board in accordance with Sections 9300 and 9400 of the Zoning Bylaw. In addition to the requirements of these sections, all design criteria of the TCOD shall apply as described in the Town Center Design Guidelines. The Planning Board shall be the Special Permit Granting Authority.

8607. Concept Plan. Prior to the application for approval of any special permit for a TCOD, a preliminary plan called for purposes of this Section 8600 a "Concept Plan", shall be filed for review with the Planning Board. The submitted Plan shall be consistent with the provisions of this TCOD and shall include: (a) a site development plan showing the location and footprint(s) of all proposed buildings, changes in grading and topography, parking, landscaping, roads, walkways and access ways, open space, and wetlands; (b) a utilities plan showing the proposed location and types of water, wastewater and stormwater facilities, including hydrants; (c) a lighting plan; (d) a sign plan; and, (e) subdivision plan(s), if applicable. The Planning Board may solicit public comment on the Concept Plan. Any comments of the Planning Board on the Concept Plan shall be advisory in nature only and shall be without binding effect on either the Planning Board or the Applicant.

To attain the goals of the TCOD, collaborative development proposals involving more than one property owner are encouraged where appropriate. In such cases, it is recommended that a Combined Concept Plan be submitted to the Planning Board with the initial project application, detailing the specific elements of the proposed project, outlining the impacts of the overall project, and identifying responsibilities of each property owner. The Combined Concept Plan should describe: the uses proposed, the layout and size of the project, potential impacts to the environment, access and transportation impacts, water and sewer needs, and economic impacts. The Planning Board encourages creative and collaborative efforts promoting the Purpose and the Design Guidelines of TCOD, such as, but not limited to: shared and off-site parking, pedestrian walkways, lighting and other such amenities.

8608. Dimensional Requirements.

Buildings within the TCOD shall conform to the following requirements:

Minimum Lot Area	10,000 square feet
Minimum Frontage	50 feet
Minimum Front Yard Setback	10 feet
Minimum Side Yard Setbacks	Combined- 10 feet
Minimum Side Yard Setback when abutting a residential district	50 feet
Minimum Rear Setback	15 feet
Minimum Rear Setback when abutting a residential district	50 feet
Maximum Building Height	3 stories or 45 feet

8609. Special Provisions. The following special provisions apply to all development within the TCOD:

1. The Planning Board may modify all dimensional requirements outlined in Section 8608 and all square foot limitations as set forth in 8604.3, except Maximum Building Height of 3 stories or 45 feet, if, in its opinion, such modifications will result in improved design that is in keeping with Section 8601 above.
2. Frontage and Access – The Planning Board may, as part of the special permit, reduce lot frontage for a development that provides consolidated or shared access to site access as defined in paragraph 3 below, for two

or more adjoining parcels, subject to a legally enforceable agreement or restriction in a form acceptable to Town Counsel and approved by the Planning Board.

3. Site access is preferred to be provided via Main Street, East Street or Pleasant Street in a fashion that is acceptable to the Planning Board and by means that are not primarily residential in nature. Site access by only; Dewey Street, Summer Street, Town Hall Avenue, Cross Street, Robinson Avenue, Cross Street, Kelley Terrace, and Lee Streets may be allowed by the Planning Board if it finds that said access does not unreasonably impact residential neighborhoods with consideration given for properly mitigated noise, traffic, visual and environmental impacts attributable to the project.

8610. Parking Requirements. The parking requirement for any use in the TCOD shall be the same as in the underlying zoning classification. The Planning Board may reduce the required number of parking spaces in the TCOD based on the following considerations:

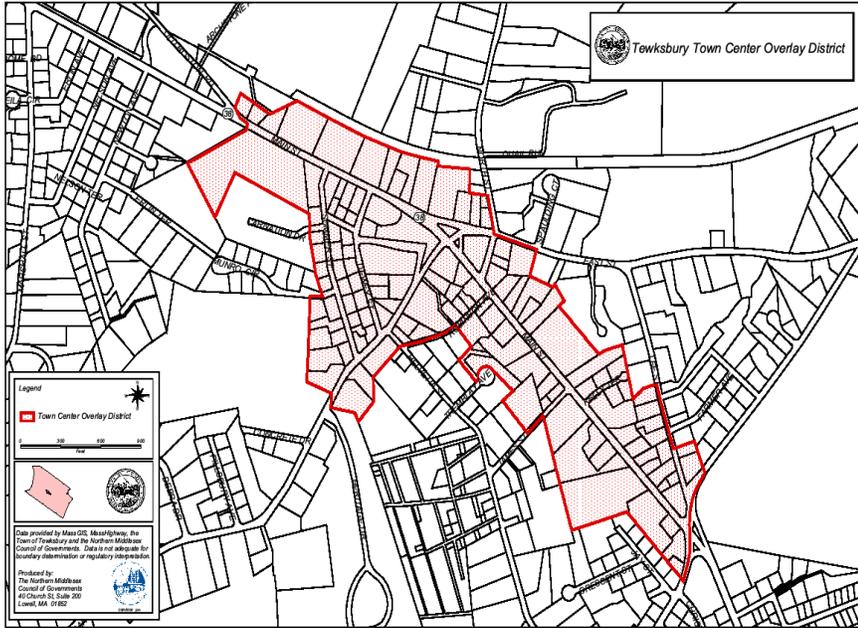
- a. The availability of shared parking on another property. The Board may require a shared parking agreement to be submitted as part of the application for development.
- b. The availability of public transportation.

8611. Criteria for Granting TCOD Special Permit. In addition to the Criteria and considerations for actions by the Planning Board in Sections 9300 and 9400 of the Zoning Bylaw, the Planning Board shall determine that the site proposal and density of uses on the proposal shall promote the Purposes of this TCOD bylaw and shall take into consideration the following:

- a. Social, economic or community needs which are served by the proposal;
- b. Traffic flow and safety, including parking and loading;
- c. Adequacy of utilities and other public services;
- d. Neighborhood character and social structures;
- e. Impacts on the natural environment; and
- f. Potential fiscal impact, including impact on town services, tax base, and employment.
- g. Protects adjoining premises by minimizing adverse effects on the natural environment;
- h. Provides for convenient and safe vehicular and pedestrian movement and that the locations of driveway openings are convenient and safe in relation to vehicular and pedestrian traffic circulation, including emergency vehicles, on or adjoining the site;
- i. Provides an adequate arrangement of parking and loading spaces in relation to the proposed uses of the premises;
- j. Provides adequate methods of disposal of refuse or other wastes resulting from the uses permitted on the site;
- k. Complies with all applicable requirements of this By-Law.

8612. Special Permit Conditions - The Planning Board may impose such conditions, safeguards and limitations as it deems appropriate to protect the neighborhood or the Town including, but not limited to:

- a. Dimensional requirements greater than the minimum required by this By-Law;
- b. Screening of parking areas or other parts of the premises from adjoining premises or from the street by specified walls, fences, plantings or other devices;
- c. Modification of the exterior features or appearances of the structure(s);
- d. Limitation of size, number of occupants, method and time of operation and extent of facilities;
- e. Regulation of number, design and location of access drives, drive-up windows and other traffic features;
- f. Requirement of off-street parking and other special features;
- g. Requirement for performance bonds or other security; and
- h. Installation and certification of mechanical or other devices to limit present or potential hazard to human health, safety, welfare or the environment resulting from smoke, odor, particulate matter, toxic matter, fire or explosive hazard, glare, noise, vibration or any other objectionable impact generated by any given use of land.



Planning Board

Executive Summary: The adoption of this article will implement a new zoning overlay district promoting a traditional village center in the area surrounding Town Center, while underlying zoning rights remain intact, as outlined in the Town of Tewksbury Master Plan endorsed at the 2004 Annual Town Meeting. The overlay district bylaw and design guidelines emphasize the highest quality of architectural and site design in development, increase the economic incentive for new investment and redevelopment by providing mixed-use opportunities, encourage the development of a pedestrian-oriented Town Center and preserve the historic value and character of the area. Design guidelines and accompanying overlay map are available at the Town Clerk’s Office and Department of Community Development.

ARTICLE 2

To see if the Town will vote to amend the Tewksbury Zoning Bylaw by deleting Section 7300 Cluster Development.

Planning Board

Executive Summary: Town Meeting approved the Open Space Residential Design (OSRD) Permit, Section 7500 in 2004. An OSRD achieves more land use objectives than a cluster subdivision, such as but not limited to permanent preservation of open space, consumes less open land and conforms to existing topography and natural features, advances the goals of the Master Plan, promotes efficient and economical street and utility layout; lessens storm run-off; provides for affordable housing requirement of 10% to meet the Town's MGL Chapter 40B Comprehensive Permit requirements.

ARTICLE 3

To see if the Town will vote to amend Section 6326 of the Tewksbury Zoning Bylaw by adding an additional clause to Section 6326:

6326. Upon approval by the Board, a project within the Office Research District may include accessory restaurant uses. The total amount of gross building floor area used for accessory restaurant uses shall not exceed five percent (5%) of the total gross floor area of the entire project, and shall contain a maximum of 100 seats. This requirement may be varied based upon a special permit finding of the Planning Board.

ADD:

In addition, upon approval by the Board, a free standing Restaurant may be allowed by Special Permit in the OR. The Special Permit may be granted if the board determines that the Restaurant use is necessary in meeting the needs of existing occupants within the Office Research District immediately adjacent thereto. Fast Food and Drive-thru facilities shall not be allowed.

Planning Board

Executive Summary: This would keep the existing language, which is intended for an accessory restaurant in the Office Research District as part of a development, while adding the ability for a free standing restaurant to service a greater area immediately adjacent to the proposed use.

ARTICLE 4

To see if the Town will vote to amend Tewksbury Zoning Bylaw Appendix A- Table of Use Regulations Section C. 18 by changing the ACC in Office Research District (OR) to PB.

Planning Board

Executive Summary: This change of the use table would be consistent with the proposed change of Section 6326 allowing a freestanding restaurant to service a greater area immediately adjacent to the proposed use in the Office Research District through a special permit issued by the Planning Board.

ARTICLE 5

To see if the Town will vote to amend Section 4120 of the Zoning By-Law by adding the following: Lots zoned R-40 that 1) exceeds 1.9 acres, but are less than 2 acres, and 2) front a road with an average lot size of a minimum of 24,000 square feet (excluding the lot itself as well as any lot in excess of 2 acres) from one intersecting road to the next intersecting road may be divided through the issuance of a special permit from the Planning Board. The Planning Board would have to find that the action achieves a stated public purpose, is not detrimental to the existing neighborhood, and is in keeping with the character of the neighborhood. The Planning Board through this special permit authority may allow for a reduction in the minimum frontage requirement of no more than 25% of one of the lots so long as the other lot's frontage conforms to the By-Law.

Jeff Preston and Others

Executive Summary: At present, there is no flexibility that allows non-conforming lot changes that are in the best interest of a neighborhood. The proposed amendment to the Zoning By-Law will provide a responsible solution to this issue. This amendment allows a non-conforming lot to be created if it fits within specific percentages of the existing By-Law and if it fits with the current character of the neighborhood as determined by the special permit process. Specifically, this will allow the Bay State Baptist Church to split the lot at 36 Pine Street, and not build the proposed church.

ARTICLE 6

To see if the Town will vote to amend the Town Code, Chapter 18, Conservation Commission Wetland Protection Bylaw Sections 18.04.010 through Section 18.04.220 as described below with additions appearing as underlined text and deletions identified in brackets unless otherwise noted:

1. Amend the index as follows:

- a. add a new Section 18.04.045 Performance Standards
- b. delete Section [18.04.200 Availability of regulations]
- c. renumber accordingly;

2. Amend the 2nd paragraph of Section 18.04.010 Purpose by adding the underlined text as follows:

The purpose of this Bylaw is to control activities deemed by the Tewksbury Conservation Commission to have a significant or cumulative effect upon wetland values, including but not limited to, the following: public and private water supplies, groundwater quantity, quality and supply, surface water quantity and quality, flood control, erosion and sedimentation control, prevention of storm damage, prevention and control of pollution, wildlife habitat, rare species habitat including rare plant and animal species, fisheries, agriculture and aquaculture and recreation values deemed important to the community.

3. Amend as follows: Section 18.04.020 Definitions-

a. Amend existing Definitions:

- i. Alter-
 - a) (6) Driving piles, erecting or repairing buildings (residential or commercial) or structures, as defined in the regulations implementing the bylaw, of any kind;
 - b) (14) Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.
- ii. “Buffer zone” means land within 100 feet in a parallel [horizontal straight] line of any of the established wetland resource areas, including potential and certified vernal pools.
- iii. “Bordering Vegetated Wetlands” are freshwater wetlands which border on creeks, streams, rivers, ponds and lakes in areas where the topography is low and flat. Bordering vegetated wetlands are areas where the soils are annually saturated and / or inundated such that they support a predominance (50% or greater) of wetland indicator plants. Types of vegetated wetlands include wet meadows, marshes, swamps and bogs. Wetlands and their boundaries shall be identified in the manner designated in the Massachusetts DEP Handbook “Delineating Bordering Vegetated Wetlands under Massachusetts Wetlands Protection Act,” March 1995, and future amendments, other DEP guidance documents generally accepted by Conservation Commissions for purposes of bordering vegetated wetland. [“Vegetated wetlands” means areas where the topography is low and flat and where the soils are annually saturated. The boundary of vegetated wetlands is the line within which the vegetational community is substantially characterized by species identified in the Wetlands Protection Act or this Bylaw, or, when vegetation appears to have been altered, within which hydric soils are present. The types of vegetated wetlands are wet meadows, marshes, swamps and bogs. The Commission may find, based on substantial evidence in a particular case, the additional species are characteristic of wetlands.]
- iv. “Vernal pools” means a confined depression which provides habitat for vernal pool species, whether or not certified by the Massachusetts Natural Heritage program. Vernal pool species are those vertebrate and invertebrate species listed in the January 1991 edition of Massachusetts Audubon Society’s “A Citizen’s Step-by-Step guide to Protecting Vernal Pools”. In addition to the scientific definitions found in the Regulations, any confined basin or depression not occurring in existing lawns or driveways that, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, contain at least 200 cubic feet of water at some time during most years, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile or other vernal pool community species, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife, and regardless of whether the site is contained within another resource area shall be defined as a vernal pool. The adjacent upland buffer zone resource area for vernal pools shall extend 200 feet outward from the mean annual high-water line defining the depression.

b. Add new definitions:

- i. “Abutter” means the owner of any property any portion of which lies within 300 feet radially from any lot line of the subject property including owners of land directly opposite on any public or private street or way including any in another municipality or across a body of water. In the case of property that has frontage on a pond, abutters shall include all those properties with frontage on the pond or pond association if in existence.
- ii. “Administrative Orders” shall include but not limited to enforcement orders, violation notices, orders of conditions, orders of resource delineation and Certificates of Emergency.

- iii. “Bank” means the land area which normally abuts and confines a body of water; the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.
- iv. “Bogs” are areas where standing or slowly running water is near or at the surface during a normal growing season and where a vegetational community has a significant portion of the ground or water surface covered with sphagnum moss (Sphagnum), and where the vegetational community is made up of a significant portion of one or more of, but not limited to nor necessarily including all, of the following plants or groups of plants: aster (Aster nemoralis), azaleas (Rhododendron condense and R. viscous), black spruce (Pica Mariana) bog cotton (Eriophorum), cranberry (Vaccinium macrocarpon) high bush berry (Vaccinium corymbosum), larch (Larix laricina) laurels (Kalmia angustifolia and K. polifolia), leatherleaf (Chamaedaphne calyculata), orchids (Arethusa, Calopogon, Pogonia), pitcher plants (Sarracenia purpurea), sedges (Cyperaceae), sundews (Droseraceae), sweet gale (myrica gale) white cedar (Chamaecyparis thyoides).
- v. “Buffer Zone” means a band of land, contiguous or intermittent, with a defined dimension, subject to restriction, located in land within 100 feet of Wetland Resource Areas (200 feet in the case of rivers, and perennial streams and potentially identified or certified vernal pools). (Also known as Buffer Zone Resource Areas)
- vi. “Bordering land subject to flooding” is an area with low, flat topography adjacent to and inundated by flood waters rising from creeks, streams, rivers, ponds (natural or created) or lakes. The boundary of bordering land subject to flooding is the one-hundred –year floodplain. It extends from the outer edge of a bank or bordering vegetated wetland.
- vii. “Department” is the Department of Environmental Protection (DEP).
- viii. “Dredge” means to deepen, widen, or excavate, either temporarily or permanently.
- ix. “Freshwater wetlands” are wet meadows, marshes, swamps and bogs.
- x. “Isolated land subject to flooding” is any isolated depression without an inlet or outlet which at least once a year confines standing water to a volume of at least ¼ acre-foot of water with an average depth of at least six inches. The boundary is the perimeter of the largest observed or recorded volume of water confined in the basin.
- xi. “Lake (great pond)” means any open body of fresh water with a surface area of 10 acres or more.
- xii. “Large Isolated Wetlands” means isolated wetlands 5,000 square feet or larger.
- xiii. “Limited Project” means construction of access drives or roadways across freshwater wetlands when no alternative access exists. Construction, reconstruction, operation, and maintenance of public utilities, including electrical distribution or transmission lines, sewers, water lines, natural gas pipelines, and telecommunication lines. Maintenance and improvement of existing public roadways including maintaining and improving drainage building (residential/ commercial)s, adding shoulders, correcting substandard intersections, and widening (provided that less than a single lane is widened and as found in the Massachusetts Wetlands Protection Regulations.)
- xiv. “Marshes” are areas where a plant community exists in standing or running water during the growing season and where a significant part of the vegetational community is composed of, but not limited to nor necessarily including all, of the following plants or groups of plants: arums (Araceae), bladder worts (Utricularia), burr reeds (Sparganiaceae), button bush (Cephalanthus occidentalis), cattails (Typha), duck weeds (Lemnaceae), eelgrass (Vallisneria), frog bits (Hydrocharitaceae), horsetails (Equisetaceae), hydrophilic grasses (Gramineae), leatherleaf (Cahmaedaphne calyculata) pickerel weeds (Pontederiaceae), pipeworts (Eriocaulon), pond weeds (Potamogeton), rushes (Junceaceae), sedges (Cyperaceae), smartweeds (Polygonum), sweet gale ((Myrica gale), water milfoil (Haloragaceae), water lilies (Nymphaeaceae), water starworts (Callitrichaceae), water willow (Decodon verticillatus).
- xv. “No Build Zone” means that portion of the Buffer Zone up gradient of the No Disturb Zone and extending to a line fifty feet (50’) from the edge of those Wetland Resources, contiguous or intermittent, with a defined dimension, subject to restriction, defined in this bylaw.
- xvi. “No Disturb Zone” means that portion of the Buffer Zone which extends twenty-five feet (25’) from the edge of those Wetland Resources, contiguous or intermittent, with a defined dimension, subject to restriction, defined in this bylaw.
- xvii. “Permit Application” means any application for a permit or other action under the Massachusetts Wetlands Protection Act, MGL Ch. 131, Sec. 40, or the Town of Tewksbury Wetland Protection Bylaw. Examples include, but are not limited to, Notices of Intent, Abbreviated Notices of Resource Area Delineation, Requests for Determination of Applicability, Requests for a Determination of Negligible Impact, Requests for an Extension to an Order of Conditions, Requests for an Amended Order of Conditions, Requests for a Certificate of Compliance, and Requests for an amended Order of Resource Area Delineation.
- xviii. “Ponds”:
 - a) Shall include any substantially open body of fresh water with a surface area observed or recorded, within ten years prior to the date of application, of at least 5,000 square feet. Ponds may be either naturally occurring or man-made by impoundment, excavation, or otherwise. Ponds shall contain

standing water except for periods of extended drought. For the purposes of this definition, extended drought shall be defined at 310 CMR 10.58.2 as it may be amended.

- b) Notwithstanding the above, the following man-made bodies of open water shall not be considered ponds: swimming pools or other impervious man-made basins.
- xix. “Rare Species” means, without limitations, all vertebrate and invertebrate animals and all plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless whether the site in which they occur has been previously identified by the Division.
- xx. “Resource Areas (natural or created)” include any freshwater wetlands, marshes, wet meadows, bogs, swamps, lakes, ponds (natural or created), rivers, streams, banks, vernal pools, large isolated wetlands, land under water in each resource area, riverfront area, land subject to flooding or inundation by groundwater or surface waters, and buffer zones as defined in the Bylaw.
- xxi. “Resource Area Values” include but are not limited to the following: public or private water supply, groundwater, flood control, erosion, and sedimentation control, storm damage prevention, water quality, water pollution control, fisheries, wildlife habitat, rare species habitat including rare plant species, agriculture, riverfront area values and recreation values deemed important to the community.
- xxii. “River” shall be defined by 310 CMR 10.58.2 and as amended.
- xxiii. “Riverfront” shall be defined by 310 CMR 10.58.2 and as amended.
- xxiv. “Stream” shall be defined by 310 CMR 10.58.2 and as amended.
- xxv. “Swamps” are areas where ground water is at or near the surface of the ground for a significant part of the growing season or where runoff water from surface drainage frequently collects above the soil surface, and where a significant part of the vegetational community is made up of, but not limited to nor necessarily include all of the following plants or groups of plants: alders (Alnus), ashes (Fraxinus), azaleas (Rhododendron canadense and R. viscosum), black alder (Ilex verticillata), black spruce (Picea mariana), buttonbush (Cephalanthus occidentalis), American or white elm (Ulmus Americana), white Hellebore (Veratrum viride), hemlock (Tsuga Canadensis), highbush blueberry (Vaccinium corymbosum), larch (Larix laricina), cowslip (Caltha palustris), poison sumac (Toxicodendron vernix), red maple (acer rubrum), skunk cabbage (Symplocarpus foetidus), sphagnum mosses (Sphagnum), spice bush (Lindera benzoin), black gum tupelo (Nyssa sylvatica), sweet pepperbush (Clethra alnifolia), white cedar (Chamaecyparis thyoides), willow (Salicaceae), common reed (Phragmites communis), and jewelweed (Impatiens capensis).
- xxvi. “Wetland Resource Area” is any resource area other than the buffer zone and riverfront area.
- xxvii. “Wet Meadows” are areas where ground water is at the surface for the significant part of the growing season and near the surface throughout the year and where a significant part of the vegetational community is composed of various grasses, sedges, and rushes, made up of, but not limited to nor necessarily including all of the following plants or groups of plants: blue flag (Iris), vervain (Verbena), thoroughwort (Eupatorium), dock (Rumex), false loosestrife (Ludwigia), hydrophilic grasses (Gramineae), loosestrife (Lythrum), marsh fern (Dryopteris thelypteris), rushes (Juncaceae), sedges (Cyperaceae), sensitive fern (Onoclea sensibilis), and smartweed (Polygonum).
- c. **Delete the following definitions:** [Anaerobic, Aqualfs, Aquepts, Aquic moisture regime, Aquods, Blanket bog, capillary fringe, Catena, Climatic moor, Concretion, Evapotranspiration, Fibrists, Flooding duration, flooding frequency, Fluvents, Gleization, Growing Season, Hardpan, Hemist, horizon, hydric soil, hydrophytic vegetation, hydro-sequence, Matrix, Microbial, Morphological features, Mottled zone, Permeability, Phase, soil, Podzolization, Poned, Poorly drained, Profile, Reduction, Saturated, Saprist, Soil series, Solum, Somewhat poorly drained, Suborder, Translocation, Vegetated wetlands, Very poorly drained, Water Table.]

4. Amend as follows: Section 18.04.30 Jurisdiction-

- a. Except as permitted by the Commission or as provided in this Bylaw, no person shall alter, dredge, fill, and remove the following local resource areas:
- b. **Delete** [(1) Within 100 feet of any vegetated wet meadow, marsh, swamp or bog;] **and replace with:** (1) Within 200 feet of any river, perennial stream or vernal pool;
- c. **Delete** [(2) Within 100 feet of any river, brook stream (intermittent or otherwise), pond or lake] **and replace with:** (2) Within 100 feet of any bordering vegetated wetlands, freshwater wetland, wet meadow, marsh, swamp or bog;
- d. **Add** (3) Within 100 feet of any brook, stream (intermittent or spring), pond (natural or created) or lake;
- e. **For Section (6) split the subsection a) so that it reads:**
- The buffer zone does not play a role in the protection of any of the wetland values of the Bylaw or;
 - The activity shall occur in such a manner that any potential adverse environmental impacts on any of the wetland values are avoided.

f. **Create a new Section 7 to read as follows with new text underlined:**

For the No Disturb Zone which extends twenty-five feet (25') from the edge of the Wetland Resources Area, the Commission shall require the applicant to maintain a minimum continuous 25-foot wide No Disturb Zone of undisturbed, natural vegetation between the proposed activity and the resource area(s). The Commission shall also require a fifty feet (50') No Build Zone from the edge of the Wetland Resource Area, whereby the applicant is required to maintain any proposed building (residential or commercial) or structure, as defined in the regulations

implementing the bylaw, at least 50 feet from the resource area(s).When partial encroachment into the No Build Zone setback is unavoidable, the applicant may mitigate this encroachment by increasing the size of the buffer strip area by an amount equal to or greater than the area of the encroachment, using the following guidelines.

- g. **Replace** references to buffer strip and “buffer strip” throughout the rest of the Section until Section 18.04.40 with No Disturb Zone and No Build Zone.
- h. **Delete:** [For lots zoned General Residential (RG), the Commission may reduce or waive the requirement of the “buffer strip” setback for structures, after making every effort to preserve it.]
- i. **Delete:** [The 25-foot buffer strip and 25-foot “buffer strip” setback shall not be required for the maintenance, repair, or replacement (without substantial enlargement unless required by law) of any existing and lawfully located structure, septic system, water line, utility line, or similar facility in those areas. In these cases, the Commission shall require the applicant to maintain a 10-foot wide buffer strip of undisturbed, natural vegetation between the proposed activity and the resource area(s). Whether a 10 foot or 25 foot buffer strip is required, the Commission shall not permit encroachment into the buffer strip other than as described in the above paragraph. The Commission is not to consider what is expedient for the applicant in its enforcement of the buffer strip provision of this by-law.]
- j. **Create a new Section (8) to read as follows:**
 - (8) Where an activity is proposed within a vernal pool, the Commission shall presume that the activity has a high likelihood of altering the habitat for the vernal pool species unless the proponent proves by a preponderance of the credible evidence that either;
 - a) The vernal pool shall not have been used by vernal pool species as habitat;
 - b) The activity shall occur in such a manner that any potential adverse environmental impacts on any of the wetland values are avoided.

5. Amend as follows: Section 18.04.40 Exceptions-

a. Renumber Subsection (1) and add as follows:

(1) General Exceptions

a) The permit and application required by this Bylaw shall not be required for:

- i) Maintaining, repairing or replacing but not substantially changing or enlarging, an existing and lawfully located building (residential/ commercial) or facility used in the service of the public to provide electric, gas, water, telephone or other telecommunication services;
- ii) Work performed for normal maintenance or improvement of land in agricultural use or in aquacultural use;
- iii) Mosquito control projects when performed by the Town or the Commonwealth or political subdivision thereof, or
- iv) Maintenance by the Town of its drainage system.

These exceptions shall be permitted only if written notice with suitable plans has been given to the Commission at least twenty (20) business days prior to the commencement of work and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.

b) The following are exempt minor activities as long as they are located in the riverfront area or buffer zone, but not within any resource area. These activities are described in the State Wetland Regulations (310 Code of Massachusetts Regulations 10.00 Section 10.58(6)). The landowner can proceed with these tasks without prior review by the Conservation Commission.

- i) Unpaved pedestrian walkways for private use;
- ii) Fencing that does not create a barrier to wildlife movement
- iii) Stone walls without mortared foundations;
- iv) Stacks of cordwood;
- v) Vista pruning—the selective thinning of tree branches or understory shrubs to create a window to improve visibility—as long as it occurs more than 50 feet from the mean annual high-water line within a riverfront area or from a bordering vegetated wetland, whichever is farther. (This activity does not include the cutting of trees with reduces the leaf canopy to less than 90 percent of the existing crown cover or the mowing or removal of understory brush.)
- vi) Planting of native trees, shrubs, or groundcover, but not turf lawns;
- vii) Conversion of lawns to decks, sheds, patios, and pools that are accessory to single family homes, as long as:
 - a. House existed prior to August 7, 1996;
 - b. Activity located more than 50 feet from the mean annual high-water of the riverfront area or bordering vegetated wetland (whichever is farther, and
 - c. Sedimentation and erosion controls used during construction
- viii) Conversion of patios, pools, sheds, or other impervious surfaces to lawn or natural vegetation
- ix) Activities, such as monitoring wells, exploratory borings, soil sampling, and surveying, that are temporary, have negligible impacts, and are necessary for planning and design purposes.

(Note; Maintenance of existing landscaping, including lawn mowing and pruning, is exempt from review regardless of location in the buffer zone or any wetland resource area.)

c) The following are exempt minor activities as long as they are located in the No Build Zone. These activities are described in the State Wetland Regulations (310 Code of Massachusetts Regulations 10.00 Section 10.58(6)). The landowner can proceed with these tasks without prior review by the Conservation Commission.

- i) Unpaved pedestrian walkways for private use;
- ii) Fencing that does not create a barrier to wildlife movement
- iii) Stone walls without mortared foundations;
- iv) Stacks of cordwood;
- v) Vista pruning—the selective thinning of tree branches or understory shrubs to create a window to improve visibility—as long as it occurs more than 50 feet from the mean annual high-water line within a riverfront area or from a bordering vegetated wetland, whichever is farther. (This activity does not include the cutting of trees with reduces the leaf canopy to less than 90 percent of the existing crown cover or the mowing or removal of understory brush.)
- vi) Planting of native trees, shrubs, or groundcover, but not turf lawns;
- vii) Conversion of lawns to decks, sheds, patios, and pools that are accessory to single family homes, as long as:
 - a. House existed prior to May 1, 2002;
 - b. Activity located more than 25 feet from the Wetland Resource Area or bordering vegetated wetland (whichever is farther, and
 - c. Sedimentation and erosion controls used during construction
- viii) Conversion of patios, pools, sheds, or other impervious surfaces to lawn or natural vegetation
- ix) Activities, such as monitoring wells, exploratory borings, soil sampling, and surveying, that are temporary, have negligible impacts, and are necessary for planning and design purposes.

(Note: Maintenance of existing landscaping, including lawn mowing and pruning, is exempt from review regardless of location in the buffer zone or any wetland resource area.)

b. For Subsection (3) Public Good

- i. Where a project is necessary for the protection of the health or safety of the public as determined by the Police Chief, Fire Chief, Superintendent of Public Works or Board of Health, or a project substantially changes, enlarges or creates a building, facility or structure as defined in the regulations [a structure or facility]
- ii. Replace buffer strip and “buffer strip” with No Disturb Zone and No Build Zone.

c. Create a new Subsection to read: (4) Waiver

a) Where the strict application of this Bylaw, or the rules and regulations adopted by the Tewksbury Conservation Commission, owing to the shape or topography of the applicant’s property, would impose severe economic hardship, as defined either in statute or case law, on the applicant, taking into account an investment based expectation, or when a waiver would serve a substantial public benefit, the Commission may at its sole discretion grant a waiver from the dimensional requirements of the No Disturb Zone, No Build Zone and allow impacts on the wetland areas protected by this Bylaw. Impact to the wetlands areas shall be minimized to the furthest possible and practicable extent and any appropriate replication or mitigation will be confined to the property itself. This exception shall not apply to property where the applicant, owner, or predecessors in title to the property, created the hardship or rendered the property unusable by their own actions.

b) The Commission may grant a partial waiver from these bylaws for alteration of a wetland resource area in situations where there are no feasible alternatives that provide fewer impacts to the resource area values. The applicant is responsible for conducting an alternatives analysis to show that there are no feasible alternatives. The Commission may, after considering the alternatives analysis, allow the alteration or temporary surface disturbance of up to a cumulative total no greater than 5,000 square feet of wetland resource area.

(c)Presumption of Significance: Where a proposed activity involves the removing, filling, dredging, or altering of a Buffer Zone, the Commission shall presume that protection of the Buffer Zone as a resource area as identified in this Bylaw is significant to the interests specified Section 18.04.010 of this bylaw. This presumption may be overcome upon a showing of clear and convincing evidence demonstrating that the Buffer Zone does not play a role in the protection of said interests. In the event that the Commission determines that the presumption has been overcome, it shall make a written determination of its findings.

d) Create a new subsection to read: (5) Additional Waiver Standards

a) Roadways- The Commission may grant a waiver from these regulations for the construction and maintenance of a new roadway or driveway of minimum legal and practical width consistent with the Planning Board dimensional requirements to provide a single means of access from an existing public or private way to an upland area of the same owner, where no such means of access would otherwise be available or would have been available across other land formerly held in common ownership with such upland area. The applicant is still bound by the maximum alteration limit of 5,000 square feet as described in section 18.04.40 (4) b) above. Replication of altered wetland resource areas shall be required by the Commission to minimize adverse impacts and to protect the interests defined in the By-law.

b) Prohibited Wetland Alterations- Wetland alterations intended to make lands buildable, as by fulfilling septic system setback requirements, flood elevation requirements, or other minimum construction setback requirements, or to achieve minimum lot area requirements, are prohibited. Wetland alterations required to access upland parcels will not be allowed if that landowner, or a preceding owner, landlocked the parcel by selling upland access. The Commission may require the filing of a request for a waiver of certain Planning Board requirements in order to minimize wetland impacts.

c) Wildlife Habitat Evaluation- Where alterations exceed the maximum allowable thresholds described in the State Regulations 310 CMR 10.00 for bank, land under a water body, bordering land subject to flooding or riverfront area, or where the alteration of a habitat of rare species is involved, or where vernal pool or vernal pool habitat would be altered, a wildlife habitat evaluation shall be performed in accordance with 310 CMR 10.60. The Commission may also require a wildlife habitat evaluation to be conducted when the applicant proposes alterations to any wetland resource area that the Commission determines to be of exceptional value to the wildlife habitat interests of the By-law.

d) Upland Habitat- Upland habitat shall, to the fullest extent possible, not be used to locate wetland replication areas.

6. Create a new Section to read as follows: 18.04.45 Performance Standards-

1) The following standards apply to the Buffer Zone of all the resource areas identified in this bylaw:

a) 25-Foot No-Disturb Zone: Except as otherwise provided in this bylaw, no activity is permitted within 25 feet of the delineated edge of the above-mentioned wetland resource areas. Prohibited activities include, but are not limited to, grading, landscaping, vegetation clearing, cutting, filling excavating, road construction, and driveway construction. This standard has been adopted because the alteration of land immediately adjacent to a wetland is likely to result in the alteration of the wetland itself. Alterations typically result from extension of lawns, depositing/ dumping of yard waste, over grading, siltation, deposition of construction debris, unregulated filling, and clearing of vegetation, all of which is prohibited.

b) No-Disturb Zone Demarcation: To maintain the perpetual integrity of the No-Disturb Zone and to ensure that there will be no encroachments into this Zone by the applicant or future owners of the subject property, the Commission may require the No-Disturb Zone to be marked on the ground, at the applicant's expense, with permanent markers. These markers shall be made of weather resistant material (i.e. granite, or concrete), and the Commission shall determine their number, size and location. The Commission may require one or more of these markers to bear, on their upland side, writing (i.e. permanent plaque or engraving) that shall read "No Disturbance beyond This Point by Order of the Tewksbury Conservation Commission."

7. Amend as follows: 18.04.90 Permits, determinations – Conditions

A permit shall expire three (3) [two (2)] years from the date of issuance. Notwithstanding the above, the Commission, in its discretion, may issue an annual extension not to exceed six (6) years from the original date of issuance; [a permit expiring five (5) years from the date of issuance for recurring or continuous maintenance work; provided, that the annual notification of the time and location of such work is given to the Commission. The Commission, in its discretion, may renew any permit for an additional one-year period;] provided that it receives a written request for a renewal at least thirty (30) days prior to the permit's expiration and provided that all work to that date has been done within the scope of the permit.

8. Amend as follows: Section 18.04.140 Enforcement

a. The Commission shall have the authority to enforce this Bylaw, the regulations promulgated hereunder [thereunder], and the permits issued hereunder [thereunder] by issuing violation notices or administrative orders, and by bringing civil and criminal court actions, including those seeking the imposition of municipal liens.

b. For good cause, the Commission may issue a cease and desist order or an enforcement order with or without prior notification to the property owner or applicant. The Conservation Administrator, upon informing the Commission Chair [a single Commissioner member], may generate either or both of these actions which shall remain in effect until the next regularly scheduled meeting of the Commission. The Commission shall give the property owner or applicant notice of the meeting at least forty-eight (48) hours before convening it. At the meeting the Commission shall vote whether or not to continue the action.

9. Amend as follows: 18.04.170 Relation to the wetlands protection act

This Bylaw is adopted under the Home Rule statutes, independent of the Wetlands Protection Act and regulation promulgated hereunder [thereunder].

10. Amend as follows: 18.04.180 Performance guarantee

At the end of Subsection (1) add the following sentence; Such bond or surety shall remain in effect during an active order of conditions and any extensions granted by the Commission.

11. Delete: Section 18.04.200 Availability of regulations

[Copies of the Town of Tewksbury Wetlands Protection Bylaw of 1991 shall be made available for purchase from the Tewksbury Conservation Commission, 999 Whipple Road, Tewksbury, Massachusetts 01876, for the price of \$3.00 in the form of check payable to the Town of Tewksbury Conservation Commission.]

12. Amend as follows: 18.04.210 Penalties

Any person who violates any provision of this Bylaw, the regulations promulgated hereunder [thereunder], or the permits issued hereunder [thereunder] shall be punished by a fine as specified in the Commission's regulations which shall not exceed \$300 for each offense. Each day the violation continues shall constitute a separate offense and each provision of the Bylaw, regulations or permit violated shall constitute a separate offense. Each day the violation alters a local resource area shall constitute a separate offense.

13. Amend throughout bylaw: Any reference to “request for determination” change to “Request for Determination”.

Conservation Commission

Executive Summary: This article removes definitions that are not relevant to the bylaw, while adding relevant definitions. The amendment clarifies the no disturb and no build zones, increases protection of vernal pools, adds exempt maintenance activities for property owners in compliance with State Wetland Regulations, creates a waiver process and performance standards including a No-Disturb Zone Demarcation requirement.

ARTICLE 7

To see if the Town will vote to delete in its entirety, Chapter 18.06 Wet Area and Watershed Conservancy District from the Town's General Bylaws.

Conservation Commission

Executive Summary: Since passage of this general bylaw, the Town has enacted a zoning bylaw that includes a groundwater protection district and a floodplain overlay district. In addition, the Town recently passed a Stormwater Management & Erosion Control general bylaw. The Town has adequate protection under the existing zoning bylaws, wetland protection bylaw, stormwater management & erosion bylaw, and the State's Wetland Protection Act, and Riverfront Protection Act.

ARTICLE 8

To see if the Town will vote to appropriate \$142,500 from the Community Preservation Fund's Historic Preservation Reserve Account for the project's next phase, the development of design plans for the preservation and rehabilitation of Town Hall, as proposed by the Town Hall Building Committee and recommended for adoption by the Community Preservation Committee and to be expended by the Town Manager and Town Hall Building Committee in accordance with Community Preservation Committee Policy.

Community Preservation Committee

Executive Summary: This article would appropriate \$142,500 from existing funds in the Historic Preservation Reserve Account within the Community Preservation Fund for the next phase in the development of design plans for preserving and rehabilitating this historic property. Town Hall is the symbolic center of town government. It was originally constructed and dedicated as a "Memorial of civic pride and public spirit of the people of Tewksbury". It serves its residents both current and future, through the provision of services. The proposed project honors the historic significance of the structure, while looking forward to serving future residents. The condition of this facility is near the point of being uninhabitable and being condemned.

ARTICLE 9

To see if the Town will vote to appropriate \$159,280 from the Community Preservation Fund's Community Housing Reserve Account to be transferred to the Tewksbury Affordable Housing Trust Fund, as proposed by the Local Housing Partnership and recommended for adoption by the Community Preservation Committee and expended by the Local Housing Partnership with the Board of Selectmen's approval.

Community Preservation Committee

Executive Summary: This is the accumulated balance of the mandatory 10% set aside for community housing purposes, FY07-\$26,800, FY08-\$92,480, and FY09-40,000, totaling \$159,280. This request is to transfer the \$159,280 in CPA funds to the Affordable Housing Trust Fund (AHTF) so that when an affordable housing opportunity presents itself the Local Housing Partnership and the Board of Selectmen can act expeditiously.

ARTICLE 10

To see if the Town will vote to authorize the School Department to spend \$18,923.48 from the E-Rate Account for purposes of paying for School Department Technology Expenses.

School Committee

Executive Summary: The School Department is requesting that the Town authorize the expenditure of the \$18,923.48, which is in the E-Rate Account for the purposes of paying for School Department technology expenses. These funds were generated from the implementation of the Telecommunications Act of 1996 and are the direct result of discounts for technology services that were provided to the School Department. These discounts were generated in the form of checks and deposited by the Town of Tewksbury. The intent of the Act was to offset the cost to the School Department of affordable access to modern telecommunications and information services.

ARTICLE 11

To transfer all funds generated through the Municipal Medicaid Reimbursement Program for both administrative and direct service claims, to the school budget for use by the school department for operation of the schools, to provide direct financial support for special education programs and services, such fund transfer not to result in any decrease or offset of amounts already appropriated for the operation of the schools under Chapter 71, Section 34.

School Committee

Executive Summary: Article would transfer those funds received through the Municipal Medicaid Reimbursement Program, for both direct services and administrative service claims, to the School Department.

ARTICLE 12

To see if the Town will vote to amend the Town By-Laws by adding a section - 3.04.016 Interest on Late Payments - to authorize the Town to charge interest at the rate in effect for real estate tax bills under the provisions of Massachusetts General Laws Chapter 59 Section 57 for all late police and fire detail bills or take any action relative thereto.

Town Manager

Executive Summary: Adoption of this article will allow the Town to charge interest on all police and fire detail bills that are outstanding after the payment due date. The interest rate would be the rate in effect for real estate tax bills (currently 14%). Payments are due within 30 days of billing. Interest revenue is estimated at \$5,000 to \$10,000 per year and will be credited to the general fund.

ARTICLE 13

To see if the Town will vote to accept the provisions of Chapter 44 Section 53E ½ of the Massachusetts General Laws, establishing a self sufficient revolving fund, effective July 1, 2009, to account for revenues and expenditures relating to preservation and safekeeping of historical records in the Town Clerk's Office, to include but not limited to; software and scanning of records, restoration of our historic records tomes, acid free folders and storage boxes and upgrading filing systems to include fireproof cabinets. The account shall be credited with all amounts received over the base fee for all vital records (Birth, Marriage and Death Records) purchased in the Town Clerk's Office. Expenditures of the fund shall be approved by the Town Clerk or his/her designee. Said fund shall not exceed \$10,000 in any given fiscal year; or take any other action relative thereto.

Town Clerk
Town Manager

Executive Summary: This article authorizes the Town to establish a self sufficient revolving fund to account for the revenues and expenditures relating to the preservation and safekeeping of historical records in the Town Clerk's Office to include but not limited to; software and scanning of records, restoration of our historic records tomes, acid free folders and storage boxes and upgrading filing systems to include fireproof cabinets.

ARTICLE 14

To see if the Town will vote to charge a fee of \$15 for each written demand issued by the collector which is added to and collected as part of the tax, as authorized by Massachusetts General Laws Chapter 60 Section 15, effective as of July 1, 2009 or take any action relative thereto.

Town Manager

Executive Summary: This article authorizes the Town to increase the demand fee from \$5 to \$15 effective July 1, 2009.

ARTICLE 15

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

Board of Assessors

Executive Summary: This article will index the income limit for deferral eligibility.

ARTICLE 16

To see if the Town will vote to raise and appropriate from available funds the sum of \$35,000 for property revaluation required for FY2010. Said funds to be placed in the Revaluation Account and expended by the Town Manager for completion of the state mandated tri-annual revaluation program and for subsequent defense of values in the abatement/appeal process, or take any other action relative thereto.

Board of Assessors

Executive Summary: This article will provide the funding for the tri-annual state mandated revaluation of income-producing property in the Town.

ARTICLE 17

To see if the Town will vote to approve the sum of \$18,397.24 to pay outstanding bills of a previous fiscal year and that to raise this appropriation the Town will vote to transfer \$8,624.00 from general fund free cash, \$339.70 from Assessor-Operating, \$2,500.00 from Library-Salaries, \$6,521.08 from Library-Operating and \$412.46 from Parks and Recreation-Salaries or take any other related action.

Assessor		
Salaries	Joanne Foley	\$ 134.72
	Christine Singleton	\$ 183.91
	Linda Traub	\$ 21.07
Council On Aging		
Energy Utilities	National Grid	\$ 3,385.30
Library		
Energy Utilities	Constellation NewEnergy	\$14,259.78
Parks & Recreation		
Energy Utilities	Constellation NewEnergy	\$ 412.46
Total		<u>\$18,397.24</u>

Town Manager

Executive Summary: According to Massachusetts General Law bills that are late must be approved by Town Meeting before payment. This article will authorize the bill to be paid and allow transfers to cover the amount

ARTICLE 18

To see if the Town will vote to amend Article 4 of the May, 2008 Annual Town Meeting for the purpose of reducing the following FY09 budget appropriation, or take any action relative thereto:

GENERAL GOVERNMENT

Moderator Operating	\$ 25
Town Manager Operating	\$ 313
Finance Committee	\$ 100
Administrative Services Operating	\$ 5,000

FINANCE DEPARTMENT

Accounting Operating	\$ 928
Computer Services Operating	\$ 1,000
Assessor Operating	\$ 1,200
Treasurer/Collector Salaries	\$ 11,902

COMMUNITY SERVICES

Cable Television Operating	\$ 400
Parks and Recreation Salaries	\$ 8,316

FACILITIES

Town Hall Operating	\$ 4,000
Auxiliary Building Operating	\$ 1,000

LIBRARY

Library Salaries	\$ 18,000
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PLANNING AND DEVELOPMENT

Community Development Salaries	\$ 858
Community Development Operating	\$ 3,000
Building Dept Operating	\$ 865
Board of Health Operating	\$ 1,950

PUBLIC SAFETY

Police Salaries	\$ 22,500
Police Operating	\$ 10,000

SCHOOL DEPARTMENT

School Operating	\$168,778
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DEPARTMENT OF PUBLIC WORKS

Administration Salaries	\$ 11,500
Fleet Salaries	\$ 2,000
Fleet Operating	\$ 8,700
Street Lighting	\$ 10,000

SOLID WASTE DISPOSAL

Solid Waste Operating	<u>\$ 45,220</u>
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Total Reduction in FY09 Budget \$337,555

Town Manager

Executive Summary: In January, 2009 the Town was notified that our FY09 Local Aid received from the state would be reduced by \$337,555 or 9.74% of our expected state aid. The original FY09 budget, as presented at the May, 2008 Annual Town Meeting, was developed on the premise that all of the state aid would be received. The budget reductions listed above are necessary to ensure that the Town appropriations do not exceed available revenues.

ARTICLE 19

To see if the Town will vote to transfer the following sums or take any action related thereto:

FROM:		TO:	
Cable TV-Operating	\$ 9,692	School-Salaries	\$ 9,692
PRRB Salary Escrow	\$ 25,747	Veterans-Aid	\$36,000
Solid Waste Collection	\$ 54,780	Fire – Salaries	\$30,000
Liability Insurance	\$ 67,000	Occupational Injury	\$56,000
Treasurer/Collector-Salaries	\$ 15,502	Town Counsel	\$21,600
Town Clerk-Salaries	\$ 10,000	School Operating	\$80,392
DPW Highway-Salaries	\$ 28,000	Principal Maturing Debt	\$19,000
DPW Fleet-Operating	\$ 25,000	Building Dept-Salaries	\$ 1,700
Fire-Operating	\$ 5,000	Camp Pohelo – SR Fund	\$31,337
Police-Operating	\$ 20,000		
Street Lighting	\$ 25,000		
Total	\$285,721	Total	\$ 285,721

Town Manager

Executive Summary: This article is a regular Special Town Meeting article where the Town transfers funds from accounts with a projected surplus to accounts with a projected deficit.

ARTICLE 20

To see if the Town will vote to appropriate the sum of \$210,000 to increase the FY09 Sewer Enterprise Fund appropriation voted in Article 5 of the May, 2008 Annual Town Meeting as follows: \$150,000 to sewer easement settlements, \$35,000 to court judgments and \$25,000 to sewer overtime and to see if the Town will vote to transfer from Sewer Enterprise Fund free cash the sum of \$210,000 to cover the additional FY09 appropriations; and to see if the Town will vote to appropriate the sum of \$12,000 to increase the FY09 Water Enterprise Fund appropriation voted in Article 6 of the May, 2008 Annual Town Meeting to add funds to cover an occupational injury, or take any related action.

Town Manager

Executive Summary: This article authorizes the Town to use FY08 certified Sewer Enterprise Fund free cash to increase the FY09 sewer fund appropriation by \$210,000 as previously voted in Article 5 of the May, 2008 Annual Town Meeting. The funds will be used to pay for potential sewer easement settlements (\$150,000), a court judgment relating to a sewer easement settlement (\$35,000) and sewer overtime (\$25,000). The article also authorizes the Town to use FY08 certified Water Enterprise Fund free cash to increase the FY09 water fund appropriation by \$12,000 as previously voted in Article 6 of the May, 2008 Annual Town Meeting. The funds will be used to pay for an occupational injury for a water department employee.

ARTICLE 21

To see if the Town will vote to appropriate and transfer from available funds in the general fund, the sum of \$437,935.88, to the water enterprise fund or take any other action relative thereto.

Town Manager

Executive Summary: This article transfers funds that were received from a products liability litigation settlement relating to Methyl Tertiary Butyl Ether (MTBE) from the general fund where they were deposited in accordance with Massachusetts General Law Chapter 44 Section 53, to the water enterprise fund. The funds will be credited to the water enterprise fund to reflect that the revenues are associated with water enterprise fund activities. This is similar to the Lowell sewer settlement being charged over the past three years to the sewer enterprise fund rather than the general fund.

ARTICLE 22

To see if the Town will vote, pursuant to Massachusetts General Laws Chapter 82, Section 23, as amended, and other applicable statutes, to accept the laying out of particular town ways by order of the Board of Selectmen as follows:

TOWN OF TEWKSBURY
BY ORDER OF THE BOARD OF SELECTMEN
ROADWAY LAYOUT

A certain parcel of land situated in Tewksbury, Middlesex County, Massachusetts and shown as “Merrimac Drive” on a plan entitled “Definitive Subdivision Plan, Merrimac Village, Tewksbury, Massachusetts, Prepared for: George D. Behrakis, 890 East Street, Tewksbury, Massachusetts, 01876, dated December 4, 1985 by Cuoco & Cormier, Inc.”

The layout plan is filed at the Office of the Town Clerk and Community Development; and said plan being recorded in the Middlesex Northern Registry of Deeds, Book 156, Plan 60, is referred to for more particular description and to authorize the said Board of Selectmen to take by eminent domain, an easement, or in fee, or by gift, or take any particular action relative thereto.

Town Manager
Community Development Director

Executive Summary: The purpose of this article is to accept Merrimac Drive as a public way (town street) to assist in the River Road drainage improvement project.

ARTICLE 23

To see if the Town will vote, pursuant to Massachusetts General Laws Chapter 82, Section 23, as amended, and other applicable statutes, to accept the laying out of particular town ways by order of the Board of Selectmen as follows:

TOWN OF TEWKSBURY
BY ORDER OF THE BOARD OF SELECTMEN
ROADWAY LAYOUT

A certain parcel of land situated in Tewksbury, Middlesex County, Massachusetts and shown as “Towers Drive (Archstone Drive)” on a plan entitled “Definitive Subdivision Plan, Towers Drive, Old Boston Road & Main Street, Tewksbury, Massachusetts, 01876. Prepared for: A. Mesiti Development Corp. 11 Old Boston Road, Tewksbury, MA 01876, dated June 4th, 1997 by Cuoco & Cormier Engineering Associates, Inc..”

The layout plan is filed at the Office of the Town Clerk and Community Development; and said plan is referred to for more particular description and to authorize the said Board of Selectmen to take by eminent domain, an easement, or in fee, or by gift, or take any particular action relative thereto.

Town Manager
Community Development Director

Executive Summary: The purpose of this article is to accept Towers Drive (Archstone Drive) as a public way (town street) to achieve intersection improvements at Towers Drive and Main Street / Route 38.

And you are directed to serve the within Warrant by posting up true and attested copies thereof upon the Town Hall and in each precinct, seven (7) days at least before the time of holding said meeting; also, leaving at least 500 copies at the Town Hall or at such convenient places as the Selectmen shall think proper in said Town of Tewksbury.

HEREOF, FAIL NOT, AND MAKE DUE RETURNS OF THIS WARRANT, with your doings thereon, to the Town Clerk at the time and place of meeting aforesaid.

Given under our hands this 10th day of March in the Year of Our Lord, Two Thousand and Nine.

BOARD OF SELECTMEN

Todd R. Johnson, Chairman

David H. Gay, Vice Chairman

Douglas W. Sears, Clerk

Anne Marie Stronach

Jerome E. Selissen

IMPORTANT INFORMATION

BEGINNING JULY 1, 2009, THE TOWN OF TEWKSBURY WILL BE STARTING THE AUTOMATED SOLID WASTE COLLECTION. EACH RESIDENCE WILL RECEIVE ONE 64 GALLON WHEELED CART. CONDO RESIDENCE WILL RECEIVE ONE 35 GALLON WHEELED CART. UNLESS THERE IS A DUMPSTER(S) FOR THE PROPERTY. THAT IS THE ONLY CONTAINER THAT CAN BE USED FOR SOLID WASTE COLLECTION. THERE WILL BE NO CHANGE IN THE WAY THAT RECYCLING IS COLLECTED. HOWEVER, YOU CAN USE YOUR OLD TRASH BARRELS AS RECEPTACLES FOR YOUR RECYCLABLES.

MORE INFORMATION WILL BE PROVIDED BY WAY OF CHANNEL 10, RECYCLING COMMITTEE WEBSITE WWW.TEWKSBURY.INFO/RECYCLE; LOCAL NEWSPAPERS AND ALLIED WASTE. YOU CAN ALWAYS CALL THE TOWN MANAGER'S OFFICE 978-640-4300 WITH ANY QUESTIONS YOU MIGHT HAVE.

THANK YOU FOR YOUR PATIENCE AND COOPERATION.

GLOSSARY OF TERMS

Town Meeting:

A duly called meeting in which all Town of Tewksbury registered voters are eligible to participate to act upon fiscal issues, zoning changes, by-law amendments, and other matters affecting the Town. Each voter has one vote in the decision making process.

The Annual Town Meeting is held each May to decide issues for the fiscal year starting July first. Special Town Meeting(s) may be called at other times, to address issues that cannot wait for the next Annual Town Meeting, a Special Town Meeting is called by the Board of Selectmen; or by a petition of 200 registered voters.

Warrant:

Public notice of business to be considered at the Town Meeting. It is publicly posted in each Precinct throughout the Town. The Warrant is mailed to each dwelling in the Town in which a registered voter resides and describes all of the Articles which will be acted upon at the Town Meeting.

Article(s):

Individual subjects are described in the articles so that all voters are warned of potential action to be taken. The scope of each article sets the bounds of action that may be taken. Articles are submitted by the Town Departments or by voter petitions. Articles submitted by voter petitions require ten (10) or more registered voters signatures for insertion in the Annual Town Meeting Warrant, and one hundred (100) or more registered voters signatures for insertion in a Special Town Meeting Warrant.

General Information:

The Moderator presides at the Town Meeting and is responsible for the ruling on procedural matters, overseeing an orderly debate, announcing the result of all votes and preserving decorum.

The proceedings are governed by Town Meeting Time, a handbook of parliamentary law prepared under the auspices of the Massachusetts Moderators Association. This guide may be simpler and easier to understand than the more widely known and consulted Robert's Rules of Order. Copies are available for reference at the Town Clerk's Office, Board of Selectmen's Office and the Tewksbury Public Library.

Registered voters are entitled to attend, address and vote at the Meeting. Visitors may attend the meeting and shall sit in the "reserved for visitors" section.

A voter desiring to speak should approach the microphone, await recognition by the Moderator, and identify him or herself when recognized by name and address.

Motions, Motions to Amend, and Votes Required:

An Article in the Warrant states a question for the Town Meeting voters to answer. Separate issues are described in the Town Meeting Articles so that all voters are warned of potential action to be taken. The scope or intent of each Article set the bounds of action that may be taken.

Customarily the Finance Committee Chairman makes the first or Main Motion or if the Article relates to the Zoning By-Law the Planning Board Chairman will make the first or Main Motion. The sponsor or Petitioner of an article also may make the first or Main Motion.

The Motion is then open for discussion by the assembly.

Motions to Amend the Main Motion, which is within the scope or intent of the Article, may be made on the Town Meeting floor.

Ordinarily motions require a majority vote of the voters present and voting for an Article to pass. Certain motions require a 2/3, 4/5 or a 9/10 vote to pass because of the provisions of the Town By-Laws or Massachusetts General Laws. The Moderator will announce the voting requirement before each vote requiring more than a majority vote.

Motions For Indefinite Postponement of an Article:

A motion to Indefinitely Postpone an Article is equivalent to a motion to take no action on the Article. If the Motion to Indefinitely Postpone the Article is Adopted; the Article is defeated.

Reconsideration of an Article:

No vote on a prior Article shall be Reconsidered except to correct a procedural defect, scrivener's error or an oversight. Reconsideration for the above exceptions requires a majority vote.

Move the Question:

The voters have heard all the discussion that they wish to hear on the pending Article and prefer to vote at once.

The Moderator shall allow those presently standing, at the time of the motion, the opportunity to be heard and then he or she will take the vote to Move the Question.

Rules to Govern Speakers:

No voter shall speak twice on any one subject, if any other voter who has not spoken already and is standing to be recognized by the moderator. No voter shall speak for more than five minutes at one time, except by vote of permission of the assembly.

CAR.-RT.
PRESORT
BULK RATE
U.S. POSTAGE
PAID
Tewksbury, MA
PERMIT NO. 33

RESIDENTIAL CUSTOMER
RURAL ROUTE BOX HOLDER

PLEASE TAKE THIS WARRANT
WITH YOU TO TOWN MEETING