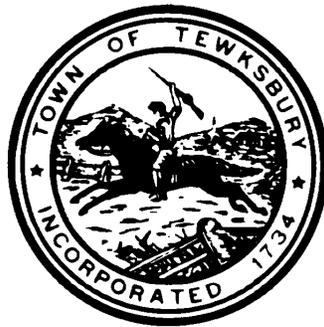


SPECIAL TOWN MEETING

**2012
WARRANT**



**TOWN OF TEWKSBURY
COMMONWEALTH OF MASSACHUSETTS**

Finance Committee Public Hearing

April 25, 2012 7:00 p.m.
Town Hall Auditorium

Special Town Meeting

May 9, 2012 7:00 p.m.
Tewksbury Memorial High School

Town of Tewksbury Website: <http://www.tewksbury-ma.gov>

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 the 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 Wednesday, May 9, 2012, at 7:00 p. m. to act on the following articles:

ARTICLE 1

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

FROM:	AMOUNT:
Unclassified: Fire and Liability Insurance:	\$134,000
TO:	
Selectmen: Temporary Part-Time:	6,200
Admin. Services Regular Salary:	9,312
Admin. Services Advertising Recruit:	865
Admin. Services Medical:	4,458
Town Hall Energy Utilities:	8,961
Auxiliary Buildings Energy Utilities:	2,000
Library Regular Salary:	1,500
Library Overtime:	2,500
Planning Computer Equipment:	822
Building Regular Salary:	3,260
Board of Health Temp Part-time:	4,622
Police Overtime:	20,000
Police Vehicle Repair Maintenance	5,000
Police Gas/Diesel	5,000
Fire Overtime:	30,000
Fire Gas/Diesel:	3,500
Computer Services Capital Outlay	14,000
Town Accountant Professional Services	12,000
Total	\$134,000

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 or to accounts to allow for the purchase of needed items or services.

ARTICLE 2

To see if the Town will vote to transfer from the certified Water Enterprise Fund Retained Earnings the sum of \$117,100 to Water Enterprise Fund Debt Service; or take any action relative thereto.

Town Manager

Executive Summary: This article allows the Town to utilize funds that were considered available as of June 30, 2011, for the payment of principal and interest cost for a long term borrowing that took place in November 2011.

ARTICLE 3

To see if the Town will vote to transfer from the certified General Fund Free Cash the sum of \$487,000 to the following Fiscal Year 2012 Budgets or take any action relative thereto.

Board of Selectmen	Legal Services	25,000
DPW	Snow and ice	93,000
Veterans	Veterans Aid	75,519
School Department	Unclassified Health Insurance	249,422
Town	Unclassified Health Insurance	<u>44,059</u>
Total		\$487,000

Town Manager

Executive Summary: This Article utilizes Free Cash certified as of July 1, 2011 to fund projected deficits in FY12 Budget. The Board of Selectmen - Legal Services: funds are needed since the case load for labor Counsel was greater than budgeted. Department of Public Works - Snow and Ice: funds are needed due to the amount of snow and ice events during the winter exceeded the amount budgeted. Veterans - Veteran Aid: funds are needed since more individuals are utilizing benefits than budgeted. School and Town Health Insurance accounts have a projected deficit since more employees enrolled than anticipated.

ARTICLE 4

To see if the Town will vote to transfer from the certified General Fund Free Cash the sum of \$113,000 to fund Health Insurance Mitigation or take any action relative thereto.

Town Manager

Executive Summary: This Article utilizes Free Cash certified as of July 1, 2011 to fund projected deficits in the FY12 Budget to fund a Health Insurance Mitigation Fund in accordance with an agreement of the Public Employee Groups.

ARTICLE 5

To see if the Town will vote to appropriate the sum of \$275,000 to rehabilitate the historic Ella Flemings School, 1503 Andover Street, including allowed costs incidental and related thereto; said rehabilitation expenses as necessary for replacement of the boiler and exterior rehabilitation including roof, trim boards, doors, windows, siding, exterior paint and the like.

To fund such rehabilitation, \$275,000 shall be transferred from the Tewksbury Community Preservation Fund Budgeted Reserve.

Pursuant to Massachusetts General Laws, Chapter 44B or any other enabling authority, said funds to be expended under the direction of the Community Preservation Committee and the Tewksbury School Department or to take any other action thereon.

Community Preservation Committee

Executive Summary: The Ella Flemings School, constructed in 1859 for School District No. 3 is a historic landmark on Tewksbury's Andover Street, in the area formally known as the North Village. This proposed project serves to rehabilitate and preserve the historic significance of the structure. The school was named for Miss Ella E Flemings, born 1863, who served as the school teacher at the District No. 3 School, c1900-1912 and later as the principal of the former Foster School.

Currently, the building is in need of a significant rehabilitation, in order to preserve it for the future. The condition of the boiler is beyond repair and the exterior is in need of substantial rehabilitation to protect it from destructive environmental elements.

ARTICLE 6

To see if the Town will vote to amend its General By-Laws by adding the following to Title 5 Business Licenses and Regulations as authorized by M.G.L. c. 6, § 172B ½, Civil Fingerprinting Criminal History Check Authorization.

Chapter 5.09

CIVIL FINGERPRINTING CRIMINAL HISTORY CHECK AUTHORIZATION

Sections:

5.09.010 Purpose

5.09.020 Criminal History Check Authorization

5.09.030 Regulations

5.09.040 Use of Criminal Record by Licensing Authorities

5.09.050 Fees

5.09.060 Effective Date

5.09.010 Purpose

To enable the Police Department to conduct State and Federal Fingerprint Based Criminal History checks for individuals applying for certain licenses and to adopt appropriate policies and procedures to effectuate the purposes of this By-Law.

5.09.020 Criminal History Check Authorization

- A. The Police Department shall, as authorized by M.G.L. c. 6, § 172 B 1/2, conduct State and Federal Fingerprint Based Criminal History checks for individuals ("applicant") applying for the following licenses:
 - 1) Hawking and Peddling or other Door-to-Door Salespeople

- 2) Manager of Alcoholic Beverage License
 - 3) Owner or Operator of Public Conveyance
 - 4) Dealer of Second-hand Articles
 - 5) Pawn Dealers
 - 6) Hackney Drivers
 - 7) Ice Cream Truck Vendors
- B. At the time of fingerprinting, the Police Department shall notify the applicant fingerprinted that the fingerprints shall be used to check the applicant's criminal history records.
 - C. Upon receipt of the fingerprints and the appropriate fee, the Police Department shall transmit the fingerprints it has obtained pursuant to this By-Law to the Identification Section of the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Services (DCJIS), and/or the Federal Bureau of Investigation (FBI), or the successors of such agencies, as may be necessary for the purpose of conducting fingerprint-based state and national criminal records background checks of license applicants specified in the By-Law.
 - D. The Town authorizes the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Systems (DCJIS), and the Federal Bureau of Investigation (FBI), and their successors, as may be applicable, to conduct fingerprint-based state and national criminal record background checks consistent with this By-Law. The Town authorizes the Police Department to receive and utilize State Police, DCJIS, and FBI records in connection with such background checks, consistent with this By-Law. State and FBI criminal history shall not be disseminated to unauthorized persons or entities.
 - E. Upon receipt of a report from the Massachusetts State Police, the FBI or other appropriate criminal justice agency, an applicant may request and receive a copy of his or her criminal history record from the Police Department. Should the applicant seek to amend or correct his or her record, he or she must take appropriate action to correct said record, which action currently includes contacting the DCJIS for a state record or the FBI for records from other jurisdictions maintained in its file. An applicant who wishes to challenge the accuracy or completeness of the record shall be advised that the procedures to change, correct, or update the record are set forth in Title 28 CFR 16.34. The Police Department shall not utilize and/or transmit the results of the fingerprint-based criminal record background check to any licensing authority pursuant to this By-Law until it has complied with this paragraph.
 - F. The licensing authority shall not deny an applicant the license based on information in the record until the applicant has been afforded a reasonable period of time to correct or complete the information, or has declined to do so.
 - G. The Police Department shall communicate the results of fingerprint-based criminal record background checks to the appropriate Town licensing authority. The Police Department shall indicate whether the applicant has been convicted of, or is awaiting final adjudication for, a crime that bears upon his or her suitability for such license, or any felony or misdemeanor that involved force or threat of force, controlled substances or a sex-related offense.

5.09.030 Regulations

The Board of Selectmen, is authorized to promulgate regulations for the implementation of the By-Law, in consultation with the Chief of Police, Town Counsel and the Massachusetts Executive Office of Public Safety and Security (or its successor agency) to ensure that such regulations are consistent with the statute, the FBI's requirements for access to the national database, and other applicable state laws.

5.09.040 Use of Criminal Record by Licensing Authorities

- A. Licensing authorities of the Town shall utilize the results of fingerprint-based criminal record background checks for the sole purpose of determining the suitability of the applicant in connection with the license applications specified in this By-Law. A Town licensing authority may deny an application for a license on the basis of the results of a fingerprint-based criminal

record background check if it determines that the results of the fingerprint check render the applicant unsuitable for the proposed licensed activity. The licensing authority shall consider all applicable laws, regulations and Town policies concerning an applicant's suitability in connection with the license in making this determination.

- B. The Town licensing authority is authorized to deny any application, including renewals and transfers thereof, of any applicant who is determined unsuitable for the license, as determined by the licensing authority, due to information obtained pursuant to this By-Law.

5.09.050 Fees

The fee charged by the Police Department for the purpose of conducting fingerprint-based criminal record background checks shall be one hundred dollars (\$100).

5.09.060 Effective Date

This By-Law shall take effect on September 01, 2012, provided the requirements of M.G.L. c. 40, § 32, are satisfied.

Chief of Police

Executive Summary: This article amends the Town's General By-Law by adding Civil Fingerprinting Criminal History Check Authorization to the Title 5 Business Licenses and Regulations. The Police Department shall, as authorized by M.G.L. c. 6, § 172 B 1/2, conduct State and Federal fingerprint based criminal history checks for individuals ("applicant") applying for the following licenses: Hawking and Peddling or other Door-to-Door Salespeople, Manager of Alcoholic Beverage License, Owner or Operator of Public Conveyance, Dealer of Second-hand Articles, Pawn Dealers, Hackney Drivers, and Ice Cream Truck Vendors.

ARTICLE 7

To see if the Town will vote to amend the General By-Laws by adopting the following By-Laws relative to dangerous or vicious Animals

Chapter 7
Town of Tewksbury, Massachusetts
By-Laws Relative to Dangerous or Vicious Animals

Sections:

- 7.04.005 Purpose**
- 7.04.010 Definitions**
- 7.04.020 Determination**
- 7.04.030 Exceptions**
- 7.04.040 Animal Control Officer's Duties with regard to Dangerous or Vicious Dogs**
- 7.04.050 Duties of owner or person responsible when a dog is determined to be Dangerous or Vicious**
- 7.04.060 Duties of Animal Control Officer with regard to potentially dangerous dogs**
- 7.04.070 Duties of owner or person responsible for potentially dangerous dogs**
- 7.04.080 Notice of dangerous or vicious dogs**
- 7.04.090 Notification of dangerous or vicious dogs**
- 7.04.100 Applicability to other dangerous or vicious dogs**
- 7.04.110 Outdoor Confinement**

- 7.04.120 Indoor Confinement**
- 7.04.130 Giving away, selling, and bartering**
- 7.04.140 Licensing Surcharge**
- 7.04.150 Impoundment**
- 7.04.160 Ordering dogs to be muzzled or restrained**
- 7.04.170 Destruction**
- 7.04.180 Dogs trained for fighting**
- 7.04.190 Attack or guard dogs**
- 7.04.200 Biting and attacking**
- 7.04.210 Penalties**
- 7.04.220 Enforcement Officer, citations, revocation of license**
- 7.04.230 Non-Criminal Disposition**
- 7.04.240 Severability**
- 7.04.250 Effective Date**

7.04.005 Purpose:

These By-Laws are intended to protect the rights and safety of the public and animals within the Town of Tewksbury (“the Town”).

7.04.020 Definitions:

Animal Control Officer (ACO): the Animal Control Officer in “the Town.”

At Large: On or off the premises of the owner, and not under the control of the owner or authorized escort either by leash, cord, chain or otherwise.

Dangerous or Vicious Animal: Any animal that may be at large and or with the same or similar dangerous or vicious propensities as a dangerous or vicious dog.

Dangerous Dog or Vicious Dog: Means:

- (1) Any dog that has bitten or attacked any person or has attempted to bite or attack any person. A dog shall be deemed to be attempting to attack, if it is restrained by a leash, fence, or other means, and it is clear from the dog’s excited actions that only the presence of the leash, fence, or other means of restraint is preventing the dog from mauling an immediate attack; or
- (2) Any dog with a known propensity, tendency, or disposition to attack, to cause injury to, or to otherwise threaten the safety of domestic animals; or any dog which attacks a human being or domestic animal on two (2) or more occasions without provocation and without justification; or
- (3) Any dog, whether leashed or not, which, in a vicious or terrorizing manner, approaches any person in an apparent attitude of attack upon the streets, sidewalks, or any public grounds, or places; or
- (4) Any dog owned primarily in part for the purpose of dog fighting or any trained for dog fighting.
- (5) Any dog owned on property known for drug trafficking or gang activity; or
- (6) Any dog which on two separate occasions within a twelve-month period has been observed unrestrained or uncontrolled off its owner’s premises as documented by the records of the ACO or has been impounded by ACO for being unrestrained or uncontrolled off its owner’s premises.
- (7) The determination that a dog is dangerous or vicious under this section shall be in the discretion of the ACO.

Dog Trained for Fighting: Any dog owned or kept, primarily or in part, for the purpose of dog fighting or any dog trained for dog fighting.

Hearing Officer: Duly appointed by the Town Manager; the Hearing Officer who shall act on his/her behalf of all matters pertaining to the enforcement of this By-Law and the settling of disputes between owner, the Town or its residents.

Licensing Authority: As provided by the Massachusetts General Laws (MGL) is the Town Clerk.

License Period: The license period shall be from January 1st of each year to December 31st of the same year.

Outdoor Confinement or Enclosed Area: A portion of the owner's property which is secured by fencing in such a manner that dog, once inside the area cannot exit of its own accord. The ACO, after an inspection of the area, will determine if the enclosed area is suitable or not.

Owner: Any person or persons, firm, association, partnership, or corporation owning, keeping, possessing, or harboring one or more dogs. An animal shall be deemed to be harbored if it is fed or sheltered for forty eight (48) hours.

Person: An individual, partnership, company or corporation.

Potentially Dangerous Dog:

- A. Any dog that acts in a highly aggressive manner, when unprovoked, within a fenced yard or enclosure and or is running loose and appears to the ACO to be able to jump over or escape. Vocalization or barking, without more, shall not cause a dog to be deemed of a highly aggressive manner.
- B. The determination that a dog is potentially dangerous under this section shall be in the discretion of the ACO or his/her designee, who shall notify the owner of any such determination.

Restraint: A dog shall be to be under "restraint" if it is on the premises of the owner accompanied by a person who shall have the dog under his or her control; or is in a suitably enclosed area; or if outside the premises of the owner, is accompanied by a person who shall have the dog under control by holding it firmly on a leash no greater than six (6) feet in length.

Untagged Dogs: An animal is considered to be untagged if a valid license tag and rabies tag is not attached to a collar which is kept on the dog.

7.04.020 Determination:

The determination that a dog is dangerous or vicious shall be at the discretion of the ACO.

7.04.030 Exceptions:

Exceptions that involve incidents where a dog may not, in the determination of ACO, be considered dangerous or vicious:

A person who, at the time the injury was sustained, was committing criminal trespass or other tort upon premises occupied by the owner of the dog, or tormenting, abusing or assaulting the dog, or was committing or attempting to commit a crime.

- A. A domestic animal, which, at the time the injury was sustained, was tormenting, abusing or assaulting the dog.
- B. A domestic animal while the dog was working as a hunter dog, herding dog, or predator control dog on the property of or under the control of its owner, and the injury was to a species or type of domestic animal appropriate to the work of the dog.
- C. The dog was protecting or defending a person within the immediate vicinity of the dog from an attack or assault.

- D. The actions of the dog under consideration occurred under duties as a military, correctional, or law enforcement dog.
- E. In the discretion of ACO, the dog acted in reaction to pain or injury; or was protecting itself, its kennel or its offspring.

7.04.040 Animal Control Officer's duties with regard to dangerous or vicious dogs:

- A. When a dog is determined to be dangerous or vicious by the ACO as provided in the definition of "dangerous or vicious dog", he/she shall order the owner to submit written verification to confirm any or all of the following:
 - 1. Spay or neutering: If the animal is not already altered, the animal will be exempt from such an order if a veterinarian certifies in a written statement that the dog is unfit for alterations because of medical condition(s).
 - 2. Microchip identification, the mode of which shall be designated by the ACO, if the dog is not already micro chipped.
 - 3. Behavior training from an approved trainer, as determined and approved by the ACO. The costs of said training shall be borne by the owner.
 - 4. Rabies vaccination as required by MGL c. 140 § 145B, if the dog is not up-to-date on its annual vaccinations, as certified by a licensed veterinarian.
 - 5. That the owner be prohibited from bringing the dog to the Town dog park(s).
- B. The owner of any dangerous or vicious dog, if said animal is found on property, not owned or controlled by its owner, or not restrained in a secure area as provided in Section 7.04.060 shall be subject to a fine of One Hundred (\$100) dollars for the first (1st) offense; Two Hundred (\$200) dollars for the second (2nd) offense; Three Hundred (\$300) dollars for any offenses thereafter. In addition, a mandatory hearing shall be held by the Hearing Officer, to determine whether said dog shall be forever banned with "the Town." Each day that the owner is not in compliance shall constitute a separate offense. Upon relocation of the dog, the owner thereof shall notify the ACO of the new location. Said ACO shall then forward all documentation maintained by the Town regarding the animal to his/her official counterpart at the new location.
- C. Owner of dangerous or vicious dogs found within the Town and not properly registered shall be subject to a fine of fifty (\$50) dollars. Said animal shall be forever banned by the ACO from within the limits of the Town unless the owner, within ten (10) days of said finding, registers said dog.
- D. Any order of the ACO may be enforced by the Chief of Police or his designee(s).
- E. Any dog for which the ACO of the Town has a verified report of having attacked or bitten any person shall be determined to be considered a dangerous or vicious dog. A copy of any such report shall be forwarded to the Town Clerk for filing, and such dog shall not be re-registered in the Town unless the owner is in full compliance with this article and any other applicable laws or regulations.
- F. Compliance with the requirements of this section shall not be a defense to an order of disposal of a vicious dog pursuant to MGL c. 140, § 157.
- G. Judicial review of orders regarding dangerous or vicious dogs shall be in conformance with MGL c. 140, § 157.
- H. Owner of all potentially dangerous or vicious dogs or dogs previously designated as potentially dangerous or vicious who relocate or move to the Town from another community shall notify the ACO of a description of such dog and said designation. Failure to so notify may result in a fine equal to the fine provided under Subsection C above.

- I. Owner of all potentially dangerous or vicious dogs or dogs previously designated as potentially dangerous who relocate to or move from the Town to another community shall notify the ACO of the Town and the ACO of that community to which the owner are moving, or person having like duties, of a description of such dog and said designation.

7.04.050 Duties of owner when a dog is determined to be dangerous or vicious:

A. Outdoor confinement:

- (1) While on the owner's property, a dangerous or vicious dog must be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children, and designed to prevent the animal from escaping. Such pen or structure must be at least ten (10) feet from the property line, must have a minimum dimension of five (5) feet by ten (10) feet, and must have secure sides and a secure top. If it has no bottom secured to the sides, the sides must be imbedded into the ground no less than two (2) feet. The enclosure must also provide protection from the elements for the dog. The ACO shall verify compliance with this section by an on-site inspection and, if necessary, shall require the owner to further secure the structure.
- (2) Invisible fencing is not considered an acceptable means of fencing for a dangerous or vicious animal(s); therefore prohibited.
- (3) The owner shall display signs on his/her premises facing out from all sides of the premises and on the dog pen warning that there is a dangerous or vicious dog on the property. These signs, which shall state "Beware of Dangerous or Vicious Dog", must be visible and capable of being read from a public highway or thoroughfare or within twenty (20) feet of its placement. The letters of this sign shall be a minimum of three (3) inches in height. In addition, the owner shall conspicuously display a sign with a symbol warning children who cannot read of the presence of a dangerous dog.
- (4) A dangerous or vicious dog may be off the owner's premises if it is muzzled and restrained by an approved lead not exceeding four (4) feet in length and is under the control of an adult, able-bodied person. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or cause injury to the dog or interfere with its vision or respiration, but must prevent it from biting any person or animal. The dog's collar must fit the dog properly to avoid the dog from slipping out of said collar. Collars shall be made of the appropriate materials that prevents the collar from breaking and restrains the dog from breaking loose from said collar.

- B. Indoor confinement. No dangerous or vicious dog may be kept on a porch, patio, or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the dog from exiting the structure.

- C. Insurance. The owner of any dangerous or vicious dog shall maintain a policy of insurance in an amount not less than one hundred thousand (\$100,000) dollars per incident insuring such person against any claim, loss damage, or injury to human beings resulting from the acts of such dog. Such person shall produce evidence of the required insurance, which may include a rider or binder, to the ACO. This section shall not apply to dogs kept by law enforcement agencies.
- D. An owner may transport a dangerous or vicious dog within the Town limits for medical or veterinary care, provided said animal is properly restrained by being both muzzled and leashed, with the lease not to exceed a length of four (4) feet.

7.04.060 Duties of Animal Control Officer with regard to potentially dangerous dogs:

- A. When a dog is deemed to be potentially dangerous as defined in Section 7.04.040, the ACO may order the owner to submit written verification to confirm any or all of the following:
 - 1. A dog may be spayed or neutered, if the dog is not already altered. The dog will be exempt from such an order if a veterinarian certifies in a written statement that the dog is unfit for alterations because of medical condition(s).
 - 2. Microchip identification, if the dog is not already micro-chipped or other acceptable means of identification as approved by the ACO.
 - 3. Behavior training from an approved trainer, as approved by the ACO. The costs of said training shall be borne by the owner.
 - 4. Rabies vaccination as required by MGL c. 140, § 145B, if the dog is not up to date on its annual vaccinations, as certified by a licensed veterinarian.
 - 5. The owner provides adequate security to the premises where the potentially dangerous dog is kept, as specifically described in writing to the owner by the ACO. Said owner must comply within thirty (30) days of receiving the description.
 - 6. That the owner is prohibited from bringing the dog to the Town dog park(s).
- B. After two (2) years of compliance with no later incidents, the dog may, at the discretion of the ACO, no longer be considered potentially dangerous.

7.04.070 Duties of owners of potentially dangerous dogs:

- A. Persons responsible. No person under the age of eighteen (18) shall own, handle, control or be responsible for a potentially dangerous dog.
- B. Signs. All owners of potentially dangerous dogs shall display in a prominent place on their premises a sign easily readable by the public, using the words "Beware of Dog". In addition, a similar sign is required to be posted on the kennel or pen of such dog.

7.04.080 Notice of potentially dangerous, dangerous, or vicious dog:

- A. The ACO, upon a complaint in writing, may determine that a dog is a "potentially dangerous, or dangerous, or vicious dog" within the meaning of those sections and, as a result thereof, require compliance by the owner of such potentially dangerous, dangerous, or vicious dog with the provisions herein listed.
- B. In the instance where the ACO shall determine that a dog is potentially dangerous, dangerous or vicious within the meaning of this by-law, he/she shall, within a period of forty (48) hours, serve a written notice to the Town Manager, the Chief of Police and Board of Health's Agent listing the name and address of the animal, including its owner, and providing the reasoning for the determination, consistent with the article.

7.04.090 Notification of dangerous or vicious dogs:

- A. The ACO shall notify the owner of potentially dangerous, dangerous, or vicious dogs in writing that the dogs has/have been determined to be potentially dangerous, dangerous or vicious dogs.
- B. The owner of the potentially dangerous, dangerous, or vicious dogs shall notify all direct abutters and owners of and directly opposite on any public or private street or way of any determination by certified mail return receipt to the ACO within seventy two (72) hours of ACO's determination of a dangerous or vicious dog(s).

7.04.100 Applicability to other dangerous or vicious animals:

A dangerous or vicious animal of any kind or species shall be subject to all of the provisions of this article in the same manner as a dangerous or vicious dog.

7.04.110 Outdoor Confinement:

No person shall own allow to be upon any premises occupied by him under his charge or control, any vicious dog; or any dog of a cross, dangerous or ferocious disposition, or a dog that may manifest a disposition to bite, without it being confined behind a fence and securely chained which will not allow the dog to come closer than six (6) feet to the fence, and not take such dog out of the secure enclosure unless the dog is securely muzzled and leashed on a leash no longer than four (4) feet in length. The dog must be under control of a responsible person eighteen (18) years of age or older. No such dogs are allowed on or within five hundred (500) feet of any town parks, town playgrounds or school grounds, whether at large or under restraint.

7.05.120 Indoor Confinement:

No vicious dog may be kept on a porch, patio, or in any part of a house or structure that would allow the dog to exit such building on its own violation. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the dog from exiting the structure.

7.04.130 Giving away, selling, and bartering:

Any dog deemed vicious by the ACO shall not be given away, sold, or bartered unless the new owner complies with this By-Law.

7.04.140 Licensing Surcharge:

The annual licensing fee for a dangerous or vicious dog shall include a one hundred (\$100) dollar surcharge in addition to the regular licensing fee. The surcharge required by this provision shall be enforced by the ACO.

7.04.150 Impoundment:

Any dog found running at large or in violation of this section shall be impounded by the ACO and cannot be claimed until provisions of this section are met.

- A. The impoundment fee is borne by the owner whether or not such dog is claimed.
- B. If such dog is not reclaimed within ten (10) days of such impoundment, the animal may be disposed of by adoption or euthanasia, dependent upon species and condition of animal impounded, which determination shall be made by the ACO.

7.04.160 Ordering dogs to be muzzled or restrained:

All the provisions of MGL c. 140, § 167 and 168 shall be incorporated into this article, except that any dog held under the provisions of MGL c. 140, § 167 may not be released until all the requirements of this article regarding licensing and the fee for care of the animal are complied with. All other provisions of MGL c. 140, § 167 and 168 shall be incorporated herein.

7.04.170 Destruction:

When, in the judgment of the ACO, a dog should be destroyed after being determined to be dangerous or vicious, MGL c. 140, § 157 shall be applicable.

7.04.180 Dogs trained for fighting:

Any dog found within the limits of “the Town,” as determined by the ACO or any police officer, to be a dog trained for fighting, as that term is defined under Section 7.04.010, shall be impounded and destroyed by the ACO at the owner’s expense. The ACO or any police officer may shoot any dog trained for fighting at any time if it is reasonably believed that said dog approaches the officer in a menacing fashion and/or the officer reasonably believes that the dog is about to attack. An owner of a dog trained for fighting shall be subject to a fine of two hundred (\$200) dollars.

7.04.190 Attack or guard dogs:

- A. The term “attack or guard dog” as used herein shall mean a canine or dog which is trained, whether professionally or otherwise, to protect or guard persons or property and which may attack persons entering upon the property which the dog is protecting or guarding.
- B. Permit and license required; contents; fee.
 - 1. Any person who owns, rents, or uses attack or guard dogs on premises located within the Town shall obtain a permit for the premises the attack dogs are located from the Town Clerk.
 - 2. A copy of the permit shall be forwarded to the ACO.
 - 3. The permit shall contain the following information: the owner’s or renter’s name, address and phone number; the address of the premises at which the dog will be used for guarding purposes; and the name, address and phone number of a person who can handle and restrain the dog.
 - 4. The permit shall contain a statement that the person to whom the permit is issued agrees by the acceptance of the permit to indemnify and hold harmless the Town for any liability for damage to person(s) or property caused by the attack or guard dog.
- C. Miscellaneous.
 - 1. The premises where an attack or guard dog is to be kept shall be posted on all four (4) sides with twelve-inch by twelve-inch signs located every fifteen (15) feet. Such signs shall contain the words “Warning: Attack Dog on Premises”.
 - 2. The ACO shall maintain a list of owners by license to facilitate notification should the dog be picked up off the premises.
 - 3. The ACO shall supply the police and fire dispatchers with a list of locations and owners where such dogs are kept and the name, address, and phone number of a person who can handle and restrain the dog.
 - 4. Whenever attack or guard dogs are off the posted premises, they shall be muzzled.
- D. Liability. The Town assumes no liability for attack or guard dogs by the act of issuing a permit.

7.04.200 Biting and attacking:

Notice to owner. Any person, after receiving written notice that the dog owned by him/her has attacked and/or bitten, or caused injury or otherwise endangered the safety of, any person(s) or domestic animal(s) within the Town in such a manner as to be deemed a dangerous or vicious animal and a threat by the ACO or other enforcement authority, and after receiving one subsequent written notice of a repetition or continuance of such act or acts, shall not be permitted to keep such dog within “the Town’s” limits. In each instance, such

written notice(s) shall be reasonably definite and informative to the owner or person controlling the dog(s) as to person, time, place and manner of the incident or disturbance to have occurred.

7.04.210 Penalties:

After thirty (30) days of being notified that a dog is potentially dangerous, dangerous, or vicious, any owner found not in compliance with any of the provisions of this section, shall be subject to a fine of three hundred (\$300) dollars. Each day that the owner is not in compliance with any provision shall constitute a separate offense.

7.04.220 Enforcement Officer; citations; revocation of license:

- A. "The Town's" ACO, any police officer, or the Town Manager's designees shall be enforcement officer of any violation of this By-Law.
- B. Such enforcement officer shall, in addition to any pickup of the dog(s) pursuant to this By-Law, issue a citation to the owner of any dog violating the provisions.
- C. This By-Law may be enforced by means of non-criminal disposition as allowed MGL c. 40 § 21D or by other means permitted by law.
- D. Each day a violation occurs shall constitute a separate offense.

7.04.230 Non-Criminal Disposition:

A. Any person(s) violating or failing to comply with any provision of this By-Law, shall be warned in writing that said person(s) shall be subject to the appropriate enforcement action and/or to the non-criminal disposition process adopted the Town as follows:

- 1st offense – written warning
- 2nd offense - one hundred (\$100) dollar fine,
- 3rd offense – Two hundred (\$200) dollars fine, and
- 4th and subsequent offenses – three hundred (\$300) dollars fine and/or enforcement action.

B. The Town may revoke all licenses issued to animal owners against whom three (3) or more violations of this By-Law have been assessed in a twelve (12) month period. The animals of said owners shall be impounded and disposed of at the discretion of the ACO.

7.04.240 Severability:

If any paragraph, sentence, phrase or word of this By-Law shall be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of any other provision of this By-Law, which By-Law shall remain in full force and effect; and to this end the provisions of the By-Laws are declared severable.

Town Manager
Board of Health Director

Executive Summary: This By-Law is required is to ensure Tewksbury's residents are safe from Dangerous and Vicious animals.

ARTICLE 8

To see if the Town will vote to amend the Town of Tewksbury Zoning Map by deleting the area described below from the South Village Overlay District and adding it to the Community Village Overlay District.



Tewksbury Planning Board

Executive Summary: This article will remove the described area bounded by Main Street and Shawsheen Street from the South Village Overlay District and add this area to the Community Village Overlay District.

ARTICLE 9

To see if the Town will amend the Tewksbury Zoning By-Law, Section 8680. Community Village Overlay District and amend Section 10000 Definitions as follows:

AMEND Section 8684. Use Regulations and Definitions:

1. Residential Uses:

DELETE: (as a component of a mixed use development)

ADD: d. elderly congregate living facility

ADD: Affordable Housing Requirement.

An application for a CVOD Special Permit as a Residential Use development shall require that 15 % of the dwelling units, be established as Affordable Housing Units (Section 7013.a.) in perpetuity.

Waivers for construction of said affordable units on site including Fee-in-lieu of units (Section 7014. b.) and construction of off -site units shall be at the discretion of the Planning Board.

Timing and schedule of construction of off -site affordable units shall be determined by the Planning Board. The requirements of Section 7010 that apply to on-site provision of affordable units, shall apply to provision of

off-site affordable units. In addition, the location of the off-site units to be provided shall be approved by the SPGA as an integral element of this Special Permit review and approval process.

Security deemed necessary to ensure completion for construction of off-site affordable units is to be determined and established as a condition by the Planning Board at the time of this Special Permit approval process.

AMEND Section 8690 as follows:

The parking requirement for any use in the CVOD shall be the same as in the underlying zoning classification, ADD except for Assisted Living Facilities and Elderly Congregate Living Facilities which shall provide parking in accordance with Section 7442.

ADD to Definitions, Section 10000

ELDERLY CONGREGATE LIVING FACILITY: An Elderly Congregate Living Facility for persons 55 and over, containing independent living quarters suitable for single or double person occupancy. Within an elderly congregate living facility, residents shall be provided limited assistance with daily living activities and personal care services such as laundry, housekeeping and transportation but not including personal hygiene, nursing or other medical services. The living quarters are not required to have a stove in the kitchen area, but shall include counter space, cabinets, sink, refrigerator, and an outlet and space for a microwave oven. An elderly congregate living facility shall have centralized kitchen and dining facilities. The centralized kitchen shall be fully functioning and staffed to provide to the occupants of the facility three prepared meals per day, seven days a week. The centralized kitchen and dining facilities shall be adequately sized to accommodate the number of occupants of the facility. Adequate shared complete kitchens must be accessible for personal use by the occupants of the facility.

In addition to independent living quarters as defined above, such facility may also contain full dwelling units with kitchens for occupancy by elderly residents or by on-site personnel and management, and such dwelling units may be contained in attached or detached buildings.

Tewksbury Planning Board

Executive Summary: This article expands the allowed uses in the Community Village Overlay District by allowing for elderly congregate living facilities. In addition, the article requires a multi-family development in this overlay district to provide 15% of the total units as affordable units.

ARTICLE 10

To see if the Town will vote to amend the Town of Tewksbury Zoning Map by deleting the area described below from the Senior Village Overlay District and adding it to the Community Village Overlay District.

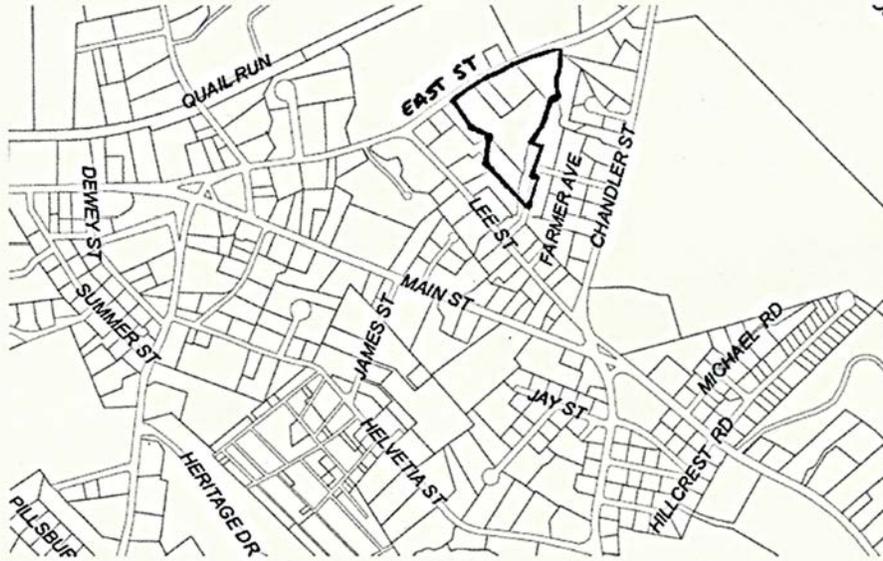


Tewksbury Planning Board

Executive Summary: This article will remove the described area bounded by Andover Street and North Street from the Senior Village Overlay District and add this area to the Community Village Overlay District.

ARTICLE 11

To see if the Town will vote to amend the Town of Tewksbury Zoning Map by adding the area described on the Map below to the Community Village Overlay District.



Tewksbury Planning Board

Executive Summary: This article will add the area described on the referenced map with general frontage on East Street and in close proximity to the Town Center Overlay District to the Community Village Overlay District.

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, fourteen (14) days at least before the time of holding said meeting; also, leaving 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 twenty-seventh day of March in the year of Our Lord, two thousand and twelve.

BOARD OF SELECTMEN

Todd R. Johnson, Chairman

David H. Gay, Vice Chairman

Douglas W. Sears, Clerk

Anne Marie Stronach

Scott Wilson

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 and on the Town's Website <http://www.tewksbury-ma.gov/Pages/index>.

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.