

SPECIAL TOWN MEETING

**2007
WARRANT**



**TOWN OF TEWKSBURY
COMMONWEALTH OF MASSACHUSETTS**

Finance Committee Public Hearing

April 25, 2007 7:00 p.m.
Town Hall Auditorium

Special Town Meeting

May 9, 2007 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. Other reasonable accommodation to disability related needs will be provided upon request. Please call (978) 640-4488 or TTY (978)640-4489 at least 72 hours in advance of the event to request accommodation.

ARTICLE 1

To see if the Town will vote: (1) to appropriate a sum of money to implement the reimbursable Commonwealth's 319 Grant Program; (2) to authorize the Board of Selectmen to acquire easements in conjunction therewith by the purchase, gift, lease, eminent domain, or otherwise; (3) in furtherance of the project, to authorize the Board of Selectmen to apply for, accept and expend any federal state and/ or private grants without further appropriation thereof; and (4) to determine whether said appropriation shall be raised by transfer from available funds or by borrowing; or take any action relative thereto.

Town Manager

Executive Summary: The Town of Tewksbury will be applying to the Commonwealth's Department of Conservation and Recreation for the 319 Grant Program. This program will allow for the restoration of Manley Brook, between East Street and Shawsheen Street. The estimated total cost of the project is \$150,000. The State will reimburse 60% of the project cost and the Town's share will be provided by in-kind services from both the Town and private property owners.

ARTICLE 2

To see if the Town will vote to appropriate and transfer from free cash the sum of \$1,000 to Water Enterprise Fund – Water Treatment Plant Salaries and \$200 for Library Salaries to implement the labor agreement recently signed with the American Federation of State, County and Municipal Employees, AFL-CIO, Tewksbury Municipal Employees Local 833 or take any related action.

Town Manager

Executive Summary: The purpose of this article is to fund the labor agreement with the American Federation of State, County and Municipal Employees, AFL-CIO, Tewksbury Municipal Employees Local 833. The funds appropriated are to cover wage increases for FY07. The funding source is FY06 certified free cash in the amount of \$1,000 for Water Enterprise and \$200 for the General Fund (Library).

ARTICLE 3

To see if the Town will vote to appropriate \$28,000 from the Community Preservation Fund's Historic Reserve for an Historic Property Survey to be expended by the Historic Commission as proposed by the Historic Com-

mission and recommended for adoption by the Community Preservation Committee.

Community Preservation Committee

Executive Summary: Tewksbury Historical Property Survey \$28,000 (FY 07). The Tewksbury Historical Commission will conduct an Historical Survey, by an approved consultant, of properties in the Town of Tewksbury. Upon completion of this survey the Commission will be in the position of recommending properties for inclusion on the National and State Historic Registers. It will also allow the Commission to undertake action in the future preserving the historical assets in the Town of Tewksbury.

ARTICLE 4

To see if the Town will vote to appropriate \$150,000 from the Community Preservation Fund Budgeted Reserve to be expended by the Town Manager for the preservation of Livingston Park recreation fields by addressing the drainage problems that are threatening and deteriorating the fields as proposed by the Town Manager, acting as the Parks Commission, and recommended for adoption by the Community Preservation Committee.

Community Preservation Committee

Executive Summary: Livingston Park Recreation Fields Preservation \$150,000 (FY 07). The Town's recreational fields and equipment at Livingston Park are currently threatened and deteriorating due to improper drainage. This proposed project would preserve and improve the existing Town recreational fields, adequately draining the fields and increasing the availability of the fields to the residents.

The concept of this project is to survey and engineer drainage solutions to the existing system at the Park. The project would also provide for the necessary construction of the drainage system including perimeter drains and inlet upgrades.

ARTICLE 5

To see if the Town will vote to appropriate \$25,000 from the Community Preservation Fund's Budgeted Reserve for an update of the 2001 plans for a Town Hall renovation to be expended by the Town Hall Space Committee as proposed by the Town Manager, supported by the Board of Selectmen and recommended for adoption by the Community Preservation Committee.

Community Preservation Committee

Executive Summary: Town Hall Restoration Updating Plans \$25,000

(FY 07). The architect will revise the existing plans; provide new cost estimates and look to separate CPA eligible and non-eligible costs, to assist in future determination as to how to preserve Town Hall.

ARTICLE 6

To see if the Town will vote to authorize the Board of Selectmen to sell a parcel of Town property, Lot 4 on Assessor's Map 69 and further described as approximately 3 acres and located in the vicinity of Hemlock Road/Cherry Road. Said property was acquired by the Town by tax title on or about September 29, 1975 and shall be sold in accordance with the Town By-Laws. Or take any other action relative thereto.

George Nikoras and Others

Executive Summary: The town acquired this property by tax title on or about September 29, 1975. By selling this property, the Town can return it to the tax rolls.

ARTICLE 7

To see if the Town will accept General Laws Chapter 39, section 23D which would permit local board members who miss a single session of an adjudicatory hearing before their board to be able to vote on the matter provided they review the evidence submitted at the missed hearing and file a certificate to said effect and provisions to be applicable for adjudicatory hearings held by the Board of Selectmen, Zoning Boards of Appeals, Planning Board, Conservation Commission, Board of Health and Board of Assessors, or take any action related thereof.

Board of Selectmen
Planning Board
Town Manager

Executive Summary: A member of any board, committee or commission when holding an adjudicatory hearing shall not be disqualified from voting on the matter solely due to that member's absence from no more than a single session of the hearing at which testimony or other evidence is received. Before any such vote, the member shall certify in writing that he has examined all evidence received at the missed session, which evidence shall include an audio or video recording of the missed session or a transcript thereof. The written certification shall be part of the record of the hearing.

ARTICLE 8

To see if the Town will vote to appropriate and raise by borrowing the sum

of \$350,000 to be added to the sum of Article 3 of the October, 2004 Special Town Meeting for the costs of remodeling, reconstructing and making additions to and making extraordinary repairs to the Senior Center, including costs of equipping and furnishing the senior center and including the payment of any costs incidental and related thereto and that to meet this additional appropriation, the Treasurer, with the approval of the Board of Selectmen, is hereby authorized to borrow \$350,000 under and pursuant to Chapter 44 Section 7 (3a) of the Massachusetts General Laws, or any other enabling authority and to issue bonds or notes of the Town therefore and that the Town Manager is authorized to apply for, accept and expend any federal, state or private grants or contributions that may be available with respect to the project, all of which contributions and grants shall be applied to the project in addition to the sums appropriated by the Town for such purposes.

This additional borrowing would be excluded from the limitations of Proposition 2 ½ based on the affirmative ballot vote taken on October 16, 2004.

Town Manager

Motion: That the Town hereby appropriates the additional sum of \$350,000 to be expended by the Town Manager and the Senior Center Building Committee for the costs of remodeling, reconstruction and making additions to and making extraordinary repairs to the Senior Center, including costs of equipping and furnishing the Senior Center, which funds shall be in addition to all other funds appropriated by the Town for this purpose, including the payment of all costs incidental and related thereto, and to meet the appropriation, the Treasurer, with the approval of the Board of Selectmen is hereby authorized to borrow said sum under and pursuant to Chapter 44 sections 7 and 8 of the Massachusetts General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefore that are exempt for the limitations of Proposition 2 ½ based on the affirmative ballot vote taken on October 16, 2004 and that the Town Manager is hereby authorized to apply for, accept and expend any federal, state or private grants or contributions that may be available with respect to the project, all of which contributions and grants shall be applied to the project in addition to the sums appropriated by Town Meeting for such purposes and to take any other action necessary for the completion of the project.

Executive Summary: The article would allow the Town to borrow additional funds (\$350,000) to enlarge and improve the current Senior Center. The Town anticipates using this article as a bridge funding until two other sources of funds become available to cover this amount. These other sources of funds are not expected to become available until closer to substantial completion of the project. If the additional funds do not become available and the Town has to borrow the funds, said funds would be

exempt from the limits of Proposition 2 ½. The major reason for the additional funds is that the State did not award the Town a CDBG grant for \$800,000. While part of this loss was covered by a State grant sponsored by the Town’s legislative delegation the Town now needs most of the remainder of the funds that were budgeted to come from the grant.

ARTICLE 9

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

FROM:		TO:	
Cable TV-Operating	\$ 9,134	School-Salaries	\$ 9,134
Fire & Liability	\$15,000	DPW-Highway-Salaries	\$ 7,000
		DPW Forestry-Salaries	\$ 3,000
		DPW Fleet-Salaries	\$ 6,500
Veterans Aid	\$15,000	DPW-Fleet-Operating	\$30,000
		DPW Electrician-Salaries	\$ 2,320
Police-Salaries- Encumbrances	\$38,914	DPW-Admin-Operating	\$ 8,800
Library-Salaries	\$60,400	BOS-Operating (Legal)	\$20,000
Police-Operating	\$17,200	Police-Salaries	\$38,914
		Town Counsel	\$15,000
		Occupational	\$15,000
Total	\$155,648	Total	\$155,648

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 10

To see if the Town will vote to approve the sum of \$28,909.44 to pay outstanding bills of a previous fiscal year and that to raise this appropriation the Town will vote to transfer \$70.76 from General Fund free cash, \$1,490.29 from Fire Dept Salaries – Overtime, \$15,674.24 from Sewer Enterprise Fund free cash and \$11,674.15 from Water Enterprise Fund free cash or take any other related action.

Town Manager-Operating		
Office Supplies	Power Graphics	\$70.76
Fire-Operating		
Ambulance Billing	Action Ambulance	\$1,490.29
Sewer-Operating		
Lowell Sewer	City of Lowell	\$15,674.24
Water-Operating		
Water Purchase	City of Lowell	<u>\$11,674.15</u>
Total		<u>\$28,909.44</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 11

To see if the Town will vote to transfer from the Water Enterprise Fund free cash the sum of \$21,164.52 to increase the FY07 appropriation voted in Article 7 of the May, 2006 Annual Town Meeting and to transfer from the Sewer Enterprise Fund free cash the sum of \$4,345.72 to increase the FY07 appropriation voted in Article 6 of the May, 2006 Annual Town Meeting or take any related action.

Town Manager

Executive Summary: This article allows the Town to increase the Water Enterprise Fund appropriation voted at a previous Town Meeting by \$21,164.52 to cover a short-term interest payment for funds borrowed from the Massachusetts Water Pollution Abatement Trust. This payment was not anticipated until FY08 but was billed in December, 2006. The source of the funds is Water Enterprise Fund free cash certified as of July 1, 2006. This article will also allow the Town to increase the Sewer Enterprise Fund appropriation voted at a previous Town Meeting by \$4,345.72 to cover the costs of making repairs to the sewer pump station to abate a public health nuisance. The source of the funds is Sewer Enterprise Fund free cash certified as of July 1, 2006.

ARTICLE 12

To see if the Town will vote to transfer the sum of \$5,000 from the Selectmen's Salary Account to the Town Manager's Gift Account to be expended by the Town Manager for the purchase of supplies, materials, equipment, and services for the 9/11 Memorial at the Tewksbury Public Library or take any other action relative thereto.

Town Manager

Executive Summary: Selectmen John Ryan has requested that his annual salary be donated to the Town Manager's Gift Account for the purpose of purchasing supplies, materials, equipment and services for the 9/11 Memorial located at the Tewksbury Public Library.

ARTICLE 13

To see if the Town will vote to transfer the sum of \$5,000 from the Selectmen's Salary Account to the Town Manager's Gift Account to be expended by the Town Manager and donated to the following: \$2,000.00 for the Town Wide Drug Committee; \$1,000.00 for the Senior Center; \$1,000.00 for the Tewksbury Food Pantry; and \$1,000.00 for the 9/11 Memorial Committee or take any other action relative thereto.

Town Manager

Executive Summary: Selectman John Mackey has requested that his annual salary be donated to the Town Manager's Gift Account for the purpose set forth in the article.

ARTICLE 14

To see if the Town will vote to amend the Tewksbury Zoning Bylaw, Section 5500 as follows:

5500. STORMWATER MANAGEMENT, EARTH MOVING AND CLEARING OF PROPERTY

5510. General. The Regulated Activity shall mean earth moving and/or clearing and grubbing. The Regulated Activity shall be performed only in accordance with Sections 5520 through 5534, except that the following shall be exempted from these provisions:

5511. Earth moving of less than five hundred (500) cubic yards of material or clearing activity which disturbs an area less than 20,000 square feet within any twelve (12) month period.

5512. The Regulated Activity on a parcel for which removal was authorized pursuant to a permit duly issued by the Town of Tewksbury prior to adoption of Section 5500 may continue until the expiration date of said permit, or for eighteen (18) months, whichever is the greater, provided that all bylaws, permits and conditions applicable prior to the adoption of this Section shall be complied with. Subsequent to such date, full compliance with all the requirements of Section 5500 must be met.

5513. Clearing on property that has received an approved Forest Cutting Plan developed by a certified forester and approved by the Massachusetts Department of Environmental Management.

5520. Applicability

5521. Earth moving of five hundred (500) cubic yards or more of material or clearing activity which disturbs an area of 20,000 square feet or more and less than one (1) acre within any twelve (12) month period, shall be allowed only under a Land Disturbance Permit issued by the Department of Public Works Superintendent or designee.

5522. The following activities will require a special permit from the Planning Board:

a. Earth moving of more than one thousand (1,000) cubic yards of material or clearing activity which disturbs an area of one (1) acre or more within any twelve (12) month period, shall be allowed either separately through a Special Permit issued by the Planning Board for such purpose or by approval of the Planning Board of a site plan special permit or a definitive subdivision, a copy of which shall be forwarded forthwith to the Conservation Commission and Town Engineer.

b. Development or redevelopment involving multiple separate activities in discontinuous locations or on different schedules if the activities are part of a larger common plan of development that all together disturbs 40,000 square feet or more of land,

c. Paving or other change in surface material over an area of 20,000 square feet or more causing a significant reduction of permeability or increase in runoff, which was not previously permitted under a special permit or subdivision,

d. Construction of a new drainage system or alteration of an existing drainage system or conveyance serving a drainage area of more than 40,000 square feet,

e. Any other activity altering the surface of an area exceeding 20,000 square feet that will, or may, result in increased stormwater runoff flowing from the property into a public way or the municipal storm drain system, OR

f. Land disturbance where there is a 15% or greater slope and where the land disturbance is greater than or equal to 200 square feet within the sloped area.

5523. Exempt Activities: The following activities are exempt from the requirements of this Bylaw:

a. Normal maintenance and improvement of Town owned public ways and appurtenances.

- b. Normal maintenance and improvement of land in agricultural use.
- c. Repair of septic systems when required by the Board of Health for the protection of public health.
- d. Normal maintenance of currently existing landscaping, gardens or lawn areas associated with a single-family dwelling.
- e. The construction of fencing that will not alter existing terrain or drainage patterns.
- f. Construction of utilities other than drainage (gas, water, electric, telephone, etc.) that will not alter terrain or drainage patterns.
- g. Maintenance of existing town drainage system, including, but not limited to removal of trees, debris, sediment and trash from swales, brooks, culverts, and any other impediment to the flow of the town's drainage system.

5524. Activities Allowed to Request Exemption. Areas of land that have had a Stormwater Management review either through the Conservation Commission or Planning Board using the Design Criteria as defined in this bylaw and Regulations may request an exemption from the requirements of this bylaw. Requests must include a plan of the area of land reviewed and approved by either the Planning Board or Conservation Commission accompanied by a sign-off from the issuing authority.

5525. The Regulated Activity shall be granted only upon demonstration that adequate provisions have been made to protect against erosion, soil instability, uncontrolled surface water runoff, or other environmental degradation. All such slopes exceeding 15% which result from site grading or construction activities shall either be covered with topsoil to a depth of at least four (4) inches and planted with vegetative cover sufficient to prevent erosion or be retained by a wall constructed of masonry, reinforced concrete or treated pile or timber. Applications and plans for such special permits shall forward forthwith to the Conservation Commission and Town Engineer.

5526. The application shall be accompanied by a plan showing all natural and man-made features, including wetlands, water courses, 100 year flood plain, property lines, names and addresses of all abutters, including those across any street or way, topography at two (2) foot contour interval of the site and all land within on hundred (100) feet of the area of the Regulated Activity together with any grades below or above which finish surface will now lie, and the proposed cover vegetation and trees. The application shall include a description of earth moving, clearing or construction activities, in sequence, which specifies the expected date of soil stabilization, vegetation and completion. If involving more than one (1) acre of clearing, the plan shall be prepared by a

Registered Landscape Architect. If involving more than five hundred (500) cubic yards of materials to be moved, the plan shall be prepared by a Registered Engineer.

5527. The Permitting Authority, either the DPW or the Planning Board may require the permittee to post before the start of land disturbance activity, a surety bond, or other acceptable security. The form of the bond shall be approved by the Permitting Authority, which may consult with town counsel when necessary, and be in an amount deemed sufficient by the Permitting Authority to insure that the work will be completed in accordance with the permit. If the project is phased, partial release is acceptable if it is completed in compliance with the permit. The bond may not be fully released until a certificate of completion has been issued.

5528. Before granting a permit, the Planning Board shall give due consideration to the location of the proposed Regulated Activity, to the general character of the neighborhood surrounding such location, to the protection of water supply, to the general safety of the public on the public ways in the vicinity, and to the recommendations of the Conservation Commission and Town Engineer.

5529. Inspection and Compliance. In order to ensure compliance with a Special Permit or approval granted under this regulation, the Planning Board will require the applicant to perform periodic inspections and submit written reports. The interval and content of such inspection and reporting shall be determined during review of the application. Upon satisfactory completion of the Regulated Activity, the applicant shall provide an as-built plan signed by a Registered Landscape Architect or Registered Engineer as required by Section 5524. The Planning Board shall perform an inspection prior to releasing the performance bond or other security.

5530. Performance Standards for Regulated Activities

5531. Erosion control structures will be located no closer than 15 feet from an abutting property line and will be designed so as not to create point discharges onto abutting properties.

5532. Dust from all earthmoving activities shall be controlled.

5533. Earth materials shall not be deposited onto any roadways.

5534. Vegetative stabilization measures shall be employed during the Regulated Activity and construction activity as required by the approving authority. All perimeter dikes and slopes, basin or trap embankments shall be stabilized with sod, seed, anchored mulch

within seven (7) days of disturbance. All other disturbed areas shall be

stabilized with sod, seed and anchored mulch within fourteen (14) days after disturbing activities are ceased.

Topsoil shall be stripped from disturbed areas and stockpiled in an approved area and stabilized with a temporary vegetative cover if left more than fifteen (15) calendar days. Perimeter sediment controls shall be installed around stockpiled topsoil.

During cold weather months, when seeding and sodding may be impractical, anchored mulch shall be applied as approved.

5540. The Planning Board in consultation may adopt and periodically amend Stormwater Regulations relating to Land Disturbance Permits, exemption or waiver applications; permit terms or conditions, Design Criteria, additional definitions, enforcement, fees (including application, inspection, and/or consultant fees), or other procedures and administration of this Bylaw after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation, at least seven (7) days before the hearing date. After public notice and hearing, the Planning Board may promulgate rules and regulations to effectuate the purposes of this Bylaw. Failure by the Planning Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Bylaw.

Executive Summary: The amendment will allow the Town to comply with the Clean Water Act in enforcing the Town's stormwater management plan.

Planning Board
Town Manager

ARTICLE 15

To see if the Town will vote to amend the Tewksbury Zoning Bylaw by;

- a) adding a new Section 6400 to read as follows:

6400 WIRELESS COMMUNICATIONS FACILITIES SPECIAL PERMIT

6401. Purpose. The purpose of this Section 6400 is to provide for a special permitting process for the siting of wireless communications facilities while minimizing adverse visual impacts on adjacent properties, residential neighborhoods, and areas of high scenic and artistic value; to limit the overall number and height of such facilities to what is essential to serve the public convenience and necessity; and to promote shared use of facilities to reduce the need for new facilities.

6402 Applicability. Towers and structures for Wireless Communication Facilities including a base station for a Distributed Antenna System (DAS) may be allowed only in:

- a. Municipal Districts, and additional Municipal land only as shown on the Wireless Communications Facilities Overlay District Map,
- b. Land within 200 feet of Federal Highways Routes 93 and 495 in Heavy Industrial Districts, and the Office Research District, as shown on the Wireless Communications Facilities Overlay District Map,
- c. Electric power transmission line easements and/ or, lands where there are electric transmission lines on existing structures or poles with a height of at least 50 feet in Heavy Industrial Districts and the Office Research District, only as shown on the Wireless Communications Facilities Overlay District Map,
- d. Churches, temples, synagogues and like buildings as determined by the Planning Board.
- e. Golf Courses, only as shown on the Wireless Communications Facilities Overlay District Map.
- f. Further, utility-pole-mounted DAS antennas are permissible on public and private ways according to the criteria in this bylaw.

Wireless Communication Facilities, including a DAS installation, shall be subject to the grant of a WIRELESS COMMUNICATIONS FACILITIES SPECIAL PERMIT by the Planning Board. Nothing in this Section shall be construed to regulate or prohibit amateur radio Towers used solely by a federally licensed amateur radio operator or wireless communications structures and devices used expressly and exclusively for television reception. Nothing in this Section 6400 shall be construed to regulate or prohibit a wireless communication facility on the basis of environmental effects of radio frequency radiation (RFR) emissions.

6403 Special Permit Waiver of Applicability by the Planning Board. To encourage wireless communications providers to deliver their services in an unobtrusive manner and produce the best coverage solution for the areas of the town, sitings of wireless communication facilities may be allowed in areas other than those listed in 6402, only by a grant of a Waiver by the Planning Board. This Waiver shall be subject to all other sections of 6400 and shall only be granted upon findings that the benefit of said waiver provides a substantially better solution in aesthetics and coverage than could be achieved in the available areas listed in 6402. Such Waiver shall include the use of those wireless facility options as are available, such as but not limited to, towers, stealth designs, rooftops, water tanks, existing structures and DAS facilities. The Planning Board encourages applicants for this Special Permit Waiver of Applicability to have a preliminary discussion with the

Board prior to a formal application submittal.

6404. Special Permit Granting Authority. The special permit granting authority under this Section 6400 shall be the Planning Board.

6410. Priority Location of Wireless Communication Facilities

6411. Wireless communications facilities. Towers may be allowed provided that they comply with the priority requirements for the location of Towers as set forth below.

a. The first priority shall be given to the Municipal District and additional Municipal land only as shown on the Wireless Communications Facilities Overlay District Map.

b. The second priority shall be given to the concealment of antennas within Churches, and like buildings, such as in spires, steeples, belfries and the like.

c. The third priority shall be given to remaining areas of allowed use as stated in Section 6402.

Wireless Communications Facilities that do not have wireless communications antennas on site (with the exception of small antennas for GPS and geo-location services not exceeding 18 inches in height), such as DAS base station facilities, may be installed on any parcel without regard for the priority hierarchy in this section. Such facilities remain subject to all other pertinent criteria under this bylaw and the other Zoning Bylaws.

6412. Applicant must provide documentation to the satisfaction of the Planning Board that alternatives in the higher priority locations are not feasible, if a lower priority location is proposed.

6420. Definitions. The following definitions are exclusive to this Section 6400.

Antenna means the device that transmits and/or receives radio frequency emissions in free space. Antenna can be modified by the addition of a clarifying term, such as GPS Antenna, or Personal Wireless Service Antenna, that delineates the specific type or purpose of the Antenna.

Antenna Support Structure means any structure whose purpose is primarily to support an Antenna, which includes such structures as Towers, masts, posts, poles, and the like.

Base Station means the equipment for one or more personal wireless services installed at a site to transmit and receive wireless communications. Typically, a Base Station is connected to a set of wireless antennas at the site of the Base Station, except in the case of the Base Station for a Distributed Antenna System, which is housed remotely from the antennas.

Base Station Facility means the place within which one or more wireless services install Base Stations that support the operation of a Distributed Antenna System without relying on wireless antennas at the site of the Base Station Facility.

Distance means measured on a horizontal plane.

Distributed Antenna System (“DAS”) means a geographically diversified Wireless Communications Facility with which the Base Station equipment is located remotely from the facility’s antennas. Typically, the Base Station is contained in a Base Station Facility at one location, and the antennas are placed on utility poles at other locations; the antennas are driven by Radio Access Nodes (“RAN”), which are electronics cabinets mounted on the utility poles, and are interconnected to the Base Station Facility by cables, usually fiber optic.

Dwelling means a building or portion thereof, designed exclusively for residential occupancy, including single family, two family or multiple family dwelling (apartment), but not including hotels and motels.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Height means distance measured from the mean finished ground level at the base to the highest point on the structure.

Nonresidential Structure means a building, water Tower or other similar structure, but not a Dwelling.

Personal Wireless Services means the same as in 47 U.S.C. 332(c)(7)(C)(i), “commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.”

Stealth Treatment means any construction that is compatible with its surroundings that conceals or camouflages Antennas, wireless communications buildings, devices, facilities and/or Towers, such as, but not limited to: monopoles, trees, light poles, flag poles.

Tower means an Antenna Support Structure that measures twelve feet (12’) or more in height and is used by a Personal Wireless Service Provider to provide Personal Wireless Services.

Wireless Communications Building means a building or structure built or occupied for the primary purpose of providing Personal Wireless Services.

Wireless Communications Device means any antenna, dish, appurtenance, wiring or equipment used by a Personal Wireless Service provider to provide Personal Wireless Services. This term does not include Towers or other structures intended to house or support Wireless Communications Devices. It also does not include Personal Wireless Service components placed within a building to serve the occupants of the building, as well as personal, portable, and mobile Personal Wireless Service devices.

Wireless Communications Facility means the installation consisting of any of the following at a site that is intended to provide Personal Wireless Services: any and all materials, equipment, buildings, Towers, Wireless Communications Devices and structures.

6430. Siting and Height Requirements.

- a.** Wherever feasible, Wireless Communications Devices shall be located on existing Towers, or other existing structures and be subjected to Stealth Treatment appropriate for the context of the facility.
- b.** Wireless communications facilities may be located on the same lot as other structures or uses lawfully in existence, subject to the provisions of Sections 6400.
- c.** The minimum distance from the base of a Tower, including Towers with Stealth Treatment to any property line, road, right-of-way, power line easement or railroad right-of-way shall be at least equal to the height of the Tower. The Planning Board may waive this requirement up to the district set-back upon findings that the waiver will result in a design more compatible with the surrounding area.
- d.** A Tower shall be setback a minimum distance of 400 feet from abutting Residential and Multifamily Districts, except that this distance may be reduced for Towers if the Planning Board finds that reduction in the setback distance would produce a better result (aesthetically) to the neighborhood than alternative proposals, but in no event shall the setback minimum distance be less than 100 feet, from Residential and Multifamily Districts. This Requirement shall supersede 6430.c, above, where applicable. This requirement may be waived subject to a grant of the Special Permit Waiver in 6403.
- e.** The maximum allowed height of a Tower shall not exceed one hundred (100) feet unless the applicant demonstrates that a greater height is required to allow for provision of the wireless communications services and the Planning Board finds that a height over 100 feet is desirable based on a balanced review of aesthetics and wireless coverage for the area.

6440. Design Requirements.

- a.** Wherever feasible and appropriate, wireless communications facilities, including their constituent Devices and Towers shall be subjected to Stealth Treatment appropriate for the context of the facility.
- b.** All building mounted wireless communications devices that are visible from the ground or another property shall be designed and located so as to appear to be an integral part of the existing architecture of the building and shall be of colors that are compatible with those of the building or landscape.

c. The wireless communications facility may be fenced to control access, as determined by the Planning Board. Fencing shall be compatible with and of similar materials and character of surrounding buildings, structures and neighborhood.

d. There shall be no signs or advertisements at any wireless communications facility, except for no trespassing signs and a required sign giving a phone number where the responsible party can be reached on a 24-hour basis.

e. If a building is needed for the equipment associated with the use of the device, said building shall be of similar style and materials as the other buildings on the site, or nearby site, as determined by the Planning Board.

6450. Application Process. The Planning Board encourages applicants for this Special Permit to have a preliminary discussion with the Board prior to a formal application submittal. Applications for a special permit for siting wireless communications facilities shall be filed in accordance with Section 9300 Special Permits, and shall further include the following:

a. Location of the Wireless Communications Facility, and its components, such as Base Station Equipment, Antennas, Tower or other Antenna Support Structure, cables, and the like.

b. Plans for anchoring, attaching and supporting the structure and devices, including specifications of hardware and all other building material.

c. Plans for accessory buildings.

d. Layout and details of surfacing for access road and parking.

e. Amenities such as lighting, fencing and landscaping.

f. Three (3) view lines from most visible locations within in a one mile radius of the site, plus additional view lines from any historic, scenic or other prominent areas of Town determined by the Planning Board. View lines shall, to the extent feasible, be taken from existing vantage points commonly used by the public, such as public ways, buildings or facilities. The submittal shall include unaltered photographs taken from eye level, five feet (5') above grade, which show the existing condition of these view lines, as well as accurate scale perspective elevation drawings, computer-altered photographs or other accurate representations showing view lines with the facility in place. Photographic simulations shall be rendered from locations as recommended by the Planning Board. The Visibility Analysis of the facility shall include a Visibility Map prepared by a qualified professional that indicates geographically where the Antenna Support Structure and/or Antennas will be visible year-round and seasonally.

g. A map showing the existing coverage of the Personal Wireless Service

in the area surrounding the proposed facility; and a map showing existing plus proposed coverage from the proposed facility. The maps should be accompanied by a scale, a legend, and a detailed explanation of what the maps show as well as why the particular coverage thresholds were selected.

h. A locus map at a suitable scale to clearly indicate the proposed Tower site, and shall include street, building structures, and landscape features within a 300 foot radius of the Tower site.

i. A narrative report written by the carrier and qualified engineering or other professionals, acceptable to the Planning Board, which shall:

1. Describe the justification and need of proposed site demonstrating a significant gap in coverage.
2. Describe the capacity of the structure, including the number and type of additional facilities and antennas it can accommodate.
3. Describe special design features to minimize the visual impact of the proposed wireless communications facility.
4. State whether a stealth treatment appropriate to the context of the facility is proposed and if not, the reason why such treatment is not feasible or appropriate.
5. Information including: manufacturer's product literature or photos of existing Towers that illustrate the characteristics of equipment, cabling or antennas that would be exposed to public view.

j. List of all other approvals and all other necessary permits needed for construction and operation.

k. As determined by the Planning Board, the applicant shall arrange to fly a balloon of at least 4 feet in diameter at the site of a proposed wireless Antenna Support structure at the maximum height of the proposed installation.

6451. To site a wireless communications facility at an existing Tower or nonresidential structure, the applicant shall be required to comply with Sections 6450 herein above, except that the Planning Board may waive some of said requirements if it finds that they are not applicable or not reasonably necessary to evaluating the proposal. It is encouraged that applicants for collocation have a preliminary discussion with the Planning Board.

6452. The above information shall be submitted in accordance with Section 9300, and additionally to the Board of Selectmen and the Town Manager.

6460. Approval.

6461. The Planning Board may grant a special permit for a wireless

communications facility only upon making the findings required by M.G.L. c. 40A, s. 9 and the following:

- a.** That the applicant has demonstrated to the satisfaction of the Planning Board that the requirements of this Section 6400 have been met.
- b.** That the size and height of the structure are the minimum necessary, taking into account the applicant's objectives and any proposed collocation.
- c.** That adverse impact on adjacent properties, residential neighborhoods, historic and artistic structures or scenic views is minimized to the extent practical.
- d.** That there will be no nuisance or serious hazard associated with the use.
- e.** That any reasonable alternatives identified in the pre-application meeting have been determined not to be preferable or feasible.

6462. When suitable and appropriate as determined by the Planning Board, collocation is encouraged. As a condition of the special permit for a wireless communication facility, the Planning Board may require that the structure and/ or facility be designed and built so that it is able to accommodate future wireless communications devices operated by another carrier with little or no modification, provided that such collocation does not materially interfere with the transmission or reception of communications signals to or from the existing facility, and provided that there are no structural or other physical limitations that make it impractical to accommodate the proposed additional wireless communications device. At the request of Town officials, the Planning Board may require the applicant to provide reasonable access to the facility for municipal communications.

6463. Any expansion or extension of wireless communications facilities or construction of new or replacement Towers or facilities shall require an amendment to the special permit. An increase in the number of antennas or the size of the antennas beyond that applied for and approved in the special permit, if such antennas are visible or if it changes the character of the stealth treatment, also requires amendment to the special permit.

6464. Any special permit granted under this section shall automatically lapse within one (1) year of the date of the grant, not including the time required to pursue or await the termination of an appeal, if construction has not commenced, except if the applicant applies to the Planning Board and it determines good cause to grant an extension.

6470. Conditions of Use.

6471. The applicant shall be required to maintain and keep in good repair

all facilities, devices and Towers.

6472. Based on the nature of the facility, the Planning Board may require the applicant to post a bond for the removal of wireless communication Antenna Support Structures in the event of non-operation. The amount of the surety shall be established by a consultant for the Town, such as an engineer, architect or other qualified professional registered to practice in the Commonwealth of Massachusetts as provided for in Section 6480.

6480. Fees for Outside Consultants. In addition to the special permit filing fees, the applicant shall pay reasonable fees and costs of retaining outside professional consultant services, including but not limited to professional review of the applicant's proposal by a professional or radio frequency engineer or other qualified professional, if such services are deemed necessary by the Planning Board, in accordance with M.G. L. c. 44, §53G.

6490. Severability. If any section or subsection of this Section 6400 is ruled invalid, such ruling will not affect the validity of the remainder of the Section.

b) Deleting Section 3514;

3514. Commercial Mobile Radio Service/Mobile Telecommunications providers may be permitted as accessory uses, on land zoned Municipal, and may also be permitted to be contained within religious churches, temples, synagogues and like buildings of worship upon the issuance of a use and site plan special permit by the Planning Board after a noticed public hearing that the use is reasonably necessary for the convenience or welfare of the public and will not result in a substantial detriment to the neighborhood.

and

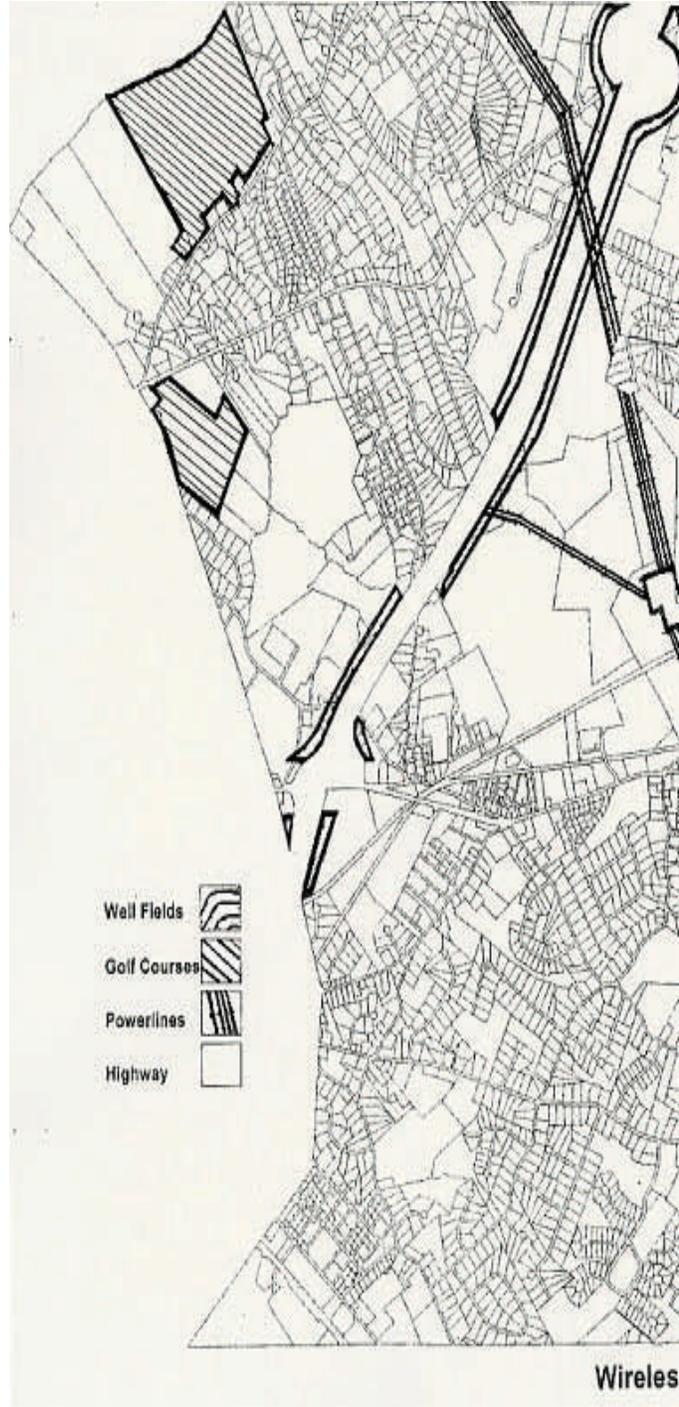
c) Amending Appendix A- Table of Use Regulations Section C. 27 to read "Wireless Communication Facilities" and across all districts to read "See Section 6400 for all districts".

and

d) Adopting the Wireless Communication Facilities Overlay District Map

Planning Board

Executive Summary: The purpose of this article is to provide a comprehensive regulation for Wireless Communication Facilities as defined under the Federal 1996 Telecommunication Act.





s Communications Facilities Overlay Map

NOTES:

NOTES:

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.

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