

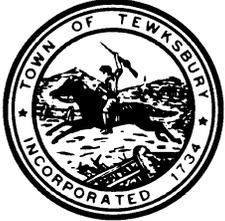
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**PAID**  
Tewksbury, MA  
PERMIT NO. 33

RESIDENTIAL CUSTOMER  
RURAL ROUTE BOX HOLDER

PLEASE TAKE THIS WARRANT  
WITH YOU TO TOWN MEETING

**SPECIAL TOWN MEETING**

**2008  
WARRANT**



**TOWN OF TEWKSBURY  
COMMONWEALTH OF MASSACHUSETTS**

**Finance Committee Public Hearing**

**September 24, 2008 7:30 p.m.**  
Town Hall Auditorium

**Special Town Meeting**

**October 7, 2008 7:00 p.m.**  
Tewksbury Memorial High School

## TOWN MEETING GUIDELINES

## NOTES

- \*\* 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.**

NOTES

Middlesex, ss.

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

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of the Town of Tewksbury, qualified to vote in Town affairs, to meet and assemble at Tewksbury Memorial High School, 320 Pleasant Street, in said Tewksbury on Tuesday, October 7, 2008, at 7:00 p.m. to act on the following articles:

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**ARTICLE 1**

**Tewksbury's Agricultural Regulations for Keeping Swine**

**Preamble**

Whereas, within the Town of Tewksbury a Swine Operation expanded ,building a 10,000 square foot barn with a 500,000 gallon capacity waste tank below. The nearest residence located a mere five hundred ninety feet (590') from the waste tank.

Whereas, the increase in the number of swine, produced excessive odor for neighboring residents and two abutting towns, Wilmington and Andover. Air quality concerns neighboring residents due to airborne fecal matter and gasses from swine waste, which occurs during the storage, composting and spraying of crop fields.

Whereas, Tewksbury is currently home to three piggeries or swine operations, each with the potential to expand and increase the number of swine without regard to the abutters, without local control and without a public process for the citizens.

Whereas, examination of Agriculture Industry Standards for keeping swine and State Laws for air quality, environmental and pollution standards for keeping swine, revealed a lack of protections for communities and a lack of due process if a problem occurs.

Whereas, when an Agricultural operation keeping swine expands in a suburb, twenty (20) miles north of Boston, Massachusetts, it is reasonable to expect the operation should co-exist with its abutters and close neighbors. The 2000 town census shows, 28,851 people, 9964 households and 7,692 families residing in the town. The population density was 1,392.3 people per square mile and a total land area of 20.7 square miles.

Whereas, the requirements and standards described in this document are for the express benefit of the people of the community, in consideration of public health and successful agricultural uses of land. The requirements shall provide the Local Health Department, Board of Health and town officials more discretion and enforcement over the safety and wellbeing of the community.

Whereas, the citizens of Tewksbury acknowledge the benefits and necessity of raising animals for our countries' food, we also acknowledge the need to protect the air we breathe, the environment and the property we call "home". Home is where we raise our children, celebrate family events, and relax from the stresses of work and the world at large. Requiring standards and regulations for Swine Operation facilities does not have to be mutually exclusive.

Whereas, the Agricultural Industry does not regulate themselves for all size swine operations and Massachusetts State Law does not protect basic rights of abutters of Swine Operations, specifically, a resident's right to breathe clean air, use and enjoy their property and the right to protect the value of that property. In the absence of standards and laws, the State is placing greater significance on a business's profits than a citizen's basic property rights!

Therefore, we the citizens of Tewksbury exercise our right to define standards for keeping swine within our community.

The standards for keeping swine within the Town of Tewksbury shall;

- 1) Provide equal protection under the law, by allowing residents basic rights to protect the health and wellbeing of their families, the neighborhoods and the community.
- 2) Empower the Board of Health by establishing a higher threshold for public safety and welfare, including odor nuisance.
- 3) Provide basic standards for and require enforcement of conservation concerns and environmental laws related to agricultural operations keeping swine.

#### **Section 1 Definitions**

- a. Agricultural Operation throughout this document will refer to the operation of keeping swine.
- b. Approving Authority shall be the Tewksbury Board of Health or its designated representative.
- c. Abutters shall be any land owner or lessee whose property is ½ mile of the applicant's swine operation.
- d. Environmental Assessment An inspection by the town's conservation administrator where the entire agricultural operation (land owned and leased) is physically inspected and environmental concerns or pollution is documented. Upon remedy of the concerns and/or violations, will certifying there is no illegally dumped manure on the property, no runoff exits into wetlands and that the operation will not contaminate the environment.
- e. Manure Management Plan (MMP) is a plan written by a certified industry professional, recommending the handling of swine manure. It shall addressing clearing, composting, storage (including location in



### **Recycling Information**

Beginning September 1, 2008, the Town of Tewksbury will begin recycling enforcement. The goal is to increase recycling tonnage that is collected in Tewksbury's municipal curbside recycling programs and save funds which can be used by the School Department later in the fiscal year. This will be accomplished through an education and enforcement program to insure that residents are separating recyclables from trash to the fullest extent possible, and placing them curbside for collection. This will be accomplished by the Town's Mandatory Recycling Enforcement Coordinator who is shared with Billerica and Chelmsford where this has already started. The funds for the Coordinator were received through a grant from the Department of Environmental Protection. The main focus will be to make sure that cardboard is prepared properly (flattened and no more than 2 ft. x 3 ft) for pick up. The Recycling Enforcement Coordinator will also be checking to see that recyclables are being placed curbside for pick up and are prepared properly. This includes all glass, metal and plastic items as well as paper. If an item is placed curbside and is not properly prepared for pick up, the item will be left behind and a sticker will be placed on it indicating the problem. The recycling calendar, which can be found on the town's website [www.tewksbury.info](http://www.tewksbury.info) under Recycle Committee, explains how most items need to be prepared to be placed curbside; however, if there is a question you can call Allied Waste 1-800-442-9006 Customer Service or you can call the Town Manager's Office 978-640-4300.



**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.

relation to wells and waterways), utilization and removal of swine manure. Such a plan shall represent the most up-to-date best management industry practices and the most stringent industry guidelines.

- f. Neighborhoods shall be any land owner or lessee whose property is within one (1) mile of the applicants operation.
- g. Nutrient Management Plan a plan written by a certified industry professional, who test the soil makes recommendations based on soil test results and type of crops to be planted to ensure a balanced soil composition, based on the most up-to-date Best Management Practices and the most stringent recommendations and guidelines.
- h. Non-impervious Land is land in which precipitation is allowed to directly fall and penetrate into the soil, excluding any buildings, paved driveway, shelters, or other barriers preventing the free flow of precipitation into the ground.
- i. Pest Control Plan A plan written to describe the type of pests which are experienced on this operation and the action recommended, including products to be used, based on the most up-to-date Best Management Industry Practices and the most stringent recommendations and guidelines.
- j. Swine Permit the permit granted by the Approving Authority to keep swine within the Town of Tewksbury, valid for twelve (12) months from date of issue
- k. Swine are any pigs not including pot-bellied pigs kept as household pets. For the purpose of licensing swine, juvenile swine not yet weaned, residing on the property with their maternal parent will not count as additional swine and will not require an additional or amended permit, until they are weaned.

**Section 2 Permit Application for Keeping Swine**

In the absence of Agricultural Industry Standards requiring swine permitting regulations, for all size swine operations, and State Laws requiring the same, the citizens of the Town of Tewksbury shall define the following standards for the permit process for keeping swine.

An agricultural operation shall apply, annually, to the Approving Authority, for a permit to keep swine.

The Approving Authority and local Health Department shall be responsible for agricultural operations to obtain permits at least every twelve months.

The following information shall be required and shall accompany the permit application;

## **GLOSSARY OF TERMS**

- 1) Application form, completed and showing number of swine to be kept.
- 2) A “Manure Management Plan” (see section 1, “Definition”)
- 3) A “Nutrient Management Plan”, ( see section 1, “Definition”)
- 4) A “Pest Control Plan”, (see section 1, “Definition”)
- 5) An “Environmental Assessment”, (see section 1, “Definition”)
- 6) Verification that all abutters have been notified by certified mail of the applicants intent, not more than thirty (30) days but no less than fourteen (14) days in advance of the hearing before the Approving Authority.
- 7) A certified plot plan of the entire farming operation, in its entirety, including areas which may be located in an abutting town(s). The plan and the following information will be drawn to scale and will become part of a legal document:
  - The plot plan shall reflect the location of all buildings and structures of the entire farm and their purpose.
  - The plot plan shall reflect the location and size of the area(s) the manure is located for composting, location of spreading area (cropland) or storage area. including areas which may be located in an abutting town(s ).
  - The plot plan shall reflect the location of all streams, ponds and/or wetlands or waterways, including flood zones ,located on the entire property, including areas which may be located in an abutting town(s).
  - A clear designation and description of the nearest boundaries or areas covered by Tewksbury’s Ground Water Protection Bylaw.
- 8) Permits for keeping swine, if issued, shall be issued to the owner of the property for a specific number of swine and cannot be transferred or assigned without a new hearing.
- 9) Permits are valid for twelve (12) months, from the date of issue, after which time it expires.

### **Section 3 Action by Approving Authority on “Permit Application for Keeping Swine”**

- 1) Upon receipt of the completed application, the Approving Authority shall hold a Public Hearing within 45 days. During which time, the Approving Authority shall:

#### **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.

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

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

Given under our hands this nineteenth day of August in the Year of Our Lord, Two Thousand and Eight.

**BOARD OF SELECTMEN**

- Todd R. Johnson, Esq., Chairman
- David H. Gay, Vice Chairman
- Douglas W. Sears, Esq., Clerk
- Jerome E. Selissen
- Anne Marie Stronach

- a) Verify that all abutters have been or will be notified.
- b) Inspect the property, and ensure that it is in accordance with Sections 4 through 9 in this document.
- c) Review the “Permit Application for Keeping Swine” and required documents.
- d) Certify all application information and documents are complete and accurate.
- e) Review the file on this agricultural operation from previous years to insure they are in good standing. Review complaints from residents, environmental report from Conservation Administrator, and other pertinent findings.

- 2) The Approving Authority shall provide an opportunity for the abutters to express their concerns, ask questions, and express their support or opposition to the application. The Board of Health may require the applicant to furnish additional information to make a determination whether to grant the permit.
- 3) The Approving Authority shall make the Applicant aware that keeping swine is a major source of pollution. The burden shall be on the applicant to establish that the granting of a permit shall not endanger the health and wellbeing of the public, including the drinking water supplies of the community.
- 4) The Approving Authority shall act on the application for a Swine Permit and shall provide the applicant with a written decision of the outcome and any conditions imposed by the Board of Health if the permit is granted.
- 5) The Approving Authority shall issue or deny said “Permit for Keeping Swine”. If upon examination of the required documents; there would be a negative impact to the public’s health and welfare, including odor nuisance concerns, then denial of said application, with findings shall also be forthcoming from the Approving Authority.

**Section 4 Swine Housing**

In the absence of standard regulations for swine buildings, for all size operations, from the agricultural industry and State Laws requiring the same, the citizens of the Town of Tewksbury shall require agricultural operations to comply with State Code and local building regulations and a component for public input;

- 1) Building or Renovation of swine buildings shall require a Permit application.
- 2) The Applicant shall notify abutters and a public hearing shall be conducted.
- 3) The Applicant shall submit plans to all town officials, in accordance with Town of Tewksbury bylaws. Each Town department shall provide comments to the Planning Board prior to a public hearing.
- 4) The citizens shall be given every opportunity to express their concerns during the public hearing and said concerns shall be remedied by the Planning Board.
- 5) For New construction or renovation, the decision to issue a permit, by the Planning Board, shall place the weight of the decision on the appropriateness of the building or improvements for the neighborhood and the welfare of the neighborhood.
- 6) All new construction or renovation of primary stables, pens or housing used to contain swine shall be a minimum 5000 feet from any lot line and shall be designed with the industry's most recent and most stringent requirements and recommendations for minimizing odors and environmental pollution.

#### **Section 5 Manure Management**

In the absence of standard regulations requiring a manure management plan for all size swine operations, from the Agricultural Industry and State Laws requiring the same, the citizens of the Town of Tewksbury shall require a Manure Management Plan each year, as required in the "Permit Application for Keeping Swine" (Section 2).

One hog produces four (4) pounds of waste per day on average<sup>1</sup> or 1,460 pounds per year.

For example, 1000 swine will produce 1, 460,000 pounds of waste per year, on average.

- 1) The submitted Manure Management Plan (MMP) shall be written by a certified industry professional and reviewed by the Approving Authority prior to issuance of a Permit.
- 2) The MMP shall represent Best Management Industry Practices and shall use the most stringent developments in industry regulations and guidelines and technology, regardless of the size of the operation.

**Executive Summary:** The Town acquired this property by tax foreclosure on or about August 13, 2004. By selling this property the Town can return it to the tax rolls. This request is made by an abutting landowner.

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#### **ARTICLE 17**

To see if the Town will vote to authorize the Board of Selectmen to sell a parcel of Town property, Lot 45 on Assessor's Map 10, and further described as approximately 15,000 square feet and located on a way known as Laurier Avenue. Said property is owned by the Town of Tewksbury and shall be sold in accordance with Section 3.12.010 of the Town By-Laws. Or take any other action relative thereto.

Kenneth J. Smith and Others

**Executive Summary:** The Town has owned this property since approximately January 1, 1900 according to public records. By selling this property the Town can return it to the tax rolls. This request is made by an abutting landowner.

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#### **ARTICLE 18**

To see if the Town will vote to authorize the Board of Selectmen to sell a parcel of Town property, Lot 9 Unit 11 on Assessor's Map 73 and further described as 1501 Main Street condominium unit #11. Said property was acquired by the Town by tax title procedures and shall be sold in accordance with Section 3.12.010 of the Town By-Laws. Or take any other action relative thereto.

Board of Selectmen  
Town Manager

**Executive Summary:** The Town acquired this property by tax foreclosure approximately one year ago and it is anticipated that no town department, board, commission or committee will need it for their programs and services. By selling this property the town can return it to the tax rolls and avoid winter season operational costs.

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<sup>1</sup> Hogs and Pigs – 2007, USDA  
(<http://usda.mannlib.cornell.edu/reports/nassr/livestock/php-bb/2007/>)

The new section will read:

**8310. Location.** The Groundwater Protection District shall be defined as all lands within the Town of Tewksbury that are delineated as Zone II on the map titled “Town of Tewksbury Zone II Delineation” and dated September, 2001, which map(s), as amended from time-to-time, shall be kept on file with the Town Clerk, the Planning Board, the Building Commissioner, the Board of Health, and the Town Engineer. Additionally, a section in the southeasterly part of Town as defined on the attached map shall be included in the Groundwater Protection District. Said map, revises the most recent Zoning Overlay District Map dated 3/25/05.

Planning Board’s  
Zoning Bylaw Subcommittee

**Executive Summary:** This amendment adds a section of Town at the Wilmington border to the Groundwater Protection District to protect Wilmington’s groundwater supply.

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### **ARTICLE 15**

To see if the Town will vote to amend Section 6131 of the Zoning Bylaw to include the office research district. The revised section would read:

6131. Adult use establishments shall be restricted to operation within the heavy industry district or the office research district only.

Planning Board’s  
Zoning Bylaw Subcommittee

**Executive Summary:** The Adult Use Establishment regulations in the Zoning Bylaw were developed after an extensive study to prevent the associated secondary effect of these establishments. In 2006, a portion of the heavy industrial district was rezoned to office research district and the Town lost an eligible location for this type of use. This revision would reestablish one of 4 locations that were identified after the original study.

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### **ARTICLE 16**

To see if the Town will vote to authorize the Board of Selectmen to sell a parcel of Town property, Lot 55 on Assessors’ Map 10, and further described as approximately 5,450 square feet and located on a way known as Laurier Avenue. Said property was acquired by the Town by tax foreclosure procedures and shall be sold in accordance with Section 3.12.010 of the Town By-Laws. Or take any other action relative thereto.

Kenneth J. Smith and Others

- 3) The MMP shall address clearing, composting, storage (including location in relation to streams ponds, wetlands, flood zones, and ground water protection areas), utilization and removal of manure.
- 4) The MMP shall require management and disposal of manure in a way which minimize odors, breeding flies and the attraction of vermin.
- 5) The MMP shall require manure to be collected and stockpiled at a location(s), carefully chosen to maximize the distance from abutting properties and watercourse and with due consideration of the prevailing winds.
- 6) The storage of manure, wastes and soiled bedding and the maintenance of pens or corrals for swine shall not interfere with any abutter’s rights to clean air or to the use and enjoyment of their property.
- 7) The Board of Health or its agent and the local Health Department shall investigate any complaints of offensive odor, pollution or pests (such as rats, mice, insects, flies or mosquitoes) associated with the keeping of swine within the Town of Tewksbury and find a remedy in accordance with Section 10 “Enforcement”.
- 8) The Board of Health and the Local Health Department shall track manure production and disposal, documenting and accounting for all swine waste. These documents shall be available to the public.
- 9) Upon every visit to the property, the health official shall inspect and measure storage areas, measuring the contents of the swine waste storage tank or the height and width of manure piles and their location on the property and document the findings. This information shall be available to the public.

### **Section 6 Nutrient Management Plan**

Swine waste can pollute the environment when misapplied or over-applied to cropland. In the absence of standard regulations requiring a nutrient management plan for all size swine operations, from the agricultural industry and State Laws requiring the same, the citizens of the Town of Tewksbury shall require a nutrient management plan each year, as required in the “Permit Application for Keeping Swine” (Section 2).

- 1) The submitted Nutrient Management Plan shall be written by a certified industry professional and reviewed by the Approving Authority prior to issuance of a Permit.
- 2) The Nutrient Management Plan shall represent Best Management Industry Practices and shall use the most stringent developments in industry regulations, guidelines and technology, regardless of the size of the operation.

- 3) Upon every visit to the swine operation, regardless of reason for visit, Local Health Department officials shall require follow up on the Nutrient Management Plan, inspecting the property for violations in the plan and documenting said violations. All information shall be documented and action take, in accordance with Section 10 “ Enforcement”

**Section 7 Pest Control Plan**

In the absence of standard regulations requiring a Pest Control Plan for all size swine operations, from the Agricultural Industry and State Laws requiring the same, the citizens of the Town of Tewksbury shall require a Pest Control Plan each year, as required in the “Permit Application for Keeping Swine” (Section 2).

- 4) The submitted Pest Control Plan shall be written by a certified industry professional and reviewed by the Approving Authority prior to issuance of a Permit.
- 5) The Pest Control Plan shall represent Best Management Industry Practices and shall use the most stringent developments in industry regulations, guidelines and technology, regardless of the size of the operation.
- 6) Upon every visit to the swine operation, regardless of reason for visit, Local Health Department officials shall require updates of pest problems experienced on the property and control measures taken, including type of pest problem, action take and results. All information shall be documented and action take, in accordance with Section 10 “ Enforcement”

**Section 8 Environmental Assessment**

In the absence of standard regulations requiring an Environmental Assessment for all size swine operations, from the agricultural industry and State Laws requiring the same, the citizens of the Town of Tewksbury shall require an Environmental Assessment each year, as required in the “Permit Application for Keeping Swine” (Section 2).

- 1) The submitted Environmental Assessment shall be written by a certified industry professional and reviewed by the Approving Authority prior to issuance of a Permit.
- 2) The Environmental Assessment shall represent Best Management Industry Practices and shall use the most stringent developments in industry regulations, guidelines and technology, regardless of the size of the operation.
- 3) No swine facility shall willfully or through negligence, cause, suffer, allow or permit the drainage of any liquid effluent containing urine and/or fecal matter from the property to flow over

**ARTICLE 13**

To see if the Town will vote to amend Section 6137 of the Zoning Bylaw by adding the following at the end of the section: “unless the use is physically separated from the residential districts by an interstate right of way, with no direct access from the right of way to the residential, heavy industrial and office research district.”

The revised Section would read:

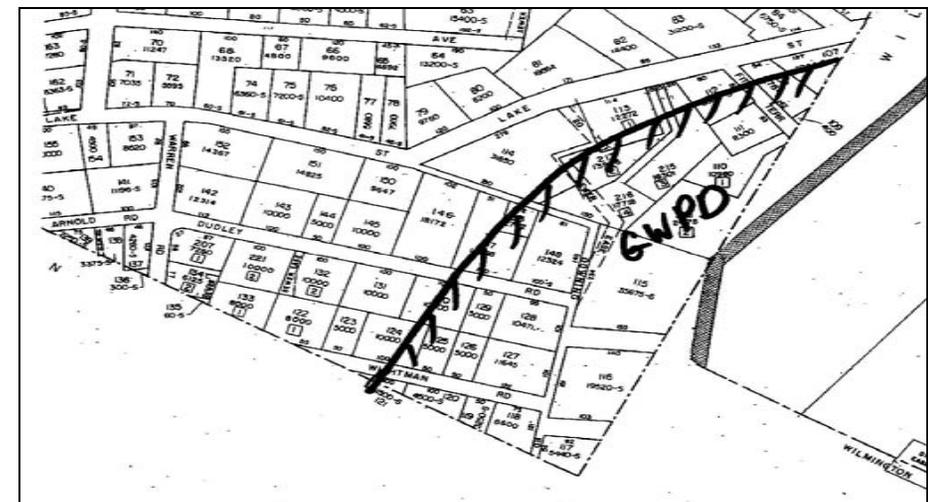
**6137.** No permit shall be granted for an adult use establishment in an area otherwise properly zoned if the specific location is within a 1320 foot radius of an R40, R80, MFD or MFD/55 District unless the use is physically separated from the residential districts by an interstate right of way, with no direct access from the right of way to the residential, heavy industrial and office research district.

Planning Board’s  
Zoning Bylaw Subcommittee

**Executive Summary:** After a recent review of the Adult Use Establishment regulations, the Zoning Bylaw Subcommittee noted that an intended location was prevented by the 1320 foot requirement. This revision would allow for the original intent of the regulations which were approved by Town Meeting over a decade ago.

**ARTICLE 14**

To see if the Town will vote to amend Section 8310 of the Zoning Bylaw and Zoning Overlay District Map dated 3/25/05 to include an amendment to the location of the Groundwater Protection District as described on the map below:



## ARTICLE 11

To see if the Town will vote to amend the Town's By-Laws by deleting 2.04.030 Posting requirements for Town Meeting warrants and replace it with new language as follows:

### 2.04.030 Posting Requirements

The warrant shall be posted by a Constable of the Town of Tewksbury and shall be posted in a public place in each precinct and in the Town Hall. In addition, the warrant shall be placed on the Town's website at least twenty (20) days before any Annual Town Meeting or Special Town Meeting.

Or take any other action relative thereto.

Town Manager

**Executive Summary:** Due to budgeting reductions, the Town has no funds to print and distribute Annual and Special Town Meeting Warrants so that the use of the Town's website will serve to distribute this information.

[http://www.tewksbury.info/town\\_manager/bos/index.html](http://www.tewksbury.info/town_manager/bos/index.html)

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## ARTICLE 12

To see if the Town shall amend its Town By-laws Chapter 12.04 by adding the following section:

### 12.04.90 Excavation and Trench Safety

Pursuant to the provision of Massachusetts General Laws Chapter 82A, Section 2, the Superintendent of Public Works is designated the official to issue permits for the excavation of trenches on privately owned land, public property or a public way, and further provided, shall enforce Massachusetts General Laws Chapter 82A and establish reasonable fees to cover the administrative costs of the permitting process, or take any action relative thereto.

Town Manager

**Executive Summary:** With the recent adoption of M.G.L. c.82A, Section 2 each Massachusetts municipality must designate a Town official to issue permits for the excavation of trenches on public and private property. This amendment to the Town's By-laws accomplishes this.

the surface of the ground where it can flow to abutting property, public way, watercourse, body of water, or wetland area.

- 4) All insecticides used to control pests or insects shall be approved by the Department of Public Health and the Department of Environmental Protection and should be applied in accordance with the instruction for the use of that insecticide.
- 5) Upon every visit to the swine operation, regardless of reason for visit, Local Health Department officials shall require updates of pest problems experienced on the property and control measures taken, including type of pest problem, action take and results. All information shall be documented and action take, in accordance with Section 10 "Enforcement"

## **Section 9 Air Quality Protection for Residents from Swine Operations**

Residents shall have the right to breathe air, free from odorous and harmful gasses and free from microscopic particulates of swine waste.

Residents shall have the right to use and enjoy their property and protect the value and/or marketability of their property.

Acceptable odor standards are designed to protect air quality for neighboring residents. Local Health Department and Board of Health officials are sworn to protect and promote public health and welfare, including stress, the result of excessive odors on abutters of swine operations.

The measurement of odor generation rate and odor intensity is a developing science. However, it is widely recognized that factors like the way a farm is designed and the use of best management practices can minimize odor emissions.

The same standards of air quality for all other industry and businesses in the United States including the State of Massachusetts, should apply to agricultural operations keeping swine. The Agricultural Industry has not provided odor and air quality standards for abutters of agricultural operations keeping swine.

In the absence of State Laws setting acceptable odor levels and due process for residents negatively affected by swine odor, the citizens of the Town of Tewksbury shall determine standards for swine odor relief and prevention within our community.

- 1) All agricultural operations keeping swine shall use Best Management Industry Practices and shall use the most stringent developments in industry regulations, guidelines and technology, regardless of the size of the operation. Swine operations shall use the recommendations, and the latest research and technology, of the Environmental Protection Agency, Department of Agriculture, National Resources Conservation Service and other industry agencies and organizations, to minimize odors.

- 2) Decomposition of piggery wastes generates by-products or compounds which produce strong odors. Odor generation from swine waste shall be minimized by the barn design, effluent collection and storage location, carcass disposal, and manure spreading. Swine waste shall be managed in a way as to minimize odor generation and shall use Best Management Industry Practices to minimize odors.
- 3) Odours are influenced by climate and topography, separation distance plays an important role in the dispersion of odors from swine operations, therefore, swine operations shall be established or moved to a sufficient distance from residences, to ensure that dispersion effectively limits odours and frequencies under the expected range of atmospheric conditions. If a sufficient distance to disperse odor cannot be established, more additional and/or more prudent measures shall be taken on behalf of the swine operation, to monitor air quality standards and ensure abutters rights to clean air and use and enjoy their property.
- 4) The Director of Health or its agent and the Board of Health shall examine all the factors influencing swine operation odors and take action to relieve neighbouring residents. Each complaint shall be documented and shall include: Frequency, Intensity, Duration and Offensiveness.
- 5) Sludge from swine waste is comprised of either completely or partially digested organic matter which when disturbed can be highly odorous. When disturbed or irrigated, effluent generates odours through the release of offensive gases and by spray drift of fine aerosols through the atmosphere. The application of swine effluent shall be managed so that effluent infiltrates, or is incorporated into the soil immediately following application.
- 6) There shall not be application of swine waste during prolonged wet periods or when runoff would occur. Timing of effluent application shall be considered, during the week days when most residents are at work. It shall not occur on weekends or holidays, or when prevailing weather conditions would cause odors.
- 7) Carcass disposal shall be well designed and managed to prevent odor. Burial sites shall be designed to prevent entry of upslope runoff water. The whole carcass shall be covered with a layer of soil immediately after placement in the pit. If composting is used, the carcass should be covered with at least 300 mm of sawdust or other composting substrate. Records shall be kept of deaths and location of burial.

**Section 10 Enforcement**

In the absence of standard regulations for swine regulation enforcement from the Agricultural Industry, for all swine operations, and State Laws and local regulations which provide inadequate due process and accountability for citizens

**ARTICLE 8**

To see if the Town will vote to transfer \$155,828 from General Fund Free Cash to the Other Post Employment Benefits Stabilization Fund or take any action related thereto.

Town Manager

**Executive Summary:** This Stabilization Fund is being used to accumulate funds to be applied towards the Town's obligation for health care to retirees. Beginning in FY 2009 the Town will be required to calculate and report the actuarial liability relating to benefits for retirees. Having funds set aside for this purpose helps to reduce the liability. The \$155,828 represents funds received by the Town in FY2008 as a Federal subsidiary relating to Medicare Part D.

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**ARTICLE 9**

To see if the Town will vote to enter into a contract for the purpose of disposing of solid waste for up to five (5) years with an option to extend for an additional five (5) years. Or take any other action relative thereto.

Town Manager

**Executive Summary:** The Town's current solid waste disposal contract expires in June, 2010. Tewksbury, along with several other municipalities is participating in a bid for these services beyond June, 2010. Since the minimum term of this bid is five years with a possible extension to ten years, this article is necessary under Massachusetts General Laws.

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**ARTICLE 10**

To see if the Town will vote to accept conveyance of the sewer line and pump station from Tewksbury Townhouse Condominiums Association, Inc. located within 2175 Main Street and property as shown on Assessor Map 96 Lot 50, and to further accept conveyance of the utility easements in which said sewer line and pump station may be located. Said utility easements being shown on a plan entitled Easement Plan of Land in Tewksbury, Massachusetts, prepared by H-Star Engineering, Inc. dated April 22, 2006 or take any other action relative thereto.

Town Manager

**Executive Summary:** Several years ago Tewksbury Townhouse Condominiums constructed a sewer system and pump station to serve their property as well as other properties in the area. As permitted by the Agreement, the Town tied part of the Phase 6 sewer system into the sewer system. As outlined in the Agreement the Town would eventually take over the sewer system which would be accomplished with this article.

\$50,000. FY08 certified Water Enterprise Fund free cash will be used to fund this appropriation.

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### ARTICLE 6

To see if the Town will vote to amend the action taken under Article 10 of the October 2, 2007 Special Town Meeting to change the purpose for which a portion of the funds authorized under the article (\$15,000) can be used, which was previously amended to allow for making improvements to the Town's water system as voted under Article 3 of the May, 2005 Special Town Meeting, back to its original purpose as voted under Article 13 of the May, 2004 Special Town Meeting which was for the installation of an automatic control valve on Trull Rd or in the vicinity of Trull Rd and Andover St and to change the location from Trull Rd or in the vicinity of Trull Rd to Old Main St or take any related action.

Town Manager

**Executive Summary:** This article requests that \$15,000, which was originally voted under Article 13 of the May, 2004 Special Town Meeting to be used for the installation of an automatic control valve on Trull Rd or in the vicinity of Trull Rd, then transferred under Article 10 of the October, 2007 Special Town Meeting to Article 3 of the May, 2005 Special Town Meeting which was to be used to make improvements to the Town's water system, be transferred back and restored to the original purpose of installation of a control valve under Article 13 of the May, 2004 Special Town Meeting. In addition the location for the installation of the control valve will be changed from Trull Rd or in the vicinity of Trull Rd to Old Main St.

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### ARTICLE 7

To see if the Town will vote to accept the provisions of Chapter 44 Section 53E ½ of the Massachusetts General Laws, establishing a self sufficient revolving fund, effective November 1, 2008, to account for the revenues and expenditures relating to activities sponsored by the Town of Tewksbury Health Department/Board of Health. The fund shall be credited with all amounts received relating to the sale of "Emergency 72 Hour Go Kits" to Tewksbury residents. Expenditures of the fund shall be authorized by the Health Department Director and the Town Manager or Town Manager's designee. The total amount which may be expended from the fund in any given fiscal year shall be limited to \$10,000, or take any related action relative thereto.

Town Manager

**Executive Summary:** This article authorizes the Town of Tewksbury Health Department/Board of Health to establish a self sufficient fund to account for the revenues and expenditures of selling "Emergency 72 Hour Go Kits" to Tewksbury residents.

neighboring swine operations, we the citizens of Tewksbury exercise our right to define enforcement standards for our local Health Department and Board of Health.

Local Department of Health officials or its agent and the Board of Health shall be the enforcement agent for the following requirements;

- 1) Regular inspections shall be performed, as needed, without prior notification, in accordance with Sections 4 through 9 in this document.
- 2) Non-compliance of any regulations for keeping swine shall be documented and permits may be revoked or suspended if it is determined that any of the following has occurred:
  - Continued keeping of swine constitutes a public safety of health risk.
  - The animals are not receiving proper care.
  - The facts contained in the application or as represented by the application to the BOH are inaccurate.
  - The permit holder is keeping swine in greater numbers than indicated on the current permit.
  - Abutter's rights to use and enjoy their property have been violated.
  - The health and wellbeing of the citizens are negatively impacted
  - The Best Management Practices and most stringent industry standards and recommendations have not been used and/or implemented by the operation.
  - Violations occur to "Tewksbury's Agricultural Regulations for Keeping Swine"
- 3) The holder of any permit revoked or suspended, shall be notified of such action by certified mail. The person aggrieved may petition the BOH for a public hearing at the next available BOH meeting. The applicant may be permitted to keep said swine on the premise until the BOH hearing so long as it does not pose an immediate threat to the public health and safety, in which case the swine must be removed within twenty-four (24) hours of the receipt of the notice.
- 4) Complaints shall be logged and investigated immediately.
- 5) Citizens shall be given every opportunity to express their concerns during a public hearing and said concerns shall be remedied by

both the Department of Health or its agent and the Board of Health.

- 6) Unresolved problems shall be remedied by revoking the permit for swine.

**Section 11 Severability**

If any provisions of these regulations are declared invalid or unenforceable, the other provisions shall not be affected by this determination and shall remain in full force and effect.

Michelle C. Walsh and Others

**Executive Summary:** “Tewksbury’s Agricultural Regulations for Keeping Swine” shall regulate swine operations in Tewksbury.

Whereas, the Agricultural Industry does not regulate all swine operations and in the absence of Massachusetts State Law to protect basic rights of abutters of swine operations, the regulations establish basic property rights of residents; to breath clean air, use and enjoy property and protect property value.

The regulations require manure, nutrient and pest management, as well as environmental assessments and the industry’s best management practice. Health officials will have more discretion and enforcement over the safety and wellbeing of the community.

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**ARTICLE 2**

To see if the Town will vote to approve the sum of \$7,936.72 to pay an outstanding bill of a previous fiscal year and that to raise this appropriation the Town will vote to transfer \$7,936.72 from Police-Salaries to Police Unpaid Bills or take any related action.

Police-Salaries                      Sergeant James Williams Jr.                      \$7,936.72

Town Manager

**Executive Summary:** According to Massachusetts General Laws bills that are late must be approved by Town Meeting before payment. This article authorizes the charges to be paid and allows a transfer from the FY09 budget to cover the amount.

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**ARTICLE 3**

To see if the Town will vote to raise and appropriate the sum of \$329,541 to be added to the appropriation voted in Article 4 of the May, 2008 Annual Town Meeting or take any related action.

Town Manager

**Executive Summary:** This article corrects an oversight relating to the FY09 general fund budget as voted in Article 4 of the May, 2008 Annual Town Meeting. Annually, the Town collects, through the tax rate, an amount for sewer exempt debt which is budgeted and paid by the Sewer Enterprise Fund (which is included in Article 5 of the May, 2008 Annual Town Meeting). To match the revenue with the expense Town Meeting votes (as part of the general fund budget Article 4) to transfer the tax revenue collected to the Sewer Enterprise Fund. Due to an oversight for FY09 this amount was not included in Article 4. This article appropriates the funds so that the Sewer Enterprise Fund has sufficient revenues to cover the payment of principal and interest on long term debt.

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**ARTICLE 4**

To see if the Town will vote to appropriate the sum of \$13,307 to increase the FY09 appropriation voted in Article 6 of the May, 2008 Annual Town Meeting as follows: \$7,207 to Leases and Contracts and \$6,100 to Short-Term Interest and to see if the Town will vote to transfer from Water Enterprise Fund free cash the sum of \$13,307 to cover the additional FY09 appropriation or take any related action.

Town Manager

**Executive Summary:** This article allows the Town to use FY08 certified Water Enterprise Fund free cash to increase the FY09 water fund appropriation by \$13,307 as previously voted in Article 6 of the May, 2008 Annual Town Meeting. The funds will be used to pay for the Water Fund’s share of the annual utility billing software support (\$2,878), software support and maintenance of the equipment used to read the water meters (\$4,329) and short-term interest on an additional borrowing related to the Colonial Drive water storage tank (\$6,100).

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**ARTICLE 5**

To see if the Town will vote to appropriate and transfer from Water Enterprise Fund free cash the sum of \$50,000 to be used to meet certain short-term Department of Environmental Protection requirements relating to the water storage tank at Ames Hill or take any related action.

Town Manager

**Executive Summary:** This article will provide funds for the Town to begin the process of meeting Department of Environmental Protection requirements for the Ames Hill water storage tank such as, but not limited to, installing a locking system on manhole covers, removing vegetation and trees from the site, cleaning the tanks, installing a camera on the tower and installing new ultrasonic devices for level measurement. The estimated cost of performing these items is