

**TOWN OF MASHPEE  
ANNUAL TOWN MEETING  
MONDAY, OCTOBER 17, 2016**

Barnstable, ss:

Greetings to the Constables of the Town,

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and summon the inhabitants of the Town of Mashpee who are qualified to vote in the elections to meet at the Mashpee High School on Monday, the 17<sup>th</sup> day of October 2016 at 7:00 p.m. for the following purposes:

To act on the articles contained in the following Warrant.

**Article 1**

To see if the Town will vote to appropriate and transfer the sum of \$498 from revenue available for appropriation to pay previous fiscal year unpaid bills as follows:

Judith Daigneault, Retroactive Payment	\$498
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Or take any other action relating thereto.

Submitted by the Board of Selectmen

**Explanation:** This article is necessary to pay retroactive wages which are owed to one of the Town's board secretaries as a result of a missed step increase.

**The Board of Selectmen recommends Town Meeting approval by a vote of 5-0  
The Finance Committee recommends Town Meeting approval by a vote of 6-0**

**Article 2**

To see if the Town will vote to appropriate, borrow or transfer from available funds, a sum of money to be expended under the direction of the Planning & Construction Committee for replacement of windows and doors at the Quashnet School, 150 Old Barnstable Road, Mashpee, MA 02649 for which the Town may be eligible for a school construction grant from the Massachusetts School Building Authority ("MSBA"). The proposed repair project would materially extend the useful life of the school and preserve an asset that otherwise is capable of supporting the required educational program. The MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any project costs the Town incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town. Any grant that Town of Mashpee may receive from the MSBA for the

Project shall not exceed the lesser of (1) 37.95 percent (%) of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA.

Submitted by the Board of Selectmen

**Explanation:** This article seeks an appropriation of funds with respect to which the Town may be eligible for reimbursement pursuant to a school construction grant from the Massachusetts School Building Authority (MSBA). The Massachusetts School Building Authority (MSBA) has accepted the Town's application to participate in their Accelerated Repair Program. Through this program, the Town would receive reimbursement of up to 37.95% of the costs to replace the windows and doors at the Quashnet School. The windows and doors are original to the school's construction in 1978 (Liberty Wing addition was constructed in 1992). The condition of the windows is poor, resulting in heat loss, moisture penetration, and clouding of glass. The proposed window and door replacement project would materially extend the useful life of the school, and preserve a capital asset that is otherwise capable of supporting the required educational programs. The project is estimated to cost \$1.75 million, of which the MSBA would reimburse the Town approximately \$650,000.

**The Board of Selectmen recommends Town Meeting approval by a vote of 5-0  
The Finance Committee to make recommendation at Town Meeting**

### **Article 3**

To see if the Town will vote to appropriate and transfer from revenue available for appropriation the sum of \$404,000 to fund the Firefighters Union Contract settlement effective July 1, 2014 through June 30, 2017, or take any other action relating thereto.

Submitted by the Board of Selectmen

**Explanation:** This article will fund a contract settlement for FY 2015, FY 2016 and FY 2017.

**The Board of Selectmen recommends Town Meeting approval by a vote of 5-0  
The Finance Committee to make recommendation at Town Meeting**

### **Article 4**

To see if the Town will vote to create the position of Administrative Secretary within the Recreation Department/Kids Klub Enterprise, said position to be classified under the Clerical Union, SEIU 888, Grade IV, to be effective immediately, or take any other action relating thereto.

Submitted by the Board of Selectmen

**Explanation:** At the May 1, 2000 Annual Town Meeting, Article 11 authorized the transfer of various Kids Klub positions to the Town's salary schedule. The position of Administrative Secretary was inadvertently omitted. Approval of this article will rectify the situation.

**The Board of Selectmen recommends Town Meeting approval by a vote of 5-0  
The Finance Committee to make recommendation at Town Meeting**

### **Article 5**

To see if the Town will vote to appropriate and transfer the sum of \$83,000 from the Ambulance Receipts Reserved for Appropriation account to the FY 2017 Fire Capital account, or take any other action relating thereto.

Submitted by the Fire Department

**Explanation:** This article is to fund the upgrade of the Fire/EMS reporting program, including replacement of hardware. Currently, the Town uses two separate programs for reporting; this new program will allow for both Fire and EMS reporting, and will be compliant with the Office of Emergency Medical Services reporting requirements. The Fire Department was notified in March that the current Fire incident reporting program would be discontinued, thus requiring the change to the new reporting program. Due to this need for a new Fire reporting program, as well as pending upgrade requirements and increased annual costs of the existing EMS program, it was determined that upgrading to one reporting program would be fiscally and operationally more beneficial to the Town. The Capital Improvement Committee held a special meeting and unanimously voted to approve the project.

The \$83,000 cost of the upgrade is distributed as follows, and all funding will be through the Ambulance Receipts account:

\$38,950	ImageTrend program – includes CAD integration and personnel training
\$33,000	Purchase of six (6) laptop/table computers for Fire vehicles
\$ 9,610	Purchase of computer mounts, antenna, installation and Windows licensing
\$ 1,440	Six months of Verizon wireless service to cover FY 2017 costs

**The Board of Selectmen recommends Town Meeting approval by a vote of 5-0  
The Finance Committee recommends Town Meeting approval by a vote of 6-0**

### **Article 6**

To see if the Town will vote to transfer the sum of \$25,077.73 from the Cable Access Special Revenue fund to the Cable Access Receipts Reserved fund, or take any other action relating thereto.

Submitted by the Town Accountant/Finance Director

**Explanation:** The Department of Revenue has required municipalities to account for Cable Access funds in a Receipts Reserved account, beginning in FY 2017. This article will transfer the June 30, 2016 balance in the previous Cable Access fund to the new fund.

**The Board of Selectmen recommends Town Meeting approval by a vote of 5-0**

**The Finance Committee recommends Town Meeting approval by a vote of 6-0**

### **Article 7**

To see if the Town will vote to appropriate and transfer, pursuant to the provisions of M.G.L. Chapter 44B, §6 to reserve from FY 2017 estimated Community Preservation revenues, the following amounts:

\$ 149,723	10% for Open Space/Recreational Purposes
\$ 149,723	10% for Historic Preservation Purposes
\$ 149,723	10% for Affordable Housing Purposes
\$1,048,058	to the FY 2017 Community Preservation Fund Budgeted Reserve for Appropriation, as recommended by the Community Preservation Committee,

or take any other action relating thereto.

Submitted by the Community Preservation Committee

**Explanation:** This article is required annually to set aside the 10% Reserves of the estimated Community Preservation Funds for Open Space/Recreation Purposes, Historic Preservation Purposes and Affordable Housing Purposes as well as to fund the Budgeted Reserve for Appropriation.

The Community Preservation Committee voted 7-0 to approve this article to set aside the 10% Reserves and Budgeted Reserve for Appropriation to be available for use in FY 2017, as certified by the Town Finance Director and reflected in the FY 2017 CP-1.

**The Board of Selectmen recommends Town Meeting approval by a vote of 5-0**

**The Finance Committee recommends Town Meeting approval by a vote of 6-0**

### **Article 8**

To see if the Town will vote pursuant to the provisions of M.G.L. Chapter 44B, §5, to amend the previous vote of the Town Meeting under Article 9 of the May 2016 Special Town Meeting for the purposes of funding the acquisition of the Littleford Moniz Jordan property; 104 William Mingo Road identified on Assessor's Map 51, Block 6 and 60 Saddleback Road identified on Assessor's Map 43, Block 14 for open space and passive recreation purposes by striking the wording "with no conservation restriction"; and further, to authorize the Conservation

Commission and/or the Board of Selectmen to acquire, by purchase, fee title to the subject property for open space and passive recreation purposes pursuant to M.G.L. Chapter 40, §8C or otherwise, to grant/impose such conservation use restrictions with respect to said property as may be required by M.G.L. Chapter 44B, §12 and to execute such agreements and instruments as may be necessary to accomplish said transactions, all as recommended by the Community Preservation Committee, or take any other action relating thereto.

Submitted by the Community Preservation Committee

**Explanation:** The Town Meeting vote under Article 9 of the May 2016 Special Town Meeting authorized the appropriation of Community Preservation Act funding for this acquisition. However, the article did not specifically authorize the Board of Selectmen to acquire title to the subject property nor did it specifically authorize the Board of Selectmen and/or Conservation Commission to impose/grant a use restriction on the property as required by the Community Preservation Act, M.G.L. Chapter 44B, §12. The subject property will be perpetually limited to open space and passive recreation purposes enforceable by the Conservation Commission or other conservation organization.

The vote of the Community Preservation Committee was 6-0 in support of this article.

**The Board of Selectmen recommends Town Meeting approval by a vote of 5-0**  
**The Finance Committee recommends Town Meeting approval by a vote of 5-1**

#### **Article 9**

To see if the Town will vote to appropriate and transfer from the Community Preservation Budgeted Reserve for Appropriation, in accordance with the provisions of M.G.L. Chapter 44B, §5, the sum of \$260,000 for the purpose of funding the Mashpee Middle/High School Tennis Court and Basketball Court Reconstruction Project including necessary costs and expenses related thereto, as recommended by the Community Preservation Committee, or take any other action relating thereto.

Submitted by the Community Preservation Committee

**Explanation:** The goal of this project is to improve the tennis and basketball courts at the Middle/High School. The courts are original to the school's construction 20 years ago. There are six tennis courts and two full-size basketball courts at the school that are extensively utilized on a year-round basis. Due to the age of the courts and deterioration, the surface is negatively affecting play on the courts. Total reconstruction is required as repairs are deemed not cost effective.

The vote of the Community Preservation Committee was unanimous 7-0 in support of this article.

**The Board of Selectmen recommends Town Meeting approval by a vote of 5-0**

**The Finance Committee recommends Town Meeting approval by a vote of 6-0**

**Article 10**

To see if the Town will vote to appropriate and transfer from the Community Preservation Budgeted Reserve for Appropriation in accordance with the provisions of M.G.L. Chapter 44B, §5, the sum of \$91,000 for the purpose of funding the Mashpee K.C. Coombs School Playground Improvement Project including necessary costs and expenses related thereto, as recommended by the Community Preservation Committee, or take any other action relating thereto.

Submitted by the Community Preservation Committee

**Explanation:** This project would improve the playground facilities provided at the K.C. Coombs School with nature-themed climbing and balance structures that would complement the additional playground structures at the school. This would assist children in the development of motor skills including balance, agility, coordination and strength. New surfacing is proposed to meet the requirements for fall protection. The playground equipment would replace a more than 20-year old climbing structure, and be handicap accessible. The K.C. Coombs School PTO is committed to fundraising for the purchase and installation of a small shade shelter. The total project cost is \$100,500.

The vote of the Community Preservation Committee was unanimous 7-0 in support of this article.

**The Board of Selectmen recommends Town Meeting approval by a vote of 5-0**

**The Finance Committee recommends Town Meeting approval by a vote of 6-0**

**Article 11**

To see if the Town will vote to appropriate and transfer from the Community Preservation Budgeted Reserve in accordance with the provisions of M.G.L. Chapter 44B, §5, the sum of \$230,000 for the purpose of funding the Mashpee Quashnet School Playground Improvement Project including necessary costs and expenses related thereto, as recommended by the Community Preservation Committee, or take any other action relating thereto.

Submitted by the Community Preservation Committee

**Explanation:** The goal of this project is to improve the playground facilities provided at the Quashnet School. The playground is a multi-component structure which would complement the additional playground equipment at the schools. Opportunities for children include balancing, climbing, sliding and strength conditioning. It would also promote problem solving and interactive play. The new equipment would replace the old wooden play structure. New surfacing would meet the requirements for fall protection and the structure would be handicap accessible.

The vote of the Community Preservation Committee was unanimous 7-0 in support of this article.

**The Board of Selectmen recommends Town Meeting approval by a vote of 5-0**

**The Finance Committee recommends Town Meeting approval by a vote of 6-0**

## **Article 12**

To see if the Town will vote to appropriate and transfer from the Community Preservation Historic Purposes Reserve in accordance with the provisions of M.G.L. Chapter 44B, §5, the sum of \$57,801 for the purpose of funding the Mashpee Historic District Signage Project including necessary costs and expenses related thereto, as recommended by the Community Preservation Committee, or take any other action relating thereto.

Submitted by the Community Preservation Committee

**Explanation:** The goal of this project is to identify approximately 70 buildings and locations that are historically significant in the Mashpee Historic District and in other parts of the Town of Mashpee. The historic markers would include a photo or a sketch with text and a quote regarding the site. Duplicate signage would be reproduced and a set of the signage would be on display at the Mashpee Town Hall. The project includes a Mashpee Historic District Walking Tour pamphlet. Signage would also be displayed at the Mashpee Community Park at a planned kiosk with a map and description of the Historic District. There would be additional space to display information relative to the One Room Schoolhouse and events scheduled to be held at the Community Park. The project is intended to inform both residents and visitors of the unique history of the Town of Mashpee.

The vote of the Community Preservation Committee was unanimous 6-0 in support of this article. One member recused himself from voting on this article.

**The Board of Selectmen recommends Town Meeting approval by a vote of 4-1**

**The Finance Committee recommends Town Meeting approval by a vote of 4-2**

## **Article 13**

To see if the Town will vote to appropriate and transfer from the Community Preservation Affordable Housing Reserve in accordance with the provisions of M.G.L. Chapter 44B, §5, the sum of \$30,000 for the purpose of funding additional construction costs associated with the Habitat for Humanity Affordable Housing projects located at 108 Orchard Road and 132 Quinaquisset Avenue, identified on Map 69, Parcels 18 and 6, including necessary costs and expenses related thereto, as recommended by the Community Preservation Committee, or take any other action relating thereto.

Submitted by the Community Preservation Committee

**Explanation:** The project would fund additional work associated with the two ongoing Habitat for Humanity affordable housing projects previously funded by the CPC. This is the second round of funding for the projects. Habitat previously requested \$100,000 for this project. The CPA Special Town Meeting in May of 2015 appropriated \$70,000, a construction cost contribution of \$35,000 per home. Additional CPA funding would assist in the completion of the remainder of construction work required to complete the affordable housing projects, which shall be restricted to affordable housing use in perpetuity.

The vote of the Community Preservation Committee was 6-0 in support of this article.

**The Board of Selectmen recommends Town Meeting approval by a vote of 5-0**  
**The Finance Committee recommends Town Meeting approval by a vote of 6-0**

#### **Article 14**

To see if the Town will vote to appropriate and transfer the sum of \$65,000 from the Waterways Improvement Fund to the Waterways Dredging Account to cover costs associated with dredging 5,000 cubic yards of sediment in the Popponesset Approach Channel, or take any other action relating thereto.

Submitted by the Waterways Commission

**Explanation:** This article will transfer funds from the Waterways Improvement Fund to cover costs associated with dredging 5,000 cubic yards of sediment in the Popponesset Approach Channel to provide safe navigation. This is a long haul dredge.

**The Board of Selectmen recommends Town Meeting approval by a vote of 5-0**  
**The Finance Committee recommends Town Meeting approval by a vote of 6-0**

#### **Article 15**

To see if the Town will vote to appropriate and transfer the sum of \$37,800 from the Waterways Improvement Fund to the Waterways Dredging Account to cover costs associated with dredging 4,200 cubic yards of sediment from the 1916 Channel, or take any other action relating thereto.

Submitted by the Waterways Commission

**Explanation:** This article will transfer funds from the Waterways Improvement Fund to the Waterways Dredging Account to cover costs associated with dredging 4,200 cubic yards of sediment from the 1916 Channel to provide safe navigation. This is a short haul dredge.

**The Board of Selectmen recommends Town Meeting approval by a vote of 5-0**  
**The Finance Committee recommends Town Meeting approval by a vote of 6-0**

## Article 16

To see if the Town will vote to appropriate and transfer the sum of \$100,000 from the Waterways Improvement Fund to the Great River/Little River Extension Account for the purpose of conducting an engineering review/study of extension/connection (improvement dredge) of the Great River/Little River Channel to the Town of Falmouth Waquoit Bay Main Channel, and an improvement dredge of the Little River entrance to Hamblin Pond, or take any other action relating thereto.

Submitted by the Waterways Commission

**Explanation:** This article will transfer funds from the Waterways Improvement Fund to cover engineering/consulting costs for new dredging permits to develop an extension of the Great River/Little River Channel to the Falmouth Waquoit Bay Main Channel, to open the entrance to Hamblin Pond from Little River, and also to conduct a review of sediment disposal.

**The Board of Selectmen recommends Town Meeting approval by a vote of 5-0**

**The Finance Committee recommends Town Meeting approval by a vote of 6-0**

## Article 17

To see if the Town will vote to appropriate and transfer the sum of \$20,000 from the Waterways Improvement Fund to the Department of Natural Resources Equipment Expense account for the purpose of purchasing equipment/hardware for maintenance of the waterways by the Department of Natural Resources/Harbormaster, or take any other action relating thereto.

Submitted by the Waterways Commission

**Explanation:** This article will transfer funds from the Waterways Improvement Fund to cover the costs of channel markers, associated hardware, chains, anchors and miscellaneous equipment, which is needed by the Harbormaster to properly identify channels for safe navigation.

**The Board of Selectmen recommends Town Meeting approval by a vote of 5-0**

**The Finance Committee recommends Town Meeting approval by a vote of 6-0**

## Article 18

To see if the Town will vote to amend the Zoning By-law as follows:

Add the following new subsection:

### **174-30.1 Sight Obstruction**

To promote public safety at all Street intersections/corner lots in all Districts, no sign (except signs erected by the Town of Mashpee), fence, wall, hedge, or other visual obstruction, shall be maintained, installed, or erected at a height of more than two and one half (2.5) feet above the plane of the established grades of the Street within a triangular area on a corner lot formed by the Street layout lines twenty (20') feet distant from their point of intersection or, in the case of a rounded corner, the point of intersection of such lines as projected.

Or take any other action relating thereto.

Submitted by Board of Selectmen

**Explanation:** This amendment to the Zoning By-law is intended to advance the purposes of M.G.L. Chapter 40A and the Zoning By-laws to regulate the location of buildings, structures and the uses of land in the Town to secure the health, safety and welfare of its residents; specifically, by prohibiting the maintenance, installation or erection of visual obstructions on that portion of corner lots proximate to street intersections where such visual obstructions could impair the ability of vehicle operators and pedestrians to safely negotiate and travel Town streets. This By-law would afford vehicle operators and pedestrians more time to react and improved sight lines when approaching intersections in the Town.

**The Board of Selectmen recommend Town Meeting approval by a vote of 5-0  
The Finance Committee to make recommendation at Town Meeting**

#### **Article 19**

To see if the Town will vote to amend the Zoning By-law as follows:

Delete Subsection 174-33, Setback from water and wetlands.

Or take any other action relating thereto.

Submitted by the Board of Selectmen

**Explanation:** This article is intended to eliminate a zoning requirement for a 50-foot setback from water and wetlands, as it duplicates a similar requirement in place under the Town's wetlands regulations.

**The Board of Selectmen recommend Town Meeting approval by a vote of 5-0  
The Finance Committee to make recommendation at Town Meeting**

#### **Article 20**

To see if the Town will vote to amend the Zoning By-law as follows:

Amend Section 174-31, Land Space Requirements Table, footnote 14, by inserting the term “C-1 District or” before the term “Mashpee Center Overlay District” in the first sentence;

or take any other action related thereto.

Submitted by Planning Board

**Explanation:** This article is intended to remove the requirement for a 50-foot wide natural wooded buffer at the front of commercial lots along Routes 28 and 151, Great Neck Road South and North in the C-1 Commercial Zoning District, located in the area of the Mashpee rotary, an area which is intended to serve as the Town’s downtown core area.

**The Board of Selectmen recommends Town Meeting approval by a vote of 5-0  
The Finance Committee to make recommendation at Town Meeting**

### **Article 21**

To see if the Town will vote to amend the Zoning By-law as follows:

Amend Section 174-31, Land Space Requirements Table, by reducing the required side and rear setbacks in the R-5 Zoning District from 25 feet to 15 feet;

or take any other action related thereto.

Submitted by Planning Board

**Explanation:** This article is intended to reduce side and rear setbacks in the R-5 residential zoning district from 25 to 15 feet to make them consistent with the same requirements in the R-3 residential zoning district and to reduce the number of potential variance requests in the R-5 district, the majority of whose existing lots are much smaller than the district’s 80,000 square foot minimum lot size required for new subdivision lots.

**The Board of Selectmen recommends Town Meeting approval by a vote of 5-0  
The Finance Committee to make recommendation at Town Meeting**

### **Article 22**

To see if the Town will vote to amend Chapter 120 of the General By-laws as follows:

Delete Subsection 120-1 in its entirety and replace with the following:

**§120-1 Noise Control:**

- A. **Sound-making devices and boisterous persons.** It shall be unlawful for any person or persons occupying or having charge of any building or premises or any part thereof in the Town of Mashpee to cause or allow any unnecessary, loud, excessive, or unusual noises in the operation of any radio, phonograph, or other mechanical sound-making device or instrument or sound reproducing device, or in the playing of any band, orchestra, musician or group of musicians, or in the use of any device to amplify the aforesaid, or the making of outcries, exclamations or other loud or boisterous noises by any person or group of persons. Any such noise which is plainly audible at a distance of 150 feet from the point at which it originates shall constitute a violation of this section. Any premises for which an entertainment license has been issued pursuant to the provisions of Massachusetts General Laws Chapter 138 shall be exempted from the application of this section.
- B. **Noise from dwellings, buildings, boats and other conveyances.** It shall be unlawful for any person or persons in or about any dwelling, building, premises, shelter, boat or conveyance, or any part thereof located in the Town of Mashpee to cause, between the hours of 10:00 p.m. and 7:00 a.m., any unnecessary, loud, excessive, or unusual noises in the operation of any sound-making device, or in the playing of any band, orchestra, musician or group of musicians, or the making of loud outcries and boisterous singing by any person or group of persons. For the purposes of this section, noises which would disturb the reasonable quiet, comfort, repose or health of others shall include, but are not limited to, loading and unloading activities, use of power tools, use of radios, use of televisions, use of amplifiers, use of musical instruments, and use of lawn or landscaping equipment. Any such noise which is plainly audible at a distance of 150 feet from the point at which it originates shall constitute a violation of this section. Any premises for which an entertainment license has been issued pursuant to the provisions of Massachusetts General Laws Chapter 138 shall be exempted from the application of this section.
- C. **Noise from motor vehicles.** It shall be unlawful for any person while in control of any motor vehicle, as defined by Massachusetts General Law Chapter 90, Section 1, as amended, in the Town of Mashpee to cause unnecessary, loud, excessive, or unusual noise in the operation of any such motor vehicle. Any such noise which is plainly audible at a distance of 150 feet from the motor vehicle from which it originates shall constitute a violation of this section.
- D. **Non-applicability.** This article shall not be applicable to fire signals or alarms, or to sounds emanating from police, fire, or other governmental or emergency vehicles.
- E. **Penalties.** Any person who shall make, or aid and abet, or cause, or assist in making of any prohibited noise as defined in any section of this By-law shall be deemed in violation hereof. A person who violates this section shall be issued a warning or a citation imposing a fine in the amount of one hundred dollars (\$100) for each violation hereunder.

F. **Enforcement.** This By-law shall be enforced by officers of the Mashpee Police Department.

Submitted by the Board of Selectmen

**Explanation:** This amendment to the Noise Control By-law provides a more comprehensive regulation of unnecessary, excessive, loud and unusual noises from buildings, premises, vehicles and boats in the Town. Such noises that are plainly audible at a distance of 150 feet from the point of origin would constitute a violation of the By-law. Violators would be subject to a fine of \$100 for each violation. Premises which are issued entertainment licenses by the Board of Selectmen under G.L. c. 138 would not be subject to the By-law; noise levels at such premises would be established, monitored and enforced as a matter of license compliance.

**The Board of Selectmen recommends Town Meeting approval by a vote of 5-0  
The Finance Committee to make recommendation at Town Meeting**

### **Article 23**

To see if the Town will vote to amend Chapter 170 of the General By-law as follows:

Add the following new subsection:

#### **170-18 Use of Town Floats at Mashpee Public Access Ramps**

Town Floats are intended for use to accommodate traffic and safety of boaters during time of Watercraft entry and removal from the water. Tie-up to Town Floats is permitted only while a Person is off-loading or loading a Watercraft from or onto a trailer, as minimal time is required to position a vehicle with a trailer attached. Unattended tie-up is prohibited.

The operator of any Watercraft who violates this section shall be subject to a fine in the amount of \$100 for each offense hereof, which violation shall be enforced pursuant to Section 170-3 of this By-law.

Or take any other action relating thereto.

Submitted by the Board of Selectmen

**Explanation:** Public access to the water is limited in Mashpee, and public access ramps provided by the Town require directions to enable safe operation by users. The floats are provided to assist users, and are not in place to enable boaters to tie up for an extended period of time. Approval of this article would prohibit unattended tie-up, and assess a fine for violators.

**The Board of Selectmen recommends Town Meeting approval by a vote of 5-0  
The Finance Committee recommends Town Meeting approval by a vote of 6-0**

## Article 24

To see if the Town will vote to amend the General By-law as follows:

Replace Subsection 153-1 in its entirety with the following language:

“All private outdoor swimming pools shall be fenced to prevent unauthorized entry to said pool(s), in accordance with the requirements of the Massachusetts State Building Code, as said Code may be amended from time to time.”

Or take any other action relating thereto.

Submitted by the Building Department

**Explanation:** This article is intended to have the same requirement for the height of a fence around a swimming pool as outlined under the Massachusetts State Building Code. As it now stands, the Town of Mashpee has a height requirement that is in conflict with the Massachusetts State Building Code. This will alleviate the confusion as to what height the fence is to be.

**The Board of Selectmen recommends Town Meeting approval by a vote of 5-0**

**The Finance Committee recommends Town Meeting approval by a vote of 6-0**

## Article 25

To see if the Town will vote to amend Chapter 172-5 of the General By-law as follows:

Add the following introductory sentence to Chapter 172-5(A)(2):

“Any person filing a Notice of Intent application with the Commission must, after being given written notice by the Commission of the time and date of the required hearing, notify all abutting property owners within one hundred (100) feet of the boundary of the property on which the work is proposed, according to the most recent records of the Assessor, including owners in another municipality.”

Or take any other action relating thereto.

Submitted by the Conservation Department

**Explanation:** This language previously existed in Chapter 172 of the General By-law but was inadvertently omitted in the latest revisions to this section of the By-law.

**The Board of Selectmen recommends Town Meeting approval by a vote of 5-0**

**The Finance Committee recommends Town Meeting approval by a vote of 6-0**

## **Article 26**

To see if the Town will vote to amend the General By-law as follows:

Add the following chapter.

### **CHAPTER 126 – PROHIBITED ACTIVITIES**

#### **ARTICLE I – Single-Use Plastic Bag**

##### **126-1. Purpose and Intent:**

The production, use and disposition of single-use plastic bags, as defined herein, has significant impacts on the marine and terrestrial environment of all coastal communities, including but not limited to:

- A. Contributing to the injury and even death of marine and terrestrial animals through ingestion and entanglement;
  - B. Contributing to pollution and degradation of the terrestrial and coastal environment;
  - C. Clogging our storm drainage systems;
  - D. Creating mechanical and disposal burdens for solid waste collection and recycling facilities; and
  - E. Requiring the use of millions of barrels of non-renewable, polluting, fossil fuel nationally for their manufacture.
1. Studies have shown that even those plastic bags made from “biodegradable,” “compostable” or “oxo-biodegradable” materials, which all require very specific and controlled environments to fulfill their claims, are for all intents and purposes identical to single-use high or low-density polyethylene plastic bags in their potential impacts to the environment as set forth above. Bags of these types are therefore also subject to the requirements herein.
  2. The goal of this By-law is to join neighboring towns on Cape Cod in protecting, conserving and enhancing our unique natural beauty and irreplaceable natural resources by phasing out, within the retail sector, the use of certain single-use plastic bags, as defined herein, and by encouraging the use of reusable bags within the retail and municipal sectors. Therefore, the Town of Mashpee seeks to phase out the use of single use plastic bags by December 31, 2017.

##### **126-2. Definitions:**

**Carryout Bag** - Any bag that is provided at the point of sale to a customer by an establishment for use to transport or carry away purchases, such as merchandise, goods or food, except as otherwise exempted under §126-3B.

**Customer** - Any person purchasing goods, articles, food or personal services from an establishment.

**Enforcing Person** - Those persons listed in §126-6, namely any police officer or agent of the Board of Health: non-criminal enforcement of ordinances, rules and regulations, of the General Ordinances of the Code of the Town of Mashpee, as further delegated by the time of taking effect pursuant to §126-5.

**Establishment** - Any business selling goods, articles, food or personal services to the public, including but not limited to markets, merchandise retailers, food purveyors, public eating establishments and take-out restaurants.

**Operator** - The person in control of, or having the responsibility for, the operation of an establishment, which may include, but is not limited to, the owner.

**Person** - Any natural person, firm, corporation, partnership, or other organization or group however organized.

**Product Bag** - A bag integrated into the packaging of the product.

**Reusable Bag** - A bag with handles specifically designed for multiple reuse; and is either:

1. Made of cloth or other machine washable fabric; or
2. Made of durable, non-toxic plastic generally considered a food-grade material that is more than 4 milliliters thick.

**Single Use Plastic Bag** - For the purposes of this By-law is defined as a bag made of plastic, including but not limited to bags made of any and all grades of polyethylene, polyethylene terephthalate, polyvinyl chloride, polypropylene, nylon, "biodegradable," "compostable" or "oxo-biodegradable" materials, with a thickness of less than 4.0 milliliters provided at the checkout stand, cash register, point of sale or other point of departure and that are intended for the purpose of transporting food or merchandise out of the Establishment. Single-use plastic bags **do not include** plastic bags provided to the customer, which are a maximum of 11 inches by 17 inches and are without handles, listed below:

1. To transport produce, bulk food, candy or meat from a department within a store to the point of sale;
2. To hold prescription medication dispensed from a pharmacy;
3. To segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a point-of-sale bag;
4. To distribute newspapers; or
5. To protect clothing in dry-cleaning establishments.

### **126-3 Use and Regulation:**

- A. Single-use plastic carryout bags shall not be sold, provided, or distributed to a customer or any other person by any person, owner, or operator of any establishment within the Town of Mashpee. Existing stock of single-use bags shall be phased out within **twelve (12)** months of adoption of this article; any remaining stock shall be disposed of properly by the establishment.

B. Exemptions and Alternatives:

1. The following are exempt and not subject to the provisions of this chapter. These types of bags are in addition to the 5 types of bags that are not single use plastic bags as defined in Section 2.

(1) Bags used by customers inside establishments to:

(a) package bulk items, such as fruit, vegetables, nuts, grains, candy or small hardware items;

(b) contain or wrap frozen foods, meat, or fish, whether packaged or not; or

(c) contain or wrap flowers, potted plants, newspapers, or other items where dampness may be a problem;

2. Laundry or dry-cleaning bags or bags sold in packages containing multiple bags intended to be used for home food storage, garbage, waste, pet waste or yard waste.

3. Product bags.

C. Nothing in this chapter prohibits customers from using bags of any type that they bring to the grocery store, food provider, or other establishment themselves or from carrying away goods that are not placed in a bag. Customers are encouraged to bring their own reusable bags to the aforesaid establishments.

D. Establishments may and are strongly encouraged to distribute paper bags, reusable bags and boxes available to customers with or without charge and educate their staff to promote reusable bags and post signs encouraging customers to use washable reusable bags.

E. The Town Manager or designee may prior to the effective date of this ordinance engage in any outreach process to establishments concerning this ordinance and exempt an establishment from the requirements of §126-3A for a period of not more than one year upon the establishment's showing, in writing, that this By-law would create an undue hardship or practical difficulty not generally applicable to other persons in similar circumstances. The decision to grant or deny an exemption shall be in writing and the Town Manager's decision shall be final.

**126-4 Reusable Bag Policy:**

Notwithstanding the provisions of §126-3B, an establishment shall provide a reusable bag at no cost upon the request of a customer who uses a voucher issued under the Special Supplemental Food Program for Women, Infant and Children (WIC) pursuant to M.G.L. c. 111. Customers are encouraged to bring their own reusable shopping bags to stores. Establishments may provide reusable bags at no charge, or charge a reasonable fee for each paper or other bag, as they desire.

Establishments are strongly encouraged to make reusable bags available for sale to customers at a reasonable price.

**126-5 Time to Take Effect:**

In addition to the exemption provided in §126-3B, in order to further assist existing establishments in complying with this ordinance by phasing out the use of single-use plastic carryout bags over a period of 12 months from the effective date this ordinance, this ordinance shall take effect after 12 months from the date of its adoption.

**126-6 Inspection and Enforcement:**

Any enforcing person shall have the right to enter any establishment during regular business hours, without a search or inspection warrant, to make reasonable inspection to ascertain whether there is compliance with the provisions of this chapter. Upon finding a violation of this chapter an enforcing person shall issue a written warning notice to the operator of the establishment that a violation has occurred and the potential penalties that will apply for future violations. This article may be enforced by any Town police officer or agents of the Board of Health. This article may be enforced through any lawful means in law or in equity, including, but not limited to, noncriminal disposition pursuant to MGL c. 40, §21D and appropriate chapter of the Town's General By-laws.

**126-7 Violations and Penalties:**

Any establishment that violates or fails to comply with this chapter shall be subject to the following penalties to be enforced in law or equity by any means, including without limitation noncriminal disposition pursuant to G. L. c. 40 § 21D, provided that no more than one (1) penalty after written warning shall be imposed upon an establishment within a seven (7) day calendar day period: First Offense: \$50.00 fine. Second Offense: \$100.00 fine. Third and Subsequent Offense: \$200.00 and the Town may in its discretion publish the fine on its web site after the third and subsequent offense.

**126-8 Severability:**

If any provision of this ordinance shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions of this ordinance, which shall remain in full force and effect.

Submitted by Environmental Oversight Committee

**Explanation:** The production, use and disposition of single-use plastic bags, including bags made of high-density polyethylene, low-density polyethylene, "biodegradable," "compostable" or "oxo-biodegradable" materials, have significant impacts on the marine and terrestrial environment of all coastal communities, including but not limited to:

- 1) Contributing to the injury and even death of marine and terrestrial animals through ingestion and entanglement;
- 2) Contributing to pollution and degradation of the terrestrial and coastal environment;
- 3) Clogging our storm drainage systems;
- 4) Creating mechanical and disposal burdens for solid waste collection and recycling facilities; and
- 5) Requiring the use of millions of barrels of non-renewable, polluting, fossil fuel nationally for their manufacture.

Studies have shown that even those plastic bags made from “biodegradable,” “compostable” or “oxo-biodegradable” materials, which all require very specific and controlled environments to fulfill their claims, are for all intents and purposes identical to single-use high or low-density polyethylene plastic bags in their potential impacts to the environment as set forth above. Bags of these types are therefore also subject to the requirements herein.

The goal of this By-law is to join neighboring towns on Cape Cod in protecting, conserving, and enhancing our unique natural beauty and irreplaceable natural resources by phasing out, within the retail sector, the use of certain single-use plastic bags, as defined herein, and by encouraging the use of reusable bags within the retail and municipal sectors. Therefore, the Town of Mashpee seeks to phase out the use of single-use plastic bags by December 31, 2017.

**The Board of Selectmen recommends Town Meeting approval by a vote of 5-0**  
**The Finance Committee recommends Town Meeting approval by a vote of 5-1**

#### **Article 27**

To see if the Town will vote to authorize the Board of Selectmen to acquire, by gift or otherwise, title to that certain parcel of land identified on Mashpee Assessor’s Map 62 as Parcel 25 and located at 46 Arabic Avenue in Mashpee, Barnstable County, Massachusetts, consisting of 0.229 acres, more or less, for general municipal purposes, and to authorize the Board of Selectmen to enter into all agreements and execute any and all instruments on behalf of the Town as may be necessary to effect this transfer of title, or take any other action relating thereto.

Submitted by the Board of Selectmen

**Explanation:** The owner of the subject parcel of land has offered to donate the subject property to the Town. All real estate taxes and other municipal assessments with respect to the property have been paid in full. This Article seeks to authorize the Board of Selectmen to accept the land donation, whereupon, the Board will consider the most appropriate public use of the property.

**The Board of Selectmen recommends Town Meeting approval by a vote of 5-0**  
**The Finance Committee to make recommendation at Town Meeting**

## Article 28

To see if the Town will vote to transfer the use of, and authorize the Board of Selectmen to convey to Southworth Willowbend, LLC, an easement for private irrigation/utility purposes within Quinaquisset Avenue, specifically, that portion of said way measuring approximately 6.5 feet by 64.87 feet, containing 324 square feet +/-, shown as "E-2" on the plan entitled "Easement Plan of Land, Quinaquisset Avenue, Mashpee, MA," prepared by Surveying and Mapping Consultants for Tighe & Bond, Inc., dated June 8, 2016 (the "Plan"); to authorize the Board of Selectmen to accept from Southworth Willowbend, LLC the grant of an easement for stormwater and headwall maintenance and access purposes, shown as "E-1" on said Plan, containing 1831 square feet +/- in and over that portion of the parcel of land located on Quinaquisset Avenue, described in the deed recorded at the Barnstable County Registry of Deeds at Book 26395, Page 222, and identified on Mashpee Assessor's Map 69, as parcel 117-0; and, further, to authorize the Board of Selectmen to execute any agreements, documents, or instruments necessary to effect said easement transfers upon such terms and conditions as they deem to be in the best interest of the Town, or take any other action relating thereto.

Submitted by the Board of Selectmen

**Explanation:** This Article seeks to authorize the exchange of easements between the Town and a private property owner abutting a portion of Quinaquisset Avenue, a public way, whereby the Town would be granted easement rights over private property for purposes of constructing and maintaining stormwater control/headwall structures at the base of the subject portion of Quinaquisset Avenue which are necessary to maintain the structural integrity and, thus, the safe use of this public way. In consideration of the easement rights granted to the Town, the Town will be granting a formal easement to authorize the location of irrigation and utility lines under Quinaquisset Avenue, which are necessary for maintenance and operation of the cranberry bogs located on each side of Quinaquisset Avenue. The Town and the private property owner have engaged in cooperative discussions relative to proposed plans for construction of these improvements, and the granting of the respective easements referenced in this Article is essential to completion of this project.

**The Board of Selectmen recommends Town Meeting approval by a vote of 5-0  
The Finance Committee to make recommendation at Town Meeting**

## Article 29

To see if the Town will vote to authorize and empower the Board of Selectmen to prepare a plan laying out and defining Winslow Drive and Holly Farm Drive, and to accomplish said purpose and for expenses related thereto, the Town vote to appropriate and transfer from revenue available for appropriation the sum of \$6,000 to the Winslow Drive and Holly Farm Drive Roadways Account, or take any other action relating thereto.

Submitted by Petition

**The Board of Selectmen recommends Town Meeting approval by a vote of 5-0**

**The Finance Committee recommends Town Meeting approval by a vote of 6-0**

### **Article 30**

To see if the Town will vote to accept the layouts as public ways of Windsor Way, Victoria Circle, Saxony Drive, Tudor Terrace and Sheffield Place, as shown on plans entitled "Windsor Way Easement Taking Plan," dated December 30, 2015; "Victoria Circle Easement Taking Plan," dated December 30, 2015; "Saxony Drive Easement Taking Plan," dated December 30, 2015; "Tudor Terrace Easement Taking Plan," dated December 30, 2015; and "Sheffield Place Easement Taking Plan," dated December 30, 2015, in Mashpee, MA (Barnstable County), prepared by Baxter Nye Engineering & Surveying, which layouts shall have been filed in the Office of the Town Clerk not later than seven days prior to the date of vote hereunder, and to authorize the Board of Selectmen to acquire by gift, purchase, or eminent domain taking any land necessary for the purposes of such ways as so laid out, and to appropriate the sum of \$521,629 to the Spring Hill Roadways Account, and to raise said appropriation, the Treasurer, with the approval of the Board of Selectmen, be authorized to borrow at one time, or from time to time, under and pursuant to Chapter 44 Section 7 or 8, or any other enabling authority for such purchase or taking and layout, including costs of constructing such ways, and legal financing, and other costs incidental and related thereto, and further authorize the Board of Selectmen to assess betterments to the owners of the land abutting the ways, or take any other action relating thereto.

Submitted by Petition

**The Board of Selectmen recommends Town Meeting approval by a vote of 5-0**

**The Finance Committee recommends Town Meeting approval by a vote of 6-0**

### **Article 31**

To see if the Town will vote to accept the layout as a public way of Leeward Lane, as shown on plans entitled "Leeward Lane Easement Taking Plan," dated December 30, 2015, in Mashpee, MA (Barnstable County), prepared by Baxter Nye Engineering & Surveying, which layouts shall have been filed in the Office of the Town Clerk not later than seven days prior to the date of vote hereunder, and to authorize the Board of Selectmen to acquire by gift, purchase, or eminent domain taking any land necessary for the purposes of such ways as so laid out, and to appropriate the sum of \$104,167 to the Leeward Lane Roadways Account, and to raise said appropriation, the Treasurer, with the approval of the Board of Selectmen, be authorized to borrow at one time, or from time to time, under and pursuant to Chapter 44 Section 7 or 8, or any other enabling authority for such purchase or taking and layout, including costs of constructing such ways, and legal financing, and other costs incidental and related thereto, and further authorize the Board of Selectmen to assess betterments to the owners of the land abutting the ways, or take any other action relating thereto.

Submitted by Petition

**The Board of Selectmen recommends Town Meeting approval by a vote of 5-0**

**The Finance Committee recommends Town Meeting approval by a vote of 6-0**

And you are hereby directed to serve this Warrant by posting up attested copies thereof, one at the Town Hall, one at the Post Office, and one each on the bulletin boards, thirty days at least before said meeting.

Hereof fail not and make return of this Warrant with your doings thereon to the Town Clerk at the time and place of said meeting.

Given under our hands this 12<sup>th</sup> day of September in the year two thousand and sixteen.

Per Order of,  
**Board of Selectmen**

Andrew R. Gottlieb, Chairman  
John J. Cahalane, Vice-Chairman  
Thomas F. O'Hara, Clerk  
Carol A. Sherman  
John J. Cotton