

**TOWN OF MASHPEE
ANNUAL TOWN MEETING
MONDAY, OCTOBER 15, 2018**

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 15th day of October 2018 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 \$272,919.06 from the Street Betterment Reserved Receipts account to the Principal Inside 2 ½ account, or take any other action relating thereto.

Submitted by the Town Treasurer

Explanation: This article is for the purpose of distributing the payments made for street betterments within 30 days of assessment. This transfer will reduce the amount of interest paid on the Bond when the remaining amount is bonded.

The Board of Selectmen recommends Town Meeting approval by a vote of 4-0

The Finance Committee recommends Town Meeting approval by a vote of 5-0

Article 2

To see if the Town will vote to appropriate and transfer from unexpended amounts previously borrowed by the Town for the various road projects listed below, but which are no longer needed to complete the projects for which they were borrowed, the sum of \$15,223.27, to pay costs associated with said various road projects, or take any other action relating thereto.

| | | | |
|--------------------|------------|-----------------------|------------|
| Horseshoe Bend Way | \$56.26 | Pleasant Park | \$601.20 |
| Cape Drive | \$38.79 | Sandy Fox/Fox Hill Rd | \$2,020.12 |
| Bayshore Drive | \$60.53 | Ockway Bay Rd | \$499.85 |
| Great Hay Estates | \$36.42 | Shorewood Drive | \$4,507.81 |
| Holly/Autumn Drive | \$3,269.14 | Sarakumit Village | \$3,567.87 |
| Quail Hollow Road | \$545.28 | Santuit Woods | \$20 |

Submitted by the Finance Director

Explanation: These funds are surplus bond proceeds from the various road projects noted in the Article. These amounts were not included in the street betterment assessments that were assessed to homeowners.

The Board of Selectmen recommends Town Meeting approval by a vote of 4-0

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

Article 3

To see if the Town will vote to appropriate and transfer from unexpended amounts previously borrowed by the Town pursuant to the vote under Article 4 of the May 7, 2012 Annual Town Meeting but which are no longer needed to complete the project for which they were borrowed, \$237.77 to pay costs associated with the purchase of a new Fire Pumper Rescue truck, or take any other action relating thereto.

Submitted by the Finance Director

Explanation: These funds are surplus bond proceeds from the purchase of a fire truck made in a prior fiscal year. This article will transfer the remaining funds to an account associated with the purchase of a fire truck in FY 2019.

The Board of Selectmen recommends Town Meeting approval by a vote of 4-0

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

Article 4

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 the FY2019 estimated Community Preservation revenues, the following amounts:

| | |
|-------------|-------------------------------------------------------------------------------------------------------------------------------------|
| \$ 149,722 | 10% for Open Space/Recreational Purposes |
| \$ 149,722 | 10% for Historic Preservation Purposes |
| \$ 149,722 | 10% for Affordable Housing Purposes |
| \$ 40,000 | for FY 2019 Community preservation operating expenses |
| \$1,008,051 | to the FY 2019 Community Preservation Fund Budget for Appropriation Reserve 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 and to fund the Budget for Appropriation Reserve.

The Community Preservation Committee voted to approve the article to set aside the 10% Reserves and Budget for Appropriation Reserve to be available for use in fiscal year 2019 as certified by the Town Finance Director and reflected in the FY2019 CP-1.

The Board of Selectmen recommends Town Meeting approval by a vote of 4-0

The Finance Committee recommends Town Meeting approval by a vote of 5-1-1(abstention)

Article 5

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 the costs associated with dredging 5,000 cubic yards of sediment from 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 the Waterways Dredging Account to cover the costs associated with dredging 5,000 cubic yards of sediment from the Popponesset Approach Channel.

The Board of Selectmen recommends Town Meeting approval by a vote of 4-0

The Finance Committee recommends Town Meeting approval by a vote of 7-0

Article 6

To see if the Town will vote to amend the language of Article VII, §6-13 of the General Bylaws, regarding the membership of the Capital Improvement Program Committee, as set forth below,

ARTICLE VII - Capital Improvement Committee and Program (CIP)

§6-13 Establishment of Committee; Membership:

A Committee, to be known as the "Capital Improvement Program Committee," shall be established to prepare a capital improvement program. This Committee shall perform the duties as specified in the Charter and following sections and shall consist of the following members: The Town Manager, who shall serve as the Chairman of the Committee pursuant to the designation of this position the Coordinator of Capital Programming under Article V of Chapter 27 of the Mashpee Code, a member or designee of the Board of Selectmen, who shall be designated annually by vote of the Board of Selectmen, a member or designee of the Finance Committee, who shall be designated annually by vote of the Finance Committee, a member or designee of the School Committee, who shall be designated annually by vote of the School Committee, the Town Accountant and two members at-large to be appointed annually by the Board of Selectmen.

or take any other action relating thereto.

Submitted by the Board of Selectmen

Explanation: This Article proposes an amendment to the General Bylaw establishing the Capital Improvement Program Committee which will add two additional members to the CIP Committee: a member or designee of the School Committee and an additional (second) at large member appointed by the Board of Selectmen. The purpose of the proposed amendment is to afford the School Committee representation on the CIP Committee and to maintain an odd number of members on the Committee for voting purposes.

The Board of Selectmen recommends Town Meeting approval by a vote of 4-0

The Finance Committee recommends Town Meeting approval by a vote of 7-0

Article 7

To see if the Town will vote to accept the provisions of G. L. c. 90, section 17C regarding local authority to establish a speed limit in certain areas in the Town, or take any other action relating thereto.

Submitted by the Board of Selectmen

Explanation: This article seeks to exercise the Town's local option to implement a 2016 General Law which authorizes the Board of Selectmen, in the interests of public safety and without further approval by the Massachusetts Department of Transportation, to establish a speed limit of 25 miles per hour on any roadway inside a thickly settled or business district in the Town on any way that is not a state highway.

The Board of Selectmen recommends Town Meeting approval by a vote of 4-0

The Finance Committee recommends Town Meeting approval by a vote of 7-0

Article 8

To see if the Town will vote to accept the provisions of G. L. c. 90, section 18B regarding local authority to establish safety zones in certain areas in the Town, or take any other action relating thereto.

Submitted by the Board of Selectmen

Explanation: This article seeks to exercise the Town's local option to implement a 2016 General Law which authorizes the Board of Selectmen, in the interests of public safety and without further approval by the Massachusetts Department of Transportation, to establish designated safety zones on, at or near any way in the Town which is not a state highway, and with the approval of the Department of Transportation, a way which is a state highway. Such safety zones shall be posted as having a speed limit of 20 miles per hour.

The Board of Selectmen recommends Town Meeting approval by a vote of 4-0
The Finance Committee recommends Town Meeting approval by a vote of 4-1

Article 9

To see if the Town will vote to adopt the following Bylaw to prohibit the operation of recreational/ non-medical marijuana establishments and marijuana retailers within the Town, or take any other action relating thereto:

An amendment to the General Bylaws, adding the following:

Chapter: 48 - Marijuana Establishments

§ 48-1 Purpose:

By vote approving Ballot Question 4 at the Massachusetts General Election on November 8, 2016, the voters of the Commonwealth approved a law allowing the non-medical cultivation, distribution, possession and use of marijuana for recreational purposes (Chapter 334 of the Acts of 2016). The law was subsequently amended by the General Court and the Governor effective December 15, 2016 (Chapter 334 of the Acts of 2016) and, thereafter, on July 28, 2017 (Chapter 55 of the Acts of 2017). The law, as amended, is codified at G.L. c. 94G. The Cannabis Control Commission, created and authorized thereby, issued its Regulations implementing the law in March 2018. Municipalities are authorized by Section 3 of Chapter 94G to adopt bylaws for the purpose of regulating said activities. This Bylaw prohibits the operation of all types of marijuana establishments within the Town of Mashpee.

§ 48-2 Definitions:

The terms of this Bylaw shall be construed and implemented in accordance with the definitions set forth in G.L. c. 94G, §1.

§ 48-3 Prohibition of Marijuana Establishments:

In accordance with the provisions of G.L. c. 94G, §3(a)(2)(i), all types of Marijuana establishments, including marijuana cultivators, independent testing laboratories, marijuana product manufacturers, marijuana retailers, or any other type of licensed marijuana-related businesses are prohibited within the Town of Mashpee. This prohibition shall not apply to the sale, distribution, or cultivation of marijuana for medical purposes by a Registered Medical Marijuana Dispensary as defined in Section 174-24 (J) of the Mashpee Code.

Explanation: On November 8, 2016, the voters of the Commonwealth approved a law allowing the non-medical cultivation, distribution, possession, and use of marijuana for recreational purposes. This law, as subsequently amended by the Massachusetts legislature, allows Towns that did not vote in favor of the law to regulate such activities within their Town through the adoption of bylaws. Town of Mashpee voters did not support this measure with 52.86 % voting against allowing such activities. The purpose of this Article is to enact a General Bylaw to ban all non-medical Recreational Marijuana Establishments as defined below within the Town of Mashpee.

"Marijuana establishment", is defined to include all types of Marijuana establishments, including a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer, or any other type of licensed marijuana-related business. This definition does not include Registered Medical Marijuana Dispensaries as defined in Section 174-24 (J) of the Mashpee Code.

Submitted by the Board of Selectmen

The Board of Selectmen recommends Town Meeting approval by a vote of 4-0

The Finance Committee does not recommend Town Meeting approval by a vote of 5-2

Article 10

To see if the Town will vote to adopt the following Zoning Bylaw amendment limiting the number of marijuana retailers in Town to fewer than 20% of the licenses issued within the Town for the retail sale of alcoholic beverages not to be drunk on the premises under M.G.L. c. 138, §15 and restricting the location of Marijuana Establishments to the Commercial (C-1, C-2, C-3) or Industrial (I-1) Districts as a special permit use, or take any other action relating thereto.

Add the following new section:

“174-45.6 Marijuana Establishments”

A. Purpose and Intent

By vote approving Question 4 at the State election on November 8, 2016, the voters of the Commonwealth approved a law allowing the non-medical cultivation, distribution, possession and use of marijuana for recreational purposes (Chapter 334 of the Acts of 2016). Revised/amended law on the subject was enacted by the General Court and the Governor effective December 15, 2016 (Chapter 334 of the Acts of 2016) and, thereafter, on July 28, 2017 (Chapter 55 of the Acts of 2017). The Cannabis Control Commission, created and authorized thereby, issued its final regulations regarding implementation of said law in March, 2018. The new law is codified at G.L. c. 94G. Section 3 of Chapter 94G provides that municipalities may limit the number of marijuana retailers to fewer than twenty percent (20%) of the number of liquor licenses within Town for the retail sale of alcoholic beverages not to be drunk on the premises in accordance with G.L. C. 138 §15, and may govern the time, place and manner of marijuana establishment operations and of any business dealing in marijuana accessories in the Town.

B. Definitions

The terms of this Bylaw shall be construed and implemented in accordance with the definitions set forth in G.L. c. 94G, §1.

C. Limited Number of Marijuana Retailers

In accordance with the provisions of G.L. c.94G, § 3(a)(2)(ii), Mashpee shall limit the number of Marijuana retailers in the Town to the number fewer than twenty percent of the licenses issued within Town for the retail sale of alcoholic beverages not to be drunk on the premises under M.G.L. c. 138, §15.

And, further, to amend Section 174-25, Table of Use Regulations, to add a new Subsection E. (16) “Marijuana Establishment operations and any business dealing in marijuana accessories. (subject to the provisions of Section 174-45.6)”, and indicating by the letters “SP” under the C-1, C-2, C-3 and I-1 columns of said Table that such uses may be only permitted by Special Permit in the C-1, C-2, C-3 Commercial and I-1 Industrial zoning district.

Explanation: Mashpee currently has nine (9) retail off-premises alcoholic beverage licenses issued under G.L. c. 138. Twenty percent (20%) of the nine (9) licenses is 1.8. The number of retailers fewer than twenty percent (20%) presently equals one (1) for the Town of Mashpee; therefore, only one location would be currently allowed for the siting of a marijuana retailer. If the number of such licenses for the off-premises sale of alcoholic beverages should change, the number of allowed marijuana retailers could also change. Thus, this Bylaw does not establish a specific number of allowed retailers, but rather a formula for calculating the number of marijuana retailers that are to be allowed. Further, the proposed Bylaw amendment would restrict a Marijuana Establishment use (including a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business) to the Commercial (C-1, C-2, C-3) or Industrial (I-1) Districts upon issuance of a special permit.

Submitted by the Board of Selectmen

The Board of Selectmen recommends Town Meeting approval if Article 9 does not pass by a vote of 5-0
The Board of Selectmen recommends Town Meeting Indefinitely Postpone Article 10 if Article 9 does pass by a vote of 5-0

The Finance Committee recommends Town Meeting approval by a vote of 5-0

Article 11

To see if the Town will vote to adopt the following Section §174-57 to the Zoning Bylaws in addition to the enforcement provisions of Section §174-102 to 105 to read as follows:

ARTICLE X – Signs

§174-57.1 Violations and Penalties

The Building Inspector or his/her designee shall enforce this Article and may issue a fine, as set forth below, for violations of the within Zoning Bylaw regarding Signs. Such violations shall be subject to noncriminal disposition in accordance with MGL C. 40, §21D.

| | |
|------------------------------|----------------|
| First offense | WARNING |
| Second offense | \$50 per sign |
| Third and subsequent offense | \$100 per sign |

or take any other action relating thereto.

Submitted by the Board of Selectmen

Explanation: This article establishes a Zoning Bylaw giving the Town an additional fining mechanism.

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 7-0

Article 12

To see if the Town will vote to amend the Mashpee Zoning Bylaw by adding “Light Industrial Overlay District” to the Zoning Map by adding §174-5(G) - Establishment of Zoning Districts to read as follows:

§174-5 (G) Light Industrial Overlay District

G.) The Light Industrial Overlay District shall include all parcels shown as within the I-1 and C-3 Zoning Districts on the Official Zoning Map.

To amend the Mashpee Zoning Bylaw by adding the following definitions to §174-3 Terms defined as follows:

'LIGHT INDUSTRIAL'- Production of smaller consumer goods generally sold directly to the end user not as products designed as intermediates for use by other industries, often in the form of food and beverage, handicrafts. Non capital intensive consumer focused manufacture of goods by firms with at least one employee and not more than.

'ART, HANDICRAFT, AND APPAREL MANUFACTURING' - Manufacture of crafts, art, sculpture, stained glass, jewelry, apparel, furniture, cabinet making, and similar items using hand tools and small mechanical devices.

'FURNITURE MAKING' – The manufacture of movable objects designed to support human activity and comfort using hand tools and small mechanical devices such as sofas, stools tables, chairs, etc.

'FOOD MANUFACTURING' – The aggregation of food products from hydroponic food production facilities for packaging and sale.

'FOOD PROCESSING'- The combination of raw food products that may or may not be cooked or otherwise prepared to produce marketable food products.

'HYDROPONIC FOOD PRODUCTION'- The cultivation and production of fresh produce grown in a nutrient solution, generally indoors without soil.

'AQUAPONIC FOOD PRODUCTION' - The cultivation and production of fresh produce using any system that combines hydroponics in conjunction with aquatic animals to create a symbiotic environment.

'CO-WORKING' - membership-based workspaces where diverse groups of freelancers, remote workers, and other independent professionals work together in a shared, communal setting

'MAKERSPACE' a place in which people with shared interests can gather to work on projects while sharing ideas and knowledge using shared equipment usually capital intensive and cost prohibitive for the individual maker. Often include information and technology and art communities.

'ARTIST STUDIOS' - an artist or worker's workroom used for the purpose of acting, architecture, painting, pottery (ceramics), sculpture, origami, woodworking, scrapbooking, photography, graphic design, filmmaking, animation, industrial design, radio or television production broadcasting or the making of music.

'FOOD INCUBATOR' – Also referred to as 'shared-use kitchens and food accelerators. Used as a place of business for the exclusive purpose of providing commercial space and equipment to multiple individuals or business entities which commercially prepare or handle food that will be offered for sale

'FOOD TRUCK PARK' – A parcel or lot that is set aside and designed solely for the use of food trucks and other temporary food service establishments.

'FULL SERVICE CAFÉ/RESTAURANT'- Any food establishment, except for a licensed food truck, that has a fully outfitted commercial kitchen and is not counter service.

Add the following Industrial uses to §174-25(G) Principal industrial, wholesale and transportation uses: with the letters “SP” under the columns identified as I-1 and C-3 numbered sequentially as appropriate to read:

| Type of Use | Residential | | Commercial | | | Industrial |
|--------------------------------------------|-------------|-----|------------|-----|-----|------------|
| | R-3 | R-5 | C-1 | C-2 | C-3 | I-1 |
| LIGHT INDUSTRIAL | -- | -- | -- | -- | SP | SP |
| ART, HANDICRAFT, AND APPAREL MANUFACTURING | | | | | SP | SP |
| FURNITURE MAKING | | | | | SP | SP |
| FOOD MANUFACTURING | | | | | SP | SP |
| FOOD PROCESSING | | | | | SP | SP |
| HYDROPONIC/AQUAPONIC FOOD PRODUCTION | | | | | SP | SP |
| MAKERSPACE | | | | | SP | SP |
| ARTIST STUDIO | | | | | SP | SP |
| FOOD INCUBATOR | | | | | SP | SP |

Add the following office uses to §174-25 (D): Principal office and laboratories with the letters “SP” under the columns identified as I-1 , C-1, C-2, and C-3 numbered sequentially as appropriate to read:

| Type of Use | Residential | | Commercial | | | Industrial |
|-------------|-------------|-----|------------|-----|-----|------------|
| | R-3 | R-5 | C-1 | C-2 | C-3 | I-1 |
| CO-WORKING | -- | -- | SP | SP | SP | SP |

Add the following commercial uses to §174-25: Land Use Regulations with the letters “PR” under the columns identified as C-1, C-2, C-3 and I-1 numbered sequentially as appropriate to read:

| Type of Use | Residential | | Commercial | | | Industrial |
|-----------------|-------------|-----|------------|-----|-----|------------|
| | R-3 | R-5 | C-1 | C-2 | C-3 | I-1 |
| FOOD TRUCK PARK | -- | -- | PR | PR | PR | PR |

To see if the Town will vote to amend the Mashpee Zoning Bylaw §174-45.6 by adding Light Industrial Overlay District to Section IX: Special Provisions to read as follows:

Section A.) Purpose and Intent

- a. Elevate our established Industrial and Gateway commercial districts by accommodating for emerging light industrial uses with compatible commercial activities and create a sense of place by accommodating suitable accessory uses’.
- b. Enable a district of creativity and innovation designed to drive community and economic development and contribute to the enhancement of Mashpee’s evolving character.
- c.) Enhance the gateways to town by placing greater value on the architectural integrity of the area.
- d.) Bolster a vibrant creative/industrial economy and add to the list of Mashpee destinations.

Section B.) Allowed Uses:

In addition to uses specified in §174-25: Land Use Regulations of the Mashpee Zoning-By Law, this Overlay establishes the criteria to develop, the industrial and C-3 districts, relevant activities and emerging business models that represent industrial uses reflective of the modern era. This district will create a pathway for light-industrial uses, as defined above, to establish a presence and an identity in Mashpee while knitting together town fabric by permitting compatible commercial and miscellaneous uses that help to establish sense of place and character. Uses that reflect modern industrial realities and shall be permitted within the boundaries of the Light Industrial Overlay as defined in §174-25: Land Use Regulations. Uses shall reflect the modern industrial typology that does not require significant floor area, produce excessive levels noise or environmental pollution or degradation and shall adhere to the architectural standards identified in the sections in this chapter.

Section C.) General Requirements and Prohibitions

- Allowed uses will conform to the definition of 'Light-Industrial' as per §174-3 or conform to allowed uses specified in §174-25 under the I-1 and C-3 columns.
- Any use whose process produces dangerous or noxious compounds, whether solid or gas, that may impact surrounding parcels and districts is prohibited if the applicant is unable to demonstrate to the permitting authority compliance with this prohibition. .
- No food truck vendor who wishes to conduct business in a Food Truck Park shall do so without acquiring all required licenses and permits from the Board of Health, Board of Selectmen and any relevant state and/or federal permitting/licensing authority.
- District-wide events such as farmers markets, arts and crafts sales, and open studios shall be allowed after the Plan Review Committee has reviewed and approved a planned proposal that indicates the dates, times, locations, events scheduled, vendors, and a statement of expected impact etc.

Section D.) Accessory Uses

A mix of uses will be allowed so long as the permitting authority finds that the accessory use is complementary to the principal business and is not detrimental to the area. Any proposed exterior accessory use shall be included in site plan and shall require approval from the permitting authority.

Accessory uses shall include the following:

- Retail sales and services clearly secondary to the principal business.
- Café/Food Service (includes restaurants that are not full service)
- Outdoor seating/eating area
- Tasting Room/Bar for product sampling.
- Dog Park
- Playground/Skate park
- Family recreation activities (i.e. miniature golf)
- Community Garden
- Band shells/Stage/Amphitheatre as long as any musical performances are not amplified.

Section E.) Dimensional Requirements

Base Zoning Dimensional requirements defined in the Land Space Requirements table in Section 174-31 of the Mashpee Zoning by law shall apply in the Light Industrial Overlay District. Building construction and site design shall be subject to approval by the permitting authority.

or take any other action relating thereto.

Submitted by the Board of Selectmen

Explanation: This article provides definitions for in demand modern industrial/commercial uses and proposes to add these defined uses to §174-25: Land Use Regulations of the Mashpee Zoning Bylaw, Providing this clarity in the Zoning Bylaw improves the permitting process and creates new opportunities for the small business owner.

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

Article 13

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for a Special Act, as set forth below, authorizing the establishment of a Sewer Construction and Water Quality Maintenance and Improvement Fund to receive revenue under Section 3A of Chapter 64G of the General Laws for planning, designing and construction of sewers and other means of comprehensive wastewater management and maintenance and improvement of water resources; provided that the General Court may make clerical or editorial changes of form only to the Act unless the Board of Selectmen approves amendments to the Act before enactment by the General Court, and, further, to authorize the Board of Selectmen to approve amendments to the Act which shall be within the scope of the general objectives of the petition,

or take any other action in relating thereto.

Submitted by the Board of Selectmen

Explanation: This article will empower the Board of Selectmen to petition the General Court for a Special Act that authorizes the establishment of a Sewer Construction and Water Quality Maintenance and Improvement Fund.

**The Board of Selectmen recommends Town Meeting approval by a vote of 4-0-1 (abstention)
The Finance Committee will make a recommendation at Town Meeting**

Article 14

To see if the Town will vote to amend the Zoning Bylaw by amending Section 174-5. Establishment of Zoning Map as follows:

In Subsection A. replace the phrase "Otis A.N.G.B. Accident Prevention Zone" with the phrase "Wireless Facility Overlay District" and delete the phrase "Groundwater Protective Districts";

At the beginning of Subsection C.2. add the phrase "that parcel of land shown on the 2017 Mashpee Assessors' Maps as Map 104, Block 2 and",

or take any other action relating thereto.

Submitted by the Board of Selectmen

Explanation: This article would amend the Zoning Bylaw by amending the Wireless Facility Overlay District to include a parcel of Town-owned land on Red Brook Road so that a proposed cell tower could be permitted (by Planning Board Special Permit) on the property. The article also corrects an outdated listing of overlay zoning districts which are not shown on the basic Zoning Map.

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

Article 15

To see if the Town will vote to authorize the Board of Selectmen to acquire by gift, purchase or eminent domain a portion of a certain parcel of land identified on Mashpee Assessor's Map 37 as Parcel 28 and located at 226 Cotuit Road consisting of 1,194 square feet more or less, as shown on a plan entitled Cotuit Road Road Taking Plan Map 37 and Lot 38 dated 7/6/18, prepared by Baxter Nye Engineering & Surveying, for road and utility purposes, to authorize the Board of Selectmen to raise and appropriate, borrow or transfer from available funds any sum that may be necessary for such purchase or taking, and further, to authorize the Board of Selectmen to execute any agreements, documents or instruments necessary to effect said acquisition 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 Department of Public Works

Explanation: This article authorizes the acquisition of a portion of the property at the intersection of Route 130 and Cotuit Road necessary for re-alignment of the intersection. Re-alignment will improve traffic flow and safety at the intersection. An existing water main is also located within the property proposed for acquisition.

**The Board of Selectmen recommends Town Meeting approval by a vote of 4-0
The Finance Committee does not recommend Town Meeting approval by a vote of 7-0**

Article 16

To see if the Town will vote to amend the Zoning Bylaws by adding a new section § 174-17.1 to read as follows:

§174-17.1 Raze and Replace:

No pre-existing, non-conforming single or two family dwelling structures shall be torn down and rebuilt on any lot unless there is an issuance of a Special Permit from the Zoning Board of Appeals. Such a Special Permit may be granted only if the Zoning Board of Appeals finds that any changes, extensions, alterations or reconstruction of the pre-existing non-conformities are not substantially more detrimental than exists prior to removal of the existing structure and that there is adequate land area to provide sufficient parking. In no case shall new non-conformities be permitted without the issuance of a Variance.

or take any other action relating thereto.

Submitted by the Zoning Board of Appeals

Explanation: This article will clarify, under the Bylaw, the ability of the Zoning Board of Appeals to review and evaluate existing homes to be torn down and rebuilt which may or may not meet the requirements under the existing Zoning Bylaws.

**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 6-1**

Article 17

To see if the Town will vote to delete in its entirety §174-17 of the Zoning Bylaws and replacing it as follows:

§174-17 Continuance; Extensions; Alterations:

Lawfully created structures or uses may be continued, although not conforming with the provisions of this chapter. Non-conforming single and two family structures may be changed, extended or altered if it is determined by the Building Inspector that such changes, extensions or alterations are in compliance with current zoning and do not increase the nonconforming nature of said structure. Any changes, extensions or alterations which do not comply with the current zoning, require a written finding by the Zoning Board of Appeals that such changes, extensions or alterations shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure or use and that there is adequate land area to provide sufficient parking and setbacks as may be required. Although said finding shall not constitute a Special Permit as defined by the General Laws and this Bylaw, the Zoning Board of Appeals shall follow the procedures specified in the General Laws for Special Permits in processing such requests for findings. For the purposes hereof, compliance with dimensional requirements shall be determined by the Building Inspector,
or take any other action relating thereto.

Submitted by the Zoning Board of Appeals

Explanation: Many times, projects that comply with the zoning setback requirements have to go before the Zoning Board of Appeals because the existing home does not comply with the zoning setbacks. This amended Bylaw will give the Building Inspector the ability to review and evaluate the need to go before the Zoning Board of Appeals. If the proposed work is in compliance with the setbacks for that zoning district, then there would be no need for the applicant to appear before the Zoning Board of Appeals and the project can proceed expeditiously.

The Board of Selectmen recommends Town Meeting approval by a vote of 4-0-1 (abstention)

The Finance Committee recommends Town Meeting approval by a vote of 7-0

Article 18

To see if the Town will vote to amend §174-33 of the Zoning Bylaws by deleting the language in its entirety and replacing it as follows:

§ 174-33 Setbacks from Water and Wetlands

Any building or structure, exclusive of fixed or floating piers, wharves, docks, bridges or boardwalks, shall be set back from water or wetlands as the Conservation Commission shall determine in accordance with Chapter 172 of the Town of Mashpee General Bylaws.

or take any other action relating thereto.

Submitted by the Zoning Board of Appeals

Explanation: Chapter 172 of the Town of Mashpee General Bylaws already addresses this with a review by the Conservation Commission. Applying to the Zoning Board of Appeals for relief, which has already been granted by the Conservation Commission is just a duplication of the approval process.

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 7-0

Article 19

To see if the Town will vote to amend §174-37 of the Zoning Bylaws by adding the following sentence to the end of the paragraph as follows:

§ 174-37

In the I-1 Zoning District, parking facilities shall be located on any side of the building.
or take any other action relating thereto.

Submitted by the Zoning Board of Appeals

Explanation: In accordance with the Town of Mashpee Zoning Bylaws, the Industrial District is utilized for Uses like automotive, laundry facilities, bottling plants, printing facilities and the like. Allowing them the autonomy to place the parking also assists them with the building orientation which has been an issue in the past. These lots are not on the main street but within a compound that is outside of the general view of the public. Limiting them on where to place the parking is more for aesthetics reasons than for practicality.

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 7-0

Article 20

To see if the Town will vote to amend the Zoning Bylaws Table of Use Regulations by deleting §174-25 I (9) in its entirety,

or take any other action relating thereto.

Submitted by the Zoning Board of Appeals

Explanation: Currently under the Zoning Bylaw, a property owner is required to apply for an accessory use Special Permit from the Zoning Board of Appeals for proposed fixed and floating piers, wharves, docks and boardwalks, in addition to securing all other permits and approvals required for such structures from Town, State and federal agencies with jurisdiction over inland and/or coastal waterways and wetlands. Historically, the Zoning Board of Appeals has substantively relied on approvals from the Conservation Commission, Shellfish Commission, Waterways Commission, Harbormaster and other such governmental agencies as the basis for its decisions on such Special Permit applications, and it believes that requiring a separate review/approval of such structures by the Zoning Board of Appeals unnecessarily duplicates the permitting process. This amendment will eliminate the requirement of a Special Permit for such structures, thus, streamlining the approval process an applicant must pursue to erect a fixed and floating pier, wharf, dock or boardwalk.

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 7-0

Article 21

To see if the Town will vote to amend the Zoning Bylaw as follows:

Amend Section 174-3 by adding the following new definitions in their proper alphabetical locations:

“Mixed-use Planned Development (MPD) – A development project containing a mix of commercial, residential, public, entertainment or other land uses conceived and designed as a single environment in a compact form, a portion of which must lie within the C-1 zoning district.”

“Form-based Design Code – A set of land development regulations that fosters predictable built results and a high-quality public realm by using physical form as its organizing principle. It addresses the relationship between building facades and the public realm, the form and mass of buildings in relation to

one another, and the scale and types of streets and blocks. It includes 1) a Regulating Plan designating locations where different building form standards apply; 2) Public Standards specifying elements in the public realm, including sidewalks, travel lanes, on-street parking, street trees and furniture etc.; 3) Building Standards controlling the features, configurations and functions of buildings that define and shape the public realm; 4) a streamlined administrative process for implementation of the Code and 5) a glossary of definitions to ensure the precise use of technical terms. The Code may also include architectural standards, landscaping standards, signage standards, environmental resource standards and illustrations explaining the intentions of specific Code provisions.”

Amend Section 174-25 Table of Use Regulations as follows:

Add a new subsection H. (14) “Mixed-use Planned Development, allowed by Special Permit pursuant to the provisions of §174-46.1” and add the notation “SP” under the C-1, R-3 and R-5 columns.

Add the following new Section:

174-46.1 Mixed-use Planned Development (MPD)

- A. **Purpose and intent.** The purposes and intent of this Section are to promote an efficient pattern of land development and the more efficient use of land and municipal infrastructure in Mashpee, to enhance the aesthetic character and livability of our built environment, to encourage the preservation of open space and natural areas, to reduce the impact of new development on the Town’s water quality and natural resources, to provide affordable housing and to protect and promote the health, safety and general welfare of the inhabitants of the town.
- B. **Approval by Special Permit.** To achieve said purposes, the Planning Board may issue a Special Permit authorizing a Mixed-use Planned Development (MPD) pursuant to the following standards and procedures.
- C. **Land Area Permitted, Open Space Requirement.** A Mixed-use Planned Development shall encompass a minimum land area of twenty (20) acres, which may be in one or more parcels, and shall consist of one acre of allowed developed area for each acre of upland (i.e. excluding water bodies or wetlands as defined under MGL C. 131, §40) permanently set aside as undeveloped open space and deeded to the Town of Mashpee in the care and custody of its Conservation Commission (provided that said land is not subject to any previous conservation restriction or other prohibition on its development), or one-half acre of allowed developed area for each acre of upland (i.e. excluding water bodies or wetlands as defined under MGL C. 131, §40) permanently set aside as undeveloped open space or as agricultural land and deeded to 1) a nonprofit organization, the principal purpose of which is the conservation of open space or agricultural land or 2) a corporation or trust owned, or to be owned, by the owners of lots or commercial or residential units within the MPD, with ownership of the corporation or trust to pass proportionally with the conveyance of the lots or commercial or residential units, in either case subject to a formal conservation or agricultural restriction to be held by the Town of Mashpee. The developer’s declaration of his choice of the three open space / agricultural land preservation methods described above, which may be different for individual such parcels, shall be included in his application to the Planning Board for a Special Permit to develop an MPD, along with maps and plans describing the open space areas, except that, where the MPD is to be developed in phases, as provided below, said declaration, maps and plans shall be filed with the application for approval of each phase. Any water bodies or wetlands, as defined under MGL C. 131, §40, which lie within the boundaries of the MPD shall also be permanently set aside and deeded to one of the three entities identified above under the terms described. Before final approval of the MPD Special Permit, or of any phase approval within the MPD if it is to be developed in phases, the developer shall also file with the

Board a copy of the conservation or agricultural restrictions necessary to secure the permanent legal existence of the open space or agricultural land and a copy of any proposed deed for transfer in fee to the Town or to a nonprofit organization. Approval of the MPD or phase shall require approval by the Planning Board of said conservation or agricultural restrictions after consultation with Town Counsel. As required by law, any such restrictions may also require approval by the Commonwealth of Massachusetts. Any open space required to meet the provisions of this Section shall be surveyed, properly bounded on the ground by concrete monuments and shown on a plan recorded at the Barnstable County Registry of Deeds or Land Court Registry. Said plan shall be recorded and said boundary monuments shall be set within six (6) months of the approval by the Planning Board of the MPD Special Permit, or of phase approval for phased projects. Any transfer of the fee title to property to the Town or a nonprofit organization shall be recorded, along with the required conservation or agricultural restrictions, within one (1) year of the approval of the MPD Special Permit, except that, should the MPD be proposed for development in phases, said transfer shall take place within one (1) year of the approval of the plan for said phase by the Planning Board. In either case, said transfer shall be completed before the issuance of any building permit for development within said phase. No land within the allowed development area of the MPD which is set aside for park, playground or similar uses, the majority of whose area consists of natural or landscape vegetation, and is open to use by the general public shall require any set-aside of open space or agricultural land outside the developed area. In addition, any land which is covered by buildings and directly-associated parking and other infrastructure in existence at the time of application for an MPD Special Permit, or has previously received a Special Permit for commercial or mixed-use development from the Planning Board or Zoning Board of Appeals under the provisions of the Mashpee Zoning By-law, may be incorporated into the developed area of the MPD without any set-aside of open space or agricultural land outside the developed area and retaining any development rights created under said previous Special Permits.

- D. **Allowed uses.** Within a Mixed-use Planned Development, for each acre of open space transferred to the Town under the provisions of Subsection C, 50 bedrooms shall be allowed, and for each acre otherwise set aside as open space or agricultural land under said Subsection, 25 bedrooms shall be allowed, which bedrooms may be incorporated into any form of residential or mixed-use building, notwithstanding any other provisions of this Chapter. In addition, any use allowed by Section 174-25, whether by right, Plan Review or Special Permit, shall be allowed by right upon approval by the Planning Board of the MPD Special Permit. Any use prohibited by Section 174-25 or other provisions of this Chapter shall be prohibited. For uses proposed within such MPD not specifically listed in the §174-25 Table of Use Regulations, said use may be allowed if the Planning Board determines that said use may be allowed on the basis that it is substantially similar in its construction, operation, traffic and environmental impact to a specific use allowed in said Table and it is substantially dissimilar in those respects from any uses prohibited in the district. Where the Board cannot make a clear determination, such uses shall be considered prohibited.
- E. **Affordable housing requirement.** At least fifteen (15) percent of any dwellings or single-family lots allowed within a Mixed-Use Planned Development shall be made subject to a permanent deed restriction meeting the low-income affordability requirements of MGL C. 40B as it existed at the time of approval of the MPD Special Permit. The applicant shall specify and provide evidence regarding the recordation of the required deed restrictions, the method of selection of affordable housing residents and the party or parties who will manage the selection process and management of the affordable dwellings, and shall meet any other requirements to ensure that the affordable dwellings qualify for listing on the MGL C. 40B Subsidized Housing Inventory.

- F. **Land Space Requirements.** A Form-based Design Code may be substituted for the provisions of Article VII Land Space Requirements and any other dimensional requirements contained in this Chapter and be incorporated into the Planning Board's Special Permit decision regarding the MPD.
- G. **Setbacks from water bodies and wetlands.** The developed area within a Mixed-use Planned Development may not lie within three hundred (300) feet of any water body or stream or within one hundred (100) feet of any wetland as defined under MGL C. 131, §40.
- H. **Water quality requirements.** All development within the MPD shall be connected to a municipal sewer system, or to a private wastewater treatment facility designed to reduce total nitrogen in its effluent to less than 3 Mg/L. The applicant shall demonstrate the existing or future availability of wastewater treatment and discharge capacity to meet the needs of all proposed development, which requirement may be met by phases. In addition, all storm water shall be treated in accordance with the requirements of Section 174-27.2 of this by-law, with particular emphasis on reduction of nutrient flow to groundwater, wetlands or water bodies, with adjustments as approved by the Board based on the nature of proposed development.
- I. **Master Plan.** Any project developed under this Section shall be developed pursuant to a master plan approved by the Planning Board as part of its Special Permit decision for the MPD. Said master plan shall indicate, at a minimum, the approximate boundaries of each project phase (if the project is to be done in phases), the proposed location of any open space or agricultural area required for each phase, the general location of all roads projected to carry over two hundred (200) vehicles per day, the general location of any proposed parks, recreation facilities, civic spaces, improvements to existing roads, sewage treatment plants, commercial uses and similar major structures and amenities in a general manner, showing the areas of residential, commercial or mixed development and the approximate number and type of residential units proposed for development within each area.
- J. **Development in phases.** A Mixed-use Planned Development may be subdivided, developed and constructed in phases according to a phasing plan approved by the Planning Board as part of the MPD Special Permit. As part of the application for approval of each phase, which shall be considered a Special Permit Modification subject to approval after an advertised and noticed public hearing, the applicant shall submit, at a minimum, those items required under Section 174-24.C.3., as well as those required by the Town of Mashpee Planning Board Special Permit Regulations in effect on the date the Special Permit Modification application is made (except as may be waived by the Board). Any proposed subdivision of lots and construction of roadways within each phase shall also conform to the Town of Mashpee Rules and Regulations Governing the Subdivision of Land in effect on the date the subdivision application is made (except as may be waived by the Planning Board in furtherance of the provisions of this Section). Should the MPD not be proposed for development in phases, the items required above shall be submitted for the entire project with the MPD Special Permit application.
- K. **Expiration and extension.** Should the Special Permit expire under the provisions of the General Laws and this By-law, there shall be no effect on the ownership and location of any open space or agricultural areas for which title has passed and any conservation or agricultural restriction which has been recorded as of the date of expiration, nor on the allowed acreage of developed area and number of allowed bedrooms originally approved under the provisions of this Section related to said open space or agricultural areas. Both may be utilized in any re-application for a new Special Permit under this Section. Pursuant to the provisions of the General Laws, the Planning Board may

also determine that the Special Permit may remain in effect past the statutory expiration date if it determines, after a properly advertised and noticed public hearing, that the required substantial use or construction has not begun by said date for good cause and determines that there is a reasonable justification for the extension, that the developer is acting in good faith regarding the provisions of the MPD Special Permit and that there will be no adverse impact on the public health, safety and welfare or on the town's environment and natural resources.

- L. **Development within phases.** After the approval of the MPD or any phase plan by the Planning Board, development may proceed within said MPD or phase in conformance with the approved plan and the Form-based Design Code referenced below, without further public hearings by the Board (except in the case that the applicant requests a modification of the text of the Special Permit or phase approval decision). Such development shall, however, be subject to approval by the Board at a regular meeting, after review and recommendations by the Plan Review Committee, to ensure conformance with the master plan, the provisions of this Section and the approved Special Permit, as well as other public safety, health, building code, handicapped accessibility and similar Town or state codes or regulations. In addition, all roadway, parking, drainage and utility designs and construction shall be subject to the normal review and inspection procedures and fees specified in the Planning Board's Special Permit Regulations (and Rules and Regulations for the Subdivision of Land, as applicable), said review and inspections to be conducted by the Planning Board Consulting Engineer or another party designated by the Board.
- M. **Form-based Design Code.** Any Mixed-use Planned Development may be made subject to a Form-based Design Code, which shall be incorporated as a condition and attachment to the Special Permit approved for the MPD. Where the MPD is proposed to be permitted in phases, such a Code may be incorporated into the Special Permit Modification approved for each phase which may differ from the Code which applies to other phases. The Code shall regulate, at a minimum, the following elements:
 - 1. Dimensional requirements for lots;
 - 2. Setbacks;
 - 3. Building heights;
 - 4. Architectural design standards;
 - 5. Site design and landscaping standards;
 - 6. Street types and applicable standards, including pedestrian and bicycle facilities.
- N. **Signage.** In lieu of the provisions of Article X, the Planning Board is authorized to approve a sign code for the MPD, to be incorporated into the Special Permit, which is consistent with the intent and purposes of this Section.
- O. **Parking.** Parking shall generally conform to the provisions of Article VIII. However, the Planning Board is hereby authorized, as part of its Special Permit decision, to waive or adjust the parking requirements of Article VIII where the applicant has demonstrated to the satisfaction of the Board, by means of data and studies from similar projects done by qualified persons for similar developments, on parking requirements and use for similar facilities on Cape Cod or on other appropriate information, that proposed parking will be adequate, with regard to number of spaces and their design, for the proposed nearby uses and will further the purposes and intent of the approved Form-based Design Code.

P. **Revisions to Code.** Any revisions to a Form-based Design Code approved under the MPD Special Permit shall require approval by the Planning Board. The Board shall determine, by the vote of four of five members, whether such revisions shall be considered a Special Permit Modification subject to approval after an advertised and noticed public hearing, or may be approved by the Board at a regular posted meeting, based on the scale and nature of the proposed revisions and the potential for impact on properties abutting the MPD boundaries.” or take any other action relating thereto.

Submitted by Petition

Explanation: This article would amend the Zoning By-law to provide a simplified method for permitting the development of Mixed-use Planned Development, containing a mix of residential, commercial and other uses, subject to land use, architectural and public space regulations designed to foster predictable attractive built results and a high-quality public realm at the center of the Town, while protecting the town’s environment, providing for affordable housing, providing increased employment opportunities and enhancing the Town’s tax base.

The Board of Selectmen does not recommend Town Meeting approval by a vote of 5-0

The Finance Committee does not recommend Town Meeting approval by a vote of 5-0

Article 22

To see if the Town will accept the layouts as public ways of Pierre Vernier Drive, Katian Way and Gunter’s Lane (Pimlico Heights) as shown on plans entitled “Road Taking Plan Pimlico Heights – Pierre Vernier Drive” , “Road Taking Plan Pimlico Heights – Gunter’s Lane” and “Road Taking Plan Pimlico Heights – Katian Way” in Mashpee, MA, dated January 31, 2018, and prepared by Cape & Islands Engineering, which layouts shall have been filed in the Office of the Town Clerk not later than seven days prior to the date of the 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 \$490,953.75 to the Pimlico Heights Roadway 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 the purchase or taking and layout, including costs of construction such ways, 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. Any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount, or take any other action relating thereto.

Submitted by Petition

The Board of Selectmen recommends Town Meeting approval by a vote of 4-0

The Finance Committee recommends Town Meeting approval by a vote of 7-0

Article 23

Health Imperatives - Cape Cod requests \$5,000 from the Town of Mashpee for health and human services provided to low-income and vulnerable individuals and families in Fiscal Year 2018.

Submitted by Petition

Explanation: To request \$5,000 from the Town of Mashpee for health and human services provided to low-income individuals and families in fiscal year 2018

The Board of Selectmen recommends Town Meeting to indefinitely postpone by a vote of 4-0

The Finance Committee recommends Town Meeting to indefinitely postpone by a vote of 5-0

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 11th day of September in the year two thousand and eighteen.

Per Order of,
Board of Selectmen

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