

**TOWN OF MASHPEE
MASHPEE HIGH SCHOOL
500 OLD BARNSTABLE ROAD
MASHPEE, MA 02649
ANNUAL TOWN MEETING
MONDAY, OCTOBER 21, 2019**

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 21st day of October 2019 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 \$85,100 from the Interest Outside 2½ account to the Principal Inside 2½ account and further appropriate and transfer the sum of \$7,500 from the Interest Outside 2 ½ account to the Temporary Principal Outside 2 ½ account and further appropriate and transfer the sum of \$42,500 Principal Outside 2½ to Temporary Principal Outside 2½ and further appropriate and transfer the sum of \$500 from Interest outside 2½ to Interest Temporary Borrowing Outside 2½ and further appropriate and transfer the sum of \$950 from Interest outside 2 ½ to Principal Inside 2½ or take any other action relating thereto.

Submitted by the Town Treasurer

Explanation: This article is for the purpose of distributing the funds in the proper accounts due to the actual bonds and premium from the April 1st 2019 Bond issue. These funds could not be appropriated in the May Annual Town meeting as the Bonding was completed after the warrant article submission. The \$50,000 amount and \$500 interest transferred will be used payoff a small BAN for the Quashnet School project.

The Board of Selectmen recommends approval of Article 1 by a vote of 4-0

The Finance Committee recommends approval of Article 1 by a vote of 6-0

Article 2

To see if the Town will appropriate and transfer the sum of \$207 from revenue available for appropriation to pay a previous fiscal year's unpaid bills as follows:

John J. Maurer, Inc. \$207

or take any other action relating thereto.

Submitted by the Department of Public Works

Explanation: This article is necessary to pay a bill received after the end of a previous fiscal year.

The Board of Selectmen recommends approval of Article 2 by a vote of 4-0

The Finance Committee recommends approval of Article 2 by a vote of 6-0

Article 3

To see if the Town will vote to authorize the Board of Selectmen to accept a deed in lieu of tax foreclosure, pursuant to G.L. c.60, §77C, conveying fee title to the parcel of real estate owned by Margaret E. Savery shown on Mashpee Assessors Map 47 as Parcel 28 , and further identified as Main Street Rear (as more particularly described in Barnstable Registry of Deeds Book 10381, Page 260); said land to be conveyed to the Town free and clear of any liens or encumbrances except for municipal tax liens securing payment of outstanding real estate taxes, and upon conveyance to the Town, to be held for general municipal purposes. Furthermore, to authorize the Board of Selectmen to undertake any act or to execute any document necessary to consummate this transaction, in accordance with the provisions of G.L. c.60, §77C, or take any other action relating thereto.

SEE MAP IN APPENDIX A

Submitted by the Board of Selectmen

Explanation: General Law c. 60, §77C allows towns to acquire title to tax delinquent parcels without the need of going through the cost, expense and time required to obtain a judicial foreclosure judgment provided that Town Meeting authorizes the acquisition and there are no liens or encumbrances on the parcel other than Town liens securing the payment of taxes.

The Board of Selectmen recommends approval of Article 3 by a vote of 4-0

The Finance Committee recommends approval of Article 3 by a vote of 5-0

Article 4

To see if the Town will vote to adopt the following Bylaw relative to storm water discharge:

§85 - Illicit Connections and Discharges to the Municipal Storm Drain System

85 - 1. Purpose:

- A. Increased and contaminated stormwater runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding.
- B. Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of Mashpee's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.
- C. The objectives of this by-law are:
 - a. To prevent pollutants from entering Mashpee's municipal separate storm sewer to prohibit illicit connections and unauthorized discharges to the MS4;
 - b. To require the removal of all such illicit connections;
 - c. To comply with state and federal statutes and regulations relating to stormwater discharges; and
 - d. To establish the legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring, and enforcement.

85 - 2. DEFINITIONS

For the purposes of this by-law, the following shall mean:

AUTHORIZED ENFORCEMENT AGENCY: The Mashpee Department of Public Works (hereafter the DPW), its employees or agents designated to enforce this by-law.

BEST MANAGEMENT PRACTICE (BMP): An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

CLEAN WATER ACT: The Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*) as hereafter amended.

DISCHARGE OF POLLUTANTS: The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

GROUNDWATER: Water beneath the surface of the ground.

ILLICIT CONNECTION: A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this by-law [or ordinance]

ILLICIT DISCHARGE: Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 7. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from firefighting activities exempted pursuant to Section 7, subsection 4, of this by-law.

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and rooftops.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM: The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Mashpee.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT: A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

NON-STORMWATER DISCHARGE: Discharge to the municipal storm drain system not composed entirely of stormwater.

PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POLLUTANT: Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include without limitation:

- 1) Paints, varnishes, and solvents;
- 2) Oil and other automotive fluids;
- 3) Non-hazardous liquid and solid wastes and yard wastes;
- 4) Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- 5) Pesticides, herbicides, and fertilizers;
- 6) Hazardous materials and wastes; sewage, fecal coliform and pathogens;
- 7) Dissolved and particulate metals;
- 8) Animal wastes;
- 9) Rock, sand, salt, soils;
- 10) Construction wastes and residues; and
- 11) Noxious or offensive matter of any kind.

PROCESS WASTEWATER: Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

RECHARGE: The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

STORMWATER: Storm water runoff, snow melt runoff, and surface water runoff and drainage.

SURFACE WATER DISCHARGE PERMIT. A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

TOXIC OR HAZARDOUS MATERIAL or WASTE: Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

WATERCOURSE: A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

WATERS OF THE COMMONWEALTH: All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

WASTEWATER: Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

85 - 3. Applicability

This bylaw shall apply to flows entering the municipally owned storm drainage system.

85 - 4. Authority

This bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

85 - 5. Responsibility for Administration

The DPW shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon the DPW may be delegated in writing by the DPW to employees or agents of the DPW.

85 - 6. Regulations

The DPW may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the DPW to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

85 - 7. Prohibited Activities

- A. **Illicit Discharges.** No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system (MS4), into a watercourse, or into the waters of the Commonwealth.
- B. **Illicit Connections.** No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- C. **Obstruction of Municipal Storm Drain System.** No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the DPW.

85 - 8. Exemptions

- A. Discharge or flow resulting from firefighting activities.
- B. The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:
 - 1) Waterline flushing;
 - 2) Flow from potable water sources;
 - 3) Springs;
 - 4) Natural flow from riparian habitats and wetlands;
 - 5) Diverted stream flow;
 - 6) Rising groundwater;
 - 7) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
 - 8) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
 - 9) Discharge from landscape irrigation or lawn watering;
 - 10) Water from individual residential car washing;
 - 11) Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance; Discharge from street sweeping;
 - 12) Dye testing, provided verbal notification is given to the DPW prior to the time of the test;
 - 13) Non-stormwater discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
 - 14) Discharge for which advanced written approval is received from the DPW as necessary to protect public health, safety, welfare or the environment.

85 - 9. Emergency Suspension of Storm Drainage System Access

The DPW may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Authorized Enforcement Agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

85 - 10. Notification of Spills

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire and police departments and the Department of Public Works, Conservation Department and the Board of Health. In the event of a release of non-hazardous material, the reporting person shall notify the Authorized Enforcement Agency no later than the next business day. The reporting person shall provide to the Authorized Enforcement Agency written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

85 - 11. Enforcement

- A. The DPW or an authorized agent of the DPW shall enforce this by-law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- B. Civil Relief. If a person violates the provisions of this bylaw, regulations, permit, notice, or order issued thereunder, the DPW may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- C. Orders. The DPW Director or an authorized agent of the DPW Director may issue a written order to enforce the provisions of this bylaw or the regulations thereunder, which may include: (a) elimination of illicit connections or discharges to the MS4; (b) performance of monitoring, analyses, and reporting; (c) that unlawful discharges, practices, or operations shall cease and desist; and (d) remediation of contamination in connection therewith.
- D. If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Mashpee may, at its option, undertake such work, and expenses thereof shall be charged to the violator.
- E. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner upon which the violation occurred will be notified of the violation abatement costs incurred by the Town of Mashpee, including administrative costs relating thereto. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Town of Mashpee within thirty (30) days of receipt of the notification of the

costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of Board of Selectmen affirming or reducing said costs, or from a final decision of a court of competent jurisdiction relative thereto, the costs shall become a special assessment/charge against the property owner and shall constitute a municipal charges lien on the owner's property in the amount of said costs. Said municipal charges lien was authorized by Town Meeting upon adoption of this bylaw pursuant to the provisions of G.L. c. 40, §58 and shall be implemented in accordance therewith.

- F. Criminal Penalty. Any person who violates any provision of this bylaw, or any regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$300.00. Each day or part thereof during which such violation occurs or continues shall constitute a separate offense.
- G. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town of Mashpee may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D in accordance with the provisions of Chapter 1, Article III, §1-3 of these Bylaws , in which case the DPW Director or other authorized agent of the Town shall be the enforcing person. The penalty for the 1st violation shall be \$50.00. The penalty for the 2nd violation shall be \$150.00. The penalty for the 3rd and subsequent violations shall be \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- H. Entry to Perform Duties under this Bylaw. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the DPW, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the DPW deems reasonably necessary.
- I. Appeals. Except as otherwise provided herein, the decisions or orders of the DPW shall be final. Further relief shall be to a court of competent jurisdiction.
- J. Remedies Not Exclusive. The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

85 - 12. Severability

The provisions of this bylaw are hereby declared to be severable. If any provision, paragraph, sentence, or clause of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.

85 - 13. Transitional Provisions

Residential property owners shall have 60 days from the effective date of the bylaw to comply with its provisions provided good cause is shown for the failure to comply with the bylaw during that period.

or take any other action relating thereto.

Submitted by the Board of Selectmen

Explanation: The purpose of this bylaw is to explicitly prohibit contaminants from being released and/or entering the Town's stormwater system and ultimately into the Town's surface and groundwaters. Adoption of this bylaw is a requirement of the Town's General Storm Water Permit issued by the Environmental Protection Agency through the National Pollutant Discharge Elimination System.

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

The Finance Committee recommends approval of Article 4 by a vote of 5-0

Article 5

To see if the Town will vote to amend the Mashpee General Bylaws as follows, or take any other action relating thereto:

Chapter 126

Article II Polystyrene Products Ban

§126-9. Purpose and Intent

The use and disposal of polystyrene has significant impacts on our Town and our environment, including but not limited to:

1. Harm to marine and terrestrial animals through ingestion and entanglement.
2. Unsightly pollution and degradation of the terrestrial and aquatic environment, requiring costly cleanup efforts.
3. Disposal costs of difficult to recycle plastics for solid waste collection and recycling facilities.

With the goal of protecting the health of its citizens and the unique natural beauty and irreplaceable natural resources of the Town of Mashpee, and given that inexpensive, safe alternatives to polystyrene are easily obtained, the Town will phase out the use of certain polystyrene plastics by July 1, 2021.

§126-10. Definitions

"Polystyrene Disposable Food Services Containers and Cutlery" shall mean single-use disposable products for serving or transporting food or beverages, including without limitation take-out foods and/or leftovers from partially consumed meals prepared by a restaurant and/or retail food containers, straws, cup lids, and cutlery, which are made of polystyrene. It shall also include single-use disposable packaging for uncooked foods prepared on the premises, as well as disposable catering trays made of polystyrene.

“Expanded or Foam Polystyrene” and “Polystyrene” shall mean blown polystyrene (polystyrene that has been expanded or blown using a gaseous blowing agent into a solid foam) and expanded and extruded forms, which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including but not limited to fusion of polymer spheres (expandable bead polystyrene), injection molding, form molding, and extrusion blown molding (extruded foam polystyrene), sometimes called Styrofoam, a Dow Chemical Co. trademarked form of polystyrene foam. It bears the recycling number 6.

“Food Establishments” shall mean any operations, including without limitation schools, farmers markets and other public venues that store, prepare, package, serve, vend or otherwise provide food for human consumption. Any establishment requiring a permit to operate in accordance with the State Sanitary Code- Minimum Sanitation Standards for Food Establishments, 105 CMR 590.000, et. seq., shall be considered Food Establishments for the purposes of this bylaw.

“Retail Establishments” shall mean any commercial business facility that sells goods directly to consumers including but not limited to grocery stores, pharmacies, liquor stores, convenience stores, retail stores and vendors sell clothing, food, and personal items, dry cleaning services theaters and all other food services establishments.

“Public Venues” shall mean operations including but not limited to schools, meeting halls, churches, Town offices, the Senior Center, Recreation Department facilities, and the Library.

§126-11. Use Regulations

Polystyrene disposable food service containers, cutlery, and new polystyrene packing peanuts shall not be used or sold by food establishments and/or retail establishments within the Town of Mashpee on or after July 1, 2021. Any stock remaining after that date shall be accepted for disposal free of charge, through June 30, 2021, at the Mashpee Transfer Station/Recycling Center.

This Bylaw shall not apply to:

1. Polystyrene packing peanuts and foam packaging reused from shipments coming to Mashpee.
2. Prepackaged meat and produce trays, egg cartons, and other food or beverage products bought from a wholesaler or an out-of-town supplier.
3. Polystyrene foam freezer chests.

§126-12. Enforcement

Any enforcing person shall have the right to enter any Food 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. 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 General By-laws, Chapter 1, Article III, §1-3. Any establishment which violates any provision of this bylaw shall be subject to the following penalties:

First Offense:	\$100 fine
Second Offense:	\$200 fine
Third and Subsequent Offenses:	\$300 fine for each offense

Each day, or portion thereof, during which a violation of this Chapter occurs shall constitute a separate offense hereunder.

The Board of Health, after a hearing conducted in accordance with the procedures set forth in 105 CMR 590.14 and 590.15, may suspend or revoke the food service permit for any establishment failing to comply with this Bylaw.

§126-13. Severability

If any provision of this Bylaw 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 Bylaw, which shall remain in full force and effect.

Submitted by the Board of Selectmen

Explanation: This article seeks to protect the health of its citizens and the unique natural beauty and irreplaceable natural resources of the Town of Mashpee, and given that inexpensive, safe alternatives to polystyrene are easily obtained, by phasing out the use of certain polystyrene plastics in the near future.

The Board of Selectmen recommends approval of Article 5 by a vote of 4-0

The Finance Committee recommends approval of Article 5 by a vote of 5-1

Article 6

To see if the Town will vote to amend the Mashpee General Bylaws as follows, or take any other action relating thereto:

Chapter 126

Article III

Single Use Plastic Straw Ban

§126-14 Purpose and Findings

It has been found that:

1. Plastic straws are expensive and difficult to collect or recycle.
2. Mashpee’s proximity to water bodies means that plastic straws that go uncollected by DPW have a high chance of ending up on the beaches or in the bays or ponds within the Town.
3. Plastic straws take hundreds of years to degrade, during which time they remain hazardous to wildlife and harmful to the environment.
4. There is currently a national movement to reduce and ban the use of plastic straws, making reasonable affordable alternatives increasingly available.

Because Mashpee has the regulatory authority to protect the natural environment, the economy, and the health of the Town and its citizens, this Bylaw prohibits the sale or dispensing of single use plastic straws, including those made from polyethylene, polypropylene, and polystyrene, by any food establishment, retail establishment, or public venue in the Town of Mashpee.

§126-15 Definitions

“Plastic Straw” shall mean any single use plastic straw including but not limited to those made from polyethylene, polypropylene, and polystyrene.

“Food Establishments” shall mean any operations, including without limitation schools, farmers markets and other public venues that store, prepare, package, serve, vend or otherwise provide food for human consumption. Any establishment requiring a permit to operate in accordance with the State Sanitary Code- Minimum Sanitation Standards for Food Establishments -, 105 CMR 590.000, et. seq., shall be considered Food Establishments for the purposes of this bylaw.

“Retail Establishments” shall mean any commercial business facility that sells goods directly to consumers including but not limited to grocery stores, pharmacies, liquor stores, convenience stores, retail stores and vendors sell clothing, food, and personal items, dry cleaning services theaters and all other food services establishments.

“Public Venues” shall mean operations including but not limited to schools, meeting halls, churches Town offices, the Senior Center, Recreation Department facilities, and the Library.

§126-16 Use Regulations

Plastic Straws shall not be used, dispensed or sold by food establishments and/or retail establishments within the Town of Mashpee on or after July 1, 2021. Any stock remaining after that date shall be accepted for disposal free of charge, through June 30, 2021 at the Mashpee Transfer Station/Recycling Center.

§126-17 Administration and Enforcement

Any enforcing person shall have the right to enter any Retail Establishment or Public Venue 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. 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 General Bylaws, Chapter 1, Article III, §1-3. Any establishment which violates any provision of this bylaw shall be subject to the following penalties:

- | | |
|--------------------------------|-----------------------------|
| First Offense: | \$100 fine |
| Second Offense: | \$200 fine |
| Third and Subsequent Offenses: | \$300 fine for each offense |

Each day, or portion thereof, during which a violation of this Chapter occurs shall constitute a separate offense hereunder.

The Board of Health, after a hearing conducted in accordance with the procedures set forth in 105 CMR 590.14 and 590.15, may suspend or revoke the food service permit for any establishment failing to comply with this Bylaw.

§126-18 Severability

If any provision of this Bylaw 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 Bylaw, which shall remain in full force and effect.

Submitted by the Board of Selectmen

Explanation: This article seeks to protect the natural environment, the economy, and the health of the Town and its citizens, by prohibiting the sale or dispensing of single use plastic straws, including those made from polyethylene, polypropylene, and polystyrene, by any food establishment, retail establishment, or public venue in the Town of Mashpee.

The Board of Selectmen recommends approval of Article 6 by a vote of 4-0

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

Article 7

To see if the Town will vote to create an Engineering/Permitting/Dredging and Associated Expenses Account for the purpose of funding various Waterways Commission engineering, permitting, dredging and related expenses; and, further, to appropriate and transfer the sum of \$40,000.00 from the Waterways Improvement Fund, the sum of \$.08 from the Waterways Maintenance/Dredging account, the sum of \$98,846.66 from the Mashpee River Dredging account, and the sum of \$34,500.00 from the Channel Permit Account (for a total of \$173,346.74) to the Engineering/Permitting/Dredging and Associated Expenses Account, or take any other action relating thereto.

Submitted by the Board of Selectmen

Explanation: This Article will create and fund an account that will make the process easier to manage for the engineering, permitting, dredging and associated expenses for the Town's waterways.

The Board of Selectmen recommends approval of Article 7 by a vote of 4-0

The Finance Committee recommends approval of Article 7 by a vote of 5-0

Article 8

To see if the Town will vote to adopt the following Bylaw relative to the regulation of rental properties in the Town

§106-8 RENTAL PROPERTY

§ A. Purpose

This chapter is adopted in accordance with the Town of Mashpee's Home Rule Authority in furtherance of the following public purposes: to protect the health, safety, and welfare of both the occupant(s) of rental housing units and the general public; to monitor and enhance compliance with basic life safety and sanitary codes through the registration and permitting of residential rental properties; to provide clear and accessible guidelines for the operation of rental properties for tenants, owners, landlords, and neighbors; to extend awareness of related Town bylaws and health regulations related to operation of a rental property; and to maintain the quality of life in Mashpee's residential neighborhoods. This chapter will assist the Town in the enforcement of state and local health and safety laws, codes and regulations, and will provide a method for correcting violations when conditions require immediate attention, in particular, situations associated with rental tenancy in the Town of Mashpee. This chapter is intended to further the objectives of, and to be implemented in conformance with any applicable federal, state, and local laws concerning the maintenance of property and the habitation of dwellings.

§ B. Definitions

For purposes of this chapter, the following terms have the meanings indicated:

- 1.) **Applicant** – any owner(s) who makes a formal application/registration with the Board of Health for a Rental Certificate.
- 2.) **Dwelling** – any building or area in a building used or intended for use for human habitation including, but not limited to, apartments, condominiums, cottages, guest houses, one-, two- or multi-unit residential buildings and rooming houses, but not including any licensed facility and/or affordable housing facilities.
- 3.) **Licensed Facility** – any facility licensed under any state housing or local housing laws or by-laws, including affordable housing facilities other than those registered under this chapter.
- 4.) **Occupant** – Anyone entitled for a period of, at minimum, one night to the use or possession, or the right to use or possession, of a rental property designed and normally used for sleeping and living purposes, or the right to the use or possession of the furnishings or the services and accommodations accompanying the use and possession of such rental property, regardless of whether such use and possession is as a lessee, tenant, or licensee.
- 5.) **Owner(s)** – any person who, alone or severally with others, has legal title to any dwelling, dwelling unit, rooming unit or parcel of land, vacant or otherwise; mortgagee in possession; or owner's representative, trustee, or other person appointed by the courts.
- 6.) **Person** – any individual, partnership, corporation, limited liability company, firm, association or group, including a governmental unit, other than the Town of Mashpee or any of its agencies.
- 7.) **Rental Property** – any dwelling that is rented or leased including, but not limited to, those dwellings that are rented or leased on a seasonal, daily, weekly and/or monthly basis.

§ C. Rental Certificates

1. No person(s) shall rent or lease, or offer to rent or lease, any dwelling or any portion of a dwelling to be used for human habitation without first registering with the Board of Health and obtaining a Rental Certificate. The Board of Health shall determine the number of bedrooms and the number of persons such dwelling or portion of a dwelling may lawfully accommodate under the provisions of Chapter II of the State Sanitary Code 105 CMR 410.000, Title V of the State Environmental Code 310 CMR 15.000, The State Building Code and the State Fire Marshall's Code.

2. The Board of Health shall, pursuant to the above subsection, issue a Rental Certificate which shall be renewed by the following December 31st, provided that the Certificate may be renewed each year.
3. The Rental Certificate shall be issued subject to regulations adopted by the Board of Health at a public hearing in relation to parking, refuse, food, the Building and Fire Codes for the protection of the public health, safety and welfare.
4. The following information shall be provided on the Rental Certificate:
 - I. The owner(s) name, address and telephone number.
 - II. The number of dwelling units and the number of bedrooms in each dwelling unit.
 - III. The maximum number of occupants, as defined in Section C1 that may be permitted in each dwelling unit.
 - IV. The name, address, and telephone number(s) of the responsible individual(s) who will be available to respond to emergencies and requests for assistance from owner(s) or Town of Mashpee staff within two hours for emergencies and twelve (12) hours for non-emergencies of being called.
 - V. A summary of other laws, by-laws, and regulations that are applicable to the rental of dwelling units within the Commonwealth. The summary is provided to the owner(s) and occupant(s) as an advisory of the requirements for proper conduct, safety and public health.

§ D. Application for Rental Certificate

1. An owner of a dwelling which is rented for residential use shall provide the Board of Health with a rental application which includes their current residential address and telephone number. If the owner is a corporation, the name, address, and telephone number of the president or legal representative of the corporation shall be provided. If the owner is a realty trust or partnership, the name, address, and telephone number of the managing trustee or partner shall be provided. If the owner is not available to provide access or to service the occupant(s) or Town of Mashpee in a timely manner the owner shall designate one or more responsible individuals who can be reached, and who shall be available at all times (twenty-four hours per day, seven days per week) to respond to emergencies and requests for assistance from occupant(s) or Town of Mashpee staff. Said designated individual shall respond to a notification of emergency within two (2) hours or twelve (12) hours for non-emergency requests for assistance of any such notification or request. The name, address and telephone number of the responsible individual(s) so designated shall be provided on the application.
2. The application shall specify the rental dwelling address, number of dwelling units, number of rooms, and number of bedrooms in each unit, as well as the size of each room in square feet. Up-to-date floor plans must be submitted if no current plans are on file.
3. The application shall include a certification by the owner(s) or their authorized agent, under pains and penalties of perjury, that they have inspected each unit and have verified compliance with all applicable laws including, but not limited to, the State Sanitary Code, 105 CMR 410.000, et seq., the State Building Code, 780 CMR and the State Fire Marshall's Code.

§ E. Posting of Rental Certificate

No person(s) shall rent or lease, or offer to rent or lease, any dwelling or any portion of a dwelling to be used for human habitation without first conspicuously posting within such dwelling or portion of a dwelling a Rental Certificate issued by the Board of Health.

§ F. Fee for Registration

The fee to procure a Rental Certificate shall be listed in the fee schedule as determined by the Board of Selectmen. The rental certificate fee shall be waived for licensed facilities.

§ G. Inspections

1. Dwelling units covered by this by-law shall be subject to inspection at reasonable times by the Board of Health and its agents. The Board, at its discretion, may request other inspectional service personnel (Building, Electrical, Plumbing and Fire Departments) to accompany them to the property for inspection. All interior inspections shall be done in the company of the owner(s), occupant(s) or the representative of either.
2. Required inspections shall occur prior to issuance of a Rental Certificate and annually thereafter.
3. Health inspections shall be performed in accordance with Chapter II of the State Sanitary Code 105 CMR 410.000.

§ H. Parking Restrictions

Vehicles owned or operated by the owner(s) or the occupant(s) of a dwelling shall, at no time, obstruct rights-of-ways, as determined by the Town of Mashpee, its authorized and/or an officer of the Mashpee Police Department.

§ I. Refuse Requirements

1. The occupant(s) of any dwelling unit shall be responsible for maintaining it in a clean and sanitary condition, and free of garbage, rubbish, and other filth or causes of sickness in that part of the dwelling which they exclusively occupy or control.
2. The owner(s) shall provide for disposal of garbage and rubbish. This requirement does not prohibit the owner(s) from requiring the occupant(s) to dispose of the refuse; however, the owner(s) shall be ultimately responsible for maintaining the dwelling unit and property in a clean and sanitary condition at the end of each lease period.

§ J. Suspension, Modification or Revocation of Rental Certificate

1. The Board of Health may suspend or revoke any Rental Certificate after a hearing, and in accordance with the procedures set forth in 105 CMR 410.830-860, for any violation of any provision of this bylaw, the State Sanitary Code, or any other applicable General Law, bylaw, or regulation intended to protect public health, safety or the environment.
2. The Board of Health may, in lieu of suspension or revocation, modify any Rental Certificate to impose additional conditions including, but not limited to, a requirement for periodic inspections and/or a limitation on the maximum number of occupants allowed.

3. If any Rental Certificate is suspended or revoked, the owner(s) of the premises shall be responsible for finding or providing alternative and comparable housing for any and all occupants, until such time as the tenancy ends or the Rental Certificate is reinstated.
4. This chapter is intended to further the objectives of, and to be implemented in conformance with any applicable federal, state, and local laws concerning the maintenance of property and the habitation of dwellings. Nothing in this chapter is intended to limit or restrict the authority of the Board of Health, or any other board, commission or officer of the Town, to act in accordance with federal, state, and local laws within their jurisdiction, including, but not limited to, the emergency condemnation procedures set forth within the State Sanitary Code.
5. The Town of Mashpee may enforce this bylaw or enjoin violations thereof through any lawful process, and the election of one remedy by the Town of Mashpee shall not preclude enforcement through any other lawful means.

§ K. Enforcement, Fines and Penalties

1. This chapter may be enforced by the Inspector of Buildings, Health Agent, a police officer or such other agent of the Town duly authorized by the Board of Selectmen.
2. Any owner(s) or agent(s) thereof who shall offer for rent or lease any building, or portion thereof, which has not been issued a Rental Certificate shall be punished by a fine of three hundred dollars (\$300.00) per violation.
3. If it is determined that the number of occupants in any building or portion thereof used for habitation exceeds the number on the Rental Certificate, or if no Rental Certificate shall be in effect, the owner(s), lessee(s), or person(s) in control of said building or portion thereof shall be punished by a fine of three hundred dollars (\$300.00) per violation.
4. Whoever violates any provision of this by-law may be penalized by a non-criminal disposition process, as provided in M.G.L. c.40 §21D and the Town's non-criminal disposition law. If a non-criminal disposition is elected, then any person who violates any provision of this by-law shall be subject to a penalty of three hundred dollars (\$300.00) per violation.
5. Each day or portion thereof shall constitute a separate violation. If more than one, each provision hereof violated shall constitute a separate offense.

§ L. Severability

If a court determines that any provision of this chapter is invalid or unenforceable, the other provisions hereof shall not be affected thereby, and shall continue in full force and effect. or take any other action relating thereto.

Submitted by the Board of Selectmen

Explanation: The purpose of this bylaw is to protect the health, safety, and welfare of both the occupant(s) of rental housing units and the general public, and to maintain the quality of life in residential neighborhoods. This bylaw will assist the Town of Mashpee in the enforcement of state and local health and safety laws and regulations and will provide a method for correcting violations when conditions require immediate attention, in particular, situations associated with rental tenancy in the Town of Mashpee.

The Board of Selectmen recommends approval of Article 8 by a vote of 4-0

The Finance Committee recommends approval of Article 8 by a vote of 5-0

Article 9

To see if the Town will vote to create a permanent full time employment position within the Health Department entitled Code Compliance Inspector, pursuant to the Personnel Administrative Plan, General Bylaw Section 5-7 as recommended by the Town Manager, the duties and responsibilities of which shall include, without limitation, performing advanced administrative, technical, inspection and investigative work related to the enforcement and interpretation of Town codes, Bylaws, departmental policies and procedures, related rules and regulations, and performing varied duties related to application of state laws, codes and regulations in the Town of Mashpee; and, further, to appropriate, raise and/or transfer the sum of \$100,473 from revenue available for appropriation, with said funds to be distributed as follows: \$61,035 to the Health Department Salary/Wage account, \$25,272 to the Medical insurance account, \$35 to the Group Life Insurance account, \$885 to the Medicare expense account, and \$13,246 to the Barnstable County Retirement expense account, or take any other action relating thereto.

Submitted by the Board of Selectmen

Explanation: This article will create and fund a full time Code Compliance Inspector within the Health Department. This position is necessary in order to enforce new Health regulations, as well as, enforcement of existing codes, bylaws, policies, rules, regulations, etc.

The Board of Selectmen recommends approval of Article 9 by a vote of 4-0

The Finance Committee recommends approval of Article 9 by a vote of 5-1

Article 10

To see if the Town will vote to support Mashpee's participation in feasibility planning for a regional wastewater collection and treatment facility at Joint Base Cape Cod, to authorize the Town Manager to negotiate and execute a Memorandum of Understanding with neighboring municipalities relative to joint development of plans for the design, construction and operation of such a regional wastewater collection and treatment facility, and, further, to raise, transfer and/or borrow and appropriate the sum of \$250,000 to fund such further investigation and planning of this regional approach, including evaluation of options, conceptual design of wastewater collection, treatment and disposal facilities and related appurtenances, permitting requirements, and the requisite redrafting of the Town's Comprehensive Wastewater Management Plan, associated notices of project change, and other related activities; or take any other action relating thereto.

Submitted by the Board of Selectmen

Explanation: This article seeks \$250,000 for Mashpee to take part in feasibility planning for a wastewater and collection facility on Joint Base Cape Cod and for the Town Manager to negotiate with adjacent towns and execute a Memorandum of Understanding to move the regional project forward.

The Board of Selectmen recommends approval of Article 10 by a vote of 4-0

The Finance Committee recommends approval of Article 10 by a vote of 5-0

Article 11

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 further authorize the Board of Selectmen to assess betterments to the owners of the land abutting the ways with respect to the cost of the subject roadway layouts and improvements. 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.

SEE MAP IN APPENDIX A

Submitted by the Board of Selectmen

Explanation: This Article once again submits the request of roadway abutters in the Pimlico Heights development for Town acceptance of the layouts of Pierre Vernier Drive, Katian Way and Gunter's Lane. The same Article was previously approved by Town Meeting as a Petition Article (Article 22) at the 2018 Fall Annual Town Meeting on October 15, 2018, however, due to an inadvertent administrative oversight, the Order of Taking for the subject layouts was not adopted and recorded by the Board of Selectmen within the requisite 90 day statutory period; thus, the layouts have not become effective. This Article merely seeks to ratify and confirm the previously approved layouts, whereupon appropriate Orders of Taking and Betterment Assessment will be adopted and recorded in a timely manner to complete the layout proceedings for the subject ways.

The Board of Selectmen recommends approval of Article 11 by a vote of 4-0

The Finance Committee recommends approval of Article 11 by a vote of 5-0

Article 12

To see if the Town will vote to accept the layouts as public ways of Leatherleaf Lane, Bog River Bend, Miller Farm Road and Ferngully Pass (Childs River East), as shown on plans entitled “Road Taking Plan Leather Leaf Road”, “Road Taking Plan Bog River Bend” and “Road Taking Plan Fern Gully Pass & Miller Farm Road” 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 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 further authorize the Board of Selectmen to assess betterments to the owners of the land abutting the ways with respect to the cost of the subject roadway layouts and improvements. 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.

SEE MAP IN APPENDIX A

Submitted by the Board of Selectmen

Explanation: This Article once again submits the request of roadway abutters in the Childs River East development for Town acceptance of the layouts of Leatherleaf Lane, Bog River Bend, Miller Farm Road and Ferngully Pass. The Article was previously approved by Town Meeting as a Petition Article (Article 29) at the 2019 Spring Annual Town Meeting on May 6, 2019, however, due to an inadvertent administrative oversight, the Order of Taking for the subject layouts was not adopted and recorded by the Board of Selectmen within the requisite 90 day statutory period; thus, the layouts have not become effective. This Article merely seeks to ratify and confirm the previously approved layouts, whereupon appropriate Orders of Taking and Betterment Assessment will be adopted and recorded in a timely manner to complete the layout proceedings for the subject ways.

The Board of Selectmen recommends approval of Article 12 by a vote of 4-0

The Finance Committee recommends approval of Article 12 by a vote of 5-0

Article 13

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 FY 2020 estimated Community Preservation revenues, the following amounts:

\$154,794	10% for Open Space/Recreational Purposes
\$154,794	10% for Historic Preservation Purposes
\$154,794	10% for Affordable Housing Purposes
\$1,043,551	to the FY 2020 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 this article to set aside the 10% Reserves and Budget for Appropriation Reserve to be available for use in fiscal year 2020 as certified by the Finance Director and reflected in the FY 2020 CP-1.

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

The Board of Selectmen recommends approval of Article 13 by a vote of 4-0

The Finance Committee recommends approval of Article 13 by a vote of 6-0

Article 14

To see if the Town will vote to appropriate and transfer the sum of \$40,000 from the Community Preservation 10% Open Space/Recreation Reserve in accordance with the provisions of M.G.L., Chapter 44B, §5, for the purpose of funding the Ockway Bay Boat Ramp Improvement Project II, 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: In October 2017 CPA funding in the amount of \$121,500 was approved to develop a site plan and to reconfigure the Ockway Bay parking lot. As a result of site reconstruction, the parking lot will now accommodate 19 vehicle/trailer spaces and 8 vehicle-only spaces. Additional CPA monies are required to complete the project which involves more extensive site work due to existing topography. The additional \$40,000 required to complete this project would fund the top course of asphalt, shoulder work, landscape and an outdoor storage area for the Department of Natural Resources (included in original plan). The Ockway Bay Boat Ramp is one of the Town's three public launch facilities for boating access and it is used year round by recreational boaters and fishermen.

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

The Board of Selectmen recommends approval of Article 14 by a vote of 4-0

The Finance Committee recommends approval of Article 14 by a vote of 5-0

Article 15

To see if the Town will vote to appropriate and transfer the sum of \$100,000 from the Community Preservation Fund 10% Affordable Housing Reserve, in accordance with the provisions of M.G.L. Chapter 44B, §5, for the purpose of appropriating funds for the acquisition of 12 Cypress Circle, property identified on Assessor's Map 21, Parcel 33 comprised of 1.2 acres, including any necessary costs and expenses related thereto, as recommended by the Community Preservation Committee; said funds shall be held and expended by the Affordable Housing Trust ("Trust") Board of Trustees for the purpose of funding Affordable Housing, including any necessary costs and expenses related thereto, provided, however, that said sum shall be used exclusively for community housing and shall remain subject to all the rules, regulations, and limitations of M.G.L. Chapter 44B when expended by the Trust, or take any action relating thereto.

SEE MAP IN APPENDIX A

Submitted by the Community Preservation Committee

Explanation: This article seeks to acquire vacant residential land identified as 12 Cypress Circle for affordable housing purposes in a well-established subdivision. The property is located at the end of two cul-de-sacs, Cypress Circle and Fox Hill Road. An opinion of value dated December 19, 2018 appraised the 1.2 acre site at \$110,000. The 2019 Town of Mashpee assessment of this property is \$102,900.

The Community Preservation Committee supports this project under the care and custody of Affordable Housing Trust for efficiency and effectiveness on decisions required regarding the development of affordable housing.

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

The Board of Selectmen recommends approval of Article 15 by a vote of 4-0

The Finance Committee recommends approval of Article 15 by a vote of 6-0

Article 16

To see if the Town will vote to raise and appropriate or transfer \$17,700 from revenue available for appropriation, to be expended under the direction of the Board of Health, for the purpose of entering into a contract with a consulting agency to identify short-term rental properties and to issue notifications on the requirements of the Board of Health Short-Term Rental Regulation, or take any other action relating thereto.

Submitted by the Health Agent

Explanation: These funds are being requested to aid the Board of Health in identifying and notifying short-term rental properties that are required to participate in the State's short-term rental program that went into effect in 2019, and to ensure enforcement of the Board of Health Short-Term Rental Regulation. The increase in compliance/participation will increase monies paid into the State's lodging excise tax program, which also contributes to the Cape Cod and Islands Water Protection Management Fund that funds water pollution abatement projects (sewers).

The Board of Selectmen recommends approval of Article 16 by a vote of 4-0

The Finance Committee recommends approval of Article 16 by a vote of 6-0

Article 17

To see if the Town will vote to appropriate and transfer the sum of \$37,950 from the Waterways Improvement Fund to the Popponesset Approach Channel account to cover the cost of dredging 5,000CY of sand and associated expenses 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 cover the costs of dredging 5,000CY of sand from the Popponesset Approach Channel to help provide safe navigation.

The Board of Selectmen recommends approval of Article 17 by a vote of 4-0

The Finance Committee recommends approval of Article 17 by a vote of 6-0

Article 18

To see if the Town will vote to amend Chapter 172-4(B) (3) of the General Bylaw as follows:

Amend the language of Subsection (B) (3) as follows:

Replace the phrase *“as prescribed in 310 CMR 280.21 through 280.25”* with *“as prescribed in 310 CMR 10.05(4)”*

or take any other action relating thereto.

Submitted by the Conservation Department

Explanation: The existing wording makes reference to 310 CMR 280.21 through 280.25. This is an incorrect regulatory citation. The correct regulatory citation in the Massachusetts State Wetlands Protection Act is 310 CMR 10.05(4)

The Board of Selectmen recommends approval of Article 18 by a vote of 4-0

The Finance Committee recommends approval of Article 18 by a vote of 6-0

Article 19

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

Amend the language of subsection (A) (1) as follows:

Replace the phrase *“an Administrative Review Level 1”* with *“a permit”*

Preface the existing language of Subsection (A) (2) with the following:

“Any person filing a Notice of Intent application and/or a request for an Amended Order of Conditions 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 100 feet of the boundary of the property on which the work is proposed, according to the most recent records of the Assessors, including owners in another municipality”

or take any other action relating thereto.

Submitted by the Conservation Department

Explanation: The Conservation Department no longer has an approval procedure called *“Administrative Review Level 1”*. Replacing this phrase with *“permit application”* accurately reflects the current procedures.

The existing language in Subsection (A)(2) must include this prefacing language as it is required under the Massachusetts Wetlands Protection Act (310 CMR 10.05(4)) and thus must be reflected in the local bylaw.

The Board of Selectmen recommends approval of Article 19 by a vote of 4-0

The Finance Committee recommends approval of Article 19 by a vote of 6-0

Article 20

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

Delete Section 172-5(B) and replace the language (B) as follows:

“Any applicant filing a Request for Determination of Applicability or Notice of Intent for activities on property other than their own must provide written authorization of the requested activity from the property owner at the time of filing. Notice and copy of the permit application must also be mailed certified to the owner”
or take any other action relating thereto.

Submitted by the Conservation Department

Explanation: Sometimes, an applicant will request work to be done, either wholly or partially, on property not owned by the applicant (*for example, a hazardous tree is requested to be removed by an applicant and the tree lies on a neighboring property in close proximity to the applicant’s home*) In these instances, the applicant is required to provide documentation of written permission from the property owner and have this documented permission accompany the permit application. The existing language requires notification to be provided to the property owner if the applicant is not the property owner; however, it is necessary to have this permission in writing before the permit application is placed on a meeting agenda, so the other property owner is aware of the request prior to a given meeting.

The Board of Selectmen recommends approval of Article 20 by a vote of 4-0

The Finance Committee recommends approval of Article 20 by a vote of 6-0

Article 21

To see if the Town will vote to amend Chapter 172-7 of the General Bylaws as follows:

Amend the language of Chapter 172-7(A) as follows:

Replace the phrase “*significant or cumulative effect*” with “*adverse impacts*” or take any other action relating thereto.

Submitted by the Conservation Department

Explanation: The term “*adverse impact*” is used to describe a threshold of alteration within wetlands jurisdiction that is considered beyond negligible. It is referenced throughout the Massachusetts State Wetlands Protection Act. In order to establish consistency of proper terminology between the Chapter 172 Wetland Bylaw and the MA State Wetlands Protection Acts, this change of wording is necessary.

The Board of Selectmen recommends approval of Article 21 by a vote of 4-0

The Finance Committee recommends approval of Article 21 by a vote of 6-0

Article 22

To see if the Town will vote to amend Chapter 172-7(A) (3) (a) as follows:

Replace the phrase “*preexisting conditions*” to “*existing conditions*” in the following sentence under this subsection “*Such waivers are intended to be granted only in rare and unusual cases and only when resource protection would be enhanced relative to preexisting conditions*”

or take any other action relating thereto.

Submitted by the Conservation Department

Explanation: The term *“existing conditions”* is a more appropriate term under the context of this bylaw subsection.

The Board of Selectmen recommends approval of Article 22 by a vote of 4-0

The Finance Committee recommends approval of Article 22 by a vote of 6-0

Article 23

To see if the Town will vote to amend Chapter 172-9 of the General Bylaws as follows:

Amend the language of 172-9(A) to include the term *“Adverse Impact”* and its definition as follows:

“Adverse Impact- Adverse impact means an impact to the value or interest of a wetland resource area as defined by the bylaw that is deemed by the issuing authority to be more than negligible, or random, unnecessary or undesirable to the public interests of the resource area. Negligible means insignificant to the values or interests of the resource area”

or take any other action relating thereto.

Submitted by the Conservation Department

Explanation: The term *“adverse impact”* is commonly referenced in the regulatory language of the Massachusetts State Wetland Protection Act as a barometer of impact thresholds within wetlands jurisdiction. Adding this definition to Mashpee’s Chapter 172 Bylaw will provide consistency of regulatory language and terminology.

The Board of Selectmen recommends approval of Article 23 by a vote of 4-0

The Finance Committee recommends approval of Article 23 by a vote of 6-0

Article 24

To see if the Town will vote to amend Chapter 172-14 of the General Bylaws as follows:

Replace any reference to *“Office of Energy and Environmental Affairs”* and its acronym *“OEEA”* with *“Executive Office of Energy and Environmental Affairs”* and its acronym *“EOEEA”*

or take any other action relating thereto.

Submitted by the Conservation Department

Explanation: The bylaw must accurately reflect any name/acronym changes in reference to other state agencies in the bylaw language. This is housekeeping amendment.

The Board of Selectmen recommends approval of Article 24 by a vote of 4-0

The Finance Committee recommends approval of Article 24 by a vote of 6-0

Article 25

To see if the Town will vote to amend Section 173-3 (Violations and Penalties) of the General Bylaws by deleting the phrase *“not to exceed three hundred dollars (\$300) per incident”* and inserting *“as established by the Board of Selectmen”*, or take any action relating thereto.

Submitted by the Conservation Department

Explanation: The current cap for non-criminal offenses under the bylaw is \$300 per offense. In the event that this cap is increased in the future, the proposed replacement wording won't restrict the commission to a cap of \$300.

The Board of Selectmen recommends approval of Article 25 by a vote of 4-0

The Finance Committee recommends approval of Article 25 by a vote of 6-0

Article 26

To see if the Town will vote to amend §174-45.4 of the Mashpee Zoning Bylaw as follows:

§174-45.4 Accessory Apartment:

A Building Permit authorizing one (1) accessory apartment per lot may be granted if consistent with the following:

- A.** In order for an accessory apartment to be permitted, in addition to meeting all of the requirements under subsections B-M, the principal dwelling unit shall not be occupied by anyone other than the property owner as listed on the latest recorded deed. For purposes of this Bylaw, the term "property owner" shall include: every person who alone or jointly or severally with others: a) has legal title of record to any building, structure, or property subject to this Bylaw, or; b) has care, charge, or control of any such building, structure, or property in any capacity including but not limited to agent, executor, administrator, member or owner of a limited liability company, trustee or guardian of the estate of the record holder of legal title; or c) is a lessor under written agreement; or d) is the mortgagee in possession; or e) is the recognized agent, trustee or other person claiming rights under the record title holder with care, charge, or control of the property as a matter of law or as appointed by the courts. On an annual basis coinciding with the initial date of issuance of the Building Permit, the property owner shall submit to the Building Inspector sufficient evidence to demonstrate occupancy of the principal dwelling unit.
- B.** The principal dwelling unit and accessory apartment shall meet all wastewater treatment requirements for the combined number of bedrooms. The principal dwelling unit and accessory apartment shall meet all Conservation Commission and historic requirements if applicable.
- C. Unit Size.** The design, installation, and use of an accessory apartment shall be secondary and incidental to the principal use of the structure as the owner's home. An accessory apartment may be located within the same structure as said home or constructed within a new or pre-existing detached structure. The gross floor area of the accessory apartment shall be not less than three hundred (300') square feet nor more than forty percent (40%) of the gross floor area of said structure on the date the Building Permit application is filed.

D. Interior Design. The accessory apartment shall be self-contained, with separate sleeping, cooking and sanitary facilities for the exclusive use of the occupant(s). Provided that the requirements of subsection B are met, there shall be a maximum of two (2) bedrooms in an accessory apartment. Rooms which might be converted at some future time to a bedroom, such as studies, studios, libraries and the like, shall be counted as bedrooms for the purposes of this Section.

E. Exterior Design. Modifications to the exterior of an existing principal structure resulting from the installation of an accessory apartment located within the same structure as the applicant's home shall be consistent with the principal structure's predominant character as a single-family home.

Detached accessory apartments shall be consistent with the principal structure's dominant design character, will contribute to the subject property's lot coverage maximum and shall comply with the dimensional criteria established in § 174-31.

Appropriate landscaping may be required in order to provide a buffer between the applicant's lot and abutting properties. The Building Inspector, if circumstances dictate, may request additional information from the applicant to demonstrate that the accessory apartment will not negatively impact abutting property.

F. Parking. Notwithstanding the provision of § 174-39, at least one (1) off-street parking space shall be provided for the accessory apartment. All parking for Accessory Apartments shall be off-street.

G. No new driveway or curb cut shall be created to service the accessory apartment, unless the Building Inspector determines that, due to severe topographic or other constraints on the lot, the required parking cannot be provided without relief from this provision and unless any necessary town or state curb cut permit is approved.

H. The accessory apartment shall not be occupied until a Certificate of Occupancy has been issued by the Building Inspector. The accessory apartment shall, further, not be rented until any applicable Rental property Bylaw requirements, including registration with the Board of Health and issuance of a Rental Certificate have first been met.

I. An accessory apartment shall not be used for boarding and lodging, or other commercial use. An accessory apartment and principal dwelling to which it is accessory may be rented for periods of at least 30 consecutive days at a time and are prohibited from any use as rental units on a weekly or daily basis. Property owners who fail to comply with this requirement shall be subject to a three-hundred dollar (\$300) fine each day that this violation persists.

J. An accessory apartment is not intended for sale. The principal dwelling and accessory apartment and lot on which they are located shall remain in common or single ownership, and shall not be severed in ownership, including that the lot or buildings thereon shall not be placed in a condominium form of ownership.

- K. Monitoring and Enforcement.** A determination by the Building Inspector that the property owner has failed to maintain compliance with the forgoing criteria shall constitute sufficient basis for a determination that the permitted rights and benefits conferred hereunder are null and void, whereupon, the elements that render the accessory apartment a separate dwelling unit shall be removed from the property within 90 days of said determination, with the owner to comply with all requirements of the State Building Code and Town Zoning Bylaws in removing elements determined to be unpermitted.
- L. Pre-existing Legal Units.** The rights and requirements of this bylaw hereby transfer to any property owner who has constructed or has been granted the rights to construct an accessory apartment under a Special Permit from the Board of Appeals prior to the adoption of this bylaw. The Building Inspector or his designee shall convey notice of such transfer of rights to said property owners by December 31, 2020.
- M. Amnesty.** In an effort to meet local housing needs, real property containing an accessory apartment as described in this Section, for which a validly-issued Variance, Special Permit, Building Permit, Occupancy Permit or Rental Certificate does not exist, may apply to the Building Department for an Occupancy Permit or to the Health Department for a Rental Certificate to continue legal use as an accessory apartment. Amnesty is for accessory apartments not permitted prior to the passage of this bylaw and shall not be granted unless the septic loading capacity for existing structure(s) and the existing approved septic flow for the property, both comply with the requirements of the Mashpee Board of Health regulations and 310 CMR 15.00 – The State Environmental Code, Title 5. Failure to comply with all pertinent State and local rules and regulations shall result in forfeiture of the accessory dwelling unit and/or the removal of the bedroom(s) causing exceedance to the approved septic flow capacity of the property.

Submitted by Planning Board

Explanation: This article would allow accessory apartments as a by right use. It would also allow accessory apartments in newly constructed or pre-existing detached structures. Accessory apartments would also be allowed to be constructed within the principal structures existing envelope. It also defines standards limiting short term rentals and establishes enforcement criteria.

The Board of Selectmen recommends approval of Article 26 by a vote of 4-0

The Finance Committee recommends approval of Article 26 by a vote of 5-0

Article 27

To see if the Town will vote to amend §174-25 (A)(8) of the Mashpee Zoning By Law “Table of Use Regulations” by replacing the letters ‘SP’ located in the columns identified as R-3 and R-5 with a ‘Y’ as follows:

Type of Use	Residential		Commercial			Industrial
	R-3	R-5	C-1	C-2	C-3	I-1
Accessory apartment subject to the provisions of §174-45.4	Y	Y	--	--	--	--

or take any other action relating thereto.

Submitted by Planning Board

Explanation: This article would allow accessory apartments in the residential zoning districts of the Town as a by-right use.

The Board of Selectmen recommends approval of Article 27 by a vote of 4-0

The Finance Committee recommends approval of Article 27 by a vote of 5-0

Article 28

To see if the Town will vote to amend §174-3 of the Mashpee Zoning Bylaw- Terms Defined as follows:

Accessory Apartment - An apartment created within or detached from a single-family residential structure under the provisions of §174-45.4.

Dwelling Accessory - A residence created under the provisions of Section 174- 46B(1), containing no more than two (2) bedrooms, which may have kitchen and bathroom facilities and other rooms which are not bedrooms, either attached to or detached from a principal residence on the same lot and not owned separately from the lot or principal residence.

or take any other action relating thereto

Submitted by the Planning Board

Explanation: This article would change the definition of Accessory apartment in the zoning bylaw to include detached structures. It would also change the definition of Dwelling Accessory in the Open Space Incentive Development (OSID) to allow Accessory Dwellings permitted under OSID to have up to two (2) bedrooms. This would establish consistency with the accessory apartment definition.

The Board of Selectmen recommends approval of Article 28 by a vote of 4-0

The Finance Committee recommends approval of Article 28 by a vote of 5-0

Article 29

To see if the Town will vote to add the following clause B.6 to Mashpee General Bylaw Chapter 170 §6-B:

6. The use of Personal Watercraft, including jet-ski watercraft, surf jet watercraft, wet bike watercraft and other motorized watercraft, such as motorboats, is prohibited on Ashumet Pond,
or take any other action relating thereto.

Submitted by the Department of Natural Resources

Explanation: This Article will add a paragraph to the Town of Mashpee bylaw Chapter 170 §6-B prohibiting the use of Personal Watercraft on Ashumet Pond. The Town of Falmouth has a bylaw with similar wording and the Commonwealth of Massachusetts will not enforce the Falmouth bylaw unless Mashpee has a similar bylaw. The Falmouth and Mashpee town line goes through Ashumet Pond with most of the pond in Mashpee.

The Board of Selectmen makes no recommendation on Article 29 by a vote of 2-2

The Finance Committee recommends approval of Article 29 by a vote of 5-0

Article 30

To see if the Town will vote to add the following words to the Mashpee Town Code Chapter 170, Section 170-2, A: “except as otherwise noted herein”, and, further, to replace Chapter 170, Section 9.C, (Regulations) with the following:

C. Regulations:

1. The Board of Selectmen, with input from the Harbormaster, shall, after public notice and public hearing, promulgate mooring regulations. Notice shall be given at least two weeks prior to the public hearing by publication in a newspaper of general circulation in the Town and by posting with the Town Clerk and posting in the Harbormaster’s office.
2. These regulations shall define key terms and establish procedures for all mooring related activities, including registration of moorings, assignment of mooring space, establishment and maintenance of a waiting list, inspection of moorings, specifications for moorings, identification of moorings and assignment and collection of fees.
3. Failure by the Board of Selectmen to promulgate such regulations or a legal declaration of the invalidity of any such regulations by a court of law shall not act to suspend or invalidate any other provisions of this Bylaw.
4. After public notice and public hearing, the Board of Selectmen may amend or otherwise modify said regulations. Notice shall be given at least two weeks prior to the public hearing by publication in a newspaper of general circulation in the Town and by posting with the Town Clerk and posting at the Harbormaster’s office
or take any other action relating thereto.

Submitted by the Department of Natural Resources

Explanation: This article will authorize the Board of Selectmen to promulgate Mooring Regulations under the Mashpee Town Code.

The Board of Selectmen recommends approval of Article 30 by a vote of 4-0

The Finance Committee recommends approval of Article 30 by a vote of 5-0

Article 31

To see if the Town will vote to exclude current town employees from serving on Elected Town Boards.

Submitted by Petition

Explanation: Town employees who hold elected positions on any Mashpee Town Board can be conflicted when making decisions regarding issues that are pertinent to their jobs or their co-workers. This article would exclude any person currently employed by the town of Mashpee from seeking election to any Mashpee Town Board.

The Board of Selectmen does not recommend approval of Article 31 by a vote of 4-0

The Finance Committee does not recommend approval of Article 31 by a vote of 5-0-1

THIS CONCLUDES THE BUSINESS OF THE ANNUAL TOWN MEETING

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.

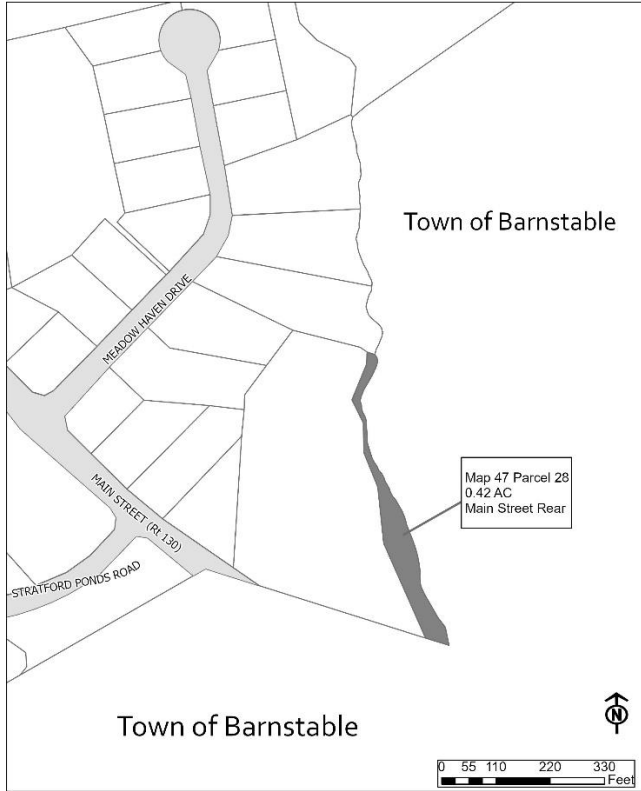
Hereof fail not and make return of this Warrant with your doings thereon to the Town Clerk at the time and place of said meeting.

Given under our hands this 9th day of September in the year two thousand and nineteen.

Per Order of,
Board of Selectmen
Andrew R. Gottlieb, Chair
John J. Cotton, Vice-Chair
Thomas F. O'Hara, Clerk
Carol A. Sherman

APPENDIX A (Maps)

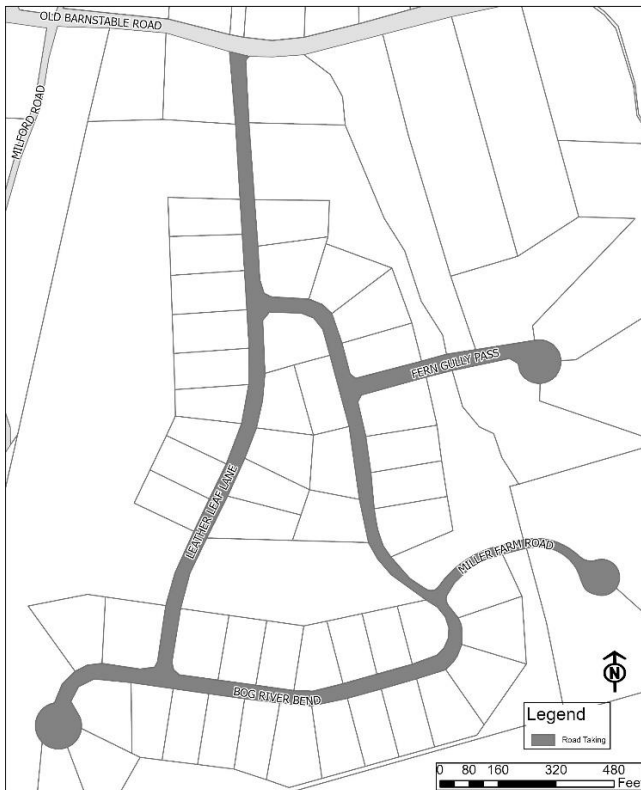
Annual Town Meeting - Article 3



Annual Town Meeting - Article 11



Annual Town Meeting - Article 12



Annual Town Meeting - Article 15

