

Town of Acton

DRAFT

Special Town Meeting Warrant



Tuesday, November 10, 2015

**The Special Town Meeting will convene at 7:00 PM in the
Acton-Boxborough Regional High School Auditorium
36 Charter Road**

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* Article is on Consent Calendar

Article submitted by Citizens' Petition

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Special Town Meeting Warrant



*Town of Acton
Commonwealth of Massachusetts, ss.*

To either of the Constables of the Town of Acton, Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify the legal voters of said Town of Acton, qualified to vote at Town Meetings for the transaction of Town affairs, to meet at the Acton-Boxborough Regional High School Auditorium in said Acton on **Tuesday, November 10, 2015 at 7:00 PM**, then and there to act on the following articles:

Articles

One or more of the following symbols may appear following an Article number:

*	This article is on the Consent Calendar
#	This article was submitted by Citizens' Petition

One or more of the following recommendations may appear at the end of an Article's summary:

Recommended	This board voted to <u>recommend</u> passage by Town Meeting.
Not Recommended	This board voted to <u>not recommend</u> passage by Town Meeting.
Deferred	A recommendation will be made by this board when the Article is considered at Town Meeting.
No Recommendation	This board voted to make no specific recommendation to Town Meeting.

Article 1 # Non-Binding Resolution – Discontinuation of Common Core State Standards
(Majority vote)

To see if the town will adopt a non-binding resolution supporting the discontinuation of the Common Core State Standards (Common Core) and the associated testing known as PARCC (Partnership of Assessment of Readiness for College and Careers) within the Acton-Boxborough Regional School District (ABRSD), and support the return to using the Pre-2011 Massachusetts standards in English Language Arts, Math, Science/Technology, and History/Social Science and associated testing known as Massachusetts Comprehensive Assessment System (MCAS).

WHEREAS: The Commonwealth of Massachusetts has had the highest educational standards in the country for decades because of effective policy voted into law by our elected state representatives;

WHEREAS: The Acton-Boxborough Regional School District has been consistently rated as one of the best in the Commonwealth, and

WHEREAS: The Common Core State Standards and associated testing, Partnership for Assessment of Readiness for College and Careers (PARCC) have been implemented without parental input and threaten parental control of their children’s education; and

WHEREAS: Education is most effectively handled at the local level, where teachers, administrators and parents can have direct control over school curriculum, frameworks testing, and policy.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. This Town Meeting opposes the use by the Acton-Boxborough Regional School District of Common Core and the associated testing known as PARCC.
2. This Town Meeting urges the ABRSD to discontinue the use of Common Core and PARCC and to return to the use of the Pre-2011 Massachusetts standards in English Language Arts, Math, Science/Technology, and History/Social Science and associated testing, known as MCAS.
3. This Town Meeting is opposed to standardized testing implemented more than twice per year for grades 3-8 and 10, not to exceed 4 days per year of mandatory testing, except for grades 5, 8 and 10, which may have one additional day of testing.
4. This Town Meeting opposes the use of any state or federal educational programs or testing unless such programs are reviewed and approved by the ABRSD School Committee with input from local teachers, administrators and parents.
5. This Town Meeting opposes the adoption of any educational programs linked to potential funding sources.

Summary

While the 1993 Education Reform Act was locally developed, thoroughly vetted, vigorously debated, voted on and signed into law by our own elected representatives and Governor Weld, the Common Core standards went through no such process. As explained by the Pioneer Institute: “The Common Core State Standards initiative has never been state-led, and states are not finding it easy to withdraw from the commitments made by their state boards of education, governors, and commissioners of education. The federal government will monitor what states do through its waiver-granting process and the Common Core-based assessments developed by the federally-funded assessment consortia. No mechanism exists for revising Common Core’s standards.”

By linking Race-to-the-Top grant funds to the implementation of Common Core State Standards and to No Child Left Behind waivers, the federal government is in violation of three federal laws. The Elementary and Secondary Act (1965), the Department of Education Organizational Act (1979), and the General Education Provisions Act (GEPA) all contain language prohibiting the federal government from requiring specific academic content or standards in exchange for federal funds. From the GEPA: “No provision of any applicable program shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system...”

Additionally, the U.S. Constitution (Amendment 10) and the Massachusetts Constitution (Article 3) maintain that education is a power reserved to the states and their citizens within local communities. Yet, state legislatures or state school boards have no ability to revise or change the Common Core State Standards.

According to a USA Today article from June 2014, Massachusetts spent nearly \$16 billion on education in 2012. Our governor and state education commissioner agreed to adopt Common Core before the final draft was completed in exchange for a \$250 million Race to the Top grant that was spent over a few years. That represents less than 2% of one year’s education spending. The Acton-Boxborough Regional School District did not apply for any of these funds, as it was determined that the cost would outweigh the benefits.

Some states (e.g., New York) are now rejecting the entire system and reassessing by placing a legal moratorium on all or part of the changes in lessons and/or standardized testing. In New York state, more than 200,000 third through eighth graders, representing 20% of eligible students, declined to take the exams this year. In a number of districts, students who refused to take the tests outnumbered those who did (NY Times, August 20, 2015).

Massachusetts House Bill 340 proposes a moratorium on high-stakes testing and has been proudly sponsored by Acton’s State Senator James Eldridge. The citizens of Acton who vote in favor of this Citizen’s Petition will make an important difference in our schools and send a clear message to the State House: We can best support our students and teachers by maintaining local control and minimizing standardized testing.

Direct inquiries to: Scott Smyers, Corinne Hogseth, Deborah Brissenden and Others
Selectman assigned: : bos@acton-ma.gov / (978) 929-6611

Recommendations: Board of Selectmen Finance Committee

Article 2 Home Rule Petition – Increase Liquor License Quota

(Majority vote)

To see if the Town will authorize and empower the Board of Selectmen to file a petition with the General Court to increase the Town’s liquor license quota. The petition to be filed with the General Court will seek special legislation in substantially the following form, or take any other action relative thereto:

An Act Authorizing the Town of Acton to Grant **Xx Additional Licenses for the Sale of All Alcoholic Beverages To Be Drunk On The Premises**

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. (a) Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the Town of Acton may grant **[XX]** additional licenses for the sale of all alcoholic beverages to be drunk on the premises, pursuant to section 12 of chapter 138, provided, however, that such licenses are issued to establishments that hold a common victuallers license pursuant to section 2 of chapter 140 of the General Laws. The licenses shall be subject to all of said chapter 138 except said section 17.

(b) Once issued, the licensing authority shall not approve the transfer of any license to any other business or location but it may grant the license to a new applicant at the same location if the applicant files with the licensing authority a letter from the department of revenue and a letter from the division of unemployment assistance indicating that the licensee is in good standing with the department and that all applicable taxes, fees, and contributions have been paid.

(c) If any license granted under this section is cancelled, revoked or no longer in use, it shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority, which may then grant the license to a new applicant under the same conditions as specified in this act provided that the applicant files with the licensing authority a letter from the department of revenue and a letter from the division of unemployment assistance indicating that the licensee is in good standing with those entities and that all applicable taxes, fees, and contributions have been paid.

SECTION 2. This act shall take effect upon its passage.

Motion

Move that the Town authorize the Selectmen to petition the General Court as forth in the Article.

Summary

The article asks Town Meeting to petition the General Court for the issuance of **[XX]** full liquor licenses. These licenses are not being sought for any particular site or location in Town. Once granted, the licenses may not be transferred to another business or location. If the business moves from its original location, the license must be returned to the Town, which may reissue the license to a new applicant or to the same applicant upon new application.

For many years, economic development in Acton has been hampered by the relatively low number of liquor licenses permitted for issuance by the Town as governed by state quota. And, for many years during public planning forums Acton residents have voiced their desire for more restaurants in Town. Requesting additional liquor licenses provides the Town with more flexibility, though not an obligation,

to attract and award suitable restaurants with a license that, in most cases, is a key to the restaurants' economic success. Obtaining additional licenses for the Town would also support economic development in the Kelley's Corner District consistent with the Acton 2020 Comprehensive Community Plan.

Direct inquiries to: Roland Bartl, AICP, Planning Director: planning@acton-ma.gov / (978) 929-6611
Selectman assigned: : bos@acton-ma.gov / (978) 929-6611

Recommendations: Board of Selectmen Finance Committee

Article 3 Home Rule Petition – Harris Street Property
(Majority vote)

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court to enact special legislation in substantially the form set forth below to implement the exchange of money and property authorized by the vote of Town Meeting under Articles 24, 25 and 26 of the 2015 Annual Town Meeting Warrant relative to 66 Harris Street, or take any other action relative thereto.

An Act authorizing the Division of Fisheries and Wildlife to convey property to the town of Acton in exchange for other real property

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the exchange of certain land in the town of Acton, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the commissioner of capital asset management and maintenance, in consultation with the director of the division of fisheries and wildlife, may transfer and convey to the town of Acton for general municipal purposes certain land with the buildings and improvements thereon previously appraised at a fair market value of \$235,000 comprised of: (1) a certain parcel described in a deed recorded with the Middlesex south registry of deeds in book 8181, page 354 and identified on a plan entitled "Plan of Land in Acton to be Conveyed by Sven S. Hagen to the Commonwealth of Massachusetts, Surveyed by F. Bowers, September 16, 1953," on file with the division of capital asset management and maintenance; and (2) a certain parcel described in a deed recorded with the Middlesex south registry of deeds in book 10928, page 156 and identified on a plan entitled "Plan of Land in Acton, Mass. owned by Sven S. Hagen, Scale 1"=50' December 14, 1963, Fred X. Hanack, L.S.-C.E", on file with said division.

SECTION 2. In consideration for and as a condition of the conveyance authorized in section 1, the town of Acton shall: (1) pay \$ 193,000, which shall be deposited into the wildland acquisition account within the Inland Fisheries and Game Fund established pursuant to section 2A of chapter 131 of the General Laws; and (2) convey to the division of fisheries and wildlife a certain parcel of land previously appraised at a fair market value of \$42,000, which consists of approximately 6 acres of woodland used as general municipal land by the town of Acton described in a deed recorded with the Middlesex south registry of deeds in book 42294, page 359, as follows:

Beginning at the southeast corner of the premises by land now or formerly of Luther Conant and land now or formerly of David Bearnard; thence north on said land now or formerly of David Bearnard about sixty (60) rods to stake and stones in the wall; thence westerly on land now or formerly of Horace Tuttle about sixteen (16) rods to a stake and stones; thence southerly on land now or formerly of Burgess about sixty (60) rods to a stake and stones; thence easterly on said land now or formerly of Luther Conant about sixteen (16) rods to the bound first mentioned above.

SECTION 3. Notwithstanding any general or special law to the contrary, the inspector general shall review and approve the appraisals described in this act. The inspector general may prepare a report of his review of the methodology utilized for the appraisal and may file the report with the commissioner of capital asset management and maintenance. Within 15 days after receiving the inspector general's report but no later than 15 days before the execution of any agreement or document under this act, the commissioner may submit the report to the house and senate committees on ways and means and the joint committee on state administration and regulatory oversight.

SECTION 4. Costs and expenses associated with the transaction authorized by this act shall be borne by the town of Acton.

Motion

Move that the Town authorize the Selectmen to petition the General Court as forth in the Article.

Summary

Under Articles 24, 25 and 26 of the 2015 Annual Town Meeting, the Town approved the exchange of real property and funds for the Town to acquire the vacant Fish & Wildlife facility at 66 Harris Street in a fair market value exchange. The facility at 66 Harris Street has a 40' X 60' three-bay storage building to be utilized for storage of Town equipment. The requested special legislation will implement the exchange previously approved by Town Meeting.

Direct inquiries to:
Selectman assigned:

Recommendations:

Board of Selectmen

Finance Committee

Article 4 **Fund Collective Bargaining Agreement –**
(Majority vote) **Police Superior Officers (FY16-FY18)**

To see if the Town will vote to raise and appropriate, transfer and/or appropriate from available funds a sum of money necessary to fund the cost items contained in Collective Bargaining Agreement(s) between the Town and the Acton Superior Officers’ Union MCOP Local 380 as filed with the Town Clerk, or take any other action relative thereto.

Summary

This article requests funding for collective bargaining agreement cost items under the provisions of Massachusetts General Laws, Chapter 150E, Section 7. When a tentative agreement is reached with a union, the Town will bring a funding request for the financial elements of the agreement to the first available Town Meeting for approval. If the funding is approved, the Town is obligated to fund the remaining years of the contract. If the funding request is rejected by Town Meeting, the parties must return to the bargaining table for further negotiations.

Direct inquiries to: Steven L. Ledoux, Town Manager: manager@acton-ma.gov / (978) 929-6611
Selectman assigned: : bos@acton-ma.gov / (978) 929-6611

Recommendations: **Board of Selectmen** **Finance Committee**

Article 5 **Fund Collective Bargaining Agreement – Highway, Municipal Properties and**
(Majority vote) **Cemetery (FY16-FY18)**

To see if the Town will vote to raise and appropriate, transfer and/or appropriate from available funds a sum of money necessary to fund the cost items contained in Collective Bargaining Agreement(s) between the Town and its Highway, Municipal Properties and Cemetery personnel union (AFSCME) as filed with the Town Clerk, or take any other action relative thereto.

Summary

This article requests funding for collective bargaining agreement cost items under the provisions of Massachusetts General Laws, Chapter 150E, Section 7. When a tentative agreement is reached with a union, the Town will bring a funding request for the financial elements of the agreement to the first available Town Meeting for approval. If the funding is approved, the Town is obligated to fund the remaining years of the contract. If the funding request is rejected by Town Meeting, the parties must return to the bargaining table for further negotiations.

Direct inquiries to: Steven L. Ledoux, Town Manager: manager@acton-ma.gov / (978) 929-6611
Selectman assigned: : bos@acton-ma.gov / (978) 929-6611

Recommendations: **Board of Selectmen** **Finance Committee**

Article 6 Special Tax Assessment

(Majority vote)

To see if the Town will vote to enter into a Special Tax Assessment (STA) with Associated Environmental Systems (AES) or its successor, pursuant to the provisions of Massachusetts General Laws, including Section 59 of Chapter 40, Section 5 of Chapter 59 and others, in connection with the development of property located at **8 Post** Office Square, Acton, as shown on Assessors Maps **[xx]**, as described in the Economic Development Incentive Program Local incentive only application prepared by AES, and to authorize the Board of Selectmen to take such action as is necessary to obtain approval of the Local Incentive Program Local Incentive Only application and to implement the Special Tax Assessment Plan, or take any other action relative thereto.

Summary

[Need article, summary. Dracut template]

Direct inquiries to: Steven L. Ledoux, Town Manager: manager@acton-ma.gov / (978) 929-6611
Selectman assigned: : bos@acton-ma.gov / (978) 929-6611

Recommendations: **Board of Selectmen** **Finance Committee**

Article 7 Fund Kelley’s Corner Design

(Majority vote)

To see if the Town will raise and appropriate, or appropriate from available funds, a sum of money to be expended by the Town Manager for the design and engineering related to the Kelley’s Corner Improvement Initiative, or take any other action relative thereto.

Summary

[Summary adapted from e-mail request.]

This request proposes to fund all remaining streetscape and roadway engineering design phases for the intersection at Mass Ave. /Main St. / Community Lane including consulting services for environmental permitting – the final deliverable being (MassDOT standard) construction ready plans. The total cost (including 20% contingency) is \$756,000.

Direct inquiries to: Roland Bartl, AICP, Planning Director: planning@acton-ma.gov / (978) 929-6611
Selectman assigned: : bos@acton-ma.gov / (978) 929-6611

Recommendations: Board of Selectmen Finance Committee

Article 8 Fund South Acton Train Station Landscaping

(Majority vote)

To see if the Town will raise and appropriate, or appropriate from available funds, a sum of money to be expended by the Town Manager for the design and implementation of landscaping at the South Acton Train Station, or take any other action relative thereto.

Summary

[Need contact. Need summary]

\$180,000 requested by South Acton Train Station Advisory Committee

Direct inquiries to:
Selectman assigned: : bos@acton-ma.gov / (978) 929-6611

Recommendations: Board of Selectmen Finance Committee

Article 9 **Amend Town Bylaws – Stormwater Management and Erosion & Sediment Control**
(Majority vote)

To see if the Town will vote to amend the General Bylaws by adding the following section ...

, or take any other action relative thereto.

Stormwater Management and Erosion & Sediment Control

General Provisions

Findings

- A. The United States Environmental Protection Agency (U.S. EPA) through the National Pollutant Discharge Elimination System (NPDES) Permit for Small Municipal Separate Storm Sewer Systems (MS4s) requires that the Town of Acton must establish an appropriate regulatory framework for stormwater management.
- B. Land disturbances and developments can alter the hydrology of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition.
- C. Stormwater runoff can contain water-borne pollutants.
- D. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through appropriate stormwater management.
- E. Regulation of land disturbances and developments that create stormwater runoff is necessary to protect water bodies and groundwater resources; to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff; to safeguard public health, safety, and welfare; and to protect natural resources.
- F. This Bylaw is needed to manage stormwater runoff caused by land disturbances or developments, and to minimize its degrading effects on local water resources and the resulting threats to public health and safety.

Purpose

- A. The purpose of this Bylaw is to establish stormwater management requirements and controls that protect the public health, safety, and welfare through the following objectives:
 - 1. require practices that eliminate soil erosion and sedimentation;
 - 2. control the volume and rate of stormwater runoff resulting from land disturbances;
 - 3. minimize flooding;
 - 4. mimic pre-existing hydrologic conditions during and after land disturbances or development to the maximum extent practicable;
 - 5. require the management and treatment of stormwater runoff from land disturbances and development;
 - 6. protect groundwater and surface water from degradation or depletion;
 - 7. maintain the natural infiltration of stormwater on sites and/or promote recharge to groundwater where appropriately sited and/or treated, with emphasis on the Zone 1, Zone 2 and Zone 3 recharge areas;
 - 8. maintain the integrity of stream channels;
 - 9. minimize stream bank erosion;
 - 10. minimize impacts to stream temperature;
 - 11. prevent pollutants from entering the municipal storm drainage system;

12. ensure that soil erosion and sedimentation control measures and stormwater runoff management practices, including efforts to minimize the area of land disturbance, are incorporated into the site planning and design process and are implemented and maintained during and after construction;
 13. ensure adequate long-term operation and maintenance of stormwater best management practices;
 14. require practices to control construction waste;
 15. prevent or minimize adverse impacts to water quality;
 16. comply with state and federal statutes and regulations relating to stormwater discharges; and
 17. establish the Town of Acton's legal authority to ensure compliance with the provisions of this Bylaw through inspection, monitoring and enforcement.
- B. This Bylaw is intended to address gaps in jurisdiction for stormwater management requirements in the Town of Acton Bylaws and the Massachusetts Wetlands Protection Act.

Definitions

ABUTTER: Each property owner, determined by the most recent records in the Assessors Office, of real property that abuts the Site on which the proposed Land Disturbance activity is to take place.

ALTERATION OF RUNOFF OR DRAINAGE CHARACTERISTICS: Any activity on a Site that changes the Water Quality, or the force, quantity, direction, timing or location of Runoff or Drainage flowing from the Site. Such changes include: change from distributed Runoff to concentrated, confined or discrete Discharge; change in the volume of Runoff; change in the peak rate of Runoff; and change in the Recharge to groundwater on the area.

APPLICANT: Any Person or Persons requesting a Land Disturbance Permit.

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

CLEARING: Any activity that removes vegetation. Clearing generally includes grubbing as defined below.

CONSTRUCTION PREPARATION: All activity in preparation for construction.

CONSTRUCTION WASTE: Excess or discarded building or construction site materials that may adversely impact Water Quality, including but not limited to concrete truck washout, chemicals, litter and sanitary waste.

DEVELOPMENT: The modification of land to accommodate a new use or expansion of use, usually involving construction; and redevelopment, rehabilitation, expansion, demolition, or phased projects that disturb the ground surface or increase the Impervious Cover area on previously developed sites.

DRAINAGE: Water, originating from precipitation, flowing over or through man-made conveyances.

EROSION: The wearing away of the land surface by natural or man-made forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

EROSION AND SEDIMENTATION CONTROL PLAN: A document with narrative, drawings and details prepared by a qualified professional engineer (PE) or a Certified Professional in Erosion and Sedimentation Control (CPESC), which includes Best Management Practices, or equivalent measures designed to control surface Runoff, Erosion and Sedimentation during construction preparation and construction related Land Disturbance activities.

GRUBBING: The act of clearing land surface by digging up roots and stumps.

IMPERVIOUS COVER: Material covering the ground with a coefficient of runoff greater than 0.7 (as defined in Data Book for Civil Engineers by Seelye; $C = \text{runoff} / \text{rainfall}$) including, but not limited to, macadam, concrete, pavement and buildings.

IMPLEMENTING AUTHORITY: The Board of Selectmen, or the Town Department designated by the Board of Selectmen to carry out the provisions of this Bylaw and the Regulations adopted by the Board of Selectmen.

LAND DISTURBANCE: Any activity, including Clearing and Grubbing, that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.

MASSACHUSETTS STORMWATER MANAGEMENT POLICY: The Policy issued by the Department of Environmental Protection, as amended, that coordinates state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act, MGL c. 131 s. 40, and the Massachusetts Clean Waters Act, MGL c. 21, ss. 23-56. The Policy regulates stormwater impacts through performance standards aimed to reduce or prevent pollutants from reaching water bodies and to control the quantity of site runoff.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM or MUNICIPAL STORM SEWER SYSTEM: A conveyance or system of conveyances designed or used for collecting or conveying stormwater, including but not limited to any road with a drainage system, municipal street, catch basins, manhole, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, ditch, swale, reservoir, and other drainage structure, that together comprise the storm drainage system owned or operated by the Town of Acton.

OPERATION AND MAINTENANCE PLAN: A plan prepared by a qualified professional engineer (PE) or a Certified Professional in Erosion and Sedimentation Control (CPESC) describing the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

OWNER: A Person with a legal or equitable interest in property, including his/her authorized representative.

PERMITTEE: The Person who holds a Land Disturbance Permit and therefore bears the responsibilities and enjoys the privileges conferred thereby.

PERSON or PERSONS: Any 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, construction or commercial waste; runoff; leachate; heated effluent; or other matter whether originating at a point or non-point source, that is or may be introduced into the MS4, groundwater or surface water.

Pollutants shall include, but are not limited to:

- Paints, varnishes, and solvents;
- Oil , fuel, and other automotive fluids;
- Non-hazardous liquid and solid wastes and yard wastes;
- Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- Pesticides, herbicides and fertilizers;
- Hazardous materials and wastes;
- Sewage, fecal coliform, pathogens and animal wastes;
- Dissolved and particulate metals which are not naturally occurring;
- Rock, sand, salt, soils;
- Construction Waste and residues; and
- Noxious or offensive matter of any kind.

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

RUNOFF: Water flowing over the ground surface and originating from rainfall, snowmelt, or irrigation water flowing over the ground surface.

SEDIMENT: Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.

SEDIMENTATION: The process or act of deposition of Sediment.

SITE: Any lot or parcel of land or area of property where Land Disturbance occurs, has occurred or will occur.

SLOPE: The incline of a ground surface expressed as a ratio of horizontal to vertical distance.

SOIL: Earth materials including duff, humic materials, sand, rock and gravel.

STORMWATER: Runoff and Drainage.

STORMWATER MANAGEMENT PLAN: A document containing narrative, drawings and details prepared by a qualified professional engineer (PE), which includes structural and non-structural Best Management Practices to manage and treat Stormwater generated from regulated Development activity. A Stormwater Management Plan also includes an Operation and Maintenance Plan describing the maintenance requirements for structural Best Management Practices.

WATER QUALITY: The chemical, physical, and biological integrity of Water Resources.

WATER RESOURCES: Waters of the Commonwealth as defined by the Massachusetts Clean Waters Act, G.L. c. 21, § 26A.

ZONE 1, ZONE 2, ZONE 3 and ZONE 4: Groundwater Protection zones as defined by the Town of Acton.

Authority

This Bylaw is adopted under authority granted by the Home Rule Amendment, Article LXXXIX (89) of the Constitution of the Commonwealth of Massachusetts, the Home Rule statutes, and in accordance with the regulations of the federal Clean Water Act found at 40 CFR 122.34, the Phase II rule from the Environmental Protection Agency found in the December 8, 1999 Federal Register, and the National Pollutant Discharge Elimination System General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems issued by EPA Region 1 on April 18, 2003.

Applicability

This Bylaw shall apply to all Land Disturbances and Development within the jurisdiction of the Town of Acton. Except in accordance with a Land Disturbance Permit issued pursuant to this Bylaw, no Person shall perform any Land Disturbance that results in one or more of the Regulated Activities defined in Section 4.1 that is not an Exempt Activity listed in Section 4.2.

Regulated Activities

Regulated activities subject to a Land Disturbance Permit shall include:

1. Land Disturbance or Development of greater than or equal to one (1) acre, or which is part of a common plan for Development that will disturb one or more acres of land.
2. Land Disturbance or Development of an area greater than or equal to 5,000 square feet having a 10% or greater Slope, or which is part of a common plan for Development that will disturb an area greater than or equal to 5,000 square feet having a 10% or greater Slope.
3. Land Disturbance or Development involving the creation or disturbance of 5,000 square feet or more of Impervious Cover, or which is part of a common plan for Development that will create or disturb 5,000 square feet or more of Impervious Cover.
4. Construction of a new drainage system, or alteration of an existing drainage system or conveyance, serving a drainage area of (a) one acre or more, or (b) 5,000 square feet or more of Impervious Cover.
- 5.

Exempt Activities

4.2.1. The following activities are exempt from the requirements of this Bylaw:

1. Activities for which all Stormwater management has been reviewed and approved as part of an order of conditions issued by the Acton Conservation Commission;
2. Normal maintenance of, or emergency repairs to, Town owned public ways, drainage systems and appurtenances.
3. Normal maintenance and improvement of land in agricultural use, as defined by the Massachusetts Wetlands Protection Act and its implementing regulations.

4. Maintenance and repair of septic systems.
5. The construction of fencing that will not result in Alteration of Runoff or Drainage Characteristics.
6. Emergency repairs to existing utilities (gas, water, sanitary sewer, electric, telephone, cable television, etc.).
7. Normal maintenance of or emergency repairs to any Stormwater treatment facility deemed necessary by the Implementing Authority or its agents.

4.2.2. The following activities are exempt from the requirements of this Bylaw UNLESS they exceed the threshold set forth in Section 4.1(1):

1. Improvement of Town-owned public ways and appurtenances that will not result in an expansion of impervious cover of more than 5,000 square feet.
2. Activities on single-family residential lots that are not in Zone 1 or Zone 2, where the activities are not part of a larger common plan of Development (including but not limited to a subdivision plan, special permit plan, or plan showing multiple “ANR” lots).
3. Construction of utilities other than drainage (e.g., gas, water, sanitary sewer, electricity, telephone, cable television, etc.) that will not result in a permanent Alteration of Runoff or Drainage Characteristics and will comply with the Erosion Control standard in the Massachusetts Stormwater Standards.

Administration

- 5.1 The Acton Board of Selectmen shall administer this Bylaw. It shall, with the approval of the Town Manager, designate a Town department or official to be the Implementing Authority.
- 5.2 The Board of Selectmen, after public notice and hearing, shall promulgate and may periodically amend Regulations to effectuate the objectives of this Bylaw. The date of such hearing shall be advertised in a newspaper of general circulation in the Town at least seven (7) days before the hearing date.

The Regulations shall (without limitation):

- a) Specify the information (including site plans) that must be submitted as part of a Land Disturbance Permit Application;
- b) Specify the procedures for review of Land Disturbance Permit Applications, including consideration of potential Water Quality impacts; and
- c) Specify the performance standards for construction and post-construction Stormwater management measures, and/or the Best Management Practices for control of Stormwater, that are reasonable and appropriate to achieve the objectives listed in Section 1.2 of this Bylaw.

If the Board of Selectmen determines that another Town project approval process adequately regulates construction and post-construction Stormwater management in a manner sufficient to achieve the objectives of this Bylaw, the Regulations may provide that the approval resulting from that process will serve as the Land Disturbance Permit for purposes of this Bylaw. The Regulations may also or in the alternative provide that the Implementing Authority may determine on a case-by-case basis that approval of the project by another Town entity will serve as the Land Disturbance Permit, provided that the Implementing Authority determines that the objectives of this Bylaw will be achieved by that approval. In any case where approval by another Town entity serves as the Land Disturbance Permit, the Implementing Authority is empowered to enforce all

Stormwater-related conditions of that approval pursuant to the enforcement provisions of this Bylaw.

Failure by the Board of Selectmen to promulgate Regulations shall not have the effect of suspending or invalidating this Bylaw.

5.3 In the absence of Regulations promulgated pursuant to Section 5.3, the Implementing Authority shall use the Massachusetts Stormwater Standards, as elaborated in the latest edition of the Massachusetts Stormwater Management Handbook, as the performance standards for Land Disturbance Permits.

5.4 The Implementing Authority and its agents shall review all Applications for a Land Disturbance Permit, conduct inspections as appropriate, issue or deny a Land Disturbance Permit, and conduct any necessary enforcement action. Following receipt of a completed Application, the Implementing Authority shall notify relevant Town departments, boards and committees (as designated in the Regulations or as determined by the Implementing Authority in the absence of Regulations) and the Water Supply District of Acton of receipt of the Application.

5.5 After submitting a Land Disturbance Permit Application to the Implementing Authority, the Applicant shall publish in the local newspaper and submit to the Town Clerk to be posted on the Town website a notice that the Implementing Authority is accepting comments on the Land Disturbance Permit Application. The Land Disturbance Permit Application shall be available for inspection and comment by the public during normal business hours at the Town Hall for 5 business days from the date of newspaper publication of the notice. A public hearing is not required. Members of the public shall submit their comments to the Implementing Authority during the above-described inspection period. The Implementing Authority reserves the right to require notification of Abutters should it be determined by the Implementing Authority to be appropriate.

5.6 Filing an Application for a Land Disturbance Permit grants the Implementing Authority, or its agent, permission to enter the Site to verify the information in the Application and to inspect for compliance with permit conditions.

5.7 The Implementing Authority shall:

- i. Approve the Application and issue a Land Disturbance Permit if it finds that the proposed Stormwater controls will protect Water Resources, meet the objectives of the Bylaw, and meet the requirements of the Regulations;
- ii. Approve the Application and issue a Land Disturbance Permit with conditions that the Implementing Authority determines are required to ensure that the project's Stormwater controls will protect Water Resources, meet the objectives of the Bylaw, and meet the requirements of the Regulations; or
- iii. Disapprove the Application and deny a permit if it finds (a) that the proposed Stormwater controls are not protective of Water Resources or fail to meet the objectives of the Bylaw or the requirements of the Regulations, or (b) that the information submitted with the Application was insufficient to allow the Implementing Authority to make one of the determinations set forth in (i), (ii), or (iii)(a).

5.8 The Implementing Authority shall take final action on an Application within 30 days of the close of the public comment period. A copy of the final action shall on the same business day be filed with the Town Clerk. Certification by the Town Clerk that the allowed time has passed

without the action of the Implementing Authority shall be deemed a grant of the Land Disturbance Permit.

5.9 Appeal of Land Disturbance Permit Decision. A decision of the Implementing Authority regarding a Land Disturbance Permit Application shall be final. Such a decision shall be reviewable in the Superior Court in an action pursuant to G.L. c. 249, § 4. The remedies listed in this Bylaw are not exclusive of any other remedies (if any) available under any applicable federal, state or local law.

Permit Procedures & Requirements

Permit procedures and permit filing requirements shall be defined in Regulations promulgated as provided in Section 5 of this Bylaw.

Fees

The Board of Selectmen, based on recommendations of the Implementing Authority, may establish and from time to time adjust fees to cover expenses connected with application administration and review, inspections, monitoring permit compliance, and enforcement, including the cost of Town administrative and professional staff and outside consultant support as needed. Applicants must pay applicable review fees to the Implementing Authority before the review process may begin.

Performance Guarantee

The Implementing Authority may require the Permittee to post, before the start of any Land Disturbance, a surety bond, irrevocable letter of credit, cash, or other acceptable performance guarantee. The form and substance of the guarantee must be sufficient to ensure that the work will be completed in accordance with the Land Disturbance Permit, as determined by the Implementing Authority. If the project is phased, the Implementing Authority may, in its discretion, release part of the guarantee as each phase is completed in compliance with the permit, but the guarantee may not be fully released until the Implementing Authority has made a determination that the project has been satisfactorily completed. The Implementing Authority may require a performance guarantee for ongoing operation and maintenance of a Stormwater management system.

Waivers

9.1 The Implementing Authority may waive strict compliance with any requirement of this Bylaw or the Regulations promulgated hereunder, where such action:

1. is allowed or otherwise not prohibited by federal, state and local statutes and regulations and the Town's MS4 Permit,
2. is in the public interest, and
3. and does not derogate from the purpose and intent of this Bylaw.

9.2 The Implementing Authority may waive compliance with any of the performance standards set forth in this Bylaw or in the Regulations promulgated hereunder, where the Applicant demonstrates that the proposed Stormwater controls comply with the performance standards to the maximum extent practicable given Site constraints (e.g., lot size).

9.3 Any Applicant may submit a written waiver request. Such a request shall be accompanied by an explanation or documentation supporting the waiver request. A waiver request may be submitted with a Land Disturbance Permit Application, but is not required to be. The notice requirements of Section 5.5 apply in either case.

9.4 If, in the opinion of the Implementing Authority, additional information is required for review of a waiver request, the Implementing Authority shall notify the Applicant.

9.5 A decision on a waiver request shall be made by the Implementing Authority within 30 days of receiving all requested information (or within 30 days of receiving the waiver request if no additional information is requested). A copy of the waiver decision shall on the same business day be filed with the Town Clerk. A waiver request shall be deemed denied if not acted upon within the aforementioned time period. Certification by the Town Clerk that the allowed time has passed without the action of the Implementing Authority shall be deemed a denial of the waiver for the purpose of review as set forth in Section 9.6.

9.6 A decision of the Implementing Authority regarding a waiver request, including a deemed denial, shall be final. Such a decision shall be reviewable in the Superior Court in an action pursuant to G.L. c. 249, § 4. The remedies listed in this Bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

Enforcement

10.1 The Implementing Authority shall enforce this Bylaw, its Regulations, orders, violation notices, and enforcement orders, and may pursue all available civil and criminal remedies for such violations.

10.2 Enforcement Orders

10.2.1 The Implementing Authority may issue a written order to enforce the provisions of this Bylaw or the Regulations thereunder, which may include, without limitation:

- a. A requirement to cease and desist from the Land Disturbance until there is compliance with the Bylaw, the Regulations, and the Land Disturbance Permit;
- b. Maintenance, installation or performance of additional Erosion and Sediment control measures;
- c. Monitoring, analyses, and reporting;
- d. Remediation of Erosion and Sedimentation resulting directly or indirectly from the Land Disturbance; and/or
- e. Compliance with the approved Operation and Maintenance Plan.

10.2.2 If the Implementing Authority determines that corrective action is required, the order shall set forth a deadline by which such corrective action must be completed. Said order shall further advise that, should the violator or property Owner fail to complete the corrective action within the specified deadline, the Town of Acton may, at its option, undertake such work, and the property Owner shall reimburse the Town's expenses of doing so. A performance guarantee may be required as part of any consented-to enforcement order.

10.2.3 Failure by the Implementing Authority to issue a written order shall not relieve the Person responsible for the violation of the Person's responsibilities under this Bylaw.

10.3 Appeal of Enforcement Order. An appeal of an Enforcement Order of the Implementing Authority may be made in writing to the Board of Selectmen within seven (7) business days from receipt of the Order and reviewed at the next regularly scheduled meeting of the Board of Selectmen. Further relief shall be to a court of competent jurisdiction pursuant to G.L. c. 249, § 4.

10.4 Penalty. Any Person who violates any provision of this Bylaw, or any regulation, order or permit issued thereunder, may be punished by a penalty of not more than \$300.00 per offense which shall inure to the Town or to such uses as the Town may direct. Each day that such violation occurs or continues shall constitute a separate offense.

10.5 Non-Criminal Disposition. As an alternative to a penalty under Section 10.4 or a civil action to enforce the Bylaw, the Town of Acton may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D and the Town of Acton General Bylaws Chapter E 45, in which case the Implementing Authority or authorized agent shall be the enforcing person. The penalty for the first violation shall be \$100 per day. The penalty for the second violation shall be \$200 per day. The penalty for the third and subsequent violations shall be \$300 per day. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

10.6 Lien. If the Implementing Authority or its authorized agent undertakes work to correct or mitigate any violation of this Chapter, the Implementing Authority shall (within thirty (30) days after completing the work) notify the permit holder and the Owner(s) of the property (if different) in writing of the costs incurred by the Town of Acton, including administrative costs, associated with that work. The permit holder and the property Owner(s) (if different) shall be jointly and severally liable to pay the Town of Acton those costs within thirty (30) days of the receipt of that notice. The permit holder and the property Owner(s) (if different) may file a written protest objecting to the amount or basis of costs with the Implementing Authority within thirty (30) days of receipt of the notice. If the amount due is not received by the Town of Acton by the expiration of the time in which to file such a protest, or within sixty (60) after the final decision of the Implementing Authority or a court of competent jurisdiction resolving that protest, the amount of the Town's costs shall be a special assessment against the property and shall constitute a lien on the property pursuant to G.L. c. 40, § 58. Interest shall accrue on any unpaid costs at the statutory rate, as provided in G.L. c. 59, § 57.

Severability

If any provision, paragraph, sentence, or clause of this Bylaw shall be held invalid for any reason, all other provisions shall continue in full force and effect.

Effective Date

This Bylaw shall take effect six months after Town Meeting approval or upon completion of all relevant procedural requirements set forth in G.L. c. 40, § 32, whichever is later.

Summary

[Need Summary. Need Bylaw chapter.]

Direct inquiries to: : @acton-ma.gov / (978) 929-6611

Selectman assigned: : bos@acton-ma.gov / (978) 929-6611

Recommendations:

Board of Selectmen

Finance Committee

Article 10 **Amend Minuteman Regional School District Agreement – Town of Wayland**
(Majority vote) **Withdrawal from District**

To see if the Town will vote to accept and approve the “Amendment to Minuteman Regional Agreement regarding the Withdrawal of the Town of Wayland from the Minuteman Regional School District” which was approved by the Minuteman Regional School Committee on July 7, 2015 and which has been submitted to the Board of Selectmen consistent with the current Minuteman Regional Agreement, or take any other action relative thereto.

Summary

[Summary adapted from Minuteman Superintendent’s Memo]

On April 15, 2015 the Wayland Town Meeting voted to seek the Town of Wayland’s withdrawal from the Minuteman Regional School District. Section IX of the current Minuteman Regional Agreement requires the Minuteman Regional School Committee, under such circumstances, to draft an amendment to the Regional Agreement setting forth the terms by which the town seeking to withdraw may withdraw from the District. To this end, the Minuteman Regional School Committee on July 7, 2015 voted to submit this Article to the member towns for their approval.

The Amendment, as well as the withdrawal of the Town of Wayland from the District, will only occur if all sixteen of the current member towns of the District, as well as the Commissioner of Education, approve this Amendment.

Direct inquiries to: Ed Bouquillon

Selectman assigned: : bos@acton-ma.gov / (978) 929-6611

Recommendations: **Board of Selectmen** **Finance Committee**

Article 11 Land Acquisition – Piper Road

(Two-thirds vote)

[Copied from withdrawn article from 2015 ATM]

To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift, eminent domain or otherwise and to accept a deed of fee simple interest, on such terms and conditions as the Selectmen may determine and for municipal purposes, Parcels 3, 3-1 & 3-2 as shown on the Town of Acton Atlas Map H-3A, and recorded at the Middlesex South Registry of Deeds in Deed Book 48726 Page 495 and Deed Book 23190 Page 437; and further to see if the Town will raise, appropriate, and/or transfer from available funds or accept gifts for this purpose, or take any other action relative thereto.

Summary

The owner of these parcels on Piper Lane approached the Town about purchasing these properties. The proposed purchase price for Acton includes the initial purchase price along with the associated costs.

Direct inquiries to: : @acton-ma.gov / (978) 929-
Selectman assigned: : bos@acton-ma.gov / (978) 929-6611

Recommendations: Board of Selectmen Finance Committee

Article 12 Land Acquisition – Central Street

(Two-thirds vote)

To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift, eminent domain or otherwise and to accept a deed of fee simple interest, on such terms and conditions as the Selectmen may determine and for municipal purposes, ~~Parcels 3, 3-1 & 3-2 as shown on the Town of Acton Atlas Map H-3A, and recorded at the Middlesex South Registry of Deeds in Deed Book 48726 Page 495 and Deed Book 23190 Page 437;~~ and further to see if the Town will raise, appropriate, and/or transfer from available funds or accept gifts for this purpose, or take any other action relative thereto.

Summary

[Placeholder article for land adjacent to Mount Hope Cemetery.]

Direct inquiries to: : @acton-ma.gov / (978) 929-
Selectman assigned: : bos@acton-ma.gov / (978) 929-6611

Recommendations: Board of Selectmen Finance Committee

Article 13 **Land Acquisition – Knowlton Drive**
(Two-thirds vote)

[Companion parcel to one accepted as gift in 2008]

To see if the Town will authorize the Board of Selectmen to acquire on such terms and conditions as the Selectmen may determine, by purchase, gift, eminent domain or otherwise and to accept the deed of a fee simple interest in a certain parcel of land on Knowlton Drive shown as ~~Parcel Z-2 containing 8.2 acres, more or less, on a plan entitled “Plan of Land, Rear of 501 Massachusetts Avenue, Acton, Massachusetts, Prepared for Younameit Realty Company” dated June 8, 2007, prepared by Acton Survey & Engineering, and shown on Map F-2 of the Town Atlas as part of Parcel 75-14,~~ for purposes of recreation and conservation, and further to see if the Town will raise, appropriate, transfer from available funds, or accept gifts for this purpose, or take any other action relative thereto.

Summary

[\$28,000 to purchase this parcel]

Direct inquiries to: Tom Tidman, Natural Resources Director: nr@acton-ma.gov / (978) 929-6634
Selectman assigned: : bos@acton-ma.gov

Recommendations: **Board of Selectmen** **Finance Committee**

And you are directed to serve this Warrant by posting attested copies thereof fourteen days at least before the time of said meeting, in not less than six public places in Town, to be designated by the Board of Selectmen.

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

Given under our hands at Acton this twenty-seventh day of October, two thousand fifteen.

Katie Green, Chair
Peter J. Berry, Vice-Chair
Janet K. Adachi, Clerk
Frances J. Osman
Chingsung Chang

Board of Selectmen

A true copy, Attest:

Constable of Acton



**Town of Acton
472 Main Street
Acton, MA 01720**

**BULK RATE
U.S. POSTAGE PAID
PERMIT #67
ACTON, MA 01720**

**Postal Patron
Acton, MA 01720**