



Town of *Dracut*
MASSACHUSETTS

2024 Annual Town Meeting Warrant

June 3, 2024

**ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024**

TO: ANY CONSTABLE IN THE TOWN OF DRACUT

Greetings:

In the name of the Commonwealth of Massachusetts you are hereby required to notify and warn the inhabitants of said Town who are qualified to vote in elections and in Town affairs to meet at the Lester G. Richardson Center for the Performing Arts, Dracut High School, 1540 Lakeview Avenue, On Monday June 3, 2024, at 7:00 P.M., then and there to act on the following articles:

**ARTICLE #1
READING OF TOWN MEETING ARTICLES**

To see if the Town will vote to waive the reading of the Town Meeting Articles as printed in the warrant, or act in any other way relative thereto.

Submitted by: Ann Vandal, Town Manager
Recommendations:

**ARTICLE #2
READING OF REPORTS**

To see if the Town will vote to hear the report of the Town Accountant, the Board of Selectmen, and any other committee having a direction from previous Town Meetings, or act in any other way relative thereto.

Submitted by: Ann Vandal, Town Manager
Recommendations:

**ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024**

**ARTICLE #24 – November 13, 2024 TOWN MEETING
COMMERCIAL PROPERTIES – DUMPSTERS (Referred Article)**

To see if the Town will vote to dismiss Article 24 of the November 13, 2024 Town Meeting that was deferred, or act in any other way relative thereto.

Original Article: To see if the Town will vote to require commercial properties to provide a dumpster.

Submitted by: Tony Archinski, Selectmen
Recommendations:

**ARTICLE #3
COMPENSATING BALANCE AGREEMENTS**

To see if the Town will vote to authorize the Town Treasurer to enter into compensating balance agreements during the fiscal year beginning July 1, 2024, as permitted by General Laws, Chapter 44, Section 53F, or act in any other way relative thereto.

Submitted by: Ann Vandal, Town Manager
Recommendations:

**ARTICLE #4
SALARIES & COMPENSATION ELECTED OFFICIALS**

To see if the Town will vote to fix the salaries and compensation of all elective officers of the Town, as provided by General Laws, Chapter 41, Section 108, as amended, to be effective July 1, 2024, and to raise and appropriate such sums of money under the various Town Departments; or act in any other way relative thereto.

Moderator:	\$ 550.00
Board of Selectmen:	\$ 2,000.00
School Committee:	\$ 2,000.00

Submitted by: Ann Vandal, Town Manager
Recommendations:

ANNUAL TOWN MEETING WARRANT TOWN OF DRACUT JUNE 3, 2024

ARTICLE #5
FY2025 OPERATING BUDGETS

To see if the Town will vote to appropriate \$100,098,845 for expenditures in the fiscal year beginning July 1, 2024, and to determine whether such appropriations shall be raised in the tax levy, transferred from available funds, or by any combination of these methods; or act in any other way relative thereto:

School Department:

School Department Operations	\$ 39,293,700
Transportation	3,144,684

Greater Lowell Regional Technical High School

Education Assessment	\$ 5,827,703
Transportation	303,409

Essex North Shore Agricultural & Tech High School

Assessment	\$ 22,000
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Town Manager's Budgets

Salaries, Wages and Expenses	\$ 51,262,541
Transfer to Stormwater Enterprise Fund	244,808

Total Expenditures & Transfers

\$ 100,098,845

To meet said appropriation the Town shall:

Raise through Taxes and other General Fund Revenues:	\$ 96,257,619
Transfer from Sewer Enterprise Fund	840,000
Transfer from Water Enterprise Fund	191,000
Transfer from Town Hall Stabilization Fund	86,756
Transfer from Wetland Protection Fund	5,000
Transfer Special Revenue Funds	123,470
Transfer from Free Cash	2,205,000
Transfer TIP & IT Stabilization Fund	90,000
Transfer from School Cafeteria Fund	300,000

Total Revenues & Transfers

\$ 100,098,845

Submitted by: Ann Vandal, Town Manager
Recommendations:

ANNUAL TOWN MEETING WARRANT TOWN OF DRACUT JUNE 3, 2024

ARTICLE #6
FY2025 SEWER ENTERPRISE BUDGET

To see if the Town will vote to raise and appropriate or transfer from available funds including retained earnings the sum of \$7,792,276 or any other sum to operate the Sewer Department for fiscal year beginning July 1, 2024, or act in any other way relative thereto.

Direct Cost

Salaries	\$ 281,155
Expenses	3,202,550
Capital Outlay	50,000
Debt	3,418,571
Total Direct Cost	<u>\$ 6,952,276</u>

Indirect Cost

Departmental & Other Expenses	\$ 600,000
Insurance & Benefits	240,000
Total Indirect Cost	<u>\$ 840,000</u>

Total Expenditures	<u>\$ 7,792,276</u>
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Revenues & Transfers

Sewer Revenues	\$ 7,492,276
Retained Earnings	300,000
Total Revenues	<u>\$ 7,792,276</u>

Submitted by: Ann Vandal, Town Manager
Recommendations:

ANNUAL TOWN MEETING WARRANT TOWN OF DRACUT JUNE 3, 2024

ARTICLE #7
FY2025 WATER ENTERPRISE BUDGET

To see if the Town will vote to raise and appropriate or transfer from available funds including retained earnings the sum of \$2,063,026 or any other sum to operate the Kenwood Water Department for fiscal year beginning July 1, 2024, or act in any other way relative thereto.

Direct Cost

Salaries	\$ 47,026
Expenses	1,825,000
Total Direct Cost	<u>\$ 1,872,026</u>

Indirect Cost

Departmental Expenses	\$ 139,000
Insurance & Benefits	52,000
Total Indirect Cost	<u>\$ 191,000</u>
Total Expenditures	<u>\$ 2,063,026</u>

Revenues

Water Revenues	\$ 1,863,026
Water Retained Earnings	200,000
Total Revenues	<u>\$ 2,063,026</u>

Submitted by: Ann Vandal, Town Manager
Recommendations:

ANNUAL TOWN MEETING WARRANT TOWN OF DRACUT JUNE 3, 2024

ARTICLE #8
AMEND FY2024 SEWER ENTERPRISE BUDGET

To see if the Town will vote to amend the sums appropriated under Article Six (6) of the 2023 June Annual Town Meeting, and to increase such appropriation by \$200,000 for expenditures associated with Sewer Flow Charges in the fiscal year beginning July 1, 2023 (FY2024), and to determine whether such appropriation shall be transferred from Retained Earnings; or act in any other way relative thereto:

Submitted by: Ann Vandal, Town Manager
Recommendations:

ARTICLE #9
AMEND FY2024 WATER ENTERPRISE BUDGET

To see if the Town will vote to amend the sums appropriated under Article Seven (7) of the 2023 June Annual Town Meeting, and to increase such appropriation by \$200,000 for expenditures associated with Water Purchase Charges in the fiscal year beginning July 1, 2023 (FY2024), and to determine whether such appropriation shall be transferred from Retained Earnings; or act in any other way relative thereto:

Submitted by: Ann Vandal, Town Manager
Recommendations:

ANNUAL TOWN MEETING WARRANT TOWN OF DRACUT JUNE 3, 2024

ARTICLE #10
FY2025 STORMWATER ENTERPRISE BUDGET

To see if the Town will vote to raise and appropriate or transfer from available funds including retained earnings the sum of \$394,808 or any other sum to operate the Stormwater Enterprise Fund for the fiscal year beginning July 1, 2024, or act in any other way relative thereto.

Expenditures

Salaries	\$ 237,808
Expenses	157,000
Total Expenditures	<u>\$ 394,808</u>

Revenues

Transfer from General Fund	\$ 244,808
Stormwater Retained Earnings	150,000
Total Revenues	<u>\$ 394,808</u>

Submitted by: Ann Vandal, Town Manager
Recommendations:

ARTICLE #11
FY2025 PEG ACCESS ENTERPRISE BUDGET

To see if the Town will vote to raise and appropriate or transfer from available funds including retained earnings a sum of money to operate the PEG Access Enterprise Fund for fiscal year beginning July 1, 2024; or act in any other way relative thereto.

Submitted by: Ann Vandal, Town Manager
Recommendations:

**ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024**

**ARTICLE #12
CHAPTER 90 PROGRAM**

To see if the Town will vote to raise and appropriate, borrow and/or transfer from available funds, the sum of \$818,362 to be used for the Town's Chapter 90 Program, reconstruction, and improvement of Town Roads and/or sidewalks, said sum to be reimbursed on a 100 percent basis by the Commonwealth of Massachusetts, or to act in any other way relative thereto.

Submitted by: Ann Vandal, Town Manager
Recommendations:

**ARTICLE #13
COMMUNITY PRESERVATION BUDGET – FY2025**

To see if the Town will vote to appropriate the sum of \$797,950 to act upon the recommendations of the Community Preservation Committee by appropriating or reserving the following amounts for Fiscal Year 2025 Community Preservation purposes with each item considered a separate appropriation; and to determine whether such sums shall be appropriated from Fiscal Year 2025 Community Preservation Fund Revenues or the current Community Preservation Fund Balance, or by any combination of these methods, or act in any other way relative thereto:

Proj #	Project	Submitted by	Source	Amount
1.	Fields Debt Payment	Victor Garofalo	Recreation	\$ 481,950
2.	Harmony Hall Debt Payment	Victor Garofalo	Historic	\$ 37,040
3.	Transfer to Historic Reserve	Victor Garofalo	Historic	\$ 104,460
4.	Transfer to Community Housing Reserve	Victor Garofalo	Community Housing	\$ 141,500
5.	Administration Expenses	Victor Garofalo	Administration	\$ 33,000
Total Community Preservation - FY25				<u>\$ 797,950</u>

Project Descriptions

1. **Field Debt Payment** – Funding would provide for the necessary debt payment in FY25.
2. **Harmony Hall Debt Payment** – Funding would provide for the necessary debt payment in FY25.
3. **Historic Reserves** – Required 10% transfer into Historic Reserves.
4. **Community Housing Reserves** – Required 10% transfer into community housing reserves.
5. **Administration Expenses** – to appropriate annual administrative costs, such as legal and dues.

Submitted by: Community Preservation Committee
Recommendations:

**ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024**

ARTICLE #14

COMMUNITY PRESERVATION – BEAVER BROOK FARM IMPROVEMENTS

To see if the Town will vote to appropriate \$978,000, to act upon the recommendations of the Community Preservation Committee, and to determine whether such appropriations shall be transferred from Fiscal Year 2025 Community Preservation Fund Revenues or the current Community Preservation Fund Balance or Reserves, or by any combination of these methods, for the purpose of construction at 771 (formally 761) Mammoth Road, known as Beaver Brook Farm, to install a new driveway entrance, two lane driveway with sidewalk, emergency access, upper parking lot with approximately 15 spaces, secondary lower parking lot with approximately 4 ADA spaces, stone dust trail of approximately 1,350 LF from the lower parking lot to Beaver Brook, or act in any other way relative thereto.

Submitted by: Community Preservation Committee
Recommendations:

ARTICLE #15

COMMUNITY PRESERVATION – TENNIS & PICKLEBALL COURTS

To see if the Town will vote to appropriate \$2,547,435, to act upon the recommendations of the Community Preservation Committee, and to determine whether \$297,435 shall be transferred from Fiscal Year 2025 Community Preservation Fund Revenues or the current Community Preservation Fund Balance, and \$2,250,000 be transferred from Open Space Reserves for the purpose of construction of Tennis & Pickleball Courts at the Dracut High School Complex located at 1540 Lakeview Ave. Tennis and Pickleball Court construction will include 4 Tennis Courts and 4 Pickleball Courts, along with site improvements, which will include Stormwater improvements, concrete walkways, shade structures, bleachers, storage shed, chain link fence, landscaping and lighting, or act in any other way relative thereto.

Submitted by: Community Preservation Committee
Recommendations:

**ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024**

**ARTICLE #16
OFFSET RECEIPTS**

To see if the Town will vote to appropriate a sum of money from available “offset receipts” for the fiscal year beginning July 1, 2024, to be used in accordance with the provisions of General Laws, Chapter 44, Section 53E, or act in any other way relative thereto.

<u>Department</u>	<u>Ceiling</u>	<u>Funding Source</u>
Board of Library Trustees	\$ 50,000	Fees, Fines, Donations, Grants
School Department	\$ 30,000	Fees, Fines, Lost Books
Council on Aging	\$ 50,000	Fees, Fines, Donations, Grants

Submitted by: Ann Vandal, Town Manager
Recommendations:

**ARTICLE #17
SEWER PIPE LINING (SEWER DEPARTMENT)**

To see if the Town will vote to appropriate the sum of \$500,000 for the relining for the sewer pipe, as well as addressing sewer flow reduction and improvements, that to meet this appropriation, the Town will transfer \$500,000 from Sewer Retained Earnings, or act in any other way relative thereto:

Submitted by: Marguerite Hoover, Water & Sewer Director
Recommendations:

**ARTICLE #18
SEWER FLOW METERING STUDY**

To see if the Town will vote to appropriate the sum of \$225,000 money for activities related to a flow metering study of sewer mains within the Town of Dracut to pinpoint areas of infiltration and inflow, that to meet this appropriation, the Town will transfer a sum of \$225,000 from Retained Earnings, or act in any other way relative thereto:

Submitted by: Marguerite Hoover, Water & Sewer Director
Recommendations:

**ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024**

**ARTICLE #19
ACCEPTANCE MGL CHAPTER 40, SECTION 38
PURCHASE, DEVELOPMENT AND USE OF PUBLIC WATER SUPPLY**

To see if the Town will vote to adopt Chapter 40, Section 38 of the Massachusetts General Laws regarding the purchase, development and use of public water and supply.

Said law provides:

A city, by a two thirds vote of its city council, ratified by a majority of the voters thereof at an election called for the purpose, or a town, by action of its selectmen, ratified by a majority of its voters present and voting thereon at a town meeting at which the voting list shall be used, may, for the purpose of supplying water to itself and its inhabitants, purchase of any municipal or other corporation the right to take water from its sources of supply or from its pipes; or may purchase its whole water rights, estates, franchises and privileges, and thereby become entitled to all its rights and privileges and subject to all its duties and liabilities; or, by its board of water commissioners or officers performing like duties, may contract with any such corporation for a supply of water. Any municipal corporation, by its water department, may make such a sale or enter into such a contract to supply water to a city or town.

A city or town having a water supply or water distributing system may develop and use any source of water supply within its limits, not already appropriated for purposes of public water supply, and for such purpose may proceed under any laws applicable to such system as though the authority granted hereby had been contained in such laws; provided, that no source of water supply and no lands necessary for protecting and preserving the purity of the water shall be taken or used without first obtaining the advice and approval of the department of environmental protection.

Nothing in this section shall be construed as authorizing any city, town, or political subdivision which derives any part of its water supply from the Massachusetts Water Resources Authority, except in case of emergency, to use for water in contravention of any provision of the Massachusetts Water Resources Authority Act, and no such city, town, political subdivision nor any water company therein shall purchase water, except in case of emergency, from any municipality without written permission to do so by the said Authority.

or act in any other way relative thereto

Submitted by: Marguerite Hoover, Water & Sewer Director
Recommendations:

**ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024**

ARTICLE #20

ACQUIRE TEMPORARY EASEMENT 46 SLADEN STREET and 1064 LAKEVIEW AVE

To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift, eminent domain or otherwise the following temporary easements:

1. A temporary easement on the property located at 46 Sladen Street, Dracut MA (the Property), owned now or formerly by Matthew J. Capeless and Laura L. Capeless for the purpose of replacing the Peppermint Brook Culvert and improving the sidewalk north and south of the culvert crossing on Lakeview Ave (the Project). The temporary easement will allow the Town to access the Property to perform Project related construction. The Property is shown on the Dracut Assessors' Maps as Parcel 62- 0-128, 46 Sladen Street, and is hereby described as follows: Beginning at the southeast corner of the Parcel at a point located on Lakeview Avenue thence proceeding, N 45° 43' 57" E a distance of one hundred thirty-three and sixty-nine hundredths (133.69') feet along the northerly sideline of Lakeview Avenue to a point, thence, N 71° 19' 36" E a distance of forty-nine and three hundredths (49.03') feet, more or less, to a point, thence, N 62° 46' 42" E a distance of thirty and seven tenths (30.7') feet, more or less, to a point, thence, S 28° 17' 09" E a distance of one hundred-sixteen and four tenths (116.4') feet, more or less, to a point, thence, S 58° 08' 55" W a distance of thirty-nine (39.00') feet, more or less, to the point of beginning. Containing approximately 7,010 square feet of area;

The proposed temporary easement is shown as Proposed Temporary Construction Easement "A" 7,010± S.F. on a plan entitled "Lakeview Avenue Culvert and Sidewalk Replacement Town of Dracut, Massachusetts Construction Easement Plan" Prepared by Zenith Land Surveyors, LLC, Scale 1" = 20', date 1/20/2023, a copy of which is on file in the office of the Dracut Department of Public Works.

And

2. A temporary easement on the property located at 1064 Lakeview Ave, Dracut MA (the Property), owned now or formerly by Virginia Kapetanakis and Christopher Kapetanakis for purpose of replacing the Peppermint Brook Culvert and improving the sidewalk north and south of the culvert crossing on Lakeview Ave (the Project). The Project will allow the Town to access the Property to perform Project related construction. The Property is shown on Dracut Assessors' Maps as Parcel 62- 99, 1064, and is hereby described as follows: Beginning at the southeast corner of the Parcel at a point located on the southerly sideline of Lakeview Avenue thence proceeding, Southerly by the centerline of Peppermint Brook one hundred and twelve (112') feet, more or less to a point, thence, N 52° 12' 47" W a distance of sixty-two and seven tenths (62.7') feet, more or less, to a point, thence, N 44° 07' 40" E a distance of one hundred ten (110.0') feet, more or less, to a point on the southerly sideline of Lakeview Avenue, thence S 45°

**ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024**

43' 57" E a distance of eighteen and five tenths (18.5') feet, more or less to the point of beginning. Containing approximately 4,760 square feet of area and, further, to see what sum of money the Town will vote to appropriate for the purposes of this Article; or act in any other way relative thereto

The proposed temporary easement is shown as Proposed Temporary Construction Easement "C" 4,760± S.F. on a plan entitled "Lakeview Avenue Culvert and Sidewalk Replacement Town of Dracut, Massachusetts Construction Easement Plan" Prepared by Zenith Land Surveyors, LLC, Scale 1" = 20', date 1/20/23, a copy of which is on file in the office of the Dracut Department of Public Works.

Submitted by: Tina Rivard, Assistant DPW Director
Recommendations:

**ARTICLE #21
ACQUIRE TEMPORARY EASEMENT 5, 7, 8 and 9 Pagona Way**

To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift, eminent domain or otherwise a temporary easement on the properties located at 5 Pagona Way, parcel id 46-96-3, Dracut MA (the Property), owned now or formerly by Bobby Rathsbombath and Sandy Thongkhamsook, 7 Pagona Way, parcel id 46-96-4, Dracut MA (the Property), owned now or formerly by Beshara Boshara, 8 Pagona Way, parcel id 46-96-6, Dracut MA (the Property), owned now or formerly by Grace Robertson, 9 Pagona Way parcel id 46-96-5, Dracut MA (the Property), owned now or formerly by Paulo and Christine Cavalcanti, for the purpose of digging additional test pits that DEP has determined are needed on neighboring parcels to the Town landfill to determine the limits of prior disposals. These properties are areas that have been identified for further exploration. The temporary easement will allow a Town authorized contractor access to perform this work. Each potential test pit location will require a 10' wide access path in which vegetation is cleared/disturbed. The test pits themselves will be excavated and then back-filled the same day.

The proposed temporary easements are shown on plans entitled "Test Pit Location Plan" with reference to 5 Pagona Way, 7 Pagona Way, 8 Pagona Way and 9 Pagona Way, respectively prepared by Weston & Sampson, a copy of which is on file in the office of the Dracut Planning Department. or act in any other way relative thereto.

Submitted by: Alison Manugian, Community Development Director
Recommendations:

**ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024**

ARTICLE #22

REVOCATION OF FUNDS AND CLOSURE OF THE OPIOID SETTLEMENT STABILIZATION FUND

To see if the Town will vote to transfer the funds dedicated to the Opioid Settlement Stabilization Fund established at the November 7, 2022 Annual Town Meeting Article #9, to a special revenue fund established by the Director of Accounts, and to place all statewide opioid settlement receipts received into the same fund, after which the Opioid Settlement Stabilization Fund will be closed; or pass any vote or act in any other way relative thereto.

This article proposes to transfer the then current balance for the funds dedicated to the Opioid Settlement Stabilization fund in and place all statewide opioid settlement receipts previously received into a special revenue fund established by the Director of Accounts and further to close said fund. The Massachusetts Department of Revenue began allowing this change in December of 2023. The money in said special revenue fund shall be spent only for the purposes for which the Opioid Settlement Stabilization Fund was established.

Submitted by: Victor Garofalo, Assistant Town Manager, Finance Director

Recommendations:

ARTICLE #23

TAX INCREMENTAL FINANCING PLAN WITH J&J HEATING and AIR CONDITIONING

To see if the Town will vote to allow the Town to enter into the Tax Incremental Financing Plan (also known as a TIF Plan) with J&J Heating and Air Conditioning, Inc. or its successor, pursuant to the provisions of Mass. General Laws, including without limitation MGL, Chapter 40, Section 59 and Chapter 59, Section 5 in connection with the development of property located at 17 Arlington Street, Dracut, Ma., as shown on Assessors Map 51-161, as described in the Economic Development Incentive Program Local incentive only application prepared by J&J Heating and Air Conditioning, Inc. 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 Tax Increment Financing Plan (TIF).

or act in any other way relative thereto

Submitted by: Ann Vandal, Town Manager

Recommendations:

**ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024**

**ARTICLE #24
PURCHASE 1363 BROADWAY ROAD (PROPER – BROX FARM)**

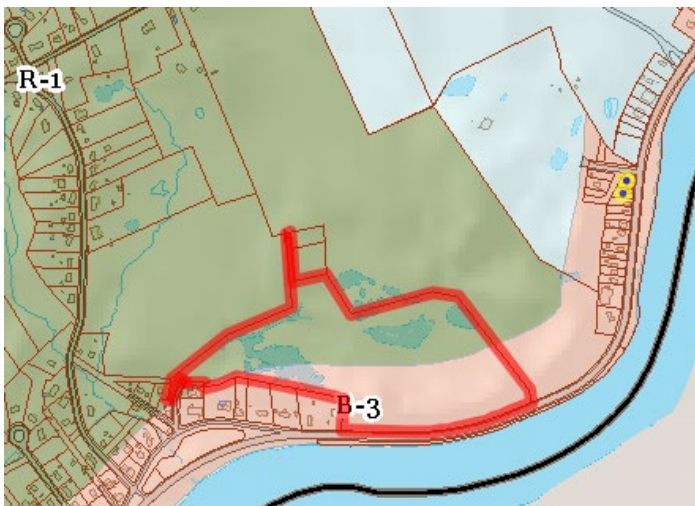
To see if the Town will vote to authorize the Board of Selectmen to acquire on behalf of the Town the property (the Property) known as the Proper (Brox) Farm, located at 1363 Broadway Road in Dracut, shown on the Dracut Assessors' Map as Map 8, Parcel 14-3, consisting of twenty six (26) acres, more or less, and further described in a deed recorded with the Middlesex North Registry of Deeds, at Book 28006, Page 194; and, further, to authorize the Board of Selectmen to enter into a Purchase and Sale Agreement regarding the Property; and, further, to see what sum of money the Town will vote to appropriate for the purposes of this Article, whether by transfer from available funds, borrowing or otherwise; or act in any other way relative thereto

Submitted by: Ann Vandal, Town Manager
Recommendations:

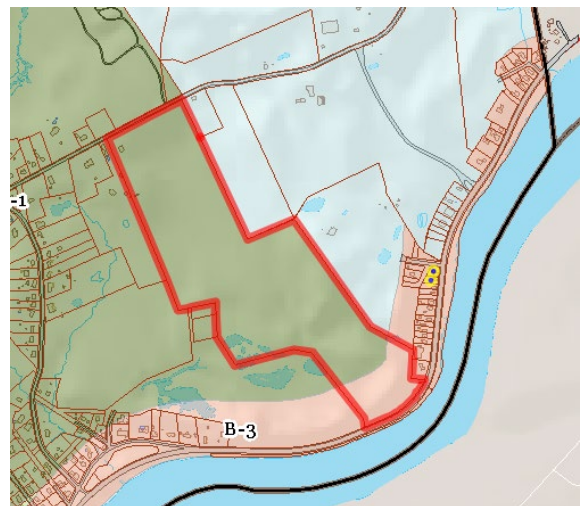
**ARTICLE #25
ZONING BY-LAW – ZONING MAP UPDATE
1100 Merrimack Avenue and 1351 Methuen Street**

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

- 1. By changing the district designation of the parcels known as 1100 Merrimack Avenue and 1351 Methuen Street with a zoning designation of B-3 and R-1 to the I-2 zoning district as shown on the plans below**



1100 Merrimack Ave.---Map 69 Block 9
(22.35 Acres)



1351 Methuen St.---- Map 55 Block 32
(66.07 Acres)

ANNUAL TOWN MEETING WARRANT

TOWN OF DRACUT

JUNE 3, 2024

2. By inserting the following rows in Section 3.3 (Table of Permitted Uses) within “Other Uses”

3.3 TABLE OF PRINCIPAL USES

Other Uses	Residential			Business			Industrial	
	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>B-1</u>	<u>B-2</u>	<u>B-3</u>	<u>I-1</u>	<u>I-2</u>
Biotech and/or Pharmaceutical/Health Manufacturing and Distribution	0	0	0	0	0	0	0	PB
Research/Office	0	0	0	0	0	0	0	PB
Distribution Center	0	0	0	0	0	0	0	PB

3. By inserting new Definitions in Section 9 to read as follows:

Biotech and/or Pharmaceutical/Health Manufacturing and Distribution:

Manufacturing and distribution in the fields of biotechnology, medical, pharmaceutical, physical, biological, and behavioral sciences and technology, including, but not limited to, the production of equipment, apparatus, machines and devices for research, development, manufacturing and practical application in any such field or area including production of pharmaceuticals.

Distribution Center:

A facility where goods are received and/or stored for processing, fulfillment, and delivery to customers.

4. By Amending the Definitions of Research/Office in Section 9 to read as follows:

Research/Office:

Any facility used as technical and general technically related, non-medical office, a research laboratory engaged in research and development work, experimental and testing activities, including, but not limited to biology, chemistry, geology, engineering, electronics, medicine, and physics including prototype manufacturing utilizing microorganisms or biological substances in the fields of and uses accessory thereto including training activities, provided that all activities shall be conducted within enclosed structures.

or act in any other way relative thereto.

Submitted by: Alison Manugian, Community Development Director

Recommendations:

**ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024**

**ARTICLE #26
GENERAL BY-LAW
CHAPTER 24 - STORMWATER AND EROSION CONTROL BYLAW**

To replace the current **Chapter 24 – Stormwater and Erosion Control Bylaw** with the proposed text below to read as follows:

CHAPTER 24 - STORMWATER AND EROSION CONTROL BYLAW

Section I. Purpose

- A. The purpose of this By-Law is to protect, maintain and enhance the public health, safety, environment, and general welfare of the Town by establishing minimum requirements and procedures to control the adverse effects of soil erosion and sedimentation, construction site runoff, increased post- development stormwater runoff and nonpoint source pollution associated with new development and redevelopment. It has been determined that proper management of stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, environment, and general welfare of the public, protect water and aquatic resources, protect and enhance wildlife habitat, and promote groundwater recharge to protect surface and groundwater drinking supplies. This Bylaw seeks to meet that purpose through the following objectives:
1. Establish a mechanism by which the municipality can monitor and ensure compliance with requirements of its National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4) and other applicable State and Federal mandates.
 2. Establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources.
 3. Require that new development, redevelopment, and other land alteration activities maintain the after-development runoff characteristics as equal to or less than the pre-development runoff characteristics where appropriate in order to reduce flooding, stream bank erosion, siltation, nonpoint source pollution, property damage, and to maintain the integrity of stream channels and aquatic habitats.
 4. Establish minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality; establish minimum design criteria for the protection of properties and aquatic resources downstream from land development and land conversion activities from damages due to alterations in volume, velocity, frequency, duration, and peak flow

ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024

rate of storm water runoff; establish minimum design criteria for measures to eliminate or minimize to the extent feasible nonpoint source pollution from stormwater runoff which would otherwise degrade water quality.

5. Establish design and application criteria for the construction and use of structural stormwater control facilities that can be used to meet or exceed the minimum post-development stormwater management standards, as established by the Massachusetts Department of Environmental Protection and by any site plan or subdivision requirements, bylaws or rules and regulations as adopted by the Dracut Planning Board, Board of Selectmen, Zoning Board of Appeals, Dracut Conservation Commission or any relevant land use board or committee.
6. Encourage the use of nonstructural stormwater management, better site design practices or "low-impact development practices", such as reducing impervious cover, increasing site- wide infiltration, and preserving open space and other natural areas, to the maximum extent practicable.
7. Promote water conservation through the re-use of stormwater for irrigation.
8. Establish provisions that require practices that eliminate soil erosion and sedimentation and control the volume and rate of stormwater runoff resulting from land disturbance activities.
9. Establish provisions to ensure that soil erosion and sedimentation control measures and stormwater runoff control practices are incorporated into the site planning and design process and are implemented and maintained. Establish provisions for the long-term responsibility for and maintenance of structural
10. stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety or the environment.
11. Establish provisions to ensure there is an adequate funding mechanism, including surety, for the proper review, inspection and long-term maintenance of stormwater facilities implemented as part of this By-Law.
12. Establish administrative procedures for the submission, review, approval or disapproval of stormwater management plans, erosion and sediment controls, and for the inspection of approved active projects, and long-term follow up; establish certain administrative procedures and fees for the submission, review, approval, or disapproval of stormwater plans, inspection of construction sites, and the inspection of approved projects.

**ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024**

13. Ensure that construction and waste materials, toxic materials, hazardous materials, and other pollutants are prevented from mixing with stormwater runoff, which would degrade water quality.
14. Establish certain administrative procedures and fees for the submission, review, approval or disapproval of stormwater plans and the inspection of approved projects.
15. Establish the Town of Dracut's legal authority and capacity to ensure compliance with the provisions of this By-Law through funding, permitting, inspection, monitoring, and enforcement.

B. This bylaw is not intended to interfere with, abrogate or annul any other bylaw, rule or regulation, statute, or other provision of the law. The requirements of this bylaw shall be considered minimum requirements and where any provision of this bylaw imposes restrictions different from those imposed by any other bylaw, rule, regulation or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health, public safety or the environment shall be considered to take precedence.

Section II Definitions

The following definitions shall apply in the interpretation and implementation of this By-Law. Additional definitions may be adopted by separate regulation:

ALTER: Any activity, including changes to the vegetation, that will measurably change the ability of a ground surface area to absorb water, will change existing surface drainage patterns, or will increase or decrease the rate or volume of flow from a site. Alter may be similarly represented as "alteration of drainage characteristics," and "conducting land disturbance activities."

APPLICANT: A property owner or duly designated agent who has filed an application for a stormwater management permit with the Town of Dracut.

BEST MANAGEMENT PRACTICE (BMP): Non-structural and managerial techniques that are recognized to be the most effective and practical means to prevent and/or reduce increases in stormwater volumes and flows, reduce point source and nonpoint source pollution, and promote stormwater quality and protection of the environment.

ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024

BETTER SITE DESIGN: Site design approaches and techniques, including low-impact development (LID) that can reduce a site's impact on the watershed through the use of nonstructural stormwater management practices. Better site design includes conserving and protecting natural areas and green space, reducing impervious cover, using natural features for stormwater management, and providing site-wide infiltration.

CONVEYANCE: Any structure or device, including pipes, drains, culverts, curb breaks, paved swales or man-made swales of all types designed or utilized to move or direct stormwater runoff or existing water flow.

DEVELOPMENT: Any construction that disturbs or alters a parcel of land.

DISTURBANCE OF LAND (Land Disturbance): Any action causing any removal of vegetation including tree and brush clearing; importation, removal or redistribution of soil, sand, rock, gravel or similar earth material.

EMERGENCY REPAIR: A condition that poses a threat to public health and/or safety. Such conditions include, but are not limited to, a utility gas leak, electric problem, collapsed or blocked drain, water leak, etc.

EXISTING LAWN: Grass area which has been maintained and mowed in the previous two years.

ILLCIT CONNECTION: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal or non-permitted discharge to enter the municipal storm drain system, including, but not limited to, any conveyance which allows any non-stormwater discharge, such as sewage, processed wastewater and other wastewater products to enter the municipal storm drain system and any connections to the municipal storm drain system from indoor drains and sinks, regardless of whether said drain or connection has been previously allowed, permitted, or approved by an authorized enforcement agency.

ILLCIT DISCHARGE: Any direct or indirect non-stormwater discharge to the storm drain system or water body, except as exempted in the stormwater rules and regulations.

IMPERVIOUS/IMPERVIOUS COVER: Any material on, above or below the ground that significantly impedes the infiltration of water into the underlying soil. This can include, but is not limited to: roads, driveways, parking areas and other areas created using non-porous material; buildings, roof tops, structures, artificial turf and compacted gravel or soil.

ANNUAL TOWN MEETING WARRANT

TOWN OF DRACUT

JUNE 3, 2024

INFILTRATION: The act of conveying surface water into the ground to permit groundwater recharge and the reduction of stormwater runoff from a project site.

LOW IMPACT DEVELOPMENT (LID): An ecosystem-based approach to land development and stormwater management that ensures that each development site is designed to protect, or restore, the natural hydrology of the site. This can be achieved by the incorporation of non-structural and natural approaches to new and redevelopment projects to reduce adverse effects on water quality and the natural environment by conserving natural areas, reducing impervious cover and better integrating stormwater treatments.

MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS: The latest version as may be amended from time to time of the Stormwater Management Standards and accompanying Stormwater Handbook issued by the Department of Environmental Protection pursuant to authority under the Wetlands Protection Act, M.G.L. c. 131, § 40, and the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26-56. The Stormwater Management Standards are incorporated in the Wetlands Protection Act Regulations, 310 CMR 10.05(6)(k) and the Water Quality Certification Regulations, 314 CMR 9.06(6)(a) and address stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quality of runoff from a site.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM: The system of conveyances designed or used for collection or conveyance of 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 Dracut.

NEW DEVELOPMENT: Any construction or land disturbance of a parcel of land, including all projects requiring municipal site plan review, that is currently in a natural vegetated state and does not currently contain alteration by man-made activities at the location of the proposed land disturbance.

NONPOINT SOURCE POLLUTION: Pollution from many diffuse sources caused by rainfall, snowmelt, or other methods of pollutant transport moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into water resource areas.

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

**ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024**

NORMAL MAINTENANCE: Activities that are regularly scheduled to maintain the health and condition of a landscaped area. Examples include removal of weeds or invasive species, pruning, mowing, raking, and other activities that are done at regular intervals within the course of a year.

PERSON: Includes any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth, or political subdivision thereof to the extent subject to town bylaws, administrative agency, public or quasi-public corporation or body,

PRE-DEVELOPMENT: The conditions that exist prior to the proposed disturbance activity. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first plan submission shall establish pre-development conditions.

POST-DEVELOPMENT: The conditions that reasonably may be expected or anticipated to exist after completion of the land development activity in accordance with approved plans on a specific site or tract of land. Post-development refers to the phase of a new development or redevelopment project after completion and does not refer to the construction phase of a project.

RECHARGE: The replenishment of underground water reserves.

RECONSTRUCTION: Any action causing complete removal and replacement of paved surfaces, such as driveways, parking areas and roads.

REDEVELOPMENT: Any construction, alteration, or improvement on a previously developed site which contains impervious cover provided that the activity does not involve an increase in the net amount of impervious cover.

RUNOFF: Rainfall or snowmelt water flowing over the ground surface or other source which may result in transport of pollutants.

SITE: The entire parcel of land being developed and/or where land-disturbing activities are or will be performed.

STOCKPILING: The storage of more than 10 cubic yards of material for future use.

ANNUAL TOWN MEETING WARRANT

TOWN OF DRACUT

JUNE 3, 2024

STORMWATER MANAGEMENT: The use of structural or non-structural practices that are designed to control or treat stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates. Stormwater Management includes the use of Low- Impact Development (LID) management practices.

STORMWATER PERMITTING AUTHORITY The entity who reviews and issues stormwater management permits in accordance with this bylaw and the related rules and regulations.

STORMWATER MANAGEMENT PERMIT: A permit issued by the Stormwater Permitting Authority, after review of an application, plans, calculations, and other supporting documents, which is designed to protect the environment of the Town from the deleterious effects of uncontrolled and untreated stormwater runoff.

STORMWATER CONTROL MEASURE (SCM) means a structural or nonstructural technique for managing stormwater to prevent or reduce point or non-point source pollutants from entering surface waters or ground waters. A Nonstructural Stormwater Control Measure includes but is not limited to source control, Environmentally Sensitive Site Design, some Low Impact Development techniques or practices, street cleaning and pollution prevention measures. A structural Stormwater Control Measure includes, but is not limited to, a basin, discharge outlet, swale, rain garden, filter, some Low Impact Development techniques or practices, or other stormwater treatment practice or measure either alone or in combination, including without limitation, any overflow pipe, conduit, weir control structure that: (a) is not naturally occurring; (b) is not designed as a wetland replication area; and (c) has been designed, constructed, and installed for the purpose of conveying, collecting, storing, discharging, recharging or treating stormwater.

Section III. Authority

This By-Law is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34., and as authorized by the residents of the Town of Dracut at Town Meeting dated June 5, 2017, and as thereafter amended.

Section IV. Applicability

- A. No person shall alter land above the thresholds established within the Town of Dracut without having obtained a stormwater management permit (SWP). The Stormwater Permitting Authority may seek input from town departments during the review of the storm water permit application. Town departments shall provide input to the Stormwater Permitting Authority, upon request.

**ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024**

- B. This By-Law shall be applicable to all new development and redevelopment, land disturbance and any other activity that may result in an increased amount of stormwater runoff or pollutants, or changes to drainage characteristics causing an increase in runoff, flowing from a parcel of land. This By-Law shall apply to land or parcels of land that are held in common ownership (including ownership by related or jointly-controlled persons or entities) as of the effective date of this By-Law, if the total land-disturbing activities on said land or parcels, considered as a whole, would presently or ultimately exceed the minimum thresholds in Section IV.C and are not exempted by Section V. A development shall not be segmented or phased in a manner to avoid compliance with the By-Law.
- C. A single or two family residence project (outside of a proposed subdivision), yielding less than 2,500sf of impervious area, is presumed to meet the intentions of the Dracut Bylaw and Regulations if the following conditions are met:
1. Submission of a site plan showing test pit location(s), property lines, proposed building(s), retention walls, driveway(s) and existing and proposed topography;
 2. At least one (1) deep hole test pit is excavated per lot, ideally in the vicinity of any proposed stormwater infiltration.
 3. Storage and infiltration of stormwater is proposed for a minimum of one inch (1") of water over the entire impervious area of the proposed site. Design shall show at least two feet (2') of separation between the infiltration base elevation and estimated high groundwater.
 4. Design includes appropriately graded and vegetated rain garden, swale areas, dry wells and similar elements which illustrate generally the intent to not alter runoff conditions at any of the property lines, including those shared with the Town of Dracut for public roadways.
 5. Document(s) are shared outlining the function and maintenance required of the stormwater elements to be protected by the owner. Deed language shall be included to prohibit alteration of stormwater elements and to require routine maintenance of infiltration devices.
- D. A Minor Stormwater Permit must be obtained prior to the commencement of land disturbing activity on any project:
1. which will have less than 2,500sf of impervious area upon completion; or
 2. that includes ONLY in-kind replacement of existing impervious areas – typical examples include repaving an existing roadway or parking lot without any expansion.
- E. A Major Stormwater Permit must be obtained prior to the commencement of land disturbing activity on any project:
1. which upon completion will yield a site with 2,500sf or more of impervious area;
 2. requesting a waiver of any Stormwater Permitting Requirement; or

ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024

3. required to submit a Notice of Intent to the Conservation Commission.

Section V. Exemptions

Exemptions from this By-Law apply to the following activities, provided that a project is solely comprised of any one of these activities:

1. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act Regulations at 310 CMR 10.04 ("Agricultural") and the conversion of additional land to agricultural use, when undertaken in such a manner as to prevent erosion and siltation through the use of Best Management Practices recommended by the U.S. Department of Agriculture Natural Resources Conservation Service or the Massachusetts Department of Agricultural Resources.
2. Normal maintenance of existing landscaping, gardens or lawn areas
3. Construction of any fence that will not alter existing terrain or drainage patterns.
4. Construction of utilities (gas, water, sanitary sewer, electric, telephone, cable television, etc.) other than drainage which will not alter terrain, ground cover, or drainage patterns, so long as BMPs are used to prevent erosion, sedimentation and release of pollutants and surface conditions are restored.
5. Emergency repairs to any existing utilities (gas, water, sanitary sewer, electric, telephone, cable television, etc.) and emergency repairs to any stormwater management facility that poses a threat to public health or safety, designated by the Stormwater Permitting Authority. Where such activity is subject to the jurisdiction of the Conservation Commission, the work shall not proceed without the issuance of an Emergency Certification by the Commission.

Section VI. Fees

A. Filing Fee.

At any time of an application, the applicant shall pay a filing fee pursuant to a fee schedule, which shall be determined by the Stormwater Permitting Authority and approved by the Board of Selectmen. Any subsequent changes to the fee schedule shall be submitted to the Board of Selectmen for approval.

B. Consultant Fee.

Pursuant to the rules and regulations promulgated by the Stormwater Permitting Authority, reasonable fees may be imposed upon applicants for the purposes of securing outside consultants including, engineers or other experts, in order to aid in the review of proposed projects. The Stormwater Permitting Authority shall follow the provisions of the Massachusetts General Laws, Chapter 44, Section 53G in securing a consultant to review

ANNUAL TOWN MEETING WARRANT

TOWN OF DRACUT

JUNE 3, 2024

the project.

Additional consultant fees may be requested where the requisite review is more expensive than originally calculated or where new information requires additional consultant services.

Only costs relating to consultant work done in connection with a project for which a consultant fee has been collected shall be paid from this account and expenditures may be made at the sole discretion of the Stormwater Permitting Authority, or their designated agent. Any consultant hired under this provision shall be selected by and report exclusively to the Stormwater Permitting Authority. The Stormwater Permitting Authority shall provide applicants with written notice of the selection of the consultant, identifying the consultant, the amount of the fee to be charged to the applicant and a request for payment of the fee. Notice shall be deemed to have been given on the date it is mailed or delivered. The applicant may withdraw the application or request within five (5) business days of the date notice is given without incurring any costs or expenses.

Section VII. Administration

- A. The Conservation Commission shall serve as the Stormwater Permitting Authority, and shall administer, implement and enforce this By-Law. Any powers granted to or duties imposed upon the Stormwater Permitting Authority may be delegated in writing to any Town employee, or agent in writing. Meetings of the Stormwater Permitting Authority shall be subject to the Massachusetts Open Meeting Law, MGL Ch. 30A, §§ 18-25.
- B. Stormwater & Erosion Control Regulations ("Regulations"). The Stormwater Permitting Authority may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees; (application, inspection or consultant fees), and delegation of authority, procedures and administration of this By-Law after conducting a public hearing to receive comments on the proposed rules and regulations or any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation at least seven (7) days prior to the hearing date. Failure of the Stormwater Permitting Authority to promulgate such rules and regulations or a legal declaration of their invalidity by a court shall not act to suspend or invalidate the effect of this By-Law
- C. Massachusetts Stormwater Handbook. The Stormwater Permitting Authority will utilize the policy, criteria and information including specifications and standards of the most recent edition of the Massachusetts Stormwater Handbook for execution of the provisions of this By-Law. Unless otherwise specified in the Regulations, stormwater management practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to be protective of Massachusetts water quality standards.
- D. Stormwater Management Permit. The Stormwater Permitting Authority shall have the

ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024

authority to issue a Minor and Major Stormwater Permit (for projects exceeding the thresholds defined in Section IV.D. and E. of this By-Law and not otherwise exempted by Section V. Additional requirements of a Minor or Major Stormwater Permit may be defined and included within the Regulations promulgated pursuant to Section VI.B of this By-Law.

E. Stormwater Permitting Authority Approval Process.

1. Action by Stormwater Permitting Authority

- a. Determination of Stormwater Permit type and Procedure: The Stormwater Permitting Authority, or their designated agent, shall, upon request, review the conceptual project upon request and issue a determination stating whether the project needs a Minor or Major Stormwater Permit.
- b. Determination of Application Completeness: The Stormwater Permitting Authority, or their designated agent, shall review the application submission and determine whether the application is complete.
- c. Incomplete Applications: If the Stormwater Permitting Authority, or their designated agent, determines that the application is incomplete, including insufficient information to describe the site, the work, or the effect of the work on water quality and runoff volume, the Stormwater Permitting Authority, or their designated agent, may require the submission of additional information and/or disapprove the application and deny the Permit.

2. Minor Stormwater Management Permit –Each application for a Minor Stormwater Management Permit that complies with the Regulations and is determined to be a complete application by the Stormwater Permitting Authority, or their designated agent, shall be acted upon within thirty (30) days of the date of filing unless such application has been withdrawn from consideration. The Stormwater Permitting Authority, or their designated agent, may:

- a. Approve the Permit Application upon finding that the proposed plan will protect water resources and meets the objectives and requirements of this By-Law and the Stormwater Regulations;
- b. Approve the Permit Application with conditions, modifications or restrictions that are required to ensure that the project will protect water resources and meets the objectives and requirements of this By-Law and the Stormwater Regulations;
- c. Disapprove the Permit Application if the proposed plan will not protect water resources or fails to meet the objectives and requirements of this By-Law and the Stormwater Regulations. Such disapproval may be appealed to the Stormwater Permitting Authority by seeking a Major Stormwater Management Permit; or

ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024

- d. Require submission of a Major Stormwater Permit if the project, in the opinion of the Stormwater Permitting Authority or their designated agent, requires more extensive review.
- 3. Major Stormwater Management Permit - Each application for a Major Stormwater Management Permit that complies with the Regulations, and is determined to be a complete application by the Stormwater Permitting Authority, or their designated agent, including projects found to not comply with Design Standards under a Minor Stormwater Management Permit Application, or projects requesting one or more waivers , and shall be acted upon within sixty (60) days of the date of filing unless such application has been withdrawn from consideration.
 - i. A Public Hearing is required for all Major Stormwater Management Permits including those where a previous decision is being appealed or waivers have been requested. Notice of Public Hearings shall be published in a newspaper of general circulation for two (2) consecutive weeks. The first publication date shall be published not less than fourteen (14) days before the day of the hearing. A copy of the hearing notice shall be posted in the office of the Town Clerk for not less than fourteen (14) days before the date of the hearing. Copies of the notice shall be mailed, postage prepaid, to the applicant, property owner (if different) and to abutters within 100' as they appear on the most recent Assessor's list.
 - a. The Stormwater Permitting Authority may take any of the following actions following the close of the public hearing for an application for a Major Stormwater Management Permit
 - b. Approve the Major Stormwater Permit Application and issue a permit if it finds that the performance standards and requirements set forth herein have been met according to this Bylaw and the Stormwater Regulations;
 - c. Approve the Permit Application with conditions, modifications or restrictions that are required to ensure that the project will protect water resources and meets the objectives and requirement of this By-Law and the Stormwater Regulations; or
 - d. Disapprove the Permit Application if the proposed plan will not protect water resources or fails to meet the objectives and requirements of this By-Law and the Stormwater Regulations.
- F. Appeals of Action by the Stormwater Permitting Authority. A decision of the Stormwater Permitting Authority shall be final. Further relief of a decision by the Stormwater Permitting Authority made under this By-Law shall be to a court of competent jurisdiction.

ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024

G. Waivers. The Stormwater Permitting Authority, or their designated agent, may waive strict compliance with any of the requirements of this By-Law or the Rules and Regulations promulgated hereunder, if it determines that some of the application requirements are unnecessary because of the size or character of the development project or because of the natural conditions at the site and where such action is:

1. Allowed by federal, state and local statutes and/or regulations,
2. In the public interest, and
3. Not inconsistent with the purpose and intent of this By-Law.

Any request from an Applicant for a waiver of these rules shall be submitted, in writing, to the Stormwater Permitting Authority at the time of submission of the Major Stormwater Management Permit application. Such requests shall clearly identify the provision/s of the rule from which relief is sought and be accompanied by a statement setting forth the reasons why, in the applicant's opinion, the granting of such a waiver would be in the public interest or the specific information required to show strict compliance is irrelevant to the project, and why a waiver would be consistent with the intent and purpose of this By-Law and the rules and regulations promulgated hereunder.

Section VIII. Performance Standards

Criteria for Stormwater Management Standards shall be defined and included as part of any Rules and Regulations promulgated under Section VII.B of this By-Law.

Section IX. Enforcement

- A. The Stormwater Permitting Authority, or their designated agent, shall enforce this By-Law, and any Regulations, permits, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for violations.
- B. If a person violates the provisions of this By-Law or its Regulations, or a permit, notice or order issued there under, the Stormwater Permitting Authority, or their designated agent, may seek injunctive relief in a court of competent jurisdiction to restrain the person from activities which would create further violations or to compel the person to perform abatement or remediation of the violation.
- C. The Stormwater Permitting Authority, or their designated agent, may issue a written order to enforce the provisions of this By-Law or the Regulations, which may include requirements to:
 1. Cease and desist from land-disturbing activity until there is compliance with the By-Law or provisions of an approved Stormwater Management Permit;
 2. Maintain, install or perform additional erosion and sediment control measures;

**ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024**

3. Perform monitoring, analyses, and reporting;
4. Remediate erosion and sedimentation resulting directly or indirectly from land-disturbing activity;
5. Comply with requirements in the Stormwater Management Permit for operation and maintenance of stormwater management systems; and,
6. Remediate adverse impacts resulting directly or indirectly from malfunction of the stormwater management systems.

If the Stormwater Permitting Authority or its authorized agent determines that abatement or remediation is required, the order shall set forth a deadline by which such abatement or remediation must be completed.

- D. **Criminal Penalties.** Any person who violates any provisions of this By-Law, regulation, order or permit issued hereunder, shall be punished by a fine of not more than \$300. Each day a violation exists shall constitute a separate violation.
- E. **Non-Criminal Disposition.** As an alternative to criminal prosecution or civil action, the Town may utilize the non-criminal disposition procedure set forth in M.G.L. Ch. 40, §21D and Chapter 19 of the Town of Dracut By-Laws, in which case any police officer of the Town of Dracut, the Town Engineer, and such other persons as are authorized by the Stormwater Permitting Authority shall be the enforcing person. If non-criminal disposition is used, any person who violates any provision of this By-Law, regulation, order or permit issued thereunder, shall be punished as follows:
1. First Violation: Warning
 2. Second violation: \$100
 3. Third violation: \$200
 4. Fourth and subsequent violations: \$300
 5. Each day a violation exists shall constitute a separate violation
- E. **Remedies Not Exclusive.** The remedies listed in this By-Law are not exclusive of any other remedies available to the Stormwater Permitting Authority or the Town under any applicable federal, state or local law.

Section X. Severability

The invalidity of any section, provision, paragraph, sentence, or clause of this By-Law shall not invalidate any section, provision, paragraph, sentence, or clause thereof, nor shall it invalidate any permit or determination that previously has been issued.”

or act in any other way relative thereto.

Submitted by: Tina Rivard, Stormwater Manager & Assistant Public Works Director
Recommendations:

**ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024**

**ARTICLE #27
GENERAL BY-LAW
CHAPTER 25 – ILLICIT DISCHARGE BYLAW**

To see if the Town will vote to amend the **Chapter 25 – Illicit Discharge Bylaw** as follows:

1. By updating Section 5 and Section 11 with the proposed text below to read as follows:

“SECTION 5: Responsibility for Administration

The ~~Board of Selectmen STORMWATER PERMITTING AUTHORITY (SPA)~~ shall administer, implement and enforce this by-law. ~~Any powers granted to or duties imposed upon the STORMWATER PERMITTING AUTHORITY (SPA) may be delegated in writing by the Board of Selectmen to the STORMWATER PERMITTING AUTHORITY (SPA).~~ “

“SECTION 11: Enforcement

The Board of Selectmen shall enforce this by-law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

Civil Relief. If a person violates the provisions of this by-law, regulations, permit, notice, or order issued thereunder, the Board of Selectmen 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.

Orders: The Board of Selectmen may issue a written order to enforce the provisions of this by-law 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.

If the town 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 may, at its option, undertake such work, and expenses thereof shall be charged to the violator.

Within thirty (30) days after completing all measures necessary to abate the violation or perform remediation, the violator and the property owner will be notified of the costs incurred by the town including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Board of Selectmen 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

**ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024**

the Board of Selectmen affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, 57 after the thirty-first day at which the costs first become due."

2. By replacing Section 8 with the proposed text below to read as follows:

"SECTION 8: Exemptions

The following flows are exempt from the requirements of this Illicit Discharge Bylaw:

1. Non-storm water 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;
2. Discharge for which advanced written approval is received from the Board of Selectmen as necessary to protect public health, safety, welfare or the environment; and
3. Other such categories of non-stormwater discharge as may be included in the most recent version of the Town of Dracut Illicit Discharge Detection and Elimination (IDDE) Plan."

or act in any other relative thereto.

Submitted by: Tina Rivard, Stormwater Manager & Assistant Public Works Director
Recommendations

**ARTICLE #28
WETLANDS BY-LAW**

To see if the Town will vote to amend the **Chapter 18 – Wetland By-Law** as follows:

All changes are indicated in bold print.

Section II. Jurisdiction

PARAGRAPH 2 CURRENT

"The construction of any building may be prohibited within 50 feet of any bank, fresh water wetland, beach, flat, marsh, wet meadow, bog, swamp or lands bordering or on any estuary, creek, river, stream, or lake or any land under said waters."

**ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024**

Proposed: to replace the underlined with:

The construction of any **building or structure is prohibited within 50 feet (the No Build Zone)** of any bank, **fresh** water wetland, beach, flat, marsh, wet meadow, bog, swamp or lands bordering or on any estuary, creek, river, stream, or lake or any land under said waters **or within the vernal habitat zone.**

Paragraph 3 current:

“Construction of a building shall not include any reconstruction, alteration, extension, or structural change to a building existing on November 8, 1993.”

Proposed: to REPLACE PARAGRAPH 3:

Construction of a **building or structure** shall not include any reconstruction, alteration, ~~extension~~, or structural change **within the footprint** to a building existing on November 8, 1993.

Add Paragraph 4:

Applicant may seek a waiver of the No Build Zone at the discretion of the Commission provided they can demonstrate:

- 1) There are no reasonable conditions or alternatives that would allow the proposed activity to proceed in compliance with this bylaw,**
- 2) Avoidance, minimization, and mitigation have been employed to the maximum extent possible,**
- 3) The project results in a net benefit to the resource area values, or**
- 4) The waiver is needed to accommodate an overriding public interest or to avoid a decision so restrictive as to constitute a public taking without compensation.**

A request for a waiver shall be made in writing to the Commission and be included in the initial request for approval (e.g. Notice of Intent) and shall include how the request meets one of the four criteria above.

Section III. Conditional Excepts

CURRENT WORDING PARAGRAPH 2:

provided that when there is doubt as to whether or nor an agricultural activity is exempt, written notice shall be given to the Commission prior to commencement of work and be subject to the Determination of Applicability process.

**ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024**

PROPOSED CHANGE:

provided that when there is doubt as to whether or **not** an agricultural activity is exempt, written notice shall be given to the Commission prior to commencement of work and be subject to the Determination of Applicability process.

INSERT AT THE BEGINNING OF PARAGRAPH 4:

Certain “minor” activities, if conducted in the buffer zone or Riverfront Area, are exempt from review under the Wetlands Protection Act (310 CMR 10.02(2)(b)1 and 310 CMR §10.58(6)(b), respectively.

Section IV. Applications for Permits and Requests for Determination

Correct all references to RFD to **Request for Determination of Applicability**.

Section V. Notice and Hearings

Correct all references to RFD to **Request for Determination of Applicability**.

CURRENT WORDING PARAGRAPH 2:

“The Commission shall commence the public hearing within 21 days from the receipt of a completed permit application or RFD unless an extension is authorized in writing by the applicant.”

PROPOSED CHANGE:

The Commission shall commence the public hearing within 21 days from the receipt of a **complete** permit application or **Request for Determination of Applicability** unless an extension is authorized in writing by the applicant. **Complete permit application shall include but not be limited to all applicable reports listed on the Wetlands Protection Act (WPA) form such as stormwater reports and Massachusetts Endangered Species Act (MESA) notifications.**

**ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024**

Section VI. Coordination with Other Boards

CURRENT WORDING:

Any person filing a permit application or filing a request for determination of applicability with the Commission may be required to provide a copy thereof at the same time, by certified mail (return receipt requested) or hand delivery, to the Board of Selectman, Planning Board, Board of Health, the Building Inspector, and Town Engineer. The Commission shall consider any and all comments as they are submitted within the statutory time limits of M.G.L. Chapter 131, Section 40. The applicant shall have the right to receive any comments and recommendations, and to respond to them at a hearing at the Commission, prior to final action.

PROPOSED WORDING:

Any person filing a permit application or filing a Request for Determination of Applicability with the Commission may be required to provide a copy thereof at the same time, by certified mail (return receipt requested), hand delivery, **or electronic communication** to the Board of Selectman, Planning Board, Board of Health, the Building Inspector, **Stormwater Director, Construction Inspector**, and Town Engineer. The Commission shall consider any and all comments from those boards or officials so long as they are submitted within the statutory time limits of M.G.L. Chapter 131, Section 40. The applicant shall have the right to receive copies of any comments and recommendations, and to respond to them at a hearing **of** the Commission, prior to final action. **In no case shall the receipt or lack of receipt of such comments alter the required statutory time frames, unless the applicant has agreed to an extension, in writing.**

Section VII. Permits and Conditions:

CURRENT WORDING PARAGRAPH 6:

Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed once for an additional one year period, provided that a request for a renewal is received in writing by the Commission prior to expiration.

PROPOSED CHANGE:

Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed **for an additional period of up to three years at the Commission's discretion**, provided that a request for a renewal is received in writing by the Commission prior to expiration.

**ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024**

Section IX. Definitions:

PROPOSED: TO ADD A DEFINITION FOR THE TERMS “BUILDING OR STRUCTURE” AS FOLLOWS:

The terms “building or structure” shall include any construction activity for which a building permit is required, requires significant excavation, or prevents the free movement of wetland-dependent animal life. Lawn furniture, minimal signage, and temporary children’s structures such as sandboxes, swing-sets, and treehouses are not considered “structures” for the purpose of these regulations. Water dependent structures such as docks and piers, and fences that are raised at least 6 inches off the ground, are not subject to the 50-foot No Build Zone. Demarcation markers required by the Dracut Conservation Commission or the Massachusetts Department of Environmental Protection (MassDEP) are also excluded from this definition.

PROPOSED TO ADD A DEFINITION FOR THE TERM NO BUILD ZONE AS FOLLOWS:

The term “No Build Zone” shall include the area within 50 feet of any bank, fresh water wetland, beach, flat, marsh, wet meadow, bog, swamp, or lands bordering on any estuary, creek, river, stream, lake, or any land under said waters. In the case of a vernal pool the No Build Zone shall include the associated Vernal Habitat Zone, an area within 100 feet of the high-water mark of any vernal pool.

PROPOSED TO ADD TO THE DEFINITION OF A VERNAL POOL:

CURRENT WORDING:

“The term “vernal pool” shall include a confined basin depression which, at least most years, holds water for a minimum of two continuous months during the spring and/or summer, and which is free of adult fish populations, as well as the areas within 100 feet of the mean annual boundary of such depression, regardless of whether the site has been certified by the Massachusetts Division of Wildlife and Fisheries.”

PROPOSED CHANGE:

The term “vernal pool” shall include a confined basin depression which, at least most years, holds water for a minimum of two continuous months during the spring and/or summer, and which is free of adult fish populations, as well as the areas within 100 feet of the mean annual **high-water** mark of such depression, regardless of whether the site has been certified by the Massachusetts Division of Wildlife and Fisheries.

PROPOSED TO ADD A DEFINITION FOR THE TERM VERNAL HABITAT ZONE AS FOLLOWS:

**ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024**

The term “Vernal Habitat Zone” shall refer to the areas within 100 feet of the mean annual high-water mark of a vernal pool, regardless of whether the site has been certified by the Massachusetts Division of Wildlife and Fisheries.

PROPOSED TO CORRECT TYPO:

CURRENT WORDING:

The term “rare species” shall include, without limitation, all vertebrate and invertebrate animal and plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Wildlife and Fisheries, regardless of whether the site in which they occur has been previously identified by the Division.

PROPOSED CHANGE:

The term “rare species” shall include, without limitation, all vertebrate and invertebrate animal and plant species listed as endangered, threatened, or of **special concern** by the Massachusetts Division of Wildlife and Fisheries, regardless of whether the site in which they occur has been previously identified by the Division.

Section XI. Enforcement:

CURRENT WORDING:

“No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer, or allow such activity, or leave in place authorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.”

PROPOSED CHANGE:

No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer, or allow such activity, or leave in place **unauthorized** fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.

CURRENT WORDING:

“The Commission shall have the authority to enforce this bylaw, its regulations, and permits issued thereunder by violation notices, enforcement orders, and civil and criminal court actions. Any person who violates provisions of this bylaw may be ordered to restore the property to its

**ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024**

original condition and take other action deemed necessary to remedy such violations, or may be fined or both.”

PROPOSED CHANGE:

“The Commission shall have the authority to enforce this bylaw, its regulations, and permits issued thereunder by **letters, phone calls, electronic communication and other informal methods**, violation notices, enforcement orders, **non-criminal citations under G.L. Ch. 40 §21D**, and civil and criminal court actions. Any person who violates provisions of this bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined or both. **Any person who purchases, inherits or otherwise acquires real estate upon which work has been done in violation of the provisions of this Chapter subject to an existing enforcement order or in violation of any permit issued pursuant to this Chapter shall forthwith comply with any such order to restore such land to its condition prior to any violation.**

Section XIV. Relation to the Wetlands Protection Act:

CURRENT WORDING:

“This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, Regulations, 310 CMR 10.00, thereunder.”

PROPOSED CHANGE:

This bylaw **is** adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule **statutes**, independent of the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, Regulations, 310 CMR 10.00, thereunder.

or act in any other way relative thereto

Submitted by: Jackie Anderson, Conservation Director
Recommendations

ANNUAL TOWN MEETING WARRANT

TOWN OF DRACUT

JUNE 3, 2024

Wetlands By-Law – Chapter 18 (with changes made)

WETLANDS PROTECTION

I. Purpose

The purpose of this By-Law is to protect the wetlands, related water resources, and adjoining land areas in the Town of Dracut by controlling activities deemed by the Conservation Commission likely to have a significant or cumulative effect upon resource area values, including but not limited to the following: public or private water supply, ground water, flood control, erosion and sedimentation control, storm damage prevention, water quality, water pollution control, fisheries, shellfish, wildlife habitat, rare species habitat including rare plant species, agriculture, aquaculture, and recreation values, deemed important to the community (collectively, the “resource area values protected by this bylaw”). This bylaw is intended to utilize the Home Rule authority of this municipality to protect additional resource areas, for additional values, with additional standards and procedures stricter than those of the Wetlands Protection Act, M.G.L. Chapter 131 Section 40 and Regulations thereunder, 310 CMR 10.00.

II. Jurisdiction

Except as permitted by the Conservation Commission pursuant to this by-law, or as otherwise allowed in this bylaw, no person shall fill, dredge, build upon, degrade, discharge into or otherwise alter any Resource Area or Buffer Zone as defined in Section XI of this bylaw. It shall be assumed that significant adverse effect on the wetland values protected by this bylaw will result from any filling, dredging, building or other alteration within a Resource Area, land subject to flooding or inundation by groundwater or surface water, or within 50 feet of the edge of any freshwater wetland, vernal pool, bank, reservoir, pond of any size, land under waterbodies, or any marsh, wet meadow, bog or swamp. Said resource areas shall be protected whether or not they border surface waters.

The construction of any building or structure is prohibited within 50 feet (the No Build Zone) of any bank, fresh water wetland, beach, flat, marsh, wet meadow, bog, swamp or lands bordering or on any estuary, creek, river, stream, or lake or any land under said waters or within the vernal habitat zone.

Construction of a building or structure shall not include any reconstruction, alteration, or structural change within the footprint to a building existing on November 8, 1993.

Applicant may seek a waiver of the No Build Zone at the discretion of the Commission provided they can demonstrate:

1. There are no reasonable conditions or alternatives that would allow the proposed activity to proceed in compliance with this bylaw,
2. Avoidance, minimization and mitigation have been employed to the maximum extent possible,
3. The project results in a net benefit to the resource area values, or
4. The waiver is needed to accommodate an overriding public interest or to avoid a decision so restrictive as to constitute a public taking without compensation.

A request for a waiver shall be made in writing to the Commission and be included in the initial request for approval (e.g. Notice of Intent) and shall include how the request meets one of the four criteria above.

III. Conditional Exempts

ANNUAL TOWN MEETING WARRANT

TOWN OF DRACUT

JUNE 3, 2024

The application and permit required by this bylaw shall not be required for maintaining, repairing, or replacing but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph, or other telecommunication services, provided that written notice has been given to the commission prior to commencement of any work, and provided that the work conforms to performance standards and design specifications adopted by the Commission.

The application and permit required by this bylaw shall not be required for work performed or for normal maintenance or improvement of land which is lawfully in agricultural use (as defined in M.G.L. Chapter 131 Section 140 and Regulations 310 CMR), at the time the work takes place; provided that when there is doubt as to whether or not an agricultural activity is exempt, written notice shall be given to the Commission prior to commencement of work and be subject to the Determination of Applicability Process.

The application and permit required by this bylaw shall not be required for emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement; provided that the Commission or its agent certified the works as an emergency project; provided that the work is performed only for the time and place certified by the Commission for the limited purpose necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project, a permit application shall be filed with the commission for review as provided by the bylaw. Upon Failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify the emergency project approval and order restoration and mitigation measures.

Certain “minor” activities, if conducted in the buffer zone or Riverfront Area, are exempt from review under the Wetlands Protection Act (310 CMR 10.02(2)(b)1 and 310 CMR §10.58(6)(b), respectively. Other than stated in this section, the exceptions provided in the Wetland Protections Act, M.G.L. Chapter 131, Section 40, and Regulations, 310 CMR 10.00, shall not apply under this bylaw.

IV. Applications for Permits and Requests for Determination

Written application shall be filed with the Commission to perform such activities affecting resource areas protected by this bylaw. The permit application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by the bylaw. NO activities shall commence without receiving and complying with a permit issued pursuant to this bylaw.

The Commission in an appropriate case may accept s the permit application and plans under this bylaw the Notice of Intent and plans filed under the Wetlands Protection Act, M.G. L Chapter 31, Section 40, and Regulations, 310 Cmr 10.00

Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may in writing, request a determination from the Commission. Such a Request for Determination of Applicability shall include information and plans as are deemed necessary by the Commission.

Upon receipt of a permit application or Request for Determination of Applicability, the Commission is authorized to require an applicant to pay a fee for the reasonable costs and expenses borne by the

ANNUAL TOWN MEETING WARRANT

TOWN OF DRACUT

JUNE 3, 2024

Commission for specific expert engineering and other consultant services deemed necessary by the Commission to come to a final decision on the application. This fee is called the consultant fee. The specific consultant services may include but are not limited to resource area survey and delineation, analysis of resource area values, including wildlife habitat evaluations, hydrogeologic and drainage analysts, and environmental or land use law.

The Commission may wave the filing fee, consultant fee, and costs and expenses for a permit application or Request for Determination of Applicability filed by a government agency.

The Commission may require the payment of the consultant fee at any point in its deliberations prior to a final decision. The applicant shall pay the fee to be put into a consultant services account of the Commission which may be drawn upon by the Commission for the specific consultant services approved by the Commission at one of its public meetings.

The exercise of discretion by the Commission in making its determination to require the payment of a consultant fee shall be based upon its reasonable finding that additional information acquirable only through outside consultants would be necessary for the making of an objective decision.

The Commission shall return any unused portion of the consultant fee to the applicant unless the Commission decides at public meeting that other action is necessary. Any applicant aggrieved by the imposition of, or size of, the consultant fee, or any act related thereto, may appeal according to the provisions of the Massachusetts General Laws.

V. Notice and Hearings

The Commission shall conduct a public hearing on any permit application or Request for Determination of Applicability, with a written notice given at the expense of the applicant, five business days prior to the hearing, in a newspaper of general circulation in the municipality.

The Commission shall commence the public hearing within 21 days from the receipt of a complete permit application or Request for Determination of Applicability unless an extension is authorized in writing by the applicant. Complete permit application shall include but not be limited to all applicable reports listed on the Wetlands Protection Act (WPA) form such as stormwater reports and Massachusetts Endangered Species Act (MESA) notifications.

The Commission shall issue its permit or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant.

The Commission in an appropriate case may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act, M.G.L. 131, Section 40, and Regulations, 310 CMR 10.00.

The Commission shall have the authority to continue the hearing to a certain date announced at the hearing, for reasons stated at the hearing which may include receipt of additional information from the applicant or others deemed necessary by the Commission in its discretion, or comments and recommendations of the boards and officials listed in VI.

VI. Coordination with Other Boards

Any person filing a permit application or filing a request for determination of applicability with the Commission may be required to provide a copy thereof at the same time, by certified mail (return receipt

ANNUAL TOWN MEETING WARRANT

TOWN OF DRACUT

JUNE 3, 2024

requested), hand delivery, or electronic communication to the Board of Selectman, Planning Board, Board of Health, the Building Inspector, Stormwater Director, Construction Inspector, and Town Engineer. The Commission shall consider any and all comments as they are submitted within the statutory time limits of M.G.L. Chapter 131, Section 40. The applicant shall have the right to receive any comments and recommendations, and to respond to them at a hearing of the Commission, prior to final action. In no case shall the receipt or lack of receipt of such comments alter the required statutory time frames, unless the applicant has agreed to an extension, in writing.

VII. Permits and Conditions

If the Commission, after a public hearing, determines that the activities which are subject to the permit application or the land and water uses which will result therefrom are likely to have a significant individual or cumulative effect upon the resource area values protected by this bylaw, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions. The Commission shall take into account the cumulative adverse effects of loss, degradation, isolation, and replication of protected areas throughout the community and the watershed, resulting from past activities, permitted and exempt, and foreseeable future activities.

The Commission is empowered to deny a permit for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulative effects upon the resource area values protected by this bylaw; and where no conditions are adequate to protect those values. Due Consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

The Commission is empowered to require the use of the 1987 Army Corps of Engineers Wetland Delineation Method, Section F. "Atypical Situations" in some instances where conditions exist that preclude the use of the Massachusetts delineation method using vegetation as a wetlands indicator

Such instances include but are not limited to disturbed sites, filled wetlands, or naturally occurring events that result in the creation or alteration of wetlands.

To prevent wetlands losses, the Commission shall require applicants to avoid wetlands alteration wherever feasible; shall minimize wetlands alteration; and, where alteration is unavoidable, shall require full mitigation. The Commission may authorize or require replication of wetland as a form of mitigation, but only with adequate security, professional design, and monitoring to assure success, because of the high likelihood of failure of replication.

A permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of the time and location of work is given to the Commission. Any permit may be renewed for an additional period of up to three years at the Commission's discretion, provided that a request for a renewal is received in writing by the Commission prior to expiration. Notwithstanding the above, a permit may contain requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land.

ANNUAL TOWN MEETING WARRANT

TOWN OF DRACUT

JUNE 3, 2024

For good cause the Commission may revoke or modify a permit or determination issued under this bylaw after notice to the holder of the permit or determination, notice to the public, abutters, and town boards, pursuant to V and VI, and a public hearing.

The Commission in an appropriate case may combine the permit or determination issued under this bylaw with the Order of Conditions Determination of Applicability issues under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, and Regulations, 310 CMR 10.0.

No work in any permit application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the registry of deeds or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the permit has been recorded.

VIII. Regulations

After public notice and public hearing, the Commission shall promulgate rules and regulations to effectuate the proposes of this bylaw. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw.

At a minimum these regulations shall define key terms in this bylaw not inconsistent with the bylaw and procedures governing the amount and filing of fees.

IX. Definitions

The following definitions shall apply in the interpretation and implementation of this bylaw.

The term "Commission" shall mean the Conservation Commission of the Town of Dracut.

The term "person" shall include any individual, group or organization, association, partnership, corporation, company, business trust or estate, any federal, state, regional, county or quasi-public corporation or body, including the Town of Dracut, and any other legal entity. The term "Resource Area" shall mean: ANY freshwater wetland, marsh, wet meadow, bog or swamp, whether or not bordering a lake, stream and the land beneath any lake, river, pond or stream; or any land subject to flooding or inundation by groundwater or surface water with a frequency of at least once in a hundred years. The term Resource Area shall include, without limitation, any area in which the vegetational community is predominately composed of plant species listed as facultative or obligate hydrophytes in Wetland Plants of the State of Massachusetts, 1986, issued by the National & Regional Wetland Plant List Review Panels.

The term "Buffer zone" shall mean any land within 100 feet from the edge of any freshwater wetland, marsh, wet meadow, bog or swamp, whether or not bordering a lake, river, pond or stream, and any land within 100 feet from the top of the bank of any lake, river, pond, or stream.

The term "bank" shall include the land area which normally abuts and confines a water body; the lower boundary being the mean annual flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.

The term "vernal pool" shall include a confined basin depression which, at least most years, holds water for a minimum of two continuous months during the spring and/or summer, and which is free of adult fish populations, as well as the areas within 100 feet of the mean annual high-water mark of such depression, regardless of whether the site has been certified by the Massachusetts Division of Wildlife and Fisheries.

ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024

The term “rare species” shall include, without limitation, all vertebrate and invertebrate animal and plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Wildlife and Fisheries, regardless of whether the site in which they occur has been previously identified by the Division.

The term “alter” shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this bylaw:

- A. Removal, excavation or dredging of soil, sand gravel, or aggregate materials of any kind;
- B. Changing of preexisting drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns, and/or flood retention characteristics;
- C. Drainage or other disturbance of water levels or water table;
- D. Dumping, discharging or filling with any material which may degrade water quality;
- E. Placing of fill, or removal of material, which would alter elevation;
- F. Driving of piles, erection or repair of buildings, or structures of any kind, except (i) work wholly inside a building and (ii) exterior repair of existing structures or buildings which present no risk of alteration of land, water, or vegetation;
- G. Placing of obstructions or objects in water;
- H. Destruction of plant life, including cutting of trees;
- I. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters;
- J. Any activities, changes or work which may cause or tend to contribute to pollution of any body of water or groundwater, including without limitation, any activity which may cause surface water runoff contaminated with sediments, chemicals, or animal wastes.
- K. Application of pesticides or herbicides;
- L. Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.

The terms “building or structure” shall include any construction activity for which a building permit is required, requires significant excavation, or prevents the free movement of wetland-dependent animal life. Lawn furniture, minimal signage, and temporary children’s structures such as sandboxes, swing-sets, and treehouses are not considered “structures” for the purpose of these regulations. Water dependent structures such as docks and piers, and fences that are raised at least 6 inches off the ground, are not subject to the 50-foot No Build Zone. Demarcation markers required by the Dracut Conservation Commission or the Massachusetts Department of Environmental Protection (MassDEP) are also excluded from this definition.

The term “No Build Zone” shall refer to the area within 50 feet of any bank, fresh water wetland, beach, flat, marsh, wet meadow, bog, swamp, or lands bordering on any estuary, creek, river, stream, lake, or any land under said waters. In the case of a vernal pool the No Build Zone shall include the associated Vernal Habitat Zone, an area within 100 feet of the high-water mark of any vernal pool.

The term “Vernal Habitat Zone” shall refer to the areas within 100 feet of the mean annual high-water mark of a vernal pool, regardless of whether the site has been certified by the Massachusetts Division of Wildlife and Fisheries.

Except as otherwise provided in this bylaw or in regulations of the Commission, the definition of terms in this bylaw shall be set forth in the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, and Regulations, 310 CMR 10.00.

ANNUAL TOWN MEETING WARRANT

TOWN OF DRACUT

JUNE 3, 2024

X. Security

As part of a permit issued under this bylaw, in addition, to any security required by any other municipal or state board, agency, or official, the Commission may require that the performance and observance of the conditions imposed thereunder (including conditions requiring mitigation work) may be secured wholly or in part by one or more of the methods described below:

- A. By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon the issuance of a Certificate of Compliance for work performed pursuant to the permit.
- B. By a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality where by the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

XI. Enforcement

No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.

The Commission, its agent, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this bylaw and may make or cause to be made such examination, surveys or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth.

The Commission shall have the authority to enforce this bylaw, its regulations, and permits issued thereunder by letters, phone calls, electronic communication and other informal methods, violation notices, enforcement orders, non-criminal citations under G.L. Ch. 40 §21D, and civil and criminal court actions. Any person who violates provisions of this bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined or both. Any person who purchases, inherits or otherwise acquires real estate upon which work has been done in violation of the provisions of this Chapter subject to an existing enforcement order or in violation of any permit issued pursuant to this Chapter shall forthwith comply with any such order to restore such land to its condition prior to any violation.

Upon request of the Commission, the Board of Selectmen and Town Counsel shall take legal action for the enforcement under civil law. Upon request of the Commission, the Chief of Police shall take legal action for the enforcement under civil law. Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

Any person who violates any provision of this bylaw, or regulations, permits or enforcement orders issued thereunder shall be punished by a fine of not more than \$300.00. each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place shall constitute a separate offense, and each provision of this bylaw, regulations, permits, or enforcement orders violated shall constitute a separate offense.

XII. Burden of Proof

**ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024**

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by this bylaw. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

XIII. Appeals

A decision of the Commission shall be reviewable in the Superior Court in accordance with M.G.L. Chapter 249, Section 4.

XIV. Relation to the Wetlands Protection Act

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, Regulations, 310 CMR 10.00, thereunder.

XV. Severability

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit or determination which previously has been issued.

AMENDMENTS – CHAPTER 18:

Chapter 18 – Added – Article 25 – Annual Town Meeting, November 8, 1993

Section VI – Amended - Article #8 – Annual Town Meeting, November 13, 1995

ARTICLE #29

ROAD ACCEPTANCE – DOUGLAS ROAD

To see if the Town will vote to accept Douglas Road and Douglas Road Extension, said street to be known as Douglas Road, at no cost to the Town, or act in any other way relative thereto.

Submitted by: Ann Vandal, Town Manager
Recommendations

ARTICLE #30

ACCEPTANCE MGL CHAPTER 140 SECTION 139

To see if the Town will accept the portion of MGL c. 140, s. 139 which would permit the Town to exempt payment of license fee(s) for service dogs for disabled persons and any dogs for persons over age 70, or act in any other way relative thereto.

Submitted by: Colleen Moore, Animal Control Officer
Recommendations

**ANNUAL TOWN MEETING WARRANT
TOWN OF DRACUT
JUNE 3, 2024**

Given under hands this 23rd day of April 2024

Dracut Board of Selectmen

Alison Genest

Tony Ouellet

Heather Smith

Jennifer Kapanian

Joseph DiRocco

April 24, 2024

I have this date posted up attested copies of the above warrant at the following places as designed in the Bylaws of the Town of Dracut:

Precincts 1, 5, & 6A

Senior Center, 951 Mammoth Road

Precincts 2, 3, 6, 7, and 9

Richardson Middle School, 1570 Lakeview Ave

Precincts 4 & 8

Parker Memorial Library, 28 Arlington St

Town Hall, 62 Arlington Street

Inside and Outside

Colleen Morse

True Copy Attest: Colleen Morse, Constable