

WARRANT FOR THE ANNUAL TOWN MEETING
COMMONWEALTH OF MASSACHUSETTS
MAY 18, 2021
6:15 p.m.

Annual Town Election, Tuesday, May 11, 2021, at 7:00 a.m. to 8:00 p.m. at the Southwick Town Hall, 454 College Highway for Precincts I, II, and III.

Annual Town Meeting Tuesday, May 18, 2021 at 6:15 p.m. at the Southwick Regional School, 93 Feeding Hills Road, in the **Parking Lot.**

HAMPDEN SS. To either of the Constables of the Town of Southwick in the County of Hampden GREETINGS:

ARTICLE 1. BALLOTS

In the name of the Commonwealth of Massachusetts the Town Clerk is hereby directed to notify and warn the inhabitants of said town qualified to vote in elections and town affairs to meet and assemble at the TOWN HALL, 454 COLLEGE HIGHWAY, PRECINCTS I, II, & III, in said Southwick on Tuesday, May 11, 2021 between the hours of 7:00 A.M. and 8:00 P.M. to elect on one ballot the following officers:

One Select Board Member for a three-year term. One District School Committee member for a three-year term. One Assessor for a three-year term. One Cemetery Commissioner for a three-year term. One Community Preservation Committee member for a three-year term. One Dickinson School Trustee for a three-year term. One Board of Health member for a three-year term. Two Library Trustees for a three-year term. Two Park and Recreation Commission members for a three-year term. One Planning Board member for a five-year term. One Water Commissioner for a three-year term. One Water Commissioner for a two-year term.

Also, in the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of said town qualified to vote in elections and town affairs to meet and assemble at the SOUTHWICK REGIONAL SCHOOL PARKING LOT ON TUESDAY, May 18, 2021, at 6:15 P.M. then and there for the Annual Town Meeting and to act on the following articles:

Given under our hand at said Southwick this 30th day of April in the year of the Lord Two Thousand and Twenty-One.

ARTICLE 2. TOWN REPORTS – CONSENT AGENDA

To see if the Town will vote to accept the reports as published in the Annual Town Report of the Select Board, Assessors, Town Accountant, Town Clerk, Water Commissioners and all others to be acted thereon, or take any other action thereon.

Requested by the Select Board

ARTICLE 3. APPOINTMENT OF MINOR OFFICERS – CONSENT AGENDA

To see if the Town will vote to instruct the Select Board to appoint minor officers or to take any other action relative thereon.

Requested by the Select Board

ARTICLE 4. SELL OR TRADE OBSOLETE EQUIPMENT – CONSENT AGENDA

To see if the Town will vote to authorize the Select Board to sell or trade obsolete equipment or take any action relative thereon.

Requested by the Select Board

ARTICLE 5. APPLY AND ACCEPT GRANTS – CONSENT AGENDA

To see if the Town will vote to authorize the Select Board to apply for and accept any and all grants from private entities, the Federal Government or the Commonwealth of Massachusetts for the purposes for which said grants are authorized, or to take any other action relative thereon.

Requested by the Select Board

ARTICLE 6. ROAD RECONSTRUCTION BORROWING AUTHORIZATION

To see if the Town will appropriate \$1,000,000 or any other amount, to pay costs of roadway reconstruction, including costs of paving, resurfacing and for the payment of all other costs incidental and related thereto; to determine whether this amount shall be raised by taxation, transfer from available funds, borrowing or otherwise, or to take any other action relative thereto.

Motion: That the sum of \$1,000,000 is appropriated to pay costs of roadway reconstruction, including costs of paving, resurfacing and the payment of all other costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Select Board, is authorized to borrow said amount under and pursuant to M.G.L. c. 44, §7(1), or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor. Any premium received by the Town upon the sale of any bonds or notes approved by this vote, or pursuant to any other vote of the Town heretofore adopted, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with M.G.L. c. 44, §20, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

Requested by the Select Board

ARTICLE 7. DPW DUMP TRUCK - BORROWING AUTHORIZATION

To see if the Town will appropriate \$260,000, or any other amount, to pay costs of purchasing and equipping a dump truck for the use of the Department of Public Works, including the payment of all other costs incidental and related thereto; to determine whether this amount shall be raised by taxation, transfer from available funds, borrowing or otherwise, or to take any other action relative thereto.

Motion: That the sum of \$260,000 is appropriated to pay costs of purchasing and equipping a dump truck for the use of the Department of Public Works, including the payment of all other costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Select Board, is authorized to borrow said amount under and pursuant to M.G.L. c. 44, §7(1), or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor. Any premium received by the Town upon the sale of any bonds or notes approved by this vote, or pursuant to any other vote of the Town heretofore adopted, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with M.G.L. c. 44, §20, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount. The total amount authorized to be borrowed by this vote shall be reduced to the extent of any grants received by the Town on account of this project.

Requested by the Select Board

ARTICLE 8. AMBULANCE - BORROWING AUTHORIZATION

To see if the Town will appropriate \$325,000, or any other amount, to pay costs of purchasing and equipping an ambulance, including the payment of all other costs incidental and related thereto; to determine whether this amount shall be raised by taxation, transfer from available funds, borrowing or otherwise, or to take any other action relative thereto.

Motion: That the sum of \$325,000 is appropriated to pay costs of purchasing and equipping an ambulance, including the payment of all other costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Select Board, is authorized to borrow said amount under and pursuant to M.G.L. c. 44, §7(1), or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor. Any premium received by the Town upon the sale of any bonds or notes approved by this vote, or pursuant to any other vote of the Town heretofore adopted, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with M.G.L. c. 44, §20, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount. The total amount authorized to be borrowed by this vote shall be reduced to the extent of any grants received by the Town on account of this project.

Requested by the Select Board

ARTICLE 9. WATER TRANSMISSION MAIN IMPROVEMENTS

To see if the Town will appropriate \$575,000, or any other amount, to pay costs of water line replacement, including the payment of all other costs incidental and related thereto; to determine whether this amount shall be raised by taxation, transfer from available funds, borrowing or otherwise, or to take any other action relative thereto.

Motion: That the sum of \$575,000 is appropriated to pay costs of water line replacement, including the payment of all other costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Select Board, is authorized to borrow said amount under and pursuant to M.G.L. c. 44, §8(5), or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor. Any premium received by the Town upon the sale of any bonds or notes approved by this vote, or pursuant to any other vote of the Town heretofore adopted, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with M.G.L. c. 44, §20, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount. The total amount authorized to be borrowed by this vote shall be reduced to the extent of any grants received by the Town on account of this project.

Requested by the Water Commissioners

ARTICLE 10. ANNUAL BUDGET

To see if the Town will vote to fix the compensation of elected officers and town employee salaries where stipulated, provide for a reserve fund, provide a sum of money for Capital Outlay for the following Town Departments: Cable Ch. 15, Computer, Police, Fire, Lake Management, Accounting Office, Planning Board, Library, Cemetery Commission, Park and Recreation Commission, Town Hall, Public Safety Buildings and DPW (various Divisions) and determine the sum of money the Town will raise and appropriate including appropriations from available funds to defray charges and expenses of the Town including debt and interest for the ensuing FY22 (July 1, 2021 to June 30, 2022) or to take any other action relative thereon.

Requested by the Finance Committee

ARTICLE 11. DEPARTMENTAL REVOLVING FUND ANNUAL SPENDING LIMIT AUTHORIZATION

To see if the Town will vote to fix the maximum amount that may be spent during fiscal year 2022 beginning on July 1, 2021 for the revolving funds established in Chapter 25 of the Code of the Town of Southwick for certain departments, boards, committees, agencies or officers in accordance with M.G.L. c. 44, §53E1/2, or take any other action relative thereto.

MOTION: Moved that the Town fix the maximum amount that may be spent during fiscal year 2022 beginning on July 1, 2021 for the revolving funds established in Chapter 25 of the Code of the Town of Southwick for certain departments, boards, committees, agencies or officers in accordance with M.G.L. c. 44, §53E1/2 as follows:

Revolving Fund	Department, Board, Committee, Agency or Officer	Limit on Spending
Inspector's Revolving	Inspectors	\$40,000
HAZ-MAT Revolving	Police & Fire	\$40,000
Boat Ramp Revolving	Lake Mgmt	\$50,000
Police Chief Lake Revolving	Police	\$20,000
Local Lake Permitting Revolving	Police & Conservation	\$40,000
Custodial Service Fund	Maintenance Dept.	\$5,000
COA Revolving Fund	COA	\$10,000
COA Classes Revolving Fund	COA	\$10,000
Sidewalk Revolving	DPW	\$80,000
COA House Numbering Program Revolving Fund	COA	\$10,000
Local Wetland Application	Conservation Commission	\$50,000

Requested by the Select Board

ARTICLE 12. COMMUNITY PRESERVATION ANNUAL BUDGET

To act on the report of the Community Preservation Committee on the Fiscal Year 2022 Community Preservation Budget and to set up a budgeted reserve for later appropriation of monies from the Community Preservation Fund annual revenues or available funds for the undertaking of Community Preservation Projects and all other necessary and proper expenses for the year. Pursuant to Massachusetts General Laws, Chapter 44B from the estimated FY 2022 Community Preservation Fund, appropriation to be set aside as follows.

MOTION: To see if the town will vote to set up a budgeted reserve from the Community Preservation Fund annual revenues the amounts recommended by the Community Preservation in Fiscal Year 2022 with each item to be considered a separate reserve.

Proposed Fiscal Year 2022 Community Preservation Reserves

- ♦ To reserve \$46,943 from FY2022 Community Preservation Fund revenues for Open Space.
- ♦ To reserve \$46,943 from FY2022 Community Preservation Fund revenues for Historic Resources.
- ♦ To reserve \$46,943 from FY2022 Community Preservation Fund revenues for Community Housing.
- ♦ To reserve \$328,600 from FY2022 Community Preservation Fund revenues for Community Preservation General Unreserved Fund.

Reserves	
Open Space.....	\$46,943
Historic Resources.....	\$46,943
Community Housing.....	\$46,943
General unreserved.....	\$328,600
Total.....	\$469,429

Estimated FY2021 revenues = State match to be received on or about 10/15/21	\$115,265
+ estimated new surcharge collections for FY2021	<u>\$354,164</u>
Total	\$469,429

State match = FY2021 CPA commitments minus abatements
 Estimated new surcharge collections for FY2022 = FY2021 collections
 10% of estimated FY2022 revenues equal the amount reserved for each CPA purpose, Historical, Open Space and Community Housing, as required by law.
 70% of estimated FY2022 revenues equal the amount reserved for the Community Preservation General Unreserved Fund

Requested by the Community Preservation Committee

ARTICLE 13. COMMUNITY PRESERVATION COMMITTEE – ADMINISTRATIVE AND OPERATING EXPENSES

To act on the report of the Community Preservation Committee on the Fiscal Year 2022 Community Preservation Budget and appropriate 5% (\$16,430.00) of the monies from the Community Preservation General Unreserved Fund for the administrative and operating expenses of the Community Preservation Committee, or take any other action relative thereto.

MOTION: To see if the Town will vote to appropriate from the Community Preservation General Unreserved Fund \$16,430.00 as recommended by the Community Preservation Committee.

Requested by the Community Preservation Committee

ARTICLE 14. COMMUNITY PRESERVATION COMMITTEE – TRAILS GRANT

To see if the Town will vote to appropriate and transfer the sum of \$15,000.00 from the Community Preservation Act Open Space Fund to the Southwick Conservation Commission in order rehabilitate and improve trails, procure and install wayfinding and interpretive signage, and stabilize eroded areas on the North Pond Conservation Area. The actual amount requested will be contingent on the approval of a Division of Conservation Resources TRAILS Grant but shall not exceed \$15,000.00 total. The North Pond Conservation Area is located at 49 South Longyard Road. Assessors Map 099 Parcel 038.

MOTION:

To see if the Town will vote to appropriate and transfer the sum of \$15,000.00 from the Community Preservation Act Open Space Fund to the Southwick Conservation Commission in order rehabilitate and improve trails, procure and install wayfinding and interpretive signage, and stabilize eroded areas on the North Pond Conservation Area. The actual amount requested will be contingent on the approval of a DCR TRAILS Grant but shall not exceed \$15,000.00 total. The North Pond Conservation Area is located at 49 South Longyard Road. Assessors Map 099 Parcel 038.

Requested by the Community Preservation Committee
& Southwick Conservation Commission

ARTICLE 15. COMMUNITY PRESERVATION COMMITTEE – HOUSING PLAN

To see if the Town will vote to appropriate and transfer the sum of \$25,000.00 from the Community Preservation Community Housing Reserve Fund to the Planning Board for the preparation of a Housing Plan for the Town of Southwick or take any other action relative thereto.

MOTION:

Move that the Town appropriate and transfer the sum of \$25,000.00 from the Community Preservation Community Housing Reserve Fund to the Planning Board for the preparation of a Housing Plan for the Town of Southwick.

Requested by the Community Preservation
Committee and the Planning

ARTICLE 16. COMMUNITY PRESERVATION COMMITTEE – OLD LIBRARY

To see if the Town will vote to appropriate and transfer the sum of \$27,607.00 from the Community Preservation Historical Fund to the B. Charles Real Estate Holding Company towards restoring and rehabilitating eleven (11) stained glass windows of the Old Town Library Building. The building is located on 475 College Highway Southwick Assessors Map 089, Parcel 002. Recorded at the Hampden County Registry of Deeds Book 22992, Page 259, or take any other action relative thereto.

MOTION:

To see if the Town will vote to appropriate and transfer the sum of \$27,607.00 from the Community Preservation Historical Fund to the B. Charles Real Estate Holding Company towards restoring and rehabilitating eleven (11) stained glass windows of the Old Town Library Building. The building is located on 475 College Highway Southwick Assessors Map 089, Parcel 002. Recorded at the Hampden County Registry of Deeds Book 22992, Page 259, or take any other action relative thereto.

Requested by the Community Preservation Committee
& Historical Commission

ARTICLE 17. COMMUNITY PRESERVATION COMMITTEE – OLD FIRE STATION

To see if the Town will vote to appropriate and transfer the sum of \$5,000.00 from the Community Preservation Historical Fund to the Town of Southwick towards an assessment to determine the future course of action to preserve and restore the slate roof and cupola on the old Fire Station, currently the Police Station. Located on 11 Depot Street, Map 088 Parcel 001. Recorded at the Hampden County Registry of Deeds Book 2283, Page 0461, or take any other action relative thereto.

MOTION:

To see if the Town will vote to appropriate and transfer the sum of \$5,000.00 from the Community Preservation Historical Fund to the Town of Southwick towards an assessment to determine the future course of action to preserve and restore the slate roof and cupola on the old Fire Station, currently the Police Station. Located on 11 Depot Street, Map 088 Parcel 001. Recorded at the Hampden County Registry of Deeds Book 2283, Page 0461, or take any other action relative thereto.

Requested by the Community Preservation Committee
Select Board & Historical Commission

ARTICLE 18. ALUM TREATMENT DEBT SERVICE

To see if the Town will vote to appropriate the sum of \$75,592 from Community Preservation General Unreserved Fund, for the purpose of making the 2nd interest and principal payment on the \$600,000 bond issued for the Alum Treatment of the Congamond Lake.

Motion: For the Town vote to appropriate the sum of \$75,592 from the Community Preservation General Unreserved Fund, for the purpose of making the 2nd interest & principal payment on the \$600,000 bond for the Alum Treatment of the Congamond Lake.

Requested by Community Preservation Committee &
Select Board

ARTICLE 19. REGIONAL SCHOOL DISTRICT BUDGET

To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$11,482,631.00 for the Southwick-Tolland-Granville Regional School District assessment for Fiscal Year 2022 commencing July 1, 2021 and ending on June 30, 2022, or take any other action thereon.

Requested by the Southwick-Tolland-Granville
Regional School District

ARTICLE 20. REGIONAL SCHOOL DISTRICT – DEBT AUTHORIZATION

To see if the Town of Southwick will vote not to disapprove certain additional debt authorized by the Southwick-Tolland-Granville Regional School Committee under a vote dated March 30, 2021, which reads as follows:

“Voted: approve the authorization to incur debt by the issuance and sale of bonds or notes up to the amount of \$385,000.00 for the purchase of all items specified in the STGRSD FY2022 Capital Improvement Plan, as follows:

Technology	\$100,000.00
• Phase II of upgrade of fiber optic network (net of E-Rate funding), replace network switches, and replace configuration server.	
Building Improvements	\$80,000.00
• Install supplemental heating in main entry vestibule at Southwick Regional School - \$30,000.00	
• Gymnasium renovations at Southwick Regional School to include gym floor, seating replacement and audio control system - \$50,000.00	
Grounds Equipment	\$20,000.00
• Field maintenance equipment package	
Grounds Improvements	\$185,000.00
• Replace main entry concrete and sidewalks at Woodland School (supplements amount approved for FY21) - \$35,000.00	
• Install new paving at Powder Mill Road parking lot - \$150,000.00	

Requested by the Southwick-Tolland-Granville
Regional School District

ARTICLE 21. ACCEPTANCE OF EASEMENT

To see if the Town of Southwick will vote to take the following easements shown on a plan entitled “) “Shady Pines Definitive Subdivision Plan Southwick, Massachusetts for Raymond P. Brzoska, Tannery Road, Southwick, Massachusetts Date August 3, 1988...D.L. Bean Inc...” recorded in the Hampden County Registry of Deeds in Book of Plans 264, Page 7 by eminent domain pursuant to Massachusetts General Laws Chapter 79 et seq., and Massachusetts General Laws Chapter 83 et seq. and any other enabling authority a 30 foot Drain Easement for stormwater drainage across Lots 1, 2, and 3 shown as “30’

Wide Drain Easement" and Perpetual Right to Drain In Favor of the Town of Southwick on said plan; or to take any other action relative thereto.

Requested by the Department of Public Works and
Select Board

ARTICLE 22. ACCEPTANCE OF TOWN WAY

To see if the Town of Southwick will vote to accept as a Town way, Revere Road as shown on the plans entitled (1) "Shady Pines Definitive Subdivision Plan Southwick, Massachusetts for Raymond P. Brzoska, Tannery Road, Southwick, Massachusetts Date August 3, 1988...D.L. Bean Inc..." recorded in the Hampden County Registry of Deeds in Book of Plans 264, Page 7; and (2) "Cedar Ridge Estates Plan of Land In The Town Of Southwick, Mass. Owned by Tannery Road Realty Trust Durkee, White, Towne and Chapdelaine Civil Engineers and Surveyors...Dec. 27, 1968...recorded in the Hampden County Registry of Deeds in Book of Plans 121 Page 50" which plans are on file in the Town Clerk's office and the Office of the Department of Public Works of the Town of Southwick and to see if the Town will further vote to authorize the Board of Select Board to take by eminent domain pursuant to Massachusetts General Laws Chapter 79 et seq., Massachusetts General Laws Chapter 83 et seq., and any other enabling authority an easement in such way, to use said way for all purposes for which public ways are used in the Town of Southwick or to take any other action relative thereto.

Requested by the Department of Public Works and
Select Board

ARTICLE 23. EASEMENTS/TAKINGS

To see if the Town will vote to authorize the expenditure of funds by the Select Board to take such easements for Stormwater Drainage Easements relative to stormwater drainage from Revere Road listed in Article 22 of this Town Meeting Warrant related to Revere Road by eminent domain including but not limited to completing any appraisals required under Massachusetts General Laws Chapter 79, payment of damages to abutters on account of such taking, payment of legal fees, costs of service or mailing and costs of recording any takings or plans and costs of any other notices or publication required to accomplish such taking and accepting such easements and for the costs and expenses for obtaining a survey, setting right-of-way boundaries and developing drainage easements of Revere Road within the Town of Southwick, including all costs incidental and related thereto not to exceed \$20,000.00 or to take any other action relating thereto.

Requested by the Department of Public Works and
Select Board

ARTICLE 24. APPROPRIATION FOR APPRAISALS FOR TAKINGS AND COSTS ASSOCIATED THEREWITH, ETC.

To see if the Town will vote to authorize the expenditure of funds by the Select Board to take such easement in Revere Road by eminent domain including but not limited to completing any appraisals required under Massachusetts General Laws Chapter 79, payment of damages to abutters on account of such taking, payment of legal fees, costs of service or mailing and costs of recording any takings or plans and costs of any other notices or publication required to accomplish such taking and accepting Revere Road as a public way not to exceed \$25,000.00 or to take any other action relating thereto.

Requested by the Department of Public Works and
Select Board

ARTICLE 25. PLANNING BOARD – EMPLOYMENT OF OUTSIDE CONSULTANTS

To see if the Town will vote to amend the Code of the Town of Southwick and add a new Chapter 190 entitled "Employment of Outside Consultants" Bylaw for the employment of outside consultants to be used by the Town of Southwick, Planning Board; and further to authorize now substantial changes to the lettering and numbering of the code of the Town of Southwick to be consistent with Code of the Town of Southwick.

**Chapter 190
Employment of Outside Consultants Bylaw**

§190-1

- A. In accordance with M.G.L. Chapter 44, Section 53G, the Planning Board is authorized to retain, by a super majority, such registered professional engineers, planners, architects, designers, attorneys, or other professional consultants as may be necessary in the Planning Board's opinion to review and advise the Board on any or all aspects of applications submitted under Chapter 185 of the Code of the Town of Southwick. Such assistance may include, but not be limited to, analyzing and application, monitoring or inspecting a project or site for compliance with bylaws and regulations or inspecting a project during construction or implementation.
- B. The applicant shall be responsible for the reasonable costs incurred by the Board for the employment of outside consultant(s) engaged by the Board to assist in the review of a proposed project. The Planning Board may require that applicants deposit funds for such review with the Town Treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Board without further appropriation. Expenditures from this special account shall be made only for services rendered in connection with a specific project or projects for which funds have been or will be collected from the applicant. Accrued interest may also be spent for this purpose. Failure to provide such funds or to pay costs of such a professional review when due shall be good grounds for denial of an application.
- C. At the completion of the Board's review of a project, any excess amount in the account, including interest, attributable to a specific project shall be repaid to the applicant or the applicant's successor in interest. A final report of said account shall be made available to the applicant or applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.
- D. Any applicant may make an administrative appeal of the selection of the outside consultant to the Select Board. Such appeal must be made in writing and may be made only within 20 days after the Planning Board has mailed or hand-delivered notice to the applicant of the selection. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field. The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Select Board within one month following the filing of the appeal, the selection made by the Board shall stand.

Requested by the Planning Board

ARTICLE 26. PLANNING BOARD – GRANDFATHER TERM

To see if the Town will vote to amend the Code of the Town of Southwick, to remove the defined term "Grandfathered" from Chapter 185-36.1(C) and further to authorize non substantive changes to the lettering and numbering of the Code of the Town of Southwick to be consistent with Code of the Town of Southwick.

Requested by the Planning Board

ARTICLE 27. ZONING BYLAW AMENDMENT – SIGN BYLAW

To see if the Town will vote to amend the Zoning Bylaws, §185-29 of the Code of the Town of Southwick as follows and further that non-substantive changes to the numbering and lettering of the Code of the Town of Southwick be authorized to be consistent with the Code of the Town of Southwick:

Add the following definitions to §185-29(C) – Definitions

AGRICULTURAL RETAIL USE

An on-premise retail outlet for Agricultural Use commodities that is subordinate to the primary Agricultural Use and designed to bring the public to the premise for the purchase of any Agricultural Use commodities, including, but not limited to, agricultural, horticultural, floricultural and/or viticultural products,

baked goods, ice cream and ice cream-based desserts and beverages, jams, honey, and other items promoting Agricultural Uses.

AGRICULTURAL USE

Same definition as contained in Section 140-2 of the Town of Southwick Bylaws for "agriculture."

RECREATIONAL USE

Any use contained in Section 185-34(F) of the Town of Southwick Bylaws for "commercial recreation," whether operated by a licensed commercial recreation business pursuant to a special permit under Section 185-34 of the Town of Southwick Bylaws, or by the Town of Southwick.

Delete the existing §185-29(J)(7)(c)

Delete the existing §185-29(K)(4) and replace it with the following:

K. Regulations based on sign type.

(4) Electronic variable message signs.

- (a) **Display time:** Each message displayed on an electronic variable message sign must be static or depicted for a minimum of 15 seconds. Also, unless an establishment is open to the public, the message displayed on an electronic variable message sign shall be static between the hours of 12:00 midnight and 6:00 a.m., except for signs used to display the time and temperature.
- (b) **Brightness and color:** All electronic variable message signs shall be constructed with a light detector/photocell by which the sign's brightness can be dimmed when ambient light conditions change. The brightness, measured in foot candles, can be no higher than 0.3 foot candles above the ambient light level as measured by a light meter held at a height of five feet above ground level and at a distance similar to the sign-to-viewer distance. All electronic variable message signs must not display light of such intensity, brilliance or color so as to cause glare or otherwise impair the vision of a motor vehicle driver.
- (c) **Sign area:** When an electronic variable message sign is a portion of a free standing or wall sign, the total square footage of the combined signage shall not exceed the maximum area permitted for a free standing or wall sign. The electronic variable message portion of the sign face shall not be the uppermost element, but shall instead be located in the bottom half of the sign face.
- (d) **Effects:** Any message shall not grow, melt, X-ray, scroll, write on, travel, inverse, roll, twinkle, snow, rotate, flash, blink, move, spin, wave, shake or present pictorials or other animation and/or intermittent illumination.

Amend §185-29 - Table 6 regarding Electronic Variable Message Signs by deleting the existing table as it relates thereto and replacing it with the following:

Table 6. SIGNAGE ALLOWANCES BASED ON ZONE, DISTRICT OR USE								
Zone, District or Use								
Sign Type	Standard	Residential Zones AC District	Business and Industrial Zones Fronting on Streets Other Than College Highway	Business and Industrial Zones Fronting on College Highway	Gasoline Filling Stations	Institutional Uses	Agricultural Retail Uses Fronting on College Highway or Feeding Hills Road	
ELECTRONIC VARIABLE MESSAGE SIGNS	Permit Required	Allowed if permitted based on use and complies with allowances for such use	Yes, unless permitted as a portion of a Free Standing or Wall Sign					
	Number of Signs	Allowed if permitted based on use and complies with allowances for such use	1 per lot or portion of a Free Standing or Wall Sign					
	Maximum Area	Allowed if permitted based on use and complies with allowances for such use	20 sq. ft. that is included in the maximum total sign area and shall not exceed 40% of a Free Standing or Wall Sign					
	Maximum Height	Allowed if permitted based on use and complies with allowances for such use	10 feet from grade					

Or take any other action relative thereto.

ARTICLE 28. ZONING BYLAW AMENDMENT – Solar Energy

To see if the Town will vote to amend the Zoning Bylaws of the Code of the Town of Southwick §185-23.2, as follows, and further that non-substantive changes to the numbering and lettering of the Code of the Town of Southwick be authorized to be consistent with the Code of the Town of Southwick:

Deletions shown with double strikethrough: ~~DELETION~~
 Additions shown as bolded and underlined: **ADDITION**

C. Location. Small scale and large scale, ground mounted, photovoltaic systems shall be allowed in the districts identified in the table below:

**Table 1
 Solar Energy
 Town of Southwick Table of Principal Uses**

Land Use Clarification	Standards & Conditions	ZONE			
		AC	R40 R20 R-20A R-20B	B BR	I IR
Small Scale Ground Mounted Photovoltaic Systems	Consolidated less than 1,000 sq.ft.	Site Plan Review	Site Plan Review	Site Plan Review	Site Plan Review
Large Scale Ground Mounted Photovoltaic Systems	Consolidated less than 1,000 sq.ft. or greater	Not Allowed	Not Allowed <u>Special Permit & Site Plan Approval **</u>	Special Permit & Site Plan Approval	Special Permit & Site Plan Approval

**** On a minimum of 20 acres**

G. Design standards.

- (1) Dimensional and density requirements. All construction of small scale and large scale, ground mounted, photovoltaic systems and the appurtenant structures shall comply with the yard space and height requirements of the zoning districts in which the system is located as per 185 Attachment 3 - Height, Area and Yard Requirements Chart, Town of Southwick, **unless a more restrictive requirement is contained in this Bylaw.** In cases where the parcel **is in a residential zone, or** abuts agricultural zones, residential

zones, park land, or conservation land, the setback shall be a minimum of 150 feet unless waived by the Planning Board.

- (2) Lighting. Lighting of the large scale, ground mounted, photovoltaic systems and any appurtenant structure be directed downward and inwards and shall incorporate full cut off fixtures to reduce light pollution. Lighting shall be limited to that which is required for safety and operational purposes and shall be shielded from abutting properties.
- (3) Signage. For large scale, ground mounted, photovoltaic systems an Identification sign shall be no larger than two feet by two feet, shall identify the owner and provide a 24 hour emergency contact phone number. The sign shall be made visible from a right of way where the property has frontage. Large scale, ground mounted, photovoltaic systems shall not be used for displaying any advertising except for identification of the manufacturer or operator of the system. All signs require a building permit and will comply with the signage provisions in Southwick's Zoning bylaw.
- (4) Utility connections. For large scale, ground mounted, photovoltaic systems, reasonable efforts, as determined by the Planning Board, shall be made to place all utilities connections from the large scale, ground mounted, photovoltaic systems installation underground, depending on appropriate soil conditions, shape and topography of the site, and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
- (5) **Visibility. In any residential zone, a large scale, ground mounted, photovoltaic system shall be designed and sited on the property in such a way as to prevent its visibility from all other properties, sidewalks and roadways at any time of year, including dense vegetation and trees in any setbacks (with the sole exception of an access road to the system).**

H. Safety and environmental standards.

- (1) Emergency services. The large scale, ground mounted, photovoltaic systems' owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to local Fire Chief or the Chief's designee. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the large scale, ground mounted, photovoltaic systems' shall be clearly marked.
- (2) Land clearing, soil erosion and habitat impact. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation, and maintenance of the small scale **and/or** large scale, ground mounted, photovoltaic systems ~~and shall be installed on surfaces, as approved by the Planning Board during the site plan review.~~ **Existing root structures and topsoil shall be maintained to the maximum extent possible. Where removal of naturally occurring vegetation such as trees and shrubs is planned, the owner of the small scale and/or large scale, ground mounted, photovoltaic systems must demonstrate that the removal of this vegetation is necessary, and its presence adversely affects the performance and operation of the solar installation.**
- (3) Landscaping and landscape buffer strip. **Except when Section 185-23.2(G)(5) shall apply, the small scale and/or large scale, ground mounted, photovoltaic systems shall be designed and sited to minimize its visibility, including preserving natural vegetation to the maximum extent possible, blending in equipment with the surroundings, adding vegetative buffers to provide an effective visual barrier from adjacent roads and driveways, and from abutting dwellings.** A landscaped buffer strip is intended to provide, within five years of installation, a visual barrier between the large scale, ground mounted, photovoltaic systems and neighboring properties. Except for vehicular and pedestrian passways and permitted signs, these areas shall be used only for an interplanting of deciduous or evergreen trees, shrubs and other vegetative ground cover that can be appropriately create a visual barrier.
The buffer must provide landscaping coverage as required by the Planning Board. Where considered appropriate in the judgment of the Planning Board walls and fences may be used in addition to or in lieu of planting.

All structures (including appurtenant structures) shall have a landscape plan. Vegetation screening shall reach a mature form to effectively screen the installation within five years of installation.

A planting plan showing the types, sizes and locations of material to be used shall be subject to the approval of the Planning Board.

The Planning Board may waive the requirements of the visual barrier **(but not Section 185-23.2(G)(5))** when it is deemed advisable.

I. Waivers.

- (1) **Except when prohibited herein,** the Planning Board may waive strict compliance with any requirement of this bylaw, or rules and regulations promulgated hereunder, where:
- (a) Such action is allowed by federal, state and local statutes and/or regulations;
 - (b) Is in the public interest; **and**
 - (c) Is not inconsistent with the purpose and intent of this bylaw.

Requested by the Planning Board

ARTICLE 29. STORMWATER BYLAW

To see if the Town will vote to amend the Zoning Bylaws of the Code of the Town of Southwick by deleting the existing Chapter 185, Section 36.1 entitled "Erosion and Sediment Control for Stormwater Management" and add a new general bylaw Chapter 183 entitled "Stormwater Management and Erosion and Sediment Control" to the Code of the Town of Southwick as follows; and further that non-substantive changes to the lettering and number of the Code of the Town of Southwick be authorized to be consistent with the Code of the Town of Southwick:

Chapter 183 Stormwater Management and Erosion and Sediment Control

A. Purpose.

(1) The purpose of this bylaw is to better manage land development and redevelopment in order to protect, maintain, and enhance the public health, safety, and general welfare of the citizens of Southwick by establishing minimum requirements and procedures to control the adverse impacts associated with stormwater runoff, and to promote adherence to permit filing requirements for the U.S. Environmental Protection Agency (EPA) mandated National Pollutant Discharge Elimination System (NPDES) Phase II Program.

(2) The proper management of stormwater runoff will meet the following objectives:

- (a) Reduce the adverse water quality impacts of stormwater discharges to rivers, lakes, reservoirs, streams, and other bodies of water or wetlands in order to meet or exceed federal water quality standards;
- (b) Prevent the discharge of pollutants, including hazardous chemicals, into stormwater runoff;
- (c) Minimize the volume and rate of stormwater which is discharged to rivers, streams, reservoirs, lakes, and storm sewers that flows from any site during and following development or redevelopment;
- (d) Prevent erosion and sedimentation from land development or redevelopment, and reduce stream channel erosion caused by increased runoff;
- (e) Provide for the non-polluted recharge of groundwater aquifers and maintain the base flow of streams;
- (f) Provide stormwater facilities that are attractive, maintain the natural integrity of the environment, and are designed to protect public safety;

- (g) Maintain or reduce pre-development runoff characteristics after development to the extent feasible;
- (h) Minimize damage to public and private property from flooding; and
- (i) Ensure that these management controls are properly maintained.

B. Authority. The Planning Board shall administer and implement this bylaw. Enforcement will be by the Director of the Department of Public Works. Any powers granted to or duties imposed upon the Planning Board may be delegated in writing by the Planning Board to its employees or agents, or to the Director of the Department of Public Works or the Conservation Commission after review by the Select Board.

C. Definitions. Unless otherwise expressly stated, the following definitions describe the meaning of the terms used in this bylaw:

ADVERSE IMPACT

Any deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

AGRICULTURAL ACTIVITY

Same definition as definition in Chapter 140 of the Southwick Code Right to Farm bylaw.

AUTHORIZED ADMINISTRATIVE AGENCY

The Planning Board, its employees or its agents designated to administer this bylaw.

AUTHORIZED ENFORCEMENT AUTHORITY

The Director of the Department of Public Works.

BEST MANAGEMENT PRACTICES (BMP)

The best technologies currently available at that point in time. These include, but are not limited to, structural or biological devices that temporarily store or treat stormwater runoff to reduce flooding, remove pollutants, and provide other amenities. They can also be non-structural practices that reduce pollutants at their source. Some examples of BMPs are described in the stormwater design manual: Massachusetts Stormwater Management Handbook, Volume 2, Chapter 2: Stormwater Best Management Practices (February 2008, Mass. Department of Environmental Protection, as updated or amended).

CONSTRUCTION ACTIVITY

The disturbance of the ground by removal of vegetative surface cover or topsoil, grading, excavation, clearing or filling.

DETENTION

The temporary storage of storm runoff which is used to control the Peak Discharge rates, and which provides gravity settling of pollutants.

DISTURBANCE

Any land clearing, grading, bulldozing, digging or similar activities.

DRAINAGE AREA

An area contributing runoff to a consolidated flow of water as measured in a horizontal plane.

EASEMENT

A grant or reservation by the owner of land for the use of such land by others for a specific purpose or purposes, and which must be included in the conveyance of land affected by such easement.

HYDROLOGY MODEL

Methodology used to determine quantity and circulation of surface and subsurface water at and near a particular site and determined by the Southwick Conservation Commission to be the best available current technology.

IMPERVIOUS SURFACES

Any areas, such as pavement or rooftops, which prevent the infiltration of water into the soil.

INFILTRATION

The downward movement of water from the surface to the subsoil.

INFILTRATION TRENCH

A stormwater management excavation filled with stone rip rap which removes both soluble and particulate pollutants. Infiltration Trenches are not intended to trap coarse sediments.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)

As authorized by the Clean Water Act, is a permit program that controls water pollution by regulating point sources that discharge pollutants into waters of the United States.

NEW DEVELOPMENT

Any construction activities or land alteration resulting in total earth disturbances equal to or greater than 1 acre (or activities that are part of a larger common plan of development disturbing greater than 1 acre) on an area that has not previously been developed to include impervious cover.

NRCS

The United States Department of Agriculture Natural Resources Conservation Service (formerly the Soil Conservation Service).

OUTFALL

The terminus of a storm drain or other stormwater structure where the contents are released.

PEAK DISCHARGE

The maximum instantaneous rate of flow during a storm, usually in reference to a specific design storm event.

PERMEABLE SOILS

Soil materials with a sufficiently rapid infiltration rate so as to greatly reduce or eliminate surface and stormwater runoff. These soils are generally classified as NRCS hydrologic soil types A and B.

PERSON

Any individual, group of individuals, association, partnership, corporation, company, business, organization, trust, estate, administrative agency, public or quasi-public corporation or body, the Commonwealth or political subdivision thereof.

POST CONSTRUCTION IMPERVIOUS SURFACE AREA

The final impervious cover on the portion of the property where construction activities have occurred.

REDEVELOPMENT

Any construction, land alteration, or improvement of impervious surfaces resulting in total earth disturbances equal to or greater than 1 acre (or activities that are part of a larger common plan of development disturbing greater than 1 acre) that does not meet the definition of new development (see above).

RETENTION

The holding of runoff in a basin without release except by means of evaporation, infiltration, or emergency bypass.

SITE

The area extent of construction activities, including but not limited to the creation of new impervious cover and improvement of existing impervious cover (excluding redevelopment activities that are exclusively limited to maintenance and improvement of existing roadways as described under the "Redevelopment" definition above.

START OF CONSTRUCTION

The first land-disturbing activity associated with a new development or redevelopment, including land preparation such as: clearing, grading and filling; installation of streets and walkways; excavation for basements, footings, piers or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

SWALE

A depression or wide shallow ditch used to temporarily store, route, or filter runoff.

D. Applicability.

(1) Prior to the issuance of any Special Permit or site plan approval or development permit for any proposed new development or redevelopment listed below, a Southwick Stormwater Management Permit or a waiver of the requirement for a stormwater management permit from the Town of Southwick must be approved by the Planning Board. Any waiver approval shall be with the concurrence of the Enforcement Agent which will be deemed approved if the enforcement agent fails to respond in writing after receipt of written notice of waiver from the Planning Board within twenty (20) days. No person shall, on or after the effective date of the bylaw, initiate any land clearing, land grading, earth moving or development activities without first complying with this bylaw. The following uses and activities shall be required to submit drainage reports, plans, construction drawings, specifications and as-constructed information in conformance with the requirements of this bylaw:

- (a) Multifamily or single family residential new development or redevelopment that will disturb greater than or equal to one acre;
- (b) Any new commercial, industrial, and institutional structures under the same ownership, which disturb greater than or equal to 1 (one) acre.
- (c) Redevelopment or additions to existing commercial, industrial, and institutional uses which disturb greater than or equal to 1 (one) acre.
- (d) Subdivisions or construction activities of any kind disturbing greater than or equal to one acre; and
- (e) Development or redevelopment involving multiple separate activities in discontinuous locations or on different schedules if the activities are part of a larger common plan of development that all together disturbs one or more acres.
- (f) Widening or other improvements to an existing roadway that increase the amount of impervious area on the redevelopment site by greater than or equal to a single lane width.

(2) The Planning Board, with the prior concurrence of the DPW Director and Conservation Commission, which concurrence will be deemed given if such agencies fail to respond in writing after receipt of written notice of waiver from the Planning Board within twenty (20) days, may issue a waiver of any or all of the requirements of this bylaw for a project that will, in its judgement, generate minimal stormwater, erosion or sedimentation, and will have minimal impact on the municipal stormwater system. The waiver may be rescinded by the Planning Board or its designees upon the recommendation of the DPW Director or Conservation Commission if during construction it is found that construction activities create adverse impacts from stormwater runoff. Except for agricultural uses, the issuance of any waiver may only be granted for sites disturbing less than one acre and do not affect the municipal stormwater system or flow into territorial waters of the United States.

E. Exemptions.

(1) To prevent the adverse impacts of stormwater runoff, the Southwick Planning Board has developed a set of performance standards (described in a separate document titled Southwick Stormwater Regulation Handbook) that must be met at new development and redevelopment sites. These standards apply to construction activities as described under Subsection D(1). The following

activities shall be exempt from these stormwater performance standards and need not file an application for Stormwater Management Permit:

- (a) Any agricultural activity which is consistent with an approved soil conservation plan prepared or approved by the Natural Resources Conservation Service (NRCS);
- (b) Any logging which is consistent with a timber management plan approved under the Forest Cutting Practices Act by Massachusetts Department of Conservation and Recreation;
- (c) Minor additions or modifications to existing structures, which disturb less than one acre of land;
- (d) New developments and redevelopments that do not disturb more than one acre of land, provided that they are not part of a larger common development plan;
- (e) Repairs to any stormwater treatment system deemed necessary by the Southwick Conservation Commission and/or the Department of Public Works
- (f) Redevelopment activities that are exclusively limited to maintenance and improvement of existing roadways, including widening less than a single lane, adding shoulders, correcting substandard intersections, improving existing drainage systems, and repaving projects; and
- (g) Any emergency activity that is immediately necessary for the protection of life, property or the environment, as determined by the Southwick Health Director, Department of Public Works, Conservation Commission, or Building Department.

(2) The language herein is exclusive of what the Federal government will require. The Planning Board or its designee may review the exempt status under this bylaw and require a Southwick Stormwater Management Permit if any of the exempt activities are not in compliance with applicable exemption requirements (i.e. agriculture BMP's, Forest Management Plan) or are found to have a significant impact on the municipal stormwater system, a neighboring property or a receiving water.

F. Southwick Stormwater Regulation

(1) The Southwick Stormwater Regulation is hereby incorporated by reference as part of this bylaw, and shall furnish additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements of this bylaw.

(2) This manual includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. The manual may be updated and expanded from time to time, based on improvements in engineering, science, monitoring and local maintenance experience. Stormwater treatment practices that are designed and constructed in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards. The Planning Board has the sole authority to amend the Southwick Stormwater Regulation under their responsibilities established in Chapter 40A and Chapter 41 of the General Laws of the Commonwealth.

(3) The latest issue of the Southwick Stormwater Management Regulation as published on the date of the application for a permit under this bylaw shall be applied.

G. Permit procedures and requirements.

(1) Approval of stormwater management permit required.

(a) No landowner or land operator shall receive any of the building, grading, or other land development permits required, or commence land disturbance activities as defined in Subsection D and E, without approval of a Stormwater Management Permit and meeting the requirements of this bylaw, and evidence of an approved stormwater permit from the U.S. EPA.

(2) Application requirements.

(a) Application for approval of a Stormwater Management Permit shall include the following:

[1] A stormwater management plan shall be submitted to the Southwick Planning Board for review and approval for any proposed new development or redevelopment specified in Subsection D(1). Three paper copies and one electronic copy of the application and stormwater management plan shall be submitted, and clearly labeled. The plan shall contain supporting computations, drawings, and sufficient information describing the manner, location, and type of measures in which stormwater runoff will be managed during the entire development process. The plan shall serve as the basis for all subsequent construction.

[2] An erosion and sediment control plan as defined in Subsection **G** of this bylaw, which shall contain sufficient information to describe the nature and purpose of the proposed new development or redevelopment.

[3] An Operation and Maintenance Plan for post-construction management of stormwater control facilities that meets Standard 9 of DEP's Stormwater Policy.

[4] A non-refundable permit review fee of two-hundred fifty dollars (\$250.00).

[5] An additional fee of \$100 per construction site shall be paid upon application for a building permit for on-site stormwater management inspections during and after construction.

(b) Any waiver request from the requirements contained herein shall be submitted to, and may be granted, by the Southwick Planning Board with the prior written notice and concurrence of the DPW Director and Conservation Commission. Such concurrence will be deemed given if such agencies fail to respond in writing after twenty (20) days after receiving notice of waiver request from the Planning Board.

(3) Procedures for Review and Approval of Stormwater Permits.

(a) The procedures for review and approval of stormwater management plans shall be consistent with the Special Permit approval process, as appropriate to the use as further described herein, except that approval shall be by vote of a majority of the Planning Board members present at a meeting at which a quorum is present.

(b) The plan shall be circulated to the Conservation Commission and Department of Public Works to determine compliance with the requirements of this bylaw prior to approval. Said bodies shall submit written comments and recommendations to the Planning Board.

(c) The Planning Board will attempt to make the Stormwater Permit approval process concurrent with any other public hearing or process. The Stormwater Permit approval process shall be concurrent with the Planning Board public hearing process. The Planning Board shall hold a public hearing within sixty five (65) days of the filing of a complete application and take final action within ninety (90) days from the close of the hearing unless such time is extended by agreement between the applicant and the Planning Board. Notice of the public hearing shall be given by publication in a local paper of general circulation, by posting and by first-class mailings to abutters at least fourteen (14) days prior to the hearing.

(4) Criteria for Review of Stormwater Permits.

(a) In addition to other criteria used by the Southwick Planning Board in making permit decisions, for the uses specified in this bylaw, the Department of Public Works must provide a written report that the Stormwater Management Plan submitted with the permit application meets the following criteria:

[1] The Stormwater Management Plan and the Erosion and Sediment Control Plan are consistent with the Purposes and Objectives of this Bylaw in Subsection **A**.

[2] The Stormwater Management Plan meets the Performance Standards described in the Southwick Stormwater Regulation Handbook.

[3] The Erosion and Sediment Control plan must meet the Design Requirements in the Southwick Stormwater Regulation Handbook.

[4] All necessary State and Federal permits, including an EPA Stormwater Permit, have been obtained.

(5) Planning Board Action.

(a) The Planning Board shall render a written decision consisting of either:

[1] Approval of the Stormwater Management Permit Application based upon a determination that the proposed plan meets the purposes in Subsection **A** and the standards in the Southwick Stormwater Regulation Handbook will adequately protect the water resources of the community and is in compliance with the requirements set forth in this bylaw;

[2] Approval of the Stormwater Management Permit Application subject to any conditions, modifications or restrictions required by the Planning Board which will ensure that the project meets the purposes in Subsection **A** and the standards in the Southwick Stormwater Regulation Handbook and adequately protects water resources, set forth in this bylaw; or

[3] Disapproval of the Stormwater Management Permit Application based upon a determination that the proposed plan, as submitted, does not meet the purposes in Subsection **A** and the standards in the Southwick Stormwater Regulation Handbook or adequately protect water resources, as set forth in this bylaw.

(b) Failure of the Planning Board to take final action upon an Application within the time specified above shall not relieve the applicant's responsibility to meet NPDES reporting requirements.

(6) Inspections.

(a) No plan will be approved without adequate provision for inspection of the property before development activity commences. The applicant shall arrange with the Director of the Department of Public Works or other agents designated by the Planning Board through its permitted land use decision on the specific site for scheduling the following inspections:

[1] Initial Inspection: prior to the commencement of work,

[2] Erosion Control Inspections: after site clearing, rough grading and final grading to ensure erosion control practices are in accord with the plan,

[3] Bury Inspection: prior to backfilling of any underground drainage or stormwater conveyance structures, and

[4] Final Inspection: when all work, including construction of stormwater management facilities and landscaping, have been completed.

(b) The Southwick Planning Board or its agents shall inspect the work and either approve it explicitly in writing or notify the applicant in writing in what respects there has been a failure to comply with the requirements of the approved plan within fourteen (14) days of the inspection date. The applicant shall promptly correct any portion of the work which does not comply or the applicant will be subject to the bonding provisions of Subsection **K** or the penalty provisions of Subsection **L**. The Town may conduct random inspections to ensure effective control of erosion and sedimentation during all phases of construction.

(c) The project applicant or designated representative is required to perform self-inspection of the construction site every two weeks and after a rain event of 1/2 inch or more to ensure that construction phase erosion control procedures are effective and in accordance the Southwick Stormwater Permit issued in accordance with this bylaw. Inspection reports must be kept on-site with a copy of the Stormwater Permit for review by Town enforcement authorities at any time.

(7) Right-of-Entry for Inspection.

(a) When any new drainage control facility is installed on private property, or when any new connection is made between private property and a public drainage control system or sanitary sewer, the filing of an application shall be deemed as the property owner's permission to the Southwick Planning Board, Department of Public Works, Building Department, Conservation Commission or their agents for the right to enter the property at reasonable times and in a reasonable manner for the purpose of the inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this bylaw is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this bylaw.

(8) Permit Review Fees.

(a) The fee for review of any Stormwater Permit application shall be \$250 Dollars and submitted to the Town Clerk. All of the monetary contributions shall be credited to an appropriate stormwater revolving account and shall be made prior to scheduling the public hearing. An additional fee of \$100 per construction site shall be paid upon application for a building permit to be used for on-site stormwater management, inspections during and after construction. The revolving account funds will be used to offset direct labor costs associated with permit review and site inspections. Any residual funds may be used for stormwater management infrastructure engineering or improvements.

(b) Engineering and Consultant Review Fees

[1] When reviewing an application for, or when conducting inspections in relation to, subdivision approval, the Board may determine that the assistance of outside consultants is

warranted due to the size, scale or complexity of a proposed project, because of a project's potential impacts, or because the Town lacks the necessary expertise or staff hours to perform the work related to the approval. The Board may require that applicants pay a project review fee consisting of the reasonable costs incurred by the Board for the employment of outside consultants engaged by the Board to assist in the review of a proposed project.

[2] In hiring outside consultants, the Board may engage engineers, planners, lawyers, urban designers or other appropriate professionals who can assist the Board in analyzing a project to ensure compliance with all relevant laws, ordinances/bylaws and regulations. Such assistance may include, but not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decision or regulations or inspecting a project during construction or implementation.

[3] Funds received by the Board pursuant to this section shall be deposited with the municipal treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Board without further appropriation. Expenditures from this special account shall be made only for services rendered in connection with a specific project or projects for which a project review fee has been or will be collected from the applicant. Accrued interest may also be spent for this purpose. Failure of an applicant to pay a review fee shall be grounds for denial of the application.

[4] At the completion of the Board's review of a project, any excess amount in the account, including interest, attributable to a specific project shall be repaid to the applicant or the applicant's successor in interest. A final report of said account shall be made available to the applicant or applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.

[5] Any applicant may take an administrative appeal from the selection of the outside consultant to the Select Board. Such appeal must be made in writing and may be taken only within 20 days after the Planning Board has mailed or hand-delivered notice to the applicant of the selection. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field. The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Select Board within one month following the filing of the appeal, the selection made by the Board shall stand.

H. Stormwater management and erosion control plan.

(1) The application for a Stormwater Management Permit shall consist of submittal of a stormwater management and erosion control plan, prepared by a professional engineer licensed by the Commonwealth of Massachusetts, which meets the design requirements provided by this bylaw.

(2) The plan shall include sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed new development or redevelopment on water resources, and the effectiveness and acceptability of measures proposed for managing stormwater runoff.

(3) The plan must be designed to meet the Massachusetts Stormwater Management Standards as set forth in the Southwick Stormwater Regulation Handbook and the Massachusetts Stormwater Management Handbook as amended from time to time. The applicant shall certify on the drawings that all clearing, grading, drainage, construction, and development shall be conducted in strict accordance with the plan.

(4) The minimum information submitted for support of a stormwater management plan shall be as follows:

- (a)** A locus map;
- (b)** The existing zoning and land use at the site;
- (c)** The proposed land use;
- (d)** The location(s) of existing and proposed easements;
- (e)** The location of existing and proposed utilities;

- (f) The site's existing & proposed topography with contours at minimum 2 foot intervals (must be sufficient to delineate watershed areas);
- (g) The existing and proposed site hydrology and watershed areas;
- (h) A description and delineation of existing stormwater conveyances, impoundments, and wetlands on or adjacent to the site or into which stormwater flows;
- (i) Delineation of one-hundred-year floodplains, if applicable;
- (j) Estimated seasonal high groundwater elevation (November to April) in areas to be used for stormwater retention, detention, or infiltration;
- (k) The existing and proposed vegetation and ground surfaces with runoff coefficient for each;
- (l) A drainage area map showing pre and post construction watershed boundaries, drainage area and stormwater flow paths;
- (m) Locations of stockpiled construction materials including stockpiled soils and any proposed incremental movement of these stockpiles;
- (n) Locations of construction trailers;
- (o) Construction road details and locations;
- (p) Location of other wastes such as discarded building materials, concrete wash out, chemicals, fuel, porta potties, and litter that will be generated and how will they be protected from stormwater; and
- (q) A description and drawings of all components of the proposed drainage system including:
 - [1] Pre-construction Phase:
 - [a] Locations, cross sections, and profiles of all brooks, streams, drainage swales and their method of stabilization; and
 - [b] Timing, schedules, and sequence of development including clearing, stripping, rough grading, construction, final grading, and vegetative stabilization.
 - [2] Construction Phase:
 - [a] All measures for the detention, retention or infiltration of water;
 - [b] All measures for the protection of water quality, including proposed locations of silt fencing and hay bales;
 - [c] Notes on drawings specifying materials to be used, construction specifications, and typicals;
 - [d] A description of construction activities and waste materials expected to be stored on-site, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response consistent with those allowed in zoning district; and
 - [e] A maintenance schedule for the period of construction.
 - [3] Post-Construction Phase:
 - [a] The structural details for all components of the proposed drainage systems and stormwater management facilities;
 - [b] Notes on drawings specifying materials to be used, construction specifications, and typicals;
 - [c] Expected hydrology with supporting calculations; and
 - [d] Proposed improvements including location of buildings or other structures, impervious surfaces, and drainage facilities, if applicable.
- (r) Summary of soil conditions, including soil hydrologic group rating. Soil tests shall be conducted by a Registered Professional Engineer or Massachusetts Soil Evaluator, performed at the location of all proposed LID techniques and BMPs, to identify soil descriptions, depth to estimated seasonal high groundwater, depth to bedrock, and soil texture.
- (s) Flow path for time of concentration (Tc) calculation.
- (t) Calculations:
 - [1] Hydrologic calculation to determine pre and post peak rates and volumes of stormwater runoff for 2, 10, and 100 year 24 hour storm events;
 - [2] Groundwater recharge calculations and BMP drawdown (time to empty);
 - [3] Water quality calculations including (if applicable):
 - [a] TSS, phosphorus, and nitrogen removal calculations for each watershed;
 - [b] Specific BMPs utilized in critical areas;
 - [c] Specific BMPs utilized for land uses of higher potential pollutant loads (LUHPPL); and
 - [d] Specific treatment for pollutant causing impairment of down-gradient waterbody identified by U.S. Environmental Protection Agency and Massachusetts Department of Environmental Protection.

[4] Hydraulic calculations to size drainage pipes, swales and culverts; and

[5] Supplemental calculations for sizing LID and BMPs and addressing impairments to water bodies.

(u) MassDEP Checklist for Stormwater Report completed, stamped and signed by a registered Professional Engineer (PE) licensed in the Commonwealth of Massachusetts to certify that the Stormwater Management Plan is in accordance with the criteria established in the Massachusetts Stormwater Management Standards, Southwick Stormwater Management bylaw, and other applicable rules and regulations.

I. Design requirements for erosion and sediment control plan.

(1) The design requirements of the Erosion and Sediment Control Plan are:

(a) Minimize total area of disturbance;

(b) Sequence activities to minimize simultaneous areas of disturbance;

(c) Minimize peak rate of runoff in accordance with the Southwick Stormwater Regulation Handbook;

(d) Minimize soil erosion and control sedimentation during construction. Prevention of erosion is preferred over sedimentation control;

(e) Divert uncontaminated water around disturbed areas;

(f) Maximize groundwater recharge;

(g) Install, and maintain all Erosion and Sediment Control measures in accordance with the manufacturer's specifications and good engineering practices;

(h) Prevent off-site transport of sediment;

(i) Protect and manage on and off-site material and equipment storage areas (overburden and stockpiles of dirt, borrow areas, or other areas used solely by the permitted project are considered a part of the project);

(j) Comply with all applicable Federal, State and local laws and regulations, including but not limited to, waste disposal, sanitary sewer or septic system regulations, and air quality requirements, including dust control;

(k) Prevent adverse impact from the proposed activities to habitats mapped by the Massachusetts Natural Heritage & Endangered Species Program as Endangered, Threatened or of Special Concern, Estimated Habitats of Rare Wildlife and Certified Vernal Pools, and Priority Habitats of Rare Species;

(l) Institute interim and permanent stabilization measures. The measures shall be instituted on a disturbed area as soon as practicable but no more than 7 days after construction activity has temporarily or permanently ceased on that portion of the site;

(m) Properly manage on-site construction and waste materials; and

(n) Prevent off-site vehicle tracking of sediments.

J. Post Construction Requirements

(1) As-Built Plans

(a) Final As-built plans shall be submitted to the Planning Board no later than two (2) years after completion of construction. Three paper copies and one electronic copy shall be submitted and clearly labeled.

(b)The As-built plans shall depict all site controls, both structural and non-structural, designed and constructed to manage the stormwater associated with the completed site (post construction stormwater management).

(2) Operation, Maintenance and Inspection Agreement.

(a) Prior to issuance of any building permit for which stormwater management is required, the Planning Board shall require the applicant or owner to execute an operation, maintenance and inspection agreement binding on all subsequent owners of land served by the private stormwater management facility. The agreement shall be designed to ensure that water quality standards are met in all seasons and throughout the life of the system. Such agreement shall provide for access to the facility at reasonable times for regular inspections by the Planning Board, Public Works Department, Conservation Commission, Building Department, the Health Agent, or their designated representative and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any provision established. The agreement shall include:

[1] The name(s) of the owner(s) for all components of the system

[2] Maintenance agreements that specify:

[a] the names and addresses of the person(s) responsible for operation and maintenance;

[b] the person(s) responsible for financing maintenance and emergency repairs;

[c] a maintenance and inspection schedule for all drainage structures, including swales and ponds;

[d] Agreement that the person(s) responsible for operation and maintenance will follow this schedule and maintain an operation and maintenance log to include inspections, repairs, replacement and disposal (type of material and disposal location), and that they will submit this log to the Town annually in perpetuity;

[e] Information on how future property owners will be notified of the presence of the stormwater management system and the requirement for proper operation and maintenance;

[f] a plan and list of easements with the purpose and location of each;

[g] the signature(s) of the owner(s); and

[h] title reference for the land or lands in question and reference to recorded plans or plans to be recorded in the Hampden County Registry of Deeds.

[3] Stormwater management easements as necessary for:

[a] access for facility inspections and maintenance;

[b] preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the one-hundred-year storm event; and

[c] direct maintenance access by heavy equipment to structures requiring regular cleanout.

[4] Stormwater management easement requirements.

[a] The purpose of each easement shall be specified in the maintenance agreement signed by the property owner.

[b] Stormwater management easements are required for all areas used for off-site stormwater control, unless a waiver is granted by the Town.

[c] Easements shall be recorded with the Registry of Deeds prior to issuance of a Certificate of Completion.

[5] Changes to Operation and Maintenance Plans.

[a] The owner(s) of the stormwater management system must notify the Planning Board of changes in ownership or assignment of financial responsibility.

[b] The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of this bylaw by mutual agreement of the Planning Board and the Responsible Parties. Amendments must be in writing and signed by all Responsible Parties. Responsible Parties must include owner(s), persons with financial responsibility, and persons with operational responsibility.

(b) Prior to the release of the security and/or granting a certificate of occupancy, this agreement shall be recorded by the applicant and/or owner in the land records of the Registry of Deeds and the Planning Board is provided with evidence of the recording in the Registry of Deeds.

(c) The agreement shall also provide that, if after written notice to owner by the Director of the Department of Public Works or designated representative to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) within thirty days, the Town may perform or contract all necessary work to place the facility in proper working condition. The owner(s) of the facility shall be assessed the cost of the work and any penalties and such costs and penalties shall constitute a municipal lien on the property.

(2) Maintenance Responsibility.

(a) The owner of the property on which work has been done pursuant to this bylaw for private stormwater management facilities, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sediment control measures and other protective devices. Such repairs or restoration and maintenance shall be in accordance with approved plans.

(b) A maintenance schedule shall be developed for any stormwater management facility and shall state the maintenance to be completed, the time period for completion, and who shall be legally responsible to perform the maintenance. This maintenance schedule shall be printed on the stormwater management plan.

(c) Records of installation and maintenance shall be maintained by the property owner. Maintenance logs shall be submitted to the Director of the Public Works Department on an annual basis. This annual submission shall include a written statement whether the work completed over the prior twelve (12) months was in accordance with the Operation and Maintenance Plan. These records shall be stored by the property owner for a minimum of five years.

(d) Failure to maintain any stormwater management facility shall be subject to the enforcement and penalties identified in Subsection **K** herein.

K. Security For Performance.

(1) The Town or its agents shall require from the developer a Security for Performance, or other means of security acceptable to the Town prior to the issuance of any building permit for the construction of all subject uses listed in Subsection **D** requiring a stormwater management facility. The amount of the security shall not be less than the total estimated construction cost of the stormwater management facility computed by the developer and reviewed by the Department of Public Works. The security so required in this section shall include provisions relative to forfeiture for failure to complete work specified in the approved stormwater management plan, compliance with all of the provisions of this bylaw and other applicable laws and regulations, and any time limitations.

(2) The Security shall not be fully released without:

(a) Final inspection and approval of the completed work by the Director of the Department of Public Works and the Conservation Commission;

(b) Submission of "As-built" plans;

(c) Certification of completion by the Planning Board of the stormwater management facilities being in compliance with the approved plan and the provisions of this bylaw; and

(d) Proof that the operations and maintenance inspection agreement has been recorded in land records at the Registry of Deeds.

L. Enforcement and Penalties.

(1) Violations.

- (a) Any new development or redevelopment activity that has commenced or is conducted contrary to this bylaw may be restrained by injunction or otherwise abated in a manner provided by law.
- (2) Notice of Violation.
- (a) When the Authorized Enforcement Authority determines that an activity is not being carried out in accordance with the requirements of this bylaw, it shall issue a written notice of violation to the owner of the property. Failure to maintain proper maintenance and installation records, as detailed in Subsection J, shall constitute a violation of this bylaw.
- (b) The notice of violation shall contain:
- [1] the name and address of the owner applicant;
 - [2] the address when available or the description of the building, structure, or land upon which the violation is occurring;
 - [3] a statement specifying the nature of the violation;
 - [4] a description of the remedial measures necessary to bring the new development or redevelopment activity into compliance with this bylaw and a time schedule for the completion of such remedial action;
 - [5] a statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and
 - [6] a statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen (15) days of service of notice of violation.
- (3) Stop Work Orders.
- (a) Persons receiving a notice of violations may be required to halt all construction activities or correct under the supervision of a designated representative of the Authorized Enforcement Authority. This "stop work order" will be in effect until the Planning Board or agents designated by the Planning Board confirms that the new development or redevelopment activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner can result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this bylaw.
- (4) Non-Criminal Disposition.
- (a) As an alternative to criminal prosecution, the Select Board may elect to utilize the non-criminal disposition procedure set forth in Southwick's Town Bylaws § 1-6 or Massachusetts General Laws Ch.40 Sec. 21D. The Planning Board shall be the enforcing entity. The Planning Board will give the owner or violator written notice of a violation of this Bylaw and a time frame for bringing a project or property into compliance with this Bylaw. However, if such owner or operator fails to bring the project or property into compliance by the date specified with the written notice, then the penalty for the 1st violation shall be \$100 per day; the penalty for the 2nd violation shall be \$200 per day; and the penalty for the 3rd and subsequent violations shall be \$300 per day. Each day or part thereof that such violation occurs or continues shall constitute a separate offense. If action is not taken by the property owner within 30 days, this shall become a civil or criminal penalty.
- (5) Criminal and Civil Penalties.
- (a) Any person who violates any provision of this bylaw, valid regulation, or the terms or conditions in any permit or order prescribed or issued thereunder, shall be subject to a fine not to exceed \$300 for each day such violation occurs or continues or subject to a civil penalty which may be assessed in an action brought on behalf of the Town in any court of competent jurisdiction.
- (6) Restoration of Lands.
- (a) Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Authorized Enforcement Authority may take necessary corrective action, the cost of which shall become a lien upon the property until paid.
- (7) Holds on Occupancy Permits, Licenses or Other Municipal Permits.

(a) Occupancy Permits, Licenses or other Municipal Permits will not be granted until corrections to all stormwater practices have been made and accepted by the Planning Board and the maintenance and inspection agreement has been recorded at the Registry of Deeds.

M. Severability.

(1) The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof.

Or take any other action relative thereto.

A Handout will be available at Town Meeting detailing the changes made to the previously enacted bylaw.

Requested by Planning Board and Public Works Department

ARTICLE 30. STORMWATER BYLAW CHANGES

To see if the Town will vote to amend the Code of the Town of Southwick to amend Chapter 315 § 24(A) "Storm Drainage" as follows, and further that non-substantive changes to the lettering and number of the Code of the Town of Southwick be authorized to be consistent with the Code of the Town of Southwick:

Deletions shown with double strikethrough: ~~DELETION~~

Additions shown as bolded and underlined: **ADDITION**

A. Function and capacity. Storm drains, culverts, ditches and related installations, including catch basins, gutters and manholes, shall be installed as necessary in the Board's opinion, to provide adequate disposal of surface and subsurface water, including control of erosion, flooding and standing water, from or in the subdivision and adjacent land. The drainage system shall be designed ~~by the Rational Method for a storm frequency of 100 years~~ **in accordance with the Southwick Stormwater Regulations as administered by the Planning Board through Chapter 183 Stormwater Management and Erosion and Sediment Control.** The Planning Board may require a less frequent or more intense design storm to be used in any situation which in its judgment requires that a greater degree of protection should be afforded to public or private property, or for portions of the system not economically susceptible to future relief. Subsurface leaching street drains are not allowed.

Requested by the Planning Board and Public Works Department

ARTICLE 31. STRETCH ENERGY CODE

To see if the Town will vote to enact Chapter 186 of the Code of the Town of Southwick General Bylaws, entitled "Stretch Energy Code" for the purpose of regulating the design and construction of buildings for the effective use of energy, pursuant to Appendix 115.AA of the Massachusetts Building Code, 780 CMR, the Stretch Energy Code, including future editions, amendments or modifications thereto, with an effective date of January 1, 2022 a copy of which is on file with the Town Clerk, and further that non-substantive changes to the lettering and number of the Code of the Town of Southwick be authorized to be consistent with the Code of the Town of Southwick or take any other action relative thereto.

**Chapter 186
STRETCH ENERGY CODE**

**§186-1 Definitions
§186-2 Purpose
§186-3 Applicability
§186-4 Stretch Code**

§186-1 Definitions

International Energy Conservation Code (IECC) - The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency, and is updated on a three-year cycle. The baseline energy conservation requirements of the MA State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.

Stretch Energy Code - Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA of the Massachusetts building code, the Stretch Energy Code is an appendix to the Massachusetts building code, based on further amendments to the International Energy Conservation Code (IECC) to improve the energy efficiency of buildings built to this code.

§186-2 Purpose

The purpose of 780 CMR 115.AA is to provide a more energy efficient alternative to the Base Energy Code applicable to the relevant sections of the building code for new buildings.

§ 186-3 Applicability

This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 115.AA, as indicated.

§ 186-4 Stretch Code

The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA, including any future editions, amendments or modifications, is herein incorporated by reference into the Town of Southwick General Bylaws, Chapter 186

The Stretch Code is enforceable by the inspector of buildings or building commissioner and effective as of January 1, 2022.

Requested by the Select Board

ARTICLE 32. CIVIL FINGERPRINTING

To see if the Town will to enact Chapter 63 of the Code of the Town of Southwick – General Bylaws entitled “Civil Fingerprinting Bylaw” as follows and further that non-substantive changes to the lettering and number of the Code of the Town of Southwick be authorized to be consistent with the Code of the Town of Southwick:

Chapter 63 – Civil Fingerprinting

§63-1 - Purpose and Authorization

In order to protect the health, safety, and welfare of the inhabitants of the Town of Southwick (the Town), and as authorized by Chapter 6, Section 172B½ of the Massachusetts General Laws, this Chapter 63 shall require (a) applicants for a license for an occupation listed in Section 2 below to submit to fingerprinting by the Southwick Police Department (the Police Department), (b) the Police Department to arrange for the conduct of fingerprint-based criminal record background checks, and (c) the Town to consider the results of such background checks in determining whether or not to grant such a license.

The Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Systems (DCJIS), and the Federal Bureau of Investigation (FBI), and their successor entities, as may be applicable, are hereby authorized to conduct on behalf of the Town and the Police Department fingerprint-based state and national criminal history records checks, including of FBI records, consistent with this Chapter 63. The Town authorizes its Police Department to receive and utilize records of the Massachusetts State Police, the DCJIS, and the FBI in connection with such criminal history records checks, consistent with this Chapter 63. The Town shall not disseminate criminal history record information received from the Massachusetts State Police, the DCJIS and the FBI to unauthorized persons or entities.

§63-1 - Licenses Subject to Fingerprinting

Any applicant for a license to engage in any of the following occupational activities within the Town shall have a full set of fingerprints taken by the Police Department, within seven (7) days of the date of the application for such license, for the purpose of conducting a state and national fingerprint-based criminal history records check to determine the suitability of the applicant for the license:

1. Manager of Alcoholic Beverage License Holder
2. Registered Marijuana Dispensary (RMD) Licensee
3. RMD Executives, Directors and Managers
4. Hawkers, Peddlers, Solicitors and Canvassers
5. Ice Cream Truck Vendor
6. Junk Dealers
7. Dealers in Junk, Second-Hand Articles and Antiques
8. Pawn Dealers
9. Hackney Drivers

At the time of fingerprinting, the Police Department shall notify each individual who is fingerprinted that his or her fingerprints will be used to check such individual's FBI and state criminal history records.

§63-3 – Police Department Procedure

The Police Department will forward the full set of fingerprints obtained pursuant to Section 2 of this Chapter 63 either electronically or manually to the State Identification Section of the Massachusetts State Police, the DCJIS and/or the FBI (or their successors) as may be necessary for the purpose of conducting fingerprint-based state and national criminal records background checks of license applicants specified in said Section 2.

The Police Department will provide the applicant with a copy of the results of his or her fingerprint-based state and national criminal history records check and supply the applicant with an opportunity to challenge the accuracy or completeness of the information contained in it, including the FBI Identification Record. Any applicant that wishes to challenge the accuracy or completeness of the record shall be advised that the procedures to change, correct, or update the record are set forth in Title 28 CFR 16.34 (as may be amended from time to time). In no event shall the Police Department render a suitability evaluation pursuant to the paragraph below until it has taken the steps detailed in this paragraph and otherwise complied with any other procedures required by any Town policy applicable to licensing-related criminal record background checks.

The Police Department will communicate the results of fingerprint-based criminal history records check to the Select Board. The Police Department will in addition render to the Select Board its evaluation of the applicant's suitability for the proposed occupational activity based on the results of the criminal records background check and any other relevant information known to it. In rendering its evaluation, the Police Department shall consider all applicable laws, regulations and Town policies bearing on an applicant's suitability and shall indicate whether the applicant has been convicted of, or is under pending indictment for, a crime that bears upon his or her suitability for the proposed occupational activity, or any felony or misdemeanor that involved force or threat of force, controlled substances, or a sex-related offense.

§63-4 Reliance by Licensing Authority on Results of Fingerprint-Based Criminal Records Background Checks

The Select Board may utilize the results of any fingerprint-based criminal records background check performed pursuant to Sections 2 and 3 of this Chapter 63 for the sole purpose of determining the applicant's suitability for the proposed occupational activity. The Select Board may deny an application for any license specified herein, including renewals and transfers thereof, if it determines that the results of the fingerprint-based criminal records background check render the applicant unsuitable for the proposed occupational activity. The Select Board shall consider all applicable laws, regulations and Town policies bearing on an applicant's suitability in making this determination.

No application shall be denied on the basis of information contained in a criminal record until the applicant has been afforded a reasonable time, as determined by the Select Board, to correct or complete the information, or, after being afforded the opportunity has declined to do so

§63-5 Town Policy


The Police Department, subject to the approval of the Select Board, shall develop and maintain written policies and procedures for its licensing-related criminal record background check system.


§63-6 Fees

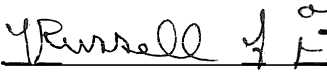
Each applicant for a license listed in Section 2 above shall pay a fee of \$40.00, of which \$30.00 shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund, as specified by Chapter 6, Section 172B1/2 of the Massachusetts General Laws.

Given under our hands at said Southwick this 30th day of April the year of the Lord Two Thousand and Twenty-One.

SELECT BOARD

, Doug A. Moglin, Chairman

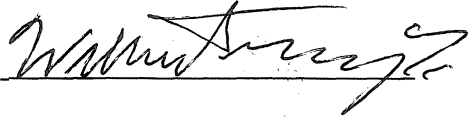
, Joseph J. Deedy, Vice-Chairman

 Russell S. Fox, Clerk

HAMPDEN SS.,

Pursuant to the within warrant I have notified and warned the inhabitants of the Town of Southwick by posting up attested copies of the same at three (3) public places in said Town Seven (7) days before the date thereof, as within directed.

Constable or Police Officer of Southwick, MA



A TRUE COPY ATTEST:


Michelle L. Hill, Town Clerk

POSTED: TOWN HALL, POST OFFICE, LIBRARY