

**TOWN OF NORTHBOROUGH
ANNUAL TOWN MEETING WARRANT
APRIL 25, 2011**

WORCESTER, SS

GREETINGS:

To any Constable in the Town of Northborough, County of Worcester:

In the name of the Commonwealth of Massachusetts, you are hereby commanded to warn and notify the legal voters of the Town of Northborough to meet at THE ALGONQUIN REGIONAL HIGH SCHOOL on MONDAY, the TWENTY-FIFTH day of April 2011 at 7:30 p.m. to act on the following warrant articles:

ARTICLE 1 PASSED

To see if the Town will vote to ratify the appointment by the Moderator of Gerald Hickman as Deputy Moderator, as provided by Article II, Section 2-2 of the Northborough Home Rule Charter.

ARTICLE 2 PASSED

To see if the Town will vote to authorize the Treasurer, with the approval of the Board of Selectmen, to enter into a Compensating Balance Agreement or Agreements pursuant to Massachusetts General Laws, Chapter 44, Section 53F, if necessary.

ARTICLE 3 PASSED OVER

To see if the Town will vote to raise and appropriate or transfer from unappropriated available funds in the Treasury, or other available funds, a sum of money to pay bills incurred in prior years, or take any action relative thereto.

- Town Meeting action is required to pay bills incurred in prior fiscal years. This Article will be passed over if no bills for goods and services incurred in prior fiscal years are presented to the Town.

ARTICLE 4 PASSED

To see if the Town will vote to raise and appropriate and transfer from available funds the sum of Sixteen Million Three Hundred Sixty Seven Thousand Seven Hundred One Dollars (\$16,367,701) for Town Government as displayed below, and to meet said appropriation, the following sums available for appropriation be transferred:

From:

Transfer from Cemetery Sale of Lots	\$ 10,000
Transfer from Debt Exclusion Premium Reserve	\$ 954
Transfer from Debt Exclusion Reserve	\$ 41,479
Transfer from Title V Reserve	\$ 4,534

Transfer from Conservation Commission Fees	\$ 12,000
Transfer from Police Revolving Account	\$ 102,500
Transfer from Fire Emergency Medical Services Revolving Account	\$ 76,600
Transfer from Recreation Revolving Account	\$ 120,000
Transfer from Dog Control Revolving Account	\$ 12,000
Silas Drive Earth Removal Bond Funds	\$ 12,012
Free Cash	\$ 500,000

for a total of Eight Hundred Ninety Two Thousand Seventy Nine Dollars (\$892,079), and that the sum of Fifteen Million Four Hundred Seventy Five Thousand Six Hundred Twenty Two Dollars (\$15,475,622) be raised by taxation.

ARTICLE 5 PASSED

To see if the Town will vote to raise and appropriate and transfer from available funds the sum of Three Million Nine Hundred One Thousand Three Hundred Seventy Five Dollars (\$3,901,375) for Water/Sewer and Solid Waste Funds as displayed below for the operation of the Water/Sewer and Solid Waste Utilities, and to meet said appropriation, the following sums available for appropriation be transferred:

From:

Sewer Fund Free Cash	\$227,729
Water Fund Free Cash	\$ 64,453

Raise and Appropriate by Taxation:

Solid Waste General Fund Subsidy	\$247,570
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for a total of Five Hundred Thirty Nine Thousand Seven Hundred Fifty Two Dollars (\$539,752) and that the sum of Three Million Three Hundred Sixty One Thousand Six Hundred Twenty Three (\$3,361,623) be financed from Water/Sewer and Solid Waste Revenues.

Water Fund	\$1,861,930
Sewer Fund	\$1,311,875
Solid Waste	<u>\$ 727,570</u>
	\$3,901,375

ARTICLE 6 PASSED

To see if the Town will vote to appropriate the sum of Sixty One Thousand Dollars (\$61,000) from Water Fund Free Cash, to offset a FY2011 Water Enterprise Fund appropriation deficit.

- The appropriation deficit was authorized in FY2011 by the Board of Selectmen to provide for Water System repairs. This article allows the deficit to be raised from Water Fund Free Cash rather than from the next year's tax rate.

ARTICLE 7 PASSED

To see if the Town will vote to raise and appropriate by taxation the sum of Eighteen Million Seven Hundred Two Thousand Eight Hundred Sixty Seven Dollars (\$18,702,867) for the operation of the Northborough Public Schools.

ARTICLE 8 PASSED

To see if the Town will vote to raise and appropriate by taxation Northborough's share of the assessment for the operation of the Northborough/Southborough Regional School District, the sum of Nine Million Eighty Five Thousand Three Hundred Forty Five Dollars (\$9,085,345), or take any action relative thereto.

ARTICLE 9 PASSED

To see if the Town will vote to raise and appropriate by taxation Northborough's share of the assessment for the operation of the Assabet Valley Regional Vocational School District, the sum of Five Hundred Seventeen Thousand Four Hundred Eighty Eight Dollars (\$517,488).

ARTICLE 10 PASSED

To see if the Town will vote to authorize the Library Trustees to accept and spend a sum of money received under the Library Incentive and Municipal Equalization Grants, and the Nonresident Circulation Offset program, under the provisions of M.G.L. Chapter 78, Sections 19A and 19B, as supplemented or amended by current state budget language, to be used by the Library Trustees for books, automation costs, or in any way that may benefit the library, and to apply for State aid for the coming fiscal year.

ARTICLE 11 PASSED

To see if the Town will vote to authorize the Board of Selectmen to make such application as may be necessary for Federal and/or State funds or grants, to accept such funds or grants and to expend those funds as required by the various acts, if and when such funds are received.

- Allows the Town to apply for grant funds through Federal and/or State agencies.

ARTICLE 12 PASSED

To see if the Town will vote to combine Articles 13 through 18 as follows:

Article 13 Reauthorizes Fire Department Revolving Fund Accounts;

Article 14 Reauthorizes Police Department Revolving Fund Accounts;

Article 15 Reauthorizes Dog Officer Revolving Fund Accounts;

Article 16 Reauthorizes Community Affairs Committee Revolving Fund Accounts;

Article 17 Reauthorizes Family and Youth Services Department Revolving Fund Accounts;

Article 18 Reauthorizes Council on Aging Revolving Fund Accounts;

And in so voting that the Town vote to establish and/or reauthorize revolving fund accounts as stated in Articles 13 through 18 of the Warrant, said revolving accounts being authorized to and for the use of the Fire Department, Police Department, Dog Officer, Community Affairs Committee, Family and Youth Services Department, and Council on Aging pursuant to the provisions of Massachusetts General Laws, Chapter 44, Section 53E½.

- Pursuant to the provisions of Massachusetts General Laws Chapter 44, Section 53E½, it is required that these revolving accounts be reauthorized annually.

ARTICLE 13 (Combined in Article 12)

To see if the Town will vote to reauthorize revolving accounts authorized to and for the use of the Northborough Fire Department for the receipt of site assessment fees, hazardous materials charges, SARA compliance, training/education programs, alarm fees, Local Emergency Planning, replacement of lost and/or damaged equipment, water supply maintenance and development, and Advanced Life Support/Emergency Medical Service and rescue maintenance; pursuant to the provisions of Massachusetts General Laws Chapter 44, Section 53E½.

- Chapter 44, Section 53E½ of the Massachusetts General Laws authorizes the Northborough Fire Department to maintain revolving fund accounts for the purposes enumerated in this Article. Under this statute, these revolving accounts must be reauthorized annually.

ARTICLE 14 (Combined in Article 12)

To see if the Town will vote to reauthorize revolving fund accounts authorized to and for the use of the Northborough Police Department for the receipt of the Town's share of traffic enforcement fines and payment of expenses associated with traffic/radar enforcement; pursuant to Massachusetts General Laws, Chapter 44, Section 53E½.

- Chapter 44, Section 53E½ of the Massachusetts General Laws authorizes the Northborough Police Department to maintain revolving fund accounts for the purpose stated in this Article. Under this statute, such revolving accounts must be reauthorized annually.

ARTICLE 15 (Combined in Article 12)

To see if the Town will vote to reauthorize revolving fund accounts authorized to and for the use of the Department of the Northborough Dog Officer for the receipt of dog license fees and related fines, which sums shall be utilized to support the Dog Officer's expenditures; pursuant to the provisions of Massachusetts General Laws, Chapter 44, Section 53E½.

- Chapter 44, Section 53E½ of the Massachusetts General Laws authorizes the Department of the Northborough Dog Officer to maintain revolving fund accounts for the purpose enumerated in this Article. Under this statute, such revolving accounts must be reauthorized annually.

ARTICLE 16 (Combined in Article 12)

To see if the Town will vote to reauthorize revolving fund accounts authorized to and for the Community Affairs Committee for the receipt of income, gifts and donations and any other monies

and for expenditure in connection with its related expenses; pursuant to the provisions of Massachusetts General Laws, Chapter 44, Section 53E½.

- Chapter 44, Section 53E½ of the Massachusetts General Laws authorizes the Northborough Community Affairs Committee to maintain revolving fund accounts for the purpose enumerated in this Article. Under this statute, such revolving fund accounts must be reauthorized annually.

ARTICLE 17 (Combined in Article 12)

To see if the Town will vote to reauthorize revolving fund accounts authorized to and for the Family and Youth Services Department for the receipt of income, gifts and donations and any

other monies and for expenditure in connection with its related expenses; pursuant to the provisions of Massachusetts General Laws, Chapter 44, Section 53E½.

- Chapter 44, Section 53E½ of the Massachusetts General Laws authorizes the Northborough Family and Youth Services Department to maintain revolving fund accounts for the purpose enumerated in this Article. Under this statute, such revolving fund accounts must be reauthorized annually.

ARTICLE 18 (Combined in Article 12)

To see if the Town will vote to reauthorize revolving fund accounts authorized to and for the Council on Aging for the receipt of income, gifts and donations and any other monies and for expenditure in connection with its related expenses; pursuant to the provisions of Massachusetts General Laws, Chapter 44, Section 53E½.

- Chapter 44, Section 53E½ of the Massachusetts General Laws authorizes the Council on Aging to maintain revolving fund accounts for the purpose enumerated in this Article. Under this statute, such revolving fund accounts must be reauthorized annually.

ARTICLE 19 PASSED

To see if the Town will vote to appropriate the sum of One Hundred Fifty Thousand Dollars (\$150,000) for a Reserve Fund to provide for extraordinary or unforeseen expenditures in accordance with Massachusetts General Laws Chapter 40, Section 6, and to meet said appropriation, the sum of One Hundred Fifty Thousand Dollars (\$150,000) be raised by taxation, transfer from available funds, borrowing or otherwise.

- This Article provides the Town operations with an option for the funding of extraordinary or unforeseen expenditures during the year.

ARTICLE 20 PASSED

To see if the Town will vote to appropriate the sum of Two Hundred Thirty Thousand Dollars (\$230,000) for the use of the Fire Department for the purchase of an ambulance, and to meet said appropriation, the sum of Two Hundred Thirty Thousand Dollars (\$230,000) be raised by borrowing, in accordance with the provisions of Massachusetts General Laws, Chapter 44, Section 7(9) or any other enabling authority, and the Treasurer, with the approval of the Board of Selectmen, be authorized to issue bonds or notes therefor.

- This Article provides funds for the replacement of a 2004 ambulance. The debt service on the bonds for the Ambulance will be paid by the EMS Revolving Account. The EMS Revolving Account is funded by the Ambulance Service fees and charges.

ARTICLE 21 PASSED

To see if the Town will vote to appropriate the sum of Sixty Thousand Dollars (\$60,000) for the use of the Fire Department for the purchase of a pick-up truck, and to meet said appropriation, the sum of Sixty Thousand Dollars (\$60,000) be raised by taxation, transfer from available funds, borrowing or otherwise.

- This Article seeks funding to replace a 2005, three-quarter ton, four-wheel-drive pick-up truck.

ARTICLE 22 PASSED

To see if the Town will vote to appropriate the sum of Thirty Five Thousand Dollars (\$35,000) for the use of the Police Department for the purchase of a public safety dispatch center telephone system, and to meet said appropriation, the sum of Thirty Five Thousand Dollars (\$35,000) be raised by taxation, transfer from available funds, borrowing or otherwise.

- This Article seeks funding to replace the original telephone system from 1989 for the Town's public safety dispatch center.

ARTICLE 23 PASSED

To see if the Town will vote to appropriate the sum of Sixty Thousand Dollars (\$60,000) for the use of the Highway Division of the Department of Public Works for the purchase of a highway garage truck lift, and to meet said appropriation, the sum of Sixty Thousand Dollars (\$60,000) be raised by taxation, transfer from available funds, borrowing or otherwise.

- This Article seeks funding to replace the existing truck lift in the highway garage. This lift is original to the building (1984) and no longer operational.

ARTICLE 24 PASSED

To see if the Town will vote to appropriate the sum of Thirty Nine Thousand Dollars (\$39,000) for the use of the Highway Division of the Department of Public Works for the purchase of a one-ton pick-up truck with plow, and to meet said appropriation, the sum of Thirty Nine Thousand Dollars (\$39,000) be raised by taxation, transfer from available funds, borrowing or otherwise.

- This request is for a one-ton pick-up truck that will replace a 1999 Ford F 350 one-ton dump truck.

ARTICLE 25 PASSED

To see if the Town will vote to appropriate the sum of One Hundred Sixty Four Thousand Dollars (\$164,000) for the use of the Highway Division of the Department of Public Works for the purchase of a street sweeper, and to meet said appropriation, the sum of One Hundred Sixty Four Thousand Dollars (\$164,000) be raised by taxation, transfer from available funds, borrowing or otherwise.

- This request is to replace the existing 1999 Elgin pelican street sweeper.

ARTICLE 26 PASSED

To see if the Town will vote to appropriate the sum of Seventy One Thousand Dollars (\$71,000) for the use of the Highway Division of the Department of Public Works for the purchase of a one-ton dump truck with plow, and to meet said appropriation, the sum of Seventy One Thousand Dollars (\$71,000) be raised by taxation, transfer from available funds, borrowing or otherwise.

- This request is to replace a 1999 Ford F 350 one-ton dump truck.

ARTICLE 27 PASSED

To see if the Town will vote to appropriate the sum of Five Hundred Twenty Five Thousand Dollars (\$525,000) for the use of the Northborough School Department for roof repairs at the Peaslee School, and to meet said appropriation, the sum of Three Hundred Seventy-Five Thousand Dollars (\$375,000) be transferred from available funds and One Hundred Fifty Thousand Dollars (\$150,000) be raised by borrowing, in accordance with the provisions of Massachusetts General Laws Chapter 44, Section 7(3A), or any other enabling authority, and the Treasurer, with the approval of the Board of Selectmen, be authorized to issue bonds or notes therefor.

- This Article requests the funding to repair the rubber membrane on all flat roofs at the Peaslee School.

ARTICLE 28 PASSED

To see if the Town will vote that the sum of Seven Hundred Eighty Thousand Dollars (\$780,000) be appropriated, to be expended under the direction of the School Building Committee for the repair of windows and replacement of the boiler at the Robert E. Melican Middle School located at 145 Lincoln Street, Northborough, MA (a "Green Project" within the meaning of the regulations of the Massachusetts School Building Authority ("MSBA")) (the "Project") in order to materially extend the useful life of the school and preserve an asset that otherwise is capable of supporting the required educational program, and with the understanding that the MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any project costs the Town incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town, and that any grant that the Town of Northborough may receive from the MSBA for the project shall not exceed the lesser of (1) 48.68 percent (%) of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA; that to meet this appropriation, the Treasurer, with the approval of the Selectmen, is authorized to borrow said amount under and pursuant to Chapter 44 of the General Laws, or pursuant to any other enabling authority, and that the amount of the borrowing authorized pursuant to this vote shall be reduced by any grant amount set forth in the Project Funding Agreement relating to the Project that may be executed between the Town and the MSBA.

ARTICLE 29 PASSED OVER

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds, a sum of money to be expended under the direction of the School Building Committee for a Feasibility Study for the Lincoln Street School located at 76 Lincoln Street, Northborough, MA, for which feasibility study the Town may be eligible for a grant from the Massachusetts School Building Authority, and with the understanding that the MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any costs the Town incurs in connection with the feasibility study in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town.

ARTICLE 30 PASSED

To see if the Town will vote to accept the provisions of M.G.L. Chapter 32B, Section 20 to provide for the establishment of an "Other Post Employment Benefits Liability Trust Fund" and further, to establish an "Other Post Employment Benefits Liability Trust Fund" to account for

appropriations made to cover the unfunded actuarial liability for retirees' health care and life insurance benefits, or to take any action related thereto.

- This Article provides for the establishment of a special trust fund for any appropriations made to cover the unfunded actuarial liability of health care and other post-employment benefits for Town retirees.

ARTICLE 31 PASSED

To see if the Town will vote to accept the layouts as public ways of Woodstone Road and Fawcett Orchard Road as shown on the plans titled "Acceptance Plan of Woodstone Road in Northborough, Massachusetts" dated March 4, 2008, prepared by R. W. Hart Associates Inc. Northborough Massachusetts, and "Acceptance Plan of Fawcett Orchard Road in Northborough, Massachusetts" dated March 4, 2008, prepared by R. W. Hart Associates Inc. Northborough, Massachusetts, respectively, copies of which are on file in the Office of the Town Clerk, and to place these streets on the Official Town Map as public ways, and to authorize the Board of Selectmen to accept or take by eminent domain deeds or easements for such public ways, or take any action relative thereto.

- This Article provides for acceptance of Woodstone Road and Fawcett Orchard Road as Town Streets and acquisition of easements as a result of the subdivision approval process.

ARTICLE 32 PASSED

To see if the Town will vote to accept the layouts as public ways of Copley Drive and Dartmouth Drive as shown on the plans titled "Plan of Acceptance of Copley Drive Sta. 0+00 to Sta. 7+15.24 in Northborough, MA" dated November 16, 2007, prepared by Connorstone Consulting Civil Engineers and Land Surveyors, Northborough, Massachusetts and "Plan of Acceptance of Dartmouth Drive Sta. 0+00 To Sta. 4+16.05 in Northborough, MA" dated November 16, 2007, prepared by Connorstone Consulting Civil Engineers and Land Surveyors, Northborough, Massachusetts, respectively, copies of which are on file in the Office of the Town Clerk, and to place these streets on the Official Town Map as public ways, and to authorize the Board of Selectmen to

accept or take by eminent domain deeds or easements for such public ways, or take any action relative thereto.

- This Article provides for acceptance of Copley Drive and Dartmouth Drive as Town Streets and acquisition of easements as a result of the subdivision approval process.

ARTICLE 33 PASSED

To see if the Town will vote to amend Part 7 of the Northborough Town Code, the Northborough Zoning Bylaw, Section 7-04-030 Floodplain Overlay District; boundaries and Section 7-07-020 Floodplain Overlay District by deleting the text shown in brackets [] and replacing it with the text shown in brackets and underlined [___], as follows, or take any action relative thereto.

7-04-030 Floodplain Overlay District; boundaries.

[A. The Floodplain Overlay District shall be described by and include all flood hazard areas designated as “Zone A” and “Zone A-1 through A-5” on the Town of Northborough Flood Insurance Rate Maps (FIRM) and the Town of Northborough Flood Boundary and Floodway Maps, dated November 15, 1979 (together, “the floodplain maps”).]

[A. The Floodplain Overlay District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Northborough designated as Zone A and AE, on the Worcester County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Worcester County FIRM that are wholly or partially within the Town of Northborough are panel numbers 25027C0629E, 25027C0631E, 25027C0632E, 25027C0633E, 25027C0634E, 25027C0641E, 25027C0642E, 25027C0643E, 25027C0651E, 25027C0653E, 25027C0654E, 25027C0661E and 25027C0662E dated July 4, 2011. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Worcester County Flood Insurance Study (FIS) report dated July 4, 2011. The FIRM and FIS report are incorporated herein by reference and are on file with the Building Department, Planning Department, and Engineering Department.]

7-07-020 Floodplain Overlay District.

A. General Provisions.

[(4)The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

(a)Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas;

(b)Wetlands Protection Regulations, Department of Environmental Protection (DEP);

(c)Inland Wetlands Restriction, DEP; and

(d)Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP.

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

(5)All subdivision proposals must be designed to assure that:

(a) such proposals minimize flood damage;

(b)all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and

(c)adequate drainage is provided to reduce exposure to flood hazards.

(6)Floodway Data. In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(7)Base Flood Elevation Data. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.

(8)Notification of Watercourse Alteration. In a riverine situation, the Town Engineer shall notify the following of any alteration or relocation of a watercourse:

(a)Adjacent Communities

(b)NFIP State Coordinator, Massachusetts Department of Conservation and Recreation, 251 Causeway Street, Suite 600-700, Boston, MA 02114-2104

(c)NFIP Program Specialist, Federal Emergency Management Agency, Region I, 99 High Street, 6th Floor, Boston, MA 02110]

Or take any action relative thereto.

- This Article replaces the existing language (shown in brackets) in the Zoning Bylaw pertaining to the Flood Insurance Rate Maps and adds new language regarding subdivision design requirements, Floodway and Base Flood Elevation data, and notification of watercourse alterations. The maps have been digitized and the Zoning Bylaw must reflect this change. The location of the flood plains remains the same as shown on the 1979 maps.

ARTICLE 34 PASSED

To see if the Town will vote to amend the following sections of the Northborough General Bylaws, Part 2, Chapter 2-28, by adding the words shown in brackets and underlined [_] and deleting the words shown in brackets [] as follows, and to replace the term “Earth Removal Board” with the term “Earthwork Board” wherever it appears in the Northborough General Bylaws:

2-28-010 Establishment of [Earth Removal] [Earthwork] Board; appointment; terms

The [Earth Removal] [Earthwork] Board is hereby established and shall consist of five (5) members as follows: One (1) member shall be appointed by the Board of Selectmen for a term of three (3) years; one (1) member shall be appointed by the Conservation Commission for a term of three (3) years; one (1) member shall be appointed by the Planning Board for a term of two (2) years; one (1)

member shall be appointed by the Moderator for a term of one (1) year; and thereafter as their terms of office shall expire, the members shall be appointed in like manner for terms of three (3) years.

(Prior code §84-1)

2-28-020 Permit required {Amended 4-24-00 ATM Art. 38, Amended 4-22-02 ATM, Art. 37}

No person, firm or corporation shall remove [or import in excess of 100 cubic yards of] soil, loam, sand, gravel, stone or other earth material from [or to] any land [in the town] not in public use without first obtaining a permit therefor from the [Earth Removal] [Earthwork] Board, as provided in the following sections. A permit shall be granted only by an affirmative vote of the majority of the Board, except for land located in the Industrial [A or Industrial B] zoning district[s], in which case such permit must be obtained from the Planning Board as part of the Site Plan Approval process under Section 7-03-050 of the Zoning Bylaw.], as provided in the following sections.]

2-28-030 Work for which permit required; exemptions

A. A permit shall be required under this chapter for the removal [or importation] of soil, loam, sand, gravel, stone or other earth material in the course of excavation incidental to the construction of a business, industrial, research or commercial building or facility of any kind, including apartment buildings of more than two (2) apartment units and/or developments of more than one (1) apartment building on any single parcel or lot of land. This requirement for an

[earth removal] [earthwork] permit extends also to any material removed [or imported] for the installation of walks, driveways, parking lots and similar appurtenances to said commercial building or facility.

B. Exemptions.

(1) A permit shall not be required under this chapter for the removal [or importation] of soil, loam, sand, gravel, stone or other earth material in the course of excavation incidental to the construction of a residential building consisting of less than three (3) apartments on a single parcel or lot of land for which a permit has been issued and to the installation of walks, driveways and similar appurtenances to said building, provided that the quantity of material removed does not exceed that displaced by the portion of building, walk, driveway or similar appurtenances below finished grade or in the course of customary use of land for a farm, garden or nursery.

(2) The above exemptions do not cover removal [or importation] of earth from the premises involving topographical changes or soil-stripping or loam-stripping activities, nor shall tentative or final approval of a subdivision plan be construed as authorizing the removal [or importation] of earth material from streets shown on the subdivision plan.

2-28-040 Application procedure {Amended 4-22-02 ATM, Art. 37}

A. An application for an [earth removal] [earthwork] permit shall be in writing and, among other things as required by the [Earth Removal] [Earthwork] Board, or in the case of land in the Industrial [A or Industrial B] zoning district[s], the Planning Board shall contain an accurate description of the portion of land from which earth is to be removed [or to which earth is to be imported], shall state fully the purpose for the removal [or importation] thereof and shall include plans of the land

involved in such form as the [Earth Removal] [Earthwork] Board may require. The [Earth Removal] [Earthwork] Board may charge reasonable fees for making an application for [earth removal] [earthwork]. Upon receipt of an application for a permit for removal of earth from any land, the [Earth Removal] [Earthwork] Board shall appoint a time and place for a public hearing, notice of which shall be given to the applicant and shall be published at least twenty-one (21) days before such hearing in a newspaper having a circulation in the town.

B. Fees. [Added 5-18-1990] [Amended 4-28-03 ATM, Art. 26]

- (1) New permit: [three hundred dollars (\$300.).] [five hundred dollars (\$500)]
- (2) Renewal permit: [one hundred fifty dollars (\$150.)] [two hundred fifty dollars (\$250)]

(Prior code § 84-4)

2-28-050 Conditions for granting of permit {Amended 4-22-02 ATM, Art. 37}

A permit for removal [or importation] of soil, loam, sand, gravel, stone or other earth material shall be granted only if the [Earth Removal] [Earthwork] Board, or in the case of land in the Industrial [A or Industrial B] zoning district[s], the Planning Board shall rule that such removal is neither detrimental to the neighborhood nor injurious to the recharge of the water table. The exercise of any permit granted under provisions of this chapter shall be subject to conditions, limitations and safeguards to be set forth therein by the [Earth Removal] [Earthwork] Board to

protect the groundwater supply, health, welfare, convenience and safety of the public and to promote the best interests of the neighborhood and of the town. These conditions may include but are not limited to: method of removal; type and location of temporary structures; hours of operation; routes for transporting the material through the town; area and depth of excavation; distance of excavation from street and lot lines; steepness of slopes excavated; reestablishment of ground levels and grades; provisions for permanent and temporary drainage; disposition of boulders and tree stumps; replacement of loam over the area of removal; planting of the area to suitable cover; and inspection of the premises at any time by the [Earth Removal] [Earthwork] Board or its representative.

(Prior code § 84-5)

2-28-060 Performance bond; duration of permit; public hearing {Amended 4-22-02 ATM, Art. 37}

The [Earth Removal] [Earthwork] Board or in the case of land in the Industrial [A or Industrial B] zoning district[s], the Planning Board may require, as a condition to the granting of a permit for the removal [or importation] of soil, loam, sand, gravel, stone or other earth material, that the permittee furnish cash, a certified check or a surety company bond to the town as obligee in a penal sum to be fixed by said [Earth Removal] [Earthwork] Board as it shall deem sufficient to cover the cost of the performance of all labor and material as shall be required to carry out all the conditions, limitations and safeguards as may be imposed by said [Earth Removal] [Earthwork] Board in connection with the removal [or importation] of the particular substances for which the permit is issued. No permit shall be issued under provisions of this chapter for a period of more than one (1) year, though

permits may be renewed. Prior to issuing or renewing any permit, the [Earth Removal] [Earthwork] Board shall appoint a time and place for a public hearing, notice of which shall be given to the applicant and all abutters and shall be published at least twenty-one (21) days before such hearing in a newspaper having a circulation in the town.

(Prior code § 84-6)

2-28-070 Investigation of violations; suspension or revocation of permit [Amended 5-15-89 ATM, Art. 44], {Amended 4-22-02 ATM, Art. 37}

If the [Earth Removal] [Earthwork] Board, or in the case of land in the Industrial [A or Industrial B] zoning district[s], the Planning Board shall be informed or shall have reason to believe that any provision of this chapter or any permit or condition thereunder has been, is being or is about to be violated, the [Earth Removal] [Earthwork] Board shall make or cause to be made an investigation of the facts, and if the [Earth Removal] [Earthwork] Board finds any violation, the [Earth Removal] [Earthwork] Board shall send a notice ordering cessation of the improper activities to the owner of the premises in question or his duly authorized agent and to the occupant of the premises. If, after such notice, the violation continues, the [Earth Removal] [Earthwork] Board may suspend any permit it has issued or take such other action as is necessary to enforce the provisions of the chapter and/or seek penalties as provided in MGL C. 40, § 21, Clause 17. In addition to any other penalties imposed hereunder, violation of this chapter shall be punishable by a fine of fifty dollars (\$50.). Each day of violation shall constitute a separate offense. If any permit is suspended, an early date shall be set by the [Earth Removal] [Earthwork] Board for a public hearing, notice of which shall be given to the permittee and shall be published at least seven (7) days before such hearing in a newspaper having a circulation in

the town. Any permit granted by the [Earth Removal] [Earthwork] Board may be revoked for cause shown, after such public hearing. The suspension or revocation of a permit shall not relieve the permittee of his obligations thereunder, except at the discretion of the [Earth Removal] [Earthwork] Board.

(Prior code § 84-7)

2-28-080 Record of proceedings and decisions

The [Earth Removal] [Earthwork] Board shall record all proceedings brought under this chapter in a book to be kept for that purpose and shall file in the office of the Town Clerk a copy of all decisions, and the said Town Clerk shall keep a proper index thereof.

(Prior code § 84-8)

2-28-090 When effective

This chapter shall take effect upon its approval by the Attorney General and publication as provided by law; provided, however, that any continuous [earth removal] [earthwork] activities in actual legal working operation on March 1, 1969, may continue unaffected by this chapter until July 1, 1969. Permits for operation of the latter activities will be required after July 1, 1969.

(Prior code § 84-9)

2-28-100 Severability

If any provision of this chapter shall be held invalid or unconstitutional, such invalidity or unconstitutionality shall not be construed to affect the validity or constitutionality of any of the remaining provisions.

Or take any other action relative thereto.

- This Article proposes to amend the Earth Removal Bylaw to require applicants to obtain a permit to perform any filling or removal of earthen materials before starting any work within the Town of Northborough. In an effort to clarify the intent of this bylaw, the name of the Board is proposed to be changed from the Earth Removal Board to the Earthwork Board.

ARTICLE 35 PASSED

To see if the Town will vote to amend the Consolidated Personnel Bylaw as shown in the handout (copies of which were available in the Town Clerk’s Office continuously prior to the posting of the Warrant until the time of Town Meeting) entitled “Article 35 - Consolidated Personnel Bylaw Amendments – 2011 Annual Town Meeting”.

ARTICLE 36 PASSED

To see if the Town will vote to appropriate the sum of Fifty-Two Thousand Dollars (\$52,000), or any other sum, from the Community Preservation Fund revenues to the Northborough Affordable Housing Corporation for the redevelopment of the former senior center for affordable housing purposes, or take any action relative thereto.

ARTICLE 37 PASSED

To see if the Town will vote to appropriate the sum of Fifty Thousand Dollars (\$50,000), or any other sum, from the Community Preservation Unreserved Fund to the Northborough Department of Public Works for Church Street bridge design and stone wall repair evaluation, or take any action relative thereto.

ARTICLE 38 PASSED

To see if the Town will vote to appropriate the sum of Fifty-Two Thousand Dollars (\$52,000), or any other sum, from the Community Preservation Fund revenues and place said amount in the Community Preservation Historic Resources Reserve for the purposes of future historical property preservation or acquisitions, or take any action relative thereto.

ARTICLE 39 PASSED

To see if the Town will vote to appropriate the sum of One Thousand Five Hundred Dollars (\$1,500), or any other sum, from the Community Preservation Fund revenues to the Northborough

Historical Commission for the purchase of signage to identify the John Brigham Mill Site on Whitney Street, or take any action relative thereto.

ARTICLE 40 PASSED

I move the Town vote, for the purpose of acquiring 55.6 ± acres of land at 0 Green Street, Assessors' Map 26 Parcel 2 for open space preservation purposes, to appropriate the sum of Two Hundred Fifty Thousand Dollars (\$250,000) from the Community Preservation Fund revenues; the sum of Five Hundred Fifty-Seven Thousand Dollars (\$557,000) from the Community Preservation Open Space Reserve; and that the sum of Two Hundred Forty Thousand Dollars (\$240,000) under the Community Preservation Program to be raised by borrowing in accordance with the provisions of Massachusetts General Laws, Chapter 44, Section 7(3) and Chapter 44B, Section 11, or any other enabling authority and the Treasurer, with the approval of the Board of Selectmen, be authorized to issue bonds or notes therefor; and to authorize the Board of Selectmen and the Conservation Commission to execute all documents and take all actions necessary to accomplish said acquisition.

ARTICLE 41 PASSED OVER

To see if the Town will vote to appropriate the sum of Fifty-Two Thousand Dollars (\$52,000), or any other sum, from the Community Preservation Fund revenues and place said amount in the Community Open Space Reserve for the purpose of future open space acquisitions, or take any other action relative thereto.

- This Article is intended to ensure compliance with the Community Preservation Act. The regulations contain a requirement to spend or reserve at least 10% of the annual CPA revenue for Open Space. If Article 40 is approved, there will be a motion to pass over this Article.

ARTICLE 42 PASSED

To see if the Town will vote to appropriate the sum of Twenty-Four Thousand Dollars (\$24,000), or any other sum, from the Community Preservation Fund revenues to the Northborough Community Preservation Committee for expenses associated with the implementation of the Community Preservation Act including but not limited to clerical assistance, office supplies, property surveys, appraisals, attorney's fees, and other professional services, recording fees, printing and all other necessary and proper expenses for the Fiscal Year 2012, or take any other action relative thereto.

ARTICLE 43 PASSED

To see if the Town will vote to amend the vote taken under Article 41 of the warrant for the 2010 Annual Town Meeting, which authorized the Board of Selectmen to petition the Senate and House of Representatives in General Court for special legislation amending section 1 of Chapter 384 of the Acts of 2008 to provide that the additional package store alcohol license authorized to be granted for the property to be used for a commercial center and shown on Northborough Assessors' Maps as map 108, parcel 3; map 109, parcel 15; map 107, parcel 1; map 106, parcels 5, 6, 3, and 7; and map

98, parcel 2 shall be for all alcoholic beverages and not limited to wines and malt beverages, by replacing the revised language for the *first sentence* of said section 1, which read as follows:

“Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Northborough may grant 1 additional license for the sale of all alcoholic beverages, not to be drunk on the premises under section 15 of said chapter 138.”

with the following language to be substituted for *section 1 in its entirety*:

“ (1) Notwithstanding Section 17 of Chapter 138 of the General Laws, the Town of Northborough may grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises to Wegmans Massachusetts, Inc., located at Assessors’ property address id. no. 9102/9104 Shops Way, off Southwest Cutoff, in the Town of Northborough pursuant to Section 15 of said Chapter 138.

(2) The local alcohol licensing authority shall not approve the transfer of said license to any other location. Said license may be granted by the local alcohol licensing authority at the same location if an applicant for said license files with said authority a letter in writing from the department of revenue indicating that said licensee is in good standing with said department and that any and all applicable taxes have been paid.

(3) If the license granted is canceled, revoked or no longer in use, it shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority, which may then grant the license to a new applicant at the same location and under the same conditions as specified herein.”

or take any action relative thereto.

ARTICLE 44 PASSED OVER

To hear the reports of the several Town Officers and Committees and to act thereon; also to choose any committee the voters deem necessary, and to appropriate money for their use, or act in any way relative thereto.

At 10:57p.m. a motion was made to dissolve the meeting **PASSED**

Total Registered Voters: 9579

Total Voters in attendance: 179