

SPRING ANNUAL TOWN MEETING
April 27, 2010

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ARTICLE 1
Fiscal 2010 Omnibus Budget
(Town Administrator)

To determine what sum or sums of money the Town will appropriate and raise, or transfer from available funds, for the operation of the government of the Town of Natick, including debt and interest, during Fiscal Year 2010 (July 1, 2009 through June 30, 2010) and to provide for a reserve fund for Fiscal Year 2010, and to see what budgets for Fiscal 2010 will be reduced to offset said additional appropriations, or otherwise act thereon.

ARTICLE 2
Fiscal 2011 Omnibus Budget
(Town Administrator)

To determine what sum or sums of money the Town will appropriate and raise, or transfer from available funds, for the operation of the government of the Town of Natick, including debt and interest during Fiscal Year 2011 (July 1, 2010 to June 30, 2011), and to provide for a reserve fund for Fiscal Year 2011, or to otherwise act thereon.

ARTICLE 3
Stabilization Fund
(Town Administrator)

To see if the Town will vote to appropriate a sum of money from available funds for the purpose of supplementing the stabilization fund under Article 22 of the warrant for Annual Town Meeting of 1961, as authorized by Chapter 40, Section 5B of the General Laws, as amended, or otherwise act thereon.

ARTICLE 4
Fiscal 2011 Morse Institute Library Budget
(Morse Institute Library Trustees)

To see what sum of money the Town will vote to raise and appropriate, or otherwise provide, for the maintenance and operation of the Morse Institute Library, for Fiscal Year 2011 (July 1, 2010 through June 30, 2011), or otherwise act thereon.

ARTICLE 5
Fiscal 2011 Bacon Free Library Budget
(Bacon Free Library Trustees and Bacon Free Library Maintenance
Committee)

To see what sum of money the Town will raise, borrow or transfer for the maintenance and operation of the Bacon Free Library, for Fiscal Year 2011 (July 1, 2010 through June 30, 2011), or otherwise act thereon.

ARTICLE 6
Elected Officials Salary
(Town Administrator)

To see if the Town will vote to fix the salary and compensation of all elected officers of the Town of Natick for Fiscal Year 2011 (July 1, 2010 through June 30, 2011) as provided by Section 108 of Chapter 41 of the General Laws, as amended, or otherwise act thereon.

ARTICLE 7
Collective Bargaining
(Town Administrator)

To see if the Town will vote to raise and appropriate, or otherwise provide, the funds necessary to implement the Terms of Agreements reached between the Town and the following collective bargaining units:

- a) Public Employees Local Union 1116 of the Laborers International Union of North America – Clerical unit
- b) Public Employees Local Union 1116 of the Laborers International Union of North America – Public Works Laborers unit
- c) Public Employees Local Union 1116 of the Laborers International Union of North America – Library employees
- d) Public Employees Local Union 1116 of the Laborers International Union of North America – Recreation employees
- e) Supervisors and Administrators Association
- f) The Natick Patrol Officers Association
- g) New England Police Benevolent Association, AFL-CIO, Local 82
- h) Service Employees International Union Local 888, Dispatch
- i) Local 1707 International Association of Firefighters
- j) The Deputy Fire Chiefs Association

Or otherwise act thereon.

ARTICLE 8
Personnel Board Pay Plan
(Town Administrator)

To see if the Town, pursuant to the authority contained in Section 108A of Chapter 41 of the General Laws, will vote to amend the by-laws by adding to Article 24, Section 3, a new paragraph deleting certain position titles, adding new position titles and effecting changes in the salary ranges as presently established and will provide the money necessary therefore, or otherwise act thereon.

ARTICLE 9
Capital Equipment
(Town Administrator)

To see if the Town will vote to appropriate and raise, or otherwise provide, a sum or sums of money as may be required for capital equipment for the various departments of the Town of Natick; to determine whether this appropriation shall be raised by borrowing or otherwise; or otherwise act thereon.

ARTICLE 10
Capital Improvement
(Town Administrator)

To see if the Town will vote to appropriate and raise, or otherwise provide, a sum or sums of money to implement a Capital Improvement Program, to protect the physical infrastructure of the Town of Natick; to determine whether this appropriation shall be raised by borrowing or otherwise; or to otherwise act thereon.

ARTICLE 11
Lease and/or Repair
(Town Administrator)

To see if the Town will vote to appropriate and raise, or otherwise provide, a sum or sums of money as may be required for the lease and/or repair of equipment for various departments of the Town of Natick; to determine whether this appropriation shall be raised by borrowing or otherwise; or to otherwise act thereon.

ARTICLE 12
School Bus Transportation Subsidy Article
(School Committee)

To see if the Town will vote to appropriate and raise, or transfer from available funds, a sum of money for the purpose of operation and administration of the school bus transportation system, and to reduce or offset fees charged for students who elect to use the school bus transportation system for transportation to and from school; or otherwise act thereon.

ARTICLE 13
Fair Labor Standards Act Funding
(Town Administrator)

To see if the Town will vote to raise and appropriate, or transfer from available funds a sum of money to fully fund amounts due to town employees pursuant to the federal Fair Labor Standards Act, or take any other action relative thereto.

ARTICLE 14
Unpaid Bills
(Town Administrator)

To see if the Town will vote to raise and appropriate, or otherwise provide such sums of money as may be required for the payment of unpaid bills of previous years, incurred by the departments, boards and officers of the Town of Natick, or otherwise act thereon.

ARTICLE 15
Funding for Economic Development
(Board of Selectmen)

To see what sum the Town may appropriate for Economic Development, or otherwise act thereon.

ARTICLE 16
Town Clerk Policies and Procedures
(Henry Haugland, et al)

To see what sums of money the Town will appropriate, raise, and/or transfer from available funds or from any departmental 2010 budget(s) and to see what

action(s) the Town will take to provide for structure, organization, competence, and accountable and effective management in the Town Clerk's office and to preserve the position of Town Clerk as an elected position for the citizens of the Town including but not limited to

- i) Provide for the creation of a policies and/or procedures manual for the functions and responsibilities of the Town Clerk and assistants and/or
- ii) provide for the inclusion of the detailed election and voter registration regulations of the Secretary of State of the Commonwealth to be included in such manual and/or
- iii) provide for the creation of a detailed job description for the position of Town Clerk based upon the policies and procedures referred to above and/or
- iv) provide that such policy and procedure manual be available to all members of the public either on the Town website and/or for the cost of photocopying/reproduction and/or
- v) provide for transition assistance from the current appointed interim Town Clerk to an elected Town Clerk and/or
- vi) provide that such transition assistance be for a minimum specified period of time and be provided by the Interim Town Clerk or similar appropriate person(s) in order to provide for an effective transition and/or
- vii) create and fund the position of Assistant Town Clerk (to provide continuity, etc.) and to determine whether this position shall be filled by appointment or by election and/or
- viii) provide a) for periodic assessments, but no more than annually, of the Town Clerk department by a committee consisting of one member of the Board of Selectmen, one member of the School Committee and one member of the Planning Board (these being the principal elected boards interacting with the Town Clerk department) and/or b) a committee of equal representation from such elected boards as the Town Meeting may determine and/or c) to provide for technical assistance in the form of an independent and objective "peer review" to this committee by a sitting or former Town Clerk from another community and/or
- ix) provide that the first such assessment shall occur no sooner than one year after the completion of the transition referenced above is completed and/or to provide that the policy and procedure manual and job description be the basis of such periodic assessment and/or
- x) provide the maintenance and upkeep of the publicly available policy and procedure manual by the Town Clerk on an ongoing basis

and/or otherwise act thereon consistent with the stated purpose of this article including amending any appropriate section of the By Laws or Charter of the Town.

ARTICLE 17
Funding for North Main Street Municipal Improvements
(James Williamson, et al)

To see if the Town will vote to appropriate a sum of money from available or future Ch. 40R mitigation funds, provided to the Town by the Commonwealth of Massachusetts, for drainage and other necessary municipal improvements on North Main Street in the vicinity of the Natick Paperboard Smart Growth Project.

ARTICLE 18
Re-authorization of Revolving Funds
(Town Administrator)

To see if the Town will vote to authorize the use of revolving funds previously established pursuant to votes of Town Meeting; to determine: 1) the programs and purposes for which each such revolving fund may be expended; 2) the departmental receipts which shall be credited to each such revolving fund; 3) the board, department or officer authorized to expend money from each such revolving fund; and 4) a limit on the total amount which may be expended from each such revolving fund in the fiscal year which begins on July 1, 2010; or otherwise act thereon.

ARTICLE 19
Increase Personal Exemption Amounts
(Board of Assessors)

To see if the town will vote to increase the Personal Exemption Amounts by 35% under the provisions of Chapter 73 of the Acts of 1986 as amended by Chapter 126 of the Acts of 1988 which provides for "Optional Additional Property Tax Exemptions" allowing an annually determined, uniform increase in the amount of exemption in General Laws, Chapter 59 Section 5 Clauses 17D, 22, 22A, 22B, 22C, 22D, 22E, 37A, and 41C (elderly person, disabled veteran, or blind person).

ARTICLE 20
Allow for the Creation of an Enterprise Fund
(Town Administrator)

To see if the Town will vote, pursuant to MGL Chapter 44, Section 53F ½, to establish one or more enterprise funds, or take any other action relative thereto.

ARTICLE 21
Allow for the Reorganization of a Department
(Town Administrator)

To see if the Town will vote pursuant to Article 6, Section 6-1(b) of the Town Charter, to approve a plan of organization, or reorganization, of town agencies, or take any other action relative thereto.

ARTICLE 22
Street Acceptance – Portion of North Main Street
(Town Administrator)

To see if the Town will vote to accept a portion of North Main Street as a public way, and any appurtenant easements thereto, as laid out by the Board of Selectmen and as shown on a plan or plans, a copy of which is on file in the office of the Town Clerk; to see if the Town will vote to authorize the Board of Selectmen to acquire by gift, purchase, eminent domain or otherwise, easements in any land necessary for laying out and acceptance of North Main Street, and any appurtenant drainage, utility or other easements related to said North Main Street, and/or to accept grants thereof; and, further, to authorize the Board of Selectmen and other applicable Town of Natick boards and personnel to take all related actions necessary or appropriate to accomplish the purposes of this article.

Or otherwise act thereon.

ARTICLE 23
Street Acceptance – Main Street
(Town Administrator)

To see if the Town will vote to accept Main Street as a public way, and any appurtenant easements thereto, as laid out by the Board of Selectmen and as shown on a plan or plans, a copy of which is on file in the office of the Town Clerk; to see if the Town will vote to authorize the Board of Selectmen to acquire by gift, purchase, eminent domain or otherwise, easements in any land necessary for laying out and acceptance of Main Street, and any appurtenant drainage, utility or other easements related to said Main Street, and/or to accept grants thereof; and, further, to authorize the Board of Selectmen and other applicable Town of Natick boards and personnel to take all related actions necessary or appropriate to accomplish the purposes of this article.

Or otherwise act thereon.

ARTICLE 24
Street Acceptance – Harvest Moon Drive, Whispering Lane, Sanctuary
Boulevard, Deer Path
(Town Administrator)

To see if the Town will vote to accept Harvest Moon Drive, Whispering Lane, Sanctuary Boulevard, and Deer Path as public ways, and any appurtenant easements thereto, as laid out by the Board of Selectmen and as shown on a plan or plans, a copy of which is on file in the office of the Town Clerk; to see if the Town will vote to authorize the Board of Selectmen to acquire by gift, purchase, eminent domain or otherwise, easements in any land necessary for laying out and acceptance of Harvest Moon Drive, Whispering Lane, Sanctuary Boulevard, and Deer Path, and any appurtenant drainage, utility or other easements related to above named streets, and/or to accept grants thereof; and, further, to authorize the Board of Selectmen and other applicable Town of Natick boards and personnel to take all related actions necessary or appropriate to accomplish the purposes of this article.

Or otherwise act thereon.

ARTICLE 25
Establish Time Period for Holding a Subsequent Proposition 2-1/2
Exemption Vote
(Bruce A. Snow, et al)

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court to enact legislation in substantially the following form, provided that the General Court may reasonably vary the form and substance of the requested legislation within the scope of the general public objectives of this petition.

Section 1. Notwithstanding section 21C of chapter 59 of the General Laws or any other general or special law to the contrary, if a vote is held in the Town of Natick on a ballot question to exempt an appropriation from the limits imposed by chapter 59, section 21C of the General Laws, Proposition 2-1/2 so called, and if such ballot question fails to receive enough votes to pass, the Town will not be permitted to hold another vote to raise funds for the same purpose, unless fifty-two weeks have elapsed.

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

ARTICLE 26
Amend Charter Article 2: Legislative Branch
(Charter & By-Law Review Committee)

To see if the Town will vote to amend Article 2, Section 2-11 (d) of the Natick Home Rule Charter as follows:

1. To amend section 2-11(d) Publication, in order to clarify the publication requirements for the warrant for any town meeting;

or to otherwise act thereon.

ARTICLE 27
Amend Charter Article 4: Town Administrator
(Charter & By-Law Review Committee)

To see if the Town will vote to amend Article 4, section 4-2(8) of the Natick Home Rule Charter as follows:

- a. Delete the words “a proposed” after “Article 5”; and
- b. Insert a comma and the words “the fiscal documents pertaining to the” after the words “Article 5”; and
- c. Delete the word “a” after the words “operating budget and”;

So that section 4-2(8) shall read:

“He shall prepare and submit, in the manner provided in Article 5, the fiscal documents pertaining to the annual operating budget and proposed capital outlay program for the town.”;

or to otherwise act thereon.

ARTICLE 28
Amend Charter Article 5: Fiscal Procedures
(Charter & By-Law Review Committee)

To see if the Town will vote to amend Article 5, of the Natick Home Rule Charter as follows:

1. In section 5-2 (b), in the first sentence remove the second occurrence of the word “its”, which appears between the words “of” and “proposed”, and replace it with the word “the”,

so that the first sentence of Section 5-2 (b) shall read:

“At least seven days before the meeting at which the school committee is to vote on its final budget request, the school committee shall cause to be published in a local newspaper a general summary of the proposed budget.”;
and

2. To amend section 5-5 in order to clarify the presentation requirements of the proposed or preliminary budget or budgets; and
3. To amend section 5-6 (b) in order to clarify what budgets are under review of the Finance Committee;

or to otherwise act thereon.

ARTICLE 29

Amend By-Laws: Allow Town Meeting to Limit Maximum Speaking Time (Paul E. Connolly, et al)

To see if the Town will vote to amend Section 3 of Article 3 of the Town of Natick By-Laws in order to allow Town Meeting to vote to limit maximum speaking time after considerable debate has already occurred. The proposed amendment is as follows:

1. After the last paragraph, add two new paragraphs as follows:

With reference to a main motion or a motion to amend, it shall be in order for the Moderator to entertain a subsidiary motion to limit the time for each succeeding speaker to three (3) minutes, provided at least two (2) persons for the affirmative and two (2) persons for the negative have already spoken on the motion. In this context, a motion to limit debate, without further qualification, shall be considered a motion for the “three-minute limit.” The motion may not be amended or debated, and it requires a two-thirds (2/3) vote.

Notwithstanding any other provisions of this section to the contrary, a motion to permit a specified amount of time for a particular person to speak may be entertained by the Moderator, provided the motion is made before the person is recognized to speak. This motion may not be amended or debated, and it requires a majority vote.

2. In the existing first paragraph, delete the phrase “without permission of the Town Meeting” only in the second of two places where it occurs.

ARTICLE 30
Amend By-Laws: Standing Committees of Town Meeting
(William J. Proia, Jr., et al)

To see if the Town will vote pursuant to Natick Home Rule Charter, Section 2-11(e) to amend the Town of Natick By-Laws by the additional thereto of the following in its entirety to be known as Town of Natick By-Laws Section 10.1, or otherwise act thereon:

Section 10.1 Standing Committees of Town Meeting

In order to more perfectly discharge its legislative and representative duties on behalf of the residents of the Town of Natick, Town Meeting pursuant to Natick Home Rule Charter Section 2-11(e) hereby establishes the following standing committees, more particularly described and defined below: Rules Committee, Capital Budget Committee; Real Property and Facilities Committee; Land Use and Zoning Committee.

The Rules Committee shall assign all proposed warrant articles, and other appropriate matters as further described herein, to the respective standing committees whose jurisdiction includes the subject matter of said proposed warrant articles and other matters, in order that the standing committees may provide a recommendation to Town Meeting respecting the subject matter of said proposed warrant articles. The standing committees established hereunder shall conduct open public hearings, in accordance with the rules and procedures governing the conduct of Town Meeting, respecting matters properly before them to furnish any interested party with a forum and opportunity to discuss their views concerning such matters. Any standing committee, relative to the subject matter of its jurisdiction, may conduct investigations into the operations of the Town and into the conduct of any Town department, office, or agency, and for this purpose such committees may summon witnesses, administer oaths, take testimony and require the production and discovery of, without limit, papers, records, documents, reports, books and any and all other information and materials produced by or for, prepared by or for, or in the possession of any investigatee. Any person who fails or refuses to appear and testify whenever summoned, or to produce said information requested hereunder may be punished by a fine of not more than five hundred dollars (\$500.00).

Each standing committee shall have eleven (11) members selected as follows:

The then duly elected or appointed town meeting members from each voting precinct shall by majority vote appoint one of their members to serve one each standing committee, provided that no such appointed member simultaneously shall serve on more than one standing committee. Once appointed as provided above, the members of the respective standing committees shall by majority

vote appoint one member to their respective committees from the then duly elected or appointed town meeting members; provided that the member so appointed shall not be a member of any standing committee. The terms of all members of the standing committees shall be for three years, except the first year, when four members shall be appointed for three years, four members for two years, and three members for one year. Appointments shall be made within 30 days after the final adjournment of the annual spring Town Meeting. Each standing committee shall choose a chair, vice-chair, and secretary. Any vacancy occurring in any standing committee before the expiration of a term or at the expiration of a term shall be filled by the appointing authority.

(a) Rules Committee

The Rules Committee shall:

- (1) Review matters and make recommendations relating to the conduct of the Town Meeting.
- (2) Assign proposed warrant articles and other appropriate matters to the various standing committees in accordance with this Section 10.1.
- (3) Assist the Moderator in the selection of appointees to committees of the Town Meeting for which the Moderator is the appointing authority.
- (4) Review and make recommendations regarding proposed warrant articles and other matters referred to the Rules Committee by the Committee or by the Town Meeting.

(b) Capital Budget Committee

The Capital Budget Committee shall:

- (1) Review all matters relating to proposed expenditures of money by the Town for capital terms and projects. A capital item or project shall be an expenditure, financed in whole or in part by Town funds, in excess of \$2,500.00 and may include (i) the construction, repair, extension, or other improvement of a public building, highway, sidewalk, storm drain, sewerage installation, bridge, playground, park or like public works, or for a facility, structure, or utility appurtenant to any of them, and (ii) the purchase of land, equipment or buildings.
- (2) Receive by January 15 of each year, from each Board, Officer and Committee charged with the expenditure of Town funds, a detailed

estimate of annual Capital expenditures for a period of five (5) years, an inventory listing of each Capital item, and such supplementary information as may be requested by the Committee.

- (3) Review and make recommendations regarding proposed warrant articles and other matters which may be referred to the Committee by the Rules Committee or by Town Meeting, or otherwise.

(c) Real Property and Facilities Committee

The Real Property and Facilities Committee shall:

- (1) Become familiar with the long-term issues of care and capacity of town facilities.
- (2) Review and make recommendations to Town Meeting on the use, maintenance, construction, and disposition of town buildings, physical plant, and infrastructure.
- (3) Provide input regarding long-term facilities issues and plans on behalf of Town Meeting to relevant town boards, committees, commissions and officials.
- (4) Review and make recommendations regarding proposed warrant articles and other matters which may be referred to the Committee by the Rules Committee or by Town Meeting, or otherwise.

(d) Land Use and Zoning Committee

The Land Use and Zoning Committee shall:

- (1) Review and make recommendations regarding proposed warrant articles dealing with land use and zoning. Whenever practicable, a written report shall be submitted to Town Meeting prior to its consideration of the respective articles. If the article requires a recommendation by the Planning Board, the Planning Board shall notify the Land Use Committee of the public hearing for the land use zoning issue and include the Land Use Committee in the distribution of the legal notices.
- (2) Review and consider appropriate maps; surveys of residents and owners of property directly affected; reports and studies of qualified and

experienced consultants; probable impacts on occupants, owners and uses of property in the near vicinity of the land and zoning districts and uses in question; the economy of the community; traffic, safety and ecology; potential alternate uses of the land in question; and any other matters or information the Committee wishes to consider.

- (3) Appoint members of the Land Use Committee as liaisons to other Town boards, committees, commissions, departments or officials respecting matters before those boards, committees, commissions, departments or officials as they relate to matters within the jurisdiction of the Committee.

ARTICLE 31

Amend By-Laws Article 11: Town Clerk (Charter & By-Law Review Committee)

To see if the Town will vote to amend Article 11 of the Town of Natick By Laws as follows:

1. In Section 1, in the first sentence, delete the words “, in books, to be kept for such purposes alone,” and insert in their place the words “of all records, as required under Massachusetts General Laws, and” and delete the words “deeds, permits, licenses, and grants issued and executed by the Selectmen and of such other instruments executed by the Selectmen”, so that said first sentence reads: “The Town Clerk shall keep a true copy of all records, as required under Massachusetts General Laws, and in accordance with the provisions of these by-laws.”
2. In Section 2, in the first sentence insert the words “or his designee” after the words “Town Clerk”, and in the second sentence, delete the words “Town Treasurer” and insert in their place the words “Town Clerk,” so that said Section 2 reads: “The Town Clerk or his designee shall cause every conveyance of the Town of any interest in land to be properly recorded in the appropriate Registry of Deeds or Land Registration Office. After recording, the deeds shall be delivered to the Town Clerk, in whose custody they shall remain”.
3. In Section 5 delete the comma after the word “proceedings” and insert a comma after the word “reports” so that said Section 5 reads: “The Town Clerk shall furnish blanks, with appropriate headings, upon which petitions, reports, and other papers in the ordinary course of Town proceedings may be prepared.”
4. In Section 8, second sentence, insert the words “and vacation of office provisions” between the words “requirement” and “as”, so that said second sentence reads: “If the Town Clerk receives a notice in writing

that an elected Town officer, but not including a Town Meeting Member, has removed from the Town or has registered elsewhere, the Town Clerk shall notify the elected Town officer in writing of the eligibility requirement for elective Town office as specified in Section 3-1 (b) of the Charter and of the resignation requirement and vacation of office provisions as specified in said Section 109.”;

5. Insert a new Section 14 at the end of the article, as follows:

“Section 14 Locations for Posting Notices of Town Meetings

The Town Clerk shall determine suitable locations in the Town for posting notices of Town Meetings. These locations shall be readily accessible to the public. The Town Clerk shall submit the list of these locations, including any changes to the list, to the Board of Selectmen for approval.”

or otherwise act thereon.

ARTICLE 32

**Amend By-Laws Article 26: Historic District Commission
(Charter & By-Law Review Committee)**

To see if the Town will vote to amend Article 26 of the Town of Natick By Laws as follows:

1. In Section 2 (1), delete the words “, drawn by the Natick Department of Public Works” which appear after the title of the plan; and delete the words “Town Clerk” at the end of the subsection and insert in their place the words “Natick Community Development Office”;

In Section 2 (2), delete the words “drawn by the Natick Department of Public Works” which appear after the title of the plan; delete the words “, said plan being on record with the Town Clerk and said plan”, which appear after the words “100’”); and insert at the end of the subsection the words “, said plan being on record with the Natick Community Development Office”.

So that said Section 2 reads:

“Section 2 Historic Districts

There is hereby established under the provisions of the Historic Districts Act, Chapter 40C of the General Laws, as amended, the historic districts described as follows:

- (1) **John Eliot Historic District**, as shown on a plan entitled “Proposed Enlargement of John Eliot Historic District” (scale 1” equals 100’) dated August 28, 1975, and revised March 1, 1976, said plan being on record with the Natick Community Development Office.
 - (2) **Henry Wilson Historic District**, as shown on “Plan of the Proposed Henry Wilson Historic District, Natick, Massachusetts”, (scale 1” equals 100’) dated August 10, 1977, and revised November 8, 1977, said plan being on record with the Natick Community Development Office.
2. In Section 5, delete the words “forty-five (45)” and insert in their place the words “sixty (60)” so that said Section 5 reads:

“Section 5 Time Limits

When taking action under the provisions of Section 7 of the Historic Districts Act, General Laws, Chapter 40C, as amended, the Historic District Commission shall make a determination within sixty (60) days after the filing of the application for a certificate of appropriateness, or such further time as the applicant may in writing allow.”

or otherwise act thereon.

ARTICLE 33

Amend By-Laws Article 41: Contracts, Town Property, Regulations of Town Boards and Officials

To see if the Town will vote to amend Article 41 of the Town of Natick By-Laws, as follows:

1. In Section 1:
 - a) Insert a new first paragraph which reads:

“The award of all contracts for the purchase of services, equipment, supplies or materials for all departments of the Town of Natick shall be made in accordance with Mass. Gen. Laws Chapter 30B; Chapter 30 Section 39M; Chapter 7; Chapter 149; or other applicable law, as may be amended. Administrative policies and/or procedures shall be established by the Town Administrator and the Superintendent of Schools as appropriate. Such policies and/or procedures shall, at a minimum, identify the municipal officials having the authority to legally bind the Town in a contract.”

- b) In the present first paragraph, first sentence, insert “,which must be authorized by the Chief Procurement Officer, or quotes” between “proposals” and “for”; delete the second sentence; and insert the words “or quotes” at the end of the present third sentence;
- c) In the present second paragraph, first sentence, insert “,which must be authorized by the Chief Procurement Officer, or bids” between “proposals” and “for”, and insert “or bids” at the end of the first sentence; in the second sentence, insert “or bids” between “proposals” and “will” and at the end of the second sentence; and insert two new sentences at the end of the paragraph, which read:

“The opening of all proposals shall be witnessed. All bids shall be opened in public.”

- d) In the present third paragraph, delete the first sentence, which reads “All proposals shall be opened in public”.
- e) Insert a new paragraph at the end of Section 1, which reads:

“All contracts of the Town of Natick shall bear the signature of the Comptroller verifying the availability of funds in the full amount of the contract.”

2. In Section 2:

- a) Insert at the beginning of the first sentence the words “To the extent permitted by applicable state procurement law”; insert the words “or the School Committee, as applicable,” between “Selectmen” and “may”; and delete from the end of the first sentence the words “or when no reasonably suitable substitute can be obtained for the article or service to be purchased or contracted for”.
- b) In the present second sentence insert “or School Committee, as applicable,” between “Selectmen” and “in”; insert “as soon as practical” between “contract” and “, and”; and insert “procurement” between “other” and “records”.

3. Delete the present text of Section 3 and insert in its place the following text:

“The designated procurement officer shall retain complete files for every procurement of the Town of Natick, including solicitation, responses, contracts, and amendments thereto, if applicable. Every Town board, official, employee or committee making or executing a contract on behalf of the Town shall furnish a copy of said documents to the procurement officer, with the original contract and original amendments thereto, if applicable, to

the Town Comptroller within ten (10) days after the execution of all such documents. The procurement officer and the Town Comptroller shall keep such documents on file consistent with applicable public records laws.”

4. In Section 5, delete “fifty dollars (\$50.00)” and insert in its place “five hundred dollars (\$500.00)” and insert “or School Committee, as applicable,” between “Selectmen” and “who”.
5. In Section 6, last sentence, insert “or successor legislation, or as said laws may hereinafter be amended” after “37-84A”.
6. In Section 11:
 - a) In the first paragraph, first sentence, insert “or successor legislation, or as said laws may hereinafter be amended” at the end of the sentence.
 - b) In the first paragraph, second sentence, insert “, except as may otherwise be required or allowed by these By-Laws or the Charter of the Town” at the end of the sentence.
 - c) In the second paragraph, first sentence, delete the word “yearly” and insert “as well in advance as practicable” at the end of the sentence.
7. In the table at the end of Article 41, in the column entitled “Official Responsible for Publication” change “Planning Director” to read “Community Development Director” in all three locations and in the column entitled “Title” insert “(Plan of Organization)” after “Administrative Code” so that Article 41, as amended, would read:

“ARTICLE 41

CONTRACTS, TOWN PROPERTY, AND REGULATIONS OF TOWN BOARDS AND OFFICIALS

Section 1 Procedures for Award of Contracts

The award of all contracts for the purchase of services, equipment, supplies or materials for all departments of the Town of Natick shall be made in accordance with MGL Chapter 30B; Chapter 30 Section 39M; Chapter 7; Chapter 149; or other applicable law, as may be amended. Administrative policies and/or procedures shall be established by the Town Administrator and the Superintendent of Schools as appropriate. Such policies and/or procedures shall, at a minimum, identify the municipal officials having the authority to legally bind the Town in a contract.

No contract for the purchase of services, equipment, supplies, or materials, the actual or estimated cost of which amounts to five thousand dollars (\$5,000.00) or more, but less than twenty-five thousand dollars (\$25,000.00), shall be awarded unless proposals, which must be authorized by the Chief Procurement Officer, or quotes for the contract have been invited from no less than three (3) vendors, contractors or other qualified persons. The Town of Natick shall reserve the right to reject any or all such proposals or quotes.

No contract for the purchase of services, equipment, supplies or materials, the actual or estimated cost of which amounts to twenty-five thousand dollars (\$25,000.00) or more, shall be awarded unless proposals, which must be authorized by the Chief Procurement Officer, or bids for the contract have been invited by advertisement in at least one newspaper, published or circulated in the Town of Natick, such publication to be at least seven (7) days before the time specified for the opening of said proposals or bids. Such advertisement shall state the place where plans and specifications for proposed work or purchases may be obtained and the time and place at which proposals or bids will be opened, and shall reserve to the Town of Natick the right to reject any or all such proposals or bids. The opening of all proposals shall be witnessed. All bids shall be opened in public.

No contract, and no purchase, service or work for which a contract is proposed, shall be split or divided for the purpose of evading any provision of this section.

This section shall not apply to professional services, or to services performed by a person regularly employed by the Town as part of the duties of such employment. This section shall apply to architectural consulting services and engineering consulting services for which no procurement process is required by Massachusetts law.

All contracts of the Town of Natick shall bear the signature of the Comptroller verifying the availability of funds in the full amount of the contract.

Section 2 Emergencies

To the extent permitted by applicable state procurement law, the Selectmen or the School Committee, as applicable, may exempt a purchase or contract from any or all of the provisions of the preceding section when, in their opinion, an emergency exists requiring immediate action on such purchase or contract to protect the health and safety of persons or property. Evidence indicating that such an emergency exists, or that no reasonable substitute for a purchase or service can be obtained shall be furnished to the Selectmen or School Committee, as applicable, in writing by the officer, board,

or committee making such purchase or contract as soon as practical, and shall be kept on file with other procurement records of such transactions.

Section 3 Contract Files

The designated procurement officer shall retain complete files for every procurement of the Town of Natick, including solicitation, responses, contracts, and amendments thereto, if applicable. Every Town board, official, employee or committee making or executing a contract on behalf of the Town shall furnish a copy of said documents to the procurement officer, with the original contract, and original amendments thereto, if applicable, to the Town Comptroller within ten (10) days after the execution of all such documents. The procurement officer and the Town Comptroller shall keep such documents on file consistent with applicable public records laws.

Section 4 Compensation of Town Officers and Employees

No Town officer and no salaried employee of the Town shall receive any compensation or commission for work done by him for the Town, except his official salary and fees allowed by law, without permission of the Selectmen expressed in a vote which shall appear on their records with the reasons therefor.

Section 5 Disposal of Property

Whenever any property of the Town, other than real estate, the replacement value of which exceeds five-hundred dollars (\$500.00), shall have become obsolete, disused, worn out or necessary to replace, the Town official or officials having jurisdiction thereof shall so certify in writing to the Board of Selectmen or School Committee, as applicable, who may reserve action relative to its disposal for consideration of a Town Meeting or may by vote authorize the official or officials to abandon, to trade, or to sell such property at a private or public sale.

Section 6 Sale of Tax Title Land

The Selectmen and Town Treasurer may sell at public auction and in such manner, upon such terms and for such consideration as in their judgment is for the best interest of the Town, lands held from time to time by the Town under tax titles the right of redemption from which has been foreclosed. Notice of such sales shall be advertised at least once in a newspaper published in the Town no less than fourteen (14) days prior to the date of the sale, and such notice shall include the location of such lands by street address or comparable description. The Conservation Commission and the Historical Commission of the Town shall be notified of such sale at the time that the advertisement is prepared.

(For more precise requirements on such sales, see Mass. Gen. Laws, Chapter 60, Sections 37-84A or successor legislation, or as said laws may hereinafter be amended).

Section 7 Designation of Town Vehicles

All automobiles and other vehicles owned by the Town shall be so designated by a circular label not less than six (6) inches in diameter bearing the words "Town of Natick" and the name of the Department, with the exception of those vehicles exempted from this by-law by the Board of Selectmen.

Section 8 Annual Audit

There shall be an annual audit of the accounts of the Town under the direction of the Director of the Bureau of Accounts of the Commonwealth of Massachusetts.

Section 9 Authorization for Expenditure of Funds

The Town Comptroller shall not approve for payment any warrant for the expenditure of public funds unless there shall appear thereon the signatures of at least a majority of the Town board, commission, or committee authorized to make expenditures.

Section 10 Fees Paid to the Town

All Town officers except constables shall pay into the Town Treasury all fees received by them by virtue of their office.

Section 11 Compliance with Open Meeting Law

All meetings of Town boards, commissions, committees, and sub-committees, elected, appointed or otherwise constituted, shall be in accordance with the provisions of Section 7-9 of the Charter and Sections 23A through 23C of Chapter 39 of the General Laws or successor legislation, or as said laws may hereinafter be amended. In addition, in any matter requiring a vote of the Board, the vote shall be by voice or roll call and no secret or written ballots shall be used, except as may otherwise be required or allowed by these By-Laws or the Charter of the Town.

All elected boards and committees shall notify the Town Clerk of their organization, rules and regulations and shall file with him a schedule of regular meetings as well in advance as practicable. The Town Clerk shall be notified of changes in or additions to the meeting schedule not less than forty-eight (48) hours before the meeting concerned.

Appointed standing committees shall meet as required by their duties and shall notify the Town Clerk not less than forty-eight (48) hours before any meeting.

No portion of this section shall apply to any Committee or individual designated or appointed for purposes of collective bargaining pursuant to the General Laws 149, Section 1781.

Section 12 Availability of Regulations

Up-to-date copies of all regulations adopted by the Town, as listed in the table entitled "Town Regulations," which appears at the end of this article and is incorporated into this section by reference, shall be available for review by the public in the office of the official responsible for publication, in the office of the Town Clerk, and in the Morse Institute library.

Whenever changes to regulations are adopted, the responsible official shall either publish a complete new edition or provide a package of change pages. If packages of change pages are provided, the pages shall be marked with a distinguishing date or a change number, and a list of current pages shall be included so that other persons can accurately update copies in their possession.

TOWN REGULATIONS

Title	Approving Authorities	Official Responsible for Publication
Natick Home Rule Charter	Town Meeting, Attorney General, Voters	Town Clerk
Town of Natick By-Laws	Town Meeting, Attorney General	Town Clerk
Zoning By-Laws	Town Meeting, Attorney General	Community Development Director
Subdivision Rules and Regulations	Planning Board	Community Development Director
Rules and Regulations for Special Permits	Planning Board	Community Development Director
Administrative Code (Plan of Organization)	Town Meeting	Town Administrator
Traffic Rules and Orders	Board of Selectmen	Police Chief
Board of Health Regulations	Board of Health	Director of Public Health
Department of Public Works Regulations	Board of Selectmen	Director of Public Works
Zoning Board of Appeals Rules and Regulations	Zoning Board of Appeals	Secretary, Zoning Board of Appeals”

; or otherwise act thereon.

including without limitation to amend the Natick Home Rule Charter and/or to amend the Town of Natick By-Laws; or otherwise act thereon.

ARTICLE 36

Amend By-Laws and/or Charter: Allow for a Change of Date for Fall Town Meeting

(Board of Selectmen and Charter & By-Law Review Committee)

To see what action the Town will take to allow the Board of Selectmen to change the date of the Fall Annual Town Meeting, including without limitation to amend the Natick Home Rule Charter and/or to amend the Town of Natick By-Laws; or otherwise act thereon.

ARTICLE 37

Amend By-Laws Article 60: Fire Regulations (Charter & By-Law Review Committee)

To see if the Town will vote to amend Article 60 of the Town of Natick By-Laws by deleting the current text in its entirety and inserting in its place the following text:

“Article 60

Fire and Life Safety Regulations

Section 1 Orders, Rules, Investigations, and Inspections

For the purpose of ensuring compliance and reasonable safety of the public and firefighters, as authorized by Massachusetts General Laws (MGL) Chapter 148 “Fire Prevention Laws”, 527CMR “Fire Protection Regulations”, and, where authorized, by 780CMR “State Building Code”, or this By-Law, the Chief of the Fire Department (the Chief) or his designee may:

1. Enter, at any reasonable hour, any building, structure, or premises to make investigation and inspection;
2. Make rules or orders consistent with laws and regulations cited in this By-Law.

Section 2 Definitions

Fire Protection Systems Systems, devices, and equipment used to detect a fire and its by-products, actuate an alarm, or suppress or control a fire and its by-products, or any combination thereof.

Life Safety Systems Systems that enhance or facilitate evacuation of smoke, or devices and alarms that detect and

notify the presence of carbon monoxide.

*Auxiliary Fire Alarm
Systems, (Municipal
Master-Boxes), Central
Station and Remote
Stations*

As defined by the latest edition of the National Fire Alarm Code, NFPA-72, as published by the National Fire Protection Association, Quincy, MA.

Section 3 Regulatory Policies

Notwithstanding any general or special law to the contrary, the Chief may promulgate regulatory policies for the purpose of clarifying the intent of any sections of the By-Laws, MGL, regulations, or codes stipulated in Section 1. Regulatory policies and promulgations under this section shall be approved by the Board of Selectmen (the Board). Regulatory policies may include, but are not limited to:

- A. Obstruction or blockage of a public or private way to prevent access by fire apparatus or equipment to any building.
- B. Fire lanes, markings, postings, and maintenance.
- C. Fire Department vehicle access to private roadways.
- D. Method of supervision (Fire Department notification) of fire protection and life safety systems within all buildings by means of auxiliary fire alarm systems (municipal master-boxes), central station systems, remote station systems, or combination, including testing, maintenance and maintaining operational readiness.
- E. Fire protection and life safety systems, functions, equipment, and component locations.
- F. Fire hydrant location and placement, public and private.
- G. Inspection, testing, and maintenance of fire protection systems.
- H. Impairments affecting fire protection life safety systems' function and Fire Department notification.
- I. Issuance of permits for the use of open flames in or around buildings or structures.
- J. Conditions for the permitted use of open flames in or around buildings or structures.

Section 4 Appeals

Anyone aggrieved by the Chief's interpretation, order, requirement, direction, or failure to act under the provisions of this By-Law, notwithstanding any general law or special law to the contrary, may, within ten (10) days of such action, file an appeal in writing with the Board. Once the appeal is filed with the Board, there is a stay of all proceedings until a decision is reached. The Board shall notify the appellant and the Chief in writing at least ten (10) days prior to the hearing date. The Board shall render a decision within thirty (30) days following the hearing. The appellant, if aggrieved by the decision of the Board, may seek further review by a court of appropriate jurisdiction.

Section 5 Adoption of Local Option Law

The Chief or his designee shall enforce the following local option MGLs adopted by the town and any other MGLs subsequently adopted by the Town.

MGL 148, 26C "Certain Public Accommodations": automatic smoke or heat detectors. Date of adoption: ATM April 12, 1988, Art. 42.

MGL 148, 26G "Non-residential Buildings or Additions": automatic suppressant or sprinkler systems. Date of adoption: ATM April 12, 1988, Art. 43.

MGL 148, 26H "Lodging or Boarding Houses": Automatic sprinkler systems. Date of adoption: ATM April 12, 1988, Art. 44.

MGL 148, 26I "Multiple Dwelling Units": New construction: Automatic Sprinkler Systems. Date of adoption: ATM October 19, 2006, Art. 12.

Section 6 Fire Department Radio Communication

The Chief may require the installation of two-way in-building radio communication systems within any new or existing building to enhance communication among Fire Department personnel. Such two-way in-building radio communication systems shall comply with Fire Department specifications and installation requirements.

Section 7 Fire Department Building Access

The Chief may require the installation of specialized, secured lock-boxes on any building or structure to permit emergency access during non-occupied or normal business hours. Specialized, secured lock-boxes shall comply with Fire Department specifications and installation requirements.

Section 8 Fees

The Chief may recommend to the Board reasonable fees for the issuance or renewal of licenses, permits, the supervision of auxiliary fire alarm systems (municipal master-box), and temporary impairments of auxiliary fire alarm systems (municipal master-box) affected by installation, testing, inspection, or maintenance of fire protection and life safety systems.

9 Fire Alarm System Malfunctions (False Alarms) and Fines Structure

9.1 In order to reduce the number of unnecessary responses by the Fire Department due to faulty fire alarm systems, the Chief may assess a fine against a fire alarm system owner for each fire alarm system malfunction per calendar year according to the following schedule:

- a. First through third malfunction. No Charge.

Upon receipt of the third such false alarm by the Fire Department, the Chief shall notify the owner of the fire alarm system in writing,

and by registered mail, return receipt requested, of such fact, and inform the owner of the Department's policy relative to charging for false fire alarms. A copy of the By-Law shall be enclosed with the formal notice.

- b. Fourth malfunction: \$100.00.
- c. Fifth malfunction: \$200.00.
- d. Each malfunction after the fifth: \$300.00 per call.

9.2 Private fire alarm systems connected to the Fire Department by other automatic means or through a central station system shall be subject to the aforementioned fee structure (subsection 9.1).

9.3 Any false fire alarm which is the result of the failure of the property owner, occupant, or their agent(s) to notify the Fire Department of repair, maintenance, or testing of the internal fire alarm system within the protected premises shall cause a penalty to be assessed in accordance with subsection 9.1.

9.4 For the purposes of this regulation, a false fire alarm shall be defined as any alarm caused by:

- a. The operation of a faulty smoke, heat, or water flow detection device.
- b. A faulty control panel or associated equipment.
- c. A water pressure surge in an automatic sprinkler system.
- d. Accidental operation of an automatic sprinkler system.
- e. Any action causing accidental activation of an internal fire alarm system by:
 - 1. An owner of the protected premises;
 - 2. An occupant of the protected premises;
 - 3. Any employee or contractor of an owner or occupant of the protected premises;
 - 4. Any agent of an owner or occupant of the protected premises;
 - 5. Any agent of an employee or contractor of the owner or occupant of the protected premises.

9.5 Property owners will be billed once a month for the previous month's malfunction activity. All fines assessed shall be paid to the Town Treasurer for deposit in the general fund. If the bill is not paid within thirty (30) days, a second notice will be sent; if the bill is not paid after another thirty (30-day)

period, a final notice will be sent informing the owner and/or occupant that the master box will be disconnected and the insurance company notified after thirty (30) days of said final notice.”

or otherwise act thereon.

ARTICLE 38
Amend By-Laws: Adopt Stretch Energy Code
(Town Administrator)

To see if the Town will vote to enact Article 72.B. of the Town of Natick 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 120 AA of the Massachusetts Building Code, 780 CMR, the “Stretch Energy Code,” including amendments or modifications thereto, said Article 72.B. to read as follows:

“Article 72.B.

STRETCH ENERGY CODE

Section 1 Definitions

Section 2 Purpose

Section 3 Applicability

Section 4 Authority

Section 5 Stretch Code

Section 1 Definitions

International Energy Conservation Code (IECC) 2009 - The International Energy Conservation Code (IECC) is a building 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. Commencing July 1, 2010, the baseline energy conservation requirements of the MA State Building Code will default to IECC 2009 and MA amendments.

Stretch Energy Code - Codified by the Board of Building Regulations and Standards as 780 CMR 120.AA, the Stretch Energy Code is the International Energy Conservation Code (IECC) 2009 with amendments contained herein.

Section 2 Purpose

The purpose of 780 CMR 120.AA is to provide a more energy efficient alternative to the base energy code applicable to the relevant sections of the building code for both new construction and existing buildings.

Section 3 Applicability

This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13.00, 34.00, 61.00, or 93.00, as applicable.

Section 4 Authority

A municipality seeking to ensure that construction within its boundaries is designed and built above the energy efficiency requirements of 780 CMR may mandate adherence to 780 CMR 120.AA.

780 CMR 120.AA may be adopted or rescinded by the Town of Natick in the manner prescribed by law.

Section 5 Stretch Code

The Stretch Energy Code, as codified by the Board of Building Regulations and Standards as 780 CMR 120.AA, including any amendments or modifications, is herein incorporated by reference into the Town of Natick General Bylaws, Article 72.B.

The Stretch Energy Code is enforceable by the Building Inspector.”

or take any other action relative thereto.

ARTICLE 39

Amend By-Laws Article 74: Junk Dealers (Charter & By-Law Review Committee)

To see if the Town will vote to amend Article 74, Section 3 of the Town of Natick By-Laws by inserting the words “Sections 2 and 3 of” in the second last paragraph of Section 3, between the words “of” and “this”, so that said paragraph reads “Violations of the provisions of Sections 2 and 3 of this by-law

shall be punishable by a fine of one hundred dollars (\$100.00), and each transaction in violation shall constitute a separate offense.”

or otherwise act therein.

ARTICLE 40

Amend By-Laws Article 81: Chemical Storage Tanks and Systems (Charter & By-Law Review Committee)

To see of the Town will vote to amend Article 81 of the Town of Natick By-Laws as follows:

1. In Section 8 a.(1), insert the words “shall be double-walled” between the words “construction” and “(equipped”

so that said Section 8 a.(1) reads:

“(1) All fiberglass construction shall be double-walled (equipped with a striker plate); steel with bonded fiberglass or enamel coating and noncorrosive lining; the Steel Tank Institute 3-Way Protective System; any other system which can be shown to provide equivalent protection at the discretion of the Board of Health.”

2. In Section 8c.:
 - a. in the first sentence insert the words “double-walled” between the words “of” and “fiberglass” and insert at the end of the sentence “,impervious membrane liner or the best available technology as approved by the Board of Health”;
 - b. in the second sentence delete the words “,the design and number of devices subject to Board of Health approval” and replace them with the words “within the interstitial space of the tank”;
 - c. insert a new third sentence which reads “Additional devices may be required.” and
 - d. insert a new fourth sentence which reads “The design and number of said devices shall be subject to Board of Health approval.”

so that said Section 8c. reads:

“c. All tank installation within four (4) feet of high water table or within one hundred feet of a surface-water body shall be double-walled fiberglass construction and located in a water-tight vault, impervious membrane liner or the best available technology as approved by the Board of Health. Tanks so located shall be monitored by an approved leak detection system within the interstitial space of the tank. Additional devices may be required.

The design and number of said devices shall be subject to Board of Health approval.”

3. In Section 10 a., delete the words “two thousand feet of a public water supply well” and insert in their place the words “the Aquifer Protection District as described in Section III-A.5 of the Zoning By-Laws” and insert at the end of the section the words “and with the issuance of a Special Permit in accordance with the requirements found in Section III-A.5 of the Zoning By-Laws”

so that said Section 10 a. reads:

“a. No new installation of underground fuel or chemical storage tanks and systems shall be allowed within the Aquifer Protection District as described in Section III-A.5 of the Zoning By-Laws except as proved in Section 13 below and with the issuance of a Special Permit in accordance with the requirements found in Section III-A.5 of the Zoning By-Laws.”

4. In Section 10 b., delete the words “two thousand feet of a public water supply well” and insert in their place the words “the Aquifer Protection District”

so that said Section 10 b. reads:

“b. Where, fuel, gasoline or other chemicals stored underground are located within the Aquifer Protection District or other sensitive areas, the Board of Health may require the installation of an approved leak detection system, the design and number of devices to be subject to the Board of Health approval.”

or otherwise act thereon.

ARTICLE 41
Amend By-Laws Article 82: Water Conservation
(Charter & By-Law Review Committee)

To see if the Town will vote to amend Article 82 of the Town of Natick By-Laws as follows:

3. In Sections 5, 6a. and 6b., delete the words “Inspector of Buildings” and insert in their place the words “Building Commissioner”.
4. In Section 11, delete the words “the Inspector of Buildings” and insert in their place the words “the Conservation Commission, the Building Commissioner,” so that said Section 11 reads:

“Appeals

Person aggrieved by a decision of the Board of Health, the Conservation Commission, the Building Commissioner, or the Director of Public Works as to the denial of building, occupancy permits or water connections in this By-Law may appeal said decision under any applicable law.”;

or otherwise act thereon.

ARTICLE 42

Amend By-Laws Article 83: No Smoking in Public Places (Charter & By-Law Review Committee)

To see if the Town will vote to amend Article 83 of the Town of Natick By-Laws by deleting the present text in its entirety and inserting in its place the following text:

“ARTICLE 83

NO SMOKING IN PUBLIC PLACES

Section 1 Smoking in Public Places

It is hereby declared that smoking in public places is a public nuisance, dangerous and hazardous to the public health, and violates the rights of non-smokers to breathe air free of smoke contamination.

Section 2 Definitions

As used in this section the following words shall have the following meanings unless otherwise specified:

- a. Business agent:** An individual who has been designated by the owner or operator of any establishment to manage or be otherwise in charge of the establishment.
- b. Compensation:** Money, gratuity, privilege, or benefit received from an employer in return for work performed or services rendered.
- c. Employee:** An individual or person who performs a service for compensation for an employer at an employer’s workplace. Temporary employees, contract employees, and independent contractors are included in this definition.

- d. Employer:** An individual, person, partnership, association, corporation, trust, organization, school or educational institute, whether public, private or non-profit, that uses the services of one or more employees at one or more workplaces at any one time.
- e. Enclosed indoor space:** A space bounded by walls, with or without windows or fenestrations, that are continuous from floor to ceiling and enclosed by one or more doors.
- f. Lodging home:** A dwelling or part thereof that contains one or more rooming units in which space is let or sublet by the owner or operator for compensation and is let or sublet to four or more persons. The residential portions of boarding houses, rooming houses, dormitories and other similar dwelling places are included in this definition. Hospitals, jails, homeless shelters, and assisted living homes are not included in this definition.
- g. Membership association:** A non-profit entity that has been established and operates for a charitable, philanthropic, civic, social, benevolent, educational, religious, athletic, recreational, or similar purpose, and that is an organization that falls into at least one of the following categories: societies, organizations, or associations of a fraternal nature that operate under a lodge system with one or more affiliated chapters; corporations organized under Massachusetts General Law (MGL) Chapter 180; established religious places of worship whose property is tax exempt in the Commonwealth; veterans' organizations that are incorporated or chartered by the Congress of the United States and that have one or more affiliated chapters or branches in any state.

This definition does not include membership associations that permit membership for a period of less than 90 days unless they are places of religious worship.

- h. Outdoor space:** An outdoor area open to the air at all times and that cannot be enclosed by a wall or side covering.
- i. Public building:** A building or part thereof owned by the Commonwealth or any political subdivision thereof, or the Town of Natick. This definition shall include any enclosed indoor space occupied by a state or local agency or department.
- j. Residence:** The part of a structure used as a dwelling. This definition shall include, but not be limited to private homes, town houses, condominiums, apartments, residential units in governmental public housing facilities, and the residential portions of school or educational institute dormitories or facilities. This definition does not include hotels,

motels, inns, lodges, bed-and-breakfast facilities and other similar accommodations, hospitals, nursing homes, or assisted living facilities.

- k. Retail tobacco store:** An establishment that is not required to possess a retail food permit and that prohibits the entry of persons under the age of 18, and that maintains a valid permit for retail sale of tobacco products as required to be issued by the appropriate authorities in the Town of Natick, and that, as its primary purpose, offers tobacco products and paraphernalia for sale to consumers and not for resale.
- l. Smoking or smoke:** The lighting or possession of a lighted cigar, cigarette, pipe, or other tobacco product or non-tobacco product designed to be combusted or inhaled.
- m. Smoking bar:** An establishment that occupies exclusively an enclosed indoor space, and that primarily is engaged in the retail sale of tobacco products for consumption by customers on the premises, and that derives revenue from the sale of food, alcohol or other beverages incidental to the sale of tobacco products, and that prohibits, at all times during which the establishment is open for business, entry to persons under the age of 18, and that prohibits any food or beverage not sold directly by the business to be consumed on the premises, and that maintains valid permits to operate a smoking bar, one issued by the appropriate authority in the Town of Natick, and the other issued by the Department of Revenue.
- n. Workplace:** An indoor area, structure, or facility, or a portion thereof, at which one or more employees perform a service for compensation for the employer; or any other enclosed space rented to or otherwise used by the public and where the employer has the right or authority to exercise control over the space.
- o. Work space(s):** An enclosed area occupied by an employee during the course of his employment.

Section 3 Employer's Responsibility

It shall be the responsibility of the employer to provide a smoke-free environment for all employees working in an enclosed workplace.

Section 4 No Smoking in Public Places

No person shall smoke, nor shall any person, employee, employer, or other person having control of the premises in which smoking is prohibited by this regulation, or the agent or designee of such person, permit a person to smoke in any room to which the public is invited or in which the public is

permitted, including but not limited to, workplaces, work spaces, common work areas, conference and meeting rooms, offices, cafeterias, employee lounges, lobbies, elevators, hallways, waiting rooms, staircases, restrooms, restaurants, bars, taverns, cafes, or in any place where food or drink is sold for consumption on or off the premises, supermarket and retail food store, medical facility, health care facility, classroom, lecture hall, theater, motion picture theater, opera house, concert hall, arena, library, auditorium, school, municipal building, retail store, reception area, restroom or lavatory, waiting room, elevator, staircases, hallways or public area of a bank, in or upon any public transportation vehicle or facility including trains, taxis, buses, train stations, bus stations or enclosed outdoor platforms.

Section 5 Exceptions to No Smoking Locations

Notwithstanding Section 3, smoking may be permitted in the following places and circumstances:

- a. Private residences; except during such time when the residence is utilized as part of a business as a group childcare center, school age child care center, school age day or overnight camp, or a facility licensed by the department of early education and care or as a health care-related office or facility;
- b. Premises occupied by a membership association, if the premises are owned or under a written lease for a term of not less than 90 consecutive days by the association during the time of the permitted activity and if the premises are not located in a public building; but no smoking shall be permitted in an enclosed indoor space of a membership association during the time the space is:
 - (i) open to the public; or
 - (ii) occupied by a non-member who is not an invited guest of a member or an employee of the association; or
 - (iii) rented from the association for fee or other agreement that compensates the association for the use of such space.
- c. An enclosed indoor space of a membership association at all times if the space is restricted by the association to admittance only of its members, the invited guests of members, and the employees of the membership association. A person who is a contract employee, temporary employee, or independent contractor shall not be considered an employee of a membership association under this subsection. A person who is a member of an affiliated chapter or branch of a membership association that is fraternal in nature operating under the lodge system and is

visiting the affiliated association, shall be an invited guest for the purposes of this subsection.

- d. A guest room in a hotel, motel, inn, bed and breakfast or lodging home that is designated and normally used for sleeping and living purposes, that is rented to a guest and designated as a smoking room pursuant to paragraph j. of Section 5.
- e. By a theatrical performer upon a stage or in the course of a professional film production, if the smoking is part of a theatrical production and if permission has been obtained from the appropriate local authority;
- f. By a person, organization or other entity that conducts medical or scientific research on tobacco products, if the research is conducted in an enclosed space not open to the public, in a laboratory facility at an accredited school of higher education or in a professional testing laboratory as defined by regulation of the Department of Public Health;
- g. Religious or cultural ceremonies where smoking is part of the ritual.
- h. If an outdoor space has a structure capable of being enclosed by walls or covers, regardless of the materials or the removable nature of the walls or covers, the space will be considered enclosed when the walls or covers are in place. All outdoor spaces shall be physically separated from an enclosed work space. If doors, windows, sliding or folding windows or doors or other fenestrations form any part of the border to the outdoor space, the openings shall be closed to prevent the migration of smoke into the enclosed work space. If the windows, sliding or folding windows or doors or other fenestrations are open or otherwise do not prevent the migration of smoke into the work space, the outdoor space shall be considered an extension of the enclosed work space and subject to this section.
- i. A nursing home licensed pursuant to Section 71 of MGL Chapter 111 and any acute care substance abuse treatment center under the jurisdiction of the Commonwealth may apply to the Board of Health for designation of part of the facility as a residence.
 - (i) All applications shall designate the residential area of the facility. The residential area shall not contain an employee work space, such as offices, restrooms or other areas used primarily by employees.
 - (ii) The entire facility may not be designated as a residence.

- (iii) The designated residential area must be for the sole use of permanent residents of the facility. No temporary or short-term resident may reside in the residential portion of the facility.
 - (iv) All areas in the designated residential area in which smoking is allowed shall be conspicuously designated as smoking areas and be adequately ventilated to prevent the migration of smoke to nonsmoking areas.
 - (v) The facility shall provide suitable documentation, acceptable to the Board of Health that the facility is the permanent domicile of the residents residing in that portion of the facility, that information on the hazards of smoking and second-hand smoke have been provided to all residents and that smoking cessation aids are available to all residents who use tobacco products.
 - (vi) The designated residential area shall be in conformance with the smoking requirements of Section 72X of MGL Chapter 111 and 105 CMR 150.015(D)(11)(b). All residential areas shall be clearly designated as such and shall not be altered or otherwise changed without the express approval of the Board of Health.
 - (vii) All areas of a nursing home not designated as a residence shall comply with this section.
 - (viii) The nursing home shall make reasonable accommodations for an employee, resident or visitor who does not wish to be exposed to tobacco smoke.
 - (ix) Upon compliance with this section, submission of the required documentation and satisfactory inspection, the Board of Health shall certify the designated portion of the facility as a residence. The certification shall be valid for one year from the date of issuance. No fewer than 30 days before the expiration of the certification, the facility may apply for re-certification. If the Board of Health does not renew the certification before its expiration or provide notice that it has found sufficient cause to not recertify the residence portion of the nursing home as such, the certification shall be considered to continue until such time as the Board of Health notifies the nursing home of its certification status.
- j. A designated smoking room in a hotel, motel, inn, bed and breakfast or lodging home shall be clearly marked as a designated smoking room on the exterior of all entrances from a public hallway and public spaces; and in the interior of the room. Instead of marking each room, an

entranceway may designate an entire floor of residential rooms as smoking. The floor shall be conspicuously designated as smoking at each entranceway onto the floor. Smoking shall not be allowed in the common areas of the floor, such as halls, vending areas, ice machine locations and exercise areas and shall comply with the posting of “no smoking” signs in every area in which smoking is prohibited. The signs shall be posted in conspicuous locations so as to be clearly visible to all employees, customers or visitors while in the workplace.

- (i) Additional signs may be posted in public areas such as lobbies, hallways, cafeterias, conference rooms, locker rooms, lounges, elevators and offices.
- (ii) Approved signs and templates for signage design may be obtained from the Department of Public Health or Natick’s Board of Health.
- (iii) It shall be the responsibility of the establishment to ensure that the appropriate signage is displayed and that an individual or group renting the space enforces the prohibition against smoking.

Section 6 Retail Tobacco Stores

- a. Smoking shall not be permitted within any indoor enclosed portion of a retail tobacco store in the Town of Natick.
- b. Smoking bars shall not be permitted in the Town of Natick.

Section 7 Enforcement

The Natick Board of Health, the Department of Public Health, other authorized local municipal government agencies or agents within the Town of Natick, or the Alcoholic Beverage Commission shall enforce this By-Law.

- a. An individual or person who violates this By-Law by smoking in a place where smoking is prohibited shall be subject to fines according to the Natick Board of Health’s Non-Criminal Disposition Procedures.

First offense	\$100.00
Second offense within two (2) years of the date of the first offense	\$200.00
Third and subsequent offenses (each day a violation occurs shall be considered a separate offense)	\$300.00

- b. Any person, owner, manager, or other person having control of a building or vehicle and who violates this By-Law in a place where smoking is prohibited shall be punished by the following fines.

First offense	\$100.00
Second offense within two (2) years of the date of the first offense	\$200.00
Third and subsequent offenses (each day a violation occurs shall be considered a separate offense)	\$300.00

If an owner, manager or other person in control of a building or vehicle violates this Article repeatedly, the Board of Health may revoke or suspend the violator's license to operate and shall send notice of the suspension or revocation to the Department of Public Health.

Section 8 Future Changes in Smoking Laws

Nothing in this By-Law shall make smoking lawful in any area in which smoking is or may hereafter be prohibited by law. Nothing in this By-Law shall preempt further limitations of smoking by the Board of Health or any other town departments.

Section 9 Complaints

- a. Any person may register a complaint to initiate an investigation and enforcement with the Natick Board of Health, the Department of Public Health, or other authorized local municipal agencies or agents or equivalent.
- b. An individual, person, entity or organization subject to the smoking prohibitions of this section shall not discriminate or retaliate in any manner against a person for making a complaint of a violation of this By-Law or furnishing information concerning a violation to a person, entity or organization or to an enforcement authority.

Section 10 Severability

If any section, subsection, sentence, clause, phrase, or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.”;

or otherwise act thereon.

ARTICLE 43
Amend Zoning By-Laws: Amendments to Floodplain Management
Regulations
(Town Administrator)

To see if the Town will vote to amend Section III-A.3 of the Natick Zoning By-Laws, Flood Plain District, as follows:

1. Delete the first paragraph in Section III-A.3(b)2. and insert in its place:

“All special flood hazard areas within the Town of Natick designated as Zone A and AE on the Middlesex 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 Middlesex County FIRM that are wholly or partially within the Town of Natick are panel numbers 25017C0509E, 25017C0517E, 25017C0519E, 25017C0528E, 25017C0529E, 25017C0536E, 25017C0537E, 25017C0538E, 25017C0539E, 25017C0543E, 25017C652E dated June 4, 2010. 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 Middlesex County Flood Insurance Study (FIS) report dated June 4, 2010. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Commissioner, Conservation Commission and the Department of Public Works.”

2. Insert the following sentence at the end of the second paragraph in Section III-A.3(b) 2:

“The Natick Drainage Study can only be used in area as where the Base Flood Elevations are equal to or more restrictive than the FIRM and FIS.”

3. In Section III-A.3(c)3d, in the first two lines, delete the words “Flood Boundary and Floodway Map, and insert in their place the following words:

“Middlesex County FIRMS as stated in Section III-A.3(b)2.”

4. Insert the following new paragraph 3 in Section III-A.3(c)3d:

“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.”

5. Renumber Section III-A.3(c)4 as III-A.3(c)5.

6. Insert a new Section III-A.3(c)4 which reads:

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

7. Insert new Section III-A.3(d) and Section III-A.3(e) which read:

“(d) **Notification of Watercourse Alteration:** In a river or stream situation, the Building Commissioner shall notify the following of any alteration or relocation of a watercourse:

1. Adjacent Communities

2. NFIP State Coordinator (currently located at)
Massachusetts Department of Conservation and

Recreation

251 Causeway Street, Suite 600-700
Boston, MA 02114-2104

3. NFIP Program Specialist (currently located at)
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

(e) **Reference to Existing Regulations:** 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:

1. Section of the Massachusetts State Building Code which Addresses floodplain and coastal high hazard areas (currently 780 CMR 120.G, “Flood Resistant Construction And Construction in Coastal Dunes”);

2. Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 10.00);

3. Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);

and

4. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

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 the state regulations.”

or take any other action relative thereto.

ARTICLE 44
Amend Zoning By-Laws: Assisted Living Facilities
(Planning Board)

To see if the Town will vote to amend the Zoning Bylaws to accommodate the siting and permitting of Assisted Living Facilities, or otherwise take action thereon.

ARTICLE 45
Amend Zoning By-Laws: Drive-In Theater District
(Planning Board)

To see if the Town will vote to amend the Zoning Bylaws to delete the “Drive In Theatre” zoning district, or otherwise take action thereon.

ARTICLE 46
Amend Zoning By-Laws: Building Height, Hospital District
(Planning Board)

To see if the Town will vote to amend the Zoning Bylaws to restrict building height in Hospital (H) Districts within certain proximity of Residential Districts, or otherwise take action thereon.

ARTICLE 47
Extend Term of Charter & By-Law Review Committee
(Charter & By-Law Review Committee)

To see if the Town will vote to extend the term of the Charter and By-Law Review Committee, established by vote of the Spring, 2008 Annual Town Meeting under Article 34;

or otherwise act thereon.

ARTICLE 48
Committee Article
(Board of Selectmen)

To hear and act upon the reports of the several Town officers and reports of committees authorized by vote of any further Town Meeting and to authorize a sum of money for the purpose thereof.