

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss:

To either of the constables of the Town of Pepperell, in said county,

GREETINGS:

In the name of the Commonwealth aforesaid, you are hereby required to notify and warn the inhabitants of said Town qualified according to law to vote in state, county, district and town affairs to assemble at the NISSITISSIT MIDDLE SCHOOL, in said Town, on Monday, the 1st of May, A.D. 2006 at 7:30 PM to act on the following articles:

ANNUAL TOWN MEETING

May 1, 2006

ARTICLE 1

TOWN OFFICERS AND COMMITTEES

To choose all Town Officers and Committees for the ensuing year (July 1, 2006 - June 30, 2007) not required to be elected by ballot.

Recommended by Finance Committee.

ARTICLE 2

ELECTED OFFICIALS COMPENSATION

To see if the Town will vote to fix the salary and compensation of Elected Officers of the Town for the Fiscal Year July 1, 2006 - June 30, 2007, as provided by Section 108 of Chapter 41 of the Massachusetts General Laws, as amended; or take any other action relative thereto.

Salaries of the Elected Officers are included in the Departmental Appropriations.

Elected Official	Voted Salaries 7/1/05-6/30/06	Requested Salaries 7/1/06-6/30/07	Recommended Salaries 7/1/06-6/30/07
<u>Town Clerk</u> Range \$46,488* – 57,996	\$ 56,544	\$ 57,996	\$ 57,996
<u>Treasurer/Tax Collector</u> Range \$58,302* – 68,949	\$ 64,639	\$ 68,949	\$ 68,949
<u>Assessors</u>			
Chairman of the Board	\$ 1,000	\$ 1,000	\$ 1,000
Each Member (2)	\$ 750	\$ 750	\$ 750
<u>Board of Health</u>			
Chairman of the Board	\$ 750	\$ 750	\$ 750
Each Member (2)	\$ 500	\$ 500	\$ 500
<u>Board of Public Works</u>			
Chairman of the Board	\$ 600	\$ 600	\$ 600
Each Elected Member (2)	\$ 500	\$ 500	\$ 500
<u>Lawrence Library Trustees</u>	\$ 0	\$ 0	\$ 0
<u>Moderator</u>	\$ 150	\$ 150	\$ 150
<u>Planning Board</u>			
Chairman of the Board	\$ 750	\$ 750	\$ 750
Each Member (4)	\$ 500	\$ 500	\$ 500
<u>Recreation Commission</u>			
Chairman of the Board	\$ 300	\$ 300	\$ 300
Each Member (2)	\$ 250	\$ 250	\$ 250
<u>Selectmen</u>			
Chairman of the Board	\$ 1,500	\$ 1,500	\$ 1,500
Each Member (2)	\$ 1,250	\$ 1,250	\$ 1,250
<u>Tree Warden</u>	\$ 1,200	\$ 1,200	\$ 1,200

* Shall be the pay for anyone who is not the incumbent officeholder as of 7/1/06 and who is appointed or elected during the fiscal year. The above salary recommendations to become effective under the dates specified above.

Recommended by Finance Committee.

**ARTICLE 3
COMPENSATION PLAN**

To see if the Town will vote to amend its Compensation Plan established pursuant to Chapter 41, Section 108A, of the Massachusetts General Laws, and Pursuant to Chapter 31 of the Code of the Town of Pepperell, for the Fiscal Year July 1, 2006 through June 30, 2007, by deleting Appendices B, C and D of the Compensation Plan, and by inserting the text of said Appendices as follows:

**APPENDIX B
COMPENSATION PLAN
FISCAL 2007 (EFFECTIVE JULY 1, 2006)
REGULAR FULL-TIME AND REGULAR PART-TIME HOURLY EMPLOYEES**

GRADE	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6
1	12.40	12.91	13.42	13.94	14.51	15.10
2	13.15	13.68	14.22	14.78	15.37	16.00
3	14.47	15.05	15.64	16.27	16.92	17.60
4	15.91	16.55	17.21	17.90	18.61	19.35
5	17.50	18.20	18.93	19.69	20.47	21.29
6	19.25	20.01	20.82	21.65	22.53	23.42
7	21.17	22.02	22.91	23.81	24.78	25.77
8	23.30	24.22	25.20	26.19	27.24	28.35
9	25.63	26.65	27.71	28.83	29.97	31.17
10	28.18	29.32	30.49	31.71	32.96	34.29

**APPENDIX C
COMPENSATION PLAN
FISCAL 2007 (EFFECTIVE JULY 1, 2006)
REGULAR FULL-TIME AND REGULAR PART-TIME SALARIED EMPLOYEES**

GRADE	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6
1	12.40	12.91	13.42	13.94	14.51	15.10
2	13.15	13.68	14.22	14.78	15.37	16.00
3	14.47	15.05	15.64	16.27	16.92	17.60
4	15.91	16.55	17.21	17.90	18.61	19.35
5	17.82	18.54	19.27	20.04	20.84	21.68
6	19.96	20.76	21.59	22.45	23.34	24.28
7	22.35	23.25	24.17	25.15	26.15	27.20
8	25.04	26.03	27.07	28.16	29.29	30.46
9	28.03	29.15	30.32	31.53	32.80	34.11
10	31.40	32.66	33.97	35.32	36.74	38.21

APPENDIX D
 COMPENSATION PLAN
 FISCAL 2007 (EFFECTIVE JULY 1, 2006)
 SEASONAL, TEMPORARY & NON-REGULARLY SCHEDULED EMPLOYEES

GRADE	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6
0	8.22	8.55	8.89	9.25	9.62	10.00
1	12.40	12.91	13.42	13.94	14.51	15.10
2	13.15	13.68	14.22	14.78	15.37	16.00
3	14.47	15.05	15.65	16.28	16.93	17.60
4	15.91					19.35
5	17.50					21.29
6	19.25					23.42
7	21.17					25.77
8	23.30					28.35

Special Rates: Special Police Officer: Step 1 from Patrolmen's Contract
 Detention Room Monitor: C3-1
 Entry Level Playground Assistants/Dispatcher Trainees - \$1.00 less than Grade 0 Step 1

Recommended by Finance Committee.

**ARTICLE 4
 BUDGETS**

To determine the specific sums the Town will vote to raise and appropriate or appropriate from available funds, to defray the regular expenses of the Town for the Fiscal Year July 1, 2006 through June 30, 2007 for General Government; Public Safety; Education; Public Works and Facilities; Human Services; Culture and Recreation; Debt Service; Employee Benefits and Insurance; Ambulance Fund; Sewer Enterprise Fund; Water Enterprise Fund; and Transfer Station Fund, or take any other action relative thereto. The following budgets are for the fiscal year covering the twelve-month period July 1, 2006 through June 30, 2007:

Recommended by Finance Committee.

**ARTICLE 5
NORTH MIDDLESEX REGIONAL SCHOOL DISTRICT ASSESSMENT**

To see if the Town will vote to raise and appropriate or appropriate from available funds the sum of \$8,823,455.75 for the purpose of funding the Town's apportioned share of the North Middlesex Regional School District operating budget and debt service for the fiscal year July 1, 2006 through June 30, 2007, as most recently certified to the Town by the District Treasurer, and, by virtue of appropriating this sum, approve the certified budget for the said fiscal year, or, by not appropriating this sum, explicitly disapprove the certified budget; or take any other action relative thereto.

Recommended by Finance Committee.

**ARTICLE 6
NASHOBA VALLEY TECHNICAL HIGH SCHOOL ASSESSMENT**

To see if the Town will vote to raise and appropriate or appropriate from available funds, the sum of \$867,998 for the purpose of providing funds for the Town's apportioned share of the Nashoba Valley Technical High School operating budget and debt service for the fiscal year July 1, 2006 through June 30, 2007, as most recently certified to the Town by the District Treasurer, and by virtue of appropriating this sum, approve the certified budget for the said fiscal year, or by not voting to appropriate the sum, explicitly disapprove the certified budget; or take any other action relative thereto.

Recommended by Finance Committee.

**ARTICLE 7
By: Police Department**

POLICE CRUISERS

To see if the Town will vote to raise and appropriate, or appropriate from available funds, a sum not to exceed \$75,000 for the purpose of purchasing and equipping three (3) police cruisers, including any related expenses, said appropriation to be under the control of the Chief of Police; and, further, to authorize disposal of used police vehicles by trade, transfer or sale; or take any other action relative thereto.

Recommended by Finance Committee.

**ARTICLE 8
By: Conservation Commission
ACQUISITION OF LAND**

To see if the Town will vote to authorize the Board of Selectmen, in a cooperative venture with the Massachusetts Department of Fisheries and Wildlife, to acquire by purchase, eminent domain, or otherwise, for conservation purposes, a certain parcel of land on Oak Hill Street in Pepperell, now or formerly the property of Anthony Beattie, containing approximately 11.96 acres, and shown on a plan entitled "Plan of Land in Pepperell, Mass..." prepared by Rose Land Survey, dated October 29, 2005, on file in the Office of the Board of Selectmen, and filed with North Middlesex Registry of Deeds as plan #241 in Book 2006; and, *further*, to appropriate from available funds the sum of \$100,0000 to effect such acquisition; or take any other action relative thereto.

Recommended by Finance Committee.

ARTICLE 9

By: Communications Director

RECORDS MANAGEMENT SYSTEM – PUBLIC SAFETY DEPARTMENTS

To see if the Town will vote to raise and appropriate, appropriate from available funds, or borrow the sum of \$175,000 for a new records management system, including hardware, software, migration fees, and any related expenses, for Police/Fire/EMS/Communication use, said appropriation to be under the control of the Communications Director; or take any other action relative thereto.

Recommended by Finance Committee.

ARTICLE 10

By: DPW – Highway Division

MOWER TRACTOR/ROAD GRADER

To see if the Town will vote to raise and appropriate, appropriate from available funds, or borrow the sum of \$155,000 for the purpose of replacing the mower/ tractor and the road grader currently utilized in the Highway Division, said appropriation to be under the control of the Highway Superintendent; or take any other action relative thereto.

Recommended by Finance Committee.

ARTICLE 11

By: DPW – Transfer Station

TRACTOR REPLACEMENT

To see if the Town will vote to appropriate from available funds the sum of \$65,000 to replace the tractor at the Transfer Station, said appropriation to be under the control of the Highway Superintendent; or take any other action relative thereto.

Recommended by Finance Committee.

ARTICLE 12

By: Planning Board

ZONING AMENDMENT – MIXED USE OVERLAY DISTRICT

To see if the Town will vote to amend the Zoning By-law of the Town of Pepperell by adding a new Section 8500, “Mixed Use Overlay District,” as follows:

MIXED USE BY-LAW

MIXED USE OVERLAY DISTRICT

8500 Purpose

The Mixed Use Overlay District (“Mixed Use District”) allows by Special Permit from the Planning Board an alternative pattern of land development to the pattern normally permitted in the underlying District(s). A Mixed Use District Overlay shall be permitted by special permit in the Commercial or Industrial Districts provided the area to be so designated shall have at least five (5) acres (inclusive of wetlands). It is intended to create mixed commercial, residential, and open space areas where the visual and physical dominance of the automobile is made secondary to pedestrian needs; to encourage pedestrian activity by creating a pleasant, rich and diverse experience for pedestrians; to reduce traffic congestion and air pollution by providing opportunities for retail services, housing and employment in

close proximity; and to encourage the sharing of parking lots and driveway curb cuts, minimizing the amount of paved parking surface area, and reducing traffic congestion.

8510 Authority

The Planning Board shall be the Special Permit Granting Authority for Mixed Use developments. The Planning Board may vary the dimensional and parking requirements of this section if, in its opinion, such change will result in an improved design of the development. This authority continues subsequent to occupancy by Special Permit issued by the Planning Board. Section 9300 et. seq. of this Zoning By-Law applies with respect to the Planning Board's consideration of the grant of a Special Permit for the Mixed Use Overlay development.

8520 Exclusivity/Control

All other uses and provisions not otherwise impacted by this Section (8500 et. seq.) shall continue to remain in full force and effect. This Section (8500 et. seq.) of the By-Law shall exclusively control development of any Mixed Use Development and shall take precedence over any other provision of the Zoning By-Law (except the provision of any other applicable overlay district). In the event of any conflict between the provisions of this Section 8500 et. seq. and the Zoning By-Laws, the provisions of this Section shall govern and control.

8530 Permitted Uses

Except as noted below, all uses permitted in a Commercial District shall be permitted in a Mixed Use District. In addition to the foregoing, the following types of uses shall be permitted in Mixed Use District developments.

8530.1 Multifamily Dwellings - defined as a structure or structures containing three or more residential units.

8530.2 Municipal Facilities - defined as facilities owned or operated by the Town of Pepperell.

8530.3 Underground and Above Ground Utilities

8530.4 Parking Facility - defined as a structure or structures permitting above ground or below grade parking including parking at or below grade under a building.

Any permitted use may be commingled into a single structure or structures with other permitted uses or may be located in separate structures on the site.

8530.5 Notwithstanding the foregoing, the following uses shall be expressly PROHIBITED in a Mixed Use District:

- Motor vehicle sales and rental
- Motor vehicle light service
- Motor vehicle general and body repair
- Car Wash
- Commercial Kennel
- Flea Market
- Drive through service for fast food establishments

8540 Density

8540.1 Business Professional Office or Retail uses shall comprise a minimum of 10% of the floor area of permitted uses in a Mixed Use District.

8550 Dimensional Requirements

The dimensional requirements below shall apply:

8550.1 Minimum contiguous area of the Mixed Use development shall be five (5) acres.

8550.2 Minimum lot frontage shall be 100 feet.

8550.3 Minimum lot width shall be 100 feet.

8550.4 The minimum front yard shall be 30 feet.

8550.5 The minimum Side Yard and Rear Yard for lots within the Mixed Use Development shall be as set forth in Section 4140 of the By-Law for the underlying zoning district.

8550.6 There shall also be at least 15 feet separation between any two structures in the development and the areas behind and between all structures shall be clear and accessible to the Town's fire suppression vehicles.

8550.7 Maximum height shall be 60 feet.

8550.8 Maximum lot coverage shall be 70 percent.

8550.9 Screening - When a Mixed Use District abuts a residential district, there shall be appropriate screening as approved by the Planning Board between the Mixed Use District and residential district.

8560 Parking and Curb Cut

Parking and Curb Cut Requirements:

Unless as provided below, parking and circulation requirements shall be in accordance with Section 5000 et. seq. of this By-Law except as described below:

8560.1 Mixed Use Developments

In all Mixed Use developments adequate off-street parking shall be provided. The Planning Board and the applicant shall have as a goal for the purposes of defining adequate off-street parking, making the most efficient use of the parking facilities to be provided and minimizing the area of land to be paved for this purpose. In implementing this goal the Board shall consider complimentary or shared use of parking areas by activities having different peak demand times, and the applicant shall locate adjacent uses in such a manner as will facilitate the complementary use of such parking areas. Implementation of such complementary use of parking areas may result in permitted reductions in the parking requirements.

8560.2 Parking Locations

Parking may be provided at ground level, underground or in a parking garage. Parking garages can be free standing or as part of buildings dedicated to other permitted uses.

8560.3 Parking at Buildings

Parking shall be primarily located at the rear, side or under buildings.

8560.4 Parking Spaces for Each Dwelling Unit

There shall be a minimum of 1.5 parking spaces for each dwelling unit.

8560.5 Granting of Relief from Parking Regulations

The Planning Board may waive any of the foregoing requirements or the requirements of Section 5000 et. seq. if it makes a finding that to do so will enhance the overall design of the Project.

8570 Signage

As part of the Special Permit Application, the applicant shall submit for review and approval a signage plan to govern signage in the Mixed Use Overlay District development.

8580 Application

Any person who desires a Special Permit for a Mixed Use development shall comply with the requirements of Section 9300 et. seq. of the Zoning By-Laws.

8590 Planning Board Findings

A special permit shall be issued under this Section if the Planning Board finds that the development is in harmony with the purpose and intent of this Section and that it contains a compatible mix of uses sufficiently advantageous to the Town to render it appropriate to depart from the requirements of the By-Law otherwise applicable to the underlying district in which the development is located.

8600 Affordable Housing

8610 Any development which will result in the creation of ten (10) or more residential dwelling units, shall include as a condition of said permit that:

- A. At least 10% of the units, and in no case less than one unit, be priced for qualified affordable housing purchasers;
- B. The mix of affordable dwelling units and rate of affordable dwelling units built in any one year shall be equivalent to the overall mix for the entire development. It is intended that the affordable dwelling units authorized under the provisions of this By-Law be considered as Local Initiative Program (LIP) dwelling units in compliance with the requirements for the same as specified by the Department of Community Affairs, Massachusetts Department of Housing and Community Development (DHCD), or successor, or additional programs adopted by the Commonwealth of Massachusetts or its agencies, and that said units count toward Pepperell's requirements under Massachusetts General Law Chapter 40B, Sections 20-23, as amended.
- C. Deed restrictions, acceptable to the Town, and established in accordance with the standards of DHCD or successor or additional programs adopted by the Commonwealth of Massachusetts or its agencies, shall be placed on the appropriate property to ensure that affordable dwelling units created under this section shall remain affordable dwelling units in perpetuity or for as long a period as is allowed by law.

8620 Dwelling units shall be considered as part of a single development if located either on a single parcel or contiguous parcels of land which have been in the same ownership at any time subsequent to the date of adoption of this Mixed-Use By-Law.

8630 Affordable dwelling units required under Section 8610 may be provided in any one or combination of methods described below, subject to the approval of the Planning Board.

A. Constructed on the locus subject to the Special Permit;

B. Constructed on a locus different than the one subject to the Special Permit;

C. An applicant may offer, and the Planning Board, in concert with the Board of Selectmen may accept, donations of land in fee simple, on or off-site that the Planning Board determines are suitable for the construction of an equivalent number of affordable dwelling units. The Planning Board may require, prior to acceptance of land by the Town,

satisfaction of the requirements of this By-Law, that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of value;

D. For fractional affordable dwelling units, the applicant may round up to the next whole number of units or choose to pay equivalent fees-in-lieu of units proportionate to the percentage of units required; and

E. Preservation of existing dwelling units as affordable dwelling units through the purchase of deed restrictions.

8640 All affordable dwelling units that are constructed on-site under this By-Law shall be situated within the development so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units. The Site Plan shall identify those lots/locations selected for affordable dwelling units.

8650 With the approval of the Planning Board, as an alternative to the requirements of Section 8610, an applicant subject to the By-Law may develop, construct or otherwise provide affordable dwelling units equivalent to those required by Section 8610 off-site. To the maximum extent practicable, all requirements of this By-Law that apply to on-site provision of affordable dwelling units shall apply to provision of off-site affordable dwelling units. In addition, the Planning Board shall approve the location of the off-site units to be provided as an integral element of the Special Permit review and approval process.

8660 As an alternative to the requirements of Section 8610 and as allowed by law and with the approval of the Planning Board, an applicant may contribute an amount in cash equal to the costs of construction such affordable dwelling units, and satisfactory to the Planning Board in consultation with other relevant Town boards, to the Town Housing Authority or its designee for the development and preservation of affordable housing, in consultation with the Planning Board and other appropriate Town Boards, in lieu of constructing and offering affordable dwelling units within the locus of the proposed development or off-site, as set forth in Section 8670, below.

8670 The applicant for development subject to this By-Law may pay fees-in-lieu of the construction. For the purposes of this By-Law, the fees-in-lieu of the construction or provision of each affordable dwelling unit is determined to be three (3) times 80% of the median income for a household of four (4), as reported by the most recent information from the United States Department of Housing and Urban Development (HUD) and/or the Massachusetts Department of Housing and Community Development (DHCD).

8700 Amendments

After approval, the owner/developer may seek amendments to the approved plan. Minor amendments may be made by a majority vote of the Planning Board. It shall be a finding of the Planning Board, not subject to dispute by the applicant, whether a requested amendment is deemed to be major or minor. A major amendment shall require the filing of an application pursuant to Section 9400 of the Zoning By-Law.

or take any other action relative thereto.

ARTICLE 13

By: DPW – Transfer Station

TRAILER PURCHASE

To see if the Town will vote to appropriate from available funds the sum of \$50,000 to add a third trailer at the transfer station, for hauling trash and other items to an end dump site in Saugus, said appropriation to be under the control of the Highway Superintendent; or take any other action relative thereto.

Recommended by Finance Committee.

ARTICLE 14

By: Conservation Commission

CONSERVATION FUND

To see if the Town will vote to raise and appropriate, or appropriate from available funds, the sum of \$2,900 to the Conservation Fund, which was established on February 15, 1965 by Article 21 of the Annual Town Meeting, pursuant to Massachusetts General Laws, chapter 40, s.5(51); or take any other action in relation thereto.

Recommended by Finance Committee.

ARTICLE 15

By: Library Trustees

BOOK FINE MONIES

To see if the Town will vote to raise and appropriate, or appropriate from available funds, the sum of \$6,896 for the purchase of books; said appropriation to be under the control of the Library Board of Trustees; or take any other action relative thereto.

Recommended by Finance Committee.

ARTICLE 16

By: Information Systems Technology Committee

COMPUTER EQUIPMENT AND SUPPLIES

To see if the Town will vote to raise and appropriate, or appropriate from available funds, the sum of \$10,400 for the purchase of computer equipment, supplies, and consulting services, said appropriation to be under the control of the Information Systems Technology Committee; or take any action related thereto.

Recommended by Finance Committee.

ARTICLE: 17

By: Fire Department

RADIO CONVERSION

To see if the Town will vote to appropriate from available funds or borrow the sum of \$95,000 for the purpose of converting the Fire Department radio system to a new frequency, including purchase of new software and hardware (stationary and portable) compatible with the new system; said appropriation to be under the control of the Fire Chief and Communications Director; or take any other action relative thereto.

Recommended by Finance Committee.

ARTICLE: 18

By: Town Accountant

FINANCIAL SOFTWARE AND HARDWARE

To see if the Town will vote to raise and appropriate, appropriate from available funds, or borrow, the sum of \$54,000 for the purchase of new accounting software and hardware and any related expenses, said appropriation to be under the control of the Town Accountant; or take any other action relative thereto.

Recommended by Finance Committee.

ARTICLE: 19

By: Board of Health

INTERMUNICIPAL AGREEMENTS

To see if the Town will, under the provisions of MGL Chapter 40, s. 4A, authorize the Board of Selectmen to enter into inter-municipal agreements with one or more Massachusetts governmental units, relative to mutual assistance in the event of emergency or disaster relief efforts, and, further, to authorize the Board of Health, the Board of Public Works, or other Town agencies to enter into inter-municipal agreements with one or more other Massachusetts governmental units located within the Northeast and/or Central Homeland Security Regions, relative to activities within their own areas of responsibility and expertise; or take any other action relative thereto.

Recommendation to be given at Town Meeting.

ARTICLE: 20

By: DPW – Water Division

WELL IMPROVEMENTS

To see if the Town will vote to appropriate from available funds or borrow the sum of \$258,000 for the purpose of making improvements at the Bemis Road and Jersey Street well sites; or take any other action relative thereto.

Recommended by Finance Committee.

ARTICLE: 21

By: Planning Board

ZONING AMENDMENT – RESIDENTIAL OPEN SPACE

To see if the Town will vote to amend the Zoning By-law of the Town of Pepperell by deleting Section 7100 in its entirety, and replacing same with a new Section 7100, “Open Space Residential Development,” as follows:

7100. OPEN SPACE RESIDENTIAL DEVELOPMENT

7110. Purpose

The purposes of this open space residential development section are:

- To allow for greater flexibility and creativity in the design of residential developments;
- To encourage the permanent preservation of open space, agricultural land, wildlife habitat, other natural resources such as aquifers, water bodies and wetlands, and historical and archeological resources in a manner that is consistent with Pepperell’s Comprehensive Plan and Open Space and Recreation Plan;
- To minimize the total amount of disturbance on sites undergoing development;
- To facilitate the construction and maintenance of housing, streets, utilities and public services in a more economic and efficient manner.
- To preserve and enhance the community character;
- To preserve and protect significant agricultural land and land with high value agricultural soils;
- To protect existing and potential community water supplies;
- To provide for a diversified housing stock including providing affordable housing to persons of low and moderate income.

7120. Definitions

Basic Maximum Number: The number of dwelling units that would be allowed on a site using the standard zoning bylaw provisions and/or subdivision rules and regulations as determined by the yield analysis performed for the special permit plan.

Common Open Space: Land that is set aside for protection from development in perpetuity, usually left in its natural state, for the purposes of natural resource conservation, wildlife habitat, water supply protection, passive recreation and other amenities in conformance with the provisions of this section.

Density Bonus: Additional dwelling units that may be awarded beyond the basic maximum number, as determined through the special permit plan and yield analysis, for the provision of affordable housing units, the setting aside of additional open space beyond the minimum amount required, green stormwater systems or low-impact development and open space that is integrated into a wider network of protected land in the town.

Major Subdivisions: Major subdivisions are those creating 5 (five) or more lots or residential units, whether for single family or multi-family development.

Yield Analysis: An analysis, based on the conceptual conventional plan described in section 7150, which determines the basic maximum number of lots and dwelling units that would be possible to develop in a conventional manner following all applicable Pepperell zoning and regulatory requirements.

7130. Applicability

To be eligible for consideration as an OSRD, the parcel of land or group of contiguous parcels located within the Rural Residence, Town Residence and Recreation Residence districts or any zones of the Water Resource Protection Overlay District (WRPOD) must contain a minimum of ten (10) acres. Where the parcel or group of contiguous parcels is located in the Suburban Residence or Urban Residence districts, the total acreage necessary for an OSRD shall be five (5) acres. Additional criteria for eligibility include:

- To be eligible for consideration as an OSRD, the parcel may be a subdivision or a division of land pursuant to G.L. c.41, sec.81P provided, however, an OSRD may also be permitted when the property is held in condominium, cooperative ownership or other form where the property is not subdivided, which in some cases will require a special permit or site plan application for multi-family development.
- Each lot created in the OSRD shall have adequate access on a public way or approved subdivision road.
- To facilitate the goals of the Pepperell Comprehensive Plan and Open Space and Recreation Plan, all major subdivisions (those creating 5 (five) or more lots or residential units) and multi-family special permit developments shall be presented to the Planning Board as Open Space Residential Developments in compliance with the provisions of this section. In all cases it shall be assumed that an OSRD is necessary to meet the purposes of this section, unless the contrary is demonstrated by the applicant to the satisfaction of the Pepperell Planning Board. In cases where the Planning Board determines that a parcel(s) is unsuited to development as an OSRD, it may waive the requirements of this section and permit the subdivision or multi-family special permit plan to be developed in a conventional manner subject to the Pepperell subdivision rules and regulations. An applicant proposing a minor subdivision (those creating four or fewer lots or units) may develop an OSRD at his/her option.

7140. Permitted Uses

Each lot exclusive of the open land shall be used for residential dwellings of the type permitted or allowed by special permit in the applicable zoning district. These lots shall be grouped in clusters, and within each cluster the lots shall be contiguous.

Accessory uses shall be allowed appurtenant thereto as provided in the residential district in which the land is located, with the exception of the keeping of nondomestic animals; and the use as a customary home occupation, as defined in this chapter, shall be further limited, prohibiting any employees who do not reside within the dwelling unit, any retail sales and any business signs.

Common open spaces may be used for noncommercial active and passive recreation, conservation, forestry, agriculture and natural buffers and may contain structures necessary to approved uses, utilities and other facilities necessary for the convenience and enjoyment of the residents, subject to approval by the Planning Board as part of the decision on the special permit or as amendment to the special permit after it has been issued.

In order to diversify the Town's housing stock and allow for opportunities to provide affordable housing and save additional open space, a small number of duplexes and /or multi-family residential structures are permitted within OSRDs, provided they meet all provisions of this OSRD bylaw, the multifamily residential development requirements of section 7300, the general special permit criteria of section 9300 and all State of Massachusetts Title 5 and local health requirements. In any OSRD, no greater than 10% of the total number of lots, including those that may be permitted under a density bonus per section 7180, can contain duplexes and/or multi-family residential structures where permitted in the underlying districts. All calculations shall be rounded down to the nearest whole

number. Lots containing duplexes and/or multi-family residential structures may not be contiguous within any one subdivision or OSRD development.

7150. Procedure

Overview of Procedure. For applicable parcels, an OSRD is authorized in three steps; the first of which is optional: 1. Pre-application conference with the Planning Board and/or other Town boards and committees as described below; 2. submittal, review and approval of an OSRD special permit plan by the Planning Board, followed by; 3. submittal, review and approval of a definitive subdivision plan, or site plan, as the case may be, in conformity with the OSRD special permit as approved by the Planning Board.

If the OSRD involves construction of a new subdivision road, the level of engineering detail required at the special permit stage of review is the same as for a preliminary subdivision plan that meets the Town of Pepperell subdivision regulations. An approved definitive subdivision (or site) plan that does provide adequate engineering detail, however, is required prior to the start of any construction and the issuance of building permits for lots / units within the development.

Special Permit Procedures. Applicants for an OSRD special permit shall follow the special permit rules and regulations established by the Pepperell Planning Board in section 9300 of the Town of Pepperell Zoning Bylaw.

Pre-Application Conference. Applicants seeking a special permit for an OSRD are encouraged to request a pre-application conference or conferences with the Planning Board, department heads and/or other boards as appropriate, to review the scope of the project and the site for which it is proposed. At a minimum, the intent of the pre-application conference shall be to:

- Identify the key natural features of the site.
- Identify the historic and cultural resources of the site and surrounding area.
- Identify any safety, traffic, or infrastructure issues related to the site and its surrounding area.
- Identify existing trails on the site or on abutting parcels, and any connections thereto.
- Identify areas that the Town prefers to see protected as open space, viewsheds, wildlife habitat, forestry operations or agricultural uses.
- Discuss the proposed plan and any issues relative to the concept plan Special Permit criteria.
- Discuss any design issues relative to this bylaw and the Planning Board's requirements for definitive subdivision or site plans.
- Assist the developer in understanding the permitting process and issues relative to OSRD.
- Set a timetable for the special permit and definitive plan review processes.
- Schedule a site visit with the Planning Board and other land-use boards, as appropriate.

Site Visit. The Planning Board and/or its designee(s), along with members from all interested boards and departments, may conduct a site visit prior to or during the special permit public hearing. At the site visit, the Planning Board or its designee(s) shall be accompanied by the applicant and/or its agent(s). With the applicant's permission, interested members of the public may be invited to the site visit.

If a quorum of the Planning Board is anticipated to be present at the site visit, the site visit must be properly noticed per the requirements of MGL Chapter 39, Sec. 23a-24.

Preferred Design Process. Each OSRD special permit applicant should follow a design process similar to that outlined below. When the plan is submitted, the applicant(s) shall be prepared to demonstrate to the Planning Board that this design process was substantially complied with in determining the proposed layout of open space, streets, house lots and other features of the OSRD.

- Understanding the site. The first step is to inventory existing site features, taking care to identify sensitive and noteworthy natural, scenic and cultural resources of the site, and to determine the connection of these important features to each other and similar features on abutting properties, if any.
- Evaluating site context. The second step is to evaluate the site in its larger context by identifying natural (e.g. streams, wetlands, steep slopes), transportation (e.g. roads, woods roads, trails), and cultural (e.g. historic and recreational sites) connections to surrounding land uses and activities.
- Designating the contiguous open space. The third step is to identify the contiguous open space to be preserved on the site. Such open space should include the most sensitive and noteworthy resources on the site, and, where appropriate, areas that serve to extend existing networks of open space or land protected under easements.
- Location of building sites and development areas. The fourth step is to locate building sites, parking areas, paths and other features of the built environment.
- Roads and Lot Lines: The final step is to choose road alignments and driveway locations and then draw lot lines around each proposed building lot, which also serves to delineate the open space areas described in section 7160 of this bylaw.

Submission Requirements. In addition to the information required by the Pepperell Special Permit rules and regulations, the following additional information shall be submitted as part of a special permit application:

Special Permit concept plans. For any application for an Open Space Residential Development, the applicant shall prepare two sets of concept plans for the parcel of land to be subdivided or otherwise developed. One plan shall describe a conventional subdivision or development while the second shall describe an Open Space Residential Development.

The principle component of the concept plan is a schematic representation of the proposed development, with sufficient detail about existing and proposed conditions to enable the Planning Board and the public to understand what is being proposed and to be able to respond to the applicant's proposals in an informed manner. This information will also be used by the Planning Board in determining the number of permissible lots.

The concept plans shall include scaled drawings by a registered land surveyor, civil engineer or landscape architect. The concept plans shall be used by the Planning Board in determining the number of lots that would be possible were the parcel to be subdivided in a conventional manner, as well as the general features of the OSRD.

Special permit concept plans shall contain the following information, as well as that required in Appendix B of the Special Permit rules and regulations, unless the need for such is specifically waived by the Planning Board after request by the applicant. At a minimum, the concept plans shall also provide the following information:

- The location of the proposed development. A locus map shall be provided showing the location of the development in relation to the entire town at a scale of one inch equals 1,000 feet.
- Parcel boundaries, north arrow, date, legend, title and scale.
- The size of the parcel(s) being subdivided in acres and square feet.
- The names of the record owner, applicant and the name of the designer or surveyor.
- The existing and proposed lines of streets, ways, easements, and any public areas within the subdivision in a general manner.
- Any zoning district boundaries.
- The names and addresses of all abutters, as determined from the most recent tax list.

- Photographs of the site at a variety of locations, focusing on possible building sites, unique natural and scenic areas and areas to be set aside as open space. The location of these photographs should be identified on the plan.
- A description of the environmental and natural features of the site, focusing on those features intended for preservation through permanently protected open space.
- The acreage, percentage of the entire parcel and proposed uses of the open space.
- The total number and approximate locations of the proposed buildings, dwelling units and/or lots.
- Topography / contour lines at an interval of two feet.
- A statement on the disposition or manner of ownership of the proposed open space.
- A delineation of jurisdictional wetland resource areas and their buffer zones subject to the Massachusetts Wetlands Protection Act. All resource area flag locations shall be numbered and placed on the plan. The delineation of all wetland resource areas shall be certified by the Pepperell Conservation Commission.
- A general mapping of soil types from existing data sources, such as the Natural Resource Conservation Services (formerly the Soils Conservation Service).
- Lot boundaries with their approximate areas and frontage dimensions, or unit placement and all proposed common and open space areas.
- Location and extent of all parking, landscaping, stormwater management, water supply and wastewater management service areas that would be required to accommodate all the units in the development proposal.
- If available, the location and results of any test pit investigations for soil profiles percolation rates and determination of seasonal high water tables.
- A general description of how drainage will be handled, including a soils statement (soil conservation survey is acceptable) and the general area of the site to be used for stormwater management facilities, including whether low impact development (LID) techniques are proposed.
- Surface water, bordering vegetated wetlands and flood hazard area data using the FIRM or Raytheon information, as applicable, demonstrating that each such conventional lot has viable frontage access on a public way without reliance on a common drive.
- Draft of the proposal for the open space for Planning Board approval that includes a provision for maintenance which permits assessments upon individual owners in the event of a default by the organization.
- Drafts of any covenants running with the land, easements or grants which shall be enforceable by the town and/or subsequent owners of the land or buildings and which will oblige in a like manner subsequent holders of all or part of the applicants' interest.
- After an OSRD concept plan has been submitted, no tree removal, no utility installation, no ditching, grading or construction of roads, no grading of land or lots, no excavation, except for purposes of soil testing, no dredging and no construction of buildings or structures shall be done on any part of the site until a definitive subdivision or site plan (if applicable) for such development has been approved by the Pepperell Planning Board.

Number of Lots/Units. The basic maximum number of lots and dwelling units shown on the Open Space Residential Development special permit concept plan shall not exceed the number of lots and dwelling units which could reasonably be expected to be developed under a conventional plan in full conformance with all applicable zoning, subdivision and/or site plan regulations, the Wetlands Protection Act and codes of the Town of Pepperell, notwithstanding any density bonus that may be awarded per section 7180. The Planning Board shall use the concept plans described in section 7150 as guidance in determining the basic maximum number of OSRD lots and units. After reviewing all

pertinent information, the Planning Board shall make a finding as to the basic maximum number of lots and dwelling units in the OSRD. The basic maximum number of lots and dwelling units is based on the number of lots and dwelling units that can be created without zoning variances or waivers from the subdivision or site plan regulations.

The number of lots and dwelling units will be specified in the special permit and reflected in the definitive subdivision or site plan that follows the granting of the special permit.

Design Standards and Dimensional Requirements. The following design standards and dimensional requirements shall apply in an OSRD.

- There shall be adequate, safe and convenient arrangement of roadways, driveways, pedestrian and other open areas to provide access for emergency vehicles to reach all buildings and structures at all times.
- Each lot shall be of a size and shape to provide a building site, which shall be in harmony with the natural terrain and other features of the land and provide adequate allowance for future accessory buildings or structures. In no instance shall any of the dimensional controls be reduced below the following table of minimum requirements.
- The nature of the soils and subsoils shall be suited for the intended purposes. This determination shall focus upon, but shall not be limited to, the location, design and construction of access ways, buildings, septic systems and surface water drainage systems. Soil borings or test pits shall be required prior to the issuance of any building permits, unless waived by the Planning Board, to provide information on soil texture, color, percolation rates and depth to the groundwater table at its maximum elevation.
- Wherever possible and at the discretion of the Planning Board, a 50-foot wide no-disturbance buffer shall be provided around the entire perimeter of the site. This 50-foot buffer does count towards the minimum required amount of protected open space, subject to the limitations of section 7160.

TABLE OF MINIMUM REQUIREMENTS

Requirement	Served by Town Sewer and Water	Served by Town Water, but not Sewer	Served by Neither Town Water or Sewer
Minimum lot area	20,000 sq. ft.	30,000 sq. ft.	40,000 sq.ft.
Minimum contiguous lot area exclusive of wetland, flood hazard and surface water areas	18,000 sq. ft.	25, 000 sq. ft.	30,000 sq.ft.
Minimum lot frontage	75 feet	120 feet	120 feet
Minimum side yard	15 feet	25 feet	25 feet
Minimum rear yard	25 feet	25 feet	25 feet
Minimum front yard	25 feet	25 feet	25 feet

Note: Lots with duplexes (two attached dwelling units) or multifamily units shall require twice the minimum lot area as specified above for single family lots and must comply with all provisions of section 7300, Multifamily Residential Development, of the Pepperell Zoning Bylaw. All other dimensional requirements for duplex and multi-family lots are unchanged from the underlying zoning.

- Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to avoid wetland crossings, if possible; to minimize cuts and fills; and to preserve and enhance views and vistas on or off the subject parcel. If the street is to become a public way, all Town of Pepperell design and engineering standards pertaining to new subdivision roads, as described in the Subdivision Rules and Regulations, must be followed.
- The Planning Board shall require connection, at the applicant's expense, of the OSRD to the municipal sewerage system when available. For purposes of this requirement, municipal sewerage shall be deemed available when a line comes within a reasonable distance from an access street to the site. Factors which will be used in determining if public sewer is available within a reasonable distance shall include, but are not limited to, the actual distance, the capacity of the existing line, topography, grade from the site to the public sewer, size of the development, effective density of development, ability to obtain easements, permits or license to traverse land of others, environmental constraints and correlation with the Sewer Commission Master Plan.
- The applicant shall submit calculations for a surface water drainage design based on a twenty-five year storm event performed and certified by a registered professional civil engineer demonstrating that the anticipated storm water runoff from the site shall not exceed peak runoff from the site prior to development. Culverts shall be designed on the basis of a fifty year storm with consideration being given to damage avoidance for a one hundred year storm. Drainage and stormwater calculations shall be performed by a registered professional engineer and shall conform to the Town of Pepperell Planning Board Rules and Regulations governing the subdivision of land.
- The site shall be preserved in its natural state, as it exists at the time of application, insofar as practicable, by minimizing tree and soil removal until the definitive plan has been approved. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography, plant cover and solar access. Topography, tree cover, surface water buffers and natural drainage ways shall be treated as fixed determinants of road and lot configuration rather than as malleable elements that can be changed to follow a preferred development scheme.
- All main service lines for water, sewer and utilities shall be underground.
- Open Space Residential Developments within the Water Resource Protection Overlay District (WRPOD)
 - ⇒ Notwithstanding the provisions of section 8130. WRPOD Use Regulations, and Appendix A, Table of Principle Uses, of the Pepperell Zoning Bylaw, single-family homes on lots not less than 40,000 sq.ft. and duplexes and/or multifamily residential structures on lots not less than 80,000 sq.ft., are permitted within the Well Protection and Aquifer and Watershed Protection Zones of the Water Resource Protection Overlay District (WRPOD), provided the following standards can be met to the satisfaction of the Planning Board and Pepperell Board of Health:
 - ⇒ All new sewage disposal systems within the above mentioned WRPOD must provide enhanced nitrogen removal to protect public health and safety as well as the environment. The system owner is required to install a recirculating sand filter or equivalent alternative technology or to obtain a groundwater discharge permit in accordance with 314 CMR 5.00 and 6.00. Full compliance with the provisions of 310 CMR 15.000, which includes enhanced nitrogen removal, is presumed to protect the public health, safety, welfare and the environment. Specific site or design conditions, however, may require that additional criteria be met in order to achieve the purpose and /or intent of 310 CMR 15.000.

7160. Common Open Space

All land identified as open space in section 7150 of this bylaw shall be set aside as common open space, and this land shall be preserved in essentially its natural condition. An OSRD must provide at least 40% of the total tract area as permanently protected open space. The common land shall be, to the extent practical, adequately distributed throughout the parcel so that it is accessible to residential lots without crossing through private property and separates residential lots from abutting properties. Though the open space will be primarily protected for its natural resource and wildlife habitat values, a small area, totaling no more than 10% of the required open space, may be set aside as a playground or other area for “active” recreation by the residents and/or the town, depending on the ownership of the open space as discussed below. The location and size of such active recreational area(s) shall be approved by the Planning Board prior to final action on the plan.

The following lands shall not constitute more than fifty percent (50%) of the minimum required common open space:

- Lands identified as wetland resource areas in accordance with G.L. c. 131, s. 40;
- Lands with slopes greater than twenty-five percent (25%)
- Lands within the 100 year floodplain as shown on F.I.R.M. maps.

Further subdivision of common open land or its use for other than recreation, conservation or agriculture, except for easements for underground utilities, shall be prohibited. Structures or buildings accessory to recreation, conservation or agricultural uses may be erected, provided that there shall be a minimum setback of one hundred (100) feet between any common open space structures and all property lines on the site, and provided that the total of impervious surfaces shall not exceed ten percent coverage of the total area of the common open land. Existing rights of way and utility easements may not be counted towards the required percentage of minimum open space.

Stormwater management and shared septic and well systems may be located within the common open space when necessary, provided such systems meet all applicable state and local codes, and are approved by the Pepperell Planning Board and Board of Health. The Planning Board may require that such utilities be covered by a utility or access easement. The area devoted to shared septic and large surface stormwater systems, such as retention and detention ponds, shall not, however, qualify towards the minimum required amount of open space.

The design of the common land shall provide for linkage with existing or future planned open space lands in abutting developments or in publicly owned or controlled open space lands, and shall be planned as large contiguous units whenever possible, with strips or narrow parcels (fifteen foot minimum width) only permitted when necessary for access or as vegetated buffers along the site's perimeter, and may be in more than one (1) parcel, provided that the size, shape and location of such parcels are suitable for the designated uses. Contiguous shall be defined as being connected. Open space will still be considered connected if it is separated by a roadway or accessory amenity.

Ownership and Management of the Open Space. The land set aside as common open land shall be owned and/or managed by one (1) of the following arrangements, as shall be determined by the Planning Board:

- Conveyed to an association, corporation or trust owned or to be owned by the owners of lots within the development. If such association is utilized, ownership thereof shall pass with conveyances of the lots in perpetuity.
- Conveyed to the town, at no cost, and accepted by it for park or open space use. Such conveyance shall be at the option of the town and shall require the acceptance of the land by the Conservation Commission and the approval of the Board of Selectmen.

- Conveyed to a nonprofit organization, the principal purpose of which is the conservation or preservation of open space.
- In any case where such land is not conveyed to the town, a restriction, enforceable by the town, shall be required ensuring that such land shall be kept in an open or natural state and not be built upon for residential use or developed for uses such as parking or roadways. Such restrictions shall further provide for maintenance for the common land in a manner which will ensure its suitability for its function, the appearance, cleanliness, proper maintenance of drainage utilities and the like, and empower the town to perform maintenance in the event of failure to comply with the program, and including a provision that the owners of lots or units within the cluster development shall pay the cost thereof and that the cost shall constitute a lien upon their properties until said cost has been paid. This restriction shall be recorded within sixty (60) days of the granting of the special permit, unless the sixty day time limit is waived and extended to a date certain by the Planning Board, or the special permit shall be null and void.

7170. Decision

In addition to the findings required by the Pepperell Special Permit rules and regulations, the Planning Board shall consider the following criteria and make the following additional findings for any OSRD:

- The reduction in dimensional controls will result in improved protection of natural and scenic resources.
- The application includes a program satisfactory to the Planning Board describing how the common open space will be maintained in perpetuity.
- The degree to which the design and layout of the OSRD is better than a conventional development in preserving open space for conservation and recreation, preserving natural features of the land, achieving more efficient provision of streets, utilities and other public services, and providing a high degree of design quality.
- The degree to which the OSRD promotes permanent preservation of open spaces, natural landscapes and vistas, agricultural land, forestry land, existing and proposed trails, other natural resources including water bodies, wetlands and drinking water source areas, and historic and archeological resources.
- The degree to which the OSRD achieves sustainable design through a more efficient form of development that consumes less land and conforms to existing topography and natural features as compared to a conventional subdivision or comparable development.
- The degree to which the OSRD reduces the total amount of land disturbance and clearing on the site.
- The degree to which the OSRD furthers the goals and objectives of the Pepperell Master Plan, Affordable Housing Plan, Open Space Plan and other planning documents, as determined by the Planning Board.
- The degree to which the OSRD and its supporting documentation complies with the provisions and sections of this bylaw.
- The Planning Board may find that the proposed location of the OSRD is better suited for a conventional subdivision or land development, and therefore authorize the applicant to submit a conventional plan in compliance with the Pepperell subdivision or site plan regulations.
- The degree to which the OSRD designed layout is not more detrimental than a conventional development in protecting the water quality and quantity of Town wells.

Conditions

- A special permit for OSRD granted by the Planning Board shall lapse, except for a good cause, two (2) years from the date of issue unless a substantial part of the proposed construction work shall have been commenced and is proceeding continuously toward completion. This two year period shall not include the time required to pursue or await determination of an appeal referred to in G.L. c. 40A, s. 17. The recording of the special permit and subsequently approved Definitive Plan shall constitute commencement of substantial use.
- At any time before, during or after the commencement of construction of the proposed development the special permit may be amended by following the special permit procedures for the amendment.
- The Planning Board may impose a performance guaranty to insure construction in accordance with the plan.
- The Planning Board approval of a special permit hereunder shall not substitute for compliance with the Subdivision Control Law nor oblige the Planning Board to approve a related definitive plan for subdivision.

Relationship between the Special Permit Plan and Definitive Subdivision or Site Plan. Any OSRD special permit issued by the Planning Board shall specifically state that the subsequent definitive subdivision plan or site plan shall substantially comply with the special permit concept plan in terms of the number of dwelling units, road and lot layout, open space percentage and layout, and stormwater management systems. If the Planning Board determines that the definitive subdivision or site plan for the OSRD does not comply with the provisions of the special permit, the Planning Board shall require the applicant to submit a revised subdivision plan that does comply with the provisions and of the special permit, or to seek another special permit.

Any special permit for an OSRD that is granted by the Planning Board which shows a subdivision must be followed by the submittal of a Definitive Subdivision Plan in accordance with the Subdivision Rules and Regulations of the Town of Pepperell. The OSRD Special Permit shall be reconsidered if there is substantial variation between the Definitive Subdivision Plan and the Special Permit Plan.

If the Planning Board finds that a substantial variation exists, it shall hold a public hearing on the modifications to the Special Permit plan. A substantial variation will be found to exist when any of the following conditions apply:

- An increase in the number of building lots and/or dwelling units;
- A significant decrease in the open space acreage or percentage;
- A significant change in the lot layout or units placement;
- A significant change in the general development pattern which adversely affects natural landscape features and open space preservation;
- Significant changes to the stormwater management facilities; and/or
- Significant changes to the wastewater management systems.

Planning Board Regulations. The Pepperell Planning Board may adopt regulations to assist in the administration of this OSRD bylaw. These regulations may address, but not be limited to, the following considerations: plan submittal requirements, provisions for combined special permit and subdivision hearings, site landscaping and buffering standards, open space use restrictions, architectural design, low impact development and other site specific planning features. Failure of the Planning Board to adopt such regulations shall not serve to invalidate any provisions of this bylaw.

Waivers from the Provisions of this Bylaw

The Planning Board may waive strict compliance with any of the provisions of this Bylaw when, in its judgment, doing so is in keeping with the spirit and intent of this section, is in the public interest and is not inconsistent with the Pepperell Zoning Bylaw.

7180. Bonuses for Additional Open Space and Affordable Housing

The Planning Board may award a density bonus to increase the number of dwelling units beyond the basic maximum allowed as determined through the yield analysis, which equals the number of dwelling units that could be developed in a conventional manner. The density bonus for the OSRD shall not, in the aggregate, exceed 20% (twenty percent) of the basic maximum number. Computations for all density bonuses shall be rounded down to the nearest whole number. Density bonuses are not allowed within the water resource protection overlay districts (WRPODs) because of the overriding necessity of protecting such areas from undue encroachment and the risk of groundwater contamination. A density bonus may be awarded in the following circumstances:

- For each additional ten percent (10%) of the site (over and beyond the required 40%) set aside as permanently protected open space, a bonus of five percent (5%) of the basic maximum number of dwelling units may be awarded.
- For every two (2) dwelling units restricted in perpetuity to occupancy by Moderate-Income Households, or for every one (1) dwelling unit restricted in perpetuity to occupancy by Low-Income Households, one (1) market rate dwelling may be added to the basic maximum number of dwelling units. Affordable housing units may be used toward density bonuses only if they can be counted towards the Town's affordable housing inventory as determined by the Massachusetts Department of Housing and Community Development. The applicant shall provide documentation demonstrating that the unit(s) shall count towards the community's affordable housing inventory to the satisfaction of the Planning Board.
- Bonus for Low Impact Development and Innovative / Environmentally-progressive land development techniques

The Planning Board may award a density bonus for OSRDs that use Low-Impact Development (LID) / Better Site Design Practices for stormwater management in place of the standard structural methods such as detention basins and piped systems. LID or "soft" or "green" stormwater management systems use vegetative and small, decentralized building lot scale systems to decrease impervious surfaces and encourage the infiltration of clean water into the ground. When the Planning Board determines that an OSRD is proposing a well planned LID system, it may award one additional market rate or affordable housing unit to the basic maximum number of units.

The Planning Board may also award one additional market rate or affordable housing unit over the basic maximum number when it finds that the OSRD plan is most effective in connecting or linking its open space to existing conservation or open space lands in Pepperell that are permanently protected from development.

7190. Severability

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections of this bylaw shall not affect the validity of the remainder of the Pepperell Zoning Bylaws.

or take any other action relative thereto.

ARTICLE: 22

By: Board of Selectmen

ACCEPTANCE OF ROAD LAYOUT – JUNIPER ROAD

To see if the Town will vote to accept and maintain as a public way the layout of Juniper Road, as shown on a plan entitled "Street Acceptance Plan/Juniper Road" prepared by Cornerstone Land Consultants, L.L.C, dated September 8, 2005, and on file with the Town Clerk; or take any other action relative thereto.

ARTICLE: 23

By: Board of Selectmen

ACCEPTANCE OF ROAD LAYOUT – MAURA LANE

To see if the Town will vote to accept and maintain as a public way the layout of Maura Lane, as shown on a plan entitled "Rockwood Estates/Street Acceptance Plan/Maura Lane..." prepared by Ducharme & Dillis, Civil Design Group, Inc." dated August 18, 2005, and on file with the Town Clerk; or take any other action relative thereto.

ARTICLE: 24

By: Building Inspector/Zoning Officer

ZONING BYLAW AMENDMENT

To see if the Town will vote to amend Section 5340 of the Zoning By-Law (Prohibited Signs) by adding the following new text:

5337 In the Commercial and Industrial Districts one temporary, exterior sign not exceeding four (4) square feet may be displayed to announce the Grand Opening of a new establishment. A sign displayed under the authority of this section shall not be maintained or continued for any period in excess of three (3) weeks duration.

or take any other action relative thereto

ARTICLE: 25

By: Treasurer

ACCEPTANCE OF MGL, Ch 32B, s 18

To see if the Town will vote to accept the provisions of MGL. Ch 32B, s. 18, relative to implementation of a requirement for all Pepperell Town Retirees who are eligible for Medicare Part A, to subscribe to Medicare Part B; or take any other action relative thereto.

Recommended by Finance Committee.

ARTICLE: 26

By: Board of Selectmen

LARGE FORMAT COPIER/SCANNER

To see if the Town will vote to raise and appropriate or appropriate from available funds the sum of \$18,000 for the purchase of a new, large-format printer/copier/scanner for the Town Hall, including any related supplies or other expenses, said appropriation to be under the control of the Town Administrator; take any other action relative thereto.

Recommended by Finance Committee.

ARTICLE: 27

By: Board of Public Works

TOWNSEND STREET SEWER

To see if the Town will vote to raise and appropriate the sum of \$600,000 for the installation of extended sewer lines in Townsend and Mason Streets, as well as any costs incidental and related thereto, and that the Treasurer, with the approval of the Board of Selectmen be authorized to borrow said sum, under and pursuant to MGL Chapter 44, or any other enabling authority, and to issue bonds or notes of the Town therefore; and, further, that, under the provisions of MGL Chapter 83, ss 15 and 18, the full costs of the project be allocated, based on a fixed uniform rate (or uniform unit method), and those amounts be assessed against and collected from the abutters; or take any other action relative thereto.

Recommended by Finance Committee.

ARTICLE: 28

By: Board of Public Works

WATER TRUCK

To see if the Town will vote to appropriate from available funds the sum of \$40,000 for the purchase of a truck, to replace an existing 1997 vehicle; or take any other action relative thereto.

Recommended by Finance Committee.

ARTICLE: 29

By: Building Inspector/Zoning Officer

ZONING BYLAW AMENDMENT

To see if the Town will vote to amend Section 5340 of the Zoning By-Law (“Prohibited Signs”) by adding the following new sub-section 5347:

5347 In Residence Districts, the display of temporary or permanent sign(s), lighted or unlighted, advertising commercial products or services not located on or pertaining to the use of the premises on which the sign is located, is not permitted. In any district, display of signs advertising commercial products or services, and located in a public right of way or on other town property are not permitted. Signs relating to nonprofit organizations or activities within the town of Pepperell may be located on Town property or rights-of-way only in areas designated by the Board of Selectmen.

or take any other action relative thereto.

ARTICLE: 30

By: Fire Department

TABLET COMPUTER

To see if the Town will vote to raise and appropriate or appropriate from available funds the sum of \$7,500 for the purchase of a new Tablet PC for use by the Ambulance personnel; said appropriation to be under the control of the Fire Chief; or take any other action relative thereto.

Recommended by Finance Committee.

And you will serve this warrant by posting a true and attested copy of same, in said Town, seven days prior to the time of said meeting. Hereof fail not and make due return of your doings herein to the Town Clerk on or before the time appointed for said meeting. Given under our hands this 14th day of April, A.D. 2006.

Lyndon B. Johnson, Chairman

John W. Lynch, Jr., Clerk

Darrell Gilmore

PEPPERELL BOARD OF SELECTMEN

CONSTABLE OF PEPPERELL

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss:

To either of the constables of the Town of Pepperell, in said county,

GREETINGS:

In the name of the Commonwealth aforesaid, you are hereby required to notify and warn the inhabitants of said Town qualified according to law to vote in state, county, district and town affairs to assemble at the NISSITISSIT MIDDLE SCHOOL, in said Town, on Monday, the 1st of May, A.D. 2006 at 8:00 PM to act on the following articles:

SPECIAL TOWN MEETING

May 1, 2006

ARTICLE 1

By: Communications Department

TRANSFER OF FUNDS

To see if the Town will vote to transfer the sum of \$3,000 from Communications Department-Wages Hourly to Communications Department-Overtime; or take any other action relative thereto.

Recommended by Finance Committee.

ARTICLE 2

By: Police Department

TRANSFER OF FUNDS/SUPPLEMENTAL APPROPRIATION

To see if the Town will vote to transfer the sum of \$20,000 from Police Department-Wages Hourly to Police Department-Overtime, and to appropriate from available funds the sum of \$10,000 to supplement the Police Department overtime account for the fiscal year ending June 30, 2006; or take any other action relative thereto.

Recommended by Finance Committee.

ARTICLE 3

By: DPW – Highway Division

SUPPLEMENTAL APPROPRIATION

To see if the Town will vote to appropriate from available funds the sum of \$30,000 for supplemental funding of the FY '06 Highway budget, representing additional costs of FY '06 winter operations; or take any other action relative thereto.

Recommended by Finance Committee.

ARTICLE 4

By: Fire Department/EMS Company

TRANSFER OF FUNDS

To see if the Town will vote to transfer the following sums:

\$1500 from Ambulance-Wages Hourly to Ambulance-Overtime

\$1600 from Ambulance-Supplies to Ambulance-Capital;

or take any other action relative thereto.

Recommendation to be given at Town Meeting.

ARTICLE 5

By: Board of Public Works

TRANSFER OF FUNDS

To see if the Town will vote to transfer the following sums:

\$9,250 from Sewer–Services to Sewer–Capital Outlay

\$2,000 from Sewer–Other Charges to Sewer–Intergovernmental Charges

\$7,500 from Water–Purchase of Services to Water–Capital Outlay

\$7,500 from Water–Purchase of Supplies to Water–Capital Outlay;

or take any other action relative thereto.

Recommendation to be given at Town Meeting.

ARTICLE 6

By: Board of Public Works

SEWER TRUCK

To see if the Town will vote to appropriate from Sewer Revenue and/or available funds the sum of \$35,000 for the purchase of a truck, to replace an existing 1995 vehicle; or take any other action relative thereto.

Recommended by Finance Committee.

And you will serve this warrant by posting a true and attested copy of same, in said Town, fourteen days prior to the time of said meeting. Hereof fail not and make due return of your doings herein to the Town Clerk on or before the time appointed for said meeting. Given under our hands this 14th day of April, A.D. 2006.

Lyndon B. Johnson, Chairman

John W. Lynch, Jr., Clerk

Darrell Gilmore

PEPPERELL BOARD OF SELECTMEN

CONSTABLE OF PEPPERELL

Pepperell Town Meeting

Introduction

Open Town Meeting is the form of municipal government for Pepperell. In the Commonwealth of Massachusetts, this is the basic form of governance for most small municipalities. The town is the basic unit, and Town Meeting is the method provided by the Constitution and the State legislature for the governance of towns. Property ownership is not a requirement for voting at Town Meeting. Renters as well as owners, *if registered to vote*, may attend and vote at Town Meeting.

In the Open Town Meeting form of government, any registered voter may attend, speak and vote. Attendance must be in person; there is no absentee voting in a Massachusetts Town Meeting. State law requires the town to hold at least one Town Meeting each year in the early spring. This is an Annual Town Meeting and the principal business of the Meeting is to appropriate money to fund the Town's expenses for the fiscal year which commences the following July 1st. Money may be provided by appropriation directly against the municipal tax rate, which is levied on real and personal property, or money may be borrowed within limits set by the Commonwealth. The Annual Town Meeting allows for action on other subjects also. If additional matters come up at a later time, they may become the subjects of a Special Town Meeting which may be called by the Selectmen or by citizens' petition.

The Warrant

The Warrant is the notice to the voters of matters to be considered and acted on at an Annual or Special Town Meeting. Sometimes the articles in the Warrant are quite general and sometimes they are very detailed and specific. Town departments and officials may request of the Board of Selectmen the insertion of articles in the Warrant during the period in which the Selectmen publicly declare that the Warrant is "open." Citizens may also petition to place articles on an "Annual Town Meeting" Warrant. Petitions require 10 signatures of registered voters for an Annual Town Meeting Warrant or 100 signatures of voters for a Special Town Meeting. A copy of the Warrant is posted by a Constable at the Town Hall, Post Office, Police Station, McNabb's Pharmacy, and Mel's Barber Shop at least 14 days before any Town Meeting.

In the Warrant, the Selectmen call the Meeting to convene at a certain time and place within Pepperell, usually at the Varnum Brook Middle School. If the Meeting does not complete its business in its first session, the Meeting will decide to what date and time it wishes to adjourn. However, the Selectmen generally have suggested additional dates, reserved the facilities and made arrangements for public address systems and the like so the Meeting usually decides to reconvene on the dates suggested by the Selectmen.

Annual Town Meeting

Pepperell holds one Annual Town Meeting (ATM) the first Monday in May, primarily consisting of financial articles and the budget. The meeting usually adjourns to a Special Town Meeting, called for by the Board of Selectmen to take care of any financial matters from the previous fiscal year. The ATM is called to order at 7:30 PM. There is a quorum requirement of 75 for Town Meetings, which means the meeting can not begin until there are 75 registered voters in attendance.

Special Town Meeting

Special Town Meetings (STM) may be called by the Board of Selectmen or by any person by petition to the Selectmen. Petitions require 200 signatures, or 20% of the registered voters, whichever is less. These meetings usually reflect the specific need of a group or committee; however, once the Warrant is opened, other business may be added to this meeting by a vote of the Board of Selectmen or by a petition with 100 signatures of registered voters. The Board of Selectmen must call the meeting for a date no later than 45 days after the petition is filed. STM must be publicized and announced early enough to alert all citizens. There is a quorum requirement of 75 needed to open a Special Town Meeting.

Rules and Procedures of Town Meeting

Pepperell's rules are those established in the book Town Meeting Time, a handbook of parliamentary law prepared under the auspices of the Massachusetts Moderators Association. This guide may be simpler and easier to understand than the more widely known and consulted Robert's Rules of Order. Both books are available for reference at the Lawrence Library.

The Moderator

Town Meeting is conducted by the Moderator, an elected position with a term of three years. The Moderator serves as the presiding officer, regulating the proceedings, deciding all questions of order and making public declaration of all votes. The vote recorded by the Town Clerk is the official vote. The Moderator's goal is to conduct the Town Meeting in a fair yet expeditious manner, allowing all points of view a fair hearing while still keeping the process moving.

Town Meeting Agenda

The voter should take a copy of the Warrant, as well as separate copies of information regarding each article, available in the lobby at the entrance to the auditorium. The Warrant is the official agenda for the ATM. A copy of the Warrant is given to all committee members, and is available for the public at the Town Hall prior to the Town Meeting.

The printed Warrant contains all the articles for consideration, together with such recommendations to the Town as were available from the Capital Program Committee, Finance Committee and the Selectmen. The voter needs the Finance Committee Report and the handouts since the Moderator generally refers to articles by subject matter only, and frequently will not read the full text of motions to be made under the articles, but may refer instead to the Warrant.

Articles are usually considered in the order in which they appear in the Warrant. The articles appear in the Warrant in no particular order, randomly placed by the Selectmen. The Selectmen determine the order in which articles are placed on the Warrant taking into consideration appropriateness of subject matter, the need for professional support personnel, such as engineering consultants, to be present, and other relevant interests. Articles dealing with similar subject matter are often grouped together: financial, school, planning and zoning, etc.

There are occasions when common sense or expediency dictates that articles should be considered in a different order from that in the Warrant and the Meeting has the power to change the order. If the desired change is to defer consideration of an article, it may be accomplished by a "motion to postpone action" until after a specified article. If the desired change is advancement of a later article, it may be presented as a main motion if, and only if, no other motion is pending. Votes to change the order of consideration normally require majority vote for passage, but if the motion is mere jockeying for position, the Moderator may, under his power to regulate the proceedings, require a two-thirds vote. A motion "to postpone *indefinitely*" or a motion to "take no action" effectively kills action on an article.

Articles and Motions

To vote effectively at Town Meeting requires both understanding the issues and understanding the wording of the motion on which one is voting. An *article* (as printed in the Warrant and Capital Program Committee & Finance Committee Report) describes the subject under discussion, while a *motion* made under the article describes the specific action on which one is voting. In some cases the article fully and accurately describes the action, and the motion may simply be "to take affirmative action under article ____." Motions must be seconded before discussion may begin or a vote taken. The group or groups submitting the motion for consideration may make a presentation of the article.

Frequently it happens that the wording of a *motion* differs from the wording of an *article*. The wording of the article must be settled prior to the close of the Warrant. The Moderator will not allow any expansion of the intent of the article since the voters must be properly warned in advance of actions they will be asked to approve. Great efforts are made to have the wording of motions in hand a few days before ATM in order to permit review by the Moderator and Town Counsel.

Speaking on a Motion

When speaking on a motion, a voter must be recognized by the Moderator and go to the microphone, if one is available, and give name and address and committee association (if speaking on behalf of a committee). All remarks and questions should be addressed to the Moderator. When it is apparent that several people wish to be heard, lining up expedites the proceedings. In recognizing persons who wish to speak, the Moderator gives preference to those who have not already spoken on the article currently under discussion.

Within the general framework of parliamentary procedures, as presented in ATM, the goal of the Moderator is basic fairness in the consideration of issues before the ATM. This does not mean that everyone who wishes to speak will be heard. The Meeting decides that it has heard enough discussion and is ready to vote.

A motion may be made from the floor to “move the question.” Such a motion must be seconded, there is no further debate, and must be voted on immediately. The Moderator will not hear a motion to move the question if it is presented at the end of a statement or opinion.

Amendments

If a voter wishes to change a motion in some fashion, the procedure is to amend the motion. All motions to amend must be in writing and must present exactly how the voter wishes to change the motion so that the Moderator can know exactly what it is the voter wants to move before ruling on the motion. A voter who wishes to amend a *main motion* must have the amendment in writing and available to hand to the Moderator *before* rising to be recognized and offer the amendment. The Moderator may refuse to put to the Meeting an amendment which is not immediately available in writing - the Moderator may rule out of order any motion to amend which changes the original motion so drastically that, in the Moderator's opinion, the motion is no longer within the “four corners” of the article.

An amendment may consist of adding, deleting or substituting words in the motion. It may take the form of a “motion to substitute” a different motion. Sometimes a speaker tries to amend “the article,” but this is improper language. It is the motion on the floor, not the article on the Warrant, that is to be amended.

A motion to amend requires only a majority vote, even though the motion to be amended may require two-thirds or more for final passage.

Size of Vote

A majority vote is required for passage of a motion unless otherwise specified. Most votes are voice votes, the results determined by the Moderator.

Any seven voters who doubt a voice vote result as announced by the Moderator have the right to require a division of the Meeting with a standing vote. This action must be taken immediately after the Moderator declares the vote result. A standing vote simply means a visual counting of “yes” or “no” votes by raised hands, or members asked to vote by standing. These votes are counted by Tellers, registered voters in attendance who come forward and are sworn in by the Town Clerk to count the vote.

Some motions require a two-thirds vote for passage. Included in this category are votes which authorize borrowing, property transfers, and zoning bylaw changes. A few motions require even higher levels of affirmative vote for passage.

Ballot Voting

While most voting on government matters takes place at Town Meeting, ballot voting does exist in Pepperell for these occasions:

- * Local, State, National elections
- * Funding for expenditures approved at Annual or Special Town Meeting that go beyond the *levy limit*; these require an *override*, a *capital outlay exclusion* or a *debt exclusion*.
- * The *levy limit* is a restriction on the amount of property tax a community may levy. Under state law (Proposition 2½), a community may not increase taxes more than 2½% over the previous year’s levy (plus the value of any new growth that has occurred in the Town) and may not levy more than 2½% of the total full and fair cash value of all taxable real and personal property in the community.
- * An *override* seeks a permanent increase in the levy limit of a community.
- * A *capital outlay exclusion* seeks a temporary increase over the levy limit to raise funds for the cost of a specific capital project
- * A *debt exclusion* seeks to add to the levy limit an amount equal to the annual debt service for a specific project; the increase continues only for the life of the debt.
- * Certain other main issues.

For local elections, the ballot vote is held on the fourth Monday of April. The polling center is open from 7 a.m. to 8 p.m.

Voter Registration

Residents may register to vote at the Town Clerk's office in Town Hall in Pepperell or at any other Town Hall in the State. You may only vote in the town you choose to register to vote in. Voters must be registered to vote for Town Meetings 20 days before the Annual Town Meeting and 10 days before the Special Town Meeting. On the last day, the registrars of voters must hold a registration. Once registered, voters are always registered unless you move to another town. However, failure to respond to the Census could cause your name to be placed on the inactive voting list by requirement of the office of Secretary of State. Special registration dates are announced by the Town Clerk.

Miscellaneous Matters

The tables in the lobby are reserved for materials voters will need for the Meeting such as copies of motions, the Finance Committee Report and Recommendations, Capital Program Committee Report and Recommendations and similar materials. Within the limits of available space, persons wishing to distribute materials relating to matters to be considered at the Meeting may place copies on the tables. People wishing to distribute information usually contact the Selectmen's office first; such materials must be cleared in advance by the Moderator. Sufficient copies must be provided for all voters who attend the Meeting. Individual distribution of materials, signing of petitions and similar activities must be done outside the lobby space, in order to permit orderly check-in by voters and efficient distribution of materials needed for the Meeting.

In addition to Town Meeting, Pepperell's municipal government is made up of many officials and committees, of which approximately 75% are appointed by the Board of Selectmen. A few positions are appointed by the Moderator. Together, these officials conduct the business of the Town, providing administrative, public health and safety, financial, utility, recreation and other services.

Broadcast

ATM and STM are taped for broadcast on local Pepperell access cable channel 15.

Refreshments

Refreshments are made available at Town Meetings by various civic groups in town as a fundraising event for that group. Those interested in providing refreshments should contact the Board of Selectmen's office prior to a Town Meeting.