

TOWN OF BILLERICA

PRELIMINARY WARRANT



ANNUAL SPRING TOWN MEETING

**Annual Spring Town Meeting
Tuesday, May 7, 2024 at 7:00 PM**

Billerica Town Hall Auditorium

Article Number	Purpose	Value	Funding Source	Submitted by:	Finance Committee Recommendation
1	To Set Compensation of Elected Officials (Town Clerk)	\$101,215	Raise & Appropriate from Available Funds	Finance Committee	Reserves Recommendation
2	To Set Compensation of Elected Officials (Select Board)	\$9,200	Raise & Appropriate from Available Funds	Finance Committee	Reserves Recommendation
3	To Hear Reports of Town Departments, Committees & Officers			Town Manager; authorized by Select Board	Reserves Recommendation

Financial Articles

4	To Transfer from Available Funds Between 2024 Budget Line Items	\$2,000,000	Transfer from Available Funds	Town Manager; authorized by Select Board	Reserves Recommendation
5	To Fund Collective Bargaining Agreement – NEPBA Police Officers – Group (A) Patrolmen			Town Manager; authorized by Select Board	Reserves Recommendation
6	To Fund Collective Bargaining Agreement – NEPBA Police Officers – Group (B) Superior Officers			Town Manager; authorized by Select Board	Reserves Recommendation
7	Fiscal Year 2025 Town and School Budget	\$191,951,450	Raise & Appropriate from Available Funds	Select Board, Town Manager and the Finance Committee	Reserves Recommendation
8	Fiscal Year 2025 Water Enterprise Budget	\$6,849,290	Raise & Appropriate from Available Funds	Town Manager; authorized by Select Board	Recommends
9	Fiscal Year 2025 Sewer Enterprise Budget	\$9,558,006	Raise & Appropriate from Available Funds	Town Manager; authorized by Select Board	Recommends
10	To Allow the Town Manager and Finance Committee to Transfer Funds			Finance Committee	Reserves Recommendation
11	To Authorize Departmental Revolving Funds			Town Manager; authorized by Select Board and the School Committee	Reserves Recommendation
12	Community Preservation Committee Budget and Project Recommendations	\$1,100,000 \$871,537	Raise and Appropriate from CPA	Community Preservation Committee	Reserves Recommendation
13	To Fund PEG Access Cable Television Services	\$220,322	Transfer and Appropriate from Available Funds	Town Manager; authorized by Select Board	Reserves Recommendation
14	To Fund the Construction of a New Council on Aging and a New Recreation Center	\$41,000,000	Borrow	Town Manager; authorized by Select Board	Reserves Recommendation
15	To Fund a Consulting Contract for the Fiscal Year 2025 State-Mandated Re-Certification	\$75,000	Transfer and Appropriate from Overlay Surplus	Board of Assessors	Reserves Recommendation

Article Number	Purpose	Value	Funding Source	Submitted by:	Finance Committee Recommendation
16	To Fund the Purchase of Casket Lowering Devices for Cemetery	\$25,000	Transfer and Appropriate from Cemetery Sale of Lots and Graves	Town Manager; authorized by Select Board	Reserves Recommendation
17	To Fund the Design and Evaluation of Town Culverts	\$200,000	Transfer from Available Funds	Town Manager; authorized by Select Board	Reserves Recommendation
18	To Fund Non-Participating Water Work Related to the Yankee Doodle Bike Path	\$690,000	Raise & Appropriate, Transfer from Available Funds, or Borrow	Town Manager; authorized by Select Board	Reserves Recommendation
19	To Fund Easement Acquisitions and Engineering Construction Services for the Yankee Doodle Bike Path	\$3,200,000	Borrow	Town Manager; authorized by Select Board	Reserves Recommendation
20	To Fund Non-Participating Wastewater Work Related to the Yankee Doodle Bike Path	\$120,000	Transfer and Appropriate from Wastewater Retained Earnings	Town Manager; authorized by Select Board	Reserves Recommendation
21	To Fund the Replacement of Water Meters	\$450,000	Transfer and Appropriate from Water Retained Earnings	Town Manager; authorized by Select Board	Reserves Recommendation
22	To Fund Upgrades to the Ammonia and Fluoride Rooms at the Water Treatment Plant	\$285,000	Transfer and Appropriate from Water Retained Earnings	Town Manager; authorized by Select Board	Reserves Recommendation
23	To Fund Replacement of the Main Electrical Service for the Water Treatment Plant	\$350,000	Transfer and Appropriate from Water Retained Earnings	Town Manager; authorized by Select Board	Reserves Recommendation
24	To Fund the Sewer Inflow and Infiltration Removal Project	\$1,600,000	Borrow	Town Manager; authorized by Select Board	Reserves Recommendation
25	To Fund the Sewer Inflow and Infiltration Investigation	\$500,000	Transfer and Appropriate from Inflow and Infiltration Mitigation Fund	Town Manager; authorized by Select Board	Reserves Recommendation
26	To Fund the Purchase of a New Fire Engine	\$950,000	Borrow	Town Manager; authorized by Select Board	Reserves Recommendation
27	To Fund the Installation of Sewer on a Portion of Rangeway Road by Sewer Betterment	\$550,000	Borrow	Town Manager; authorized by Select Board	Reserves Recommendation
28	To Rescind Prior Borrowing Authorizations			Town Manager; authorized by Select Board	Reserves Recommendation
29	To Approve the Shawsheen Valley Regional Vocational/Technical School District Committee's Vote to Establish a Stabilization Fund			Town Manager; authorized by Select Board	Reserves Recommendation

Article Number	Purpose	Value	Funding Source	Submitted by:	Finance Committee Recommendation
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Land Use and Easement Articles

30	To Authorize the Select Board to Accept Roads as Public Ways			Town Manager; authorized by Select Board	Reserves Recommendation
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General By-Law Articles

31	To Amend General By-Law Article XXI – Discharges to the Municipal Storm Sewer System			Town Manager; authorized by Select Board	Reserves Recommendation
32	To Amend General By-Law Article XXV – Stormwater Management By-Law			Town Manager; authorized by Select Board	Reserves Recommendation

Charter Amendment

33	To Amend Section 2-13 Referendum Procedures of the Town Charter			Select Board Member Michael Rosa	Reserves Recommendation
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Acceptance of State Statutes

34	To Vote to Accept the Increase of the Local Meals Tax			Town Manager; authorized by Select Board	Reserves Recommendation
35	To Vote to Accept the Increase of the Local Lodging Tax			Town Manager; authorized by Select Board	Reserves Recommendation
36	To Vote to Accept the Local Option Vehicle Excise Tax			Town Manager; authorized by Select Board	Reserves Recommendation

Petitioner and Elected Articles

37	Petitioner Article			Timothy Morris	Reserves Recommendation
38	Petitioner Article – To Adopt New MBTA Communities Multi Family Overlay District (MCMOD) Zoning			Planning Board Members Christopher Tribou, Marlies Henderson and Edward Giroux	Reserves Recommendation
39	Petitioner Article – To Adopt New MBTA Communities Multi Family Overlay District (MCMOD) Zoning			Select Board Member John Burrows	Reserves Recommendation
40	Petitioners Article			Stephen J. Lentine	Reserves Recommendation
41	Petitioners Article			Richard Annese	Reserves Recommendation

PRELIMINARY WARRANT
2024 ANNUAL SPRING TOWN MEETING

Middlesex, ss.

To Any Constable in the Town of Billerica

Greetings,

You are hereby authorized and requested to notify and warn the inhabitants of said Town of Billerica qualified by law to vote in Elections and Town Affairs, to meet at the Maurice A. Buck Memorial Auditorium, Town Hall, 365 Boston Road, Billerica, MA on Tuesday, May 7, 2024 at 7:00 PM and subsequent Thursdays and Tuesdays until all of the business in the Warrant shall have been acted upon, then and there to vote on the following articles:

ARTICLE 1 - TO SET COMPENSATION OF ELECTED OFFICIAL (TOWN CLERK)

To see if the Town will vote to fix the compensation of the following elected official of the Town effective July 1, 2024; or act in relation thereto.

Town Clerk - \$101,215 a Year

Submitted by the Finance Committee

Finance Committee has not made final recommendation.

Article 1 Explanation: In accordance with M.G.L. Chapter 41, Section 108, the salary and compensation of elected officials shall be fixed annually by a vote of Town Meeting.

ARTICLE 2 - TO SET COMPENSATION OF ELECTED OFFICIALS (SELECT BOARD)

To see if the Town will vote to fix the compensation of the following elected officials of the Town effective July 1, 2024; or act in relation thereto.

Select Board, Chairman	\$2,000 a Year
Select Board, Member	\$1,800 a Year

Submitted by the Finance Committee

Finance Committee has not made final recommendation.

Article 2 Explanation: In accordance with M.G.L. Chapter 41, Section 108, the salary and compensation of elected officials shall be fixed annually by a vote of Town Meeting.

ARTICLE 3 - TO HEAR REPORTS OF TOWN DEPARTMENTS, COMMITTEES & OFFICERS

To see if the Town will vote to hear and act upon the reports of Town Departments, Committees and Officers; or act in relation thereto.

Submitted by the Town Manager; authorized by the Select Board

Finance Committee has not made final recommendation.

Article 3 Explanation: In accordance with M.G.L. Chapter 40, Section 49, this article allows Town Meeting to hear and act upon reports submitted in the FY 2024 Annual Town Report.

ARTICLE 4 - TO TRANSFER FROM AVAILABLE FUNDS BETWEEN 2024 BUDGET LINE ITEMS

To see if the Town will vote to transfer from available funds the sum of \$2,000,000 to amend various Fiscal Year 2024 budget line items; or act in relation thereto.

Submitted by the Town Manager; authorized by the Select Board

Finance Committee has not made final recommendation.

Article 4 Explanation: This article is an annual article submitted to amend the annual budget to ensure that all line items are fully funded for the current fiscal year. This article is a placeholder.

ARTICLE 5 - TO FUND COLLECTIVE BARGAINING AGREEMENT - NEPBA POLICE OFFICERS - GROUP (A) PATROLMEN

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to fund the first-year cost items contained in the successor Collective Bargaining Agreement between the Town and the NEPBA (New England Police Benevolent Association, Inc.) Group (A) Patrolmen; or act in relation thereto.

Submitted by the Town Manager; authorized by the Select Board

Finance Committee has not yet made final recommendation.

Article 5 Explanation: At the time of printing, there was no Collective Bargaining Agreement.

ARTICLE 6 - TO FUND COLLECTIVE BARGAINING AGREEMENT - NEPBA POLICE OFFICERS - GROUP (B) SUPERIOR OFFICERS

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to fund the first-year cost items contained in the successor Collective Bargaining Agreement between the Town and NEPBA (New England Police Benevolent Association, Inc.) Group (B) Superior Officers; or act in relation thereto.

Submitted by the Town Manager; authorized by the Select Board

Finance Committee has not yet made final recommendation.

Article 6 Explanation: At the time of printing, there was no Collective Bargaining Agreement.

ARTICLE 7 - FISCAL YEAR 2025 TOWN AND SCHOOL BUDGET

To see if the Town will vote to adopt, pursuant to Article 5 of the Billerica Home Rule Charter, the proposed following line-item budget for Fiscal Year beginning July 1, 2024 and ending June 30, 2025. It is anticipated that \$41,927 will be transferred from the Hallenborg Rink Fund to fund a portion of the Debt Service Budget.

This Budget was produced under the direction of the Select Board and represents a complete financial plan of all Town funds and activities that are subject to appropriation, including the budget as requested by the School Committee (Department Account # 300-5100-#300-5800) and provisions for a reserve fund (Account #13170-7063) administered by the Finance Committee.

The line-item budget is arranged to show the actual expenditures for three prior years, the current budget and the proposed budget for the ensuing fiscal year. It is summarized by Town agency, function and/or program including any proposed capital expenditures. The Town Manager's detailed budget and all explanatory information are available to the Town Meeting Representatives and the general public for inspection in the Town Manager's Office, the Public Library, Town Clerk's Office and the Town of Billerica's website. The following budget, when considered by the Town Meeting, shall first be subject to amendment, if any, as may be proposed by the Finance Committee; or act in relation thereto.

Submitted by the Select Board, Town Manager and Finance Committee

Finance Committee has not yet made final recommendation.

Article 7 Explanation: The detailed budget presentation will be available in the Town Meeting Book and on the Town Manager's Page: <http://www.town.billerica.ma.us/365/Budget-Information>. This article is a placeholder.

ARTICLE 8 - FISCAL YEAR 2025 WATER ENTERPRISE BUDGET

To see if the Town will vote to raise and appropriate a sum of money to operate the Water Enterprise Fund pursuant to M.G.L. Chapter 44 Section 53 F ½ for the fiscal year beginning July 1, 2024 and ending June 30, 2025; or act in relation thereto.

Submitted by the Town Manager; authorized by the Select Board

Finance Committee recommends approval.

Article 8 Explanation: This is a Water Enterprise Budget as voted pursuant to Article 29 of the October 2015 Annual Fall Town Meeting. This budget will be funded by general tax revenue and water user fees. The line-item budget is arranged to show the actual expenditures for three prior fiscal years, the current budget and the proposed budget for the ensuing fiscal year. It is summarized by Town agency, function and/or program including any proposed capital expenditures. The preceding budget, when considered by the Town Meeting shall first be subject to amendment, if any, as may be proposed by the Finance Committee. The Town Manager's detailed budget and all explanatory information are available to the Town Meeting Representatives and the General Public for inspection in the Town Manager's Office, the Public Library and the Town Clerk's Office. This information is also available in the Town Meeting Book and on the Town Manager's Page: <http://www.town.billerica.ma.us/365/Budget-Information>. This article is a placeholder.

ARTICLE 9 - FISCAL YEAR 2025 SEWER ENTERPRISE BUDGET

To see if the Town will vote to raise and appropriate a sum of money to operate the Sewer Enterprise Fund pursuant to M.G.L. Chapter 44 Section 53 F ½ for the fiscal year beginning July 1, 2024 and ending June 30, 2025; or act in relation thereto.

Submitted by the Town Manager; authorized by the Select Board

Finance Committee recommends approval.

Article 9 Explanation: This is a Wastewater Enterprise Budget as voted pursuant to Article 30 of the October 2015 Annual Fall Town Meeting. This budget will be funded by general tax revenue and water user fees. The line-item budget is arranged to show the actual expenditures for three prior years, the current budget and the proposed budget for the ensuing fiscal year. It is summarized by Town agency, function and/or program including any proposed capital expenditures. The preceding budget, when considered by the Town Meeting shall first be subject to amendment, if any, as may be proposed by the Finance Committee. The Town Manager's detailed budget and all explanatory information are available to the Town Meeting Representatives and the general public for inspection in the Town Manager's Office, the Public Library and the Town Clerk's Office. This information is also available in the Town Meeting Book and on the Town Manager's Page: <http://www.town.billerica.ma.us/365/Budget-Information>. This article is a placeholder.

ARTICLE 10 - TO ALLOW THE TOWN MANAGER AND FINANCE COMMITTEE TO TRANSFER FUNDS

To see if the Town will vote to allow the Town Manager, upon request of a Department Head, Board or Commission, to make a transfer of funds between budget line items not-to-exceed a difference of \$5,000 from the amount voted at Town Meeting per line item for Fiscal Year 2025, with the exclusion of travel accounts, within the same department. Transfers within department line items in-excess-of \$5,000 for Fiscal Year 2025 must be approved by the Finance Committee. A written report from the Town Manager on all transfers of \$5,000 and under must be provided to the Finance Committee on the first Tuesday of each month; or act in relation thereto.

Submitted by the Finance Committee

Finance Committee has not made final recommendation.

Article 10 Explanation: This article gives the Town Manager the authority to transfer funds between budget line items within a particular department, not-to-exceed \$5,000 per fiscal year. If the amount exceeds \$5,000, the article gives the authority to make such a transfer with the Finance Committee's approval.

ARTICLE 11 - TO AUTHORIZE DEPARTMENTAL REVOLVING FUNDS

To see if the Town will vote pursuant to the provisions of M.G.L. Chapter 44, Subsection 53E1/2, as most recently amended, to set Fiscal Year 2025 spending limits for revolving funds as follows:

<u>REVOLVING FUND</u>	<u>FY 2025 SPENDING LIMIT</u>
Animal Control	\$5,000
Inspectional Service Emergency Overtime	\$10,000
Wetlands By-Law	\$30,000
C.O.A. Programs	\$100,000
BEAM Program	\$2,000,000
Respite Care	\$120,000
Flu Shot Program	\$50,000

Or act in relation thereto.

Submitted by the Town Manager; authorized by the Select Board and School Committee

Finance Committee has not yet made final recommendation.

Article 11 Explanation: Revolving Funds are allowed under M.G.L. Chapter 44, Section 53E ½ and must be established by By-Law. Under the statute, as most recently amended, Town Meeting must authorize the funding limit of Revolving Funds each year.

ARTICLE 12 - COMMUNITY PRESERVATION COMMITTEE BUDGET AND PROJECT RECOMMENDATIONS

To see if the Town will vote to appropriate or reserve the sum of \$1,100,000 from Community Preservation Fund annual revenues for committee administrative expenses and special purpose fund balances as follows:

Appropriations:	Administrative Budget	\$ 55,000
	Debt Service Budget	\$ 935,000
Reserves:	Community Housing Special Fund Balance	\$ 110,000
	Historic Preservation Special Fund Balance	\$ 0
	Open Space and Recreation Special Fund Balance	\$ 0
	Unreserved Fund Balance	\$ 0

And further, to determine whether the Town will vote to transfer from the Community Preservation Fund or otherwise fund for community preservation purposes the sum of \$871,537 shown below for the referenced projects; and, in connection therewith, to authorize the Select Board to acquire any interests in land that may be necessary to effectuate the purposes of this vote, or to grant any interests in land as may be necessary to comply with M.G.L. Chapter 44B; and further, to authorize the Select Board to execute any documents or instruments necessary to effectuate the purpose of this article; all in accordance with Massachusetts General Laws Chapter 44B or other applicable law; with sums appropriated hereunder to be expended under the direction of the Town Manager:

<u>Open Space and Recreation</u>		
Project	Funding Source	Amount
Yankee Doodle Bike Path	Special Purpose Fund Balance / Undesignated Fund Balance	\$498,362
Bluebird Nesting Restoration	Undesignated Fund Balance	\$3,000
	Total Open Space and Recreation	\$501,362
<u>Historic Preservation</u>		
Project	Funding Source	Amount
Clara Sexton House Repairs	Special Purpose Fund Balance / Undesignated Fund Balance	\$69,175
Middlesex Canal Museum	Undesignated Fund Balance	\$301,000
	Total Historic Preservation	\$370,175
<u>Community Housing</u>		
Project	Funding Source	Amount
TOTAL		\$871,537

Or act in relation thereto.

Submitted by the Community Preservation Committee

Finance Committee has not yet made final recommendation.

Article 12 Explanation: The Community Preservation Committee received applications for projects to use funds within the Community Preservation Fund. The preceding four (4) projects described will be recommended to Town Meeting for approval.

ARTICLE 13 - TO FUND PEG ACCESS CABLE TELEVISION SERVICES

To see if the Town will vote to transfer and appropriate the sum of \$220,322 from the PEG Access and Cable Related Fund to be provided to BATV for support of PEG Access Cable Television Services; or act in relation thereto.

Submitted by the Town Manager; authorized by the Select Board

Finance Committee has not made final recommendation.

Article 13 Explanation: Mass General Laws Chapter 44, Section 53F ¾ requires that PEG Access Funds need to be appropriated at Town Meeting. The Town created the PEG Access and Cable Related Fund as part of Article 35 at the May 2019 Town Meeting.

ARTICLE 14 - TO FUND THE CONSTRUCTION OF A NEW COUNCIL ON AGING AND A NEW RECREATION CENTER

To see if the Town will vote to appropriate the sum of \$41,000,000 to pay for the design, engineering, site preparation and construction of the New Council on Aging facility and New Recreation Center, including the payment of all costs incidental and related thereto, including, but not limited to, the relocation and replacement of tennis courts; and that to meet this appropriation the Treasurer, with approval of the Select Board, be authorized to borrow the sum of \$41,000,000 under and pursuant to the provisions of M.G.L. Chapter 44, Section 7, and/or any other enabling authority; and to authorize the Select Board to seek such approval of the General Court, under Article 97 of the Massachusetts Constitution or otherwise, if any, as may be required to allow for such use; and further, to authorize the Select Board to execute such documents and enter into such agreements as it deems in the best interest of the Town in the furtherance of the objectives of this article; or act in relation thereto.

Submitted by the Town Manager; authorized by the Select Board

Finance Committee has not made final recommendation.

Article 14 Explanation: Spring 2022 Town Meeting authorized \$500,000 for a feasibility study to take a comprehensive look at Recreational and COA program needs today and in the future. The Capital Facilities Committee has met 12 times over the course of the past two and half years. The committee has held multiple community forums, conducted surveys and solicited feedback from users of Recreation and the Council on Aging. The Committee recommended to the Select Board that a new recreation center be located at the Peggy Hannon-Rizza Complex and the Council on Aging be razed and re-built on the current site.

ARTICLE 15 - TO FUND A CONSULTING CONTRACT FOR THE FISCAL YEAR 2025 STATE-MANDATED RE-CERTIFICATION

To see if the Town will vote to transfer and appropriate the sum of \$75,000 from Overlay Surplus to fund a Consulting Contract for the Fiscal Year 2025 State-Mandated Re-Certification of all real estate and personal property located within the Town of Billerica, including the payment of all costs incidental and related thereto; or act in relation thereto.

Submitted by the Board of Assessors

Finance Committee has not yet made final recommendation.

Article 15 Explanation: In order to comply with Massachusetts Department of Revenue requirements for the Town's Fiscal Year 2025 Re-Certification, the Town historically has entered into a consulting contract to assist the Town with this project. In order to set the tax rate, the Town must achieve Re-Certification with the Massachusetts Bureau of Local Assessment. Historically, the Town has funded this request through a transfer from Overlay Surplus in order to avoid raising the funds through the Town budget because it is not a reoccurring annual expense.

ARTICLE 16 - TO FUND THE PURCHASE OF CASKET LOWERING DEVICES FOR CEMETERY

To see if the Town will vote to transfer and appropriate from Cemetery Sale of Lots and Graves the sum of \$25,000 for the purchase of three (3) new casket lowering devices, including the payment of all costs incidental and related thereto; or act in relation thereto.

Submitted by the Town Manager, authorized by the Select Board

Finance Committee has not made final recommendation.

Article 16 Explanation: This article proposes to approve funding from the Cemetery Sale of Lots and Graves to replace three (3) existing casket lowering devices.

ARTICLE 17 - TO FUND THE DESIGN AND EVALUATION OF TOWN CULVERTS

To see if the Town will vote to transfer from available funds the sum of \$200,000 for the design and evaluation for the repair or replacement of existing culverts as needed, including the payment of all costs incidental and related thereto; or act in relation thereto.

Submitted by the Town Manager, authorized by the Select Board

Finance Committee has not made final recommendation.

Article 17 Explanation: This article proposes to approve funding for the design and evaluation and for the repair or replacement of existing culverts as identified in the Culvert Criticality Assessment prepared by the Town's consultant.

ARTICLE 18 - TO FUND NON-PARTICIPATING WATER WORK RELATED TO THE YANKEE DOODLE BIKE PATH

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow the sum of \$690,000 for construction of non-participating water work related to the Yankee Doodle Bike Path Project, including the payment of all costs incidental and related thereto; or act in relation thereto.

Submitted by the Town Manager; authorized by the Select Board

Finance Committee has not made final recommendation.

Article 18 Explanation: This article proposes to approve funding for the extension of the Town's water distribution system along the Yankee Doodle Bike Path.

ARTICLE 19 - TO FUND EASEMENT ACQUISITIONS AND ENGINEERING CONSTRUCTION SERVICES FOR THE YANKEE DOODLE BIKE PATH

To see if the Town will vote to authorize the Select Board to acquire, by purchase, gift, and/or eminent domain, upon such terms and conditions as the Select Board deems appropriate, interests in land in the locations more or less depicted on a plan of land entitled “Massachusetts Department of Transportation Highway Division Plan and Profile of Yankee Doodle Bike Path in the Town of Billerica, Middlesex County, Preliminary Right of Way Plans,” revised through March 5, 2024, prepared by VHB, a copy of which is on file with the Town Clerk, as said plan may be amended, and within 200’ feet of said locations as may be required, for bike path, recreational trail, public way, and related purposes, including, without limitation, for the construction, installation, inspection, improvement, maintenance, repair, replacement and/or relocation of a bike path or recreational trail, rights of way, access ways, sidewalks, ramps, drainage, utilities, slope, grading, landscaping, and any and all uses and purposes incidental or related thereto as will enable the Town to carry out the Yankee Doodle Bike Path Project; and as funding for such acquisition and for engineering services during construction, and any and all costs incidental and related thereto, to raise and appropriate, transfer from available funds, or borrow the sum of \$3,200,000 under and pursuant to the provisions of M.G.L. Chapter 44, Section 7, and or any other enabling authority; and to authorize the Select Board to seek such approval of the General Court, under Article 97 of the Massachusetts Constitution or otherwise, if any, as may be required to allow for such acquisition and use; and further, to authorize the Select Board to execute such documents and enter into such agreements as it deems in the best interest of the Town in the furtherance of the objectives of this article; or act in relation thereto.

Submitted by the Town Manager, authorized by the Select Board

Finance Committee has not made final recommendation.

Article 19 Explanation: This article proposes to approve bond authorization for engineering services during construction and to fund easement acquisition costs associated with the Yankee Doodle Bike Path Project.

ARTICLE 20 - TO FUND NON-PARTICIPATING WASTEWATER WORK RELATED TO THE YANKEE DOODLE BIKE PATH

To see if the Town will vote to transfer and appropriate the sum of \$120,000 from Wastewater Retained Earnings for non-participating wastewater work related to the Yankee Doodle Bike Path Project, including the payment of all costs incidental and related thereto; or act in relation thereto.

Submitted by the Town Manager; authorized by the Select Board

Finance Committee has not made final recommendation.

Article 20 Explanation: This article proposes to approve funding for the extension of the Town's wastewater collection system along the Yankee Doodle Bike Path.

ARTICLE 21 - TO FUND THE REPLACEMENT OF WATER METERS

To see if the Town will vote to transfer and appropriate from Water Retained Earnings a sum of \$450,000 for the purchase and installation of water meters, including the payment of all costs incidental and related thereto; or act in relation thereto.

Submitted by the Town Manager; authorized by the Select Board

Finance Committee has not made final recommendation.

Article 21 Explanation: This article proposes to approve funding for purchase and installation of approximately 620 water meters that were not previously replaced.

ARTICLE 22 - TO FUND UPGRADES TO THE AMMONIA AND FLUORIDE ROOMS AT THE WATER TREATMENT PLANT

To see if the Town will vote to transfer and appropriate the sum of \$285,000 from Water Retained Earnings for upgrades to the Ammonia and Fluoride Rooms at the Water Treatment Plant, including any costs incidental or related thereto; or act in relation thereto;

Submitted by the Town Manager; authorized by the Select Board

Finance Committee has not made final recommendation.

Article 22 Explanation: This article proposes to approve funding for the replacement of Ammonia and Fluoride Storage Tanks, installation of Heat Pump System and replacement of the Alum Pump Controller.

ARTICLE 23 - TO FUND REPLACEMENT OF THE MAIN ELECTRICAL SERVICE FOR THE WATER TREATMENT PLANT

To see if the Town will vote to transfer and appropriate the sum of \$350,000 from Water Retained Earnings for replacement of the existing main electrical service for the Water Treatment Plant, including any costs incidental or related thereto; or act in relation thereto;

Submitted by the Town Manager; authorized by the Select Board

Finance Committee has not made final recommendation.

Article 23 Explanation: This article proposes to approve funding for the replacement of the existing underground electric service that is reaching its end of life.

ARTICLE 24 - TO FUND THE SEWER INFLOW AND INFILTRATION REMOVAL PROJECT

To see if the Town will vote to appropriate the sum of \$1,600,000 for the purpose of financing construction to eliminate Inflow and Infiltration (I/I) from the Town Wastewater Collection System including without limitation all costs thereof as defined in Section 1 of Chapter 29C of the General Laws, as most recently amended by St. 1998, c.78; that to meet this appropriation the Treasurer with the approval of the Select Board be authorized to borrow \$1,600,000 and issue bonds or notes therefore under Chapter 44 of the General Laws and/or Chapter 29C of the General Laws, as most recently amended by St. 1998, c.78; that such bonds or notes shall be general obligations of the Town unless the Treasurer with the approval of the Select Board determines that they should be issued as limited obligations and may be secured by local system revenues as defined in Section 1 of Chapter 29C, as most recently amended by St. 1998, c.78; that the Treasurer with the approval of the Select Board be authorized to borrow all or a portion of such amount from the Massachusetts Water Pollution Abatement Trust established pursuant to Chapter 29C, as most recently amended by St. 1998, c.78; and in connection therewith to enter into a loan agreement and/or security agreement with the Trust and otherwise to contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the project or for the financing thereof; that the Select Board be authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expend all funds available for the project and to take any other action necessary to carry out the project costs/expenses; or act in relation thereto.

Submitted by the Town Manager; authorized by the Select Board

Finance Committee has not made final recommendation.

Article 24 Explanation: This article proposes to approve funding for the removal of inflow and infiltration (I/I) identified in Phase 3, Part 1 of the Sewer System Evaluation Survey (SSES) assessment completed in 2020.

ARTICLE 25 - TO FUND THE SEWER INFLOW AND INFILTRATION INVESTIGATION

To see if the Town will vote to transfer and appropriate the sum of \$500,000 from the Inflow and Infiltration Mitigation Fund, to fund an investigation to eliminate Inflow and Infiltration (I/I) from the Town Wastewater Collection System, including engineering costs and any costs incidental, or act in relation thereto;

Submitted by the Town Manager; authorized by the Select Board

Finance Committee has not made final recommendation.

Article 25 Explanation: This article proposes to approve funding for the Investigation of the Wastewater Collection System to identify Inflow and Infiltration (I/I) sources using closed circuit television (CCTV) and isolated flow metering.

ARTICLE 26 - TO FUND THE PURCHASE OF A NEW FIRE ENGINE

To see if the Town will vote to appropriate the sum of \$950,000 to pay for the purchase and equipping of a New Fire Engine, including the payment of all costs incidental and related thereto; and that to meet this appropriation the Treasurer, with approval of the Select Board, be authorized to borrow the sum of \$950,000 under and pursuant to the provisions of M.G.L. Chapter 44, Section 7, and or any other enabling authority; and further, to authorize the Select Board to execute such documents and enter into such agreements as it deems in the best interest of the Town in the furtherance of the objectives of this article; or act in relation thereto.

Submitted by the Town Manager; authorized by the Select Board

Finance Committee has not made final recommendation.

Article 26 Explanation: Fire Engines are taking a significant time to be shipped out due to axel shortages. The last truck was ordered in Fall of 2022 and will not be arriving until early 2025. Prices have also increased \$200,000. This article will allow us to get on the schedule and have a price locked in. This will be presented as a bond authorization. It will be reappropriated through Free Cash closer to the delivery date.

ARTICLE 27 - TO FUND THE INSTALLATION OF SEWER ON A PORTION OF RANGEWAY ROAD BY SEWER BETTERMENT

To see if the Town will vote to appropriate a sum of \$550,000 to pay for the cost of engineering and construction of a sewer service system on Rangeway Road, including the payment of all costs incidentals and related thereto; and that to meet this appropriation the Treasurer, with approval of the Select Board, be authorized to borrow the sum of \$550,000 under and pursuant to the provisions of M.G. L. Chapter 44, Section 7, and/or any other enabling authority and/or Chapter 29C of the General Laws, as most recently amended by St. 1998, c.78; that such bonds or notes shall be general obligations of the Town unless the Treasurer with the approval of the Select Board determines that they should be issued as limited obligations and may be secured by local system revenues as defined in Section 1 of Chapter 29C, as most recently amended by St. 1998, c.78; that the Treasurer with the approval of the Select Board is be authorized to borrow all or a portion of such amount from the Massachusetts Water Pollution Abatement Trust established pursuant to Chapter 29C, as most recently amended by St. 1998, c.78; and in connection therewith to enter into a loan agreement and/or security agreement with the Trust and otherwise to contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the project or for the financing thereof; that the Select Board is be authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expend all funds available for the project and to take any other action necessary to carry out the project costs/expenses; and further, to authorize the Select Board to execute any documents or instruments necessary to effectuate the purposes of this article; and to raise and appropriate or transfer from available funds, or borrow a sum of money for the payment of property damages and other costs/expenses related to any easement acquisitions associated with the project; or act in relation thereto.

Submitted by the Town Manager; authorized by the Select Board

Finance Committee has not made final recommendation.

Article 27 Explanation: This is a Betterment Project for a portion of Rangeway Road. The condo associations and businesses have requested use of Town bonding. The debt service will be strictly paid by the betterment assessment of abutters within the limit of work that will benefit from the new sewer line. Original article of \$4,250,000 appropriated at 2022 Spring Town Meeting.

ARTICLE 28 - TO RESCIND PRIOR BORROWING AUTHORIZATIONS

To see if the Town will vote to rescind the following borrowing authorizations previously approved at Town Meeting:

Article 1	February 2016	\$6,947,194	Billerica Memorial High School
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Or act in relation thereto.

Submitted by the Town Manager; authorized by the Select Board

Finance Committee has not yet made final recommendation.

Article 28 Explanation: This article rescinds previous borrowing authorizations.

ARTICLE 29 - TO APPROVE THE SHAWSHEEN VALLEY REGIONAL VOCATIONAL/TECHNICAL SCHOOL DISTRICT COMMITTEE'S VOTE TO ESTABLISH A STABILIZATION FUND

To determine whether the Town of Billerica will vote to approve the Shawsheen Valley Regional Vocational/Technical School District Committee's vote on December 19, 2023 to establish a Stabilization Fund, pursuant to Section 16G ½ of Chapter 71 of the Massachusetts General Laws, said Stabilization Fund to be invested and to retain its own interest earnings as provided by law and further set up an operational line item to be created to transfer available monies into said Stabilization Fund; or act in relation thereto.

Submitted by the Town Manager; authorized by the Select Board

Finance Committee has not yet made final recommendation.

Article 29 Explanation: The submission of this article was requested by Shawsheen Valley Regional Technical School Superintendent and School Committee to establish a stabilization fund for capital planning purposes.

ARTICLE 30 - TO AUTHORIZE THE SELECT BOARD TO ACCEPT ROADS AS PUBLIC WAYS

To see if the Town will vote to accept the following listed roads as public ways in accordance with the layouts adopted by the Select Board and on file with the Town Clerk; and to authorize the Select Board to acquire by gift, purchase, or eminent domain, such interests in land as are necessary to provide for the use and maintenance of said ways for all purposes for which public ways are used in the Town of Billerica; and further, to authorize the Select Board to execute any documents or instruments necessary to effectuate the purpose of this article; or act in relation thereto.

Bancroft Street, from Pinehurst Avenue to dead end, approximate length 370' and 40' width right of way, as depicted on the plan entitled '*Existing Conditions Plan of Bancroft Street and Dillworth Street - Billerica, MA*', dated July 22, 2000, prepared by Cuoco & Cormier (Engineering Division Plan B-4-252, Sheet 1).

Clinton Street, from Friendship Street to dead end, approximate length 230' and 40' width right of way, as depicted on the plan entitled '*Existing Condition, Clinton Street - Billerica, MA*', dated March 15, 2002, prepared by Allen & Major Associates, Inc. (Engineering Division Plan B-4-226, Sheet 1).

Dillworth Street, from Pinehurst Avenue to dead end, approximate length 210' and 40' width right of way, as depicted on the plan entitled '*Existing Conditions Plan of Bancroft Street and Dillworth Street - Billerica, MA*', dated July 22, 2000, prepared by Cuoco & Cormier (Engineering Division Plan B-4-252, Sheet 1).

Exeter Place, from Lexington Road to dead end, approximate length 910' and 40' width right of way, as depicted on the plan entitled '*Existing Condition, Exeter Place - Billerica, MA*', dated March 15, 2002, prepared by Allen & Major Associates, Inc. (Engineering Division Plan B-4-232, Sheet 1).

North Rexhame Street, from Walton Street to Pequot Street, approximate length 630' and 40' width right of way, as depicted on the plan '*North Rexhame Street, Billerica Massachusetts - Street Layout and Acceptance Plan prepared for the Town of Billerica*', dated February 29, 2024, prepared by GCG Associates, Inc. (Engineering Division Plan B-5-211, Sheet 1).

Rexhame Street, from Rio Vista Street to Walton Street, approximate length 1,200' and 40' width right of way, as depicted on the plan entitled '*Existing Condition, Rexhame Street - Billerica, MA*' dated July 17, 2002, prepared by Allen & Major Associates, Inc. (Engineering Division Plan B-4-196, Sheets 1-2 of 2).

Shannon Road, from Pinehurst Avenue to dead end, approximate length 635' and 40' wide right of way, as depicted on the plan entitled '*Shannon Road, Billerica Massachusetts - Street Layout and Acceptance Plan prepared for the Town of Billerica*', dated February 29, 2024, prepared by GCG Associates, Inc. (Engineering Division Plan B-5-212, Sheet 1).

Tirone Path, from Jennings Road to Carlise Street, approximate length 520' and 40' width right of way, as depicted on the plan entitled '*Existing Condition, Tirone Path - Billerica, MA*' dated August 5, 2002, prepared by Allen & Major Associates, Inc. (Engineering Division Plan B-4-208, Sheet 1).

Wilson Street, from Talbot Avenue to Old Elm Street, approximate length 1,950' and a variable width right of way, as depicted on the plan entitled '*Wilson Street, Billerica Massachusetts - Street Layout and Acceptance Plan prepared for the Town of Billerica*', dated February 29, 2024, prepared by GCG Associates, Inc. (Engineering Division Plan B-5-213, Sheet 1-2 of 2).

Submitted by the Town Manager, authorized by the Select Board

Finance Committee has not made final recommendation.

Article 30 Explanation: The list of roads was developed from citizen petitions.

ARTICLE 31 - TO AMEND GENERAL BY-LAW ARTICLE XXI – DISCHARGES TO THE MUNICIPAL STORM SEWER SYSTEM

To see if the Town will vote to amend General By-law Article XXI – By-Law Governing Discharges to the Municipal Storm Sewer System as follows, with struck-through language deleted and **underlined** **bold** language inserted therein; or act in relation thereto.

**ARTICLE XXI
DISCHARGES TO THE MUNICIPAL STORM SEWER SYSTEM****DEFINITIONS**

Authorized Enforcement Agency:	The Billerica <u>Department of Public Works (DPW)</u> Board of Health , its employees, or agents designated to enforce this By-law.
Best Management Practice (BMP):	An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.
Clean Water Act (<u>CWA</u>):	The Federal Water Pollution Control Act (33 U.S.C. § <u>Section</u> 1251 et seq.) as may be amended from time to time.
Discharge of Pollutants:	The addition, from any source, of any pollutant, or combination of pollutants, into the municipal storm sewer system or into the waters of the United States or Commonwealth.
Groundwater:	Water beneath the surface of the ground.
Illicit Connection:	A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm sewer system, including without limitation sewage, process wastewater, or wash water, and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this By-law.
Illicit Discharge:	Direct or indirect discharge to the municipal storm sewer system that is not composed entirely of stormwater, except as exempted in Section <u>8.5.1</u> . The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from fire fighting activities exempted pursuant to Section <u>8.15.1</u> , of this By-law.
Impervious Surface:	Any material or structure on or above the ground that prevents water from infiltrating into the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and rooftops.
Municipal Separate Storm Sewer System (<u>MS4</u>) or Municipal Storm Drain System or Municipal Storm Sewer System:	A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains);

- A. Owned or operated by a State, city, town, borough, county, parish, district, association or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district, or drainage district, or similar entity or an Indian tribe or an authorized tribal organization or a designated and approved management agency under ~~section~~ **Section** 208 of the CWA that discharges to waters of the United States;
- B. Designated or used for collecting or conveying storm water;
- C. Which is not a combined sewer; and
- D. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

National Pollutant Discharge
Elimination System (NPDES)
Storm Water Discharge Permit:

A permit issued by the United States Environmental Protection Agency, or jointly with the Commonwealth, that authorizes the discharge of pollutants to waters of the United States.

Non-Stormwater Discharge:

Discharge to the municipal storm sewer ~~system~~—not composed entirely of stormwater.

Person:

An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

Pollutant:

Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include without limitation:

- A. Paints, varnishes, and solvents,
- B. Oil and other automotive fluids,
- C. Non-hazardous liquid and solid wastes and yard wastes,
- D. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations, and floatables,
- E. Pesticides, herbicides, and fertilizers,
- F. Hazardous materials and wastes; sewage, fecal coliform and pathogens,
- G. Dissolved and particulate metals,
- H. Animal wastes,
- I. Rock, sand, salt, and soils with the exception of winter salting and sanding,
- J. Construction wastes and residues, and

	K. Noxious or offensive matter of any kind.
Process Wastewater:	Water, which during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.
Recharge:	The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.
Stormwater:	Rainfall runoff, snow melt runoff, and surface water runoff and drainage. Runoff shall mean rainfall or snowmelt water flowing over the ground surface.
Surface Water Discharge Permit:	A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.
Toxic or Hazardous Material or Waste:	Any material, which because of its quantity, concentration, or chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.
Watercourse:	A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.
Waters of the Commonwealth:	All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater. <u>This includes Waters of the United States as defined under the Federal Clean Water Act (33 .S.C. Section 1251, et seq.) as hereafter amended.</u>
Wastewater:	Any sanitary waste, sludge, or septic tank or cesspool overflow, and process wastewater.

1. APPLICABILITY

This By-law shall apply to flows entering the municipal ~~separate-storm sewer~~ **drain** system.

2. RESPONSIBILITY FOR ADMINISTRATION

The ~~Board of Health~~ **DPW** shall administer, implement and enforce this By-law. Any powers granted to or duties imposed upon the ~~Board~~ **DPW** may be delegated in writing by the ~~Board~~ **DPW** to employees or agents of the ~~Board~~ **DPW**.

3. REGULATIONS

The ~~Board of Health~~ **DPW** may promulgate rules and regulations to effectuate the purposes of this By-law. Failure by the ~~Board~~ **DPW** to promulgate such rules and regulations shall not have the effect of suspending or invalidating this By-law.

4. PROHIBITED ACTIVITIES

- 4.1 Illicit Discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal ~~separate~~ storm ~~sewer~~ **drain** system (~~MS4~~), into a stormwater BMP on public or private property, into a watercourse, or into the waters of the Commonwealth.
- 4.2 Illicit Connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm ~~sewer~~ **drain** system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- 4.3 Obstruction of Municipal Storm ~~Sewer~~ **Drain** System. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm ~~sewer~~ **drain** system without prior written approval from the ~~Board of Health~~ **DPW**.

5. EXEMPTIONS

- 5.1 Discharge or flow resulting from fire fighting activities.
- 5.2 The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the municipal storm sewer system:
 - A. Waterline flushing,
 - B. Flow from potable water sources,
 - C. Springs,
 - D. Natural flow from riparian habitats and wetlands,
 - E. Diverted stream flow,
 - F. Rising groundwater,
 - G. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater, **provided the water is flowing in such a way as not to cause a nuisance or erosion,**
 - H. Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation,
 - I. Discharge from landscape irrigation or lawn watering,
 - J. Water from individual residential car washing,
 - K. Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance or erosion,
 - L. Discharge from street sweeping,
 - M. Residential building wash waters without detergents,**
 - ~~MN.~~ Dye testing, provided verbal notification is given to the ~~Board of Health~~ **DPW** prior to the time of the test,

- ~~NO.~~ Non-stormwater discharge permitted under a NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Massachusetts Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations, and
- ~~OP.~~ Discharge for which advanced written approval is received from the ~~Board of Health~~ DPW as necessary to protect public health, safety, and welfare, or the environment.

6. EMERGENCY SUSPENSION OF STORM SEWER SYSTEM ACCESS

The ~~Board of Health~~ DPW may suspend municipal storm sewer system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to public health, safety, or welfare, or the environment. In the event any person fails to comply with an emergency suspension order, the ~~Board of Health~~ DPW may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

7. NOTIFICATION OF SPILLS

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of or suspects a release of materials at that facility or operation resulting in, or which may result in, discharge of pollutants to the municipal storm sewer system or waters of the Commonwealth, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire and police departments and Board of Health and Department of Public Works, Engineering Division. In the event of a release of non-hazardous material, the reporting person shall notify the ~~Board of Health~~ DPW no later than the next business day. The reporting person shall provide to the ~~Board of Health~~ DPW written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator shall retain onsite a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years from the date of the spill.

8. ENFORCEMENT

The ~~Board of Health~~ DPW, or its authorized agent, shall enforce this By-law, resultant regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

- 8.1 Civil Relief. If a person violates the provisions of this By-law, regulations, permit, notice, or order issued thereunder, the ~~Board of Health~~ DPW may seek injunctive relief in a court of competent jurisdiction restraining the person from activities that would create further violations or compelling the person to perform abatement or remediation of the violation.
- 8.2 Orders.

- A. The ~~Board of Health~~ **DPW**, or its authorized agent, may issue a written order to enforce the provisions of this By-law or the regulations thereunder, which may include,
- (a) elimination of illicit connections or discharges to the ~~MS4~~ **municipal storm sewer system**,
 - (b) performance of monitoring, analyses, and reporting,
 - (c) that unlawful discharges, practices, or operations shall cease and desist, and
 - (d) remediation of contamination in connection therewith.
- B. If the enforcing agent determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Billerica may, at its option, undertake such work, and expenses thereof shall be charged to the violator.
- C. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town of Billerica, including administrative costs. The violator, or property owner, may file a written protest objecting to the amount, or basis of costs, with the ~~Board of Health~~ **DPW** within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the ~~Board of Health~~ **DPW** affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, **Section** 57 after the thirty-first day at which the costs first become due.
- 8.3 Criminal Penalty. Any person who violates any provision of this By-law, regulation, order or permit issued hereunder, shall be punished by a fine of not more than \$300 per offense. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- 8.4 Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town of Billerica may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, **§Section** 21D, in which case the ~~Board of Health~~ **DPW**, or other authorized agent, of the Town shall be the enforcing person. The penalty for the first violation shall be a written warning and/or a \$100 fine. The penalty for the second violation shall be a \$200 fine. The penalty for the third and subsequent violations shall be a \$300 fine. Each day, or part thereof, that such violation occurs, or continues, shall constitute a separate offense.
- 8.5 Entry to Perform Duties Under this By-Law. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the ~~Board of Health~~ **DPW**, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this By-law and regulations and may make or

cause to be made such examinations, surveys or sampling as the ~~Board of Health~~ **DPW** deems reasonably necessary.

8.6 Appeals. The decisions or orders of the ~~Board of Health~~ **DPW** shall be final. Further relief shall be to a court of competent jurisdiction.

8.7 Remedies Not Exclusive. The remedies listed in this By-law are not exclusive of any other remedies available under any applicable federal, state or local law.

9. ~~TRANSITIONAL PROVISIONS~~

~~Residential property owners shall have 180 days from the effective date of this By law to comply with its provisions.~~

Submitted by the Town Manager, authorized by the Select Board

Finance Committee has not made final recommendation.

Article 31 Explanation: This By-Law effectively prohibits pollution and certain non-stormwater discharges from entering the town's storm drain. This By-Law will allow the Town to take action to keep Billerica's lakes, ponds, rivers, and streams clean. This By-Law was previously enforced by the Board of Health. The proposed amendments to the By-Law transfer enforcement authority from the Board of Health to the Department of Public Works. No other substantive changes are proposed. This By-Law has been reviewed by Town staff, including the Town Manager, Building Inspector, Board of Health staff, Planning Board staff, Conservation staff, and the Department of Public Works.

ARTICLE 32 - TO AMEND GENERAL BY-LAW ARTICLE XXV – STORMWATER MANAGEMENT BY-LAW

To see if the Town will vote to amend General By-Law Article XXV - Stormwater Management By-Law as follows, with struck-through language deleted and **underlined bold** language inserted therein; or act in relation thereto.

**ARTICLE XXV
STORMWATER MANAGEMENT BY-LAW**

DEFINITIONS:**Administrative Site Drainage****Approval:**

Review and issuance of a decision by the Stormwater Authority regarding a land disturbance activity that does not require a Stormwater Permit because of its size and/or scope.

Alter:

Any activity, which will measurably change the ability of a ground surface area to absorb water or will change existing surface drainage. **Such changes include: change from distributed runoff to confined or discrete discharge, change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.** Alter may be similarly represented as “alteration of drainage characteristics,” and “conducting land disturbance activities.”

Best Management Practice (BMP):

~~Structural and nonstructural techniques that are recognized to be effective and practical means to prevent and/or reduce increases in stormwater volumes and flows, reduce point source and nonpoint source pollution, and promote good stormwater quality and protection of the environment.~~ **An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.** “Structural” BMPs are devices that are engineered and constructed to provide permanent or temporary storage and treatment of stormwater runoff. “Nonstructural” BMPs use natural measures to reduce pollution levels, do not require extensive construction efforts, and/or promote pollutant reduction by eliminating the pollutant source. Nonstructural BMPs include managerial techniques that focus on the preservation and protection of natural features.

Common Plan of Development or Sale:

A "common plan of development or sale" is a contiguous area where multiple separate and distinct construction activities may be taking place at different times, on different lots, on different schedules under one plan. The common plan includes any ~~Any~~

announcement or piece of documentation (including a sign, public notice or hearing, advertisement, drawing, ANR plan, or permit application, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor marking, etc.) indicating imminent or future construction activities.

Land Disturbance:

Any action that causes a change in the position, location, or arrangement of soil, **ground cover**, sand, rock, gravel or similar earth material. **Includes clearing, grading, excavating, and/or grubbing; results in an increased amount of runoff or pollutants; measurably changes the ability of a ground surface to absorb waters; involves clearing and grading; and/or results in alteration of drainage characteristics.** See also ALTER.

Massachusetts Stormwater
Management Policy **Standards**:

The Policy **Stormwater Management Standards** issued by the Department of Environmental Protection, and as amended from time to time, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act G.L. c. 131, § 40 and Massachusetts Clean Waters Act G.L. c. 21, §§ 23-56. The Policy **Standards** addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

~~Municipal Separate Storm Sewer
System (MS4), or Municipal
Storm Drain System, or Municipal
Drainage System:~~

~~The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Billerica.~~

**Municipal Separate Storm Sewer
System (MS4):**

The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Billerica.

Stormwater Authority: ~~Board of Health~~ **The Billerica Department of Public Works or its authorized agent(s) ("DPW").** ~~or authorized agent(s), as defined in the Stormwater Management By-law. The Board of Health DPW,~~ or its agent(s), is responsible for coordinating the review, approval and permitting **process as defined in these Regulations authorized by this Stormwater Management By-law and any regulations implemented hereunder.** Other Boards and/or departments may participate in the review process as defined in the Stormwater Management By-law **and Regulations.**

Stormwater Management: The use of structural or nonstructural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates. Stormwater Management includes the use of structural, and nonstructural stormwater management practices.

Stormwater Management Permit **("SMP"):** A permit issued by the ~~Board of Health~~ **DPW,** after review of an application, plans, calculations, and other supporting documents, which show that the proposed project is designed to protect the environment of the Town from the deleterious ~~affects~~ **impacts** of uncontrolled and untreated stormwater runoff **during the construction period and from the altered site in perpetuity.**

Additional terms that apply to issuance of a Stormwater Management Permit **and/or Administrative Site Drainage Approval** established by this By-law shall be defined and included as part of the Regulations promulgated and, from time to time, amended under Section 2.2 of this By-law, a copy of which shall be available at the ~~Board of Health DPW~~ and the office of the Town Clerk. Terms not defined in said Regulations or pertinent statutes shall be construed according to their customary and usual meaning unless the context indicates a special or technical meaning.

1. SCOPE AND APPLICABILITY

- 1.1 **This By-law shall apply to all construction activity and/or land disturbance that individually or as part of a Common Plan of Development results in disturbance of land in excess of the thresholds below.** ~~Unless exempt pursuant to Section 1.2 of this By-law, all activities under the jurisdiction of this By-law shall be required to obtain a Stormwater Management Permit from the Board of Health prior to beginning any site work. This By-law shall be applicable to all new development and redevelopment projects including:~~
- A. **Administrative Site Drainage Approval is required for projects adding 500 square feet or more of impervious area but not otherwise disturbing more than one acre of land.**
 - B. **Administrative Site Drainage Approval is required for projects disturbing between 20,000 square feet and one acre (43,560 square feet) of land.**
 - C. **A Stormwater Management permit is required for any construction activity or land disturbance where the proposed use is a land use of higher potential**

pollutant loads (LUHPPL) pursuant to the Massachusetts Stormwater Management Standards, as they may be amended from time to time.

D. A Stormwater Management permit is required for any activity that results in a land disturbance of one acre (43,560 square feet) or more within the Town of Billerica;

E. A Stormwater Management permit is required for any Subdivision as defined in the Massachusetts Subdivision Control Law (MGL, Chapter 41, Sections 81K – 81GG) requiring a Definitive Plan.;

A. ~~Any activity that results in a land disturbance greater than one acre within the Town of Billerica;~~

B. ~~Any activity that results in a land disturbance of less than one acre if the project is part of a larger common plan of development that eventually will disturb more than one acre within the Town of Billerica; and~~

~~Any alteration, redevelopment, or land use conversion in an area with “higher potential pollutant loads” as described in Standard 5 of the Massachusetts Stormwater Management Policy, as it may be amended from time to time~~ Land disturbance activities on lots

shown on pPlans that do not require approval under the Subdivision Control Law, hereafter referred to as “ANR lots”, and which meet one or more of the applicability criteria above are subject to the provisions of this By-law and are not exempt from obtaining a Stormwater Management Permit unless the land disturbance activities meet one of the exemptions described below.

1.2 Exemptions: ~~No person who~~ land disturbance activity which meets the applicability thresholds above of this By-law ~~shall alter land~~ shall occur without an applicant within the Town of Billerica ~~without having obtained a Stormwater Management Permit (SMP) or Administrative Site Drainage Approval~~ with the following exceptions: unless one or more of the following exemptions apply:

A. Activities undertaken in the course of customary cemetery ~~Cemetery~~ management;;

B. Maintenance of existing landscaping, gardens or lawn areas;;

C. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act 310 CMR 10.04 and MGL Chapter 40A, Section 3;;

D. Emergency repairs to any stormwater management facility or practice, such that the original design location, size, and technology remain the same, that poses a threat to public health or safety, or as deemed necessary by the ~~Board of Health~~ DPW;;

E. Construction of fencing that will not substantially alter existing terrain or drainage patterns;

F. Construction of utilities other than drainage (gas, water, electric, telephone, etc.) which will not alter terrain or drainage patterns or result in discharge of sediment or other pollutants to the Municipal Separate Storm Sewer or, directly or indirectly, to a Watercourse or Waters of the Commonwealth;

G. Municipal roadway maintenance including crack sealing, milling, paving and sidewalk construction and repair; and/or

H. Maintenance of a stormwater treatment structure conducted in such a way that does not cause discharge of sediment or other pollutants to the Municipal Separate Storm Sewer, or directly or indirectly to a Watercourse or Waters of the Commonwealth.

1.3 Coordination with Other Town Permits.

- A. No Town Earth Removal Permit, Order of Conditions from the Conservation Commission, Building Permit, subdivision approval, special permit, variance or finding shall constitute compliance with this By-law. For a project or activity ~~that meets the Scope and Applicability of this By-law~~ **that is subject to the DPW's jurisdiction under this By-law,** no work may commence until the ~~developer~~ **applicant** submits a complete Stormwater Management Permit **and/or Administrative Site Drainage Approval** application, the ~~Board of Health~~ **DPW** issues a Stormwater Management Permit **or Administrative Site Drainage Approval**, and the ~~developer~~ **applicant** certifies that all land ~~clearing, construction, and development will be done~~ **disturbing activities will be performed in compliance with** pursuant to the approved Plans and Permit/**Approval**.
- B. This By-law is not intended to interfere with, abrogate, or annul any other By-law, rule or regulation, statute, or other provision of law. The requirements of this By-law shall be considered minimum requirements, and where any provision of this By-law imposes restrictions different from those imposed by any other By-law, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall take precedence.
- C. **Common Plan of Development. Whenever this By-law applies to contiguous commonly owned parcels that meet the definition of a Common Plan that in the opinion of the Stormwater Authority will ultimately disturb one acre or greater, then the common owner of all such parcels shown on said plan must submit a single SMP application to provide for a comprehensive stormwater system for all such parcels. An individual lot which is part of a common plan of development shall remain subject to jurisdiction under this By-law regardless of when it is severed from common ownership:**
- CD. For projects **Projects** within any **wetland** resource area **or buffer** zone protected under law, including, but without limitation: the Billerica Wetlands Protection By-law, Massachusetts Wetlands Protection Act, the Massachusetts Rivers Act, the Massachusetts Watershed Protection Act, or the BMP design and selection criteria given in the most current Massachusetts Stormwater Management ~~Policy~~ **Standards**, as amended, shall be ~~considered the more restrictive or more protective of human health and the environment, and shall take precedence over the Billerica Stormwater Management By-law~~ **subject to all such laws in addition to this By-law.**

2. ADMINISTRATION

- 2.1 **Stormwater Authority.** The ~~Board of Health~~ **DPW** is hereby designated as the Stormwater Authority. The ~~Board of Health~~ **DPW**, or its agent, shall administer, implement and enforce this By-law. The Billerica ~~Board of Health~~ **DPW** may appoint an Agent to issue Permits and ~~sign Plans~~ **Approvals** provided for in this By-law. The ~~Board of Health~~ **DPW** may appoint another Town department, commission or board to act as its authorized Agent for site inspections and enforcement of this By-law.
- 2.2 **Stormwater Regulations.** The ~~Board of Health~~ **Stormwater Committee as described herein** may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, clerical, inspection, and/or consultant fees), procedures and administration of this Stormwater Management By-law **after the Stormwater Committee conducts a public hearing. A Stormwater Committee shall consist of five (5) people, including the Stormwater Engineer, Director of Environmental Affairs, Director of Planning and Community Development, Select Board Chairperson or their designee, and the Director of Public Works or their designee. This Stormwater Committee will oversee the public hearing process to approve regulations promulgated under this By-law. The Stormwater Committee's public hearing may be opened following publication of notice of the hearing at least fourteen (14) days prior to the initial hearing date.** ~~after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation at least seven (7) days prior to the hearing date. After public notice and public hearing, the Board of Health may promulgate rules and regulations to effectuate the purposes of this By-law. Failure of the Board of Health to promulgate such rules and regulations, or a legal declaration of their invalidity by a court, shall not act to suspend or invalidate the effect of this By-law.~~
- 2.3 **Stormwater Management Manual.** The ~~Board of Health~~ **DPW** will utilize the Massachusetts Stormwater Management ~~Policy~~ **Standards** and Handbooks, as amended from time to time, for criteria and information including specifications and standards for the execution of the provisions of this By-law. These include a list of acceptable stormwater treatment practices, with specific design criteria for each. Unless specifically ~~altered~~ **stated otherwise** in this Stormwater Management By-law, stormwater management practices that are designed, constructed, and maintained in accordance with the Massachusetts Stormwater Management Handbook's² design and sizing criteria may be presumed by the ~~Board of Health~~ **DPW** to be protective of Massachusetts water quality standards.
- 2.4 **Appeals of Action by the Board of Health-DPW.** A decision of the ~~Board of Health~~ **DPW** shall be final. Further relief of a decision by the ~~Board of Health~~ **DPW** made under this By-law shall be reviewable in the Superior Court in an action filed within 60 days thereof, in accordance with M.G.L. Chapter ~~c.~~ 249, §**Section** 4.
3. **STORMWATER MANAGEMENT PERMIT AND ADMINISTRATIVE SITE DRAINAGE APPROVAL PROCEDURES**
Permit **and administrative approval** procedures and requirements, including permit submittals, right-of-entry **agreement**, fee schedule, and public hearing **notification and input** process, shall

be **further** defined and included as part of the Regulations promulgated under Section 2.2 of this By-law. **Public notification requirements may be waived for Administrative Site Drainage Approval applications. The public notification process may be waived if the project is also being heard at a posted public meeting of the Planning Board or Conservation Commission. Stormwater issues will be discussed with the public at said hearings. The public review process is as follows for projects requiring a Stormwater Management Permit:**

1. **The applicant must provide a certified abutters list from the Assessor's Office, this shall mean any and all abutters within three hundred (300) feet of the property boundaries of the lot where land disturbance activities are proposed which must be dated within sixty (60) days of submission.**
2. **The applicant is responsible for notifying all the abutters by certified mail about the project and requesting that all abutter's comments be provided to the DPW within two weeks of receiving the letter.**
3. **The DPW will collect, document and respond to input prior to issuing the final approval of a permit.**
4. **The project will be reviewed by the DPW to ensure that the design adequately protects the water resources of the community, is in compliance with the requirements set forth in this By-law and Regulations, and that the application has considered and addressed public input.**

Administrative Site Drainage Approval Applications.

An Administrative Site Drainage Approval Application requires the submission of an application and, upon review of the application, the DPW shall issue a written determination approving the proposed land disturbance activities or requiring a Stormwater Management Permit Application.

The Administrative Site Drainage Approval Application package shall include at a minimum:

- 1) **A completed Application Form with signatures of all owners;**
- 2) **An instrument survey with a proposed site plan;**
- 3) **A list of abutters, certified by the Assessors Office (abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the applicant, including any in another municipality or across a body of water);**
- 4) **A project description;**
- 5) **Payment of the application and review fees;**
- 6) **One (1) complete copy filed with the Town Clerk by the Applicant which shall serve to establish the filing date; and**

- 7) A full electronic copy.

See Stormwater Management Rules and Regulations for additional filing requirements.

Stormwater Management Permit Applications

A completed application for a Stormwater Management Permit (SMP) shall be filed with the DPW. The Stormwater Management Permit Application package shall include:

- 1) **A completed Application Form with original signatures of all owners;**
- 2) **An instrument survey with a proposed site plan;**
- 3) **A list of abutters, certified by the Assessors Office (abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the applicant, including any in another municipality or across a body of water);**
- 4) **Stormwater Management Plan and project description;**
- 5) **Operation and Maintenance Plan;**
- 6) **Payment of the application and review fees;**
- 7) **One (1) complete copy filed with the Town Clerk by the Applicant which shall serve to establish the filing date; and**
- 8) **A full electronic copy.**

See Stormwater Management Rules and Regulations for additional filing requirements.

Entry. When obtaining an Administrative Site Drainage Approval or when filing an application for a SMP, the Applicant shall grant the DPW or its agent, permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions, after proper notification to the Applicant at least 24 hours in advance. Refusal to grant voluntary access may result in denial of a SMP or the Administrative Site Drainage Approval.

Information Requests. The applicant shall submit all additional information requested by the DPW to issue a decision on the application.

Actions by the DPW may include:

- 1) **Approve the Stormwater Management Permit Application or Administrative Site Drainage Approval and issue a permit if it finds that the proposed plan will protect water resources and otherwise meets the objectives and requirements of this By-law;**
- 2) **Approve the Stormwater Management Permit Application or Administrative Site**

Drainage Approval and issue a permit with conditions, modifications, or restrictions that the Permit Authority determines are required to ensure that the project will protect water resources and otherwise meets the objectives and requirements of this By-law; or

- 3) **Disapprove the Stormwater Management Permit Application or Administrative Site Drainage Approval and deny the permit if it finds that the proposed plan will not protect water resources or otherwise fails to meet the objectives and requirements of this By-law.**

4. PERFORMANCE STANDARDS

Criteria for erosion and sediment control and post-construction stormwater management, including stormwater performance standards, shall be defined and included as part of the Regulations promulgated under Section 2.2 of this By-law.

5. WAIVERS

- 5.1 The ~~Board of Health~~ **DPW** may, at its discretion and after due consideration, decide to waive and exempt strict compliance with any requirement of this Town of Billerica Stormwater Management By-law or the Regulations promulgated hereunder, where it makes a written finding that such action is:

- A. Allowed by federal, state and local statutes and/or regulations;
- B. In the public interest; and
- C. Consistent with the purpose and intent of the Town of Billerica Stormwater Management By-law and its Regulations.

- 5.2 Criteria for granting a waiver shall be defined and included as part of the Regulations promulgated under Section 2.2 of this By-law.

- ~~5.3 Any waiver requests shall be discussed and voted on at the public hearing for the project.~~

6. ENFORCEMENT

The ~~Board of Health~~ **DPW**, or its authorized agent, shall enforce this By-law and resulting regulations, orders, violation notices, and enforcement orders, and may pursue all criminal and civil remedies, including injunctive relief and monetary damages and costs of litigation and attorney fees, for such violations and for abatement and mitigation and compliance actions taken by the ~~Board of Health~~ **DPW**. ~~As an alternative to criminal prosecution or civil action, the Board of Health may elect to utilize the non-criminal disposition procedure set forth in Chapter 1, Section 19 of the Board of Health Regulations, and General By-laws Article XIV. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Board of Health's agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this By-law and may make or cause to be made such examinations, surveys or sampling as the Board of Health deems reasonably necessary to determine compliance with a permit issued under this By-law. Enforcement shall be further defined and included as part of the Regulations promulgated under Section 2.2 of this By-law.~~

- 6.1 **Criminal and Civil Relief.**

- A. Any person who violates the provisions of this By-law, or any associated regulations, permit, approval or order issued thereunder, may be subject to criminal penalties and prosecution in a court of competent jurisdiction and/or a fine of \$300 per violation. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- B. The DPW may seek injunctive relief in a court of competent jurisdiction restraining a person from activities which would create further violations or compelling a person to perform abatement or remediation of the violation.

6.2 Orders.

- A. The DPW or its authorized agent may issue a written order to enforce the provisions of this By-law or any associated regulations, permit, and/or approval. Violations include, without limitation, failure to obtain a Stormwater Management Permit or Administrative Site Drainage Approval for an activity subject to this By-law, or failure to follow the requirements of the permit and the related Erosion and Sedimentation Control Plan, or Operations and Maintenance Plan or any other authorization issued pursuant to this By-law or regulations issued hereunder. The written order may require the violator to remediate the non-compliance and/or any adverse impact caused by it, including without limitation:
 - (1) A requirement to cease and desist from the land-disturbing activity until there is compliance with the By-law and provisions of the Stormwater Management Permit or other authorization;
 - (2) Maintenance, installation or performance of additional erosion and sediment control measures;
 - (3) Monitoring, analyses, and reporting;
 - (4) Remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity;
 - (5) Construction, reconstruction, repair or maintenance of stormwater BMPs or any other aspect of the post-construction stormwater management system;
 - (6) Remediation of adverse impacts resulting from improper construction or operation of the post-construction stormwater management system; and/or
 - (7) A requirement to eliminate discharges, directly or indirectly, into the Municipal Separate Storm Sewer, a watercourse or into the Waters of the Commonwealth.
- B. If the DPW or its authorized agent determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further

provide that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Billerica may, at its option, pursue a court order allowing the Town to undertake such work, and expenses thereof shall be charged to the violator.

- C. Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town of Billerica, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the DPW within 30 days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within 30 days following a decision of the DPW affirming or reducing the costs, or from a final decision of a court of competent jurisdiction affirming or reducing the costs, the costs shall constitute a municipal charge for purposes of G.L. c. 40, Section 58, and a lien may be imposed on the property for the amount of the unpaid charge, pursuant to G.L. c.40, Section 58. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in M.G.L. c. 59 Section 57 on the 31st day after the costs first become due.

- 6.3 Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Town of Billerica may elect to utilize the noncriminal disposition procedure set forth in M.G.L. c. 40, Section 21D, in which case designated agents of the DPW shall be the enforcing persons. The penalty for the first violation shall be a warning. The penalty for the second violation shall be \$100. The penalty for the third and subsequent violations shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- 6.4 Entry to perform duties under this bylaw. To the extent permitted by local, state or federal law, or if authorized by the owner or other party in control of the property, the DPW, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the DPW deems reasonably necessary.
- 6.5 Appeals. The decisions or orders of the DPW shall be final. Further relief shall be appealed to a court of competent jurisdiction.
- 6.6 Remedies not exclusive. The remedies listed in this section are not exclusive of any other remedies available under any applicable federal, state or local law.

7 FINAL REPORT

Upon completion of the work allowed under a SMP, the Applicant shall submit a report (including certified as-built construction plans from a Registered Professional Engineer (P.E.) certifying that all erosion and sediment control devices, and approved changes and modifications, have been completed in accordance with the conditions of the

approved permit. Any discrepancies should be noted in the cover letter.

8 CERTIFICATE OF COMPLETION

The DPW will issue a letter certifying completion upon receipt and approval of the Final Report and/or upon otherwise determining that all work allowed by the permit has been satisfactorily completed in conformance with the permit and this By-law.

9 EMPLOYMENT OF OUTSIDE CONSULTANTS

The DPW may employ outside consultants, at the Applicant's expense to assist in its review of a SMP application, including but not limited to plan review, drainage, and stormwater analysis; to determine conformance with this By-law and other requirements; and for construction inspection.

10 PERFORMANCE GUARANTEE

The DPW may require the Applicant to post, before the start of land disturbance activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security as performance guarantee, to be in an amount deemed sufficient by the DPW to ensure that the work will be completed in accordance with the permit. If the project is phased, the DPW may release part of the bond as each phase is completed in compliance with the permit but the bond may not be fully released until the DPW has received the Final Report as required by Section 7 of this By-law and issued a Certificate of Completion.

11 DURATION OF STORMWATER MANAGEMENT PERMIT

A Stormwater Management Permit is granted for a period of three years from the date of its approval and shall lapse if substantial use or construction has not commenced by such date, except for good cause as shown.

12 SEVERABILITY

The provisions of this By-law are hereby declared to be severable. If any provision, paragraph, sentence, or clause of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this By-law.

Submitted by the Town Manager, authorized by the Select Board

Finance Committee has not made final recommendation.

Article 32 Explanation: This By-Law effectively controls construction site runoff and post-construction stormwater runoff during construction or land disturbance activity. This By-Law will allow the Town to take actions to protect Billerica's natural resources and public and private property from the effects of unmanaged stormwater runoff. This By-Law has been reviewed by Town staff, including the Town Manager, Building Inspector, Board of Health staff, Planning Board staff, Conservation staff, and the Department of Public Works. The main difference between this version of the bylaw and the prior version is that the Stormwater Authority will be changed from the Board of Health to the Department of Public Works and certain smaller scale land disturbance activities will be subject to an Administrative Site Drainage Approval rather than a Stormwater Management Permit.

ARTICLE 33 - TO AMEND SECTION 2-13 REFERENDUM PROCEDURES OF THE TOWN CHARTER

To see if the Town will vote, pursuant to G.L. c. 43B, §10, to amend the Town Charter, Section 2-13 Referendum Procedures, subsection (c) Petition, by inserting the bold underlined text and deleting the strike through text as follows, or act in relation thereto:

(c) Petition – If within seven days following the dissolution of a representative town meeting, a petition signed by not less than five percent of the voters, containing their names and addresses, is filed with the **Select B**~~oard of selectmen~~ requesting that any question as voted by the town meeting members be referred to the voters at large for a final determination, then the operation of any such vote shall be further suspended pending its determination as provided in this section. **The language of such petition shall be in substantially the form as follows: “We the undersigned voters of the Town of Billerica request that the question as voted under Article (insert number) of the (insert date of meeting) Town Meeting in the form in which it was stated to the Town Meeting by the Moderator, as certified by the Town Clerk, be referred to the voters at large for a final determination.”** The **Select B**~~oard of selectmen~~ shall, within ten days after the filing of such a petition, call a special election to be held on a date fixed by it not less than **thirty-five**~~fourteen nor more than twenty-one~~ days later for the purpose of presenting such question to the voters for final determination.

Original Charter Language:

(c) Petition – If within seven days following the dissolution of a representative town meeting, a petition signed by not less than five percent of the voters, containing their names and addresses, is filed with the board of selectmen requesting that any question as voted by the town meeting members be referred to the voters at large for a final determination, then the operation of any such vote shall be further suspended pending its determination as provided in this section. The board of selectmen shall, within ten days after the filing of such a petition, call a special election to be held on a date fixed by it not less than fourteen nor more than twenty-one days later for the purpose of presenting such question to the voters for final determination.

Explanation: The proposed amendments to the Town Charter, Section 2-13 Referendum Procedures, subsection (c) Petition, will serve to clarify what is required for a petition when implementing this section of the Charter, will update the name change from Board of Selectmen to Select Board, and will correct the timeline for a special election to comply with the requirements of G.L. c. 54, sec. 42C.

Submitted by Select Board Member Michael Rosa

Finance Committee has not made final recommendation.

ARTICLE 34 - TO VOTE TO ACCEPT THE INCREASE OF THE LOCAL MEALS TAX

To see if the Town will vote to accept the increase in the local meals tax from 0.75% to 1%; or act in relation thereto.

Submitted by the Town Manager, authorized by the Select Board

Finance Committee has not made final recommendation.

Article 34 Explanation: This was submitted as part of Governor Healey's Municipal Empowerment Act. This portion of the bill is still in the Revenue Committee at the State Level. This article is currently a placeholder as the bill has not passed at this time. The deadline for a committee report is the end of June.

ARTICLE 35 - TO VOTE TO ACCEPT THE INCREASE OF THE LOCAL LODGING TAX

To see if the Town will vote to accept the increase of the local lodging tax from 6% to 7%; or act in relation thereto.

Submitted by the Town Manager, authorized by the Select Board

Finance Committee has not made final recommendation.

Article 35 Explanation: This was submitted as part of Governor Healey's Municipal Empowerment Act. This portion of the bill is still in the Revenue Committee at the State Level. This article is currently a placeholder as the bill has not passed at this time. The deadline for a committee report is the end of June.

ARTICLE 36 - TO VOTE TO ACCEPT THE LOCAL OPTION VEHICLE EXCISE TAX

To see if the Town will vote to accept the local option vehicle excise tax surcharge of 5%; or act in relation thereto.

Submitted by the Town Manager, authorized by the Select Board

Finance Committee has not made final recommendation.

Article 36 Explanation: This was submitted as part of Governor Healey's Municipal Empowerment Act. This portion of the bill is still in the Revenue Committee at the State Level. This article is currently a placeholder as the bill has not passed at this time. The deadline for a committee report is the end of June.

ARTICLE 37 - PETITIONER ARTICLE

To see if the Town will vote to:

Formally call upon the Billerica Police Department, the Middlesex County District Attorney, and our Commonwealth's Attorney General to officially deprioritize arrests, investigation, and prosecution of adults involved in the use, possession, cultivation, and non-commercial sharing of psychedelic plants and fungi and restrict the Billerica Police Department from using any financial or staff resources toward arrests and investigation of these substances; and

Formally call upon Massachusetts lawmakers to prioritize affordability and innovation in any future reform efforts to avoid outcomes similar to that of Oregon and Colorado, where unelected control commissions drafted laws that benefit corporate interests at the expense of the public; and

Formally recognize the following:

This motion does not authorize or enable the following activities: possession of these substances on school grounds, distribution of these substances on school grounds, operating heavy machinery or driving under the influence of these substances, or causing a public disturbance; and

Psychedelic plants and fungi such as psilocybin mushrooms and ibogaine have been shown by peer-reviewed studies and indigenous practice to be beneficial for treatment of depression, addiction, post-traumatic stress disorder (PTSD), terminal illness anxiety, and cluster headaches among other conditions; and

A controlled, peer-review study of 44,000 Americans published in the Journal of Psychopharmacology found that a single use of psilocybin mushrooms was associated with a 40% decreased risk of daily opioid use, at a time when our Massachusetts communities lose one of our neighbors to an opioid overdose nearly every four hours; and

A multivariate analysis published in The Lancet found that psilocybin and related plants and fungi have the lowest harm profile of any controlled substances, with virtually no risk of addiction or habit-forming potential. This means that these plants and fungi are far safer than the alcohol and cigarettes sold at many corner stores throughout Billerica, in addition to studies indicating these plants and fungi can help people reduce their use of alcohol and tobacco as well; and

That decriminalization represents a first and necessary step to educating caregivers, such as therapists, doctors, addiction treatment workers, social workers, and other professionals, in how these plants and fungi can be integrated into existing treatment paradigms to help our neighbors in need and creating affordable systems for facilitation that meet their unique needs for set and setting; and

That seven Massachusetts municipal bodies in Massachusetts, including the city councils of Somerville, Cambridge, Northampton, Easthampton, Amherst, Salem, and Provincetown as well as the Human Rights Commission of Worcester, have passed a version of this motion following

approval of their legal departments alongside municipal bodies such as Denver, Detroit, Minneapolis, Ann Arbor, San Francisco, Seattle, Santa Cruz, and Washington D.C, and at least six other countries.

Or act in relation thereto.

Submitted by Timothy Morris and Messrs. Aufiero, Mihoc, O'Brien, Snook, Snook, Coakley, Kiddy, Morris, Giacobbi, Giacobbi, Giacobbi, Morgan and Madames Ackroyd, Behaeghel, Coakley, Morris and Morris.

Finance Committee has not yet made final recommendation.

ARTICLE 38 - PETITIONER ARTICLE - ADOPT NEW MBTA COMMUNITIES MULTI FAMILY OVERLAY DISTRICT (MCMOD) ZONING

To see if the Town will vote to amend the Zoning By-Law as amended in October 2022 to add a new overlay district in compliance with Massachusetts General Law 40A Section 3A for the MBTA COMMUNITIES MULTI-FAMILY OVERLAY DISTRICT as Section 5.E.12 MBTA Communities Multi-Family Overlay District. And to further amend the Zoning By-Law in accordance therewith as follows:

- a) Add a reference to Section 5.E.12. to the Table of Contents.
- b) Add “MBTA Communities Multi-family Overlay District” as a subsection k. to Section 3.a.3.
- c) Add “MCMOD- MBTA Communities Multi-family Overlay District in District Abbreviations under the Overlay category in Section 5.f.

And further to amend the Zoning Map to add the MBTA Communities Multi-family Overlay District as depicted on the maps entitled: “MBTA Communities Multi-family Overlay District: A. Neighborhood Subdistrict,” “B: Mills Subdistrict,” and “C: Treble Cove Subdistrict,” copies of which have been placed on file with the Town Clerk; or act in relation thereto.

SECTION 5.E.12: MBTA Communities Multi-Family Overlay District**A. PURPOSE**

The purpose of the MBTA Communities Multi-Family Overlay District (MCMOD) is to allow multi-family housing as of right in accordance with Section 3A of the Zoning Act (Massachusetts General Laws Chapter 40A). This zoning provides for as of right multi-family housing to accomplish the following purposes:

1. Encourage the production of a variety of housing sizes and typologies to provide equal access to new housing throughout the community for people with a variety of needs and income levels;
2. Support vibrant neighborhoods by encouraging an appropriate mix and intensity of uses to support an active public space that provides equal access to housing, jobs, gathering spaces, recreational opportunities, goods, and services.
3. Locate housing within walking distance of public transit to promote general public health, reduce the number of vehicular miles travelled, support economic development, and meet community-based environmental goals, including reducing greenhouse gases and improving air quality.
4. Preserve open space in a community by locating new housing within or adjacent to existing developed areas and infrastructure.
5. Support public investment in public transit and pedestrian- and bike-friendly infrastructure.
6. Increase the municipal tax base through private investment in new residential developments.
7. To ensure compliance with MGL c. 40A § 3A.

B. ESTABLISHMENT AND APPLICABILITY

This MCMOD is an overlay district having a land area of approximately 164 acres in size that is superimposed over the underlying zoning district (s) and is shown on the Zoning Map.

1. **Applicability of MCMOD.** An applicant may develop multi-family housing located within a MCMOD in accordance with the provisions of this Section 5.E.12.
2. **Underlying Zoning.** The MCMOD is an overlay district superimposed on underlying zoning districts. The regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the respective underlying zoning district(s) shall remain in full force, except for uses allowed as of right or by special permit in the MCMOD. Uses that are not identified in Section 5.E.12.B are governed by the requirements of the underlying zoning district(s).
3. **Subdistricts.** The MCMOD contains the following subdistricts, all of which are shown on the MCMOD Boundary Map:
 - i. Sub-zone A: Neighborhood District
 - ii. Sub-zone B: Mills District
 - iii. Sub-zone C: Treble Cove District

C. DEFINITIONS

For purposes of this Section 5.E.12, the following definitions shall apply.

- **Affordable unit.** A multi-family housing unit that is subject to a use restriction recorded in its chain of title limiting the sale price or rent or limiting occupancy to an individual or household of a specified income, or both.
- **Affordable housing.** Housing that contains Affordable Units as defined by this Section 5.E.12.B.
- **Applicant.** A person, business, or organization that applies for a building permit, Site Plan Review, or Special Permit.
- **Area Median Income (AMI).** The median family income for the metropolitan statistical region that includes the Town of Billerica, as defined by the U.S. Department of Housing and Urban Development (HUD).
- **As of right.** Development that may proceed under the Zoning in place at time of application without the need for a special permit, variance, zoning amendment, waiver, or other discretionary zoning approval.
- **Compliance Guidelines.** Compliance Guidelines for Multi-Family Zoning Districts Under Section 3A of the Zoning Act as further revised or amended from time to time.
- **Development standards.** Provisions of Section 5.E.12.E. General Development Standards made applicable to projects within the MCMOD.
- **EOHLC.** The Massachusetts Executive Office of Housing and Livable Communities, or any successor agency.

- **Gross density.** A units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial, and other nonresidential uses.
- **MBTA.** Massachusetts Bay Transportation Authority.
- **Multi-family housing.** A building with three or more residential dwelling units or two or more buildings on the same lot with more than one residential dwelling unit in each building.
- **Multi-family zoning district.** A zoning district, either a base district or an overlay district, in which multi-family housing is allowed as of right.
- **Open space.** Contiguous undeveloped land within a parcel boundary.
- **Parking, surface.** One or more parking spaces without a built structure above the space. A solar panel designed to be installed above a surface parking space does not count as a built structure for the purposes of this definition.
- **Residential dwelling unit.** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
- **Section 3A.** Section 3A of the Zoning Act.
- **Site plan review authority.** The Billerica Planning Board.
- **Special permit granting authority.** The Special Permit Granting Authority shall be the Billerica Planning Board for any special permit required under section 5.E.12.
- **Sub-zone.** An area within the MCMOD that is geographically smaller than the MCMOD district and differentiated from the rest of the district by use, dimensional standards, or development standards.
- **Subsidized Housing Inventory (SHI).** A list of qualified Affordable Housing Units maintained by EOHLC used to measure a community's stock of low-or moderate-income housing for the purposes of M.G.L. Chapter 40B, the Comprehensive Permit Law.

B. PERMITTED USES

1. **Uses Permitted As of Right.** The following uses are permitted as of right within the MCMOD.
 - i. **Multi-family housing.**
 - ii. **Two-family dwelling.**
 - iii. **Mixed-use development.** Within sub-zones B Mills and C Treble Cove, the following uses under 5,000 sf of floor area are allowed as of right on the basement and ground floor in a mixed-use development are as follows:
 - Community space
 - Educational uses
 - Personal services
 - Retail

- Experiential retail, including retail associated with dance or exercise studios, music studios, photography studios, or other combinations of education, services, and retail
 - Restaurant, café, and other eating establishments without a drive-through
 - Office, professional office, medical and dental offices, and co-working space
 - Artists' studios, maker space, and small-scale food production, and retail associated with each use
 - Any floor
 - Residential (required component)
- 2. Uses Permitted by Special Permit.** The following uses require the approval of a special permit under section 5.E.12.B.
- i. Mixed-use development. Within sub-zones B and C, the following uses over 5,000 sf of floor area or uses located above the ground floor as follows:
 1. Community space
 2. Educational uses
 3. Personal services
 4. Retail
 5. Experiential retail, including retail associated with dance or exercise studios, music studios, photography studios, or other combinations of education, services, and retail.
 6. Restaurant, café, and other eating establishments without a drive-through
 7. Office, professional office, medical and dental offices, and co-working space
 8. Artists' studios, maker space, and small-scale food production, and retail associated with each use.
- 3. Accessory Uses.** The following uses are considered accessory as of right to any of the permitted uses in Section 5.E.12.B.
- i. Parking, including surface parking and parking within a structure such as an above ground or underground parking garage or other building on the same lot as the principal use.

C. DENSITY AND DIMENSIONAL STANDARDS

1. Table of Dimensional Standards. Notwithstanding anything to the contrary in this Zoning, the dimensional requirements applicable in the MCMOD are as follows:

Standard	Subdistrict A: Neighborhood	Subdistrict B: Mills District	Subdistrict C: Treble

	District		Cove
Height			
Stories (maximum)	3	5	3
Feet (maximum)	40	60	40
Minimum open space	20%	20%	20%
Gross density	15 units per acre	35 units per acre	15 units per acre
Minimum frontage (ft)	50	50	50
Setbacks			
Front yard	15	10	10
Side yard	15	15	15
Rear yard	20	20	20

2. **Multi-Building Lots.** In the MCMOD, lots may have more than one (1) principal building.
3. **Exceptions.**
 - a. **Building height.** The limitation on height of buildings shall not apply to chimneys, ventilators, towers, silos, spires, or other ornamental features of buildings, which features are in no way used for living purposes and do not constitute more than 25% of the ground floor area of the building.
 - b. **Renewable Energy Installations.** The Site Plan Review Authority may waive the height and setbacks in Section 5.E.12.C. Dimensional Standards to accommodate the installation of solar photovoltaic, solar thermal, living, and other eco-roofs, energy storage, and air-source heat pump equipment. Such installations shall not create a significant detriment to abutters in terms of noise or shadow and must be appropriately integrated into the architecture of the building and the layout of the site. The installations shall not provide additional habitable space within the development.

D. OFF-STREET PARKING

These parking requirements are applicable to development in the MCMOD.

1. **Number of parking spaces.** The following maximum numbers of off-street parking spaces shall be permitted by use, either in surface parking or within garages or other structures:

Use	Minimum spaces per dwelling unit by Sub-Zone		
	Sub-zone A: North Billerica Station Area	Sub-zone B: Mills District	Sub-zone C: Treble Cove
Multi-family studio and	1.5/unit	1.5/unit	1.5/unit

one (1) bedroom units			
Multi-family two (2) or more bedrooms	2/unit	1.5/unit	2/unit
Mixed-Use (Non-residential)/ Commercial	n/a	Sum of uses computed separately. (See SECTION 8 PARKING AND LOADING REGULATIONS.)	Sum of uses computed separately. (See SECTION 8 PARKING AND LOADING REGULATIONS.)

2. **Number of bicycle parking spaces.** The following minimum numbers of covered bicycle storage spaces shall be provided by use:

Use	Minimum spaces per dwelling unit by Sub-Zone		
	Sub-zone A: North Billerica Station Area	Sub-zone B: Mills District	Sub-zone C: Treble Cove
Multi-family	1	1	1
Mixed-Use (Non-residential)/ Commercial	n/a	1 per every 20 parking spaces	1 per every 20 parking spaces

3. **Bicycle storage.** For a multi-family development of six (6) units or more, or a mixed-use development of 25,000 square feet or more, covered parking bicycle parking spaces shall be integrated into the structure of the building(s).
4. **Shared Parking within a Mixed-Use Development.** Parking requirements for a mix of uses on a single site may be adjusted through the Site Plan Review process, if the applicant can demonstrate that shared spaces will meet parking demands by using accepted methodologies.
5. **Waiver of Parking Requirements for Historic Buildings.** The Planning Board may allow for parking requirement waivers of this section for the adaptive reuse of buildings listed on the National or State Registers of Historic Places, or eligible for such listing through the Site Plan Review process. The Planning Board may also approve offsite off-street parking agreements to locate the required parking on an adjacent parcel or parcel located within 300 feet of the development.
6. **Number of electric vehicle (EV) charging stations.** For all uses within the MCMOD, electric charging stations are required with one EV space required for every 20 parking spaces, rounded up to the next highest number of EV stations.

E. GENERAL DEVELOPMENT STANDARDS

1. Development standards in the MCMOD are applicable to all multi-family development with more than six (6) units or any mixed-use development within the MCMOD. These standards are components of the Site Plan Review process in Section 5.E.12.G. Site Plan Review.
2. **Site Design.**
 - i. **Connections.** Sidewalks shall provide direct connections among building entrances, the public sidewalk (if applicable), bicycle storage, and parking.
 - ii. **Vehicular access.** Where feasible, curb cuts shall be minimized, and shared driveways encouraged.
 - iii. **Open Space.** Acceptable activities within the minimum required Open Space include natural areas (including wetlands and surface waters), wildlife and native plant habitat, landscape plantings, agricultural activities, low impact design stormwater management, non-motorized trails, and other low-impact activities. Open Space shall not contain habitable structures.
 - iv. **Location of Parking.** Parking, either surface or structured, is not allowed between a building and the front yard lot line. On a corner lot, parking is not allowed between the building and the front and side yard lot lines.
 - v. **Screening for Parking.** Surface parking adjacent to a public sidewalk shall be screened by a landscaped buffer of sufficient width to allow the healthy establishment of trees, shrubs, and perennials, but no less than six (6) feet. The buffer may include a fence or wall of no more than three feet in height unless there is a significant grade change between the parking and the sidewalk.
 - vi. **Parking Materials.** The parking surface may be concrete, asphalt, decomposed granite, bricks, or pavers, including pervious materials but not including grass or soil not contained within a paver or other structure.
 - vii. **Plantings.** Plantings shall include species that are native or adapted to the region. Plants on the Massachusetts Prohibited Plant List, as may be amended, shall be prohibited.
 - viii. **Lighting.** Light levels shall meet or exceed the minimum design guidelines defined by the Illuminating Engineering Society of North America (IESNA) and shall provide illumination necessary for safety and convenience while preventing glare and overspill onto adjoining properties and reducing the amount of skyglow.
 - ix. **Mechanicals.** Mechanical equipment at ground level shall be screened by a combination of fencing and plantings. Rooftop mechanical equipment shall be screened if visible from a public right-of-way.
 - x. **Dumpsters.** Dumpsters shall be screened by a combination of fencing and plantings. Where possible, dumpsters or other trash and recycling collection points shall be located within the building.
 - xi. **Stormwater management.** Strategies that demonstrate compliance of the construction activities and the proposed project with the most current versions of the Massachusetts Department of Environmental Protection Stormwater

Management Standards, the Massachusetts Stormwater Handbook, Massachusetts Erosion Sediment and Control Guidelines, and, if applicable, additional requirements under the Town of Billerica MS4 Permit for projects that disturb more than one acre and discharge to the Town's municipal stormwater system, and an Operations and Management Plan for both the construction activities and ongoing post-construction maintenance and reporting requirements.

3. **Buildings: General.**

- i. **Position relative to principal street.** The primary building shall have its principal façade and entrance facing the principal street. See also Section E.7. Buildings: Corner Lots.
- ii. **Entries.** Where feasible, entries shall be clearly defined and linked to a paved pedestrian network that includes the public sidewalk.

4. **Buildings: Multiple buildings on a lot.**

- i. For a mixed-use development, uses may be mixed within the buildings or in separate buildings.
- ii. Parking and circulation on the site shall be organized so as to reduce the amount of impervious surface. Where possible, parking and loading areas shall be connected to minimize curb cuts onto public rights-of-way.
- iii. A paved pedestrian network shall connect parking to the entries to all buildings and the buildings to each other.
- iv. The orientation of multiple buildings on a lot should reinforce the relationships among the buildings. All building façade(s) shall be treated with the same care and attention in terms of entries, fenestration, and materials.
- v. The building(s) adjacent to the public street shall have a pedestrian entry facing the public street.

5. **Buildings: Mixed-use development.**

- i. In a mixed-use building, access to and egress from the residential component shall be clearly differentiated from access to other uses. Such differentiation may occur by using separate entrances or egresses from the building or within a lobby space shared among different uses.
- ii. Paved pedestrian access from the residential component shall be provided to residential parking and amenities and to the public sidewalk, as applicable.
- iii. Materials for non-residential uses shall be stored inside or under cover and shall not be accessible to residents of the development.
- iv. Parking and circulation on the site shall be organized so as to reduce the amount of impervious surface. Where possible, parking and loading areas shall be connected to minimize curb cuts onto public rights-of-way.

6. **Buildings: Shared Outdoor Space.** Multi-family housing and mixed-use development shall have common outdoor space that all residents can access. Such space may be located in any combination of ground floor, courtyard, rooftop, or terrace. All outdoor space shall count towards the project's minimum Open Space requirement.

7. **Buildings: Corner Lots.** A building on a corner lot shall indicate a primary entrance either along one of the street-facing façades or on the primary corner as an entrance serving both streets.
 - i. Such entries shall be connected by a paved surface to the public sidewalk, if applicable.
 - ii. All façades visible from a public right-of-way shall be treated with similar care and attention in terms of entries, fenestration, and materials.
 - iii. Fire exits serving more than one story shall not be located on either of the street-facing façades.
8. **Buildings: Infill Lots.** If the adjacent buildings are set back at a distance that exceeds the minimum front yard requirements, infill buildings shall meet the requirements of Section 5.E.12.E. Dimensional Standards. Otherwise, infill buildings may match the setback line of either adjacent building, or an average of the setback of the two buildings to provide consistency along the street.
9. **Buildings: Principal Façade and Parking.** Parking shall be subordinate in design and location to the principal building façade.
 - i. **Surface parking.** Surface parking shall be located to the rear or side of the principal building. Parking shall not be located in the setback between the building and any lot line adjacent to the public right-of-way.
 - ii. **Integrated garages.** The principal pedestrian entry into the building shall be more prominent in design and placement than the vehicular entry into the garage.
 - iii. **Parking structures.** Building(s) dedicated to structured parking on the same lot as one or more multi-family buildings or mixed-use development shall be subordinate in design and placement to the multi-family or mixed-use building(s) on the lot.
10. **Waivers.** Upon the request of the Applicant and subject to compliance with the Compliance Guidelines, the Site Plan Review Authority may waive the requirements of this Section 5.E.12.E. General Development Standards, in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the MCMOD.

F. AFFORDABILITY REQUIREMENTS

1. Purpose.

- i. Promote the public health, safety, and welfare by encouraging a diversity of housing opportunities for people of different income levels;
- ii. Provide for a full range of housing choices for households of all incomes, ages, and sizes;
- iii. Increase the production of affordable housing units to meet existing and anticipated housing needs; and

- iv. Work to overcome economic segregation allowing Billerica to be a community of opportunity in which low and moderate-income households have the opportunity to advance economically.
- 2. **Applicability.** This requirement is applicable to all residential and mixed-use developments with six (6) or more dwelling units, whether new construction, substantial rehabilitation, expansion, reconstruction, or residential conversion (Applicable Projects). No project may be divided or phased to avoid the requirements of this section.
- 3. **Affordability requirements.**
 - i. **Subsidized Housing Inventory.** All units affordable to households earning 80% or less of AMI created in the MCMOD under this section must be eligible for listing on EOHLC's Subsidized Housing Inventory.
- 4. **Provision of Affordable Housing.** In Applicable Projects, not fewer than 10% of housing units constructed shall be Affordable Housing Units. For the purpose of calculating the number of units of Affordable Housing required within a development project, a fractional unit shall be rounded down to the next whole number. The Affordable Units shall be available to households earning income up to eighty percent (80%) of the AMI.
- 5. **Development Standards.** Affordable Units shall be:
 - i. Integrated with the rest of the development and shall be compatible in design, appearance, construction, and quality of exterior and interior materials with the other units and/or lots;
 - ii. Dispersed throughout the development;
 - iii. Located such that the units have equal access to shared amenities, including light, air, and utilities (including any bicycle storage and/or Electric Vehicle charging stations) within the development;
 - iv. Located such that the units have equal avoidance of any potential nuisances as market-rate units within the development;
 - v. Distributed proportionately among unit sizes; and
 - vi. Distributed proportionately across each phase of a phased development.
 - vii. Occupancy permits shall only be issued for market-rate units prior to the end of construction of the entire development if occupancy permits for Affordable Units are issued simultaneously on a pro rata basis.
- 6. **Administration.**
 - i. The Planning Director shall be responsible for administering and enforcing the requirements in this section.

G. SITE PLAN REVIEW

- 1. **Administration.** The provisions of this Section 5.E.12.G shall be administered by the Zoning Enforcement Officer, except as otherwise provided herein.
- 2. **Applicability.** Site Plan Review is required for a project that proposes six (6) dwelling units or more. An application for Site Plan Review shall be reviewed by the Permitting Authority for consistency with the purpose and intent of Sections 5.E.12.D through H.

3. **Submission Requirements.** As part of any application for Site Plan Review for a project within the MCMOD submitted under Sections 5.E.12.E through I, the Applicant must submit the following documents to the Municipality:
 - i. Application and fee for Site Plan Review.
 - ii. Site plans that show the position of the building on the site, points of vehicular access to and from the site and vehicular circulation on the site, stormwater management, utilities, and landscape treatments, including any screening of adjacent properties, and other information commonly required by Municipality for Site Plan Review.
 - iii. Elevations of the building(s) showing the architectural design of the building.
 - iv. All site plans shall be prepared by a certified architect, landscape architect, and/or a civil engineer registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All plans shall be signed and stamped, and drawings prepared at a scale of one inch equals forty feet (1"=40') or larger, or at a scale as approved in advance by the Permitting Authority.
 - v. Narrative of compliance with the applicable design standards of this Section 5.E.12.
4. **Timeline.** Site Plan Review should be commenced no later than 30 days after the submission of a complete application and should be completed expeditiously. The site plan review authority may, when appropriate, seek the input of other municipal boards or officials. In general, site plan review should be completed no more than six (6) months after the submission of the application.
5. **Site Plan Approval.** Site Plan approval for uses listed in Section 5.E.12.B Permitted Uses shall be granted upon determination by the Site Plan Review Authority that the following conditions have been satisfied. The Site Plan Review Authority may impose reasonable conditions, at the expense of the applicant, to ensure that these conditions have been satisfied.
 - i. The Applicant has submitted the required fees and information as set forth in Municipality's requirements for a Building Permit and Site Plan Review; and
 - ii. The project as described in the application meets the development standards set forth in Section 5.E.12.E. General Development Standards.]
6. **Project Phasing.** An Applicant may propose, in a Site Plan Review submission, that a project be developed in phases subject to the approval of the Site Plan Review Authority, provided that the submission shows the full buildout of the project and all associated impacts as of the completion of the final phase. However, no project may be phased solely to avoid the provisions of Section 5.E.12.F. Affordability Requirements.

H. SEVERABILITY

If any provision of this Section 5.E.12 is found to be invalid by a court of competent jurisdiction, the remainder of Section 5.E.12 shall not be affected but shall remain in full force. The invalidity of any provision of this Section 5.E.12 shall not affect the validity of the remainder of the Town of Billerica's Zoning.

Submitted by Planning Board Members Christopher Tribou, Marlies Henderson and Edward Giroux

Finance Committee has not made final recommendation.

Article 38 Explanation: Due to the ongoing, well-documented housing crisis in Massachusetts, In 2021, Governor Baker signed the multifamily zoning requirement for the 175 communities served by the MBTA into law (MGL 40.3a). This new law requires that an MBTA community shall have at least one zoning district of reasonable size in which multi-family housing (any residential property containing three or more housing units) is permitted as of right (without a special permit). Under the guidelines released by the Department of Housing and Community Development, Billerica is considered a "Commuter Rail" community which requires a portion of our new district to be directly adjacent to the North Billerica MBTA Commuter Rail station.

This new overlay preserves the underlying zoning but allows for the development flexibility to meet the state's compliance guidelines. The key compliance requirements include:

- Future Capacity of 2,323 units
- *A minimum gross density of 15 units per acre*
- *40% of the district must be located not more than .5 miles from the MBTA service*
- Minimum Land Area – 50 acres
- 50% of the district must be in one contiguous area

ARTICLE 39 - TO ADOPT A NEW MBTA COMMUNITIES MULTI FAMILY OVERLAY DISTRICT (MCMOD) ZONING

To see if the Town will vote to amend the Zoning By-Law as amended in October 2022 to add a new overlay district in compliance with Massachusetts General Law 40A Section 3A for the MBTA COMMUNITIES MULTI-FAMILY OVERLAY DISTRICT as Section 5.E.12 MBTA Communities

Multi-Family Overlay District. And to further amend the Zoning By-Law in accordance therewith as follows:

- a) Add a reference to Section 5.E.12. to the Table of Contents.
- b) Add “MBTA Communities Multi-family Overlay District” as a subsection k. to Section 3.a.3.
- c) Add “MCMOD- MBTA Communities Multi-family Overlay District in District Abbreviations under the Overlay category in Section 5.f.

And further to amend the Zoning Map to add the MBTA Communities Multi-family Overlay District as depicted on the map entitled: “MBTA Communities Multi-family Overlay District” copies of which have been placed on file with the Town Clerk; or act in relation thereto.

SECTION 5.E.12: MBTA Communities Multi-Family Overlay District**A. PURPOSE**

The purpose of the MBTA Communities Multi-Family Overlay District (MCMOD) is to allow multi-family housing as of right in accordance with Section 3A of the Zoning Act (Massachusetts General Laws Chapter 40A). This zoning provides for as of right multi-family housing to accomplish the following purposes:

1. Encourage the production of a variety of housing sizes and typologies to provide equal access to new housing throughout the community for people with a variety of needs and income levels;
2. Support vibrant neighborhoods by encouraging an appropriate mix and intensity of uses to support an active public space that provides equal access to housing, jobs, gathering spaces, recreational opportunities, goods, and services.
3. Locate housing within walking distance of public transit to promote general public health, reduce the number of vehicular miles travelled, support economic development, and meet community-based environmental goals, including reducing greenhouse gases and improving air quality.
4. Preserve open space in a community by locating new housing within or adjacent to existing developed areas and infrastructure.

5. Support public investment in public transit and pedestrian- and bike-friendly infrastructure.
6. Increase the municipal tax base through private investment in new residential developments.
7. To ensure compliance with MGL c. 40A § 3A.

B. ESTABLISHMENT AND APPLICABILITY

This MCMOD is an overlay district having a land area of approximately 326.99 acres in size that is superimposed over the underlying zoning district (s) and is shown on the Zoning Map.

1. **Applicability of MCMOD.** An applicant may develop multi-family housing located within a MCMOD in accordance with the provisions of this Section 5.E.12.
2. **Underlying Zoning.** The MCMOD is an overlay district superimposed on underlying zoning districts. The regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the respective underlying zoning district(s) shall remain in full force, except for uses allowed as of right or by special permit in the MCMOD. Uses that are not identified in Section 5.E.12.B are governed by the requirements of the underlying zoning district(s).

C. DEFINITIONS

For purposes of this Section 5.E.12, the following definitions shall apply.

- **Affordable unit.** A multi-family housing unit that is subject to a use restriction recorded in its chain of title limiting the sale price or rent or limiting occupancy to an individual or household of a specified income, or both.
- **Affordable housing.** Housing that contains Affordable Units as defined by this Section 5.E.12.B.
- **Applicant.** A person, business, or organization that applies for a building permit, Site Plan Review, or Special Permit.
- **Area Median Income (AMI).** The median family income for the metropolitan statistical region that includes the Town of Billerica, as defined by the U.S. Department of Housing and Urban Development (HUD).
- **As of right.** Development that may proceed under the Zoning in place at time of application without the need for a special permit, variance, zoning amendment, waiver, or other discretionary zoning approval.
- **Compliance Guidelines.** Compliance Guidelines for Multi-Family Zoning Districts Under Section 3A of the Zoning Act as further revised or amended from time to time.

- **Development standards.** Provisions of Section 5.E.12.E. General Development Standards made applicable to projects within the MCMOD.
- **EOHLC.** The Massachusetts Executive Office of Housing and Livable Communities, or any successor agency.
- **Gross density.** A units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial, and other nonresidential uses.
- **MBTA.** Massachusetts Bay Transportation Authority.
- **Multi-family housing.** A building with three or more residential dwelling units or two or more buildings on the same lot with more than one residential dwelling unit in each building.
- **Multi-family zoning district.** A zoning district, either a base district or an overlay district, in which multi-family housing is allowed as of right.
- **Open space.** Contiguous undeveloped land within a parcel boundary.
- **Parking, surface.** One or more parking spaces without a built structure above the space. A solar panel designed to be installed above a surface parking space does not count as a built structure for the purposes of this definition.
- **Residential dwelling unit.** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
- **Section 3A.** Section 3A of the Zoning Act.
- **Site plan review authority.** The Billerica Planning Board.
- **Special permit granting authority.** The Special Permit Granting Authority shall be the Billerica Planning Board for any special permit required under section 5.E.12.
- **Sub-zone.** An area within the MCMOD that is geographically smaller than the MCMOD district and differentiated from the rest of the district by use, dimensional standards, or development standards.
- **Subsidized Housing Inventory (SHI).** A list of qualified Affordable Housing Units maintained by EOHLC used to measure a community's stock of low-or moderate-income housing for the purposes of M.G.L. Chapter 40B, the Comprehensive Permit Law.

PERMITTED USES

1. **Uses Permitted As of Right.** The following uses are permitted as of right within the MCMOD.

i. Multi-family housing.**ii. Two-family dwelling.**

iii. _____ Mixed-use development. The following uses under 5,000 sf of floor area are allowed as of right on the basement and ground floor in a mixed-use development are as follows:

- Community space
- Educational uses
- Personal services
- Retail
- Experiential retail, including retail associated with dance or exercise studios, music studios, photography studios, or other combinations of education, services, and retail
- Restaurant, café, and other eating establishments without a drive-through
- Office, professional office, medical and dental offices, and co-working space
- Artists' studios, maker space, and small-scale food production, and retail associated with each use
- Any floor
 - Residential (required component)

2. Uses Permitted by Special Permit. The following uses require the approval of a special permit under section 5.E.12.B.

i. Mixed-use development. The following uses over 5,000 sf of floor area or uses located above the ground floor as follows:

1. Community space
2. Educational uses
3. Personal services
4. Retail
5. Experiential retail, including retail associated with dance or exercise studios, music studios, photography studios, or other combinations of education, services, and retail.

6. Restaurant, café, and other eating establishments without a drive-through
 7. Office, professional office, medical and dental offices, and co-working space
 8. Artists' studios, maker space, and small-scale food production, and retail associated with each use.
3. **Accessory Uses.** The following uses are considered accessory as of right to any of the permitted uses in Section 5.E.12.B..
- i. Parking, including surface parking and parking within a structure such as an above ground or underground parking garage or other building on the same lot as the principal use.

DENSITY AND DIMENSIONAL STANDARDS

1. Table of Dimensional Standards. Notwithstanding anything to the contrary in this Zoning, the dimensional requirements applicable in the MCMOD are as follows:

Standard	MCMOD District
Height	
Stories (maximum)	4
Feet (maximum)	40
Minimum open space	20%
Gross density	15 units per acre
Minimum frontage (ft)	50
Setbacks	
Front yard	10
Side yard	15
Rear yard	20

2. **Multi-Building Lots.** In the MCMOD, lots may have more than one (1) principal building.
3. **Exceptions.**
 - a. **Building height.** The limitation on height of buildings shall not apply to chimneys, ventilators, towers, silos, spires, or other ornamental features of buildings, which features are in no way used for living purposes and do not constitute more than 25% of the ground floor area of the building.

- b. **Renewable Energy Installations.** The Site Plan Review Authority may waive the height and setbacks in Section 5.E.12.C. Dimensional Standards to accommodate the installation of solar photovoltaic, solar thermal, living, and other eco-roofs, energy storage, and air-source heat pump equipment. Such installations shall not create a significant detriment to abutters in terms of noise or shadow and must be appropriately integrated into the architecture of the building and the layout of the site. The installations shall not provide additional habitable space within the development.

OFF-STREET PARKING

These parking requirements are applicable to development in the MCMOD.

1. **Number of parking spaces.** The following maximum numbers of off-street parking spaces shall be permitted by use, either in surface parking or within garages or other structures:

Use	Minimum Spaces per dwelling unit MCMOD District
Multi-family studio and one (1) bedroom units	1.5/unit
Multi-family two (2) or more bedrooms	1.5/unit
Mixed-Use (Non- residential)/ Commercial	Sum of uses computed separately. (See SECTION 8 PARKING AND LOADING REGULATIONS.)

2. **Number of bicycle parking spaces.** The following minimum numbers of covered bicycle storage spaces shall be provided by use:

Use	Minimum Spaces per dwelling unit MCMOD District
Multi-family	1
Mixed-Use (Non- residential)/ Commercial	1 per every 20 parking spaces

3. **Bicycle storage.** For a multi-family development of six (6) units or more, or a mixed-use development of 25,000 square feet or more, covered parking bicycle parking spaces shall be integrated into the structure of the building(s).
4. **Shared Parking within a Mixed-Use Development.** Parking requirements for a mix of uses on a single site may be adjusted through the Site Plan Review process, if the applicant can demonstrate that shared spaces will meet parking demands by using accepted methodologies.
5. **Waiver of Parking Requirements for Historic Buildings.** The Planning Board may allow for parking requirement waivers of this section for the adaptive reuse of buildings listed on the National or State Registers of Historic Places, or eligible for such listing through the Site Plan Review process. The Planning Board may also approve offsite off-street parking agreements to locate the required parking on an adjacent parcel or parcel located within 300 feet of the development.
6. **Number of electric vehicle (EV) charging stations.** For all uses within the MCMOD, electric charging stations are required with one EV space required for every 20 parking spaces, rounded up to the next highest number of EV stations.

GENERAL DEVELOPMENT STANDARDS

Development standards in the MCMOD are applicable to all multi-family development with more than six (6) units or any mixed-use development within the MCMOD. These standards are components of the Site Plan Review process in Section 5.E.12.G. Site Plan Review.

1. Site Design.

- ii. **Connections.** Sidewalks shall provide direct connections among building entrances, the public sidewalk (if applicable), bicycle storage, and parking.
- iii. **Vehicular access.** Where feasible, curb cuts shall be minimized, and shared driveways encouraged.
- iv. **Open Space.** Acceptable activities within the minimum required Open Space include natural areas (including wetlands and surface waters), wildlife and native plant habitat, landscape plantings, agricultural activities, low impact design stormwater management, non-motorized trails, and other low-impact activities. Open Space shall not contain habitable structures.
- v. **Location of Parking.** Parking, either surface or structured, is not allowed between a building and the front yard lot line. On a corner lot, parking is not allowed between the building and the front and side yard lot lines.

- vi. **Screening for Parking.** Surface parking adjacent to a public sidewalk shall be screened by a landscaped buffer of sufficient width to allow the healthy establishment of trees, shrubs, and perennials, but no less than six (6) feet. The buffer may include a fence or wall of no more than three feet in height unless there is a significant grade change between the parking and the sidewalk.
- vii. **Parking Materials.** The parking surface may be concrete, asphalt, decomposed granite, bricks, or pavers, including pervious materials but not including grass or soil not contained within a paver or other structure.
- viii. **Plantings.** Plantings shall include species that are native or adapted to the region. Plants on the Massachusetts Prohibited Plant List, as may be amended, shall be prohibited.
- ix. **Lighting.** Light levels shall meet or exceed the minimum design guidelines defined by the Illuminating Engineering Society of North America (IESNA) and shall provide illumination necessary for safety and convenience while preventing glare and overspill onto adjoining properties and reducing the amount of skyglow.
- x. **Mechanicals.** Mechanical equipment at ground level shall be screened by a combination of fencing and plantings. Rooftop mechanical equipment shall be screened if visible from a public right-of-way.
- xi. **Dumpsters.** Dumpsters shall be screened by a combination of fencing and plantings. Where possible, dumpsters or other trash and recycling collection points shall be located within the building.
- xii. **Stormwater management.** Strategies that demonstrate compliance of the construction activities and the proposed project with the most current versions of the Massachusetts Department of Environmental Protection Stormwater Management Standards, the Massachusetts Stormwater Handbook, Massachusetts Erosion Sediment and Control Guidelines, and, if applicable, additional requirements under the Town of Billerica MS4 Permit for projects that disturb more than one acre and discharge to the Town's municipal stormwater system, and an Operations and Management Plan for both the construction activities and ongoing post-construction maintenance and reporting requirements.

2. **Buildings: General.**

- i. **Position relative to principal street.** The primary building shall have its principal façade and entrance facing the principal street. See also Section E.7. Buildings: Corner Lots.
- ii. **Entries.** Where feasible, entries shall be clearly defined and linked to a paved pedestrian network that includes the public sidewalk.

3. **Buildings: Multiple buildings on a lot.**

- i. For a mixed-use development, uses may be mixed within the buildings or in separate buildings.
- ii. Parking and circulation on the site shall be organized so as to reduce the amount of impervious surface. Where possible, parking and loading areas shall be connected to minimize curb cuts onto public rights-of-way.
- iii. A paved pedestrian network shall connect parking to the entries to all buildings and the buildings to each other.
- iv. The orientation of multiple buildings on a lot should reinforce the relationships among the buildings. All building façade(s) shall be treated with the same care and attention in terms of entries, fenestration, and materials.
- v. The building(s) adjacent to the public street shall have a pedestrian entry facing the public street.

4. **Buildings: Mixed-use development.**

- i. In a mixed-use building, access to and egress from the residential component shall be clearly differentiated from access to other uses. Such differentiation may occur by using separate entrances or egresses from the building or within a lobby space shared among different uses.
- ii. Paved pedestrian access from the residential component shall be provided to residential parking and amenities and to the public sidewalk, as applicable.
- iii. Materials for non-residential uses shall be stored inside or under cover and shall not be accessible to residents of the development.
- iv. Parking and circulation on the site shall be organized so as to reduce the amount of impervious surface. Where possible, parking and loading areas shall be connected to minimize curb cuts onto public rights-of-way.

5. **Buildings: Shared Outdoor Space.** Multi-family housing and mixed-use development shall have common outdoor space that all residents can access. Such space may be located in any combination of ground floor, courtyard, rooftop, or terrace. All outdoor space shall count towards the project's minimum Open Space requirement.

6. **Buildings: Corner Lots.** A building on a corner lot shall indicate a primary entrance either along one of the street-facing façades or on the primary corner as an entrance serving both streets.

- i. Such entries shall be connected by a paved surface to the public sidewalk, if applicable.

- ii. All façades visible from a public right-of-way shall be treated with similar care and attention in terms of entries, fenestration, and materials.
- iii. Fire exits serving more than one story shall not be located on either of the street-facing façades.

7. **Buildings: Infill Lots.** If the adjacent buildings are set back at a distance that exceeds the minimum front yard requirements, infill buildings shall meet the requirements of Section

5.E.12.E. Dimensional Standards. Otherwise, infill buildings may match the setback line of either adjacent building, or an average of the setback of the two buildings to provide consistency along the street.

8. **Buildings: Principal Façade and Parking.** Parking shall be subordinate in design and location to the principal building façade.
- i. **Surface parking.** Surface parking shall be located to the rear or side of the principal building. Parking shall not be located in the setback between the building and any lot line adjacent to the public right-of-way.
 - ii. **Integrated garages.** The principal pedestrian entry into the building shall be more prominent in design and placement than the vehicular entry into the garage.
 - iii. **Parking structures.** Building(s) dedicated to structured parking on the same lot as one or more multi-family buildings or mixed-use development shall be subordinate in design and placement to the multi-family or mixed-use building(s) on the lot.
9. **Waivers.** Upon the request of the Applicant and subject to compliance with the Compliance Guidelines, the Site Plan Review Authority may waive the requirements of this Section 5.E.12.E. General Development Standards, in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the MCMOD.

AFFORDABILITY REQUIREMENTS

1. **Purpose.**
- i. Promote the public health, safety, and welfare by encouraging a diversity of housing opportunities for people of different income levels;
 - ii. Provide for a full range of housing choices for households of all incomes, ages, and sizes;
 - iii. Increase the production of affordable housing units to meet existing and anticipated housing needs; and

- iv. Work to overcome economic segregation allowing Billerica to be a community of opportunity in which low and moderate-income households have the opportunity to advance economically.
2. **Applicability.** This requirement is applicable to all residential and mixed-use developments with six (6) or more dwelling units, whether new construction, substantial rehabilitation, expansion, reconstruction, or residential conversion (Applicable Projects). No project may be divided or phased to avoid the requirements of this section.
3. **Affordability requirements.**
 - i. **Subsidized Housing Inventory.** All units affordable to households earning 80% or less of AMI created in the MCMOD under this section must be eligible for listing on EOHLC's Subsidized Housing Inventory.
4. **Provision of Affordable Housing.** In Applicable Projects, not fewer than 10% of housing units constructed shall be Affordable Housing Units. For the purpose of calculating the number of units of Affordable Housing required within a development project, a fractional unit shall be rounded down to the next whole number. The Affordable Units shall be available to households earning income up to eighty percent (80%) of the AMI.
5. **Development Standards.** Affordable Units shall be:
 - i. Integrated with the rest of the development and shall be compatible in design, appearance, construction, and quality of exterior and interior materials with the other units and/or lots;
 - ii. Dispersed throughout the development;
 - iii. Located such that the units have equal access to shared amenities, including light, air, and utilities (including any bicycle storage and/or Electric Vehicle charging stations) within the development;
 - iv. Located such that the units have equal avoidance of any potential nuisances as market-rate units within the development;
 - v. Distributed proportionately among unit sizes; and
 - vi. Distributed proportionately across each phase of a phased development.
 - vii. Occupancy permits shall only be issued for market-rate units prior to the end of construction of the entire development if occupancy permits for Affordable Units are issued simultaneously on a pro rata basis.
6. **Administration.**

- i. The Planning Director shall be responsible for administering and enforcing the requirements in this section.

SITE PLAN REVIEW

1. **Administration.** The provisions of this Section 5.E.12.G shall be administered by the Zoning Enforcement Officer, except as otherwise provided herein.
2. **Applicability.** Site Plan Review is required for a project that proposes six (6) dwelling units or more. An application for Site Plan Review shall be reviewed by the Permitting Authority for consistency with the purpose and intent of Sections 5.E.12.D through H.
3. **Submission Requirements.** As part of any application for Site Plan Review for a project within the MCMOD submitted under Sections 5.E.12.E through I, the Applicant must submit the following documents to the Municipality:
 - i. Application and fee for Site Plan Review.
 - ii. Site plans that show the position of the building on the site, points of vehicular access to and from the site and vehicular circulation on the site, stormwater management, utilities, and landscape treatments, including any screening of adjacent properties, and other information commonly required by Municipality for Site Plan Review.
 - iii. Elevations of the building(s) showing the architectural design of the building.
 - iv. All site plans shall be prepared by a certified architect, landscape architect, and/or a civil engineer registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All plans shall be signed and stamped, and drawings prepared at a scale of one inch equals forty feet (1"=40') or larger, or at a scale as approved in advance by the Permitting Authority.
 - v. Narrative of compliance with the applicable design standards of this Section 5.E.12.
4. **Timeline.** Site Plan Review should be commenced no later than 30 days after the submission of a complete application and should be completed expeditiously. The site plan review authority may, when appropriate, seek the input of other municipal boards or officials. In general, site plan review should be completed no more than six (6) months after the submission of the application.
5. **Site Plan Approval.** Site Plan approval for uses listed in Section 5.E.12.B Permitted Uses shall be granted upon determination by the Site Plan Review Authority that the following conditions have been satisfied. The Site Plan Review Authority may impose

reasonable conditions, at the expense of the applicant, to ensure that these conditions have been satisfied.

- i. The Applicant has submitted the required fees and information as set forth in Municipality's requirements for a Building Permit and Site Plan Review; and
 - ii. The project as described in the application meets the development standards set forth in Section 5.E.12.E. General Development Standards.]
6. **Project Phasing.** An Applicant may propose, in a Site Plan Review submission, that a project be developed in phases subject to the approval of the Site Plan Review Authority, provided that the submission shows the full buildout of the project and all associated impacts as of the completion of the final phase. However, no project may be phased solely to avoid the provisions of Section 5.E.12.F. Affordability Requirements.

SEVERABILITY

If any provision of this Section 5.E.12 is found to be invalid by a court of competent jurisdiction, the remainder of Section 5.E.12 shall not be affected but shall remain in full force. The invalidity of any provision of this Section 5.E.12 shall not affect the validity of the remainder of the Town of Billerica's Zoning.

Submitted by Select Board Member John Burrows

Finance Committee has not made final recommendation.

Article 39 Explanation: Due to the ongoing, well-documented housing crisis in Massachusetts, In 2021, Governor Baker signed the multifamily zoning requirement for the 175 communities served by the MBTA into law (MGL 40.3a). This new law requires that an MBTA community shall have at least one zoning district of reasonable size in which multi-family housing (any residential property containing three or more housing units) is permitted as of right (without a special permit). Under the guidelines released by the Department of Housing and Community Development, Billerica is considered a "Commuter Rail" community which requires a portion of our new district to be directly adjacent to the North Billerica MBTA Commuter Rail station.

This new overlay preserves the underlying zoning but allows for the development flexibility to meet the state's compliance guidelines. The key compliance requirements include:

- Future Capacity of 2,323 units
- *A minimum gross density of 15 units per acre*
- *40% of the district must be located not more than .5 miles from the MBTA service*
- Minimum Land Area – 50 acres
- 50% of the district must be in one contiguous area

ARTICLE 40 - PETITIONER'S ARTICLE

To see if the Town will vote to accept an easement or easements for: access, water, sewer and utility lines to be installed at a location or locations to be determined by the Town DPW for service to the premises located at 24 and 26 Town Farm Lane. Said premises being more particularly described in deeds recorded with the Middlesex North Registry of Deeds at Book 2530, Page 592 and Book 37545, Page 234; and also shown as Billerica Assessor's Map 2, Parcel 5-0 and Map 5, Parcel 15-0.

Or act in relation thereto.

Submitted by Stephen J. Lentine, Esq. and Messrs. Lentine, Lentine, Gamache, Fantozzi, Soly, Rizzuto, Soly, Micciche and Madames O'Brien, Lentine, Ulcena and Hamel.

Finance Committee has not made final recommendation.

ARTICLE 41 - PETITIONER'S ARTICLE

To see if the Town will vote to amend the General By-Laws of the Town of Billerica by removing Article XXII, the Billerica Wetlands Protection By-Law.

Or act in relation thereto.

Submitted by Richard Annese and Messrs. Shaw, Allen, Powderly, Annese, Powderly and Madames Powderly, Annese, Annese, Powderly, Benson and O'Connell.

Finance Committee has not made final recommendation.

And you are hereby directed to serve this Preliminary Warrant by posting true and attested copies thereof, one copy at Augusta Market, 599 Boston Road, one copy at Belly Buster Restaurant, 306 Boston Road, one copy at the Billerica Center Police Station, 6 Good Street, one copy at the Billerica Center Post Office, 460 Boston Road, one copy at the Billerica Public Library, 15 Concord Road, one copy at the Billerica Town Hall, 365 Boston Road, one copy at the East Billerica Fire Station, 295 Salem Road, one copy at Market Basket, Towne Plaza, 700 Boston Road, one copy at the Ninety-Nine Restaurant, 160 Lexington Road, one copy at the North Billerica Fire Station, 21 Lowell Street, one copy at the North Billerica Post Office, 95 Boston Road, one copy at the Nutting Lake Post Office, 612 Middlesex Turnpike, one copy at the Pinehurst Fire Station, 832 Boston Road, one copy at the Pinehurst Post Office, 880 Boston Road, one copy at Sal's Pizza, 328 Boston Road, one copy at Stelio's Family Restaurant, 293 Boston Road and one copy at the West Billerica Fire Station, 359 Treble Cove Road.

Given under our hands this 28th day of March 2024.

SELECT BOARD OF BILLERICA



MICHAEL A. RILEY, CHAIRMAN



KIMBERLY J. CONWAY, VICE CHAIRMAN



ANDREW N. DESLAURIER, SECRETARY

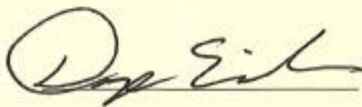


MICHAEL S. ROSA, MEMBER



JOHN J. BURROWS, MEMBER

A true copy attest



Constable, Town of Billerica