

**ANNUAL TOWN MEETING  
TOWN OF WESTPORT  
COMMONWEALTH OF MASSACHUSETTS  
ANNUAL TOWN MEETING  
MAY 24, 2011**

BRISTOL, SS.

To either of the constables of the Town of Westport in said County:

GREETINGS:

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of the Town of Westport qualified to vote in elections and Town affairs, to assemble at the Westport High School on Tuesday, May 24, 2011 at 7:00 p.m., and then and there to act on the following articles, viz:

**ARTICLE 1**

To see if the Town will vote to transfer to reduce taxation certain sums of money from various articles approved by Town Meeting, when there is a balance remaining that is no longer required to accomplish the purpose for which the articles were originally passed, and/or take any other action relative thereto.

FINANCE COMMITTEE/BOARD OF SELECTMEN

**FINANCE COMMITTEE:**

**ARTICLE 2**

To see if the Town will vote to fix the salary and compensation of all elected Town Officers, and/or take any other action relative thereto.

Moderator	\$ 745.00
Selectmen - Chairman	6,020.00
Board Members (4)	23,678.00
Assessors - Board Members (3)	15,857.00
Board of Health - Members (3)	8,418.00
Highway Surveyor	68,496.00
Tax Collector	57,627.00
Town Clerk	57,627.00
Treasurer	57,627.00
	<u>57,627.00</u>
	<b>Total 302,171.00</b>

FINANCE COMMITTEE/BOARD OF SELECTMEN

**FINANCE COMMITTEE:**

**ARTICLE 3**

To see if the Town will vote to raise and appropriate and/or transfer from available funds such sums of money considered necessary to defray the Town's expenses for a twelve month period beginning July 1, 2011 and appropriate the same to several departments and/or take any other action relative thereto.

FINANCE COMMITTEE/BOARD OF SELECTMEN

**FINANCE COMMITTEE:**

**ARTICLE 4**

To see if the Town will vote to authorize the Town Treasurer, with the approval of the Selectmen to borrow from time to time in anticipation of revenue of the fiscal year beginning July 1, 2011 in accordance with the provisions of the General Laws, Chapter 44, Section 4, and to issue a note or notes, payable within one year, and to renew any note or notes therefore, payable within one year, and to renew any note or notes as may be given for a period of less than one year in accordance with the General Laws, Chapter 44, Section 17, and/or take any other action relative thereto.

BOARD OF SELECTMEN

**FINANCE COMMITTEE:**

**ARTICLE 5**

To see if the Town will vote to raise and appropriate and/or transfer from other available funds and/or borrow a sum of money to be used in conjunction with, and/or in addition to any funds allocated by the Commonwealth and/or County for the engineering services, construction, reconstruction, and/or improvements of Town roads, and/or take any other action relative thereto.

HIGHWAY DEPARTMENT

**FINANCE COMMITTEE:**

**ARTICLE 6**

To see if the Town will vote to raise and appropriate and/or transfer from available funds a sum of \$1.00 for the purpose of maintaining during the ensuing year the mosquito control work as estimated and certified by the State Reclamation Board in accordance with the provisions of Chapter 112 of the Acts of 1931 and/or to take any other action relative thereto.

BOARD OF SELECTMEN

**FINANCE COMMITTEE:**

**ARTICLE 7**

To see if the Town will vote to raise and appropriate and/or transfer from available funds the sum of \$770.00 to contract for environmental services directly related to Buzzards Bay, and/or take any other action relative thereto.

BOARD OF SELECTMEN

**FINANCE COMMITTEE:**

**ARTICLE 8**

To see if the Town will vote to establish and reauthorize pursuant to the provisions of G. L. Chapter 44 Section 53E-1/2 for Fiscal Year 2012, a revolving fund for the Council on Aging into which will be paid all receipts from health care promotion, recreational and social programs for seniors, except for receipts from the social day care program, from which costs not to exceed the sum of \$20,000.00 for these same services may be expended without further appropriation by the Council on Aging and Board of Selectmen, and/or take any other action relative thereto.

COUNCIL ON AGING

**FINANCE COMMITTEE:**

**ARTICLE 9**

To see if the Town will vote to establish and reauthorize pursuant to the provisions of G. L. Chapter 44 Section 53E-1/2 for Fiscal Year 2012, a revolving fund for the Council on Aging into which will be paid all receipts from the Social Day Care Program, from which costs not to exceed the sum of \$80,000.00 for these same services may be expended without further appropriation by the Council on Aging and Board of Selectmen, and/or take any other action relative thereto.

COUNCIL ON AGING

**FINANCE COMMITTEE:**

**ARTICLE 10**

To see if the Town will vote to establish and reauthorize pursuant to the provisions of G. L. Chapter 44 Section 53E-1/2 for Fiscal Year 2012, a revolving fund for the Council on Aging into which will be paid all receipts from income-generating activities, except receipts from health care promotion, recreational and social programs, transportation activities, and the social day care program which are the source of receipts for other revolving funds, to support the Westport Senior Center from which costs not to exceed the sum of \$5,000.00, for building operating/maintenance expenses, excluding salaries and wages of all full-time and part-time employees who are employed at said Senior Center, may be expended without further appropriation by the Council on Aging and Board of Selectmen, and/or take any other action relative thereto.

COUNCIL ON AGING

**FINANCE COMMITTEE:**

**ARTICLE 11**

To see if the Town will vote to establish and reauthorize pursuant to the provisions of G. L. Chapter 44 Section 53E-1/2 for Fiscal Year 2012, a revolving fund for the Council on Aging into which will be paid all receipts from transportation for seniors, from which costs not to exceed the sum of \$65,000.00 for these same services may be expended without further appropriation by the Council on Aging and Board of Selectmen and/or take any other action relative thereto.

COUNCIL ON AGING

**FINANCE COMMITTEE:**

**ARTICLE 12**

To see if the Town will vote to establish and reauthorize pursuant to the provisions of G. L. Chapter 44 Section 53E-1/2 for Fiscal Year 2012, a revolving fund for the Westport Fire Department into which will be paid all receipts from Ambulance Fees, from which costs not to exceed \$110,000.00 for the purchase of an ambulance, ambulance equipment and/or any incurred ambulance-related expense, not to include salaries, which may be expended without further appropriation by the Fire Department, and/or take any other action relative thereto.

FIRE CHIEF

**FINANCE COMMITTEE:**

**ARTICLE 13**

To see if the Town will vote to establish and reauthorize pursuant to the provisions of G. L. Chapter 44 Section 53E-1/2 for Fiscal Year 2012, a revolving fund for the Westport Fire Department into which will be paid all receipts from Haz-Mat Fees, from which costs not to exceed \$50,000.00 for the purchase of Haz-Mat equipment and/or any incurred Haz-Mat related expense, not to include salaries, which may be expended without further appropriation by the Fire Department, and/or take any other action relative thereto.

FIRE CHIEF

**FINANCE COMMITTEE:**

**ARTICLE 14**

To see if the Town will vote to establish and reauthorize pursuant to the provisions of M.G.L. Chapter 44 Section 53E-1/2 for Fiscal Year 2012, a revolving fund for the Electrical, Plumbing & Gas Inspectors, into which will be deposited all receipts from fees and fines paid for electrical, plumbing and gas permits, from which costs not to exceed \$85,000.00 for inspections performed, mileage, schooling, supplies, clerical wages, equipment and other related miscellaneous expenses may be expended without further appropriation by the Electrical, Plumbing and Gas departments. Any fund balance in excess of \$40,000.00 at the end of the fiscal year will be transferred into the General Fund, and/or take any other action relative thereto.

BUILDING DEPARTMENT

**FINANCE COMMITTEE:**

**ARTICLE 15**

To see if the Town will vote to establish and reauthorize pursuant to the provisions of M.G.L. Chapter 44 Section 53E-1/2 for Fiscal Year 2012, a revolving fund for the Board of Selectmen into which will be paid receipts from the additional License Fee, from which costs not to exceed \$100,000.00 for cable services, equipment and/or supplies may be expended without further appropriation by the Board of Selectmen, and/or take any other action relative thereto.

BOARD OF SELECTMEN

**FINANCE COMMITTEE:**

**ARTICLE 16**

To see if the Town will vote to establish and reauthorize pursuant to the provisions of M.G.L. Chapter 44 Section 53E ½ for Fiscal Year 2012, a revolving fund for the Planning Board and the Zoning Board of Appeals into which will be paid all portions of subdivision and comprehensive permit filing fee receipts collected for the purpose of maintaining the Assessor’s parcel GIS database, as provided in the Rules & Regulations Governing the Subdivision of Land, and as provided in the Town of Westport Board of Appeals Rules & Regulations as they may be amended from time to time. These funds may be expended for costs not to exceed \$20,000, and utilized for purposes related to maintaining the GIS database, and may be expended without further appropriation by the Planning Board, and/or take any other action relative thereto.

PLANNING BOARD

**FINANCE COMMITTEE:**

**ARTICLE 17**

To see if the Town will vote to establish and reauthorize pursuant to the provisions of M.G.L. Chapter 44 Section 53E-1/2 for Fiscal Year 2012, a revolving fund for the Westport Police Department into which will be paid all receipts from Police Cruiser Fees associated with private details, from which costs not to exceed \$50,000.00 for the purchase of cruisers, associated equipment and/or any incurred police cruiser-related expense, not to include salaries, which sum may be expended without further appropriation by the Westport Board of Selectmen, and/or take any other action relative thereto.

POLICE CHIEF

**FINANCE COMMITTEE:**

**ARTICLE 18**

To see if the Town will vote to raise and appropriate or transfer from available funds \$125,000.00 to operate the Harbor Enterprise, and/or take any other action relative thereto.

Salaries	\$ 50,036.00
Expenses	\$ 63,964.00
Capital Outlay	<u>\$ 11,000.00</u>
Total	\$125,000.00

and that \$125,000.00 be raised as follows:

User Charges	\$125,000.00
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BOARD OF SELECTMEN/HARBORMASTER/WHARFINGER

**FINANCE COMMITTEE:**

**ARTICLE 19**

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to operate the Waterline Enterprise, and/or take any other action relative thereto.

Salaries	\$ 5,000.00
Capital Outlay	\$ 5,000.00
Expenses	\$120,000.00
Total	\$130,000.00

and that \$130,000.00 be raised as follows:

User Charges	\$130,000.00
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BOARD OF SELECTMEN

**FINANCE COMMITTEE:**

**ARTICLE 20**

To see if the Town will vote to raise and appropriate and/or transfer from available funds, a sum of \$40,000.00 to be used by the Board of Assessors to fund fees and expenses to update the Revaluation program mandated by Chapter 797 of the Acts of 1979 to place the Town on a 100% valuation assessment basis, and/or take any other action relative thereto.

BOARD OF ASSESSORS

**FINANCE COMMITTEE:**

**ARTICLE 21**

To see if the Town will vote to raise and appropriate and/or transfer from available funds a sum of \$10,000.00 for follow-up environmental maintenance work at the Westport Town Hall as required by the Department of Environmental Protection, and/or take any other action relative thereto.

BOARD OF SELECTMEN

**FINANCE COMMITTEE:**

**ARTICLE 22**

To see if the Town will vote to hear and act on the report of the Community Preservation Committee on the Fiscal Year 2012 Community Preservation budget and to appropriate from the

Fiscal Year 2012 Community Preservation Fund's estimated revenue a sum of money to meet the administrative expenses and all other necessary and proper expenses of the Community Preservation Committee for the Fiscal Year 2012; and further to reserve for future appropriation a sum of money for the acquisition, creation, preservation and rehabilitation of open space excluding land for recreational use; a sum of money for the acquisition, preservation, restoration and rehabilitation of historic resources; and a sum of money for the acquisition, creation, preservation and rehabilitation and support of community housing; and further to appropriate from the Community Preservation Fund a sum or sums of money for Community Preservation projects or purposes, all as recommended by the Community Preservation Committee, and/or take any other action relative thereto.

COMMUNITY PRESERVATION COMMITTEE

**FINANCE COMMITTEE:**

**ARTICLE 23**

To see if the Town will vote to appropriate a sum of money for the cost of various capital expenditures in accordance with the Town's Fiscal Year 2012 Capital Improvement Planning Program, to determine whether this appropriation shall be raised by borrowing or otherwise, and/or to take any other action relative thereto.

CAPITAL IMPROVEMENT PLANNING COMMITTEE

**FINANCE COMMITTEE:**

**ARTICLE 24**

To see if the Town will vote to appropriate a sum of money for highway equipment and school building repairs; to determine whether this appropriation shall be raised by borrowing or otherwise; that \$1,400,000 is appropriated for the payment of costs of (i) purchasing highway equipment, including the payment of all costs incidental or related thereto, in the amount of \$900,000 and (ii) school building repairs, including the payment of all costs incidental or related thereto, in the amount of \$500,000; that to meet this appropriation the Treasurer with the approval of the Board of Selectmen is authorized to borrow \$1,400,000 under G.L. c.44, §§7(9) and 7(3A) or any other enabling authority; that the Board of Selectmen is authorized to contract for and expend any federal or state aid available for this project; and that the Board of Selectmen is authorized to take any other action necessary or convenient to carry out this project; provided, however, that this vote shall not take effect until the Town votes to exempt from the limitation on total taxes imposed by G.L. c.59, §21C (Proposition 2½) amounts required to pay the principal of and interest on the borrowing authorized by this vote; and/or take any other action relative thereto.

BOARD OF SELECTMEN/HIGHWAY SURVEYOR/SCHOOL COMMITTEE

**FINANCE COMMITTEE:**

**ARTICLE 25**

To see if the Town will vote to transfer the care, custody and control of a parcel of land located on School Street, identified on Assessors Map 25 as Lot 55A, and described in a deed recorded

with the Bristol South District Registry of Deeds in Book 960, Page 273, from the board or officer currently having custody of the property and for the purpose for which the property is currently held to the Board of Selectmen for the purpose of conveyance, and authorize the Board of Selectmen to convey said property to the Westport Affordable Housing Trust for the purpose of supporting community housing, which property shall be subject to a permanent restriction providing that at least twenty-five percent (25%) of the units constructed on the property shall be sold or rented to low income individuals or households, and on such other terms and conditions and for such consideration, which may be nominal consideration, as the Board of Selectmen deems appropriate, and further to authorize the Board of Selectmen to accept said restriction on behalf of the Town; and/or take any other action relative thereto.

BOARD OF SELECTMEN/WESTPORT AFFORDABLE HOUSING TRUST

**FINANCE COMMITTEE:**

**ARTICLE 26**

To see if the Town will vote to accept the provisions of Massachusetts General Law Chapter 32B, Section 18, so that the Town shall require that all retirees, their spouses and dependents who are enrolled in Medicare Part A at no cost to a retiree, their spouse or dependents, or eligible for coverage thereunder at no cost to a retiree, their spouse or dependents, be required to enroll in a Medicare health benefits supplement plan offered by the Town, and/or take any other action relative thereto.

FINANCE COMMITTEE

FINANCE COMMITTEE:

**ARTICLE 27**

To see if the Town will vote to authorize the Board of Selectmen to lease the land located on the east side of Sanford Road, Westport, MA, shown as Assessor's Map 30, Lot 21, for a period up to twenty (20) years, for such purposes and on such terms and conditions as said Board deems appropriate, and/or take any other action relative thereto.

BOARD OF SELECTMEN

**FINANCE COMMITTEE:**

**ARTICLE 28**

To see if the Town will vote to accept the provisions of M.G.L. Chapter 138, Section 33B authorizing the sale of on-premises alcoholic beverages between the hours of 10:00 a.m. – 12.00 noon on Sundays, and/or take any other action relative thereto.

BOARD OF SELECTMEN

**FINANCE COMMITTEE:**

**ARTICLE 29**

To see if the Town will vote to amend its By-Laws and Regulations, by revising “ARTICLE

**VIII, JUNK DEALERS”** to read **“ARTICLE VIII, JUNK YARDS”** and deleting:

**0801.** No person shall be a collector of or a dealer in junk, old metals, or second-hand articles, or a keeper of a shop for the purchase, sale or barter of junk, old metals, or second-hand articles, unless licensed therefore by the Selectmen. The Board of Selectmen shall receive at least five dollars for each license so granted.

and replacing it with:

**0801.** No person shall operate a Class III – Motor Vehicle Junk Yard without application to the Board of Selectmen. The process for application shall include a public hearing and notification to abutters. The approved licensee shall operate under the Town Bylaws, Zoning Rules & Regulations and the MGL Chapter 140. The Class III License will be renewed annually.

and/or take any other action relative thereto.

BOARD OF SELECTMEN

**FINANCE COMMITTEE:**

**ARTICLE 30**

To see if the Town will vote to amend its By-Laws and Regulations by inserting the following article:

**ARTICLE LVII**

**ANTIQUÉ DEALERS/PAWN BROKERS/JUNK COLLECTORS**

**5701.** No person shall be collector of or a dealer in junk, old metals, precious metals, or second-hand articles, or a keeper of a shop for the purchase, sale or barter of junk, old metals, precious metals, or second-hand articles, unless licensed therefore by the Town Clerk. The Town Clerk shall receive at least thirty (\$30.00) dollars for each license so granted.

**5702. REQUIREMENT THAT RECORDS BE KEPT, PROVIDED AND RETAINED**

**5702.1 Computerized Records**

Every keeper of a shop or business involved in purchase, sale or barter of junk, old metals, precious metals, or secondhand articles, referred to as shopkeeper for the purposes of this article, shall keep a computerized record of style and design approved by the Chief of Police. Included shall be all transactions of purchases, which shall be recorded in the English language, and reflect the amount of purchase.

**5702.2 Identification of Customer**

For all purchases, every shopkeeper shall also require positive identification and record the type of identification, identification number and the date of birth from any person selling any article. Positive identification shall mean any picture identification card issued by a government agency.

**5702.3      Requirement That Records Be Kept, Provided and Retained**

The shopkeeper shall record the name and residence, date of birth, and social security number of the person selling or pledging such articles. The shopkeeper shall furnish a correct and complete record of such transactions by an approved method once daily, or as otherwise determined, by the Chief of Police to the Westport Police Department. The above- described records shall be transmitted electronically in a specifically stored format along with any other information deemed necessary by the Chief of Police, or his designee. No entry or said records shall be erased, obliterated, defaced, or changed.

**5702.4      Photographs Required**

Every shopkeeper shall photograph any persons pawning, selling or pledging articles and keep such photographs with said records. The required photographs shall be clear and of such quality that the person pawning, selling or pledging the items can be clearly identified. A photograph shall be required each time a person makes a separate transaction. The photographs shall be stored in a digitized format. The image must be retrievable and a clear copy provided to police upon request.

**5702.5      Accurate Transaction Record Required**

The transaction records shall accurately describe all items including but not limited to, all distinguishing marks, model names or number, and serial numbers. Any etchings or engravings will be noted. Any jewelry with affiliation of any institution or organization shall include the name and year indicated along with inscribed initials. Jewelry items inventoried shall include a complete description to include the material, ring size, weight, chain length, shapes, carat weight and color. Coins, stamps, collectable cards, autographed items, figurines, or other collectibles of any description, including but not limited to all of the following which may apply: particular identifying features such a name of item, date, denomination, color, size, brand name, vintage, and image represented. The Chief of Police or his designee may amend required elements of the description, by written notice to the Licensee.

**5702.6      Inventory of Media**

All forms of media transmission whatsoever, (cassette or video tapes,

compact disc, DVD, electronic games, game cartridges, etc. or any future medium developed) shall be inventoried by the title and artist. Any electronic, or computer or computer associated equipment of software shall have its identifying numbers and titles inventoried.

**5702.7** All records required to be maintained by these regulations or by any other statute, rule or regulation shall be maintained for the time required by the controlling statute, rule or regulation, but in no event shall any records be maintained for less than two years. Such records shall at all times be open for the inspection of the Westport Board of Selectman, or any person authorized by it to make such inspection, and to members of the Police Department.

**5702.8** No shopkeeper shall purchase or take in any item if it appears that such item has had any serial numbers or any other identifying marks, forged, altered, or obliterated. For the purpose of this rule, identifying marks shall include but not be limited to engravings, initials, or similar inscriptions.

**5703. PAWNBROKERS - REQUIREMENT THAT RECORDS BE KEPT PROVIDED AND RETAINED**

**5703.1 Computerized Records**

Every pawnbroker doing business in the town shall keep a computerized record of style and design approved by the Chief of Police. Included shall be all transactions of pawn loans and purchases, which shall be recorded, in the English language. A clear distinction shall be made between pawned items and purchased items and shall reflect the amount of the pawn of purchase.

**5703.2 Identifications of Customer**

For all loans and purchases, every pawnbroker shall also require positive identification and record the type of identification, identification number presented and date of birth from any person pawning, selling or pledging any article. Positive identification shall mean any picture identification card issued by a government agency.

**5703.3 Requirement That Records Be Kept, Provided and Retained**

The pawnbroker shall record the name and residence, date of birth, and social security number of the person pawning, selling or pledging such articles. The pawnbroker shall furnish a correct and complete record of such transactions by an approved method once daily, or as otherwise determined, by the Chief of Police, to the Westport Police Department. The above-described records shall be transmitted electronically in a specifically stored format along with any other information deemed necessary by the Chief of Police, or his designee. No entry of said records

should be erased, obliterated, defaced, or changed.

**5703.4 Photographs Required**

Every pawnbroker shall photograph any person pawning, selling or pledging articles and keep such photographs with said books as part of his records. The required photographs shall be clear and of such quality that the person pawning, selling or pledging the items can be clearly identified. A photograph shall be required each time a person makes a separate transaction. The photographs shall be stored in a digitized format. The image must be retrievable and a clear copy provided to police upon request.

**5703.5 Accurate Transaction Record Required**

The transaction records shall accurately describe all items including but not limited to, all distinguishing marks, model names or number and serial numbers. Any etching or engravings will be noted. Any jewelry with affiliation of any institution or organization shall include the name and year indicated along with inscribed initials. Jewelry items inventoried shall include a complete description to include the material, ring size, weight, chain length, shapes, carat weight and color, coins, stamps, collectable cards, autographed items, figurines, or other collectibles of any description, including but not limited to all of the following which may apply: particular identifying features such a name of item, date, denomination, color, size, brand name, vintage, and image represented. The Chief of Police or his designee may amend required elements of the description, by written notice to the Licensee.

**5703.6 Inventory of Media**

All forms of media transmission whatsoever, (cassette or video tapes, compact disc, DVD, electronic games, game cartridges, etc. or any future medium developed) shall be inventoried by the title and artist. Any electronic, or computer or computer associated equipment of software shall have its identifying numbers and titles inventoried.

**5703.7** All records required to be maintained by these regulations or by any other statute, rule or regulation shall be maintained for the time required by the controlling statute, rule or regulation, but in no event shall any records be maintained for less than three years. Such records shall at all times be open for the inspection of the Westport Board of Selectman, or any person authorized by it to make such inspection, and to members of the Police Department.

and/or take any other action relative thereto.

POLICE CHIEF/BOARD OF SELECTMEN

**FINANCE COMMITTEE:**

**ARTICLE 31**

To see if the Town will vote to amend its By-Laws and Regulations by inserting the following article:

**ARTICLE LVIII**

**BOARD OF SELECTMEN**

**5801. TERM OF OFFICE, COMPOSITION**

There shall be a Board of Selectmen consisting of five members elected for three (3) year terms, so arranged that as nearly an equal number of terms as possible shall expire each year.

**5802. VACANCY**

Vacancies in the office of selectmen shall be filled by special election in accordance with provisions of Massachusetts General Laws.

**5803. POLICY AND EXECUTIVE LEADERSHIP**

The Board of Selectmen shall serve as the chief executive of Town government and set policy and provide strategic direction in the best interest of the Town as a whole.

**5804. POWERS, DUTIES, AND RESPONSIBILITIES**

Except as otherwise provided in Town By-Laws, the Board of Selectmen shall exercise the executive functions given to the Board under the constitution and the General Laws of the Commonwealth, and such additional powers and duties as may be authorized by By-Law or Town Meeting vote.

**5804.1** The Board of Selectmen's executive responsibilities include, among others, establishing and overseeing Town government personnel and procurement systems, managing Town government facilities, and the conduct of all union negotiations for Town employees.

**5804.2** The Board of Selectmen shall cause the laws, By-Laws, and orders for the government of the Town to be enforced and shall cause a record of all its official acts kept. The Board of Selectmen shall ensure that Town government personnel regulations and procurement systems, as well as the terms of the union contracts are available to the public.

**5805. APPOINTING POWERS**

**5805.1** The Board of Selectmen shall appoint a Town Administrator as the chief administrative officer of the Town and may delegate its authority, from time to time, to the Town Administrator. Nevertheless, the ultimate

responsibility and accountability for those delegated powers and duties reside with the Board of Selectmen.

**5805.2** The Board of Selectmen shall appoint all Town employees for whom no other appointment or election provision is made in the Town By-Laws or Massachusetts General Laws.

**5805.3** The Board of Selectmen shall appoint members of all boards, committees, and commissions, for whom no other appointment or election provisions is made in Town By-Laws or Massachusetts General Laws. The Board shall issue terms of reference for such bodies and establish their reporting requirements.

#### **5806. INTER-GOVERNMENT RELATIONS**

Members of the Board of Selectmen shall represent the Town on federal, state, regional, and inter-municipal committees, or may designate a town employee or other person to represent the Town; and/or take any other action relative thereto.

and/or take any other action relative thereto.

BOARD OF SELECTMEN

#### **FINANCE COMMITTEE:**

#### **ARTICLE 32**

To see if the Town will vote to amend its By-Laws and Regulations by inserting the following article:

#### **ARTICLE LVIX**

#### **TOWN ADMINISTRATOR**

#### **5901. APPOINTMENT; QUALIFICATION, TERM**

**5901.1** The Board of Selectmen shall appoint a Town Administrator for a term up to three years.

**5901.2** The Town Administrator shall be a professionally qualified person of proven ability, especially fitted to perform the duties of the office by education, training and previous related experience. The Town Administrator shall have the minimum of a Bachelors Degree, preferably a Masters Degree, in Public Administration, Public Policy, Business Management or related field; at least five (5) years experience in upper level executive positions: or equivalent combination of education and experience.

**5901.3** The Administrator shall devote full time to the office and shall not hold any other public office, elected or appointed, or engage in any other business or occupation during his or her term, unless such action is approved in advance, in writing, by the Board of Selectmen.

**5902. VACANCY IN OFFICE**

The Board of Selectmen shall fill any permanent vacancy in the office of Town Administrator as soon as possible. Pending the appointment of the Town Administrator, the Board of Selectmen shall within thirty (30) days, appoint some other qualified person to serve as the Acting Town Administrator.

**5903. PROCEDURE FOR REMOVAL OF TOWN ADMINISTRATOR**

The Board of Selectmen, by affirmative vote of four (4) of its members, may initiate the removal of the Town Administrator prior to the expiration of an employment contract. This action must be with cause and after a public hearing.

**5904. POWER AND DUTIES**

The Town Administrator serves as the chief administrative officer, financial coordinator, and chief procurement officer of Town government, except for those powers expressly given to the School Committee and the School Department. The Town Administrator oversees the administration of Town government systems for all Town offices, boards, commissions, committees, and departments, whether managed by the Board of Selectmen or other elected officials or boards.

**5904.1** The Town Administrator oversees implementation of the Town government personnel system. She/he monitors implementation of personnel policies, practices, and rules and regulations, any compensation plan and any related matter for all municipal employees, except for School Department employees. In addition, for those department heads and staff under supervision of the Board of Selectmen, the Town Administrator shall conduct the first round reviews for the annual performance evaluation of these employees and forward his/her recommendations to the Board of Selectmen.

**5904.2** The Town Administrator serves as the Town's chief procurement officer. He/she oversees all procurement done using town funds, except that of the School Department, and monitors implementation of procurement regulations issued by the Commonwealth and by the Town.

**5904.3** The Town Administrator is responsible for management of all Town government facilities, except for those of the School Department. These responsibilities include, among others, safety, maintenance, furnishing, and use of space.

**5904.4** The Town Administrator performs other duties as required by contractual agreement with the Board of Selectmen, Town By-Laws, administrative code, or votes of Town Meeting.

and/or take any other action relative thereto.

BOARD OF SELECTMEN

**FINANCE COMMITTEE:**

**ARTICLE 33**

To see if the Town will vote to amend its By-Laws and Regulations by inserting the following article:

**ARTICLE LXI**

**ILLICIT DISCHARGE**

**6001. PURPOSE**

Increased and contaminated stormwater runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding. Regulation of illicit connections and discharges to the Town of Westport municipal storm drain system is necessary for the protection of the town's water bodies and groundwater and to safeguard the public health, safety, welfare and the environment.

**6001.1** The objectives of this By-Law are:

- a.** To prevent pollutants from entering Westport's municipal separate storm sewer system (MS4);
- b.** To prohibit illicit connections and unauthorized discharges to the MS4;
- c.** To require the removal of all such illicit connections;
- d.** To comply with state and federal statutes and regulations relating to stormwater discharges; and
- e.** To establish the legal authority to ensure compliance with the provisions of this By-Law through inspection, monitoring, and enforcement.

**6002. DEFINITIONS**

For the purposes of this By-Law, the following shall mean:

**Authorized Enforcement Agency** - The Board of Selectmen or other employees or agents designated by the Board of Selectmen.

**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** - The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.

**Discharge of Pollutants** - The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

**Groundwater** - Water beneath the surface of the ground and not confined in a conduit or container.

**Illicit Connection** - A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain 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 drain system that is not composed entirely of stormwater, except as exempted in Section 8. 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 7, subsection 4, of this By-Law.

**Municipal Separate Storm Sewer System (MS4) or Municipal Storm Drain 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 Westport.

**National Pollutant Discharge Elimination System (NPDES) General Permit For Storm Water Discharges** - A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of stormwater to waters of the United States.

**Non-Stormwater Discharge** - Discharge to the municipal storm drain system not composed entirely of stormwater.

**Person** - Any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to Town By-Laws, administrative agency, public or quasi-

public corporation or body, the Town of Westport, and any other legal entity, its legal representatives, agents, or assigns.

**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, but not be limited to, the following:

- 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, soils;
- 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. Process wastewater includes water, which has increased in temperature as a result of manufacturing or other processes.

**Recharge** - The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil, or by injection of collected precipitation, run off or adequately treated wastewater.

**Stormwater/Runoff** - Rainwater, snowmelt and/or other water that flows off impervious surfaces and across or over the ground surface rather than being absorbed into the soil.

**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, 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.

**Wastewater** - Any sanitary waste, sludge, or septic tank or cesspool contents or discharge, and/or process wastewater.

**Waters of the Commonwealth** - All waters within the jurisdiction of the Commonwealth of Massachusetts, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

**6003. APPLICABILITY**

This By-Law shall apply to flows entering the municipally owned storm drainage system.

**6004. AUTHORITY**

This By-Law is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

**6005. ADMINISTRATION**

The Board of Selectmen is delegated hereby the responsibility and authority to administer, implement and enforce this By-Law. The Board of Selectmen may appoint the Highway Surveyor or such other Town employee as the Board of Selectmen may from time-to-time determine and designate in writing to aid the Board of Selectmen in the enforcement and/or administration of the By-Law.

**6005.1** 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 Town Engineer, and other employees designated by the Board of Selectmen 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 Town Engineer deems reasonably necessary.

**6006. REGULATIONS**

The Board of Selectmen shall promulgate rules and regulations to effectuate the purposes of this By-Law. Failure to promulgate such rules and regulations shall not have the effect of suspending or invalidating this By-Law.

**6007. PROHIBITED ACTIVITIES**

**6007.1**        **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 system (MS4), into a watercourse, into a wetland resource area, or into the waters of the Commonwealth.

**6007.2**        **Illicit Connections** - No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

**6007.3**        **Obstruction of Municipal Storm Drain System** - No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the Highway Surveyor or the Town Engineer.

**6008. EXEMPTIONS**

Discharge or flow resulting from fire fighting activities are exempt from the prohibition of non-stormwater discharges.

The following non-stormwater discharges or flows are also exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the municipal storm drain system, and will not damage or threaten public health and the environment:

- a.        Waterline flushing and flow from potable water sources;
- b.        Springs, natural flow from riparian habitats and wetlands, diverted stream flow and rising groundwater;
- c.        Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
- d.        Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, sump pumps or air conditioning condensation;
- e.        Discharge from landscape irrigation or lawn watering;
- f.        Water from individual residential car washing;

- g. Discharge from dechlorinated swimming pool or hot tub water (less than one ppm chlorine) provided the pool or hot tub is drained in such a way as not to cause a nuisance;
- h. Discharge from street sweeping, discharge of sand and deicers used for public safety purposes;
- i. Emergency repairs to the municipal storm drain system, and any stormwater management structure or practice that poses a threat to public health or safety, or as deemed necessary by the Highway Surveyor or the Town Engineer;
- j. Dye testing, provided verbal notification is given to the Highway Surveyor or the Town Engineer prior to the time of the test;
- k. Non-stormwater discharge permitted under an 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 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
- l. Discharge for which advanced written approval is received from the Highway Surveyor or the Town Engineer as necessary to protect public health, safety, welfare or the environment.

**6009. EMERGENCY SUSPENSION OF STORM DRAINAGE SYSTEM ACCESS**

The Highway Surveyor or the Town Engineer may suspend municipal storm drain 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 the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Highway Surveyor or the Town Engineer may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

**6010. 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 into the municipal drainage system, a wetland resource area or the 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 Highway Surveyor or the Town Engineer. In the event of a release of non-hazardous material, the reporting person shall notify the Highway Surveyor or the Town Engineer no later than the next business day. The reporting person shall provide to the Highway Surveyor or the Town Engineer 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 of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

## **6011. ENFORCEMENT**

**6011.1** The Board of Selectmen, the Highway Surveyor, or other authorized agent of the Board of Selectmen shall enforce this By-Law and any regulations, and may pursue all civil and criminal remedies for violations.

**6011.2** **Civil Relief** - If a person violates the provisions of this By-Law or regulations, or of any permit, notice or order issued thereunder, the Board of Selectmen may seek injunctive relief in a court of competent jurisdiction to restrain the person from activities that would create further violations or to compel the person to perform abatement or remediation of the violation.

**6011.3** **Orders** - The Highway Surveyor or other authorized agent of the Board of Selectmen 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;
- 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.

**6011.3.1** If the enforcing person 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 may, at its option, undertake such work, and expenses thereof shall be charged to the violator.

**6011.3.2** 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 including administrative costs.

**6011.3.3** The violator or property owner may file a written protest objecting to the amount or basis of costs with the Highway

Surveyor within thirty (30) days of receipt of the notification of the costs incurred.

**6011.3.4** 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 Highway Surveyor 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, 57 after the thirty-first day at which the costs first become due.

**6011.4**      **Criminal Penalties**

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. Each day a violation exists shall constitute a separate violation.

**6011.5**      **Non-Criminal Disposition**

As an alternative to criminal prosecution or civil action, the town may utilize the non-criminal disposition procedure set forth in M.G.L. Ch. 40, §21D and Article V of the Town By-Laws, in which case any police officer of the Town of Westport, the Highway Surveyor, and such other persons as are authorized by the Board of Selectmen shall be the enforcing person. If non-criminal disposition is used, any person who violates any provision of this by-law, regulation, order or permit issued thereunder, shall be punished as follows:

First violation: Warning

Second violation: \$100

Third violation: \$200

Fourth and subsequent violations: \$300

Each day a violation exists shall constitute a separate violation.

**6012. APPEALS**

The decisions or orders shall be final. Further relief shall be to a court of competent jurisdiction.

**6012.1**      **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.

**6013. SEVERABILITY**

The provisions of this By-Law are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this By-Law 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.

**6014. TRANSITIONAL PROVISIONS**

Residential property owners shall have 180 days from the effective date of the By-Law to comply with its provisions provided good cause is shown for the failure to comply with the by-law during that period.

and/or take any other action relative thereto.

PLANNING BOARD

**FINANCE COMMITTEE:**

**ARTICLE 34**

To see if the Town will vote to amend its By-Laws and Regulations, **Article XXXVII, Section 3702, “Non-Criminal Disposition”** by deleting”

**3702.5A Youth Access Tobacco Control Regulation, Section 10 Violations and Penalties:**

Any person who violates the provisions of this regulation shall be subject to a fine of one hundred dollars (\$100.00) for the first offense, two hundred dollars (\$200.00) for the second offense and three hundred dollars (\$300.00) for the third and each subsequent offense within a twelve-month period.

**3702.5B Environmental Tobacco Smoke Regulation – Municipal Buildings & School Grounds, Section 8.0 Non-Criminal Disposition:**

Whoever violates any provisions of this regulation, the violation of which is subject to a specific penalty, may be penalized by the non-criminal method of disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D or by filing a criminal complaint at the appropriate venue.

Each violation shall be deemed to be a separate offense.

Penalty: \$50.00 for first offense; \$75.00 for second offense; \$100.00 for the third offense.

Enforcing Persons: Westport Police Dept., Westport Board of Health and its designees.

and replacing it with:

**3702.5A Sale of Tobacco Products to Minors Regulation, Section J:**

Any person who violates this regulation shall be subject to a fine of one hundred dollars (\$100.00) for the first offense; two hundred dollars (\$200.00) for the second offense within twenty-four (24) months of the date of the first violation and the sales permit shall be suspended for seven (7) consecutive business days; three hundred dollars (\$300.00) occurring within twenty-four (24) months of a current violation and the tobacco sales permit shall be suspended for thirty (30) consecutive business days.

A violation shall be considered a first violation in cases where no violation has occurred during the previous twenty-four (24) months, even though there may be previous violations on record.

**3702.5B**      **Environmental Tobacco Smoke Regulation – Municipal Buildings & School Grounds-Section 8.0 & Smoking Ban-Section 6.0 and in Accordance to 105 CMR 661.000**

Any owner, manager, or other person in control of a building, vehicle or vessel who violates this section, in a manner other than by smoking in a place where smoking is prohibited, shall be punished by a fine of one hundred dollars (\$100.00) for the first offense, two hundred dollars (\$200.00) for a second violation occurring within two (2) years of the date of the first offense, and three hundred dollars (\$300.00) for a third or subsequent violation with in two (2) years of the second offense. An individual or person who violates this regulation by smoking in a place where smoking is prohibited shall be subject to a civil penalty of one hundred dollars (\$100.00) for each violation.

and/or take any other action relative thereto.

BOARD OF HEALTH

**FINANCE COMMITTEE:**

**ARTICLE 35**

To see if the Town will vote to amend **Article 2, “Administration,”** of the Zoning By-Laws by deleting:

**2.4.2.1**      **Permits and Special Permits**

To hear and decide on applications for permits and/or special permits as provided by sections of this By-Law when it shall be found that the use involved is in harmony with the general purpose and intent of the By-Law, subject to appropriate conditions, safeguards, and limitations on time and use.

and replacing it with:

**2.4.2.1**      **Permits and Special Permits**

To hear and decide on applications for permits, which shall include administrative findings made regarding nonconforming uses under Section 4.1 and special

permits as provided by sections of this By-Law, when it shall be found that the use involved is in harmony with the general purpose and intent of the By-Law, if the use is subject to appropriate conditions, safeguards, and limitations on time and use.

and/or take any other action relative thereto.

PLANNING BOARD/ZONING BOARD OF APPEALS

**FINANCE COMMITTEE:**

**ARTICLE 36**

To see if the Town will vote to amend the Westport Zoning By-Laws by adding **ARTICLE 20, LOW IMPACT DEVELOPMENT (LID) SITE PLAN APPROVAL:**

**ARTICLE 20**

**LOW IMPACT DEVELOPMENT (LID) SITE PLAN APPROVAL**

**20.1 PURPOSE**

The purpose of this bylaw is to establish minimum requirements and controls to protect and safeguard the environment, natural resources, general health, safety, and welfare of the public residing in watersheds within the Town's jurisdiction from the adverse impacts of soil erosion, sedimentation, and stormwater runoff. This section seeks to meet that purpose through the following objectives:

- 20.1.1** To eliminate or reduce the adverse effects of soil erosion and sedimentation;
- 20.1.2** To minimize stormwater runoff from any development;
- 20.1.3** To minimize nonpoint source pollution caused by stormwater runoff from development;
- 20.1.4** To provide for groundwater recharge where appropriate; and
- 20.1.5** To ensure controls are in place to respond to objectives in Subsections 20.1.1 and 20.1.2 and that these controls are properly operated and maintained.

**20.2 APPLICABILITY**

This bylaw shall apply to all activities that result in a land disturbance activity of 40,000 sq. ft. of land, or that will disturb less than 40,000 sq. ft. of land but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than 40,000 sq. ft. of land. No person shall perform any activity that results in a land disturbance activity of 40,000 sq. ft. or more of land without site plan approval by the Planning Board, by majority vote, following review at a duly posted meeting, but without

a formal public hearing, of soil erosion and sediment control plan and a stormwater management plan. Normal maintenance and/or improvement of land in agricultural or aquaculture use, as defined by the Wetland Protection Act Regulation 310 CMR 10.4, shall be exempt from this by-law. In addition, as authorized in the Phase II Small MS4 General Permit for Massachusetts, stormwater discharges resulting from the above activities that are subject to jurisdiction under the Wetland Protection Act and demonstrate compliance with the Massachusetts Stormwater Management Policy as reflected in an Order of Conditions or Request for Determination of Applicability (RDA) issued by the Town of Westport Conservation Commission shall be deemed to be in compliance with this bylaw.

### **20.3 AUTHORITY**

This stormwater site plan review bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution, G.L. c.40 and G.L. c.40A, and the Federal Clean Water Act and applicable regulations, including 40 CFR 122.34.

### **20.4 RESPONSIBILITY**

The Planning Board shall administer, implement and enforce this bylaw. The Planning Board may distribute plans to other boards, commissions, departments, and outside technical and legal consultants and agencies for their review and recommendations.

### **20.5 DESIGN STANDARDS**

The applicant shall submit a plan to the Planning Board that illustrates how the following LID site design standards were utilized to the maximum extent feasible and explains any site and financial constraints which limited application of items 1 through 10 below and how items 11 and 12 were considered for implementation:

**20.5.1** Preservation of the site's natural features and environmentally sensitive areas such as wetlands, existing vegetation, slopes, drainage ways, permeable soils, flood plains, woodlands and soils to the greatest extent possible;

**20.5.2** Minimization of grading and clearing;

**20.5.3** Clustering of buildings and a reduction in size of building footprints;

**20.5.4** Use of stormwater management components that provide filtration, treatment and infiltration such as vegetated areas that slow down runoff; maximizing infiltration and reducing contact with paved surfaces;

**20.5.5** Creation of subwatersheds to treat and micromanage runoff in smaller, decentralized, innovative stormwater management techniques to treat and recharge stormwater close to the source;

**20.5.6** Lengthen flow paths and maximize sheet flow;

- 20.5.7** Emphasis on simple, nonstructural, innovative, low-cost methods including open drainage systems, recharging of roof runoff, parking areas and/or roadways, to recharge on site as close to the source as possible.
- 20.5.8** A maintenance program including information on regular street and parking lot sweeping shall be provided to the Planning Board for approval;
- 20.5.9** Reduction of impervious surfaces wherever possible through alternative street design, such as omission of curbs and use of narrower streets, the use of porous pavement or permeable pavers, shared driveways and through the use of shared parking areas;
- 20.5.10** Reduction of the heat island effect;
- 20.5.11** Use of vegetation in buffer strips and in rain gardens (small planted depressions that can trap and filter runoff);
- 20.5.12.** Techniques integrated into every part of site design to create a hydrologically functional lot or development site, including but not limited to the following:
- A.** Grass swales along roads;
  - B.** Rain gardens;
  - C.** Buffer areas;
  - D.** Use of roof gardens where practicable;
  - E.** Use of amended soils that will store, filter and infiltrate runoff;
  - F.** Bioretention areas;
  - G.** Use of rain barrels and other cisterns to provide additional stormwater storage;
  - H.** Use of permeable pavement and/or pavers in driveways, overflow parking, outside sales areas, etc.
  - I.** Use of native plants and grasses

**20.6 LID PLAN CONTENTS**

The LID Management Plan shall contain sufficient information for the Planning Board to evaluate the environmental impact, effectiveness, and acceptability of the site planning process and the measures proposed by the applicant for reducing adverse impacts from stormwater runoff. This plan shall be in accordance with the criteria established in these Bylaws and must be submitted with the stamp and signature of a Professional Engineer

(PE) licensed in the Commonwealth of Massachusetts. The LID Management Plan shall fully describe the project in drawings, narrative, and calculations. It shall include:

- 20.6.1** Contact Information. The name, address, and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected;
- 20.6.2** A locus map;
- 20.6.3** Existing site plan (for comparison to 20.6.15 below);
- 20.6.4** The existing zoning, and land use at the site;
- 20.6.5** The proposed land use;
- 20.6.6** The location(s) of existing and proposed easements;
- 20.6.7** The location of existing and proposed utilities;
- 20.6.8** The site's existing & proposed topography with contours at 2-foot intervals,
- 20.6.9** The existing site hydrology (both groundwater recharge and surface runoff);
- 20.6.10** A description and delineation of existing stormwater conveyances, impoundments, wetlands, drinking water resource areas, shellfishing areas, swimming beaches or other critical environmental resource areas, on or adjacent to the site or into which stormwater flows;
- 20.6.11** A delineation of 100-year flood plains, if applicable;
- 20.6.12** Estimated seasonal high groundwater elevation in areas to be used for stormwater retention, detention, or infiltration;
- 20.6.13** The existing and proposed vegetation and ground surfaces with runoff coefficients for each;
- 20.6.14** A drainage area map showing pre and post construction watershed boundaries, drainage area and stormwater flow paths, including municipal drainage system flows;
- 20.6.15** A recharge area analysis that calculates pre-and post-project annual groundwater recharge rates on the parcel;
- 20.6.16** A description and drawings of all components of the proposed LID Management system including:

- A. Locations, cross sections, and profiles of all brooks, streams, drainage swales and their method of stabilization;
- B. All measures for the detention, retention or infiltration of water;
- C. Description of non-structural BMPs;
- D. All measures for the protection of water quality;
- E. The structural details for all components of the proposed drainage systems and LID Management facilities;
- F. Notes on drawings specifying materials to be used, construction specifications, and expected hydrology with supporting calculations;
- G. Proposed site plan including location of buildings or other structures, impervious surfaces, and drainage facilities, if applicable;
- H. Any other information requested by the Planning Board.

**20.6.17**

Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in this Bylaw. Such calculations shall include:

- A. Description of the design storm frequency, intensity and duration;
- B. Time of concentration;
- C. Soil Runoff Curve Number (RCN) based on land use and soil hydrologic group;
- D. Peak runoff rates and total runoff volumes for each watershed area;
- E. Information on construction measures used to maintain the infiltration capacity of the soil where any kind of infiltration is proposed;
- F. Infiltration rates, where applicable;
- G. Culvert capacities;
- H. Flow velocities;
- I. Data on the increase in rate and volume of runoff for the specified design storms; and

J. Documentation of sources for all computation methods and field test results.

**20.6.18** Post-Development downstream analysis if deemed necessary by the Planning Board;

**20.6.19** Soils Information from test pits performed at the location of proposed LID Management facilities, including but not limited to soil descriptions, depth to seasonal high groundwater, depth to bedrock, and percolation rates. Soils information will be based on site test pits logged by a Massachusetts Registered Soil Evaluator, or a Massachusetts Registered Professional Engineer;

**20.6.20** Landscaping plan describing the woody and herbaceous vegetative stabilization and management techniques to be used within and adjacent to the stormwater practice.

## **20.7 OWNERS ASSOCIATION**

As a condition of approval of a LID Management Plan the Applicant shall create and properly fund an Owners Association and all purchasers of land within the project shall be required to belong to the Owners Association. The Owners Association shall be responsible for the perpetual operations and maintenance of the components of the approved LID management Plan. The Owners Association shall maintain permanent ownership of any drainage basins or ponds in the subdivision, including all pipes and other appurtenant devices, and shall have the permanent responsibility of maintaining, repairing and replacing said drainage systems, as necessary. The Owners Association documents shall be reviewed and approved by the Planning Board, in consultation with Town Counsel, and the Owners Association shall have an initial fund that is deemed satisfactory to the Planning Board, in consultation with the Planning Board's technical consultant. The Owners Association shall send correspondence to all members of the Association twice a year, once during March and once during September, to advise each member of the Association's duties and responsibilities to: (1) operate and maintain the components of the approved LID management Plan; and (2) maintain, repair and replace the drainage systems. At the same time, the Owners Association shall provide a written reminder to each individual member to maintain any portion of the systems on each member's property, including the mowing and clearing of drainage swales and berms.

## **20.8 CONNECTIONS TO MUNICIPAL SYSTEMS**

There shall be no connections to the Town of Westport Municipal Storm Drain Systems (MS4)

## **20.9 PROMULGATION OF RULES AND REGULATIONS**

The Planning Board may promulgate rules and regulations to effectuate the purpose of this bylaw. Failure by the Planning Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

## **20.10 INSPECTIONS, SUBMISSION OF FINAL PLANS, MAINTENANCE**

- 20.10.1** The Planning Board, or designated agent, shall make inspections as hereinafter required and either shall approve that portion of the work completed in accordance with the approved plans or shall notify the owner or person responsible for the implementation of the plans wherein the work fails to comply with the approved soil erosion and sediment control plan, or the approved stormwater management plan as described in Planning Board's Rules and Regulations. Plans for grading, removal, stripping, excavating, and filling work approved by the Planning Board and shall be stored on site during the progress of the work. To obtain inspections, the permittee shall notify the Planning Board agent at least two working days before each of the following:
- A.** Installation of sediment and erosion control measures.
  - B.** Start of construction.
  - C.** Completion of site clearing.
  - D.** Completion of rough grading.
  - E.** Installation of stormwater controls.
  - F.** Close of the construction season.
  - G.** Completion of final landscaping.
- 20.10.2** The person responsible for the implementation of the approved plans shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved soil erosion and sediment control plan(s). The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be documented in written form and submitted to the Planning Board Agent at the time interval specified in the approved permit.
- 20.10.3** The Planning Board, or designated agent, shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed as noted above.
- 20.10.4** The applicant shall submit an "as-built" plan for the stormwater controls after the final construction is completed. The plan must show the final design and specifications of all stormwater management systems and must be prepared by a professional land surveyor.
- 20.10.5** An Operation and Maintenance plan (O&M Plan) is required at the time of application for all projects. The maintenance plan shall be designed to

ensure compliance with the Permit and this Bylaw during all seasons and throughout the life of the system. The Operation and Maintenance Plan shall remain on file with the Planning Board and shall be an ongoing and enforceable requirement. The O&M Plan shall include:

- A.** The name(s) of the owner(s) for all components of the system;
- B.** A map showing the location of the systems and facilities including catch basins, manholes/access lids, main, and stormwater devices;
- C.** Maintenance agreements that specify:
  - a.** The names and addresses of the person(s) responsible for operation and maintenance;
  - b.** The person(s) responsible for financing maintenance and emergency repairs;
  - c.** An Inspection and Maintenance Schedule for all LID Management facilities including routine and non-routine maintenance tasks to be performed;
  - d.** A list of easements with the purpose and location of each;
  - e.** The signature(s) of the owner(s).
- D.** LID Management Easement(s)
  - a.** LID Management easements shall be provided by the property owner(s) as necessary for:
    - 1.** Access for facility inspections and maintenance;
    - 2.** Preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100-year storm event;
    - 3.** Direct maintenance access by heavy equipment to structures requiring regular maintenance.
  - b.** The purpose of each easement shall be specified in the maintenance agreement signed by the property owner.
  - c.** Stormwater Management easements are required for all areas used for off-site stormwater control, unless a waiver is granted by the Planning Board.

- d. Easements shall be recorded with the County Registry of Deeds prior to issuance of a Certificate of Completion by the Planning Board.

**E. Changes to Operation and Maintenance Plans**

- a. The owner(s) of the LID Management system shall notify the Planning Board of changes in ownership or assignment of financial responsibility.
- b. The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of this Bylaw by mutual agreement of the Planning Board and the Responsible Parties. Amendments shall be in writing and signed by all Responsible Parties. Responsible Parties shall include owner(s), persons with financial responsibility, and persons with operational responsibility.

**20.11 PROJECT CHANGE**

The permittee, or his or her agent, shall notify the Planning Board in writing of any change or alteration of a land-disturbing activity authorized in either the soil erosion and sediment control plan or the stormwater management plan before any change or alteration occurs. If the Planning Board determines that the change or alteration is significant, based on the design requirements listed in this bylaw and accepted construction practices, the Planning Board may require that an amended soil erosion and sediment control plan and/or stormwater management plan application be filed. If any change or deviation from these plans occurs during a project, the Planning Board may require the installation of interim measures before approving the change.

**20.12 FEES**

The appropriate application fee as established by the Planning Board shall accompany each application. Applicants shall pay review fees, as determined by the Planning Board, sufficient to cover any expenses connected with any public hearing, review of the soil erosion and sediment control plan, and site inspection.

**20.13 APPEAL**

The appeal of any decision of the Planning Board hereunder shall be made in accordance with the provisions of Mass. Gen. L. Ch. 40A or other such provision of the General Laws.

and/or take any other action relative thereto.

PLANNING BOARD

**FINANCE COMMITTEE:**

## **ARTICLE 37**

To see if the Town will vote to amend the Westport Zoning By-Laws, **ARTICLE 1, PURPOSE AND DEFINITIONS, Section 1.1, Definitions** by adding additional the following definitions, in appropriate alphabetical order.

**Agriculture** - The normal maintenance or improvement of land in agricultural or aquaculture use as defined by the Massachusetts Wetlands Protection Act and its implementing regulations.

**Alter** - Activities such as demolition, construction, clearing, excavation, grading, filling, and reconstruction that result in a change in the natural cover or topography.

**Applicant** - A property owner or agent of a property owner who has filed an application.

**Biofiltration, Bioretention and/or Rain Garden** - A stormwater treatment practice that uses soils, plants, and microbes to treat storm water before it is infiltrated and/or discharged. Bioretention cells are shallow depressions filled with sandy soil topped with a thick layer of mulch and planted with dense native vegetation.

**Building** - An independent structure having a roof supported by columns or walls, resting on its own foundations and designed for the shelter, housing or enclosure of persons, animals, chattel or property of any kind.

**Detention** - The temporary storage of stormwater runoff in a stormwater management facility with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

**Detention Facility** - A detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

**Developer** - A person who undertakes land disturbance activities.

**Disturbance Of Land** - Any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material. See Land Disturbance Activity

**Easement** - A legal right granted by a landowner to a third party grantee allowing the use of private land for stormwater management purposes.

**First Flush** - Pollutant concentrations, including suspended sediments, carried by storm water in the beginning of a storm. These concentrations are typically higher than at the middle or end of the storm. To determine "first flush", see Water Quality Volume definition.

**Green Roof** - The roof of a building that is partially or completely covered with vegetation and soil, or a growing medium, planted over a waterproofing membrane. A green roof is used to mitigate the effects of urbanization on water quality by filtering, absorbing or detaining rainfall.

**Heat Island Effect** – Built up areas that are hotter than nearby rural areas. Common strategies for reducing the heat island effect are: 1) increasing tree and vegetative cover, 2) installing green roofs 3) installing cool, mainly reflective, roofs, and 4) using cool pavements.

**Hot Spot** - A stormwater hotspot is an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. Infiltration basins should never receive runoff from stormwater hotspots, unless the stormwater has already been fully treated by another stormwater treatment practice. This is due to potential groundwater contamination.

**Impervious Cover** - Those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

**Infiltration** - The flow of water from the ground surface down into the soil.

**Infiltration Facility** - Any structure or device designed to infiltrate retained water to the ground. These facilities may be above grade or below grade.

**Land Disturbance Activity** - Any activity that changes the volume or peak flow discharge rate of rainfall runoff from the land surface, including: grading, digging, capping, scraping, excavating of soil, placement of fill materials, paving construction, substantial removal of vegetation, any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

**Landowner/Owner** - The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding propriety rights in the land.

**Land Uses With Higher Potential Pollutant Loads ("LUHPPL")** - Defined in 310 CMR 10.04 and 314 CMR 9.02 to include the following: Land uses identified in 310 CMR 22.208(2), 310 CMR 22.20C(2)(a-k) and (m), 310 CMR 22.21 (2)(a)(1 -8) and 310 CMR 22.21 (2)(b)(1 -6), areas within a site that are the location of activities that are subject to an individual National Pollutant Discharge Elimination System ("NPDES") permit or the NPDES Multi-Sector General Permit; auto fueling facilities (gas stations); exterior fleet storage areas; exterior vehicle service and equipment cleaning areas; marinas and boatyards; parking lots with high-intensity-use; confined disposal facilities and disposal sites.

**Low Impact Development ("LID")** - A comprehensive land planning and engineering design strategy that emphasizes conservation and use of existing natural site features integrated with distributed small-scale storm water controls to closely mimic natural hydrological patterns.

**Lid Management Plan** - A plan required to be submitted as part of this bylaw.

**Municipal Storm Drain System or 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 Westport.

**Nonpoint (NPS) Source Pollution** - Pollution from any source other than from any discernible, confined, and discrete conduit or waterway, and shall include, but not be limited to, pollutants from agricultural, mining, construction, subsurface disposal and urban runoff sources.

**Permeable, Pervious or Porous Pavement** - is a paved surface with a higher than normal percentage of air voids to allow water to pass through it and infiltrate into the subsoil. Permeable paving techniques include porous asphalt, pervious concrete, paving stones, and manufactured "grass pavers" made of concrete or plastic.

**Recharge** - The replenishment of water to aquifers.

**Redevelopment** - Any construction, alteration, or improvement exceeding one acre in area where existing land use is high-density commercial, industrial, institutional or multi-family residential.

**Resource Area** - Any area protected under the Massachusetts Wetlands Protection Act, Massachusetts Rivers Act, or Westport Conservation Commission regulations.

**Soil Mottling** - Redoximorphic features.

**Start of Construction** - The first land-disturbing activity associated with a development, including but not limited to land preparation such as clearing, grading and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

**Stormdrain System** - The conveyance system, including catchbasins, manholes, pipes and drainage ditches to transport stormwater runoff [usually to a storm water management practice(s)].

**Stormwater Management Plan** - A plan required to be submitted as part of this bylaw.

**Stormwater Management Practice(s)** - Techniques used to control the impacts (flooding, increased volume, and pollution) of stormwater runoff.

**Stormwater Management System** - All components associated with the management of stormwater runoff including the Stormdrain System and the Stormwater Management Practice(s).

**Stormwater Pollution Prevention Plan (SWPPP)**: A plan required under the Environmental Protection Agency's (EPA) NPDES Construction General Permit for projects that disturb one acre or more of land (See DEP Handbook Chapter I, Volume I).

**Stormwater Runoff** - Water resulting from precipitation that flows overland.

**Stormwater Treatment Practices** - Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

**Watercourse** - Any body of water, including, but not limited to, lakes, ponds, rivers and streams.

**Waterway** - A channel, either natural or man-made, that directs surface runoff to a watercourse

or to the public storm drain.

**Water Quality Volume** - the volume generated by the first 1.25 inches of stormwater runoff. This first inch of runoff carries the majority of accumulated pollutants from impervious surfaces. The first flush volume in cubic feet (VwQ) is determined by the following formula:

$$VWQ = (1.25/12 \text{ inches}) (RwQv) (\text{Site Area in square feet});$$

Where:  $RwQv = 0.05 + 0.009(I)$ ;  
I = the % impervious area.

and/or take any other action relative thereto.

PLANNING BOARD

**FINANCE COMMITTEE:**

**ARTICLE 38**

To see if the Town will vote to amend the Westport Zoning By-Laws by adding **ARTICLE 21, DRIVEWAYS AND COMMON DRIVEWAYS:**

**ARTICLE 21**

**DRIVEWAYS AND COMMON DRIVEWAYS**

**21.1 INTRODUCTION**

In an effort to preserve, protect and enhance environmentally sensitive land that might otherwise be cleared, excavated, filled and/or covered with impervious surface this bylaw seeks to minimize negative impacts on community character and improve safety and emergency access. Common driveways may be allowed by Special Permit granted by the Planning Board in accordance with the provisions of this section. A Special Permit will not be required when the common driveway is approved as part of the definitive subdivision process. For existing common driveways: a Special Permit shall be required when alterations are proposed to the common driveway.

**21.2 PURPOSE**

The purpose of allowing access to no more than two (2) lots in any zoning district, except in an Open Space Residential Development, over a common driveway is:

- 21.2.1** To enhance public safety by reducing the number and frequency of points at which vehicles may enter upon the ways used by the public;
- 21.2.2** To preserve, protect, and enhance environmentally sensitive land, such as well discharge areas, wetlands and flood plains, by reducing the area of land that is cleared, excavated, filled and/or covered with impervious material;

**21.2.3** To encourage the protection and preservation of significant features and vistas.

**21.3 APPLICABILITY AND REQUIREMENTS**

The Planning Board may grant a Special Permit for a Common Driveways that serves no more than two (2) lots, provided that each lot shall have the required frontage on a public way or a way approved by the Planning Board. An application for a special permit shall include a site plan prepared by a registered engineer and registered land surveyor that provides satisfactory evidence that such Driveway or Common Driveway meets the following requirements:

**21.3.1** The common portion of the common driveway shall not be in excess of five hundred (500) feet in length or as allowed by the Rules and Regulations;

**21.3.2** Driveway/Curb Cut Spacing: Separation between access connections on all collectors and arterials shall be based on the posted speed limit in accordance with the following table:

<u>Posted Speed Limit (MPH)</u>	<u>Access Connection Spacing (Feet)</u>
20	85
25	105
30	125
35	150
40	185
45	230
50	275

**21.3.3** The integrity of the edge of the public roadway pavement shall be protected and stormwater, sand, silt, mulch, and other debris shall be kept off of the road and out of town drainage systems.

**21.3.4** Upon completion of the project, the applicant shall insure that the edge of the paved road is supported and not undermined. Any construction damage to the edge of town road shall be repaired by the applicant.

**21.3.5** The radius of the driveway at the intersection of the street shall be designed to accommodate public safety & emergency vehicles.

**21.3.6** Compliance with Emergency 911 requirements shall be maintained by the lots served by the common driveway. Permanent signs indicating the street number address assigned to each lot served by the common driveway shall be installed within ten (10) feet of the intersection of the common driveway with the street, as well as within ten (10) feet of the intersection of an individual lot driveway with the common driveway.

Numbered signs shall be placed in a manner so that they shall not be blocked during heavy snow pack;

- 21.3.7** The common driveway shall access the property over the frontage of either or both of the lots served by the driveway;
- 21.3.8** The applicant shall provide evidence to the Planning Board that the owners of the properties to be served by the common driveway have a deeded right to the common portions of the common driveway;
- 21.3.9** The common driveway shall meet the Secondary Road standard found in Table A of the Planning Board's Subdivision Rules & Regulations. The traveled way width requirement shall apply only to that portion of a driveway, which is used in common by more than one (1) lot. The maximum grade shall be 10%. The minimum grade shall be 1%, with a 3% maximum grade within fifty (50) feet of its intersection with a street right of way. The driveway right-of-way (or easement for a single driveway) shall be calculated as the width of the traveled way, plus 4' on either side, or at least 20' for a common driveway.
- 21.3.10** No common driveway shall be accepted as a public road nor shall the Town under any circumstances be held liable for construction, reconstruction, maintenance, or snow removal on any common driveway.
- 21.3.11** The presence of a common driveway accessing an undevelopable lot does not imply that the lot is buildable.
- 21.3.12** A lot may be served by a common driveway only if the ownership of the lot provides mandatory membership in an owners' association responsible for annual and long term maintenance, including, but not limited to, removal of ice and snow from the common drive. The plan shall identify all land that is to be held and administered by the mandatory owners' association. It shall bear restrictions satisfactory to the Planning Board and the Town Counsel, to run with the land, restricting the way shown to remain private property and not to be extended, and any other restrictions and easements that are required for common driveway development by these by-laws. It shall incorporate by reference the document(s), satisfactory to the Planning Board and the Town Counsel, creating the mandatory owners' association and setting forth restrictive covenants and easements binding present and future owners of all the lots served by the common driveway. Such document(s) shall include, at a minimum the following:
- a.** Specific standards for the maintenance of all structures designed to be requirements of a common driveway Special Permit, including, but not limited to, the travel way, drainage system, and signage;
  - b.** Provisions for allocating responsibility for snow removal,

maintenance, repair, or reconstruction of the common driveway, drainage system, and signage;

- c. Text of proposed easement including the metes and bounds description;
- d. A procedure for the resolution of disagreements. Said document(s) shall be recorded along with the site plan and public utility and drainage easements in the Bristol County Registry of Deeds and shall also be recited in and attached to every deed to every lot served by the common driveway.

#### **21.4 ADOPTION OF RULES AND REGULATIONS**

The Planning Board shall adopt an application form and rules and regulations in accordance with the provisions of this by-law. Rules and regulations shall specify the application process, type and number of required plans, and general requirements in order to assist the developer in complying with the intent of this by-law. Pursuant to M.G.L. Chapter 44, Section 53G, the Planning Board may accept and expend funds to engage peer review services, including engineering and legal services.

#### **21.5 FEES AND CONCURRENT HEARING PROCESS**

The appropriate application fee as established by the Planning Board must accompany each application. Applicants shall pay review fees, as determined by the Planning Board, sufficient to cover any expenses connected with any public hearing and review of the plan.

#### **21.6 WAIVER OF COMPLIANCE**

The Planning Board, under this section, may waive strict compliance with dimensional requirements (for length and width) of this section, where such action is in the public interest and not inconsistent with the purpose and intent of the Zoning Act or this section.

#### **21.7 APPEAL**

The appeal of any decision of the Planning Board hereunder shall be made in accordance with the provisions of Mass. Gen. L. Ch. 40A, §17 or other such provision of the General Laws.

#### **21.8 VALIDITY**

The invalidity of any section or provision of this by-law shall not invalidate any other section or provision thereof.  
and/or take any other action relative thereto.

PLANNING BOARD

**FINANCE COMMITTEE:**

**ARTICLE 39**

To see if the Town will vote to amend the Westport Zoning By-Laws **ARTICLE 11, ASSISTED AND INDEPENDENT LIVING FACILITIES, Section 11.5.8 “Stormwater Management”** by deleting:

**11.5.8 Stormwater Management**

Drainage provisions shall be provided to ensure compliance with all local, state and federal requirements regarding stormwater management and shall be subject to review by the Planning Board's engineering consultant at the expense of the applicant. Drainage shall be designed so that the rate of run-off shall not be increased, groundwater recharge is maximized, surface and ground water quality is maintained or improved, and neighboring properties will not be adversely affected. The Board may require that existing drainage problems on/or adjacent to the site be mitigated as a condition of approval of the special permit under this section. Drainage facilities are not allowed in the required open space areas.

and replacing it with:

**11.5.8 Stormwater Management**

Drainage provisions shall be provided to ensure compliance with all local, state and federal requirements regarding stormwater management including; Article 20, Low Impact Development and the Board of Health’s Stormwater Quality and Quantity Control Regulations dated April 15, 2009 effective on August 1, 2009 or as amended and shall be subject to review by the Planning Board’s engineering consultant at the expense of the applicant. Drainage shall be designed so that the rate of run-off shall not be increased, groundwater recharge is maximized, surface and ground water quality is maintained or improved, and neighboring properties will not be adversely affected. The Board may require that existing drainage problems on/or adjacent to the site be mitigated as a condition of approval of the special permit under this section. Drainage facilities shall not be allowed in the required open space areas.

and/or take any other action relative thereto

PLANNING BOARD

**FINANCE COMMITTEE:**

**ARTICLE 40**

To see if the Town will vote to amend the Westport Zoning By-Laws, **ARTICLE 15, SITE PLAN APPROVAL, 15.4 Performance Standards**, by deleting:

- 12.** Ensure compliance with the provisions of this Zoning Ordinance including, but not limited to, parking, loading, and signage.

and replacing it with:

12. Ensure compliance with the provisions of the Board of Health Regulations for Stormwater Quality and Quantity Control Regulations and this Zoning Ordinance including but limited to, Low Impact Development Regulations, stormwater management, parking, loading and signage.

and/or take any other action relative thereto.

PLANNING BOARD

**FINANCE COMMITTEE:**

**ARTICLE 41**

To see if the Town will vote to amend the Westport Zoning By-Laws, **ARTICLE 13, INCLUSIONARY HOUSING** by deleting:

- 13.2.3** **Exemption:** The provisions of Article 13.3.1 hereof shall not apply to the construction of ten (10) or more single-family dwelling units on individual lots, if said ten (10) or more lots were in existence prior to June 1, 2005 nor to Assisted and Independent Living Facilities.

and replacing it with:

- 13.2.3** **Exemption:** The provisions of Article 13.3 hereof shall not apply to the construction of ten (10) or more single-family dwelling units on individual lots, if said ten (10) or more lots were in existence prior to June 1, 2005 nor to Assisted and Independent Living Facilities.

and/or take any other action relative thereto.

PLANNING BOARD

**FINANCE COMMITTEE:**

**ARTICLE 42**

To see if the Town will vote to amend the Personnel By-Laws by deleting in its entirety **SECTION 5. COMPENSATION PLAN, SUB-SECTION E., SCHEDULE A.** and replacing it with:

**SECTION 5. COMPENSATION PLAN**

**E. SCHEDULE A**

<u>Department/Position</u>	<u>Group</u>	<u>Hours</u>	<u>Pay Basis</u>	<u>Type</u>
<b>BOARD OF APPEALS</b>				
Principal Clerk	2	-20	Hourly	PT

**BOARD OF ASSESSORS**

Assistant Assessor/Appraiser	1	R	Salary	FT
Office Manager	2	35	K-A	FT
Principal Clerk	2	35	K-A	FT
Senior Clerk	2	35	K-A	FT
Clerk	2	35	K-A	FT

**BOARD OF HEALTH**

Senior Health Agent	6	40	K-A	FT
Health Agent	6	40	K-A	FT
Health Agent	6	30	K-A	PT
Assistant Agent/Operator	6	40	K-A	FT
Public Health-Nurse	6	30	Hourly	PT
Animal Control Officer	6	R	Salary	PT
Principal Clerk	2	35	K-A	FT
Senior Clerk	2	35	K-A	FT
Recycling Monitor/Agent Operator	4	40	K-A	FT
Sanitary Landfill Worker	4	40	K-A	FT
Recording Clerk	2	-20	Hourly	PT

**BOARD OF SELECTMEN**

Town Administrator	1	R	Salary	FT
Secretary	2	40	Hourly	FT
Confidential Clerk	2	40	Hourly	FT
Floating Clerk	2	+20	K-A	PT
Data Processing Coordinator	1	R	Salary	PT
Grant Program Manager/Writer	2	40	Hourly	FT
Grant Clerk	2	-20	Hourly	PT
Housing Rehab Specialist	2	N	Hourly	PT

**BOARD OF SELECTMEN/INSPECTORS**

Clerk	2	+20	K-A	PT
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**BUILDING**

Inspector/Zoning Enforcement Officer	7c	40	Salary	FT
Local Inspector	7c	40	K-A	FT
Principal Clerk	2	35	K-A	FT
Senior Clerk	2	30	K-A	PT
Gas/Plumbing Inspector	7c	R	Per Inspection	PT
Assistant Gas/Plumbing Inspector	7c	R	Per Inspection	PT
Wire Inspector	7c	R	Per Inspection	PT
Assistant Wire Inspector	7c	N	Per Inspection	PT

**CABLE ADVISORY**

Public Access Coordinator	2	35	Hourly	FT
Public Access Coordinator	2	-20	Hourly	PT
Public Access Equipment Operator	2	-20	Hourly	PT

**CEMETERY**

Working Foreman	4	40	K-A	FT
Laborer	4	40	K-A	FT
Laborer	4	N	Hourly	S

**COMMUNITY PRESERVATION COMMITTEE**

Recording Clerk	2	-20	Hourly	PT
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**CONSERVATION COMMISSION/SOIL CONSERVATION BOARD**

Agent	7c	40	K-A	FT
Assistant Agent	2	-20	Hourly	PT
Principal Clerk	2	35	K-A	FT

**COUNCIL ON AGING**

Director	1	40	Salary	FT
Principal Clerk	2	40	K-A	FT
Outreach Worker	2	-20	Hourly	PT
Social Day Care Director	2	24	Hourly	PT
Assistant Social Day Care Director	2	-20	Hourly	PT
Elder Visitor	2	-20	Hourly	PT
Volunteer Coordinator	2	-20	Hourly	PT
Van Driver	4	-20	Hourly	PT
Transportation Clerk	2	-20	Hourly	PT

**CUSTODIAL/MAINTENANCE**

Town Hall/Annex/Police Station Principal Maintenance Specialist	3	40	K-A	FT
Town Hall/Annex/Police Station Maintenance Specialist	3	40	K-A	FT
Library/Senior Center Maintenance Specialist	3	40	K-A	FT

**FINANCE COMMITTEE**

Recording Clerk	2	-20	Hourly	PT
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**FIRE DEPARTMENT**

Chief	1	R	Salary	FT
Deputy Chief	1	R	Salary	FT
Captain	7b	42	K-D	FT
Lieutenant	7b	42	K-D	FT
Firefighter	7b	42	K-D	FT
Administrative Assistant	2	35	Hourly	FT
Principal Clerk	2	35	K-A	FT
Dispatcher	7b	N	Hourly	PT
Call Firefighter	7b	N	Hourly	PT
Call Firefighter/EMT	7b	N	Hourly	PT
Call Firefighter/Paramedic	7b	N	Hourly	PT

**HARBORMASTER**

Harbormaster	7c	R	Salary	PT
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Assistant Harbormaster	7c	N	Hourly	PT
<b>HIGHWAY DEPARTMENT</b>				
Working Foreman	4	40	K-B	FT
Clerk	2	40	K-B	FT
Skilled Laborer/Truck Driver	4	40	K-B	FT
Skilled Laborer/Light Truck Driver	4	40	K-B	FT
Special Equipment Operator	4	40	K-B	FT
Temporary Laborer/Truck Driver	4	N	Hourly	S
<b>LANDING COMMISSION</b>				
Recording Clerk	2	-20	Hourly	PT
<b>LIBRARY</b>				
Director	1	R	Salary	FT
Assistant Director/ Children's Librarian	5	35	K-A	FT
Principal Clerk	5	+20	K-A	PT
Library Aide	5	-20	Hourly	PT
Library Substitute	5	-20	Hourly	PT
<b>PERSONNEL BOARD</b>				
Clerk	2	N	Hourly	PT
<b>PLANNING BOARD</b>				
Town Planner	1	R	Salary	FT
Assistant Town Planner	2	40	Salary	FT
Principal Clerk	2	35	K-A	FT
<b>POLICE DEPARTMENT</b>				
Chief	1	R	Salary	FT
Deputy Chief	1	R	Salary	FT
Lieutenant	7a	37.3	K-C	FT
Sergeant	7a	37.3	K-C	FT
Detective	7a	37.3	K-C	FT
Patrolman	7a	37.3	K-C	FT
Administrative Assistant	2	35	Hourly	FT
Reserve Officer	7a	N	Hourly	PT
Dispatcher	2	35	K-A	FT
E-911 Dispatcher	2	37.5	K-A	FT
E-911 Dispatcher	2	-20	Hourly	PT
<b>REGISTRAR OF VOTERS</b>				
Assistant Registrar	2	+20	K-A	F T
Registrar Clerk	2	N	Hourly	PT-S
<b>SEALER OF WEIGHTS &amp; MEASURES</b>				
	7c	R	Salary	PT

**SHELLFISH**

Constable/Wharfinger	1	R	Salary	FT
Deputy Constable	7c	N	Hourly	PT

**TAX COLLECTOR**

Assistant Collector	2	35	K-A	FT
Principal Clerk	2	35	K-A	FT
Clerk	2	N	Hourly	PT-S

**TOWN ACCOUNTANT**

Accountant	1	R	Salary	FT
Assistant Town Accountant	2	35	K-A	FT

**TOWN BEACH**

Head Lifeguard	8	40	Hourly	S
Lifeguard	8	40	Hourly	S
Lifeguard	8	-20	Hourly	S

**TOWN CLERK**

Assistant Town Clerk	2	35	K-A	FT
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**TOWN TREASURER**

Assistant Treasurer	2	35	K-A	FT
Principal Clerk	2	35	K-A	FT
Senior Clerk	2	+20	K-A	PT

**VETERANS SERVICES**

Agent	1	R	Salary	FT
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**\*NOTE:** Employees covered by Union Contracts are included in this schedule for informational purposes only. The provisions of these By-Laws do not pertain to such employees, except where clarification is needed.

BOARD OF SELECTMEN/PERSONNEL BOARD

**FINANCE COMMITTEE:****ARTICLE 43**

To see if the Town will vote to revoke Article 20 of the April 2001 Annual Town Meeting and the March 11, 2002 Town Election, which was as follows:

To see if the Town will vote to accept Sections 3 to 7, inclusive, of Chapter 44B of the General Laws, otherwise known as the Massachusetts Community Preservation Act, by approving a surcharge on real property for the purposes permitted by said Act, including the acquisition, creation and preservation of open space, the acquisition and preservation of historic resources, the acquisition, creation and preservation of land for recreational use, the creation, preservation and support of community housing, and the rehabilitation and restoration of such open space, historic resources, land for recreational use and community housing that is acquired or created as provided under such Act, to determine the amount of such surcharge on real property as a

percentage of not more than three percent of the annual real estate tax levy against real property, such surcharge to be imposed on taxes assessed for fiscal years beginning on or after July 1, 2002; to determine whether the Town will accept any of the exemptions from such surcharge permitted under Section 3(e) of said Act; and/or take any other action relative thereto.

BY PETITION

**FINANCE COMMITTEE:**

**ARTICLE 44**

To see if the Town will vote against the Board of Selectmen to petition the Federal Government to designate the Westport Rivers/River as a component of the national Wild and Scenic Rivers System in accordance with an initiative of the Westport Rivers Watershed Alliance and others, and/or take any other action relative thereto.

BY PETITION

**FINANCE COMMITTEE:**

**ARTICLE 45**

To see if the Town will vote to accept the layout as a public way of Morning Dove Drive, a copy of which is on file in the office of the Town Clerk, and authorize the Board of Selectmen to acquire by gift, purchase or eminent domain, land or rights in land within said way as so laid out, for all purposes for which public ways are used in the Town of Westport, and/or take any other action relative thereto.

BY PETITION/PLANNING BOARD

**FINANCE COMMITTEE:**

**ARTICLE 46**

To see if the Town will vote to accept the layout as a public way of Chestnut Hill Drive, a copy of which is on file in the office of the Town Clerk, and authorize the Board of Selectmen to acquire by gift, purchase or eminent domain, land or rights in land within said way as so laid out, for all purposes for which public ways are used in the Town of Westport, and/or take any other action relative thereto.

BY PETITION

**FINANCE COMMITTEE:**

**ARTICLE 47**

To see if the Town will vote to accept the layout as a public way of Brushwood Circle, a copy of which is on file in the office of the Town Clerk, and authorize the Board of Selectmen to acquire by gift, purchase or eminent domain, land or rights in land within said way as so laid out, for all purposes for which public ways are used in the Town of Westport, and/or take any other action relative thereto.

BY PETITION

**FINANCE COMMITTEE:**

**ARTICLE 48**

To see if the Town will vote to raise and appropriate and/or transfer from available funds a sum of money to the Stabilization Fund and/or take any other action relative thereto.

BOARD OF SELECTMEN/FINANCE COMMITTEE

**FINANCE COMMITTEE:**

**ARTICLE 49**

To see if the Town will vote to raise and appropriate and/or transfer from available funds and/or transfer from various line items within the current appropriations such sums of money necessary to supplement the budgets of various departments for the fiscal year beginning July 1, 2010, and/or take any other action relative thereto.

BOARD OF SELECTMEN

<b><u>FROM:</u></b>	<b><u>TO:</u></b>	<b><u>AMOUNT</u></b>
Highway Department Personal Services	Highway Department Expenses	\$ 12,000.00
Free Cash	Veteran’s Benefits	\$ 30,000.00
Water Enterprise Capital Outlay	Water Enterprise Expenses	\$ 5,000.00
Water Enterprise Personal Services	Water Enterprise Expenses	\$ 2,600.00
Water Enterprise Retained Earnings	Water Enterprise Expenses	\$ 20,000.00
Town Hall Personal Services	Town Hall Expenses	\$ 6,000.00
Board of Assessors Personal Services	Board of Assessors Expenses	\$ 1,000.00

**FINANCE COMMITTEE:**

**ARTICLE 50**

To see if the Town will vote to raise and appropriate and/or transfer from available funds such sums of money necessary for the purpose of paying outstanding bills from prior fiscal years, and/or take any other action relative thereto.

BOARD OF SELECTMEN

Frank Corp. Environmental Services	\$ 1,955.86
Kopelman and Paige, P.C.	\$24,575.93 (FY09)
Kopelman and Paige, P.C.	\$51,437.35 (FY10)

**FINANCE COMMITTEE:**

**ARTICLE 51**

To see if the Town will vote as provided by Section 0503 of Article 5 of the Town By-Laws to authorize the Highway Surveyor to dispose of surplus equipment no longer needed by the Highway Department in accordance with the requirement of G.L. Chapter 30B Section 15 and/or take any other action relative thereto.

BOARD OF SELECTMEN/HIGHWAY SURVEYOR

**FINANCE COMMITTEE:**

**ARTICLE 52**

To see if the Town will vote to rescind the following authorized unissued borrowing:

<u>Article</u>	<u>Date</u>	<u>Description</u>	<u>Amount</u>
31	5/6/08	Fire Station	\$950,000.00

and/or take any other action relative thereto.

BOARD OF SELECTMEN

**FINANCE COMMITTEE:**