



TOWN OF UPTON, MASSACHUSETTS

Annual Town Meeting 2 May 2024 Warrant

IN THE NAME OF THE COMMONWEALTH OF MASSACHUSETTS, you are hereby directed to notify and warn the inhabitants of said Town, qualified to vote in Elections and in Town affairs, to meet at said **Nipmuc Regional High School, 90 Pleasant Street, Upton, MA on Thursday, May 2, 2024 punctually at Seven o'clock in the evening**, to act on the Articles in the warrant.

ARTICLE 1: REPORTS OF TOWN OFFICERS AND APPOINTED COMMITTEES

To hear reports of all Town Officers and Appointed Committees, or to take any other action relative thereto.

Explanation/ Submitted by: Town Reports/Select Board

ARTICLE 2: PRIOR YEAR BILLS

To see if the Town will vote to transfer from available funds a sum of monies to pay unpaid bills from prior fiscal years, or to take any other action relative thereto.

Explanation/ Submitted by: Prior Year Bills (FY 2022), (4/5th vote required) /Select Board

ARTICLE 3: FY 2025 Annual Town Operating Budget

To see if the Town will vote to fix the salaries and compensation of all officers of the Town as provided by M.G.L. Chapter 41, §108, and to raise and appropriate or transfer from available funds¹, such sums as may be necessary to defray expenses of the Town Departments for FY 2025, or to take any other action relative thereto.

Explanation/ Submitted by: Annual Town Operating Budget/Select Board

ARTICLE 4: FY 2025 WATER ENTERPRISE FUND

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to operate the Water Enterprise Fund as set forth below for FY 2025, or to take any other action relative thereto.

That the following sums be appropriated for the Water Enterprise Fund:

Wages & Salaries	\$367,302
Expenses	\$363,707
Capital Outlay	0
Debt	\$233,534
Extra/Unforeseen	50,000
Total	\$1,014,543

¹ Note that this warrant uses the words "transfer from available funds" to refer to transfers from Free Cash (previously described as "appropriate from available unappropriated funds in the Town Treasury") and/or transfers from appropriations made at prior Town Meetings (previously described as "transfer").

And that **\$1,014,543** be raised for such purposes as follows:

Department receipts	\$897,776
Retained Earnings	-0-
*Tax Levy	\$116,767

*(NOTE: As raised and appropriated under Article 3)

Explanation/ Submitted by: Annual budget for Water Enterprise Fund/Select Board

ARTICLE 5: FY 2025 WASTEWATER ENTERPRISE FUND

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to operate the Wastewater Enterprise Fund as set forth below for FY 2025, or to take any other action relative thereto.

That the following sums be appropriated for the Wastewater Enterprise Fund:

Wage & Salaries	\$358,297
Expenses	\$350,194
Capital Outlay	-0-
Debt	\$17,820
Extra/Unforeseen	\$30,000
Total	\$756,311

And that **\$756,311** be raised for such purposes as follows:

Department receipts	\$ 756,311
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Explanation/ Submitted by: Annual budget for Wastewater Enterprise Fund/Select Board

ARTICLE 6: FY 2025 REVOLVING FUNDS SPENDING LIMITS

To see if the Town will vote to establish an annual spending limit for FY 2025 for the “Upton Community Center Revolving Fund,” and to approve annual spending limits for FY 2025 for all other revolving funds, established in Chapter 36, Section 36-14, of the General Bylaws, in accordance with G.L. Chapter 44, §53E ½, and for the Treasurer/Collector Tax Title Revolving Fund, in accordance with M.G.L. Chapter 60, §15B, with such expenditure limits to be applicable for each fiscal year until such time as Town Meeting votes, prior to July 1 in any year, to increase the same for the ensuing fiscal year; provided, however, that at the request of the entity authorized to expend such funds, the Select Board, with the approval of the Finance Committee, may increase such limit, for that fiscal year only, all as set forth below, or to take any other action relative thereto:

Authorized Revolving Funds (G.L. c.44, §53E ½)	Fiscal Year Expenditure Limit
Upton Community Center Revolving Fund	\$15,000
Board of Health “Curbside Waste and Recycling Fund”	\$15,000
Board of Health “Title V Fund”	\$15,000
Conservation Commission “Wetlands Revolving Fund”	\$20,000

		Fiscal Year Expenditure Limit
Conservation Commission “Storm Water By- Law Fund”		\$7,000
Elder & Social Service Programming		\$10,000
Land Stewardship Committee “Community Garden Fund”		\$2,000
Land Stewardship Committee “Land Stewardship Fund”		\$10,000
Town Library Fund		\$6,000
Recreation Commission		\$270,000
Authorized Revolving Fund (G.L. c.60, §15B)		
Treasurer/Collector Tax Title		\$15,000

Explanation/ Submitted by: To approve spending limits for the various town revolving funds, to be applicable from year to year unless later changed by Town Meeting/Select Board

ARTICLE 7: FY 2025 UPTON CABLE FUND

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money for PEG Access and Cable Related Fund as set forth below for FY 2025, or to take any other action relative thereto.

That the following sums to be appropriated for the Peg Access and Cable Related Fund:

Wage & Salaries	\$44,000
Expenses	\$ 3,200
Capital Outlay	\$20,000
Extra/Unforeseen	\$10,000
Total	\$77,200

And that **\$77,200** to be raised for such purposes as follows:

Department receipts	\$77,200
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Explanation/Submitted by: In November 2019, the town voted to accept the provisions of General Laws Chapter 44, Section 53F 3/4, establishing a special revenue fund known as the PEG Access and Cable Related Fund in order to reserve cable franchise fees and other cable related revenues for appropriation by Town Meeting to support PEG access services and oversight and renewal of the cable franchise agreement. The appropriation request covered part-time cable employee, capital expenses related to the operation of cable access services, and capital improvements to town facilities and meeting rooms to support production and transmission of government meetings, functions, and programming. / Select Board

ARTICLE 8: TRANSFER TO STABILIZATION FUND

To see if the Town will vote to raise and appropriate or transfer from available funds the sum of One Hundred Sixty Thousand dollars (\$160,000), or any other sum, into the Stabilization Fund, or to take any other action relative thereto.

Explanation/ Submitted by: The Government Finance Officers Association recommends that municipalities maintain a stabilization account equal to or greater than two to three months of its operating expense or a minimum of 10%; bond ratings agencies review these ratios as a measure of financial strength;

the Stabilization Account may be used for any legal purpose, including to maintain level services during difficult economic times or to serve as a funding source for important capital projects. The Town has met the 10% minimum that is required. /Finance Committee

ARTICLE 9: TRANSFER TO CAPITAL STABILIZATION FUND

To see if the Town will vote to raise and appropriate or transfer from available funds the sum of Three Hundred Thousand dollars (\$300,000) to be deposited in the Town Capital Acquisition/Capital Improvement Stabilization Fund established by Article 41 of the May 5, 2005 Annual Town Meeting for the purpose of funding any capital-related project, or pieces of capital equipment, or debt service payment related thereto; said fund as authorized by M.G.L. c.40, §5B, or to take any other action relative thereto.

Explanation/ Submitted by: The Town of Upton Financial Policies recommends an annual appropriation to the capital stabilization fund so that over time it achieves a target balance sufficient to cover the Town's cash outlay for capital. To meet that policy and to plan for the current economic environment, \$300,000 from the Undesignated Fund Balance will be added this year. With the passage of this article, the balance in this fund is estimated to be \$505,783.85 as of June 30, 2024. The Town's bond rating is based in part on maintaining a healthy balance in this and other reserve accounts, as well as for adhering to its financial policies. /Finance Committee

ARTICLE 10: TRANSFER TO OTHER POST-EMPLOYMENT BENEFITS (OPEB)

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow the sum of One Hundred Thousand dollars (\$100,000.00), or any other sum, to the Other Post-Employment Benefits Liability Trust Fund established under Article 42 of the 2011 Annual Town Meeting, to meet the Town's obligations under the Government Accounting Standards Board (GASB) Statement 74 & 75 to fund the Town's future obligations for the cost of other post-employment benefits identified by the GASB 74 & 75 Report, or to take any other action relative thereto.

Explanation/ Submitted by: To add monies to the trust fund created to meet the Town's future OPEB obligations/ Select Board

ARTICLE 11: CHAPTER 90 ACCEPTANCE

To see if the Town will vote to accept and expend such sum or sums of money allotted or to be allotted to the Town from the Commonwealth of Massachusetts under the provisions of M.G.L. Chapter 90 or under any other state roadway reimbursement programs for FY 2024, and to authorize the Select Board to enter into a contract or contracts with the Massachusetts Department of Transportation Highway Division for such purposes; and further, to authorize the Treasurer with the approval of the Select Board, to borrow in anticipation of 100% reimbursement of said amounts, or to take any other action relative thereto.

Explanation/ Submitted by: Annual Road repair appropriation from the State /Select Board

ARTICLE 12: ROAD CONSTRUCTION APPROPRIATION

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow, the sum of Six Hundred Thousand dollars (\$600,000), or, any other sum, to be used for the construction and/or improvement of Town Roads to supplement those provided for under the Commonwealth of Massachusetts M.G.L. Chapter 90 Program, including all expenses incidental and related, or to take any other action relative thereto.

Explanation/ Submitted by: To provide for supplemental funding to address road repairs as called for in the Town's pavement management plan. The Town Manager anticipates funding this amount through a combination of free cash and the general fund. /Select Board

ARTICLE 13: FY 2024 SNOW AND ICE DEFICIT APPROPRIATION

To see if the Town will vote to raise and appropriate or transfer from available funds the sum of One Hundred Twenty-Five Thousand dollars (\$125,000), or any other sum, to fund the snow and ice deficit for FY 2024, or to take any other action relative thereto.

Explanation/ Submitted by: This article is to fund additional costs for the removal of snow and ice in Upton/ Select Board

ARTICLE 14: CONSERVATION FUND ADDITIONAL FUNDING

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow the sum of Five Thousand dollars (\$5,000), or any other sum, to supplement the Town's "Conservation Fund", or to take any other action relative thereto.

Explanation/ Submitted by: To provide additional funding for the Town's Conservation Fund /Conservation Commission.

ARTICLE 15 A: COMMUNITY PRESERVATION FUND RESERVE ACCOUNTS

To see if the Town will vote to transfer from the undesignated fund balance of the Community Preservation Fund the following sums to the specified Community Preservation Fund reserve accounts to meet the requirements of M.G.L. Chapter 44B, §6, for FY24:

• Historic Resources Account	\$102,080
• Open Space Account	\$102,080
• Community Housing Account	\$102,080

and to place any remaining FY2024 CPA Trust Fund matching revenues in a so-called "FY2024 Undesignated Budgeted Reserve", or to take any other action relative thereto.

Explanation/ Submitted by: The article requests the transfer of 10% of local and CPA trust fund revenues to the three reserve accounts as required by law. Anticipated local revenue is \$793,163 and CPA trust fund matching grant is \$227,637 for a total of \$1,020,800. We request that \$102,080 be transferred to the Open Space, Historic Preservation and Affordable Housing Reserve Accounts and that the remainder stay in the undesignated fund/Community Preservation Committee.

ARTICLE 15 B: COMMUNITY PRESERVATION ADMINISTRATIVE BUDGET

To see if the Town will vote to act on the report of the Community Preservation Committee on the FY 2025 community preservation budget, and to appropriate the sum of Twenty-Five Thousand dollars (\$25,000), or any other sum, from the Community Preservation Fund FY 2025 estimated annual revenues to the Community Preservation Committee Administrative Expense Account for all necessary and proper administrative expenses of the Committee for FY 2025, or to take any other action relative thereto.

Explanation/ Submitted by: To transfer an amount from estimated annual revenues for the administrative and operating costs of the Community Preservation Committee for FY 2025. /Community Preservation Committee.

ARTICLE 15 C: COMMUNITY PRESERVATION TOWN HALL RENOVATION BONDS

To see if the Town will vote to transfer the total sum of Two Hundred Sixty-Six Thousand and Eight Hundred Forty-One dollars (\$266,841) from the Community Preservation Fund to meet the eleventh-year payment of debt service owed on the General Obligation Town Hall Renovation Bonds, or to take any other action relative thereto.

Explanation/ Submitted by: To make the eleventh-year principal and interest payments (with 9 years remaining) on the Town Hall bonds, to be paid from CPA monies consistent with the Town's vote to authorize the project / Community Preservation Committee

ARTICLE 16: CPC – ACQUISITION OF LAKE WILDWOOD LAND

To see if the Town will vote to authorize the Select Board to acquire by gift, purchase, eminent domain or otherwise for conservation and passive recreation purposes the fee interest in 47 acres, more or less, located off Dairy Drive, and described on Upton Assessors Map 014, Parcels 015, 019, and 021, and Map 019, Parcel 095.01, and Grafton Assessors Map 119, Parcel 0002, to be held in the care and custody of the Upton Conservation Commission in accordance with G.L. c.40, §8C, and for the preservation of such land or interests therein, that said Conservation Commission be authorized to accept grants, donations, and/or reimbursements from any entity that may provide funding for the acquisition and/or activities falling within the scope and intent of this article; and to execute, with approval of the Town Manager, all such agreements as may be necessary on the part of the Town to effect such acquisition and/or such reimbursement; and, as may be necessary, to authorize the Select Board to convey a conservation restriction in such property to Sudbury Valley Trustees or other qualified entity in accordance with G.L. c. 44B, §12(a); and as funding therefor, to raise and appropriate, transfer from available funds, including the Community Preservation Fund, the sum of Two Hundred and Ninety Thousand dollars (\$ 290,000) and for the costs and expenses associated with the acquisition, or to take any other action relative thereto.

Explanation/ Submitted by: The purpose of this article is to permanently protect 47 acres of land which are currently privately owned. This land has approximately 4000 ft. of undeveloped shoreline on Lake Wildwood, and is near protected open space owned by the Towns of Grafton and Upton, the Grafton Land Trust, and the Touchstone Community School. The property is primarily forested and contains Core BioMap habitat, rare species habitat mapped by the MA Natural Heritage and Endangered Species Program, and trails informally used by the public. Parcels 119-0002 and 019-095.01 are adjacent to the Grafton and Upton Railroad. / Conservation Commission.

ARTICLE 17: CPC ACQUISITION OF LAND OFF MECHANIC STREET

To see if the Town will vote to transfer from Community Preservation Act revenues the sum of Twelve Thousand Five Hundred dollars (\$12,500) to the Open Space Committee for survey, engineering, Conservation Restriction baseline report, and legal costs associated with the acquisition of approximately 15 acres on Mechanic Street, the easterly section of an approximately 22-acre parcel located on Mechanic Street, being Upton Assessors Map 14, Parcel 71, which will be acquired for conservation and passive recreation purposes, or to take any other action relative thereto.

Explanation/ Submitted by: The purpose of this article is to pay costs associated with the acquisition of approximately 15 acres of the 22-acre parcel on Mechanic Street described as Upton Assessors Map 14, Parcel 71 for conservation and passive recreation purposes. The funds for the purchase of the parcel will be provided by a local land trust. Acquisition of the open space will allow for the extension of a public trail along Warren Brook and protect an old mill dam. / Open Space Committee.

ARTICLE 18: BVT DEBT AUTHORIZATION

To see if the Town will vote to approve the \$10,000,000.00 borrowing authorized by the Blackstone Valley Vocational Regional School District (“District”) School Committee on February 15, 2024, and amended by its actions of March 14, 2024, for the purpose of paying costs of roof reconstruction and the replacement to energy efficient rooftop HVAC units at the Blackstone Valley Regional Vocational Technical High School, located at 65 Pleasant Street, Upton, MA, including the payment of all costs incidental or related thereto (the “Project”), which proposed repair project would materially extend the useful life of the school and preserve an asset that otherwise is capable of supporting the required educational program, and for which the District may be eligible for a school construction grant from the Massachusetts School Building Authority (“MSBA”), said amount to be expended at the direction of the Blackstone Valley Regional Vocational School Committee; with the understanding that the MSBA’s grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any Project costs the District incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the District and its member municipalities, and that any grant that the District may receive from the MSBA for the Project shall not exceed the lesser of (1) the MSBA-determined percentage of eligible, approved Project costs, or (2) the total maximum grant amount determined by the MSBA; and provided that the Town’s approval of the borrowing is contingent upon the District’s ability to secure grant approval from the MSBA; and provided further, however, that the approval of the District’s borrowing by this vote shall be subject to and contingent upon an affirmative vote of the Town to exempt its allocable share of the amounts required for the payment of interest and principal on said borrowing from the limitations on taxes imposed by M.G.L. 59, Section 21C (Proposition 2 ½); and that the amount of borrowing authorized by the District shall be reduced by any grant amount set forth in the Project Funding Agreement that may be executed between the District and the MSBA, or take any other action relative thereto.

Explanation/ Submitted by: Our regional vocational technical system rarely seeks support for debt projects and has not sought a bond for some twenty years. With the recent reopening of the Commonwealth’s Massachusetts School Building Authority’s Accelerated Repair program, BVT wishes to enable its thirteen municipalities to secure eligibility under the state’s reimbursement program. In addition, the District shall pursue various energy reimbursement grant to further reduce debt obligation. A preliminary step in this process includes authorization by local town action for the District for bond approval. Upton would be responsible for 7.2% of the borrowing with the remaining 92.8% owned by the other 12 towns in our partnership. The anticipated bond would fully cover repairs to BVT’s roof and the associated HVAC units which protect the delicate technical equipment in place at the school. Actual bond exposure would be reduced via payments received by the Commonwealth and other rebate style sources. The debt would only be utilized and be limited for the purpose identified. This is a rare opportunity to protect your vocational technical facility. / Select Board

ARTICLE 19: FISKE AVENUE RECONSTRUCTION

To see if the Town will vote to raise and appropriate, appropriate transfer from available funds, or borrow the sum of Five Hundred Thousand dollars (\$500,000), to be used for the permitting, bid document preparation, and construction costs associated with the reconstruction of Fiske Avenue; including construction oversight and all costs incidental and related, or to take any other action relative thereto.

Explanation/ Submitted by: The Town recently completed the water main replacement project on Fiske Ave and is preparing to complete the reconstruction of the roadway. Engineering for the project was previously funded through ARPA. The requested appropriation would cover permitting, procurement, and construction costs associated with the reconstruction of the roadway, including sidewalks, drainage, construction oversight and as-built drawings. The Town is seeking this funding in addition to existing Chapter 90 funds reserved for this project. / Select Board

ARTICLE 20: HIGHWAY DEPARTMENT 1-TON TRUCK REPLACEMENT

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow the sum of One Hundred Fifty Thousand dollars (\$150,000), or any other sum, to purchase a replacement 1-ton dump truck with plow and sander for the Highway Division, including all costs incidental and related, or to take any other action relative thereto.

Explanation/ Submitted by: The Department of Public Works is respectfully requesting \$150,000 funding at this year's Annual Town Meeting for the replacement of a 1-ton dump truck with a plow & sander. Currently, the Highway Division utilizes two (2) 1-ton dump trucks, both purchased in 2011. These trucks receive the most amount of use of any equipment or truck in the Highway Division. One of the trucks was approved for replacement at last year's town meeting and is expected to arrive by the spring of 2024. The other truck is also a 2011 Chevrolet Silverado, with 111,481 miles. The replacement truck will be one of equal size and capabilities, include a snowplow, and insert sander. The current truck will be disposed of by auction or trade-in, whichever brings the most value to the Town. / Select Board

ARTICLE 21: WATER/SEWER DEPARTMENT 1-TON TRUCK

To see if the Town will vote to transfer the sum of Seventy Five Thousand dollars (\$75,000), or any other sum, from Water Retained Earnings and seventy Five Thousand dollar (\$75,000) or any other sum, from Wastewater Retained Earnings for a total of One Hundred Fifty Thousand dollars (\$150,000), or any other sum, for the purpose of purchasing a service truck for the Water and Wastewater Divisions, including all costs incidental and related, or to take any other action relative thereto.

Explanation/ Submitted by: The Department of Public Works is respectfully requesting \$150,000 funding from the Water and Wastewater Division's Retained Earnings in equal parts at this year's Annual Town Meeting. The purpose of the funding is to purchase a service truck specifically equipped to accommodate mobile maintenance and repairs to the Town's 33 miles of water lines, 14 miles of gravity sewer and force mains, 2 water storage tanks, 3 water pump/treatment stations, 4 sewer pump stations, and 2 water booster stations. In addition, the truck will be capable of assisting the Highway Division with snow & ice operations. / Select Board

ARTICLE 22: POLICE DEPARTMENT VEHICLE REPLACEMENT

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow the sum of Sixty-Five Thousand dollars (\$65,000), or any other sum, to purchase a replacement patrol cruiser for the police department, or to take any other action relative thereto.

Explanation/ Submitted by: The Police Department is requesting the replacement of a police vehicle in addition to the line-item budget replacement to continue with our replacement plan of a second vehicle every other year. / Select Board

ARTICLE 23: FIRE DEPARTMENT – ENGINE 1 REFURBISHMENT

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow the sum of One Hundred Thousand dollars (\$100,000), or any other sum, for the refurbishment of Engine 1, including all costs incidental and related , or to take any other action relative thereto.

Explanation/ Submitted by: The requested appropriation would allow for the refurbishment of Engine 1, which will extend the life of the vehicle 7 to 10 years. / Select Board

ARTICLE 24: MESSAGE BOARD REPLACEMENT

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow the sum of Forty-One Thousand dollars (\$41,000), or any other sum, for the replacement of two emergency message boards, including all costs incidental and related, or to take any other action relative thereto.

Explanation/ Submitted by: The three message boards that are deployed across town have reached the end of their useful life. Replacement parts are difficult to source, and the hardware continues to deteriorate. The Emergency Management Department proposes to purchase (2) two new message boards under the state bid process at a cost of \$20,458 per unit. The Water Department will be purchasing the third board. The message boards are used to notify residents of emergency situations, road hazards, water emergencies, as well as town events. / Select Board.

ARTICLE 25: KIWANIS BEACH SAND REPLENISHMENT

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow, the sum of Forty-Five Thousand dollars (\$45,000), or any other sum, for the replenishment of beach sand at Kiwanis Beach, including all costs incidental and related, or to take any other action relative thereto.

Explanation/ Submitted by: The requested appropriation would allow the DPW to replenish sand at Kiwanis Beach, including related tasks necessary to improve the condition of the beach. / Select Board

ARTICLE 26: BOARD OF ASSESSOR RECERTIFICATION

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow the sum of Ten Thousand dollars (\$10,000), or any other sum, for use by the Board of Assessors for recertification work required to comply with state law; including all costs incidental and related, or to take any other action relative thereto.

Explanation/ Submitted by: The requested appropriation would allow the Board of Assessors to carry out its on-going statutory responsibilities to re-evaluate Town properties. /Board of Assessors.

ARTICLE 27: FEASIBILITY STUDY FOR BURIAL OF UTILITIES IN UPTON CENTER

To see if the Town will vote to transfer from available funds, the sum of Twenty-five Thousand dollars (\$25,000), or, any other sum, to be used to engage an engineering consultant to examine and determine the feasibility of burying utility lines within Upton Center, including all expenses incidental and related thereto; or take any other action related thereto.

Explanation/ Submitted by: This article seeks funding to allow the town to study and determine the feasibility of burying the utilities within Upton Center. The Route 140 TIP Project that will reconstruct the Grove Street/ Main Street/ North Main Street/ Milford Road Intersection represents a unique opportunity to examine burial of utilities and improve the character of Upton Center. /Select Board.

ARTICLE 28: RAISE DEMAND FEES

To see if the Town will vote to authorize the Select Board to set and adjust the fee charged for each written demand issued by the Collector, not to exceed the limit set by Massachusetts General Law Chapter 60, Section 15, or to take any other action relative thereto.

Explanation/ Submitted by: Massachusetts General Law Chapter 60, Section 15, allows for each written demand to be assessed a fee of "not more than \$30". Upton's current demand fee is \$5.00. With

this Article, the collected demand fee will be consistent with that allowed by Mass General Law. / Select Board.

ARTICLE 29: POST CONSTRUCTION STORMWATER MANAGEMENT REGULATIONS

To see if the Town will vote to revise Chapter 242 Division 1: General Bylaws entitled Stormwater Management and Chapter 325 Division 4: Conservation Commission entitled Stormwater Regulations to bring them into compliance with requirements of the 2016 MS4 Permit to enact a post construction stormwater management regulations that are at least as stringent as the requirements set forth in the 2016 MS4 Permit, a copy of which is filed with the Town Clerk, or to take any other action relative thereto.

Explanation/ Submitted by: To enact post construction stormwater requirements as required by the Town's Municipal Separate Storm Sewer System (MS4) permit. / Select Board

ARTICLE 30: ACCEPTANCE OF AZALEA LANE

To see if the Town will vote to accept as a public way the roadway known as Azalea Lane, as heretofore laid out by the Select Board and shown on a plan of land entitled "Easement Plan Azalea Lane 'J.R. Estates' Upton, Mass.," dated April 28, 2021, prepared by Guerriere & Halnon, Inc., and on file with the Town Clerk, and authorize the Select Board to acquire, by gift, purchase, and/or eminent domain, the fee to and/or easements in Azalea Lane for all purposes for which public ways are used in the Town of Upton and any drainage, utility and/or other easements related thereto, or to take any other action relative thereto.

Explanation/ Submitted by: To accept Azalea Lane as a public way as recommended by the Upton Planning Board. / Select Board

ARTICLE 31: INCLUSIONARY ZONING BYLAW

To see if the Town will vote to amend the Town of Upton Zoning By-laws by adding a new Section 300-7.7 Inclusion of Affordable Housing as follows, or to take any other action relative thereto:

§ 300-7.7 – Inclusion of Affordable Housing

A. Purpose and intent. The purpose and intent of this zoning bylaw is to promote the inclusion of affordable housing as part of the development of housing overall in the Town of Upton. This is also known as Inclusionary Zoning. More specifically:

- (1) The purpose of these provisions is to encourage a greater diversity of housing and the development of new or renovated housing that is affordable to eligible low- and moderate-income households in perpetuity or so long as allowed by law. At a minimum, affordable housing produced through this regulation shall be in compliance with the requirements set forth in MGL c. 40B, § 20 through 23 (as the same may be amended from time to time).
- (2) It is intended that the Affordable Housing Units (AHU's) that result from the application of this bylaw be considered as Local Action Units (LAU's), in compliance with the requirements for the same as specified by the Executive Office of Housing and Livable Communities (EOHLC) or successor state agency or regulations.
- (3) The LAU's created by this bylaw are intended to add to the town's Subsidized Housing Inventory (SHI) and contribute to local efforts to meet the state's requirement for affordable housing levels. Accordingly, these units must meet EOHLC's Local Incentive Program (LIP) criteria to be suitable for inclusion and counted in the Town's SHI.
- (4) The application of these affordable housing provisions is intended to consider other important zoning objectives, such as those given in section 300-1.1 Purpose of these Zoning By-laws. Specifically, to

encourage the most appropriate use of land throughout the Town, to preserve the cultural, historical and agricultural heritage of the community, to increase the amenities of the Town, and to reduce the hazard from fire by regulating the location and use of buildings and the area of open space around them, all as authorized by, but not limited to, the provisions of the Zoning Act, MGL c. 40A, as amended, Section 2A of 1975 Mass. Acts 808, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

B. Applicability. In all zoning districts, including overlay districts, the Inclusionary Zoning provisions of this section shall apply to the following uses:

- (1) Division of land. This section shall apply to the division of contiguous land held in single or common ownership into six (6) or more residential lots.
- (2) Multiple dwelling units. This bylaw shall apply to the construction of six (6) or more dwelling units, whether on one or more contiguous parcels, alteration, expansion, reconstruction, or change of existing residential or non-residential space.
- (3) Senior Housing Community. Senior Housing Communities pursuant to section 300-7.4 of this zoning bylaw shall be subject to the provisions of Section 300-7.7 herein.
- (4) Planned Village Developments. Planned Village Development pursuant to section 300-6.4 of this zoning bylaw shall be subject to the provisions of Section 300-7.7 herein.
- (5) The provisions of Subsection B (2) above shall apply to the construction of six (6) or more dwelling units on individual lots if said six or more lots are held in single or common ownership.
- (6) To prevent segmentation of projects designed to avoid the requirements of this bylaw, parcels held in single or common ownership and which are subsequently divided into six (6) or more lots shall also be subject to this bylaw.
- (7) To address the possible segmentation of projects over time, any construction that results in a net increase of six (6) or more dwelling units measured over a 36-month period shall be subject to this bylaw, that 10 year period is measured from the date of the issuance of the first Certificate of Occupancy .
- (8) If the Special Permit Granting Authority (SPGA) determines that an applicant has established surrogate or subsidiary entities to avoid the requirements of this §B, then an Inclusionary Housing Special Permit shall be denied.

C. Inclusionary housing special permit. Pursuant to MGL c. 40A, § 9, the development of any project set forth in subsection B above shall require the grant of a Inclusionary Housing Special Permit (IHSP) from the Planning Board SPGA. The Special Permit shall be granted if the proposal meets the requirements of this bylaw.

D. Provision of affordable housing. As a condition for approval of a special permit, the applicant shall contribute to the local inventory of affordable housing by providing at least the number of AHU's specified below, which must be eligible for inclusion in the Town's SHI.

- (1) For developments of six (6) to nine (9) ownership or rental units, at least one (1) unit of the total proposed dwelling units shall be affordable.
- (2) For development of ten (10) to nineteen (19) ownership or rental units, at least two (2) units of the total proposed dwelling units shall be affordable.
- (3) For development of twenty (20) to twenty-nine (29) ownership or rental units, at least three (3) units of the total proposed dwelling units shall be affordable

(4) For development of thirty (30) to forty-four (44) ownership or rental units, at least twelve and a half percent (12.5%) of the total proposed dwelling units shall be affordable.

(5) For development of forty-five (45) or more ownership or rental units, at least fifteen (15%) of the total proposed dwelling units shall be affordable.

(6) The following schedule is provided for allocating affordable units given a particular range of total lots in a subdivision or total units in a multi-family development.

Total Units	Minimum Affordable Units
6 to 9	1
10 to 19	2
20 to 29	3
30 to 44	12.5%
45 and greater	15%

(7) For the calculation of AHU's per §§ D(1) through D(6), fractions of one-half ($\frac{1}{2}$, 0.5) dwelling unit or more shall be rounded up to the nearest whole number, while lesser fractions shall be rounded down a fractional unit. For example, a proposed development of:

- 50 housing units (15% minimum) would require 7.5 affordable units, rounded up to 8 units (16%)
- 35 housing units (12.5% minimum) would require 4.375 affordable units, rounded down to 4 total affordable units (11.4%)

E. Preservation of affordability.

(1) All ownership developments shall be subject to a permanent affordable housing restriction and/or regulatory agreement, ensuring that the AHUs shall remain affordable in perpetuity, or so long as allowed by law, and each affordable unit shall be conveyed subject to a deed rider acceptable to and approved by the Town and EOHLIC and granting the Town such rights as may be required to ensure that said AHU's remain affordable in perpetuity and be counted toward the Upton Subsidized Housing Inventory. In addition, no certificate of occupancy permit shall be granted for any home-ownership development containing affordable home-ownership units prior to the recording of the affordable housing restriction and/or regulatory agreement at the Registry of Deeds, as the SPGA shall deem appropriate.

(2) All multi-family rental developments with affordable housing units shall be subject to a regulatory agreement, ensuring that the AHUs shall remain affordable in perpetuity, or so long as allowed bylaw. Said regulatory agreement shall be approved by the Town and EOHLIC. In addition, no certificate of occupancy permit shall be granted for any multi-family rental developments containing affordable home-ownership units prior to the recording of the regulatory agreement at the Registry of Deeds, as the SPGA shall deem appropriate.

(4) In the event that any rental unit is converted to a condominium ownership unit, the condominium unit shall be restricted in perpetuity as per §§ E(1) and E(2) above to ensure that it remains affordable to income-eligible households as prior to the condominium conversion.

(5) The Upton Affordable Housing Trust or its agent or designee shall monitor, oversee, and administer the details for all re-sale or re-lease of any affordable units in the Town.

F. Timing of construction for affordable units.

- (1) The construction of affordable units shall be commensurate with the construction of market rate units per the schedule in §§ D(1) through D(7) above. Should projects be built in phases, each phase shall contain the same proportion of affordable units to market rate units as the overall development.
- (2) The building permit for the last-market rate unit shall not be issued until all affordable units have been constructed, unless an alternate construction schedule has been approved by the SPGA.

G. Siting of affordable units. The affordable units created under this bylaw shall be proportionally distributed throughout the proposed project, in terms of location, size, and type.

- (1) Affordable units shall be provided within the development that requires the affordable units unless the requirements of this section are satisfied through a payment-in-lieu of providing affordable units.
- (2) Their siting shall be integrated within the development along with the locations of the other dwellings, rather than segregated or concentrated in one area.
- (3) The AHU's shall not be situated in less desirable locations than market-rate units and shall, on average, be no less accessible to public amenities such as transportation, recreation or open spaces, and shopping or other businesses.
- (4) The location of each and every AHU shall be identified on the site plans and approved by the Planning Board pursuant to Section 300-9.4 of the Zoning Bylaw. In the case of multi-family dwellings, the locations of affordable units shall be identified on the building floor plans for each and every structure of this type and approved by the SPGA.

H. Minimum design and construction standards. The exterior appearance of the affordable units shall be compatible with and essentially indistinguishable from the other units in the development. The AHU's shall be designed with similar features and built with comparable quality materials with respect to the market-rate dwellings built.

I. Minimum lot size. The average lot size for affordable home units shall be comparable to those of their market-rate counterparts within the development.

J. Payment-in-lieu-of-units. As an alternative to the requirements of Subsection D and to the extent allowed by law, an applicant may provide a payment to the Upton Affordable Housing Trust ("AHT") to be used for the production of affordable housing in lieu of constructing ownership units within the proposed development.

- (1) Payment-in-lieu-of-units ("PILU"). The applicant for development subject to this bylaw may choose a payment in lieu of the construction or provision of affordable ownership units to the AHT at the sole discretion of the SPGA. The fees shall be paid in increments prior to the issuance of a building permit for each and every unit, or otherwise at the sole discretion of the SPGA.
- (2) Calculation of PILU. The fee of an affordable ownership unit shall be equal to eighty (80%) of the average listing price of comparable market-rate units of the same bedroom count within the proposed development. The SPGA shall make the final determination of the PILU. .
- (3) PILU's are not applicable to affordable rental units. All rental units proposed within a multi-family development must be constructed and dedicated as affordable pursuant to 300-7.7 J (5).
- (4) The incremental payments shall be equal to: the PILU as calculated for a single ownership unit in Subsection K(2) multiplied by the total number of affordable ownership units subject to PILU, divided by the total number of ownership units in the subject development. For example, a proposed development of 15 ownership units requires two affordable units per Subsection E. If the projected average sales price of each unit is \$500,000, the total amount of the PILUs is \$400,000 multiplied by two units, i.e., \$800,000. The incremental cost is \$800,000 divided by 15 units, i.e., \$53,333 per unit.

- (5) Timing of payment before issuance of building permits. Payment shall be received by AHT prior to issuance of building permit for each unit to be constructed.
- (6) Revised calculation before issuance of building permits. The PILU calculation shall be confirmed with current market rates for the proposed development within sixty (60) days prior to issuance of building permit.
- (7) Creation of affordable units. PILU's made to AHT in accordance with this section shall be used only for purposes of providing affordable housing for low- or moderate-income households. Using these payments, affordable housing may be provided through a variety of means, including but not limited to the provision of favorable financing terms, subsidized prices for purchase of sites, additional affordable units within existing or proposed developments, and other initiatives allowed under the Municipal Affordable Housing Trust Fund Law (MGL c.44. § 55C).
- (8) If the AHT has been dissolved or is otherwise no longer in existence as of the time the application has been stamped received by the Town Clerk, then PILU's are to be paid to the Town and held in escrow for affordable housing production. Funds in escrow shall be transferred commensurate to the AHT upon its re-establishment.

K. Combining construction with payment-in-lieu-of units. A combination of construction of dwelling units and payment of fee-in-lieu of-units may be combined by the applicant to meet a single project's requirement if granted approval by the SPGA.

L. Local preference. To the maximum extent permitted by law, including the regulations of EOHL, any IHSP granted hereunder shall include a condition that a preference for Upton residents, Town of Upton employees, employees of schools and businesses located within Upton, and families of students attending schools within Upton shall be included as part of the lottery and marketing plan for the affordable units.

M. Marketing plan for affordable units. Applicants creating affordable units under this bylaw are required to select qualified homebuyers or renters via lottery under an Affirmative Fair Housing Marketing Plan prepared and submitted by the applicant and approved by EOHL and the SPGA. This Plan shall include a description of the lottery or other process to be used for selecting buyers. The plan shall be in conformance with federal and state fair housing laws in effect on the date of the special permit or other permit application with the Town of Upton. No building permit for a development subject to the Upton Inclusionary Zoning Bylaw shall be issued unless the SPGA has determined that the applicant's affirmative marketing plan complies with this requirement. The affirmative marketing costs for the affordable housing units shall be the responsibility of the applicant. The applicant shall also submit the affirmative marketing and resident selection plan for review by the AHT.

N. Related fees. The SPGA is authorized to retain professional consultants to advise the SPGA on any and all aspects of the application, the project's compliance with this bylaw, and to determine whether AHUs authorized by an IHSP will be included in the Town's SHI. The SPGA may require the applicant to pay reasonable costs to be incurred by the SPGA for the employment of outside consultants pursuant to SPGA regulations, as authorized by G.L. c. 44, § 53G.

O. Conflict with other bylaws. The provisions of this bylaw shall be considered supplemental of existing zoning by-laws. To the extent that a conflict exists between this section and others, the more restrictive section, or provisions therein, shall apply.

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

Explanation/ Submitted by: This Zoning Bylaw Amendment seeks to create a provision for Inclusionary Zoning by adding Section 300-7.7 Inclusion of Affordable Housing. Inclusionary zoning is a regulatory mechanism which requires all development of a certain size and number of dwelling units to provide a percentage of all dwelling units as dedicated affordable housing which may be added to the Town's Subsidized Housing Inventory. (2/3rds vote required)/ Planning Board.

ARTICLE 32: SOLAR OVERLAY DISTRICT BYLAW

To see if the Town will vote to amend the Town of Upton Zoning By-laws and Zoning Map of Upton, Massachusetts by adding a Solar Overlay District to the Zoning Map, by amending Zoning By-laws Sections 300-2.1 and 300-3.1 and by adding a new Section 300-6.8 Solar Overlay District to the Zoning By-laws as follows p; or take any action other relative thereto:

1. Zoning Map Amendment

Amend the Zoning Map of Upton, Massachusetts, referenced in Section 300-2.2 of the Zoning By-laws, to add the Solar Overlay District as shown on the Map entitled "Solar Overlay District" dated March 11, 2024 and on file with the Town Clerk.

2. Amend Section 300-2.1 by adding the following

J. Overlay District – Solar Overlay District

3. Amend Section 300-3.1 Table of Principal Uses as follows with new language indicated by underline

38 Large-scale ground-mounted solar photovoltaic installations with rated nameplate capacity of 250 kW DC to 500 kW DC and that occupy from 40,000 square feet to 80,000 square feet of surface area (see § 300-6.6 for additional regulations) (see Note 10) (see Section 300-6.8 for the use in the Solar Overlay District)

39 Large-scale ground-mounted solar photovoltaic installations with rated nameplate capacity greater than 500 kW DC or that occupy more than 80,000 square feet of surface area (see § 300-6.6 for additional regulations) (see Note 10) (see Section 300-6.8 for the use in the Solar Overlay District)

4. Add a new Section 300-6.8 as follows

Section 300-6.8 Solar Overlay District

A. Purpose.

- (1) The purpose of this bylaw is to promote the creation of new large-scale ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification, and removal of such installations that address public safety and minimize impacts on scenic, natural, and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.
- (2) The provisions set forth in this section shall apply to the construction, operation, and/or repair of large-scale ground-mounted solar photovoltaic installations.

- B. Definitions. Where not expressly defined herein, terms used in this section shall be interpreted as defined and consistent with the provisions of Section 300-6.6 Large Scale Ground Mounted Solar Photovoltaic Installations (LGSPI).
- C. Establishment of District. There is hereby in the Town of Upton one Solar Overlay District, the boundaries of which are shown on the Zoning Map on file with the Town Clerk.
- D. Applicability.
 - a. All uses allowed by right or by special permit in the underlying zoning district shall be allowed by right in the Solar Overlay District and, in such case, shall be subject to provisions of these By-laws that are applicable to the underlying district.
 - b. All Large-Scale Ground Mounted Solar Photovoltaic Installations (LGSPI) proposed in the Solar Overlay District, shall be subject to the requirements and provisions of Section 300-6.6 Large Scale Ground Mounted Solar Photovoltaic Installations (LGSPI).
 - c. Large-scale ground-mounted solar photovoltaic installations with rated nameplate capacity of 250 kW DC or that occupy more than 40,000 square feet of surface area (see § 300-6.6 for additional regulations) shall be allowed by Special Permit in the Solar Overlay District.”
- E. Severability. The provisions of this bylaw are severable. If any provision, paragraph, sentence, or clause of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.

Explanation/ Submitted by: This Zoning Bylaw Amendment seeks to create a new zoning overlay district to allow for the location of Large-Scale Ground-Mounted Solar Photovoltaic Installations (LGSPI) within the boundaries of the district by Special Permit (“PB”) issued by the Planning Board. Currently, LGSPI are allowed as-of-right and by Special Permit in the Commercial and Industrial (CI) district. (2/3rds vote required)/ Planning Board.

ARTICLE 33: AMEND ZONING BYLAW SECTION 300-3.1 TABLE OF PRINCIPAL USES WITHIN THE UPTON CENTER BUSINESS DISTRICT (UCBD)

To see if the Town will vote to amend the Zoning By-laws, Section 300-3.1 Table of Principle, note #9; with additions indicated by underline and deletions indicated by strikethrough, or to take any other action relative thereto:

Section 300-3.1 Table of Principle Uses

9) Only the following retail businesses are allowed by right: book, stationery or news store, cigar store, drug store, delicatessen, dry goods or variety store, florist or gift shop, fruit or grocery store, hardware store, jewelry store, meat market, music store, ~~or~~ wearing apparel store, art galleries, and other similar retail businesses. In addition, the following retail business establishments are allowed in the UCBD by special permit: liquor store, ~~music store~~, artist live/work spaces, ~~art galleries, and other similar retail businesses~~.

Explanation/ Submitted by: This zoning bylaw amendment proposes to change music stores and other similar retail businesses from being permitted with the issuance of a special permit to a by-right use. (2/3rds vote required)/ Planning Board.

ARTICLE 34: AMEND ZONING BYLAWS FOR PERSONAL WIRELESS FACILITIES

To see if the Town will vote to amend Section 300-10.1 Definitions, 300-3.1 Table of Principle Uses, and Section 300-6.2 Personal Wireless Service Facility, respectively. The bylaw amendment seeks to change terminology of the Section Title for 300-6.2 currently titled Wireless Data Transfer Facility; Add new definitions relative to new uses identified within Section 300-6.2 per this amendment; and add new uses identified in Section 300-6.2 within the Table of Principle Uses, most notably the introduction of “small wireless facility” as a use, which will be required to obtain a Special Permit, with a copy of said amendments on file with the Town Clerk, or to take any other action relative thereto:

Explanation/ Submitted by: These zoning bylaw amendments proposes to amend section of the zoning bylaws to address personal wireless facilities. (2/3rds vote required)/ Planning Board.

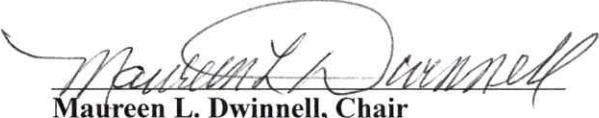
And you are directed to serve this Warrant, by posting up attested copies thereof at the U.S. Post Office, Town Library, and Town Hall, in said Town fourteen days (14) at least before the time of holding said Meeting.

HEREOF FAIL NOT, and make due return of this Warrant, with your doings thereon, to the Town Clerk, at the time and place of meeting, as aforesaid.

Given under our hands this Second (2nd) day of April in the year of our lord Two Thousand Twenty-four.

UPTON SELECT BOARD

A true copy, Attest:


Maureen L. Dwinnell, Chair


Brett A. Simas, Member

Constable
Date: April __, 2024


Laura J. Hebb, Member