

WARRANT  
Burlington Town Meeting



May 11, 2009  
7:30 P.M.

Burlington High School  
Fogelberg Auditorium  
123 Cambridge Street  
Burlington, MA

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**May 11, 2009**

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WARRANT

BURLINGTON TOWN MEETING

MONDAY, May 11, 2009

In accordance with the provisions of Chapter 686 of the Acts of 1970 of the Commonwealth of Massachusetts, you are hereby notified that the Town Meeting Representatives of the Town of Burlington will meet in general assembly at the Burlington High School, Fogelberg Auditorium, in said Town, the 11th of May 2009 at seven-thirty o'clock in the evening then and there to act on the following articles of the warrant:

**ARTICLE 1**

**RE: Reports of Town Officers & Committees**

To hear and act on the reports of the Town Officers and Committees; or to act in any other manner in relation thereto.

Submitted by the Board of Selectmen at the request of  
the Rules Committee

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**FINANCIAL ARTICLES**

**ARTICLE 2**

**RE: Fund Revolving Account**

To see if the Town will vote to authorize revolving funds for certain Town departments under Massachusetts General Laws Chapter 44, Section 53E½ for the fiscal year beginning July 1, 2009; or to act in any other manner in relation thereto:

<b>Town Meeting sets \$ spending limit, not more than 10% of tax levy, employee benefit costs must be included.</b>					
<b>Revolving</b>	<b>Spending</b>	<b>Revenue</b>	<b>Allowed</b>	<b>Expenditure</b>	<b>Year End</b>
<b>Account</b>	<b>Authority</b>	<b>Source</b>	<b>Expenses</b>	<b>Limits</b>	<b>Balance</b>
<b>Home Composting/ Rainwater Recycling</b>	<b>Public Works</b>	<b>Fees charged for compost bins/Rainwater Recycling Barrels</b>	<b>Purchase of compost bins/Rainwater Recycling Barrels</b>	<b>\$5,000</b>	<b>Available for expenditure next year</b>
<b>Cross Connection- Backflow prevention</b>	<b>Public Works</b>	<b>Fees charged for testing devices that prevent mixing of potable and non-potable water</b>	<b>Contract services to EPA authorized vendors who perform the testing.</b>	<b>\$50,000</b>	<b>Available for expenditure next year</b>
<b>B-line Local Mini Bus</b>	<b>Public Works</b>	<b>Bus user fees</b>	<b>Salaries, expenses, contractual services to operate the in- town B-Line bus service.</b>	<b>\$45,000</b>	<b>Available for expenditure next year</b>
<b>Nursing Programs &amp; Services</b>	<b>Board of Health</b>	<b>Fees charged for medical diagnostic and screening services and Medicare or insurance reimbursements, i.e. Flu/Pneumonia vaccination</b>	<b>Medical equipment and supplies, immunizations, educational materials</b>	<b>\$20,000</b>	<b>Available for expenditure next year</b>
<b>Plan Imaging</b>	<b>Building Department</b>	<b>2% of Building Department Fees Not to exceed \$20,000 annually</b>	<b>Archival imaging of building permit drawings and specifications</b>	<b>\$20,000</b>	<b>Available for expenditure next year</b>
<b>Sale of Recyclable Materials</b>	<b>Board of Selectmen</b>	<b>Receipts from the Sale of Recyclable Material</b>	<b>May be used to offset the cost of curbside collection and disposal of solid waste</b>	<b>\$50,000</b>	<b>Available for expenditure next year</b>

AMOUNT: \$190,000

Submitted by the Board of Selectmen at the request of the  
Town Administrator

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )











**FINANCIAL ARTICLES**  
**(continued)**

**ARTICLE 19**

**RE: DPW Two-Way Communication Radio Upgrade**

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$75,000 or any other amount for the purpose of upgrading the DPW two-way radio communication system; or to act in any other manner in relation thereto.

Amount: \$75,000

Submitted by Board of Selectmen at the request of the Town Administrator

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**ARTICLE 20**

**RE: Street Sweeper**

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$160,000 or any other amount for the purpose of purchasing a new Street Sweeper; or to act in any other manner in relation thereto.

Amount: \$160,000

Submitted by Board of Selectmen at the request of the Town Administrator

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**ARTICLE 21**

**RE: Sander Truck**

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$170,000 or any other amount for the purpose of purchasing a Sander Truck for the Highway Division; or to act in any other manner in relation thereto.

Amount: \$170,000

Submitted by Board of Selectmen at the request of the Town Administrator

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**ARTICLE 22**

**RE: Assessment Center for Police/Fire Chiefs**

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$30,000 or any other amount to conduct a Search/Recruitment and Assessment of candidates for the positions of Police Chief and Fire Chief; or to act in any other manner in relation thereto.

Amount: \$30,000

Submitted by Board of Selectmen at the request of the Town Administrator

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**FINANCIAL ARTICLES**  
**(continued)**

**ARTICLE 23**

**RE: Master Plan/Town Assets**

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$50,000 or any other amount for the purpose of evaluating all Town land assets as well as potential privately owned properties within Burlington to determine future uses of those assets involving Recreation, School and Town-wide needs; or to act in any other manner in relation thereto.

Amount: \$50,000

Submitted by Board of Selectmen at the request of  
the Town Administrator

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**ARTICLE 24**

**RE: Mower Replacement**

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$77,000 or any other amount for the purpose of replacing the Howard mower, same to be spent under the direction of the Recreation Commission; or to act in any other manner in relation thereto.

Amount: \$77,000

Submitted by the Board of Selectmen at the request of  
the Recreation Commission

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**ARTICLE 25**

**RE: Fire Department/Ambulance**

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$215,000 or any other amount for the purpose of purchasing a new replacement for Ambulance 2 for use at the Fire Department, same to be spent under the direction of the Board of Selectmen; or to act in any other manner in relation thereto.

Amount: \$215,000

Submitted by the Board of Selectmen at the request of  
the Fire Chief Lee Callahan

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**FINANCIAL ARTICLES**  
**(continued)**

**ARTICLE 26**

**RE: Burlington High School Elevator Design**

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow, or otherwise provide the sum of \$72,000 or any amount to pay the cost of preparing design and construction specifications for the addition of a new elevator at Burlington High School, same to be spent under the direction of the School Committee, including all costs incidental and related thereto; or to take act in any other manner in relation thereto.

Amount: \$72,000

Submitted by the Board of Selectmen at the request of the School Committee

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**ARTICLE 27**

**RE: Burlington High School Pavement Replacement**

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow, or otherwise provide the sum of \$200,000 or any other amount for the purpose of funding the repairs/replacement to the existing pavement at Burlington High School, including the payment of all costs incidental and related thereto, to be spent under the direction of the School Committee; or to act in any other manner in relation thereto.

Amount: \$200,000

Submitted by the Board of Selectmen at the request of the School Committee

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**ARTICLE 28**

**RE: Marshall Simonds Student Locker Replacement**

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow, or otherwise provide the sum of \$125,000 or any other amount to pay the cost of replacing one half of the student lockers at Marshall Simonds Middle School, including the payment of all costs incidental and related thereto, to be spent under the direction of the School Committee; or to take any other action in relation thereto.

Amount: \$125,000

Submitted by the Board of Selectmen at the request of the School Committee

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**FINANCIAL ARTICLES**  
**(continued)**

**ARTICLE 29**

**RE: Community Custodial Services**

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow, or otherwise provide the sum of \$30,385 or any other amount for the purpose of Community Custodial Fees for the events to be covered for Burlington Scout Organizations. PTO Meetings, Boosters, Citations, Youth Basketball, Youth Volleyball, Youth Baseball Association, Youth Lacrosse, Pop Warner, Hockey, Soccer and Skating Associations and other non profit Burlington Civic Organizations, to be spent under the direction of the School Committee; or to act in any other manner in relation thereto.

Amount: \$30,385

Submitted by the Board of Selectmen at the request of the School Committee

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**ARTICLE 30**

**RE: Computer Technology Infrastructure and System Replacement**

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow, or otherwise provide the sum of \$300,000 or any other amount to pay the cost of replacing the computer infrastructure system within all town and school buildings, including the payment of all costs incidental and related, to spent under the direction of the School Committee; or to act in any other manner in relation thereto

Amount: \$300,000

Submitted by the Board of Selectmen at the request of the School Committee and Board of Selectmen

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**ARTICLE 31**

**RE: Wildwood School Athletic Fields**

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide a sum of money for the purpose of building athletic fields and to make site improvements to the Wildwood School parcel, including the payment of all costs incidental and related thereto, same to be spent under the direction of the Recreation Commission; or to act in any other manner in relation thereto.

Amount: \$

Submitted by the Board of Selectmen at the request of the Recreation Commission

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**FINANCIAL ARTICLES**  
**(continued)**

**ARTICLE 32**

**RE: Burlington School Department  
Day Care Facility**

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow, or otherwise provide the sum of \$167,500 or any other amount to pay the cost of renovations and alterations to the Boys Locker Room area at Francis Wyman School for the creation of Burlington School Department Day Care Facility, including the payment of all costs incidental and related, to be spent under the direction of the School Committee; or to take any other action in relation thereto.

Amount: \$167,500

Submitted by the Board of Selectmen at the request of  
the School Committee

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**ARTICLE 33**

**RE: Burlington High School Varsity Field  
Repairs**

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow, or otherwise provide the sum of \$2,000,000 or any other amount to pay the cost of renovations and improvements to the Varsity Field Complex at Burlington High School, including the payment of all costs incidental and related thereto, to be spent under the direction of the School Committee; or to take any other action in relation thereto.

Amount: \$2,000,000

Submitted by the Board of Selectmen at the request of  
the School Committee

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**FINANCIAL ARTICLES**  
**(continued)**

**ARTICLE 34**

**RE: Memorial School/New Construction**

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow, or otherwise provide a sum of money, for construction of a new Memorial Elementary School located at 125 Winn Street, which school facility shall have an anticipated useful life as an educational facility for the instruction of school children of at least 50 years, and for which the Town may be eligible for a school construction grant from the Massachusetts School Building Authority (MSBA). The MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any project costs the Town incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town. Any grant that the Town may receive from the MSBA for the project shall not exceed the lesser of (1) **52.11 percent** of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA; same to be spent under the direction of the School Committee; or to act in any other manner in relation thereto.

Amount: \$27,923,244

Submitted by the Board of Selectmen at the request of  
the School Committee

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**GENERAL BYLAW ARTICLES**

**ARTICLE 35**

**RE: Amend Article IV/Selectmen, Section 3.1**

To see if the Town will vote to amend the General Bylaw Article IV/Selectmen, Section 3.1 by adding a new paragraph at the end as follows:

The Board of Public Works is hereby authorized to promulgate regulations relative to the use of water in the Town's water distribution system. Violation of any regulations promulgated under authority of this bylaw may be enforced through any lawful means in law or in equity by the Board of Public Works or the Superintendent of Public Works, or their designees, including but not limited to enforcement by non-criminal disposition in accordance with Article I, Section 4.0 of the General Bylaws. Each day a violation exists shall constitute a separate violation. The regulations authorized by this section shall establish specific penalties for violation thereof in amounts not to exceed \$300 per violation; or to act in any other manner in relation thereto.

Submitted by Board of Selectmen at the request of  
the Town Administrator

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**ARTICLE 36**

**RE: Amend General Bylaw Article XIII/ Public  
Safety, Use of Streets and Public Places,  
Section 1.12**

To see if the Town will amend the General Bylaw, Article XIII, Public Safety, Section 1.12 to read as follows:

No person having a vehicle under his care or control shall leave the same parked or unattended upon a street between the hours of 2:00 a.m. and 8:a.m. from December 1 through April 1 in each year.

to add: Persons violating this regulation shall be fined ten dollars (\$10.00) for the first offense and twenty-five dollars (\$25.00) for the second or subsequent offenses; or to act in any other manner in relation thereto.

Submitted by the Board of Selectmen at the request of  
Elias Lambros, Town Meeting Member/Precinct 5

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**GENERAL BYLAW ARTICLES**

(continued)

**ARTICLE 37**

**RE: Amend General Bylaw Article I/General Provisions**

To see if the Town will vote to amend the General Bylaw Article I/General Provisions by adopting the following new section:

12.0 Meeting Minutes and Agenda – all Town boards and committees whether elected or appointed shall file an electronic copy of their meeting minutes and agendas with the Town Clerk. Minutes shall be filed within 30 days of the meeting and agendas shall be filed at least 24 business hours prior to the meeting. Executive Session minutes shall be filed with the Town Clerk as soon as they have been reviewed and released for the public under the provisions of MGL Chapter 39, Section 23B and Chapter 66, Section 10 (a); or to act in any other manner in relation thereto.

Submitted by the Board of Selectmen at the request of Jane Chew, Town Clerk

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**ARTICLE 38**

**RE: Term Limits/Breaks for Elected Officials**

To see if the Town will vote to authorize the Board of Selectmen to file a home rule petition in the following form, provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court, and provided further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition:

AN ACT AUTHORIZING THE TOWN OF BURLINGTON TO ESTABLISH TERM LIMITS FOR CERTAIN ELECTED OFFICIALS.

**Section 1.** No elected official in the Town of Burlington, with the exception of elected town meeting representatives, shall serve for more than three consecutive terms in the same office. For the purposes of this section, service to complete the term of another elected official shall constitute service for one term if the balance of said term being completed is more than fifty percent of the original term. A person who has been prohibited from serving in an elected office by this section may be reelected or reappointed to that office after two years have elapsed from the ending date of his or her previous service.

**Section 2.** This Act shall take effect upon passage; or to act in any other manner in relation thereto.

Submitted by the Board of Selectmen at the request of Timothy Brown/Town Meeting Member Precinct 4

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**GENERAL BYLAW ARTICLES  
(continued)**

**ARTICLE 39**

**RE: Amend Article XIII/Public Safety, Section  
1.0/Use of Streets and Public Places;  
Sub-Section 1.35/Alcoholic Beverages**

To see if the Town will vote to amend General Bylaw Article XIII/Public Safety, Section 1.1/Use of Streets and Public Places; Sub-Section 1.35/Alcoholic Beverages to read Alcoholic Beverages and Substance Consumption; and to add the follow Sub-Section 1.35.6/Substance Consumption as follows:

No person shall smoke, ingest, or otherwise use or consume marihuana or tetrahydrocannabinol (as defined in G.L. c. 94C, § 1, as amended) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the town; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any place accessible to the public.

This by-law may be enforced through any lawful means in law or in equity including, but not limited to, enforcement by criminal indictment or complaint pursuant to G.L. c. 40, § 21, or by non-criminal disposition pursuant to G.L. c. 40, § 21D, by the Board of Selectmen, the Town Administrator, or their duly authorized agents, or any police officer. The fine for violation of this by-law shall be three hundred dollars (\$300) for each offense. Any penalty imposed under this by-law shall be in addition to any civil penalty imposed under G.L. c. 94C, § 32L; or to act in any other manner in relation thereto.

Submitted by the Board of Selectmen at the request of  
Police Chief Francis Hart

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

## ZONING BYLAW ARTICLES

### ARTICLE 40

### RE: Amend Zoning Bylaw Article XI/ Special Residential Regulations, Add Section 11.8.0/Inclusionary Zoning Requirements for Multifamily Housing

To see if the Town will vote to amend the Zoning Bylaw by amending Article XI “Special Residential Regulations” by adding as new Section 11.8.0 “Inclusionary Zoning Requirements for Multifamily Housing”, as follows:

#### **11.8.0 Inclusionary Zoning Requirements for Multifamily Housing**

##### **11.8.1 Purpose and Intent**

The purpose of this Bylaw is to outline and implement a coherent set of policies and objectives for the development of affordable housing in compliance with the 2004 Burlington Community Development Plan, G.L. c. 40B sec. 20-23 and ongoing initiatives of the Burlington Housing Partnership to promote a reasonable percentage of housing that is affordable to moderate income buyers. It is intended that the affordable housing units that result from this Bylaw be considered as Local Initiative Program (LIP) dwelling units in compliance with the requirements for the same as specified by the Department of Housing and Community Development and that said units count toward the Town’s requirements under G. L. c. 40B sec. 20-23.

##### **11.8.2 Definitions**

**Affordable Housing Unit:** A dwelling unit that qualifies as a local initiative unit under the Commonwealth’s Local Initiative Program and meets the requirements of a subsidized housing unit for purposes of listing in the subsidized housing inventory under G. L. c. 40B Sec. 20-23.

**Qualified affordable housing unit purchaser:** An individual or family with household incomes that do not exceed 80% of the median income, with adjustments for household size, as reported by the most recent information from the United States Department of Housing and Urban Development (HUD) and/or the Massachusetts Department of Housing and Community Development (DHCD).

##### **11.8.3 Applicability**

This Bylaw shall apply to the construction of ten (10) or more multifamily dwelling units in accordance with any section of the Zoning Bylaw, whether on one or more contiguous parcels, owned or controlled by the applicant or a related entity and shall require a special permit from the Planning Board.

## **ZONING BYLAW ARTICLES (continued)**

### **11.8.4 Mandatory Provision of Affordable Units**

The Planning Board shall, as a condition of approval of any development referred to in Section 11.8.3, require that the applicant for special permit approval comply with the obligation to provide affordable housing pursuant to this Bylaw and more fully described in Section 11.8.5.

### **11.8.5 Provision of Affordable Units**

The Planning Board shall deny any application for a special permit for multifamily development unless at least ten (10%) percent of the units in a multifamily development subject to this Bylaw shall be established as affordable housing units in one or any combination of methods provided for below. When the calculation of 10% yields a fraction of .5 dwelling units or greater, the number of affordable housing units to be provided shall be rounded up to the nearest whole number. Affordable housing units may be:

1. Constructed or rehabilitated on the locus subject to the special permit;
2. Constructed or rehabilitated on a locus different than the one subject to the special permit;
3. Alternatively achieved when the applicant may offer, and the Planning Board, in concert with the Board of Selectmen, may recommend acceptance of donations of land in fee simple, on or off-site, that the Planning Board determines are suitable for the construction of affordable housing units. The Planning Board may require, prior to recommending acceptance of land as satisfaction of the requirements of this Bylaw, that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of equivalent value;
4. Alternatively achieved when the applicant may offer a cash payment to an Affordable Housing Trust Fund, pursuant to Section 11.8.9 of this Bylaw. The applicant may offer, and the Planning Board may accept, any combination of the requirements (a) through (d) herein, provided that in no event shall the total number of units or land area provided be less than the equivalent number or value of affordable units required by this Bylaw.

### **11.8.6 Provisions Applicable to Affordable Housing Units On- and Off-Site**

1. Siting of affordable units – All affordable units constructed or rehabilitated under this Bylaw shall be situated within the development so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units.
2. Minimum design and construction standards for affordable units – Affordable housing units within market rate developments shall be integrated with the rest of the development and shall be compatible in design, appearance, construction and quality of materials with other units.

**ZONING BYLAW ARTICLES**  
**(continued)**

3. Timing of construction or provision of affordable units or lots – Where feasible, affordable housing units shall be provided coincident to the development of market rate units, but in no event shall the development of affordable units be delayed beyond the schedule noted below:

MARKET RATE UNIT %	AFFORDABLE HOUSING UNIT %
Up to 30%	None required
30% plus 1 unit	At least 10%
Up to 50%	At least 30%
Up to 75%	At least 50%
Up to 90%	100%

Fractions of units shall not be counted.

**11.8.7 Marketing Plan for Affordable Units**

Applicants under this Bylaw shall submit a marketing plan or other method approved by the Planning Board, which describes how the affordable units will be marketed to potential homebuyers. This plan shall comply with the regulations established by the Massachusetts Department of Housing and Community Development, or its successor agencies, under the Local Initiative Program provisions of G.L. c. 40B

**11.8.8 Provision of Affordable Housing Units Off-Site**

As an alternative to the requirement of Section 11.8.5 (1), an application subject to the Bylaw may develop, construct or otherwise provide affordable units equivalent to those required by this section off-site. All requirements of this Bylaw that apply to on-site provision of affordable units shall apply to provision of off-site affordable units. If the off-site units are proposed as single family dwelling units in an RO District, such units shall not require a separate special permit.

**11.8.9 Fees in Lieu of Affordable Housing Units**

As an alternative to Section 11.8.5 (1) through (3), an applicant may contribute a cash payment to an Affordable Housing Trust Fund, to be used for the development of affordable housing by the Town or its designees, in lieu of constructing and offering affordable units within the locus of the proposed development or off-site.

**11.8.10 Maximum Incomes and Selling Prices: Initial Sale**

The Planning Board shall adopt Rules and Regulations governing the creation of affordable housing units through this Inclusionary Zoning provision. Such regulations may include criteria of maximum incomes, sales or rental prices, resale price, preservation of affordability, and calculation of fees in lieu of affordable housing units; or to act in any other manner in relation thereto.

Submitted by the Board of Selectmen at the request of  
the Planning Board

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**ZONING BYLAW ARTICLES**  
**(continued)**

**ARTICLE 41**

**RE: Amend Zoning Bylaw Article II/Definitions, Article III/Establishment of Districts and Article IV/Use Regulations, Article V/Dimensional Requirements, Article X/Special Regulations, Section 10.4.0, Add Section 10.5.0/Additional Regulations in the Business Park District, Amend Article XIII/Signs**

**Proposed Business Park (BP) District**

To see if the Town of Burlington will vote to amend the Zoning By-Laws of the Town of Burlington by adding the following new sections or amending certain existing provisions:

**To amend Article II: Definitions to include the following definitions:**

Amenities Center: Shall be accessory to an “office/commercial park” housing uses that directly support the office uses within the park providing comfort and convenience to park employees. It is the intent of the amenities center to be within a building centrally located to serve the daily needs of employees within the park.

Biotechnology: The fusion of biology and technology. Biotechnology is the application of biological techniques to product research and development. In particular, biotechnology involves the use by industry of recombinant DNA, cell fusion, and new bioprocessing techniques. Biotechnology uses are subject to all federal, state and local regulations. NIH Biosafety Level 4 (BL-4) laboratories are prohibited in Burlington.

Clinic: A building used exclusively by physicians, dentists, and similar personnel for the treatment and examination of patients solely on an outpatient basis, provided that no overnight patients shall be kept on the premises. A building that has been licensed as part of a larger hospital campus is not considered a clinic.

Conference Center: A facility used for service organizations, business and professional conferences, and seminars limited to accommodations for conference attendees. The accommodations can include accessory uses such as fast food, restaurant and banks. A conference center is not designed to be only utilized by the general public for overnight purposes and must be associated with a Hotel or office park.

Prototype Manufacturing: The manufacture of an original, full-scale or partial scale model of a new product or new version of an existing product which will be mass manufactured elsewhere.

Research and Development: Research, development, and testing laboratories that do not involve the mass manufacture, fabrication, processing, or sale of products. Such uses shall not violate any odor, dust, smoke, gas, noise, radiation, vibration, or similar pollution standard.

**ZONING BYLAW ARTICLES**  
**(continued)**

**To amend Article III Establishment of Districts, Section 3.1.0 Districts, by adding the following new use district:**

BP - Business Park Districts

**AND further to amend Article IV Use Regulations, Section 4.2.0 Principal Use Regulation Schedule, Section 4.3.0 Accessory Use Regulation Schedule, and Section 4.4.0 Permitted Uses in the Wetlands District, by inserting a new column for the BP District and identifying the permitted and prohibited uses as follows:**

(See Use Table, following pages)

**ZONING BYLAW ARTICLES**  
**(continued)**

**To further amend Article X, by creating a new Section 10.5.0 Additional Regulations in the Business Park District, as follows:**

10.5.1 Purpose: The Business Park (BP) District is hereby adopted to achieve the following purposes and objectives:

The fulfillment of goals and strategies enumerated in the 1993 Land Use Element of the Master Plan and the 2004 Community Development Plan and objectives identified in the Findings Report: Issues, Opportunities, and Constraints for Economic Development in the Town of Burlington, prepared by Larry Koff and Associates, dated \_\_\_\_\_, 2008,

The implementation of a district which reflects the goals of the town to promote modern office environments to ensure continued economic vitality for the Town.

The encouragement of communication and shared redevelopment efforts among adjoining property owners to help achieve their long term goals and objectives; and,

The promotion of increased density where utility and transportation infrastructure already exist to better accommodate future growth;

The consideration of a mixture of uses to reduce vehicle trips, such that residents and area employees can walk to needed services and amenities, and to conversely provide a built-in demand for the local commercial and retail uses; and enhancement and improvement of existing properties and/or structures relative to pedestrian access, vehicular circulation, and signage;

The reutilization of properties that have reached their market or physical obsolescence;

The application of “Smart Growth Principles” and environmentally sensitive policies as enumerated by the Commonwealth of Massachusetts to the future redevelopment of Burlington’s commercial sector;

**(section continued on next page)**

**ZONING BYLAW ARTICLES**  
**(continued)**

10.5.2 Floor Area Ratio (F.A.R.)

All projects shall be subject to the dimensional requirements in Section 5.2.0. An increase in the allowed The Floor Area Ratio (F.A.R) (resulting in not more than a 1.0 F.A.R<sup>1</sup>) is permitted through the application of selected options below and shall require the issuance of a Finding from the Planning Board, in conjunction with any applicable Site Plan or Special Permit application, that the proposal has sufficiently met the following selected standards:

Available F.A.R. Increase	Incorporated Elements
(0.05)	The site design has provided enhancements to pedestrian interconnectivity, vehicular circulation and traffic control signage
(0.1)	Any commercial development which results in a net floor area in excess of .50 FAR or provides parking in excess of 3.0 parking spaces per 1,000 SF shall be required to provide all required parking spaces (for said square footage in excess of .50 FAR, or above the 3.0 parking spaces per 1,000 SF) within a structured parking garage. Square footage within a parking garage shall not be counted towards a FAR calculation, although will be counted toward a building to ground percentage
(0.05)	Method satisfactory to the Planning Board to insure that the site operator or owners reduces 20% of the estimated Institute of Transportation ITE forecast trip generation rates related to the development in both the a.m. and p.m. peak hours based upon the most recent IT trip generation manual.
(0.1)	The project has incorporated methods to improve recharge from the site by 150% of existing conditions and improve stormwater quality through BMP and/or Low Impact Development practices meeting.
(0.1)	Pervious surface area on the subject property is increased by 10% over existing conditions. A pervious green roof may be counted toward this goal.
(.05)	The Applicant shall contribute to a Traffic Mitigation Fund which will be utilized to mitigate traffic impacts generated by the development. This mitigation contribution shall be calculated based on the additional number of parking spaces required to support the proposed expansion beyond 0.50 F.A.R (Calculations/procedures to be determined by the Planning Board). The mitigation fee shall be used to directly mitigate impacts associated with the proposed development (i.e. signalization, roadway or pedestrian enhancements)
(.05)	The site and building incorporate ten or more LEED elements from the U.S. Green Building Council LEED (The Leadership in Energy and Environmental Design) Rating Checklist.
(0.2)	U.S. Green Building Council LEED (Leadership in Energy and Environmental Design) Certified Building

<sup>1</sup> The 1.0 F.A.R. cap is not applicable if Transfer of Development Rights have been implemented.

## ZONING BYLAW ARTICLES (continued)

### 10.5.3. Transfer of Development Rights

The Planning Board may, by Special Permit, consider requests to transfer development capacity between parcels of land within the business park (BP) district within an “office/commercial park”. An “office/commercial park” shall be defined as a property which, when taken as a whole with other properties in the general area, possesses a commonality of purpose, use, management, maintenance, and other indicia which provides to the general public a perception of a unified operation and character. In an office/commercial park, the individual parcels do not have to be under the same ownership. The delineation of a particular office/commercial park may change over time based upon the Planning Board’s determination that other properties have been incorporated into a commonality of operation and character. The determination of whether a property qualifies under this definition shall be at the discretion of the Planning Board.

Development rights may **not** be transferred from land which may not be otherwise developed because of deed restrictions, easements, prior transfer of development rights, or other reasons that render the land not developable, including land with conservation restrictions, land owned by a government agency or a nonprofit corporation or other entity for park, open space, agricultural, historical, or conservation purposes.

Transfer of development rights is contingent upon placing a permanent deed restriction and recording such restriction at the South Middlesex Registry of Deeds, the form of which is subject to approval by Town Counsel, on the land from which the development rights are being transferred and restricting the use of the land to a limited developable capacity, agriculture, forestry, open space, passive or active recreation, or deeding the land to the Town of Burlington as permanent open space.

Development rights may be transferred from a sending parcel with the accompanying deed restriction and held indefinitely by the owner of the parcel before being transferred to a receiving parcel. Development rights may be transferred by sale or other means and may subsequently be transferred to any owner of receiving parcels in the “office/commercial” park within the Business Park (BP) District allowed pursuant to this bylaw. The 1.0 F.A.R. cap under section 10.5.3 is not applicable if Transfer of Development Rights are implemented.

### 10.5.4 Additional Dimensional Requirements

#### 10.5.4.1 Maximum Building & Structure Height

Building height shall be the same as the Industrial High Rise (IH) District requirements, although within 100’ of a local road the building height cannot exceed more than 50 feet in height.

**ZONING BYLAW ARTICLES**  
**(continued)**

10.5.4.2 Parking Requirements

Parking requirements shall be as specified in Article VII of this Bylaw, with the following additional criteria:

If the parking ratio is above 3.0 spaces per 1,000 square feet of (net) building Square footage<sup>2</sup>, all spaces above the 3.0 ratio shall be in structured parking.

10.5.5 Additional Regulations

In addition to the requirements prescribed in this Bylaw, development uses within the BP District shall be subject to the following:

One **Amenities Center** may be permitted per 600,000 SF of gross square footage within an “office/commercial park”. An amenities center shall be defined as accessory to an “office/commercial park” housing uses that directly support the office uses within the park providing comfort and convenience to park employees. It is the intent of the amenities center to be within a building centrally located to serve the daily needs of employees within the park. The total size of the amenities center shall be not larger than 5% of the gross floor area of the park. These amenities include but are not limited to: Café/coffee shop, dry cleaning drop-off/pick-up, bank, shoe repair, convenience store, fast food, personal service, ATM, travel agency and retail under 10,000 SF. It is the intent of the amenities center to be in a building centrally located to serve the daily needs of employees within the park.

**AND further to amend:**

Article X: Section 10.4.0 by adding the following

“Additional Regulations for Restaurants in an IG and BP Districts”

The Planning Board may grant a Special Permit for a restaurant use within a General Industrial (IG) and Business Park (BP) Districts, subject to the following restrictions:

10.4.3 Approval Criteria

In addition to the approval criteria for special permits pursuant to Section 9.2.4 of this bylaw, the applicant shall comply with additional criteria as detailed below and the Planning Board shall make findings pursuant to these specific requirements:

- a) Any proposed restaurant within an IG and BP Districts shall be located within a previously established office/commercial park of 600,000 square feet or more.

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2 If Net Square Footage is unavailable the Net will be calculated as 12% less than the Gross Floor Area.

**ZONING BYLAW ARTICLES**  
**(continued)**

Article XIII Signs, by amending the following section:

Section 13.1.4 Retail Industrial (IR), General Industrial (IG), High-Rise Industrial (IH) and Business Park (BP); or to act in any other manner in relation thereto.

Submitted by the Board of Selectmen at the request of  
the Planning Board

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**ARTICLE 42**

**RE: Amend Zoning Bylaw Article I/Purpose  
and Authority**

To see if the Town will vote to Amend Article I “Purpose” of the Zoning Bylaw, by deleting the existing Section 1.0 “Purpose” in its entirety and substituting therefore the following Section 1.0 “Purpose and Authority”:

**SECTION 1.0 PURPOSE**

~~The purpose of this Bylaw is to promote the health, safety, convenience, morals, and welfare of the inhabitants of the Town of Burlington. The objectives of this Bylaw are, among other purposes, to lessen congestion in the streets, to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the town; to preserve and increase amenities; and to accomplish any other purpose for which Zoning Bylaws may now or hereafter be enacted under the laws of the Commonwealth of Massachusetts.~~

**SECTION 1.0**

**PURPOSE AND AUTHORITY**

**1.0.1 TITLE.** The full title of these regulations shall be the "Zoning Bylaws of the Town of Burlington, Massachusetts." These regulations shall be referred to herein as the "Zoning Bylaws" or "this Bylaw".

**1.0.2 PURPOSE.** These regulations are enacted to promote the general welfare of the Town of Burlington, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land throughout the town, and to increase the amenities of the town, all as authorized by, but not limited by, the provisions of the Zoning Act, G.L. c. 40A, as amended, and Section 2A of 1975 Mass. Acts 808.

**ZONING BYLAW ARTICLES**  
**(continued)**

**1.0.3 AUTHORITY.** This Zoning Bylaw is enacted in accordance with the provisions of the General Laws, Chapter 40A, any and all amendments thereto, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts. The Planning Board shall be responsible for the maintenance of the official copy of this Bylaw.

**1.0.4 SCOPE.** For these purposes, the construction, alteration, reconstruction, height, number of stories, and size of buildings and structures, the size and width of lots, the percentage of lot area that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land in the Town are regulated as hereinafter provided.

**1.0.5 APPLICABILITY.** All buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved, and the use of all premises in the Town, shall be in conformity with the provisions of the Zoning Bylaw. No building, structure or land shall be used for any purpose or in any manner other than is expressly permitted within the district in which such building, structure or land is located. Where the application of this By-Law imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this By-Law shall control. Nothing herein shall be construed to supersede the provisions of the State Building Code, 780 CMR 1.00, et seq.

**AND** further to amend Section 1.3.0 “Defect in the Form of Notices”, by adding the following sentence, highlighted in bold text, to the end of the section, as follows:

1.3.0 DEFECT IN THE FORM OF NOTICES

No defect in the form of any notice under this Bylaw shall invalidate any action taken thereunder or pursuant thereto unless such defect is found to be misleading. **When notice is required to be provided to the public, an abbreviation shall not be used without clear indication of the subject matter or specific term being abbreviated;** or to act in any other manner in relation thereto.

Submitted by the Board of Selectmen at the request of  
the Planning Board

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

ZONING BYLAW ARTICLES  
(continued)

ARTICLE 43

RE: Amend Zoning Bylaw Article VII, Section 7.5.2/Streets, Driveways, Parking and Service Areas and Article VIII/Overlay Districts, Section 8.3.8.4/Impervious Surfaces

**LOW IMPACT DEVELOPMENT DRAINAGE TECHNIQUES**

To see if the Town of Burlington will vote to amend Article VII “General Regulations” and Article VIII “Overlay Districts” of the Zoning Bylaws of the Town of Burlington by adding the following new sections or amending certain existing provisions:

To amend Section 7.5.2 Streets, Driveways, Parking and Service Areas as follows:

In all districts except "RO" One Family Dwelling Districts, all streets, driveways, parking areas, service areas, ramps, loading docks and exterior storage areas shall be paved or surfaced with impervious materials. **In areas where contamination or other environmental factors do not preclude infiltration, porous pavement, porous concrete, and/or permeable pavers may be used in streets, driveways and parking areas. All systems shall be designed** and constructed ~~with curbing slopes and similar design features~~ so that water falling on such areas will be directed into an approved system of ~~drainage structures and pipes~~ **pipes and/or drainage structures.**

And further to amend Section 8.3.8.4 Impervious Surfaces as follows:

Within the Aquifer and Water Resource Districts, not less than forty percent (40%) of the lot shall be landscaped or if wooded, may be left in a natural state. Within the Aquifer and Water Resource Districts all streets, sidewalks, parking areas, driveways, ramps, service areas, loading docks, and exterior service areas shall be paved or surfaced with impervious materials; **in areas where contamination or other environmental factors do not preclude infiltration, porous pavement, porous concrete and/or permeable pavers may be used. All systems shall be designed** and constructed ~~with curbing, slopes, and similar design features~~ so that water falling on such areas and on buildings on the same premises, and spilled liquid substances on such areas and in adjacent buildings, will be contained and controlled and directed into an approved system of ~~drainage structures and pipes~~ **pipes and/or drainage structures.** Such drainage system shall trap for removal, all oil based pollutants and suspended sediment and materials and shall provide for the full recharge of stormwater and precipitation to the ground beneath the site by the use of leaching structures, pipes, and fields, **or an approved low impact development technique.** The outlet from such drainage system

**ZONING BYLAW ARTICLES**  
**(continued)**

shall be designed to obtain the efficient operation of the leaching structures and to allow the passage of excess amounts of water so that no flooding of the site will occur. Residential lots which render impervious not more than fifteen percent (15%) or 2,500 square feet of the lot, whichever is greater, shall be exempt from this recharge and maintenance requirement. A drainage maintenance schedule shall be developed, subject to the approval of the Board of Health and the Town Engineer, which provides for the periodic inspection and maintenance of all drainage structures and systems. The property owner shall be responsible for continually implementing such drainage system maintenance. or to act in any other manner in relation thereto.

Submitted by the Board of Selectmen at the request of  
the Planning Board and Conservation Commission

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**ARTICLE 44**

**RE: Amend Zoning Bylaw Article VII/General  
Regulations, Section 7.3.0/General Loading  
Requirements and Purpose, and Section 7.4.2/  
Landscaping, and Section 7.5.0/General Performance  
Regulations**

**Loading, landscaping and performance standards**

To see if the Town of Burlington will vote to amend Article VII “General Regulations” the Zoning Bylaws of the Town of Burlington by adding the following new sections or amending certain existing provisions:

To amend Section 7.3.0 General Loading Requirements and Purpose, by adding the following new text, highlighted in bold print, as follows:

**7.3.0 LOADING REQUIREMENTS**

Loading space dimensions and locations shall be approved by the Planning Board, and loading spaces shall be so placed as not to require maneuvering within a public way or way used by the public.

**7.3.1 General. Adequate off-street loading spaces or loading areas shall be provided and maintained by the owner of the property for each nonresidential building or use which is erected, enlarged or altered after the effective date of this By-law, according to the following regulations.**

**ZONING BYLAW ARTICLES**  
(continued)

**7.3.2 Same Lot.** All loading spaces or loading areas required by this By-law shall be on the same lot as the building or use which they are intended to serve, and in no case shall any required loading area be part of an area used to satisfy the off-street parking requirements of this By-law.

**7.3.3 No Queues or Backing onto Street.** No loading facility shall be designed to require trucks to queue on a public way while awaiting off-loading. No loading facility shall be designed to require vehicles to back onto a public way; all turning maneuvers shall be accommodated on the premises.

**7.3.4 Shared Loading.** No part of an off-street loading area required by this By-law for any nonresidential building or use shall be included as part of an off-street loading area similarly required for another building or use, unless the type of buildings or uses indicates that the usage of such loading area would not occur simultaneously, as determined by the Planning Board.

**7.3.5 Screening.** Loading areas shall be screened in accordance with Section 7.4.

**7.3.6 Size.** Loading bays shall not be less than twelve (12) feet in width, sixty-five (65) feet in length, and fourteen (14) feet in height, exclusive of driveway and maneuvering space.

**7.3.7 Location.** No loading dock or bay shall be located within twenty (20) feet of the boundary of any residential district.

**7.3.8 Special Permit.** Any loading requirement set forth herein may be reduced upon the issuance of a special permit by the Planning Board if the Board finds that the reduction is not inconsistent with public health and safety, or that the reduction promotes a public benefit.

And further to amend Section 7.4.2 Landscaping, by adding the following new text highlighted in bold print, as follows:

**7.4.2 Purpose.** This section is designed to accomplish the following objectives:

- 1. Provide a suitable boundary or buffer between residential uses and nearby nonresidential uses;**
- 2. separate different and otherwise incompatible land uses from each other in order to partially or completely reduce potential nuisances such as dirt, dust, litter, noise, glare from motor vehicle headlights, intrusion from artificial light (including ambient glare), or view of signs, unsightly buildings or parking lots;**
- 3. provide visual relief and a source of shade in parking lots and other areas, and protection from wind in open areas; and**

**ZONING BYLAW ARTICLES**  
**(continued)**

4. offer property owners protection against diminution of property values, if any, due to adjacent nonresidential use.

**7.4.3 Applicability.** The requirements of this section shall apply to any nonresidential use and to multifamily dwellings.

**7.4.4 Landscaping Requirements.** Some combination of planting, screening, or fencing shall be installed at the following locations:

1. Property line(s) which also bound residential districts shall be screened from nonresidential uses by means of plantings or maintenance of trees of a species common to the area and appropriate for screening, spaced to minimize visual intrusion, and providing an opaque year-round visual buffer between uses. Such plantings shall be provided and maintained by the owner of the property used for nonresidential use and multifamily dwellings. No part of any building or structure or paved space intended for or used a parking area may be located within the buffer area. Planted buffer areas along property lines which also bound residential districts or uses shall be of a minimum depth of 20 feet.

2. Any accessory receptacle or structure with a holding capacity of at least one hundred (100) cubic feet for temporary storage or solid or liquid waste materials, including garbage, rubbish, junk, discarded bulk items and similar waste items shall be screened from all adjacent premises and streets from which it would otherwise be visible in accordance with this Section.

3. Any loading area or HVAC equipment or other electrical equipment placed on the ground level shall be screened from all adjacent premises and streets from which it would otherwise be visible in accordance with this Section.

4. Landscaping shall be provided, erected and maintained on any part of any BN, BL, BG, BT, IH, IR, IG, or RG lot which is not occupied by a structure or by required parking areas, service areas, and driveways; except that all or part of the required landscaping may be in its clean original wooded state. Landscaping features shall be erected or planted before the premises are first occupied. Alternatively, the Planning Board may accept a financial guarantee in the amount of the cost of installing the landscaping and an agreement to complete the landscaping within a specified time and permit occupancy before the landscaping is installed.

**7.4.5 Planted Area Requirements.** Planted areas shall contain an appropriate mix of the following types of plants. Plant species shall be appropriate to proposed use, siting, soils, and other environmental conditions. Where the Planning Board determines that the planting of trees is impractical, the permit applicant may substitute shrubbery for trees.

1. Shrubs and hedges shall be at least 2.5 feet in height at the time of planting, and have a spread of at least 18 inches.

**ZONING BYLAW ARTICLES**  
**(continued)**

**2. Grass is preferable to mulch where practical.**

**3. Existing trees with a caliper of six inches (6") or more shall be preserved wherever feasible. Measurement shall take place six inches above grade.**

**4. Deciduous trees shall be at least two (2") inches in caliper as measured six (6") inches above the root ball at time of planting. Deciduous trees shall be expected to reach a height of 20 feet within ten years after planting. Evergreens shall be a minimum of eight (8') feet in height at the time of planting. Measurement shall take place six inches above grade.**

**7.4.6 Coordination with Site Plan Approval.** The Planning Board shall require a landscaping plan as part of the overall site plan for the premises. Such landscaping plan shall be at a scale sufficient to determine compliance with the specifications set forth in this Section.

**7.4.7 Maintenance of Landscaped Areas.** The owner of the property used for nonresidential purposes shall be responsible for the maintenance, repair and replacement of all landscaping materials installed in accordance with this section and shall have a continuing obligation to comply with the provisions set forth herein. All plant materials required by this Section shall be maintained in a healthful condition.

**7.4.8 Special Permit.** By special permit, the Planning Board may authorize a reduction in the requirements of this Section, where such reduction will not result in substantial detriment.

**And further to** amend Section 7.5.0, General Performance Regulations, by adding the following new text highlighted in bold print, as follows:

**SECTION 7.5.0 GENERAL PERFORMANCE REGULATIONS**

**7.5.3 Environmental Performance Standards**

**7.5.3.1. General.** No activity shall be permitted in any district unless it shall be in conformity with the standards included herein. After a permit is issued in accordance with this section, continuing compliance is required. The following standards are hereby established.

**7.5.3.2 Noise.** No use shall be permitted within the town which, by reason of excessive noise generated therefrom, would cause nuisance or hazard to persons or property, as set forth in 310 CMR 7.01. No person shall operate or cause to be operated any source of sound in a manner that creates a sound level which exceeds 70 dBA or 10 dBA above ambient, whichever is lower, when measured at the property boundary of the receiving land use.

**ZONING BYLAW ARTICLES**  
**(continued)**

**7.5.3.3 Erosion Control.** Site design, materials, and construction processes shall be designed to avoid erosion damage, sedimentation, or uncontrolled surface water runoff by conformance with the following:

- 1.** Grading or construction which will result in final slopes of 15% or greater on 25% or more of lot area, or on 20,000 square feet or more on a single lot, even if less than 25% of lot area, shall be allowed only by special permit from the Planning Board, which shall be granted only upon demonstration that adequate provisions have been made to protect against erosion, soil instability, uncontrolled surface water runoff, or other environmental degradation. Applications and plans for such special permits shall be referred to the Conservation Commission for its advisory review.
- 2.** All such slopes exceeding 15% which result from site grading or construction activities shall either be covered with topsoil to a depth of 4 inches and planted with vegetative cover sufficient to prevent erosion or be retained by a wall constructed of masonry, reinforced concrete or treated pile or timber.
- 3.** No area or areas totaling 0.5 acres or more on any parcel or contiguous parcels in the same ownership shall have existing vegetation clear-stripped or be filled 6 inches or more so as to destroy existing vegetation unless in conjunction with agricultural activity, or unless necessarily incidental to construction on the premises under a currently valid building permit, or unless within streets which are either public or designated on an approved subdivision plan, or unless a special permit is approved by the Planning Board on condition that runoff will be controlled, erosion avoided, and either a constructed surface or cover vegetation will be provided not later than the first full spring season immediately following completion of the stripping operation. No stripped area or areas which are allowed by special permit shall remain through the winter without a soil control plan approved by the Planning Board, except in the case of agricultural activity where such temporary cover would be infeasible.
- 4.** The Inspector of Buildings may require the submission of all information from the building permit applicant or the landowner, in addition to that otherwise specified herein, necessary to ensure compliance with these requirements, including, if necessary, elevations of the subject property, description of vegetative cover, and the nature of impoundment basins proposed, if any.
- 5.** In granting a special permit hereunder, the Planning Board shall, unless waived, require a performance bond to ensure compliance with the requirements of this Section.
- 6.** Hillside areas, except naturally occurring ledge or bedrock outcroppings or ledge cuts, shall be stabilized with vegetative cover as per an approved plan.

**7.5.3.4 Nuisance.** Cinders, dust, fumes, gases, odors, smoke, radiation, refuse or other waste materials shall be effectively confined to the premises and treated or disposed of in accordance with state, federal, and town laws and regulations.

**ZONING BYLAW ARTICLES**  
(continued)

**7.5.3.5 Interference.** No process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in excess of ten (10) percent in line voltage off the premises.

**7.5.3.6 Flammable or Explosive Substances.** All activities involving, and all storage of, flammable and explosive materials shall be provided with adequate safety devices against hazards from fire and explosion, and with adequate fire fighting and fire suppression equipment standard in this industry.

**7.5.3.7 Pests.** All materials which may be edible by or attractive to rodents or insects shall, when stored in or outdoors, be stored in tightly closed containers, and separated as required.

And further to create a new section **7.5.4 Lighting Standards/Light Pollution**, as follows:

**SECTION 7.5.4 Lighting Standards/Light Pollution**

**7.5.4.1.Purpose and intent.** The purpose of this bylaw is to create standards for outdoor lighting so that its use does not unreasonably interfere with the reasonable use and enjoyment of property within Burlington. Outdoor lighting, including lighting on the exterior of a building or lighting in parking areas, shall be arranged to minimize glare and light spilling over to neighboring properties, streets and the night sky. It is the intent of this section to encourage, through the regulation of the types, construction, installation and uses of outdoor electrically powered illuminating devices, lighting practices and systems which will reduce light pollution, light trespass and glare in order to preserve and enhance the natural, scenic, and aesthetic qualities of Burlington, conserve energy and decrease lighting cost without decreasing nighttime safety, security, and productivity, and preserve the night sky as a natural resource to enhance nighttime enjoyment of property within Burlington.

**7.5.4.2 Uses.** All municipal uses, uses in industrial and commercial districts, special permit uses and signs in all districts are subject to this section.

**7.5.4.3 Definitions.** Except as noted hereinafter, all definitions are provided in the Zoning Bylaw. Unless the context clearly indicates otherwise, certain words and phrases used in this section shall mean the following:

**CUTOFF ANGLE:** The angle formed by a line drawn from the direction of the direct light rays at the light source with respect to the vertical, beyond which no direct light is emitted.

**DIRECT LIGHT:** Light emitted directly by a lamp, off a reflector, or through a refractor of an outdoor light fixture.

**ZONING BYLAW ARTICLES**  
(continued)

**FILDERED:** When referring to an outdoor light fixture means that the fixture is to be fitted with a glass, acrylic, or other translucent enclosure of the light source.

**GLARE:** Light emitted from a light fixture with an intensity great enough to produce annoyance, discomfort, or a reduction in a viewer's ability to see.

**HEIGHT OF light fixture:** The vertical distance from the finished grade of the ground directly below to the lowest direct light emitting part of the light fixture.

**LAMP:** The component of an outdoor light fixture that produces light.

**LIGHT FIXTURE:** A complete lighting system, including the assembly that houses a lamp or lamps, and which may include a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor, lens, or diffuser lens.

**LIGHT TRESPASS:** Direct light emitted by an outdoor lamp fixture that shines beyond the boundaries of the property on which the outdoor light fixture is installed.

**SHIELDED LIGHT FIXTURE:** A lamp and fixture assembly designed to eliminate up-lighting with a cutoff angle of 90°, so that no direct light is emitted above a horizontal plane.

**UP-LIGHT:** Direct light emitted by an outdoor light fixture above a horizontal plane through the fixture's lowest light-emitting part.

**7.5.4.4 Lighting Plan.** A lighting plan is required and shall include:

1. The location and type of any outdoor lighting fixtures, including the height of the fixture;
2. The lighting fixture manufacturer's specification data, including lumen output and photometric data showing cutoff angles;
3. The type of lamp such as: metal halide, compact fluorescent, high pressure sodium;
4. A photometric plan showing the intensity of illumination at ground level, expressed in foot candles; and
5. That light trespass onto any street or abutting lot will not occur. This may be demonstrated by manufacturer's data, cross section drawings, or other means.

**7.5.4.5 Prohibited light sources.**

- (1) Mercury vapor and quartz lamps. For the purposes of this bylaw, quartz lamps shall not be considered an incandescent light source.
- (2) Laser source light. The use of laser source light or any similar high-intensity light for outdoor advertising, when projected above the horizontal, is prohibited.

**ZONING BYLAW ARTICLES**  
**(continued)**

- (3) **Searchlights.** The operation of searchlights for advertising purposes is prohibited.

**7.5.4.6 Control of Glare and Light Trespass**

**All light fixture shall be equipped with whatever shielding, filters, lenses, or cutoff devices required to eliminate light trespass onto any street or abutting lot or parcel, to eliminate glare perceptible to persons on any street or abutting lot or parcel and to minimize up-lighting. This requirement shall not apply to any light fixture intended solely to illuminate any freestanding sign or the walls of any building but such light fixture shall be shielded so that its direct light is confined to the surface of such sign or building.**

**7.5.4.7 Metal halide lighting.** All outdoor light fixtures utilizing a metal halide lamp or lamps shall be shielded and filtered. Filtering using quartz glass does not meet this requirement.

**7.5.4.8 Exemptions.**

- (1) **Fossil fuel light.** All outdoor light fixtures producing light directly by the combustion of natural gas or other fossil fuels are exempt from all requirements of this bylaw.
- (2) **Other light sources.** All outdoor light fixtures using an incandescent lamp or lamps of 150 watts or less are exempt from all requirements of this bylaw. All outdoor light fixtures using any lamp or lamps of 50 total watts or less are exempt from all requirements of this bylaw.

7.5.4.9 Special permit. Alternative outdoor light fixtures may be allowed by special permit if it is found that the fixture's design and appearance are superior, significant light pollution will not be created, and light trespass and glare are minimal; or to act in any other manner in relation thereto.

Submitted by the Board of Selectmen at the request of  
the Planning Board

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**ZONING BYLAW ARTICLES**  
**(continued)**

**ARTICLE 45**

**RE: Amend Zoning Bylaw Article IX/  
Administration and Procedures, Amend  
Section 9.2.0 Special Permit and Section 9.3.0  
Site Plan**

To see if the Town will vote to amend Article IX “Administration and Procedures” of the Zoning Bylaw, by amending Section 9.2.0 “Special Permit” and Section 9.3.0 “Site Plan”, as follows:

**TO** amend Subsection 9.2.2.1 “Procedures”, by deleting the reference to Section 9.2.2.3 and substituting therefore “the Planning Board’s Rules and Regulations”, highlighted in bold print as follows:

9.2.2 Procedures.

1. Any person desiring a special permit shall submit an application to the Town Clerk, together with the required filing fee as specified in ~~Section 9.2.2.3~~ **the Planning Board’s Rules and Regulations**, and twelve (12) copies of a Site Plan and/or other supporting documentation. The Town Clerk shall within three (3) days transmit the original application and four (4) copies of the plan and any supporting documentation to the Planning Board; and one (1) copy each of the application, plan, and supporting documentation to the Inspector of Buildings, the Board of Selectmen, the DPW, the Town Engineer, the Board of Health, the Conservation Commission, the Fire Chief, and the Police Chief, who shall consider the application and submit a report thereon with recommendations to the Planning Board. The Planning Board shall not make a finding and determination upon the application until it has received the reports from the Building Commissioner, the Board of Selectmen, the Board of Health, the Fire Chief or designated representative, the Police Chief or designated representative, the Town Engineer, and the Conservation Commission or until thirty-five (35) days shall have elapsed without such reports being submitted and until a public hearing has been held.

**AND** further to amend Subsection 9.2.2.2 by replacing the existing text in its entirety and substituting therefore the following:

2. ~~The Planning Board shall require that a site plan and/or supporting documents be submitted with the application.~~ **The Planning Board shall adopt and from time to time amend rules and regulations relative to the issuance of such permits and shall file a copy of said rules in the office of the Town Clerk. Such rules shall prescribe a size, form, contents, style and number of copies of application forms, plans and specifications and the procedure for a submission and approval of such permits.**

**AND** further to amend section 9.2.3 “Public Hearing” by replacing the reference for the requirements for public hearings with a citation of the State Statute, highlighted in bold print as follows:

9.2.3 Public Hearing

The Planning Board shall hold a public hearing within sixty-five (65) days after the special permit application has been transmitted to the Planning Board giving notice as prescribed in ~~Section 9.6 of this Article.~~ **G.L. c. 40A, s. 11.**

## ZONING BYLAW ARTICLES (continued)

AND further to amend Section 9.2.4 “Criteria for Approval”, by replacing the existing text in its entirety and substituting therefore the following:

### 9.2.4 Criteria for Approval

9.2.4.1—The Planning Board shall not approve any application for approval of a special permit unless it finds that all of the following conditions are met:

9.2.4.1.1—The specific site is an appropriate location for such use.

9.2.4.1.2—The use as developed will not adversely affect the neighborhood.

9.2.4.1.3—There will be no nuisance or hazard to vehicles or pedestrians.

9.2.4.1.4—The public convenience and welfare will be substantially served.

9.2.4.2—The Planning Board, in granting a special permit, shall attach such conditions and safeguards as it deems necessary.

9.2.4.3—The Planning Board shall not approve a special permit for a Development Incentive for Affordable Housing (Section 5.1.9 (now 11.1.0)) unless it finds that all of the following conditions are met:

9.2.4.3.1—All conditions noted above in Sections 9.2.4.1 through 9.2.4.2.

9.2.4.3.2—All housing units are designed and sited to reflect the character of the neighborhood.

9.2.4.3.3—The site will not cause environmental degradation to the neighborhood.

**Special permits shall be granted by the Planning Board, unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this Zoning Bylaw, the determination shall include consideration of each of the following:**

- 1. Social, economic, or community needs which are served by the proposal;**
- 2. Traffic flow and safety, including parking and loading;**
- 3. Adequacy of utilities and other public services;**
- 4. Neighborhood character and social structures;**
- 5. Impacts on the natural environment; and**
- 6. Potential fiscal impact, including impact on town services, tax base, and employment.**

**ZONING BYLAW ARTICLES**  
**(continued)**

**AND** further to amend Section 9.2.5 “Final Action”, by adding the following sentence, highlighted in bold print, to the end of the section:

9.2.5 Final Action

The Planning Board shall take final action on a special permit application within ninety (90) days after the public hearing has been closed. The failure to do so will constitute a favorable action by the Planning Board. Final action shall consist of (1) a written approval of the special permit, or (2) a written denial of the special permit application, stating the reasons for such approval or denial. **Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the Planning Board may deem necessary to serve the purposes of this Zoning Bylaw.**

**AND** further to create a new subsection 9.2.5.1 “Expedited Permitting for Priority Development Sites”, as follows:

**9.2.5.1 Expedited Permitting for Priority Development Sites**

**Town Meeting may, by majority vote, accept the expedited permitting provisions of G.L. c. 43D and designate any particular lot or lots as Priority Development Sites. In such cases, the Planning Board shall undertake review and render a decision on any special permit application so affected within 180 days of submission. The Planning Board may address provisions for such expedited permitting in its rules and regulations.**

**AND** further to amend Section 9.2.6 “Implementation” by replacing the first sentence, highlighted in bold print as follows:

9.2.6 Implementation

~~An approved special permit application shall be carried into effect and completed by the applicant within one (1) year of the date of approval.~~ **Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within 24 months following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s. 17, from the grant thereof) with the Town Clerk.** The Planning Board may at the time of approval or thereafter, upon application therefore, grant such extensions of time, each not longer than one (1) year, as it shall deem necessary to carry the use into effect.

**AND** further to amend subsection 9.3.1 “Requirements of Plan” by deleting the words “registered architect, landscape architect” and substituting therefore “professional land surveyor”, highlighted in bold print as follows:

**ZONING BYLAW ARTICLES**  
**(continued)**

SECTION 9.3.0 SITE PLAN

9.3.1 Requirements of Plan.

In all districts except RO and FP, no structure or premises shall be constructed, reconstructed, altered, or used except in conformity with a site plan, prepared by a ~~registered architect, landscape architect,~~ **professional land surveyor**, or registered professional engineer, and bearing an endorsement of approval by the Planning Board. Said site plan shall show, among other things, all existing and proposed buildings with ground floor plan and elevations, structures, parking spaces, driveway openings, driveways, service areas, and other open uses; all facilities for sewage, refuse and other waste disposal and for surface water drainage; and all principal landscape features, such as fences, walks, walls, signs, exterior lighting, and planting areas showing size and kind of plants to be used.

The Planning Board may in any particular case where such action is in the public interest and not inconsistent with the intent and purpose of this section, waive strict compliance with its rules and regulations and with the requirements herein.

**AND** further to amend subsection 9.3.3 “Public Hearings”, by replacing the reference for the requirements for public hearings with a citation of the State Statute, highlighted in bold print as follows:

9.3.3 Public Hearings.

The Planning Board shall hold a public hearing within sixty-five (65) days after the site plan has been transmitted to the Planning Board, giving notice as prescribed in ~~Section 9.6.0 of this Article~~ **G.L. c. 40A, s. 11**.

**AND** further to amend subsection 9.3.5.3 “Final Action”, by deleting the words “in Section 9.3.4 of this Article” and substituting therefore the word “herein”, highlighted in bold print as follows:

9.3.5 Final Action.

The Planning Board shall take final action on an application for site plan approval within ninety (90) days after the public hearing has been closed. The failure to do so shall constitute approval of the site plan as submitted. Final action shall consist of (1) approval of the site plan as submitted; or (2) approval of the site plan subject to conditions, modifications, and/or restrictions set forth thereon which in the opinion of the Planning Board are necessary to cause the site plan to meet the criteria for approval set forth ~~in Section 9.3.4 of this Article~~ **herein**; or (3) denial of the application for site plan approval if in the opinion of the Planning Board the site plan fails to meet any one or more of the criteria for approval set forth ~~in Section 9.3.4 of this Article~~ **herein**, and the applicant fails or refuses to make such amendments to the site plan as are necessary in the opinion of the Planning Board to cause the site plan to meet the criteria for approval.

**ZONING BYLAW ARTICLES  
(continued)**

**AND** further to create a new subsection 9.3.5.1 “Expedited Permitting for Priority Development Sites”, as follows:

**9.3.5.1 Expedited Permitting for Priority Development Sites**

**Town Meeting may, by majority vote, accept the expedited permitting provisions of G.L. c. 43D and designate any particular lot or lots as Priority Development Sites. In such cases, the Planning Board shall undertake review and render a decision on any site plan application so affected within 180 days of submission. The Planning Board may address provisions for such expedited permitting in its rules and regulations.**

**AND** further to add a new subsection 9.3.7 “Appeal”, as follows:

**9.3.7 Appeal.**

**The appeal of a decision of the Planning Board pursuant to this Section 9.3.0 shall be made to a court of competent jurisdiction as set forth in G.L. c. 40A, s. 17; or to act in any other manner in relation thereto.**

Submitted by the Board of Selectmen at the request of the  
Planning Board

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER

**ARTICLE 46**

**RE: Amend Zoning Map/Rezone Parcels  
New England Executive Park**

To see if the Town will vote to amend the Zoning Map of the Town of Burlington, as most recently amended, by rezoning certain parcels of land from a General Industrial (IG) District and High Rise Industrial (IH) District to a Business Park (BP) District. Said parcels of land are generally identified as being located within New England Executive Park and as further identified on the Town of Burlington Assessors Map as follows: Map46, Parcels 43, 44, 45, 47, 48, 50, 51, 52, 53 and Map 52, Parcels 13, 14 and 15 together with any fee interest in any adjacent private ways or passageways possessed by all of these parcels more commonly referred to as New England Executive Park Drive and Park Place; or to act in any other manner in relation thereto.

Submitted by the Board of Selectmen at the request of the  
Equity Office Properties

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**ZONING BYLAW ARTICLES**  
**(continued)**

**ARTICLE 47**

**RE: Amend Zoning Map  
and Wireless Communications Overlay  
District Map/Kimball Court**

To see if the Town will vote to amend the existing Zoning Map of the Town of Burlington including the map entitled "Town of Burlington – Wireless Communications Overlay Districts" to add the property now or formerly of The Mullins Company, Assessor's Map 31, Lot 130, and establish the same as part of the Wireless Communications Overlay Districts.

Submitted by the Board of Selectmen at the request of  
Omnipoint Communications Inc.

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**ARTICLE 48**

**RE: Amend Planned Development (PD) District  
Zoning Provisions, Use Table and Concept  
Plan/Arborpoint**

To see if the Town will vote to approve the proposed amendments to the Zoning Provisions, Use Table and Concept Plan of the previously approved Arborpoint Planned Development (PD) District, as filed with the Board of Selectmen on February 23, 2009, and as modified by the recommendations of the Planning Board. The proposed amendments are included as part of the backup material to this Warrant Article, which shall govern the use and development of the Planned Development (PD) District. The affected property is generally known as Arborpoint and Seven Springs at Arborpoint, located off Wheeler Road and Muller Road. The property is more specifically identified on the Town of Burlington Assessor's Map 56 as Parcel numbers: 24-0 and 24-1, or to act in any other manner in relation thereto.

Submitted by the Board of Selectmen at the request of  
Northland Residential Corporation

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**ZONING BYLAW ARTICLES**  
**(continued)**

**ARTICLE 49**

**RE: Amend Planned Development  
(PD) District Zoning Provisions,  
Use Table and Concept Plan/90  
Middlesex Turnpike**

To see if the Town will vote to approve the Concept Plan as filed with the Board of Selectmen on March 18, 2009, and filed with the Planning Board on March 18, 2009, as modified by the recommendations of the Planning Board; and further to amend the Zoning Map to rezone a certain parcel of land from a General Industrial (IG) District to a Planned Development (PD) District, said parcel generally known as 90 Middlesex Turnpike (formerly Burlington Dodge), bounded by Middlesex Turnpike, Route 128, Route 3, and properties commonly known as Barnes & Noble and the AMC theater remote parking lot. The property is more specifically identified on the Town of Burlington Assessor's Map 52 as Parcel 8-0. The proposed Planned Development District Provisions which shall govern the use and development of the proposed Planned Development (PD) District are included as part of the backup material to this Warrant Article; or to act in any other manner in relation thereto.

Submitted by the Board of Selectmen at the request of  
R.C. Trust

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**ARTICLE 50**

**RE: Amend Zoning Map from General Industrial  
(IG) to General Business (BG)/201 Middlesex  
Turnpike**

To see if the Town will vote to amend the Zoning Map of Town of Burlington, as most recently amended, by rezoning a certain parcel of land from a General Industrial (IG) District to a General Business (BG) District. Said parcel is generally identified as 201 Middlesex and is further identified on the Tow of Burlington Assessors Map as Map 33, Parcel 72-0; or to act in any other manner in relation thereto.

Submitted by the Board of Selectmen at the request of  
the 201 Middlesex Turnpike LLC

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )