TOWN WARRANT

Hampshire, ss.

To one of the Constables of the Town of Amherst, in said county, Greetings:

In the name of the Commonwealth of Massachusetts you are hereby directed to notify the registered voters of the Town of Amherst of the **Special Town Meeting** to be held in the Auditorium of the Amherst Regional Middle School in said Amherst at seven-thirty o'clock p.m. on **Monday, the Second day of November, two thousand and nine**, when the following articles will be acted upon by town meeting members:

ARTICLE 1. Reports of Boards and Committees
(Select Board)

To see if the Town will hear only those reports of Town officers, the Finance Committee, and any other Town boards or committees which are not available in written form.

ARTICLE 2. Transfer of Funds – Unpaid Bills
(Select Board)

To see if the Town will, in accordance with Chapter 44, Section 64, of the Massachusetts General Laws, appropriate and transfer a sum of money to pay unpaid bills of previous years.

ARTICLE 3. FY 2010 Budget Amendments
(Finance Committee)

A. To see if the Town will amend the budget voted under Article 22 of the 2009 Annual Town Meeting (FY 2010 Operating Budget) to transfer sums of money between General Government, Public Safety, Public Works, Planning, Conservation, and Inspections, Community Services, and Debt Service accounts to balance the 2010 Fiscal Year.

B. To see if the Town will appropriate and transfer $63,674 from Free Cash in the Undesignated Fund Balance of the General Fund to the Health Claims Trust Fund to account for Medicare Part D reimbursements received by the Town of Amherst for prescription drug costs incurred by the Health Claims Trust Fund for Town of Amherst, Amherst-Pelham Regional School District, and Town of Pelham members.

C. To see if the Town will appropriate and transfer a sum of money from Free Cash in the Undesignated Fund Balance of the General Fund to balance the 2010 Fiscal Year Budget.

ARTICLE 4. Pelham Watershed Land Acquisition
(Conservation Commission)

To see if the Town will 1) authorize the acquisition, for water supply, protection and other similar purposes, by purchase, gift, eminent domain or otherwise, of a portion of certain parcels of land in the Town of Pelham, located at 339 Amherst Road, being shown as Parcels 18 and 19 on Pelham Assessors Map 15, 2) appropriate $170,000 for such acquisition and to meet such appropriation transfer $170,000 from the Water Fund Surplus, and 3) authorize the Town to apply for and accept grants for reimbursement of the cost of such acquisition.

ARTICLE 5. Street Acceptance - Lawrence Circle (Select Board)

To see if the Town will accept as a town way Lawrence Circle, as laid out by the Select Board and shown on plans of land filed with the Town Clerk, and authorize the Select Board to take by eminent domain, purchase or otherwise any fee, appurtenant rights, easements or other interest in land therefor, no appropriation being required.

ARTICLE 6. Zoning Amendment – Footnote A. Amendment (Planning Board)

To see if the Town will amend footnote a. of Table 3, Dimensional Regulations, by deleting the ~~lined out~~ language and adding the language in ***bold italics***, as follows:

a. Requirement may be modified under a Special Permit, issued by the Special Permit Granting Authority authorized to act under the applicable section of this bylaw. In applying the criteria established in Section 10.395, the Special Permit Granting Authority shall consider the proposed modified ~~front setback~~ ***dimensional requirement*** in the context of the pattern(s) of ~~front setbacks~~ ***the same dimensions*** established by existing ~~residential~~ buildings ***and landscape features*** in the surrounding neighborhood.

ARTICLE 7. Zoning Amendment - Non-Conforming Structures (Planning Board)

To see if the Town will amend Section 9.200 of the Zoning Bylaw by adding the language in ***bold italics***, as follows:

9.200 Under Section 11.1, the Building Commissioner may permit the repair, alteration, reconstruction, extension or structural change of a lawful, dimensionally non-conforming single family or two family dwelling or, a portion thereof, or accessory structures thereto, provided the proposed change does not constitute a change of use under this Bylaw, and ***at least one of*** the following conditions ~~are~~ ***is*** met:

9.2000 In the case of a building non-conforming solely because of insufficient lot frontage or lot area, or both, the proposed change shall meet all dimensional requirements for front setback, side and rear yards, building coverage, lot coverage, maximum floors and maximum height.

9.2001 In the case of a dimensionally non-conforming building with sufficient lot frontage and lot area, where said building, or a portion thereof, is non-conforming as to one or more of the dimensional requirements for front setback, side and rear yards, building coverage, lot coverage, maximum floors or maximum height, all dimensional requirements met by the building prior to the proposed change shall be met after completion of the proposed change.

9.2002 In the case of a building non-conforming as to lot frontage and/or lot area, and non-conforming as to one or more of the dimensional requirements for front setback, side and rear yards, building coverage, lot coverage, maximum floors or maximum height, all dimensional requirements met by the building prior to the proposed change shall be met after completion of the proposed change.

ARTICLE 8. Zoning Amendment - Sign Area (Planning Board)

To see if the Town will amend footnote 1. of Section 3.3, Section 8.0, and Article 12 of the Zoning Bylaw by reorganizing and renumbering that section, amending Section 8.04, and deleting ~~lined out~~ language and adding language in ***bold italics***, as follows:

A. Amend footnote 1. of Section 3.3, as follows:

[1]No Site Plan Review shall be required in those instances where a use change is proposed and no substantial physical changes (other than signs ***not meeting the default requirements of Article 8 for the applicable zoning district***) will occur to the site or building exterior and where no new or additional requirements of the Zoning Bylaw must be met for the proposed use.

B. Amend Section 8.0, as follows:

SECTION 8.0 GENERAL STANDARDS

Any exterior sign or advertising device, or any permanent interior sign or advertising device ***situated,*** designed ~~and~~ ***or*** intended ~~***so as***~~ to be viewed from the out of doors, which is hereafter erected or maintained shall, except as expressly provided, conform to the following restrictions. Any interior sign used only temporarily ~~and~~ ***or*** not ~~permanently mounted~~ ***visible from the out of doors*** shall be exempt from the provisions of this section.

8.00 No sign or advertising device shall, in any district:

8.000 Projecting Signs

8.0000 Exceed 10 square feet in area.

8.0001 If affixed to, suspended from, or incorporated as part of a building, project more than 36 inches from the building, except that such a sign may project up to 48 inches from the building provided it does not exceed 6 square feet in area.

8.0002 If supported by or suspended from a pedestal or post, project more than 36 inches over or into any pedestrian way customarily used by the public, except that any such sign may project up to 48 inches over any such way provided it does not exceed 6 square feet in area.

8.003 Extend into a 24 inch setback from a vertical plane above the curb line of any adjacent street customarily used by the public.

8.001 ~~Project or~~ ***E***xtend more than four feet above the eavesline or parapet of any building to which it is affixed.

8.002 Incorporate or be lighted by, flashing or blinking lights, or be designed to attract attention by a change in light intensity or direction, or by repeated mechanical or electrical motion. Fixed banners or electronic billboards using changeable lights

to convey the time, temperature, or other public information shall be exempt from this prohibition.

8.003 If free standing, extend more than twelve feet above ground level.

8.004 *Maximum Surface Area*

8.0040 ~~Be larger~~ *No sign shall have a surface area greater* than *80 square feet, except that this requirement may be modified under a Special Permit issued by the Special Permit Granting Authority authorized to act under the applicable section of the Bylaw. No sign receiving such a permit for a modification of total surface area shall exceed* 125 square feet in area, *except as may be permitted under the provisions of Section 8.4.*

8.0041 Maximum surface area for signs under this and following sections shall be calculated as follows:

1) The surface area of any sign, either freestanding or attached, shall be considered to be the full visual presentation of the sign's display, including all lettering, numerals, symbols, decorative borders, background surface, framing, or ornamental structure, whether open or enclosed.

2) The surface area of a sign shall not include the surface area of any incidental supporting poles, arms, structural framework, bracing, lighting fixtures, or any open areas contained within or framed by such incidental structures which are not an integral part of the design of the sign's display.

3) For a sign consisting of individual letters, numerals, designs, and symbols attached to or painted directly on the surface of a building, wall, window, awning, canopy or other approved surface with no other structure or background, the surface area of the sign shall be considered to be that of the smallest quadrangle which encompasses all of the letters, numerals, designs, colors and symbols constituting the sign's display.

4) For a sign with display areas or surfaces mounted on two surfaces of the same structure, or on parallel and back-to-back structures within 12" of one another, or where the interior angle formed by two display surfaces on a single structure is 60 degrees or less, the display area of a single side—the larger side when there is a difference—shall constitute the total surface area for the purposes of this Bylaw. Where the interior angle formed by the two display surfaces is greater than 60 degrees, the combined area of both display surfaces shall be considered one surface for the purpose of establishing maximum surface area.

C. Amend Article 12, Definitions, by adding the following new definition under Section 12.31, and renumbering the remaining sections accordingly:

12.31 ***Sign, projecting:*** ***A sign affixed to and projecting laterally, in whole or in part, from the side of a building, wall, or structure for a distance of at least 12 inches.***

ARTICLE 9. Zoning Amendment - Medical Offices
(Planning Board)

To see if the Town will amend Section 3.360 and Article 12 of the Zoning Bylaw by deleting the ~~lined out~~ language and adding the language in ***bold italics***, as follows:

A. Amend Section 3.360 as follows:

3.360 ***Medical uses***

3.360.0 ***Medical office***

R-O R-LD	R-N	R-VC	R-G	R-F	B-G	B-L	B-VC	COM	OP	LI	PRP	FPC
N	***N***	***SPR***	***N***	***N***	***SPR***	***SPR***	***SPR***	***SPR***	***SPR***	***N***	***SP***	***N***

Standards & Conditions

See definition under Article 12. In the R-VC District, a medical office shall be permitted only under Site Plan Review as part of a mixed use under Section 3.325, and is not otherwise permitted.

3.360.1 ***Medical group practice***

R-O R-LD	R-N	R-VC	R-G	R-F	B-G	B-L	B-VC	COM	OP	LI	PRP	FPC
N	***N***	***SP***	***N***	***N***	***SPR***	***SPR***	***SPR***	***SPR***	***SPR***	***N***	***N***	***N***

Standards & Conditions

See definition under Article 12. In the R-VC District, a medical group practice shall be permitted only under a Special Permit as part of a mixed use under Section 3.325, and is not otherwise permitted.

3.360.2 Medical ~~or dental~~ center

R-O R-LD	R-N	R-VC	R-G	R-F	B-G	B-L	B-VC	COM	OP	LI	PRP	FPC
N	N	SP	N	N	SPR	SPR	SPR	SPR	SPR	N	N	N

Standards & Conditions

See definition under Article 12.

3.360.3 Clinic or emergency care facility

R-O R-LD	R-N	R-VC	R-G	R-F	B-G	B-L	B-VC	COM	OP	LI	PRP	FPC
N	*N*	*N*	*N*	*N*	***SPR***	***SPR***	***SPR***	***SPR***	***SPR***	*N*	*N*	*N*

Standards & Conditions

An outpatient public health clinic as defined under Article 12.

B. Amend Article 12 by adding the following new definitions in alphabetical order under the appropriate section numbers and renumbering the remaining sections accordingly:

12.__ *Medical Uses:*

12.___ Medical office: An individual medical, dental, or psychiatric practice offering direct medical or dental services on an outpatient basis and including a total of no more than the full time equivalent of three (3) principal health care providers and two (2) other medical or dental professionals, exclusive of administrative or clerical staff, providing services on the premises. A medical or dental office may also contain associated in-house ancillary services such as in-house diagnostic testing facilities, medical counseling services, and similar services.

12.___ Medical group practice: An individual medical, dental, or psychiatric practice including the full time equivalent of four (4) or more principal health care providers, and three (3) or more other medical or dental professionals, exclusive of administrative or clerical staff, providing services on the premises. A medical group practice may also contain in-house diagnostic testing facilities, medical counseling services, and similar services, or may be associated with other similar accessory or complementary principal uses in the same building.

12.___ Medical center: Two (2) or more medical group practices, or an equivalent aggregation of medical offices, operating in the same building or on the same property, which may also contain associated accessory uses such as diagnostic testing facilities, physical therapy, therapeutic or counseling services, pharmacies, medical supply retailers, and similar uses. A medical center shall not include medical residential facilities.

12.___ Clinic or emergency care facility: Any private or public health clinic, or other similar community health facility providing diagnosis and ambulatory emergency medical care to persons on an exclusively outpatient basis as a principal use. A clinic or emergency care facility may also be accessory to a medical center, hospital, or similar facility.

12.__ Medical Care Providers:

12.__ ***Principal Health Care Provider: A health care professional licensed to operate as a physician or dentist in the Commonwealth of Massachusetts, who provides direct care to patients and may refer patients or receive referrals for specific medical or dental services, particularly in an outpatient setting. For the purposes of this Bylaw, principal health care providers shall include physicians, dentists, and physician specialists such as psychiatrists, dermatologists, dental surgeons, and ophthalmologists.***

12.__ ***Other Medical Care Providers: A health care professional who may provide direct patient care, patient support, or ancillary medical services under the supervision of a principal health care provider. For the purposes of this Bylaw, this shall include nurse practitioners, registered or licensed practical nurses, physicians' assistants, dental hygienists, sonographers, phlebotomists, and similar medical professionals.***

ARTICLE 10. Zoning Amendment – Phased Growth Sunset (Planning Board)

To see if the Town will amend Section 14.20, as follows:

14.20 This Article shall take effect beginning on the date of adoption by Town Meeting and shall continue in effect for ~~five~~ ***six*** calendar years from November 15, 2004, in order to provide the Town time to prepare and implement a master plan in accordance with MGL Ch. 41, Section 81D. Beginning on the date of adoption, the permit granting authority (Planning Board, Zoning Board or Building Commissioner) shall not approve any development schedule under Section 14.5 which would result in authorizations for more than 250 dwelling units over a 730 consecutive day (two year) period. All authorizations shall count toward this planned growth rate unless otherwise noted.

ARTICLE 11. Zoning Amendment - Neighborhood Business (B-N) District (Planning Board)

To see if the Town will vote to amend Sections 2.02, 3.3, Table 3, Dimensional Regulations, and Articles 5, 6, 7, 8, 10, and 11 of the Zoning Bylaw by deleting the ~~lined out~~ language and adding the language in bold italics, as follows:

A. Amend Section 2.02 by reordering the business district sections such that they appear in the following order—B-G, B-VC, B-N, B-L, OP, COM—and by adding the following new section between B-VC and B-L, as follows:

B-N Neighborhood Business

The purpose of the B-N District is to provide for areas of mixed use and moderate density to serve as small centers providing goods and services within or near residential neighborhoods, or as a transitional zone between more densely-developed business areas and residential neighborhoods.

B. Add the B-N District and corresponding use regulations to Section 3.3., Use Classification & Standards (Use Chart) for specific land uses, as follows:

Key: Y = Yes (allowed by right)
N = No (not permitted)
SPR = Site Plan Review approval by the Planning Board
SP = Special Permit by Zoning Board of Appeals
( ) = Permit requirement in the Aquifer Recharge Protection (ARP) District

Use Category		***B-N***
3.31	***EXTENSIVE USES***	
3.310	Forestry	Y
3.311	Orchard, nursery	Y
3.312	Farm stand	
	Class I	SPR
	Class II	SPR
3.313	Commercial poultry/livestock	N
3.314	Private conservation/preserve	Y
3.315	Outdoor recreation (commercial)	N
3.316	Impoundment or pond	SP
3.317	Commercial greenhouse	N
3.32	***RESIDENTIAL USES***	
3.320	Single family house	N
3.321	Duplex	SPR
3.322	Town House	SP
3.323	Apartments	SP
3.324	Subdividable/Converted dwellings	
	3.3240 Subdividable dwelling	SP
	3.3241 Converted dwelling	SP
3.325	Mixed res./comm. use	
	SPR	
3.326	Fraternity/sorority	N
3.327	Overnight Lodging	
	3.3270 Hotel/motel	SP
	3.3271 Inn	SPR
	3.3272 Hostel	SPR
3.328	Congregate housing	SP
3.329	Lodging/boarding house	SP
3.33	***INSTITUTIONAL USES***	
3.330	Non-profit educational	SPR
3.331	Kindergarten/day care	SPR
3.332	For-profit educational	SPR
3.333	Church/house of worship	SPR
3.334	Non-profit library/museum	SPR

3.335	Public park/playground	SPR
3.336	Medical/residential facilities	
	3.3360 For-profit	SP
	3.3361 Charitable/non-profit	SPR
3.337	Cemetery	N
3.338	Private lodge or club	SP
3.339	Univ./college service building	SPR

3.34 GOVT./PUBLIC USES

3.340	Utility uses	
	3.3400 Energy facility	SP
	3.3401 Communication	SP
	3.3402 Wireless facility	SP
	3.3403 Transportation facility	
	- Rail or bus depot	SP
	- Taxi or limousine	SP
3.341	Airport/heliport	N
3.342	Govt. admin., fire, police	SPR
3.343	Water or sewer facility	SPR
3.344	Other govt. use not specified	SPR

3.35 RETAIL BUSINESS & CONSUMER SERVICE USES

3.350	Retail establishments	
	3.3500 Retail stores	SP
	3.3501 Convenience stores	SP
	3.3502 Grocery, bakery, deli, caterer	SPR
3.351	Personal care establishments	
	3.3510 Barber, beauty salon	SPR
	3.3502 Laundry/dry cleaning	SPR
	3.3503 Tailor, cobbler, etc.	SPR
3.352	Food & drink establishments	
	3.3520 Class I restaurant/café	SPR
	3.3521 Class II bar/restaurant	N
	3.3522 Class III drive-up	N
3.353	Theater, motion picture house, bowling alley, dance hall, arcade or other indoor amusement or assembly use	N
3.354	Funeral home	SP
3.355	Studio/repair	
	3.3550 Photography studio	SPR
	3.3551 Appliance repair	SPR
3.356	Trades/repair shop	SPR
3.357	Veterinarian, kennel	SP
3.358	Office Uses	
	3.350.0Bank, loan agency, real estate insurance or other business or professional office providing	

	services to the public in person on the premises	SP
	3.358.1 Technical or professional office providing services predominantly by appointment to the public in person on the premises	SPR
	3.358.2 Administrative business office or similar business or professional office not providing services to the public on the premises	SPR
3.359	Medical/dental laboratory	SP
3.360	Medical Facilities	
	3.360.0 Medical offices	SPR
	3.360.1 Medical group practice	SP
	3.360.2 Medical center	N
	3.360.3 Clinic/emergency care	N
3.361	Auction gallery	N
3.362	Artisan/craft shop	SPR

3.37 RESEARCH & INDUSTRIAL

USES

3.370	Warehouse, storage building	N
3.371	Lumber yard, other open-air storage	N
3.372	Research/Industrial	
	3.3720 Research/testing facility	SP
	3.3721 Light manufacturing, assembly, processing	SP
3.373	Manufacturing, assembly, processing	N
3.374	Quarrying rock or earth	N
3.375	Processing rock or earth	N
3.376	Radioactive waste storage & disposal	N

3.38 MOTOR VEHICLE RELATED

USES

3.380	Auto/truck rental	N
3.381	Filling station w/ sales	N
3.382	Salvage yard w/ sales	N
3.383	Car wash	N
3.384	Parking facilities	
	3.3840 Commercial lot or garage	SP
	3.3841 Public lot or garage	SPR
3.385	Vehicle repair shop	N
3.386	Vehicle sales	N
3.387	Vehicle parts store; no installation/repairs	SP
3.388	Vehicle parts store; installation & repairs	N
3.389	Truck terminal	N

C. Add Standards & Conditions for specific uses as follows:

3.323 Apartments

. . . Dimensional regulations in Article 6 shall be observed. In addition, the following requirements shall apply:

District	Add'l Side/Rear Yards per Floor	Floor Area Ratio	Minimum Landscape or Natural Open Space
R-G	2 ft.		
B-L	2 ft.		
B-VC	2 ft.		
B-N	***2 ft.***	0.3	40%

NOTE: "Minimum Landscaped or Natural Open Space" shall include (a) those portions of the lot devoted to plantings, including lawns and grass areas (b) wooded land, and pedestrian-oriented paved or unpaved areas devoted to social or recreational use in common by the residents of the building or complex provided that such areas are kept essentially open to the out-of-doors and are at ground level.

3.3240 Subdividable Dwelling

5. Prior to issuing a Special Permit for this use in the B-G, B-L, ~~and~~ B-VC ***and B-N*** districts, the Special Permit Granting Authority shall find that the proposed multiple dwelling use and the non-residential uses, both existing and permitted, in the district will be mutually compatible.

3.3241 Converted Dwelling

3. In the B-L, & B-VC, ***and B-N*** districts, the Zoning Board of Appeals shall issue a Special Permit in accordance with the provisions of this section only after finding the subject parcel in the nonresidential district would not be adversely affected by the multiple dwelling use and that the uses permitted in the district would not be noxious to the multiple dwelling use.

3.329 Lodging or Boarding House

In the B-VC, ***B-N,*** COM and R-VC districts, the Zoning Board of Appeals may grant a Special Permit for a lodging or boarding house, provided it finds that the proposal meets the provisions of Article 7, Section 10.38 and this section. In the R-VC District, a lodging or boarding house shall let or sublet no more than a total of 7 rooms.

3.3270 Hotel or Motel

The building shall be connected with the public sewer system prior to occupancy. Its lot, if in a residence district, shall fall within one of the following areas: areas close to heavily traveled streets; areas close to business, commercial and educational districts; areas already developed for multifamily use.

In the B-N District, only hotel or motel uses with lodging rooms on 2 or more floors shall be permitted.

The Zoning Board of Appeals may allow a restaurant as a second Principal use, along with hotel/motel-related retail and consumer services as accessory uses, under a Special Permit for a hotel or motel.

A management plan, as defined in terms of form and content by the Rules and Regulations adopted by the Zoning Board of Appeals shall be part of any application made under this section.

3.338 Private lodge or club

A club, civic, social, professional or fraternal organization that is non-profit and is ~~O~~operated for members or employees only, where the chief activity is one not customarily conducted as a gainful business. ***The organization shall be incorporated for service or charitable purposes under the regulations of the Commonwealth or other applicable authorities, and shall permit long-standing memberships.***

In the B-N District, if alcohol is served as part of any function conducted or permitted by the organization, the establishment shall be closed by 9:00 p.m.; otherwise, the establishment shall be closed by 11:30 p.m.

3.340.31 Taxi or limousine service

The operation of a taxi or limousine (livery) service shall be considered a principal use regulated under this section of the Bylaw when any of the following conditions are met: 1) passengers are transported from or delivered to the site, or; 2) three or more vehicles are physically dispatched from or stored on-site, or; 3) any vehicle carries more than 8 passengers, or; 4) on-site activities include ongoing associated vehicle maintenance and repairs.

The operation of a taxicab or limousine service may be permitted as an accessory home occupation under the provisions of Section 5.013 when all of the following conditions are met: 1) on-site activity is limited to dispatch and storage of no more than two vehicles, 2) no vehicle used by the service is capable of carrying more than eight passengers, 3) only occasional minor vehicle maintenance occurs on-site, and 4) no passengers visit the premises.

In the B-N District, if pick-up and drop-off from the site are permitted, the establishment shall be closed by 9:00 p.m. In that district, no more than three (3) vehicles associated with the use shall be kept on-site at any time.

3.350.0 Retail stores

Display & sales to be primarily conducted within the building.

In the B-N District, no more than four (4) employees shall be on-site at any time, walk-up facilities are permitted as an accessory use for food retail only, and the establishment shall be closed by 9:00 p.m.

3.350.1 Convenience store for the sale of prepared and packaged food or beverage.

Display & sales to be primarily conducted within the building.

In the B-N District, no more than four (4) employees shall be on-site at any time, walk-up facilities are permitted as an accessory use for food retail only, and the establishment shall be closed by 9:00 p.m.

3.350.2 Grocery, bakery, deli, butcher shop, fish market, caterer or similar establishment for the production and sale of food and beverage.

Display & sales to be primarily conducted within the building.

In the B-N District, no more than four (4) employees shall be on-site at any time, walk-up facilities are permitted as an accessory use for food retail only, and the establishment shall be closed by 9:00 p.m.

3.351.0 Barber or beauty shop, hair salon, tanning salon or similar place for personal care services.

In the B-N District, no more than four (4) employees shall be on-site at any time, and the establishment shall be closed by 9:00 p.m.

3.351.1 Laundry or dry-cleaning shop, or self-service dry-cleaning or laundry.

In the B-N District, no more than four (4) employees shall be on-site at any time, and the establishment shall be closed by 9:00 p.m. No dry-cleaning shop where the cleaning is conducted on the premises may be operated in the B-N District.

3.351.2 Tailor, garment maker, milliner, cobbler, or other shop for the repair or manufacture and sale of clothing or footwear.

In the B-N District, no more than four (4) employees shall be on-site at any time, and the establishment shall be closed by 9:00 p.m.

3.352.0 Class I Restaurant, café, lunchroom, cafeteria or similar place.

For serving food or beverage to persons inside the building, where either: a) no alcohol is served and the establishment is not open after 11:30 p.m., or; b) alcohol is served, the establishment is not open after 11:30 p.m., and any outside wall of that portion of the building occupied by the establishment is located more than 150 feet from any residential dwelling in a Residence district. A management plan, as defined in terms of form and content by the permit granting board or authority, shall be included as an integral part of any application made under this section. The management plan shall address patrons gathered outdoors on the property, including those awaiting entry. Any service of food or beverages outside the building shall be to persons seated at tables for the purpose of outdoor dining.

In the B-N District, for a Class I restaurant there shall be no more than a total of 30 seats, both indoor and outdoor. Service of alcohol shall cease at 9:00 p.m., and any

outside wall of a building occupied by the establishment shall be located more than 100 feet from any residential dwelling in a Residence district. Walk-up facilities may be permitted as an accessory use in concert with outdoor dining on the premises.

3.356 Shop of a bicycle mechanic, printer, blacksmith, builder, carpenter, caterer, electrician, lawnmower mechanic, mason, painter, plumber, roofer or other member of a recognized trade.

All work and storage to be conducted within a building.

All trades shop operations shall undertake all reasonable measures to prevent noise, vibration, dust, fumes or odors from creating a disturbance or nuisance beyond the limits of the establishment. No operations shall be allowed which are hazardous by reason of potential fire, explosion, radiation or similar hazard.

In the B-N District, there shall be no more than four (4) employees on site at any given time. No operations shall be allowed prior to 7:00 a.m. or after 7:00 p.m.

3.357 Veterinary establishment, kennel, or place for the boarding of animals.

In the B-N District, a veterinary clinic may be operated under the provisions of this section, but no kennel or overnight boarding of animals shall be permitted. There shall be no more than four (4) employees on-site at any given time, and the establishment shall be closed by 7:00 p.m.

3.358 Office Uses

3.358.0 Bank, loan agency, real estate, insurance or other business or professional office providing services to the public in person on the premises.

In the B-N District, no drive-through facilities shall be permitted. There shall be no more than six (6) employees on-site at any given time, and the establishment shall be closed by 7:00 p.m.

3.358.1 Technical or professional office such as architect, engineer, lawyer, financial services, or similar office providing services predominantly by appointment to the public in person on the premises.

For the purposes of this section, the public shall be defined as including all persons acting as customers or clients receiving services. "Predominantly by appointment" shall mean that a majority of customers or clients who are provided services in person on the premises during any extended period of operation (monthly, quarterly, or annually) shall do so through prior appointment. Exceptions shall be discretionary follow-up visits by customers or clients with regard to services already provided, visits by affiliated professionals or consultants, salespersons, service contractors (delivery, maintenance, etc.), and the like. Office uses under this section shall advertise their on-premises services as being available to the general public only by appointment.

3.358.2 Administrative business office or similar business or professional office not providing services to the general public in person on the premises.

For the purposes of these sections, the public shall be defined as including all persons acting as customers or clients. Exceptions shall be affiliated professionals or consultants, salespersons, service contractors (delivery, maintenance, etc.), and the like. No office use under this section shall advertise its services as being available to customers and clients on the premises. Services shall be advertised as being available exclusively by telephone, mail, on-line, or other remote means.

[For Sections 3.358.1 and 3.358.2, inclusive]

In the B-N District, there shall be no more than six (6) employees on-site at any given time, and the establishment shall be closed by 7:00 p.m.

In the PRP District, uses under these sections shall be located on parcels served by town water and sewer . . .

3.359 Medical/dental laboratory

In the B-N District, there shall be no more than six (6) employees on-site at any given time, and the establishment shall be closed by 7:00 p.m.

3.360.0 Medical office

In the B-N District, there shall be no more than six (6) employees on-site at any given time, and the establishment shall be closed by 7:00 p.m.

3.360.1 Medical group practice

In the B-N District, there shall be no more than eight (8) employees on-site at any given time, and the establishment shall be closed by 7:00 p.m.

3.372.0 Research and Development or Testing facility

. . . In the B-G, B-L, B-VC, ***B-N*** and R-VC districts, the Zoning Board of Appeals may grant a Special Permit for a research and development use, provided that it consists only of office or similar uses and meets the provisions of Section 3.359, Article 7 and Section 10.38. An exception shall be where the B-L District coincides with the R&D overlay district, in which case such a research and development use, similarly limited, shall be permitted through Site Plan Review approval.

3.3840 Commercial parking lot or parking garage
In the B-N District, a use operated under this section shall not be open for business prior to 7:00 a.m., and shall be closed by 9:00 p.m.

3.387 Sale of auto parts, excluding installation and repair services
In the B-N District, there shall be no more than four (4) employees on-site at any time, and the establishment shall be closed by 9:00 p.m.

D. Amend Table 3, Dimensional Regulations, by adding the B-N District and the following corresponding dimensional regulations:

	B-N
Basic Min. Lot Area	*15,000*[ab]
Add'l Lot Area/Family	*1,500*[ab]
Min. Frontage	*100*[b]
Min. Front Setback[a]	*10*
Min. Side/Rear Yards	*10*[ae]
Max. Building Coverage (%)	*35*[a]
Max. Lot Coverage (%)	*65*[a]
Max. Floors[a]	*3*
Max. Height[n]	*40*

E. Amend footnote b. of Table 3, as follows:

b. Applies to Residence Uses only (Section 3.32). In the B-G, ~~and~~ B-VC ***and B-N*** districts, the Basic Minimum Lot Area shall apply only to the first dwelling unit on the ground floor of subdividable dwellings and converted dwellings. For townhouses, apartments, buildings containing dwelling units in combination with stores or other permitted commercial uses, and other permitted multi-unit residential uses in these districts, the Basic Minimum Lot Area, Additional Lot Area/Family, and Basic Minimum Lot Frontage requirements shall not apply.

F. Amend the following Sections under Article 5, Accessory Uses:

5.0102 Bed and Breakfast

. . . In the B-G, B-L, ~~and~~ B-VC, ***and B-N*** districts, the Zoning Board of Appeals may grant a Special Permit for the taking of bed and breakfast lodgers in up to 10 rooms as a use accessory to the use of a dwelling unit, and for limited bed and breakfast-related retail and consumer services as a second accessory use. . . .

5.041 Seasonal outdoor dining, including sidewalk cafes, courtyard or terrace dining and similar uses may be permitted in the B-G, B-L, B-VC, ***B-N*** and COM districts as an accessory use to: 1) a restaurant, café, lunchroom, cafeteria, refreshment stand, drive-up, fast-food eatery or similar eating establishment, or; 2) to a bakery, deli, or other similar establishment for the production and sale of food or beverage on the premises, or; 3) to a retail store or convenience store selling prepared and packed food or beverage on the premises, under a Special Permit or Site Plan Review approval, whichever is required for the principal use. In the case of a retail or convenience store selling prepared and packaged food on the premises, any unpackaged food or beverage such as ice cream or soft drinks sold in association with any accessory seasonal outdoor dining use shall be sold and served only through a limited-access walk-up window or similar facility, to be consumed out of doors.

5.042 Live or pre-recorded entertainment involving music and/or human voice, whether amplified or unamplified, may be permitted in the B-G, B-L, B-VC, ***B-N*** and COM districts as an accessory use to a restaurant, bar, inn or bed and breakfast (Section 5.0102 only) under a Special Permit or Site Plan Review, whichever is required for the principal use, except that a Special Permit shall be required whenever any accessory entertainment is proposed and any outside wall of that portion of the building occupied by the principal use is located 150 feet or less from a residential dwelling in a Residence district.

5.0430 No drive-through facility shall be permitted in the B-G, ***B-N,*** OP, PRP or LI Districts. Drive-through facilities may be permitted in those portions of the B-L District abutting the B-G District under a Special Permit issued by the Special Permit Granting Authority authorized to act under the applicable section of the Bylaw for the Principal Use.

5.081 A licensed day care facility shall be permitted as an accessory use in the following zoning districts, provided that the Zoning Enforcement Officer is provided with a copy of the license to operate: R-F, B-G, B-L, B-VC, ***B-N,*** COM, OP, LI, PRP.

G. Amend the following sections under Article 6, Dimensional Regulations:

6.13 Standard Lot frontage and Cluster Lot Frontage

. . . In the General Business (B-G), Limited Business (B-L), Commercial (COM), ~~and~~ Village Center Business (B-VC), ***and Neighborhood Business (B-N)*** districts, frontage requirements apply to Residence Uses only (Section 3.32).

6.20 Fences – Fences, walls, or any similar structure, shall be considered accessory structures and shall be permitted within the required front, side, and rear yards subject to the conditions and requirements of Sections 6.22 through 6.29, except that fences in the B-G and abutting B-L Districts and in the B-VC ***and B-N*** ~~D~~***d***istrict***s*** shall require approval of the Permit Granting Board or Special Permit Granting Authority with jurisdiction over the proposed or existing Principal or accessory use(s) for which the fence serves as an accessory structure.

H. Amend the following sections under Article 7, Parking & Access Regulations:

7.004 For all retail, office and similar uses:

7.0040 In the B-G, B-VC, ***B-N*** and B-L (abutting B-G ***and B-VC*** only) districts, and on any lot within a COM District that abuts a B-VC or R-VC District or is within or abuts a National Historic Register District - 3.3 parking spaces per 1,000 square feet of gross first floor area, plus 2.5 spaces per 1000 square feet of GFA (gross floor area), exclusive of storage space, on all other floors.

7.0041 In the B-L and COM Districts (exclusive of those areas cited in 7.0040) and the OP,

PRP and LI Districts, the parking requirement shall be the sum of the following:

3.3 spaces/1,000 sq. ft. for the first 10,000 sq. ft. of GFA; plus
2.5 spaces/1,000 sq. ft. for GFA between 10,001-12,500 sq. ft.; plus
2.0 spaces/1,000 sq. ft. for GFA over 12,500 sq. ft.

7.201 Leased Parking: In the B-G, B-VC, ***B-N,*** B-L, COM and R-VC Districts the lease of spaces for on- or off-site uses shall be by Site Plan Review, unless otherwise required. In the R-G, R-N, R-F, R-O and R-LD districts, the lease of more than two existing parking spaces shall require a Special Permit, unless requested as part of a Site Plan Review application for an associated use on the property. Any lease of parking spaces for on- or off-site uses may only be permitted under the following conditions:

7.2010 The parking is suitably located in the neighborhood in which it is proposed, as deemed appropriate by the permit granting authority.

7.2011 Adequate and appropriate facilities, including but not limited to appropriate paving, landscaping, screening, lighting, curbing or wheel stops, are provided for the proper operation of the proposed leased parking. Special attention shall be paid to ensuring safe vehicular circulation on the site and at the intersection with abutting streets.

7.2012 The permit granting authority may require the preparation and submittal of a study to provide evidence of parking utilization levels.

I. Amend the following sections under Article 8, Sign Regulations:

8.24 In the B-G, B-VC, ***B-N*** Districts and B-L District adjacent to B-G ***and B-N***, the following additional signs are permitted:

8.240 One free standing sign, or one monument sign, for each street frontage, subject to the following standards:

maximum height - 10 feet
maximum size - 25 square feet

8.25 For any sign located on a property in a B-VC, ***B-N,*** B-L or COM district and also in a National Historic Register District or local historic district, the minimum front setback may be the same as established for business uses in the B-G District, subject to approval of the sign location and design by the permit-granting authority. . . .

J. Amend Sections 10.395 and 11.2420, as follows:

10.395 The proposal does not create disharmony with respect to the terrain and to the use, scale and architecture of existing buildings in the vicinity which have functional or visual relationship thereto. Within the B-L, B-VC, ***B-N,*** COM, OP, LI and PRP Districts, and any residential zoning district where the project in question occurs within the boundaries

of a National Historic Register District, the Special Permit Granting Authority shall, if it deems the proposal likely to have a significant impact on its surroundings, be permitted to use the design principles and standards set forth in Sections 3.2040 and 3.2041, 1) through 9) to evaluate the design of the proposed architecture and landscape alterations. Within the B-G and abutting B-L districts, and for any Town project within any district, the provisions of Section 3.20, Design Review, shall remain in effect.

11.2420 Within the B-L, B-VC, ***B-N,*** COM, OP, LI and PRP Districts, and any residential zoning district where the project in question occurs within the boundaries of a National Historic Register District, the Permit Granting Authority shall, if it deems the proposal likely to have a significant impact on its surroundings, be permitted to use the design principles and standards set forth in Sections 3.2040 and 3.2041, 1) through 9) to evaluate the design of the proposed architecture and landscape alterations. Within the B-G and abutting B-L districts, and for any Town project within any district, the provisions of Section 3.20, Design Review, shall remain in effect.

ARTICLE 12. Depot Center Rezoning
(Planning Board)

To see if the Town will amend the Official Zoning Map changing the zoning designation on properties on Main, Dickinson, and High Streets, as follows:

A. Rezone the following properties or portions of properties on Main Street from General Residence (R-G) to Neighborhood Business (B-N) on Assessors Map 14B:

- A northerly portion of the property at 319-321 Main Street (Parcel 28) totaling 21,774 sq. ft. in area, more or less.
- 446 Main Street (Parcel 66)
- 462 Main Street (Parcel 68)
- A northerly portion of the property at 457 Main Street (Parcel 131) totaling 17,741 sq. ft. in area, more or less.

B. Rezone the following properties on Main, Dickinson, and Railroad Streets around the Amherst Depot from Commercial (COM) to Village Center Business (B-VC) on Assessors Map 14B:

- 437 Main Street (Parcel 65).
- 34 Dickinson Street (Parcel 53)
- 24 Dickinson Street (Parcel 56)
- 16 Dickinson Street (Parcel 57)
- 12 Dickinson Street (Parcel 58)
- 13 Railroad Street (Parcel 808)

C. Rezone the following properties on Dickinson and College Streets from Commercial (COM) to Limited Business (B-L) on Assessors Map 14B:

- 40 Dickinson Street (Parcel 52)
- Dickinson Street (Parcel 216)
- 140 College Street (Parcel 51)

D. Rezone the following properties on Main and High Streets from Commercial (COM), or from Commercial (COM) and General Residence (R-G), to Neighborhood Business (B-N) on Assessors Map 14B:

- 502 Main Street (Parcel 130)
- 534 Main Street (Parcel 128)
- 13 High Street (Parcel 129)
- High Street (Parcel 234)

E. Rezone the following properties with frontage on Main Street plus two landlocked properties listed as being located at Kelley Square from Commercial (COM) to Business Village Center (B-VC) on Assessors Map 14B:

- 351 Main Street (Parcel 59)
- 363 Main Street (Parcel 60)
- 373 Main Street (Parcel 61)
- 381-383 Main Street (Parcel 62)
- 401-409 Main Street (Parcel 219)
- Main Street (Parcel 63)
- Kelley Square (Parcel 55)
- Kelley Square (Parcel 54)

ARTICLE 13. Zoning Amendment - 'Green' Building & Lot Coverage (Planning Board)

To see if the Town will amend the footnotes of Table 3, Dimensional Regulations, Sections 6.17 and 6.18, and Article 12 of the Zoning Bylaw by deleting the ~~lined out~~ language and adding the language in ***bold italics***, as follows:

A. Amend Table 3, Dimensional Regulations, by adding a new footnote o. to the title of Maximum Building Coverage in the table, and adding the following new footnote o.:

o. For developments including buildings with green roofs, as defined in Article 12, the maximum building coverage may be increased above the maximum established in Table 3, by an amount equal to 35% of the area covered by a green roof.

The resulting cumulative increase in maximum allowable building coverage shall not exceed the following maximums for building coverage in the applicable districts:

R-LD	R-O	R-N	R-VC	R-G	R-F	B-G	B-L COM	B-VC	B-N	OP	LI	PRP
15	20	30	35[a]	35[a]	35	80[a]	45	50	50	35	35	35

The provisions of this section shall not apply to buildings in the FPC District.

B. Amend Section 6.17 as follows:

6.17 Maximum Building Coverage

Maximum building coverage shall be computed as the percentage of the total lot area which may be covered by all principal and accessory buildings and structures. For the purposes of the subsection, a portion of a lot shall be considered as being covered by a structure if it is enclosed on at least three sides by a wall or other substantially sight-impervious fence more than six feet high (whether or not having a roof), or if it has any part of any structure above it in a vertical line. In the case of a Cluster Development, ***PURD, or OSCD*** ~~as defined in Section 4.3~~, building coverage shall be calculated as the percentage of the total area of the development which may be covered by all principal and accessory buildings and structures. ***See Table 3, footnote o.***

C. Amend Section 6.18 as follows:

6.18 Maximum Lot Coverage

Maximum lot coverage shall include the percentage of a lot covered in the manner described in Section 6.17, Maximum Building Coverage, plus that portion of a lot covered by driveways, parking areas, walkways, tennis courts, swimming pools or other similar surfaces.

6.180 For the purposes of this Bylaw, ***the areas of*** all such surfaces ***shall count toward the calculation of maximum lot coverage as follows:***

1) ~~whether~~ ***100% of the area of surfaces*** constructed of ***relatively*** impermeable materials (i.e., concrete, bitumimous asphalt, oil and stone ***paving, as well as stone dust, trap rock gravel and other gravel materials which may compact and become less permeable over time) with a runoff co-efficient of 0.75 or greater;***

2) ~~or constructed of permeable materials (i.e., gravel, peastone and the like) shall be included in the calculation of maximum lot coverage~~. ***50% of the area of surfaces constructed of semi-permeable materials (i.e., porous paving systems, stream-washed gravel, peastone, and the like) with a runoff coefficient of 0.25*** **up** ***to 0.75, inclusive; and***

3) **25% of** ***the area of surfaces constructed of highly permeable materials (i.e., selected porous paving systems, unpaved porous soils, landscaped areas, and the like) with a runoff coefficient of less than 0.25.***

6.181 ***For the purposes of this section, the runoff coefficient shall be as determined under the Rational Method for the applicable paving, surface materials, and soil types.***

6.182 ***Except as may be otherwise permitted under the provisions of this Bylaw, all lot areas not included within allowed maximum lot coverage shall be maintained as undisturbed or planted green areas with unimpeded access to the sky.***

D. Amend Article 12 by adding the following new definitions in alphabetical order under the appropriate section numbers and renumbering the remaining sections accordingly:

12.__ ***Paving Systems, Porous: Porous paving systems shall be those systems of paving involving surface and subsurficial treatments designed to accommodate pedestrian passage, vehicular***

parking or limited forms of vehicular traffic while allowing the infiltration of precipitation runoff on-site with a run-off coefficient of less than 0.75. Paving materials for these systems may include, but are not limited to, varying forms of stone, gravel, porous asphalt, pervious concrete, unit pavers (comprised of stone, brick or concrete), and grass pavers. To be considered a porous paving system, paving materials shall be installed over a base course of a bed of crushed even-sized stone or gravel of sufficient depth to store runoff and allow its infiltration given site conditions. Porous paving systems shall only be installed in accordance with accepted engineering standards on areas of gentle slopes of less than 5 percent where the underlying soils have a permeability of at least 0.3 inches per hour.

12.__ *Method, Rational: An established method for calculating the direct precipitation peak runoff from a watershed, using the rainfall intensity, the area of the watershed, and the runoff coefficient appropriate for the type of watershed runoff surface. The runoff coefficient is a measure of how quickly water runs off of a surface and, conversely, how quickly water is infiltrated into that surface. The run-off coefficient has been calculated and tabulated by the American Society of Civil Engineers for many different types of land uses, surfaces, and soils.*

12.__ *Roof, Green: A specialized roof system designed to accept, retain, and gradually drain off precipitation in a layer of soil or medium that supports vegetative growth. A green roof system can be a new structure or an extension of an existing roof involving a high quality water-proofing and root repellant membrane system, a drainage system, filter cloth, a lightweight growing medium, and plants. Precipitation is captured and slowly percolated through the green roof, and then recharged directly into the soils on the subject property.*

ARTICLE 14. Petition – Resolution to Assist in the Safe Resettlement of Cleared Guantanamo Detainees
(Hooke)

"WHEREAS, President Obama has vowed to close the prison at Guantánamo Bay Naval Base by January 2010; and

WHEREAS, many detainees at Guantánamo have been cleared by our government of wrongdoing and have been determined to pose no threat to the United States; and

WHEREAS, many of those detainees cannot be repatriated because they are either stateless or fear the harm awaiting them if returned to their home countries; and

WHEREAS, our government has asked other countries to accept cleared detainees but has banned their settlement in the United States; and

WHEREAS, these detainees have suffered unjust imprisonment for many years; and

WHEREAS, the Pioneer Valley has many resources to help such detainees with trauma from their imprisonment; and

WHEREAS, the Pioneer Valley has welcomed in the past many refugees from a variety of traumatic experiences in other countries,

Therefore Be it resolved that Amherst Special Town Meeting 2009:

1) Urges Congress to repeal the ban on releasing cleared detainees into the United States and
2) Welcomes such cleared detainees into our community as soon as the ban is lifted.

And be it further resolved that copies of this Resolution be sent to the President and Attorney General of the United States, the United States Senators for Massachusetts, and the United States Representative for Massachusetts' First District."

1) Urges Congress to repeal the ban on releasing cleared detainees into the United States and
2) Welcomes such cleared detainees into our community as soon as the ban is lifted.

And be it further resolved that copies of this Resolution be sent to the President and Attorney General of the United States, the United States Senators for Massachusetts, and the United States Representative for Massachusetts' First District."

You are hereby directed to serve this call by posting attested copies thereof at the usual places:

Prec. 1	North Amherst Post Office	Prec. 6	Fort River School
Prec. 2	North Fire Station	Prec. 7	Crocker Farm School
Prec. 3	Marks Meadow School	Prec. 8	Munson Memorial Library
Prec. 4	Amherst Post Office	Prec. 9	Wildwood School
Prec. 5	Town Hall	Prec. 10	Campus Center, UMass

Hereof fail not and make return of this warrant with your doings thereon at the time and place of said meeting.

Given under our hands this fifth day of October, 2009.

Select Board

Date

Hampshire, ss.

In obedience to the within warrant, I have this day as directed posted true and attested copies thereof at the above designated places, to wit:

Constable, Town of Amherst