

**RESULTS**  
**ANNUAL TOWN MEETING**  
**May 6, 8, 13, 15, 20, 22, 29, June 3, and 10, 2013**

The meeting was televised by Amherst Community Television and shown on the government channel.

There were 253 town meeting members. 127 checked in and a quorum was declared. The 255th Annual Town Meeting was called to order by the Moderator, James W. Pistrang at 7:15 p.m. The call and return of the warrant was read by Town Clerk, Sandra J. Burgess.

Newly elected and re-elected town meeting members were sworn to the faithful performance of their duties by the Moderator.

The Moderator congratulated those elected and re-elected to town wide office.

The Moderator asked Town Meeting to rise and observe a moment of silence in memory of those town meeting members who had passed away since the last town meeting.

Freda Mae DePillis, Stanley Durnakowski, Dr. Jonathan Benjamin Greenberg, Irving Howards, Allen Torrey, Edith Lewis Wilkinson, Robert F. Winne, and David William Yaukey were all recognized for their service to the town.

Select Board member Diana Stein was recognized by the Moderator for a statement.

Ms. Stein thanked the dedicated volunteers who serve the town on boards, committees, and commissions. Ms. Stein said the Select Board would begin making appointments to fill vacancies in June and encouraged people who were interested to submit a Citizens Activity Form.

The Moderator recognized Ms. Stephanie O’Keeffe for procedural motions.

Town Meeting voted to hear Article 26 on Wednesday May 15, 2013 at 7:05 p.m.

Town Meeting voted to hear Articles 10 and 11 on Wednesday May 15, 2013 at 7:06 p.m.

Town Meeting voted to hear Article 29 on Monday May 20, 2013 at 7:05 p.m.

Upon a procedural motion made by town meeting member, Maurianne Adams, Town Meeting voted to hear Article 38 on Wednesday May 22 at 7:06 p.m.

The Moderator explained the purpose of and criteria used for inclusion of articles in the Consent Calendar. Articles 2, 3, 5, 13, 14, 15, and 17 were selected because they were considered to be routine articles, their meaning could be clearly explained in the Finance Committee Report, and it was reasonable to expect they would pass with no controversy.

Article 15 was removed when five town meeting members raised their hands.

Ms. O’Keeffe then made a motion to accept the 6 warrant articles included in the Consent Calendar of the 2013 Annual Town Meeting and the printed motions thereunder and approve those articles not removed as a single unit.

The motion was seconded and the vote was unanimous.

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

**VOTED unanimously** to hear those reports of Town officers, the Finance Committee, and any other Town boards or committees which are not available in written form.

Action taken 5/6/13

*Katherine Appy gave a report for the Regional School District Planning Committee; Michael Hutton-Woodland gave a report for the Public Shade Tree Committee; and Greg Stutsman reported on behalf of the Housing and Sheltering Committee.*

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

**VOTED unanimously to dismiss.**

*[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.]*

Action taken 5/6/13

**ARTICLE 3. Optional Tax Exemptions (Select Board)**

**VOTED unanimously** to authorize a maximum additional exemption of up to 100 percent for taxpayers qualifying for exemption under Chapter 59, Section 5, Clauses 17D, 22, 37A, or 41C of the Massachusetts General Laws.

Action taken 5/6/13

**ARTICLE 4. Optional Tax Work-Off Exemption for Veterans (Select Board)**

**VOTED unanimously** to accept the provisions of Chapter 59, Section 5N of the Massachusetts General Laws, which allows a reduction of a veteran's property tax obligation in exchange for volunteer services.

Action taken 5/6/13

**ARTICLE 5. Authorization for Compensating Balances (Select Board)**

**VOTED unanimously** to accept the provisions of Chapter 44, Section 53F of the Massachusetts General Laws, which authorize the Treasurer to enter into written agreements with banking institutions pursuant to which the Treasurer agrees to maintain funds on deposit in exchange for banking services.

Action taken 5/6/13

**ARTICLE 6. Street Acceptance – Olympia Drive (Select Board)**

**VOTED unanimously** to: (a) accept as a public way the roadway known as Olympia Drive, as heretofore laid out by the Select Board and shown as "Olympia Drive" on a plan entitled "Roadway Acceptance Plan Olympia Drive and Authority Way, Amherst, MA," dated August 23, 2012, prepared by Doucet & Associates, Inc., and on file with the Town Clerk; and (b) authorize the Select Board to grant permanent and temporary utility, access and/or related easements on such terms and conditions, and for such consideration, which may be nominal consideration, as the Select Board deems appropriate, in, on, and under a certain parcel of land located on Olympia Drive, which parcel contains 13 acres, more or less, and is a portion of the property identified on Assessors Map 8D as Parcel 20 and described in the Order of Taking recorded with the Hampshire Registry of Deeds in Book 3018, Page 309, to serve and/or support the affordable housing development to be constructed on said parcel.

Action taken 5/6/13

**ARTICLE 7. Street Discontinuance – Eastman Lane (Select Board)**

**VOTED** to discontinue Eastman Lane as a Town way, which Eastman Lane became a Town way upon the discontinuance of said roadway as a County way by the Hampshire Council of Governments and authorize the Select Board to convey any land so discontinued on such terms and conditions and for such consideration, which may be nominal consideration, as the Select Board deems appropriate.

Action taken 5/6/13

**ARTICLE 8. Acquisition of Easements – South East Street CDBG Sidewalk Project (Select Board)**

**VOTED unanimously** to authorize the Select Board to acquire, by gift, purchase or eminent domain in connection with the Southeast Street Sidewalk Project, for public way and sidewalk purposes, permanent easements in, on, under the properties identified below and shown on a plan entitled "Southeast St. Sidewalk Community Development Block Grant Program," dated February, 2013, on file with the Town Clerk.

<u>Owner</u>	<u>Address</u>	<u>Map and Parcel</u>
Amir Mikhchi and Fatemeh Giahi	126 Southeast Street	15C-7
Amir Mikhchi and Fatemeh Giahi	140 Southeast Street	15C-8
Amir Mikhchi and Fatemeh Giahi	148 Southeast Street	15C-9
Shu Chang Liao, Ching Yun Lee, and Chin Shao Lee	156 Southeast Street	15C-41
162 Amherst LLC	162 Southeast Street	15C-42
Amherst-Colonial Village, LLC	200 Southeast Street	15C-10

Action taken 5/6/13

**ARTICLE 9. Grant of Electrical Easements – Boltwood Walk (Select Board)**

**VOTED** to authorize the Select Board to grant to Western Massachusetts Electric Company a permanent easement in, on and under a portion or portions of the Town-owned parcel of land located at 51 Boltwood Walk and shown on Assessors Map 14A as Parcel 343, for the transmission of intelligence and electricity, on such terms and conditions, and for such consideration, which may be nominal consideration, as the Select Board deems appropriate.

Action taken 5/6/13

**ARTICLE 10. Accept Altered Layouts of Rights of Ways - Atkins Corner (Select Board)**

**VOTED by a declared two-thirds** to accept the altered Layouts of West Bay Road, Bay Road, and West Street, as shown on a plan entitled "Plan of Land in the Town of Amherst Hampshire County Bay Road, West Bay Road and West Street Altered and Laid Out by the Town of Amherst," dated December 2011, on

file with the Town Clerk, to include within the layouts of such ways the parcels of land shown on said plans, portions of which became Town ways upon their discontinuance as county and state ways, and to authorize the Select Board to convey any laying outside the altered layouts of said ways on such terms and conditions and for such consideration, which may be nominal consideration, as the Select Board deems appropriate.  
Action taken 5/15/13

**ARTICLE 11. Conveyance of Discontinued Rights of Ways – Atkins Corner (Select Board)**

**VOTED unanimously** to discontinue as Town ways certain portions of West Bay Road, Bay Road, and West Street, as shown on a plan entitled “Plan of Land in the Town of Amherst Hampshire County Bay Road, West Bay Road and West Street Altered and Laid Out By the Town of Amherst,” dated December 2011, on file with the Town Clerk, and authorize the Select Board to convey any land so discontinued on such terms and conditions and for such consideration, which may be nominal consideration, as the Select Board deems appropriate.

Action taken 5/15/13

**ARTICLE 12. FY 2013 Budget Amendments (Finance Committee)**

**A.**

**VOTED unanimously** to amend the action taken under Article 12 of the 2012 Annual Town Meeting Fiscal Year 2013 Operating Budget by increasing the appropriation and the amount to be raised by taxation for the Community Services account by \$35,910 and to meet such increased appropriation by decreasing the appropriation and the amount to be raised by taxation for Debt Service by \$35,910.

Action taken 5/6/13

**B.**

**VOTED unanimously** to transfer \$238,115 from the General Fund General Government, \$16,372 from the Sewer Fund, \$13,370 from the Water Fund, \$5,308 from the Solid Waste Fund, \$3,088 from the Transportation Fund, and \$100,000 from the Amherst Elementary School Department accounts to the Town of Amherst OPEB Trust Fund.

Action taken 5/6/13

**C.**

**VOTED unanimously** to appropriate and transfer \$78,270 from Free Cash in the Undesignated Fund Balance of the General Fund to the following accounts; \$57,055 to the OPEB Trust Fund of the Town of Amherst; \$3,618 to the Town of Pelham; and \$17,597 to the Amherst-Pelham Regional School District 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.

Action taken on 5/6/13

**D.**

**VOTED unanimously** in accordance with Chapter 44, § 53 (2) of the Massachusetts General Laws, to appropriate and transfer \$20,071 from the Insurance Recovery Fund to the FY 2013 Operating Budget – General Government – Information Technology Department for reimbursement of the cost of repairs and replacement of the damaged visual and audio equipment in the Town Room.

Action taken on 5/6/13

**E.**

**VOTED unanimously** to appropriate and transfer \$41,814 from Fund Balance Reserved for Overlay Surplus to the 2009 Overlay account to eliminate a deficit in that account.

Action taken on 5/6/13

**ARTICLE 13. Retirement Assessment (Select Board)**

**VOTED unanimously** to raise and appropriate \$3,925,567 for the Hampshire County Retirement System assessment.

Action taken 5/6/13

**ARTICLE 14. Regional Lockup Assessment (Select Board)**

**VOTED unanimously** to raise and appropriate \$31,323 for the Hampshire County Regional Lockup Facility assessment.

Action taken 5/6/13

**ARTICLE 15. Amherst-Pelham Regional School District Assessment Method (Amherst-Pelham Regional School Committee)**

**VOTED** to approve following the existing Amherst-Pelham Regional School District Agreement for allocating the total amount to be contributed by each member town of the District for Fiscal Year 2014 as required by Section VI of the Regional Agreement.

Action taken 5/6/13

## **ARTICLE 16. FY 2014 Operating Budget (Finance Committee)**

Before consideration of Article 16 – FY2014 Operating Budget, Andrew Steinberg gave a report from the Finance Committee.

Sharon Sharry gave a report from the Jones Library Trustees prior to discussion on the Library Services portion of the FY14 Operating Budget

### **LIBRARY SERVICES**

**VOTED unanimously** to approve the Library Services operating budget of \$2,339,755, and that the Town raise and appropriate \$1,741,512 as its share of that budget.  
Action taken 5/6/13

At 10:00 p.m. Ms. O’Keeffe made a motion to continue with the General Government portion of the FY14 Operating Budget. Motion was defeated.

At 10:01 on May 6, 2013, the meeting voted to adjourn to Wednesday, May 8, 2013 at 7:00 p.m. in the auditorium of the Amherst Regional Middle School. 208 town meeting members were checked in.

There were 252 town meeting members; 127 town meeting members constitute a quorum. The Constable reported a quorum at 7:09 p.m. and the Moderator immediately called the May 8, 2013 session of the May 6, 2013 Annual Town Meeting to order.

On a motion made by Precinct 9 town meeting member Jerry G. Guidera Jr., Town Meeting voted to hear article 36 on May 22, 2013 at 7:06 p.m.

Town Meeting resumed with discussion of Article 16 – FY14 Operating Budget

### **GENERAL GOVERNMENT**

**VOTED unanimously** to appropriate \$6,400,243 for General Government, that the salary of the Moderator be fixed at \$100, that of the Select Board at \$300 each, that of the Elector under the Oliver Smith Will at \$20, and that to meet such appropriation, \$6,294,938 be raised by taxation and \$105,305 be transferred from the Ambulance Receipts Reserved For Appropriation Account.  
Action taken 5/8/13

### **PUBLIC SAFETY**

**VOTED unanimously** to appropriate \$9,099,025 for Public Safety and that to meet such appropriation \$6,903,302 be raised by taxation and \$2,195,723 be transferred from the Ambulance Receipts Reserved for Appropriation Account.  
Action taken 5/8/13

### **PUBLIC WORKS**

**VOTED unanimously** to raise and appropriate \$2,020,127 for Public Works.  
Action taken 5/8/13

### **CONSERVATION AND DEVELOPMENT**

**VOTED** to raise and appropriate \$1,010,848 for Conservation and Development.  
Action taken 5/8/13

### **COMMUNITY SERVICES**

**VOTED** to raise and appropriate \$1,708,238 for Community Services.  
Action taken 5/8/13

### **DEBT SERVICE**

**VOTED unanimously** to appropriate \$1,959,603 for payment of the Town’s General Fund indebtedness, and to meet such appropriation \$1,795,515 be raised by taxation and \$164,088 be appropriated and transferred from Community Preservation Fund annual revenues.  
Action taken 5/8/13

### **WATER FUND**

**VOTED unanimously** to appropriate \$3,813,478 for the Water Fund and that to meet such appropriation \$3,791,591 be made available from Water Fund revenues of the current year and \$21,887 be transferred from Water Fund Surplus.  
Action taken 5/8/13

### **SEWER FUND**

**VOTED unanimously** to appropriate \$3,767,404 for the Sewer Fund and that to meet such appropriation \$3,653,051 be made available from Sewer Fund revenues of the current year and \$114,353 be transferred from Sewer Fund Surplus.

Action taken 5/22/13

*(Finance Committee Chair Andrew Steinberg made a motion to reconsider the Sewer Fund portion of Article 16 after it was discovered that the dollar amount in the original motion for the total appropriation which was voted on May 18, 2013 was incorrect. Town Meeting voted to reconsider. Mr. Steinberg then made a motion to amend the original main motion by striking out the figure \$3,676,404 and inserting in place thereof the figure \$3,767,404. Town Meeting voted to amend the main motion. Town Meeting then voted unanimously to approve the motion as amended.)*

### **SOLID WASTE FUND**

**VOTED unanimously** to appropriate \$535,895 for the Solid Waste Fund and that to meet such appropriation \$525,895 be made available from Solid Waste Fund revenues of the current year and \$10,000 be transferred from Fund Balance Reserved for Monitoring.

Action taken 5/8/13

### **TRANSPORTATION FUND**

**VOTED unanimously** to appropriate \$907,599 for the Transportation Fund and that to meet such appropriation \$907,599 be made available from Transportation Fund revenues of the current year.

Action taken 5/8/13

At 9:52 pm on May 8, 2013, the meeting voted to adjourn to Monday, May 13, 2013 at 7:00 p.m. in the auditorium of the Amherst Regional Middle School. 178 town meeting members were checked in.

There were 251 town meeting members; 126 town meeting members constitute a quorum. The Constable reported a quorum at 7:05 p.m. and the Moderator immediately called the May 13 session of the May 6, 2013 Annual Town Meeting to order.

Town Meeting Member Vladimir Morales made a motion to hear Article 44 on Wednesday May 22, 2013 at 7:07 p.m. Motion was seconded and received the required majority vote to pass.

A motion was made by Town Meeting Member Mary Streeter to move Article 24 to Wednesday, May 22, 2013 at 7:08 p.m. Motion was seconded and received the required majority vote to pass.

Town Meeting resumed with discussion of Article 16 – FY14 Operating Budget

Prior to hearing the Elementary School portion of the FY14 Operating Budget, Superintendent of Schools Ms. Maria Geryk gave a report on the state of the Elementary and Regional schools.

### **ELEMENTARY SCHOOLS**

**VOTED** to raise and appropriate \$21,989,199 for the Amherst Elementary Schools.

Action taken 5/13/13

### **REGIONAL SCHOOLS**

**VOTED** to approve the Amherst-Pelham Regional School District operating and capital budget of \$29,130,815 and that the Town raise and appropriate \$14,158,830 as its share of that budget.

Action taken 5/13/13

### **ARTICLE 17. Reserve Fund (Finance Committee)**

**VOTED unanimously** to raise and appropriate \$100,000 for the Reserve Fund for FY 2014.

Action taken 5/6/13

### **ARTICLE 18. Revolving Fund Reauthorization (Finance Committee)**

**VOTED** to reauthorize a revolving fund pursuant to Chapter 44, §53E½ of the Massachusetts General Laws for the operation of an After School Program from which the receipts shall be credited for expenditure by the LSSE department as authorized by the Department Head of the LSSE or his/her designee for supplies and services, including salaries and benefits of staffing, and related administrative costs for the program operation with a limit of \$400,000 that may be expended from said revolving fund in the fiscal year which begins on July 1, 2013.

Action taken 5/13/13

### **ARTICLE 19. Capital Program – Equipment (Joint Capital Planning Committee)**

**VOTED unanimously** to appropriate \$1,118,955 to purchase, repair, and/or install new or replacement equipment and to meet such appropriation \$969,955 be raised by taxation, \$144,000 be

transferred from the Ambulance Receipts Reserved for Appropriation Account, and \$5,000 be transferred from the Fund Balance Reserved for Capital account.

Action taken 5/13/13

At 9:59 pm on May 13, 2013, the meeting voted to adjourn to Wednesday, May 15, 2013 at 7:00 p.m. in the auditorium of the Amherst Regional Middle School. 185 town meeting members were checked in.

There were 251 town meeting members; 126 town meeting members constitute a quorum. The Constable reported a quorum at 7:08 p.m. and the Moderator immediately called the May 15 session of the May 6, 2013 Annual Town Meeting to order.

Discussion resumed with consideration of Articles 26, 10, 11, as voted by Town Meeting on May 6, 2013, after which Town Meeting resumed discussion of articles in the order they appeared in the warrant, starting with Article 20

**ARTICLE 20. Capital Program –Buildings and Facilities (Joint Capital Planning Committee) VOTED Yes 95, No 56** to appropriate \$464,500 to repair and/or improve buildings and facilities and to meet such appropriation \$449,500 be raised by taxation and \$15,000 be transferred from the April 2001 Annual Town Meeting, Article 35, Puffers Pond Dredging.

Action taken 5/15/13

*((Kevin Noonan made a motion to reduce the amount by \$15,000 for an appropriation of \$449,500. In accordance with Sec. 7 of Article 1 – The Town Government – Rules of Order for Town Meeting, Town Meeting voted on the higher amount first. The Finance Committee motion for \$464,500 was voted by the required majority and the Noonan motion was defeated by default.))*

**ARTICLE 21. Capital Program – Bond Authorizations (Joint Capital Planning Committee) VOTED unanimously**

A. To appropriate \$400,000 for purchasing a pumper truck for the Fire Department and to meet this appropriation, the Treasurer, with the approval of the Select Board, is authorized to borrow said amount under and pursuant to Chapter 44, Section 7 of the Massachusetts General Laws or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor.

B. To appropriate \$425,000 for purchasing two large trucks and a bucket truck for the Public Works Department and to meet this appropriation, the Treasurer, with the approval of the Select Board, is authorized to borrow said amount under and pursuant to Chapter 44, Section 7 of the Massachusetts General Laws or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor.

C. To appropriate \$400,000 for replacing the boiler and making associated repairs at the Wildwood Elementary School and to meet this appropriation, the Treasurer, with the approval of the Select Board, is authorized to borrow said amount under and pursuant to Chapter 44, Section 7 of the Massachusetts General Laws or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor.

Action taken 5/15/13

**ARTICLE 22. Capital Program - Debt Rescission (Finance Committee)**

**VOTED unanimously** to rescind the \$80,000 unissued amount that was authorized to be borrowed by a vote of the Town passed at the Annual Town Meeting held on June 18, 2007 (Article 23) for handicapped access and interior improvements to the East Street School, but which is no longer needed for the purpose for which it was initially approved.

Action taken 5/15/13

**ARTICLE 23. Water and Sewer Debt (Finance Committee)**

**VOTED by a declared two-thirds**

A. To appropriate \$1,000,000 to pay for the costs of designing and constructing sewer system improvements and sewer main extensions, and any and all costs related thereto and to meet this appropriation, the Treasurer, with the approval of the Select Board, is authorized to borrow said amount under and pursuant to Chapter 44, Section 8 of the Massachusetts General Laws or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor.

B. To appropriate \$1,000,000 to pay for the costs of designing and constructing water system improvements and water main extensions, and any and all costs related thereto and to meet this appropriation, the Treasurer, with the approval of the Select Board, is authorized to borrow said amount under and pursuant to Chapter 44, Section 8 of the Massachusetts General Laws or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor.

Action taken 5/15/13

At 10:13 pm on May 15, 2013, the meeting voted to adjourn to Monday, May 20, 2013 at 7:00 p.m. in the auditorium of the Amherst Regional Middle School. 175 town meeting members were checked in.

**ARTICLE 24. Community Preservation Act (Community Preservation Act Committee)**

**A.**

**VOTED** to appropriate a sum of \$282,395 for Community Preservation Act Purposes as recommended by the Community Preservation Act Committee and that the following amounts (items 1- 8) be appropriated from Community Preservation Act Fund Estimated Revenues:

	<b>Project</b>	<b>Total Appropriation</b>	<b>Source of Appropriation</b>
	<b>AFFORDABLE HOUSING</b>		
<b>1</b>	Family Outreach of Amherst and Amherst Housing Authority – Amherst Renters emergency fund	\$15,000	
	<b>Total Affordable Housing</b>	<b>\$15,000</b>	<b>FY 14 Estimated Revenues</b>
	<b>HISTORIC PRESERVATION</b>		
<b>2</b>	Amherst Historical Society - Conservation of Emily Dickinson dress and storage equipment	\$21,401	
<b>3</b>	Amherst Media - Archive Town's historic recordings	\$53,994	
<b>4</b>	Unitarian Universalist Society of Amherst - Restoration of Tiffany window	\$106,000	
<b>5</b>	Jones Library - Roof repair	\$14,000	
	<b>Total Historic Preservation</b>	<b>\$195,395</b>	<b>FY14 Estimated Revenues</b>
	<b>OPEN SPACE</b>		
<b>6</b>	Surveys & Appraisals	\$10,000	
	<b>Total Open Space</b>	<b>\$10,000</b>	<b>FY14 Estimated Revenues</b>
	<b>RECREATION</b>		
<b>7</b>	LSSE - Mill River Recreation Area	\$60,000	
	<b>Total Open Space</b>	<b>\$60,000</b>	<b>FY14 Estimated Revenues</b>
	<b>ADMINISTRATIVE</b>		
<b>8</b>	CPAC Administrative Expenses	\$2,000	
	<b>Total Administrative</b>	<b>\$2,000</b>	<b>FY14 Estimated Revenues</b>
	<b>TOTAL FOR ARTICLE</b>	<b>\$282,395</b>	

Action taken 5/22/13

*(Upon a motion by Town Meeting member Larry Kelly, Article 24 A was divided so that item #4 - Unitarian Universalist Society of Amherst - Restoration of Tiffany Window would be considered separately from the other line items in the Article. Town Meeting first voted on the remaining line items, and then voted on item #4.)*

At 10:07 pm on May 22, 2013, the meeting voted to adjourn to Wednesday, May 29, 2013 at 7:00 p.m. in the auditorium of the Amherst Regional Middle School. 182 town meeting members were checked in.

There were 251 town meeting members; 126 town meeting members constitute a quorum. The Constable reported a quorum at 7:07 p.m. and the Moderator immediately called the May 29 session of the May 6, 2013 Annual Town Meeting to order.

Town Meeting resumed with discussion of the remainder of Article 24.

**B:**

**VOTED** to amend the vote taken under Article 8B of the November 19, 2012 Special Town Meeting, as continued, which authorized the acquisition of all or a portion of the parcel of land located at Potwine Lane, containing 16 acres, more or less, and being a part of the premises described in a deed recorded with the Hampshire Registry of Deeds in Book 1272, Page 375, and appropriated the total sum of \$163,000 for the acquisition and costs related thereto, with \$48,500 transferred from the Community Preservation Act Fund Budgeted Reserve, \$33,000 transferred from the Community Preservation Act Fund Balance, and the remaining \$81,500 borrowed under G.L. c. 44B, §11, to rescind said appropriation and the borrowing authorized for said acquisition under said Article 8B, and instead appropriate a total sum of \$156,000 for said acquisition and costs related thereto, with the entire sum to be appropriated from the Community Preservation Act Fund estimated revenues.

Action taken 5/29/13

**C:**

**VOTED Yes 125, No 57** to: (a) authorize the Select Board to acquire, by gift, purchase or eminent domain, for open space purposes, the fee in and to an approximately 5-acre portion of the parcel of land located at 650-652 South East Street, shown on Assessors Map 17D as Parcel 24, and described in a deed recorded with the Hampshire Registry of Deeds in Book 11217, Page 189, which portion of land shall be under the care, custody, management and control of the Conservation Commission under the provisions of Chapter 40, §8C of the Massachusetts General Laws; (b) borrow the sum of \$60,000 under Chapter 44B, §11 of the Massachusetts General Laws or any other enabling authority for the acquisition of said land and costs related thereto, and to authorize the Treasurer, with the approval of the Select Board, to issue any bonds or notes that may be necessary for that purpose pursuant to Chapter 44B, §11 of the Massachusetts General Laws, and Chapter 44 of the Massachusetts General Laws and/or any other enabling authority; (c) authorize the Select Board, the Town Manager, and/or the Conservation Commission, as they deem appropriate, to apply for and accept on behalf of the Town any funds, gifts, and grants under any federal and/or other state program in any way connected with the scope of this acquisition; and, further, (d) authorize the Select Board and/or the Conservation Commission to convey a conservation restriction on said land in accordance with Chapter 184 of the Massachusetts General Laws, as required by Chapter 44B, §12(a) of the Massachusetts General Laws.

Action taken 5/29/13

**D:**

**VOTED unanimously** to appropriate and transfer and/or borrow the sum of \$110,000 from Community Preservation Act funds for the preservation and support of community housing, as recommended by the Community Preservation Act Committee, such sum to be granted to the Amherst Housing Authority pursuant to a grant agreement for the repair and improvement of 25 of the 80 units of low and/or moderate income housing at the Ann Whalen Apartments, located at 33 Kellogg Avenue and under the care and custody of the Amherst Housing Authority, and to authorize the Treasurer, with the approval of the Select Board, to issue any bonds or notes that may be necessary for such purposes pursuant to Chapter 44B, §11, and Chapter 44 of the Massachusetts General Laws and/or any other enabling authority, and, further, to authorize the Select Board to accept, on such terms as the Select Board deems appropriate, an affordable housing restriction on said Ann Whalen Apartments.

Action taken 5/29/13

**ARTICLE 25. Social Services Funding (Finance Committee)**

**VOTED unanimously** to appropriate and transfer \$90,000 from Free Cash in the Undesignated Fund Balance for the following Social Services eligible activities: \$15,000 for Town of Amherst Flexible Emergency Funds, \$25,000 for Big Brothers/Big Sisters of Hampshire County Mentoring Program, \$20,000 for Family Outreach of Amherst Emergency Funds for Resource Caseworker, \$10,000 for Amherst Survival Center Food Pantry, and \$20,000 for Town of Amherst Rental Assistance for Intermediate Living.

Action taken 5/20/13

*(Town Meeting Member Hwei-Ling Greeney made a motion to amend Article 25 to redistribute the \$90,000 appropriation to the Social Services noted in the article and also to the Center for New Americans for Education and Career Coaching for Immigrants; the Literacy Project for the Passport to Success: GED to Jobs Program; and to Amherst Community Connections for the Housing and Stabilization Program. The motion was defeated.)*

Jeffrey Lee, Timothy Neale, Alexander Krogh-Grabbe, David Mullins, Nonny Burack, and Adrienne Terrizzi were sworn in as Tellers.

**ARTICLE 26. Town-Gown Strategic Planning (Finance Committee)**

**VOTED Yes 122, No 46** to appropriate and transfer \$30,000 from Free Cash in the Undesignated Fund Balance of the General Fund for a Town-Gown strategic planning study in partnership with the University of Massachusetts Amherst.



Action taken 5/15/13

*(A motion to refer back to the Finance Committee was defeated)*

**ARTICLE 27. Free Cash (Finance Committee)**

**VOTED unanimously to DISMISS**

(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 Fiscal Year 2014 Budget.)

Action taken 6/3/13

**ARTICLE 28. Stabilization Fund (Finance Committee)**

**VOTED unanimously to DISMISS**

(To see if the Town will appropriate and transfer a sum of money from the Stabilization Fund to balance the Fiscal Year 2014 Budget.)

Action taken 6/3/13

There were 251 town meeting members; 126 town meeting members constitute a quorum. The Constable reported a quorum at 7:06 p.m. and the Moderator immediately called the May 20 session of the May 6, 2013 Annual Town Meeting to order.

Assistant Town Clerk Sue Audette was elected as temporary Town Clerk for the duration of the May 20 session of the May 6, 2013 Annual Town Meeting.

The Moderator recognized TracyLee Boutilier for a procedural motion. Town Meeting voted to hear Article 42 on May 29, 2013 at 7:05 p.m.

The Moderator recognized Barbara Ford for a procedural motion. Town Meeting voted to consider Article 43 on Wednesday, May 29, 2013 at 7:06 p.m.

Discussion resumed with consideration of Article 29 as voted by Town Meeting on May 6, 2013

**ARTICLE 29. Residential Rental Property Bylaw (Select Board)**

**VOTED** to amend the Town of Amherst General By-Laws by adding the following new by-law:

The effective date of this bylaw shall be January 1, 2014.

**1. Purpose.** This bylaw is adopted in accordance with the Town of Amherst's Home Rule Authority and the Amherst Master Plan, in furtherance of the following public purposes:

- a. To protect the health, safety, and welfare of tenants and other citizens of the Town of Amherst by monitoring and enhancing compliance with basic life safety and sanitary codes through the registration and permitting of residential rental properties.
- b. To ensure safe and sanitary conditions in Amherst's rental housing stock, preventing degradation and helping to promote preservation of important historic residential buildings and neighborhoods.
- c. To provide clear and accessible guidelines for the operation of rental properties for tenants, owners, landlords, and neighbors, and to extend awareness of related Town bylaws and health regulations related to operation of a rental property and those regulations related to noise, alcohol and nuisance behaviors.
- d. To establish and assign responsibility for different aspects of rental housing management.
- e. To establish and expand awareness of the requirements for use and maintenance of rental housing exteriors and grounds, including parking requirements.
- f. To ensure awareness of and responsibility for occupancy limits in rental units on the part of property owners, managers, tenants, and neighbors.
- g. To help to stabilize, protect, and enhance the essential characteristics of and quality of life within existing diverse, multi-generational residential neighborhoods for all residents, including families and students, consistent with Amherst's long history as a college community.

**2. Registration & Permit Required.** Except as provided in Section 4 below, no person, firm, trust, partnership, corporation or other legal entity may rent, or offer to rent, to individuals or households any dwelling unit nor any rooming unit in a lodging or boarding house being operated as a principal zoning use in the Town of Amherst until the property has been registered and a rental permit therefor has been issued by the Principal Code Official.

3. **Enabling Legislation & Regulations.** All rental units and rooming units regulated hereunder shall comply with all applicable local bylaws and regulations, as well as all state laws and health, building and fire codes. All inspections, enforcement, and other actions taken under these regulations are authorized under those applicable local and state laws and regulations, as amended.
4. **Applicability & Exemptions.** Registration and rental permits shall be required of all residential properties containing rented dwelling units or rooming units, or offered for that purpose, except for the following:
  - a. **Lodging Facilities.** Hotels, motels, inns, hostels, or bed and breakfasts.
  - b. **Halfway Houses & Group Homes.** Residential facilities authorized and operated under state and federal law, congregate or similar group housing for the elderly or disabled, half-way houses for persons with substance abuse problems, congregate living arrangements for persons with disabilities, or other similar housing facilities operated under license by the Commonwealth of Massachusetts. Notwithstanding, such facilities shall comply with Section 7. a. 1) b) below.
5. **Definitions. Definitions of terms used in the regulations.**

Under these regulations, the following terms have the meanings indicated:

*Code Official* – means the Building Commissioner/Zoning Enforcement Officer of the Town of Amherst, the Health Director, the Police Chief, Fire Chief, or their designees and/or any of the inspectors or officers authorized to enforce the law, regulations and codes listed under Section 3 of this bylaw. The specific Code Official in each instance will be the official duly designated under the relevant statute, bylaw, or regulation.

*Principal Code Official* – the Code Official designated by the Town Manager to oversee and administer the rental program under this bylaw.

*Dwelling Unit* – means the room or group of rooms within a dwelling used or intended for use by one family, as defined by the Amherst Zoning Bylaw, or household for living, sleeping, cooking and eating. Dwelling unit shall also mean a condominium unit.

*Emergency* – Events or conditions involving natural disasters, fire, or other threats to the health and safety of the residents of a rental property.

*Hazard* - means a condition likely to expose persons to injury, or property to damage, loss, or destruction.

*Occupant* – means a person who occupies real property with the consent of the owner as a lessee, tenant at will, licensee or otherwise. The singular use of the term includes the plural when the context so indicates.

*Owner* – means every person who alone or jointly or severally with others:

- a. has legal title to any building, structure, or property subject to this bylaw, or;
- b. has care, charge, or control of any such building, structure, or property in any capacity including but not limited to agent, executor, administrator, trustee or guardian of the estate of the holder of legal title; or
- c. is a lessor under written agreement; or
- d. is the mortgagee in possession; or
- e. is the recognized agent, trustee or other person with care, charge, or control appointed by the courts.

*Owner-Occupant(s)* – One or more natural persons who, in their individual capacity as distinct from any representative capacity, own(s) a whole or undivided interest in fee simple of certain real property and at least one of whom occupies a dwelling unit thereon as his or her principal residence (see definition).

*Person* – means an individual, corporation, trust, partnership (including general partnership, limited partnership, and limited liability partnership), and a limited liability company. In addition, any similar entity permitted by law to hold title to real estate shall for the purpose of this by-law be deemed a “person.”

*Premises* – means any real estate used for residential premises, including but not limited to apartments, dwellings, dwelling units, lodging houses, lodging units, rooming houses, and rooming units.

*Principal Residence* - means the primary residence of an individual, family (as defined in the Zoning Bylaw), or property owner, i.e., the home where an owner, and the owner’s family if applicable, resides as their primary dwelling; provided however, that no person shall hold

concurrent rights in more than one (1) principal residence, as set forth under MGL Ch. 188, Section 1, as amended. Regular or periodic interruptions in residency shall not be considered to change the status of principal residency where such interruptions are the result of illness, catastrophe, professional or academic scheduling, or other temporary reasons for absence which do not affect basic indices of residency. For the purposes of this Bylaw, principal residency shall be determined by the Code Official based upon a preponderance of evidence, including but not limited to the following indicia of residency and address, as applicable: declaration of homestead, filing of state and federal income taxes, voter registration, annual street list, driver's license, motor vehicle registration, mortgage, mailing address, and telephone listing (if any).

*Responsible Person* – means an Owner, Occupant, Tenant, Local Agent, Property Manager or other natural person authorized to act as an Owner's agent.

*Responsible Party* – means the person or persons responsible for a violation under this Bylaw, whether an Owner, Occupant, Tenant, Local Agent, or Property Manager.

*Rooming Unit* – means the room or group of rooms let to an individual or household for use as living and sleeping quarters but not for cooking, whether or not common facilities for cooking are made available; provided, that cooking facilities shall not be deemed common if they can be reached only by passing through any part of the dwelling unit or rooming unit of another.

## 6. **Registration & Permitting.**

- a. **Application Process and Requirements.** Registration and rental permit applications shall be made on forms approved by the Town, and shall provide such information as the Principal Code Official shall deem reasonable and appropriate. Completed applications shall be submitted to the appropriate Town office. Complete rental permit applications shall be reviewed and permits shall be issued within fourteen (14) working days from the date of submission. Except as may otherwise be permitted by the Code Official, a rental permit application shall identify the total number of rental units on the property.

Information required as part of a rental permit application shall include:

- 1) **Contact Information & Responsible Persons.** Name(s) and current contact information, including but not limited to mailing address, telephone number and email address, for all owners and any responsible rental property management entity or person(s). Where the rental property owner(s) or agent does not have their principal residence or principal place of business in the town of Amherst or within 20 miles of an Amherst town line, and in order to ensure contact in circumstances when the owner cannot be reached, the owner shall appoint one or more person(s) who are residents of Amherst to serve as Local Agent(s) for the owner, authorized to act on the owner's behalf with regard to the property, but in particular in all matters in response to an emergency which endangers the property or threatens the welfare of any person living on the premises. Notices given to a Local Agent shall be sufficient to satisfy any requirement of notice to the owner or the operator. The owner shall notify the Code Official in writing of any change of Local Agent within five days of any such change.
  - 2) **Compliance Through Self-Certification.** Evidence of current compliance with all applicable local zoning and regulations, as well as state health, fire and building codes, shall be provided through submission of an Owner's Self-Inspection and Certification Checklist provided by the Town as set forth in Section 7 below. An owner or property manager may provide the Town with a single Self-Inspection and Certification Checklist for multiple units provided that said units are on a single property. Where said units represent a portion of the total rental units on the property, the applicant shall propose a schedule of Self-Inspection and Certification for the remaining units for the review and approval of the Code Official.
  - 3) **Complete & Accurate Information Required.** No incomplete application will be accepted. It shall be a violation of this Bylaw for anyone to knowingly provide false or misleading information on an application, and may constitute grounds for fines and other penalties hereunder. See Sections 12 and 13 below.
- b. **Renewal.** Rental permits shall be valid for a period to begin on July 1 and shall end on June 30, regardless of when a permit is applied for or approved and issued. Completed applications for permit renewals shall be submitted and received by June 15<sup>th</sup> of each calendar year.
  - c. **Permit Posted.** A rental permit shall be conspicuously posted and maintained within the premises in a common area or area as is necessary to be visible to tenants and inspectors.

- d. **Transferability.** Rental permits shall be transferable upon a change of ownership, providing that operation of the continued rental use shall be subject to the provisions of the permit and management plan. The new owner or designated operator of the rental property is required to promptly notify the Code Official of their acquisition of the property and to submit for review and approval any proposed changes in the provisions of the permit.

7. **Inspections & Complaints.**

- a. **Self-Certification Program.** Owners of rental property governed by this bylaw shall self-inspect and certify their properties as required under this section. Nothing in the Self-Certification program shall limit the Town's authority or the authority and/or discretion of the Code Official to investigate and inspect a property in response to a complaint or for other good cause, or to compel abatement of any violation under this bylaw in a manner consistent with or required by the laws of the Commonwealth.

1) Annual Owner Self-Inspections & Checklist.

- a. **Owner Self-Inspection & Certification.** An owner or their local agent shall conduct an annual inspection of the property, using a Self-Certification Checklist provided by the Town. The owner or their agent shall sign the Checklist indicating, that the information contained therein is complete and accurate as of the date of said annual inspection, and shall submit the Checklist and any required materials along with their application for annual renewal of the rental permit for the property and unit(s) in question. Any false statements or information provided on the Checklist shall constitute a violation of this bylaw.
- b. **Subsidized Housing.** Where residential rental units are regularly inspected under requirements of the state or federal government, no Self-Inspection and Certification shall be required. Annual certification by the owner that a rental unit has been inspected in accordance with state or federal law shall be provided to the Town and shall be accepted by the Town as evidence of Self-Inspection as part of any permit application or renewal.
- c. **Self- Inspections & Access.** An owner shall not be found in violation of the Self-Certification program if they have been refused access for an inspection by a tenant/occupant. However, in such instances the owner shall either provide the Town with a signed statement from the tenant/occupant indicating that the inspection was refused, or the owner shall provide proof, that a request for access was served to the tenant/occupant and the request was thereafter refused.
- d. **Lease Terms.** Subject to and as limited by the laws of the Commonwealth, a provision requiring tenants to agree to provide reasonable access to the owner(s) or management company shall be a feature of any lease for a rental unit or property permitted under this bylaw. Where no lease is used, the owner(s) or their lawful representatives shall provide documentation demonstrating that they have made all tenants aware of the Town of Amherst rental bylaw and inspection system. All leases shall provide an acknowledgment that all tenants have been made aware of these requirements.
- e. **Leases Available.** Copies of all current, active leases for the subject property or units shall be kept on file with the owner or manager, and shall be made available to the Code Official within 48 hours of any request.

**b. Self-Inspection for Different Circumstances**

- 1) **Short-Term Rentals.** Dwelling units on owner-occupied properties serving as the owner's principal residence, and which contain no more than two (2) units may be rented under simple registration with the Town without the requirement for a rental permit for a period not to exceed one (1) calendar year under the following circumstances:
  - a. During a pending sale of the property by the owner-occupant, or
  - b. In response to regular or periodic interruptions in residency by the owner-occupant, where such interruptions are the result of illness, catastrophe, professional or academic scheduling, or other temporary reasons for absence which do not affect basic indicia of residency.

At the end of the one (1) year rental period, as calculated from the initial date of the lease or occupancy of the unit(s) by persons other than the owner(s), any such units shall be registered and a rental permit obtained in compliance with this bylaw.

- 2) Long-Term Tenancies & Periodic Self-Inspections. Rental units which have been leased and occupied continuously by the same tenant(s) for a period of not less than three (3) years shall require a Self-Inspection & Certification upon initial registration and thereafter at three (3) year intervals. Exceptions shall be that Self-Inspection & Certification will be required upon any change in tenants, or may be required at more frequent intervals at the discretion of the Code Official in response to complaints or other circumstances requiring a Town inspection.

**c. Complaints & Response Process.**

Upon receipt of a complaint or notice from any person alleging that the condition of a rental unit or property is in violation of any law or State or local requirement, or of any violation of this Bylaw, the Code Official shall conduct an inspection of a premise within a reasonable amount of time. Inspections shall be as scheduled by the Code Official.

Inspections of rental properties, buildings, grounds, and rented dwelling or rooming units shall be conducted in accordance with all applicable local and state laws, regulations and codes, in a manner consistent with the laws of the Commonwealth.

Subject to the above limitation, all rental units are subject to inspection upon complaint or request by a tenant. Issuance of a rental permit to an owner does not preclude tenants' right to file a complaint with the Town, to which the Town must respond with an inspection in compliance with the provisions of state law and regulations.

- d. Access to Properties.** In accordance with Section 7. a. 1) d), the permit holder shall make a good faith effort to arrange access by authorized Town personnel to any permitted rental property for the purpose of conducting inspections within twenty-four (24) hours of receiving a request.

- 8. Tenant Information.** The owner shall be required to distribute to tenants annually, and to each new tenant, an information sheet provided by the Town describing key local regulations; bylaws, including those pertaining to noise, alcohol and nuisance houses; and state laws and codes applying to rental properties. As part of the Registration and Self-Certification process, the owner shall attest to understanding the provided information and the necessity of compliance with the rules and laws described, as well as distributing it to tenants.
- 9. Occupancy Limits and Zoning.** The maximum number of adult persons who may occupy a dwelling unit or rooming unit shall be as determined by the requirements of the Amherst Zoning Bylaw and State standards for fitness for habitation. The fact that a structure or use may be permitted or authorized under the Amherst Zoning Bylaw shall not exempt said structure or use from application of this bylaw or relieve or excuse compliance herewith in any way.
- 10. Parking.** All existing parking and any new or expanded parking on residential rental properties within the town of Amherst shall comply with the General Requirements and Design Standards and Landscape Standards of the Parking & Access Regulations of the Amherst Zoning Bylaw.
- a) **Parking Site Plan.** A Basic Parking Site Plan, as described below, meeting the requirements of this section shall be developed and submitted as part of any rental permit application. Submission of an existing site plan approved under a land use (zoning) permit and which accurately represents current on-site parking shall meet the requirements of this section.
- 1) **Basic Parking Site Plan Requirements.** The parking site plan shall be drawn to scale (1"=20' preferred), as appropriate to the site. Except as may otherwise be required by the Code Official or under the provisions of Amherst's Zoning Bylaw, Town of Amherst GIS mapping may be used as the base for a site plan developed under this section.
    - a) The Basic Parking Site Plan shall accurately depict the area within which parking is proposed, including:
      - i. Property boundaries
      - ii. Existing driveways and pedestrian walks
      - iii. Dwellings and structures
      - iv. All existing and proposed on-site parking spaces
      - v. Existing and proposed landscaped areas
      - vi. Fencing or other barriers or screening
      - vii. Site features such as trees over 12 inches in diameter (as measured five feet above grade), bedrock outcroppings, steep slopes, and such other site features as may affect parking locations.
  - 2) Any provision of this section with regard to Basic Parking Site Plan Requirements may be waived or modified by the Code Official for compelling reasons of safety or design.

- b) **Review.** Existing on-site parking and circulation shall be reviewed by the Code Official for conformance with existing zoning requirements, including but not limited to parking layout and circulation, paving, parking space dimensions, screening, and, in consultation with the Fire Chief, the sufficiency of circulation and vehicular access for public safety and emergency vehicles.

11. **Fees.** The Select Board or its designee may set and periodically revise a schedule of fees for registration, permit application, and inspections of rental properties.

12. **Enforcement.**

- a. **Enforcement Personnel.** The Town Manager is hereby authorized to designate the Principal Code Official and other Town officials empowered to enforce or otherwise take actions under this Bylaw.
- b. **Enforcement Options.** This Bylaw shall be enforced by criminal complaint through a court of competent jurisdiction. In addition, any person committing a violation under this section may be issued a citation under the noncriminal disposition process of M.G.L. c. 40 section 21D. Furthermore, in appropriate circumstances, a civil action may be initiated to compel compliance herewith.
- c. **Violations.** Non-compliance with any requirement of this Bylaw shall constitute a violation subject to penalty. Every day in which a violation continues shall be considered to be a separate offence. If more than one violation has occurred, each condition of the Bylaw which has been violated shall be considered a separate offense.
- d. **Enforcement Procedures.** Except for cases where conditions exist which may endanger or impair the health, or safety and well-being of a person or persons occupying the premises or as may otherwise be provided for by the Massachusetts Sanitary Code, Building Code, Fire Regulations or any other state or local law or regulation, the response of Code Officials to potential violations of this Bylaw shall include one or more of the actions as deemed necessary by the Code Official. Nothing herein shall supersede, alter, or vary the requirements of those codes or the responsibilities of the officials that administer them.
- 1) **Complaint Filed.** Any person may file a complaint regarding one or more violations of this Bylaw.
  - 2) **Property Research.** The Code Official shall perform a limited initial research of the property to confirm permit history, assessor's information, and other pertinent information. The Code Official may contact the alleged violator, occupant or responsible party to gather additional information. When appropriate the Code Official shall notify the Owner that a complaint has been filed against the property and that an initial site inspection is anticipated.
  - 3) **Site Inspection.** The Code Official shall conduct a site inspection to determine the validity of the complaint and collect any relevant facts of the case.
  - 4) **Notice of Violation/Enforcement Order.** After inspecting the site and upon confirming that a violation exists, the Code Official shall inform the responsible party or parties in writing of the violation and specify a time period within which to correct the violation. Violations may be cited pursuant to the applicable state or local code or regulation.
  - 5) **Follow up Inspection.** Shall be conducted upon the expiration of the time specified to correct the violation.
  - 6) **Fines.** The Code Official may elect to impose fines in instances where: 1) compliance has not been achieved after the responsible party or parties have been made aware of the violation and given a reasonable opportunity to come into compliance, or 2) for repeat offenses.
  - 7) **Suspension of Rental Permit.** In instances of egregious violations and when all reasonable and practical efforts have been made by the Code Official to gain compliance at a property without result, the Principal Code Official may suspend a rental permit based upon the specific criteria provided in Section 13 of this Bylaw. The permit holder shall have the opportunity to be heard and appeal any decision of the Principal Code Official to impose a suspension in accordance with Section 14 of this Bylaw.

- 8) Court Relief. If a violator fails to comply with an Enforcement Order, the Code Official may seek a court order to remedy the violation.

### 13. Penalties

- a. **Fines.** Any violation of the provisions of this Bylaw may be enforced by non-criminal complaint pursuant to the provisions of G.L. c.40, §21D. The fine for any violation shall be one hundred dollars (\$100.00) for each offense. Each day such violation continues shall be deemed a separate offense. Fines for other applicable local and state laws, regulations and codes, shall be set and assessed in a manner consistent with those laws, regulations, and codes, and the laws of the Commonwealth.
- b. **Suspension.** Based on the standard of proof and criteria specified herein the Principal Code Official is authorized to suspend a rental permit. A suspension shall take effect immediately upon the day following the end of the current lease, or upon any termination of the lease prior to that date. The suspension of a rental permit shall be imposed to affect only those units which are the subject of the violation(s) and enforcement action(s). Permits may be suspended if:
- 1) An Owner or their Agent has knowingly allowed or assisted in allowing violations of this Bylaw. The Code Official must collect compelling documentation through his or her investigation to substantiate this violation and support the recommendation to suspend a permit.
  - 2) An Owner or their Agent repeatedly refuses or neglects to comply with an order of the Code Official. The Code Official must find that the Owner or their Agent have not taken action to achieve compliance of the property and that at least 90 days have expired without compliance since the date of receipt of the Enforcement Order. During this time the Code Official shall inform the Owner or their Agent in writing that the permit is subject to suspension.

Suspensions shall be as follows:

First Offense – 90 days

Second Offense in a twelve month period – 180 days

Third Offense in a twelve month period – 3 years

- c. **Immediate Suspension.** In those instances where a rental unit has been condemned or deemed an unsafe structure pursuant to health, building and fire regulations, the rental permit shall be immediately suspended and shall remain suspended until as such time the property is found to be habitable and in compliance by the appropriate Code Official.

### 14. Appeals of the Code Official.

The Select Board is hereby authorized to establish and appoint a Rental Appeals Board (RAB), and to promulgate regulations for its membership and the conduct of its business.

Any decision by the Code Official to suspend a permit may be challenged by the permit holder by filing an appeal to the Rental Appeals Board (RAB). All appeals must be filed within 14 days of the decision and shall be heard within 30 days of filing. All appeals shall be heard at a duly noticed public hearing and any party filing such an appeal shall have the right to be represented by counsel.

A decision of the Rental Appeals Board shall be final. Further relief of a decision by the RAB made under this Bylaw shall be reviewable in a court of competent jurisdiction.

Action taken 5/20/13

*(Town Meeting Member Richard Gold made a motion to refer Article 29 back to the Select Board. The motion failed.*

*Town Meeting Member Maurianne Adams made a motion to amend Article 29 by substituting Paragraph 2 of Article 38 for Paragraphs 2, 4, and 7(b)(1) of Article 29, with Paragraph 7 (b)(2) renumbered as necessary. The motion to amend was defeated Yes 74, No 116.)*

The Moderator recognized Ms. O’Keeffe for a procedural motion. Town Meeting voted to consider Article 45 following Article 25.

### **Article 30. Zoning – Converted Dwellings Standards and Conditions (Planning Board)**

**VOTED by a declared two-thirds** to amend the Standards and Conditions for Section 3.3241, Converted Dwelling, of the Amherst Zoning Bylaw, by deleting the ~~lined out~~ language and adding the language in ***bold italics***, as follows:

- ~~5-~~ 6. The proposed conversion shall be suitably located in the neighborhood in which it is proposed, as deemed appropriate by the ~~Zoning Board of Appeals~~ ***Special Permit Granting Authority***. The conversion, if in a residential district shall either: a) be located in an area that is close to heavily traveled streets, close to business, commercial and educational districts, or already

developed for multi-family use and shall require owner-occupancy or a ~~Resident~~ ~~Manager~~ (*see definition*) in one of the units; or b) be from one to two units, ~~In both instances one unit of which~~ shall be and shall remain owner-occupied, a requirement which shall be made a condition of any Special Permit issued *in such an instance*.

13. ~~For any converted dwelling use in the R-G, R-VC, R-N, R-O and R-LD districts, the Special Permit Granting Authority shall require as a condition of the granting of a Special Permit the ongoing services of a qualified professional property management company, the presence of a qualified on-site resident manager, or similar provision for appropriate management of the rental use.~~

Action taken 6/3/13

**ARTICLE 31. Zoning – Mixed Use Buildings - Standards and Conditions (Planning Board)**  
**VOTED Yes 119, No 56** to amend the Standards and Conditions for Section 3.325 of the Zoning Bylaw, by deleting the ~~lined out~~ language and adding the language in *bold italics*, as follows:

3.325 Building containing dwelling units in combination with stores or other permitted business or commercial uses

Standards and Conditions

A management plan, as defined in terms of form and content in the Rules and Regulations adopted by the Permit Granting Authority shall be included as an integral part of any application made under this section.

In those Limited Business (B-L) Districts not abutting the B-G District, and in the Commercial (COM) District, a Special Permit from the *Special P*ermit Granting Authority authorized to act under this section of the bylaw shall be required wherever proposed residential uses above the first floor exceed: ~~1) a total GFA greater than twice the area devoted to commercial uses, or 2) a total GFA greater than six thousand (6000) square feet, or 3) six (6) ten (10) dwelling units.~~ The proposed use shall meet the criteria of Section 10.38 or Section 11.24, as applicable, with respect to the site and potential conflicts between the residential and commercial use(s).

In the Commercial (COM) District, ~~there shall be no dwelling units nor~~ *any internal space associated with a dwelling unit shall occupy any first floor portion of a building facing onto a street, public plaza, or other space customarily used by the public* ~~dwelling units, nor portions thereof other than entries thereto as required, on the first floor.~~ *First floor residential dwelling units, and any required entries thereto, shall be located on the rear of buildings, adjacent to any required parking and private open space associated with and serving those units.* No more than ~~ten percent (10%)~~ *forty percent (40%)* of the gross floor area on the first floor *Gross Floor Area (GFA)* shall be *used for residential purposes, which shall include not more than fifteen percent (15%) of said GFA* associated with or incidental to, whether for storage, *required entries, stair/elevator towers,* or other purposes, ~~the any~~ residential uses on upper floors.

Action taken 6/3/13

(Town Meeting Member Janet Chevan made a motion to refer Article 31 to the Planning Board. Motion was defeated, Yes 82, No 94.)

At 10:31 p.m. on June 3, 2013, the meeting voted to adjourn to Monday June 10, 2013 at 7:00 p.m. in the auditorium of the Amherst Regional Middle School. 200 town meeting members were checked in.

There were 251 town meeting members; 126 town meeting members constitute a quorum. The Constable reported a quorum at 7:10 p.m. and the Moderator immediately called the June 10 session of the May 6, 2013 Annual Town Meeting to order.

Alan Powell was sworn in as a Teller.

**ARTICLE 32. Zoning – Mixed Use Center Dimensions (Planning Board)**

To see if the Town will amend Article 6, Table 3, Dimensional Regulations and its Footnotes, and Section 6.19 of the Zoning Bylaw with respect to dimensional requirements for the Limited Business (B-L), Commercial (COM), Village Center Business (B-VC), and General Business (B-G) districts, as follows:

A motion was made to divide Article 32 to consider A1 and A2, A3, and B as separate motions

**DEFEATED Yes 110, No 67**

(A1. Amend Table 3 by replacing existing dimensional requirements for the B-L and COM districts by adding the language in *bold italics*, as follows:

**B-L/COM**



	<u>Existing</u>	<u>Proposed</u>
Basic Minimum Lot Area (sq. ft.) <sup>h</sup>	20,000 <sup>b</sup>	15,000 <sup>b</sup>
Additional Lot Area/Family (sq. ft.)	4,000	2,500 <sup>ab</sup>
Basic Minimum Lot Frontage(ft.)	125 <sup>b</sup>	60 <sup>b</sup>
Basic Minimum/ <i>Maximum</i> Front Setback (ft.) <sup>an</sup>	20	<i>10 minimum</i> <i>30 maximum</i>
Basic Minimum Side and Rear Yards (ft.) <sup>g</sup>	25 <sup>a</sup>	25 <sup>a</sup>
Maximum Building Coverage (%)	35	35 <sup>a</sup>
Maximum Lot Coverage (%) <sup>o</sup>	70/85j	70/85 <sup>aj</sup>
Maximum Floors <sup>a</sup>	3	3
<i>Minimum</i> /Maximum Height (ft.) <sup>an</sup>	35	<i>16 minimum</i> <i>40 maximum</i>

**A2.** Amend Table 3 Footnotes b. and n. by deleting the ~~lined-out~~ language and adding the language in ***bold italics***, as follows:

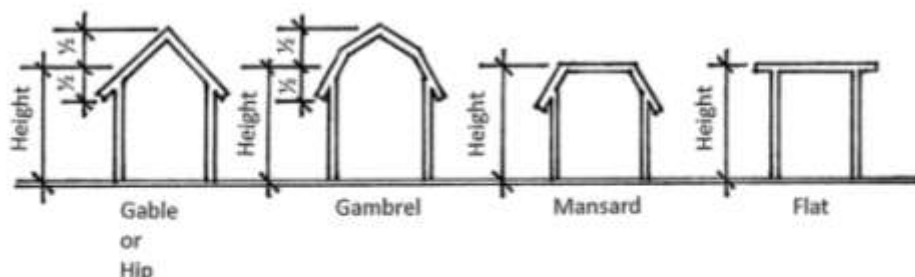
- a. Requirement may be modified under a Special Permit, issued by the Special Permit Granting Authority authorized to act under the applicable section of this bylaw. In applying the criteria established in Section 10.395, the Special Permit Granting Authority shall consider the proposed modified dimensional requirement in the context of the pattern(s) of the same dimensions established by existing buildings and landscape features in the surrounding neighborhood. [No amendment, included for informational purposes]
  - b. Applies to Residence Uses only (Section 3.32). In the B-G, ***B-L***, B-VC, ~~and~~ B-N, ***and COM*** 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.
  - c. Applies to any part of a building which is within 200 feet of the side boundary of a Residence District abutting on the same street within the same block; otherwise, no front setback is required. [No amendment, included for informational purposes]
  - e. Rear and side yards shall be at least 20 feet when the affected property is adjoining a Residence District. Otherwise, rear and side yards are not required, but if provided shall be at least 10 feet. [No amendment, included for informational purposes]
  - h. A buildable lot shall contain either 90% of its total lot area, or 20,000 square feet, in contiguous upland acreage. [No amendment, included for informational purposes]
  - j. 85% in any B-L District adjacent to the B-G District, and along University Drive; 70% in any other B-L District and in the COM District. [No amendment, included for informational purposes]
  - n. ***Where only a single figure is shown, it represents the minimum front setback or the maximum height, as applicable.*** See Section 6.19 for interpretation.
  - o. See Section 6.18. [No amendment, included for informational purposes]
- Action taken 6/10/13

### **A3.**

**VOTED by a declared two-thirds** to amend Section 6.19 by deleting the ~~lined-out~~ language, adding the language in ***bold italics***, and adding a new graphic illustration for building height, as follows:

#### 6.19 ***Minimum and Maximum Height***

***In all districts, the minimum or maximum height of a building shall be measured as the vertical distance from the highest point of any roof or parapet to the average finished grade on the street side of the structure to the highest point of the roof for flat roofs, to the deck line for mansard roofs, and to the average height (midpoint) between the highest eaves and ridge of the main body of the roof for gable, hip, shed, salibox, and gambrel roofs, or combinations thereof.***



Section 6.19 – Building Height

***In the B-G, B-L, B-VC, B-N, COM, and R-VC districts, the maximum height of buildings may be modified under a Special Permit granted by the Special Permit Granting Authority authorized to act under the provisions of this bylaw for compelling reasons of building function, utility, or design, including but not limited to allowing construction of the full number of maximum floors under***

*difficult site conditions such as steep grades, or with a pitched roof design, or similar conditions. In granting any such modification, the Special Permit Granting Authority shall consider the patterns of height and roof styles established by existing buildings, structures, and landscape features in the surrounding area, and provided that in no case shall the height of any exterior face of a building exceed the permitted height by more than ten (10) feet.*

Height limitations shall not apply to chimneys, spires, cupolas, TV antennae and other parts of buildings or structures not intended for human occupancy. Towers, antennae, panels, dishes and other such structures attached to a building in association with commercial and public wireless communication uses shall not exceed the maximum height of said building, as above defined, by more than ten feet. Related electronic equipment and equipment structures shall not exceed the maximum height. For towers and other such free-standing structures associated with wireless communications uses, the provisions of Section 3.340.2 shall apply and prevail.

Action taken 6/10/13

**B.**

**VOTED Yes 121, No 53** to amend Table 3, including replacement of existing dimensional requirements for the B-VC District as shown in ***bold italics***:

	<u>Existing</u>	<u>Proposed</u>
Basic Minimum Lot Area (sq. ft.) <sup>h</sup>	15,000 <sup>b</sup>	<b><i>12,000<sup>b</sup></i></b>
Additional Lot Area/Family (sq. ft.)	2,500 <sup>ab</sup>	2,500 <sup>ab</sup>
Basic Minimum Lot Frontage (ft.)	100 <sup>b</sup>	<b><i>60<sup>b</sup></i></b>
Basic Minimum/ <b><i>Maximum</i></b> Front Setback (ft.) <sup>an</sup>	10 <sup>a</sup>	<b><i>10 minimum 20 maximum</i></b>
Basic Minimum Side and Rear Yards (ft.) <sup>g</sup>	25 <sup>a</sup>	<b><i>10<sup>a</sup></i></b>
Maximum Building Coverage(%)	35	35 <sup>a</sup>
Maximum Lot Coverage (%) <sup>o</sup>	65 <sup>a</sup>	65 <sup>a</sup>
Maximum Floors <sup>a</sup>	3	3
<b><i>Minimum</i></b> /Maximum Height (ft.) <sup>an</sup>	40	<b><i>16 minimum 40 maximum</i></b>

**Amend Table 3, including replacement of existing dimensional requirements for the B-G District as shown in ***bold italics***:**

	<u>Existing</u>	<u>Proposed</u>
Basic Minimum Lot Area (sq. ft.) <sup>h</sup>	12,000 <sup>b</sup>	12,000 <sup>b</sup>
Additional Lot Area/Family (sq. ft.)	1,250 <sup>ab</sup>	1,250 <sup>ab</sup>
Basic Minimum Lot Frontage (ft.)	100 <sup>b</sup>	<b><i>40<sup>b</sup></i></b>
Basic Minimum/ <b><i>Maximum</i></b> Front Setback (ft.) <sup>an</sup>	20 <sup>c</sup>	<b><i>0 minimum 20 maximum</i></b>
Basic Minimum Side and Rear Yards (ft.) <sup>g</sup>	e	<b><i>10<sup>ac</sup></i></b>
Maximum Building Coverage (%)	70 <sup>a</sup>	70 <sup>a</sup>
Maximum Lot Coverage (%) <sup>o</sup>	95 <sup>a</sup>	95 <sup>a</sup>
Maximum Floors <sup>a</sup>	4	<b><i>5</i></b>
<b><i>Minimum</i></b> /Maximum Height (ft.) <sup>an</sup>	50	<b><i>55</i></b>

Action taken 6/10/13

**ARTICLE 33. Zoning – Non-Conforming Uses and Structures (Planning Board)**

**VOTED by a declared two-thirds** to amend Section 9.2, Non-Conforming Uses and Structures, by deleting the ~~lined-out~~ language and adding the language in ***bold italics***, as follows:

**A. Amend Section 9.20 by adding new Sections 9.201 and 9.202, as follows:**

9.20 Any lawful building or structure, or use of a building, structure or land, existing at the time of adoption of this Bylaw or any amendment thereto which does not conform to the regulations thereof may be continued. However, except as hereinafter set forth, a non-conforming building or structure shall not be structurally altered, enlarged, nor reconstructed so as to increase its non-conformity under this bylaw. ***For the purposes of this section, a structural alteration shall be any change to the exterior of a building or other structure which involves alteration, relocation, enlargement, or reconstruction of walls or other significant elements of the building or structure.***

9.200 Under Section 11.1, the Building Commissioner may permit the repair, alteration, reconstruction, extension or structural ~~change~~ ***alteration*** of a lawful, dimensionally non-conforming single family or two family dwelling ***in any zoning district or a lawful, dimensionally non-conforming building in the B-G, B-VC, B-N, B-L or COM districts, or in either circumstance,*** 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 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 nonconforming 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.

**9.201** *Where a new or expanded existing conforming use is proposed in an existing lawful dimensionally non-conforming building, and no exterior alteration, reconstruction, extension or structural alteration will occur, the permit requirements of Section 3.3 shall apply but no additional Special Permit under Section 9.22 shall be required for the proposed use.*

**B. Amend Section 9.22, as follows:**

9.22 The ~~Board of Appeals may authorize~~ ***Special Permit Granting Authority authorized to act under the provisions of Section 3.3 of this bylaw may***, under a Special Permit, ***allow*** a non-conforming use of a building, structure or land to be changed to a specified use not substantially different in character or in its effect on the neighborhood or on property in the vicinity. Said ~~Board~~ ***Authority*** may also authorize, under a Special Permit, a non-conforming use of a building, structure, or land to be extended, or a non-conforming building to be structurally altered, enlarged or reconstructed; provided that ***the Authority finds that*** such alteration, enlargement, or reconstruction shall not be substantially more detrimental to the neighborhood than the existing non-conforming use or non-conforming building.

Action taken 6/10/13

**ARTICLE 34. Zoning – R-F District Dimensions (Planning Board)**

**VOTED by a declared two-thirds** to amend Table 3, Dimensional Regulations, by adding Footnote a. to the following dimensions in the Fraternity Residence (R-F) District:

	<u><b>R-F</b></u>	
Basic Minimum Lot Area (sq. ft.) <sup>h</sup>	40,000	
Additional Lot Area/Family (sq. ft.)	-----	
Basic Minimum Lot Frontage (ft.)	150	
Basic Minimum Front Setback (ft.) <sup>a</sup>	25	
Basic Minimum Side and Rear Yards (ft.) <sup>g</sup>	20	
Maximum Building Coverage (%)	20 <sup>a</sup>	←
Maximum Lot Coverage (%) <sup>o</sup>	45 <sup>a</sup>	←
Maximum Floors <sup>a</sup>	3	
Maximum Height (ft.) <sup>n</sup>	40 <sup>a</sup>	←

\*\*\*\*\*  
\*\*

[Included for informational purposes]

**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 dimensional requirement in the context of the pattern(s) of the same dimensions established by existing buildings and landscape features in the surrounding neighborhood.

Action taken 6/10/13

**ARTICLE 35. Zoning – Locational Requirements for Non-Conforming Structures in Mixed Use Centers (Planning Board)**

**VOTED Yes 107, No 49** to amend Article 9, Non-Conforming Lots, Uses and Structures, by adding the following new Section 9.3:

**SECTION 9.3 LOCATIONAL REQUIREMENTS IN MIXED USE CENTERS**

**9.30 Purpose**

The purpose of this section is to establish regulations for the location of new additions or enlargements to non-conforming uses and structures, or the creation of separate buildings on the same lot as non-conforming uses and structures in the B-G, B-L, B-VC, B-N and COM Districts. These regulations are intended to promote sound design, enhance the creation of pedestrian-friendly streetscapes and spaces, and foster more functional and successful mixed use properties. Where the provisions of this section conflict with Section 9.1 and 9.2 of this Article, this section shall apply and prevail.

**9.31 Non-conforming Structures**

9.310 Enlargements, Repairs, or Alterations – Non-conforming structures may be permitted to be enlarged, extended, reconstructed, repaired or altered by the Permit Granting Board or Special Permit Granting Authority in conformance with the provisions of Section 9.2 provided, however, that any such enlargement, extension, reconstruction, repair or alteration shall conform to the locational regulations established herein.

9.311 Permitted Additions – Where a non-conforming structure is being expanded under Section 9.310, the addition shall abide by the following requirements:

9.3110 Front and Rear Additions – Any addition in front of an existing building shall be placed such that its front façade is set at or within the front setback area established by the minimum and maximum front setback. Rear additions may only be undertaken simultaneously with front or side additions, and only where the rear extension is not increasing the degree of existing nonconformity.

9.3111 Side Additions for Buildings Located Within the Front Setback Area – For an existing building located at the front setback, any side addition shall also be located at or within the front setback area.

9.3112 Side Additions for Buildings Located Outside of the Front Setback Area – For an existing building located at the rear edge or behind the front setback area, any side addition shall be extended forward such that its front façade is located at or within the front setback area.

9.312 Permitted New Buildings – The front facades of all separate new buildings being constructed on a site with an existing non-conforming structure shall be located at or within the front setback area.

9.313 Modification or Waiver – Any provision of this section may be modified or waived by the Special Permit Granting Authority authorized to act under the applicable section of this Bylaw for compelling reasons of safety, aesthetics, sustainable site design, or historic or environmental preservation needs which serve the purposes of this section.

Action taken on 6/10/13

**ARTICLE 36. Zoning Petition – Amend Official Zoning Map to Change Zoning Designation on Parcels 14B-250 and 14B-251 from (R-G) to (B-N) (Guidera et al)**

**VOTED Yes 120, No 55** to amend the Official Zoning Map to change the zoning designation on Assessor's parcels 14B-250 and 14B-251 from General Residence (R-G) to Neighborhood Business (B-N).

Action taken 5/22/13

**ARTICLE 37. Petition – PVTA Funding (Berg et al)**

**DEFEATED**

[We, the undersigned people, who are Amherst voters, petition the said Town of Amherst to provide annual funding of 30 thousand dollars to the Pioneer Valley Transit Authority in order to add a spur to the existing PVTA/UMass Sunderland/South Amherst bus route #31 to service the new Amherst Survival Center on a regular basis as was the case with the previous ASC location, to provide much-need transportation to the elderly, disabled and poverty stricken families and individuals who have neither the ability to traverse the one-third (1/3) mile from the existing stop on North Pleasant at the Congregational Church intersection nor make the return one-third mile walk back to that bus stop. This allocation should include a sheltered bus stop structure with adequate seating, lighting and an emergency call box.]

Action taken 6/10/13

There were 251 town meeting members; 126 town meeting members constitute a quorum. The Town Clerk reported a quorum at 7:11 p.m. and the Moderator immediately called the May 22 session of the May 6, 2013 Annual Town Meeting to order.

Town Meeting began with reconsideration of the Sewer Fund portion of Article 16.

Discussion resumed with Article 38 as voted by Town Meeting on May 6, 2013.

**ARTICLE 38. Petition – CAN Residential Rental (Bloom et al)  
VOTED unanimously to DISMISS**

(Whereas the Town Manager and Chair of the Select Board assured the Fall 2012 Special Town Meeting that they would bring a Rental Permit to Spring 2013 Annual Town Meeting;

- Whereas the Town Manager established a Safe and Healthy Neighborhoods Working Group to draft residential rental property registration and permitting system for the consideration of the Spring 2013 Annual Town Meeting;
- Whereas the Coalition of Amherst Neighborhoods (CAN) has worked closely with SHNWG on rental property regulation and rental permit proposals that CAN supports;
- Whereas SHNWG had not completed its work by the due date for Spring 2013 Annual Town Meeting Citizen Petitions of March 11, 2013;
- Whereas there are elements in a Rental Permit that SHNWG may not include in its article for annual Spring Town Meeting but that CAN strongly endorses;

Therefore: This citizen petition article draws upon the outline of the SHNWG Residential Rental Property Regulations article (as of its March 1, 2013 draft) and incorporates additional elements of importance to CAN.

To see if the town will vote to add the following Residential Rental Permit Bylaw to the General Bylaws of the Town of Amherst, Massachusetts.

The effective date of these regulations shall be \_\_\_\_\_, 2013.

**1. Purpose**

These regulations are adopted in accordance with the Town of Amherst's Home Rule Authority and the Amherst Master Plan, in furtherance of the following public purposes:

- a. To protect the health, safety, and welfare of residents and property owners of the Town of Amherst by extending and expanding compliance with basic quality of life, safety, and sanitary codes through the registration and permitting of residential rental properties.
- b. To ensure the safe and sanitary conditions and maintenance of residential structures and premises in the town, as stipulated herein.
- c. To provide clear and accessible guidelines for the operation of rental properties for tenants, owners, landlords, and neighbors, and to extend awareness of Town bylaws and health regulations related to operation of a rental property and those regulations related to noise, alcohol and nuisance behaviors.
- d. To establish and assign responsibility for different aspects of rental housing management.
- e. To help ensure a diverse supply of affordable housing for Amherst residents.
- f. To ensure requirements for the use and maintenance of rental residential properties and premises, including occupancy limits, and compliance with Amherst Bylaws, as established herein.
- g. To stabilize, protect, and enhance the essential characteristics of and quality of life within existing diverse, multi-generational residential neighborhoods for all residents, including families, owners and tenants consistent with Amherst's long history as a college community.

**2. Permit Required for Non-Owner Occupied Rentals**

For non-owner occupied rental properties in the Town of Amherst, an annual rental permit issued by the code officer is required prior to a person, firm, trust, partnership, corporation or other legal entity letting, renting, leasing, sub-leasing or otherwise allowing the occupancy of a dwelling unit or units, or portions thereof, with exemptions noted below:

- a. Hotels, motels, inns, hostels, or bed and breakfasts as defined in the Amherst Zoning Bylaw.
- b. Residential facilities authorized and operated under state and federal law, congregate or similar group housing for the elderly or disabled, half-way houses for persons with substance abuse problems, congregate living arrangements for persons with disabilities, or other similar housing facilities operated under license by the Commonwealth of Massachusetts and in accordance with state or federal law.
- c. Special Circumstances. Dwelling units on properties containing no more than two (2) units may be rented without requirement of a rental permit for a period not to exceed one (1) calendar year under the following special circumstances:
  - i) During the pending sale of a residential property, or
  - ii) In response to regular or periodic interruptions in residency, where such interruptions are the result of illness, catastrophe, professional or academic scheduling, United States Military obligations or other temporary reasons for absence which do not affect basic indices of residency.

At the end of the one (1) year rental period, as calculated from the initial date of the lease or occupancy of the unit(s) by persons other than the owner(s), a rental permit shall be required in compliance with these regulations.

**3. Definitions**

Definitions of terms used in these rental permit regulations can be found in Appendix B.

**4. Permitting Application Process and Requirements:**

- a. Rental Permit Applications for non-owner occupied rental units (with exemptions described above in Section 2) shall be made on forms provided by the Town, with such information as the designated code official shall deem reasonable and appropriate.
- b. Information Posted. A permit shall be prominently posted on the rental property containing the following information: Location of said rental property, contact information for owner or designated agent, maximum occupancy and phone number for code enforcement officer.
- c. Renewal of Rental Permit. Rental permits shall be valid for a period of one year from the date of initial permit issuance. Rental permits may be renewed annually in accordance with appropriate rules and regulations noted herein.
- d. Transferability of Rental Permit. Rental permits shall be transferable upon a change of ownership, providing that operation of the continued rental use abides by the provisions of the permit. The new owner or designated agent of the rental property is required to notify the code official of acquisition of the property within 14 days of the sale of the property and to submit for review and approval any proposed changes in the provisions of the permit.
- e. Limits of Town liability. The issuance of a rental permit shall in no way imply liability or responsibility on the part of the Town of Amherst for any claim, injury, damages, costs or expenses that may arise in connection with the use or occupancy of the subject premises.

**5. Self-Inspection & Self-Certification**

Owners of rental property governed by these regulations shall self-inspect and certify their properties as required under this section and as described in Appendices C and D. Nothing in the Self-Certification program shall limit the Town's authority or the discretion of the code official to investigate and inspect a property in response to a complaint or for other good cause, or to compel abatement of any violation under these regulations in a manner consistent with the laws of the Commonwealth.

- a. An owner or designated agent shall conduct an annual inspection of the property using a Self-Certification Checklist to be included as part of the rental permit application on a form provided by the Town as described in Appendix D. The owner or designated agent shall sign the Checklist indicating, under penalty of perjury, that the information contained therein is complete and accurate as of the date of said annual inspection, and shall submit the Checklist and any required materials along with their initial application for a permit or annual renewal of the permit for the property and unit(s) in question. Any false statements or information provided on the Checklist shall constitute a violation of these regulations.
- b. Subsidized Housing. Where residential rental units are regularly inspected under requirements of the state or federal government, no additional Self-Inspection and Certification shall be required. Annual certification by the owner that a rental unit has been inspected in accordance with state or federal law shall be accepted by the Town as evidence of Self-Inspection as part of any permit application or renewal.
- c. Leases or other tenant information. Copies of current, active leases or other record of tenant information for the subject property or units shall be kept on file with the owner or designated agent and shall be made available to the code official within 48 hours of any request.

**6. Complaints & Response Process:**

- a. Upon receipt of a complaint or notice alleging that the condition of a rental unit or property is in violation of any law or regulation or town bylaw, or that tenants are thus in violation, the code official upon determination that the complaint is reasonable shall conduct an inspection of a premise within a reasonable amount of time. Inspections shall be scheduled by the code official.
- b. Inspections of rental properties, buildings, grounds, and rented dwelling or rooming units shall be conducted in accordance with all applicable local and state laws, regulations and codes.
- c. Access to Properties. The owner or designated agent, or the Town code official, upon receipt of a complaint ascertained to be reasonable, can gain access to a rental unit or property for purposes of inspection, in accordance with Massachusetts General Law (Appendix E). The permit holder shall, as part of the Self-Certification process, arrange access by authorized Town personnel to any permitted rental property for the purpose of conducting inspections within twenty-four (24) hours of receiving a request. A provision such that tenants agree to provide such access shall be a feature of any lease for a rental unit or property permitted under these regulations and in accordance with Massachusetts General Law. Where no lease is used, the owner(s) or their lawful representatives shall provide written documentation indicating that they have made tenants aware that access upon complaint is a condition of rental in the Town of Amherst.

**7. Tenant Information**

The owner shall be required to distribute annually to tenants and to each new tenant, an information sheet provided by the Town that describes Town bylaws that pertain to occupancy, parking, noise and nuisance, and state laws and codes applying to rental properties. A copy of this information sheet with proof of its delivery shall be made available to any tenant or code official upon request.

**8. Occupancy Limits**

The maximum number of adult persons who may occupy a dwelling unit or rooming unit shall be as determined by the requirements of the Amherst Zoning Bylaw.

**9. Parking**

All parking on residential rental properties within the town of Amherst shall comply with Amherst bylaws.

**10. Fees**

Fees will be structured so that the Rental Permit system remains revenue neutral. In the first year of implementation for the Rental Permit system, this fee shall be set at \$50 per dwelling unit. The Select Board or its designee may revise fees in keeping with revenue neutrality.

**11. Enforcement of the Rental Permit system**

- a. **Enforcement Personnel.** The Town Manager is hereby authorized to designate the principal code official and other Town officials to enforce or otherwise take actions under this article. The code official or designee shall respond to complaints and upon discovery of violations of Amherst bylaws, seek voluntary compliance on the part of the owner or designated agent.
- b. **Violations.** Non-compliance with any requirement of these regulations shall constitute a violation subject to penalty as described in Appendix F. Every day in which a violation continues shall be considered a separate offence. If more than one violation has occurred, each condition of the regulations that has been violated shall be considered a separate offense. The following shall constitute violations of these regulations:
  - i) Rental of premises requiring a rental permit, as described in Sections 3 and 4 above, without a valid rental permit in accordance with these regulations.
  - ii) Failure to comply with the provisions of Section 6 c) with regard to facilitating access for inspections.
  - iii) Failure to comply voluntarily within the specified time to any valid order to remedy violations of the building or health codes, or any other provisions of these regulations.
  - iv) Failure to comply with any of the conditions affirmed during the Self-Certification process.
  - v) Failure to pay any fees or fines associated with violation of these regulations.
  - vi) Any other violation of the requirements of these regulations.
- c. **Fines, Suspensions, and Non-Renewal of Permit.** Described in Appendix E.

**Appendix A: Enabling State and Local Regulations**

All inspections, enforcement, and other actions taken under these regulations are authorized under the following, as may subsequently be amended:

- a. **Local Regulations.** All applicable local regulations, including but not limited to:

- Town of Amherst General Bylaws
  - Amherst Zoning Bylaw
  - Amherst Board of Health Regulations

- b. **State Law.** All applicable Massachusetts General Laws, including but not limited to:

- MGL Chapter 40A (Zoning)
  - MGL Chapter 143 (Inspection & Regulation)
  - MGL Chapter 148 (Fire Prevention)
  - MGL Chapter 186 (Access to Rental Units)

- c. **State Regulations.** All applicable Commonwealth of Massachusetts Regulations (CMR), including but not limited to:

- 780 CMR (State Building Code and all referenced national and international codes)**
  - 105 CMR 410 (State Sanitary Code Chapter II: Minimum Standards of Fitness for Human Habitation)
  - 310 CMR 7.10 (Department of Environmental Protection, Air Pollution Control, Noise)
  - 527 CMR (Board of Fire Prevention Regulations)
  - 521 CMR (Architectural Access Board Regulations)
  - 940 CMR 3.17 (Attorney General's Regulation)

**Appendix B: Definitions**

Under these regulations, the following terms have the meanings indicated:

[For definitions of *Building*, *Blighted*, *Dilapidated*, *Interested Parties*, *Nuisance Property*, *Lodging or Boarding House*, *Rooming Unit*, *Structure*, refer to definitions in the Amherst Zoning Bylaw. For definitions of *Noise or Nuisance*, refer to definitions in Amherst Bylaws]

*Code Official* – means the Building Commissioner/Zoning Enforcement Officer of the Town of Amherst, or designees and/or any of the inspectors or officers authorized to enforce the law, regulations and codes listed under Section 3 of these regulations.

*Dwelling Unit* – means the room or group of rooms within a dwelling used or intended for use by one or more persons or one family or household for living, sleeping, cooking and eating. Dwelling unit shall also mean a residential condominium unit.

*Emergency* – in addition to those events involving natural disasters, fire, or other threats to the health and safety of the residents of a rental property, an emergency shall also be understood to represent any violation of any health or safety code, regulation, or law enforceable by a code official.

*Hazard* - means a condition likely to expose persons to injury, or property to damage, loss, or destruction.

*Occupant* – means a person who owns and occupies real property, or who occupies real property with the consent of the owner as a lessee, tenant at will, licensee or otherwise. The singular use of the term includes the plural when the context so indicates.

*Owner* – means every person who alone or jointly or severally with others:

- 1. has legal title to any building, structure, or property to this bylaw, or;
- 2. has care, charge, or control of any such building, structure, or property in any capacity including but not limited to agent, executor, administrator, trustee or guardian of the estate of the holder of legal title; or is a lessee under written agreement; or is the mortgagee in possession; or is the recognized agent, trustee or other person appointed by the courts.

*Owner-Occupant(s)* – One or more natural persons who, in their individual capacity as distinct from any representative capacity, own(s) a whole or undivided interest in fee simple of certain real property and at least one of whom occupies a dwelling unit thereon as his or her principal residence (see definition).

*Person* – means an individual, corporation, trust, partnership (including general partnership, limited partnership, and limited liability partnership), and a limited liability company. In addition, any similar entity permitted by law to hold title to real estate shall for the purpose of this by-law be deemed a “person.”

*Premises* – means any real estate used for residential premises, including but not limited to apartments, dwellings, dwelling units, lodging houses, lodging units, rooming houses, and rooming units.

*Principal Residence* - means the primary residence of an individual, family (as defined in this Bylaw), or property owner, i.e., the home where an owner, and the owner’s family if applicable, resides as their primary dwelling; provided however, that no person shall hold concurrent rights in more than one (1) principal residence, as set forth under MGL Ch. 188, Section 1, as amended. Regular or periodic interruptions in residency shall not be considered to change the status of principal residency where such interruptions are the result of illness, catastrophe, professional or academic scheduling, U.S. Military obligations or other temporary reasons for absence which do not affect basic indices of residency. For the purposes of this Bylaw, principal residency shall be determined by the code official based upon a preponderance of evidence, including but not limited to the following indices of residency and address, as applicable: declaration of homestead, filing of state and federal income taxes, voter registration, annual street list, driver's license, motor vehicle registration, mortgage, mailing address, and telephone listing (if any).

*Rooming Unit* – means the room or group of rooms let to an individual or household for use as living and sleeping quarters but not for cooking, whether or not common facilities for cooking are made available; provided, that cooking facilities shall not be deemed common if they can be reached only by passing through any part of the dwelling unit or rooming unit of another.

### Appendix C: Information Required as Part of a Rental Permit Application

- 1) **Contact Information & Responsible Parties.** Name(s) and current contact information, including but not limited to mailing address, telephone number and email address, for all owners and any responsible rental property management entity or person(s). In all cases where the rental property owner(s) does not have their principal residence in the town of Amherst, and in order to ensure contact in circumstances when the owner cannot be reached, the owner shall appoint one or more person(s) who are residents of Amherst to serve as the designated agent for the owner, authorized to act on the owner’s behalf with regard to the property, but in particular in all matters in response to an emergency which endangers the property or threatens the welfare of any person living on the premises. Notices given to a designated agent shall be sufficient to satisfy any requirement of notice to the owner. The owner shall notify the code official in writing of any change of designated agent within five days of any such change.
- 2) **Compliance through Self-Certification.** Evidence of current compliance with all applicable local zoning bylaws and regulations, including state health, fire and building codes as well as noise and nuisance bylaws, shall be provided through submission of an Owner’s Self- Certification Checklist provided by the Town, described in Appendix D.
- 3) **Agreement that leases or other tenant identification information** will be provided to code officials upon request in response to complaints.
- 4) **Agreement that permit information**, including location, maximum occupancy, name and contact information of owner or designated agent, and phone number for the Code Enforcement Official, will be prominently posted on the property.
- 5) **Agreement that tenants will be informed** in writing of Town of Amherst occupancy, parking, noise and nuisance bylaws and that they will be asked to agree, in writing, that they and their guests will comply with Amherst bylaws.
- 6) **Access:** A provision by which tenants agree to provide such access for authorized code enforcement officials to inspect the premises upon receipt of a complaint, shall be a feature of any lease for a rental unit or property permitted under these regulations, in accordance with Massachusetts General Law Chapter 186 Section 15B (quoted in Appendix E.) Where no lease is used, the owner or designated agent shall provide documentation demonstrating that tenants have agreed to such inspection of the rental unit or property in accordance with MA General Law.
- 7) **Payment of rental permit fee** as established in Amherst bylaws and by the Select Board.
- 8) **Complete & Accurate Information Required.** No incomplete application will be accepted. It shall be a violation of these rental permit regulations for anyone to knowingly provide false or misleading information on an application, and may constitute grounds for fines and other penalties hereunder.

### Appendix D: Self-Certification Checklist

This checklist is in accordance with Town of Amherst Rental Regulations and is required to obtain a Rental Permit. Self-Certification constitutes affirmation by the property owner as to the condition of the rental property and unit(s) to be certified and other conditions stated below being met, as of the self-inspection date. This document consists of two (2) pages.

#### PROPERTY INFORMATION

Property Address: \_\_\_\_\_ No. of Units Certified: \_\_\_\_\_  
Property Owner: \_\_\_\_\_  
Property Owner Address: \_\_\_\_\_

If Property Owner is a Business Corporation and/or LLC please include name and address of the *Resident Agent* on file with the Commonwealth of Massachusetts Corporations Division:



Resident Agent of Company: \_\_\_\_\_  
Name  
\_\_\_\_\_  
Address

Management Company (if any): \_\_\_\_\_

Contact Information for a *Responsible Contact Person* or *Qualified Resident Manager*, if either pertains:

\_\_\_\_\_  
Name  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
Phone  
\_\_\_\_\_  
email  
24 Hour Emergency Contact #: \_\_\_\_\_

### SELF-INSPECTION INFORMATION

Date of Inspection \_\_\_\_\_ Inspector \_\_\_\_\_

**1. Zoning:** I hereby affirm that the property is in compliance with all current requirements of the Amherst Zoning Bylaw with regard to the residential rental use and any required site or parking plans.

Maximum Residential Occupancy \_\_\_\_\_ Maximum Number of Vehicles \_\_\_\_\_  
 No changes have been made to previously approved parking plan, including exterior lighting.

**2. Safe & Healthy:** I hereby affirm that the following aspects of the building(s) and site are in compliance with Massachusetts Sanitary, Building and Fire Codes, and the Town of Amherst's Residential Rental Regulations.

Exterior Conditions:

- |   |  |
|---|--|
| <input type="checkbox"/> Adequate snow/ice removal arrangements   | <input type="checkbox"/> Sufficient site & building lighting |
| <input type="checkbox"/> Trash/recycling management               | <input type="checkbox"/> Abandoned vehicles                  |
| <input type="checkbox"/> Building envelope secure & weather-tight | <input type="checkbox"/> Grounds upkeep                      |
| <input type="checkbox"/> Building exterior in good repair         | <input type="checkbox"/> Upholstered furniture               |

Life Safety Systems: The following are present and properly functioning:

- |   |   |
|---|---|
| <input type="checkbox"/> Means of egress    | <input type="checkbox"/> Emergency lighting (if required) |
| <input type="checkbox"/> Smoke/CO detectors | <input type="checkbox"/> Fire Extinguishers               |

Healthy Living Conditions:

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Secure building & rooms  | <input type="checkbox"/> Sufficient natural light              | <input type="checkbox"/> Sound buffered    |
| <input type="checkbox"/> General cleanliness      | <input type="checkbox"/> All fixtures present & in good repair | <input type="checkbox"/> Pest/vermin-free  |
| <input type="checkbox"/> Ventilation/air exchange | <input type="checkbox"/> Accessibility-compliant               | <input type="checkbox"/> No active hazards |

**3. Noise and Nuisance: I hereby affirm that I have informed my tenants in writing of the Town of Amherst occupancy, parking, noise and nuisance bylaws. The tenants have affirmed in writing that they understand these Bylaws and the penalties imposed for violation and have agreed in writing that they and their guests will comply with them.**

In signing this Checklist, I hereby affirm under penalty of perjury the assertions of facts contained herein as of the date of inspection.

Name: \_\_\_\_\_ Title \_\_\_\_\_  
(Please Print)

Signature: \_\_\_\_\_ Date \_\_\_\_\_

### Appendix E: Enforcement Procedures and Related Penalties

The following Standard Enforcement Procedures will be followed by the Code Official upon receipt of a complaint concerning a violation of Amherst bylaws:

1. Property Research
2. Site Inspection
3. Notice of Violation and Request for Voluntary Compliance
4. Follow up Inspection based upon Voluntary Compliance

5. Enforcement Order if Voluntary Compliance is not achieved or successful
6. Fines
7. Non-renewal of rental permit or suspension of rental permit, as described below
8. Court Action

Steps 1 and 2, as listed above, will be triggered by the Code Officer's receipt of a complaint or other evidence of an Amherst bylaw violation. Upon evidence of such a violation, the Code officer works with the owner or designated agent to achieve voluntary compliance, as noted in steps 3 and 4 above. Enforcement measures are put in place in cases whereby voluntary compliance is not achieved.

Fines. Fines may be issued for non-compliance with an enforcement order. The code official may grant a continuance when there is evidence that a good faith effort is being made to come into compliance.

- Non-Criminal Disposition - \$100 for each offense
- Fire Regulations – As specified in 527 CMR 1.07, as amended (\$100 - \$1,000, depending on the offense).
- Building Code/Sanitary Code – Assessed by the court

Suspension of Rental Permit. The Code Official may suspend a rental permit if one or more of the following serious violations are found during the Standard Enforcement Procedures noted above:

- Health Official finds conditions deemed to endanger or impair health or safety as defined by the Massachusetts Sanitary Code.
- A structure is deemed unsafe by the Building Official as defined by the Massachusetts Building Code.
- The Code Official finds that the owner or designated agent knowingly allowed or assisted in allowing violations of the Amherst bylaws.
- The Code Official finds that the owner or designated agent has not reasonably addressed violations of Amherst Noise or Nuisance Bylaws that have resulted in three or more documented complaints against the property in question.
- The owner or designated agent repeatedly refuses or neglects to comply with an order of the Code Official.

First Offense:	90 day suspension
Second Offense in a 12 month period:	180 day suspension
Third Offense in a 12 month period:	3 year suspension

Non-Renewal of Rental Permit. The Code Official shall refuse annual renewal of a rental permit if one or more of the violations noted above have not been remedied by the owner or a responsible person or manager, or if in the judgment of the Code Officer, reasonable measures have not been taken to create remedies.

Appeals. The owner may appeal the decision of the Code Official to suspend to the Select Board or a local appeals authority appointed by the Select Board. Appeals must be filed within 14 days of the decision and will be heard within 30 days of filing. Any further appeal is to court.

Tenants. The Code Official or owner shall make arrangements for tenants to live out their lease or find other lodging if the tenants are found harmless with reference to the violations that have led to the suspension or non-renewal of a rental permit affecting their residency. In such cases of non-renewal or suspension of a rental permit, the Code Official will make arrangements to hold any rents in escrow pending the renewal of a permit.)

Action taken 5/22/13

## **ARTICLE 39. Petition – Nuisance House Bylaw Amendment (Perot et al)**

### **VOTED unanimously to DISMISS**

[Given that errors were made in the 2012 Fall Town Meeting by:

- a) omitting a section that was intended to be deleted,
- b) including fire and ambulance in the response costs which is impractical,
- c) minor clerical errors and additions to increase clarity.

the following corrections are recommended to the bylaw.

**VOTED** to amend the General Bylaws Nuisance House by adding the language in **bold face** and deleting the ~~underlined strike through~~ language as follows:

#### **Purpose**

In accordance with the Town of Amherst's Home Rule Authority, and to protect the health, safety, and welfare of the inhabitants of the Town, this bylaw shall permit the Town to impose liability on owners, rental property managers and other responsible persons for the nuisances and harm caused by loud and unruly gatherings on private property and shall discourage the consumption of alcoholic beverages by underage persons at such gatherings.

#### § 1. Definitions

*Alcohol* means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

*Alcoholic beverage* means all liquids intended for human consumption as a beverage **that** contains one half of one percent or more of alcohol by volume at sixty degree Fahrenheit, including malt beverages.

*Eviction* means actively trying to evict a tenant from a premise by delivery of a notice to quit and subsequent court proceedings, if a tenant fails to vacate the premises.

*Gathering* is a party, gathering, or event, where a group of persons have assembled or are assembling for a social occasion or social activity.

*Legal Guardian* means (1) a person who, by court order, is the guardian of the person of a minor; or (2) a public or private agency with whom a minor has been placed by the court.

*Underage Person* means any person under twenty-one years of age.

*Parent* means a person who is a natural parent, adoptive parent, foster parent, or stepparent of another person.

*Premises* means any residence or other private property, place, or location, including any commercial or business property.

*Property owner* means the legal owner of record as listed by the tax assessor's records.

*Public Nuisance* means a gathering of persons on any premises in a manner **that** constitutes a violation of law or creates a substantial disturbance of the quiet enjoyment of private or public property. Unlawful conduct includes, but is not limited to excessive noise, excessive pedestrian and vehicular traffic, obstruction of public streets by crowds or vehicles, illegal parking, public urination, the service of alcohol to underage persons, fights, disturbances of the peace, and litter.

*Response costs* are the costs associated with responses by law enforcement, ~~fire and other emergency response providers~~ to a gathering as set forth in a schedule of costs established by the Board of Selectmen.

*Rental property Manager or Management organization.* Any person or organization acting on behalf of a rental housing owner or owners to screen and place tenants, collect rent, security deposits and other fees, maintain and secure rental housing property, or any or all of the above.

## §2. Consumption of Alcohol by Underage Persons Prohibited in Public Place, Place Open to Public, or Place Not Open to Public

Except as permitted by state law, it is unlawful for any underage person to:

- (a) consume at any public place or any place open to the public any alcoholic beverage; or
- (b) consume at any place not open to the public any alcoholic beverage, unless in connection with the consumption of the alcoholic beverage the underage person is being supervised by his or her parent or legal guardian.

## §3. Hosting, Permitting, or Allowing a Public Nuisance or Party, Gathering, or Event where Underage Persons Consuming Alcoholic Beverages Prohibited

- a. It is the duty of any person having control of any premises who knowingly hosts, permits, or allows a gathering at said premises to take all reasonable steps to prevent the consumption of alcoholic beverages by any underage person at the gathering. Reasonable steps include, but are not limited to, controlling access to alcoholic beverages at the gathering; controlling the quantity of alcoholic beverages present at the gathering; verifying the age of persons attending the gathering by inspecting driver's licenses or other government-issued identification cards to ensure that underage persons do not consume alcoholic beverages while at the gathering; and supervising the activities of underage persons at the gathering.
- b. A gathering constituting a public nuisance may be abated by all reasonable means including, but not limited to, an order by the Police requiring the gathering to be disbanded and citation and/or arrest of any persons under any applicable provision of local or state law.
- c. It is unlawful for any person having control of any premises to knowingly host, permit, or allow a gathering to take place at said premises where at least one underage person consumes an alcoholic beverage, provided that the person having control of the premises either knows an underage person has consumed an alcoholic beverage or reasonably should have known that an underage person consumed an alcoholic beverage and the person having control of said premises failed to take all reasonable steps to prevent the consumption of an alcoholic beverage by an underage person.
- d. This Section shall not apply to conduct involving the use of alcoholic beverages that occurs exclusively between an underage person and his or her parent or legal guardian as set forth in G.L. c.138, §34.
- e. This Section shall not apply to any Massachusetts Alcoholic Beverages Control Commission licensee at any premises regulated by the Massachusetts Alcoholic Beverage Control Commission.

## §4. Mailing of Notice to Property Owner.

Notice of response by police or other local officials to a gathering shall be mailed by the Town Manager's office to any property owner listed on the Town of Amherst property tax assessment records and the rental housing manager or management organization, advising ~~them~~ that the third such response on the same premises within a one year period, as measured from the date of the first notice, shall result in liability of the property owner and rental housing manager or management organization for all penalties associated with such response **costs** as more particularly described below.

## §5. Persons Liable for a First and Second Response to a Gathering Constituting a Public Nuisance.

If the police department is required to respond to a gathering constituting a public nuisance on the premises, the following persons shall be jointly and severally liable for fines as set forth below. Response costs shall also be assessed **but not collected until the 3rd violation.**

- a. The person or persons residing on or otherwise in control of the property where such gathering took place.
- b. All persons attending such gathering constituting a Public Nuisance.

## §6. Persons Liable for a Third and Subsequent Response to a Gathering Constituting a Public Nuisance.

If the police department is required to respond to a gathering constituting a public nuisance on the premises more than twice in any one year period, as measured from the date of the first response, the following persons shall be jointly and severally liable for fines as set forth below. Response costs shall also be assessed **collected for this and the previous two violations.**

- a. The person or persons who own and/or manage the property where the gathering constituting the public nuisance took place provided that notice of the first and second responses have been mailed to the owner of the property as set forth herein and the gathering occurs at least ~~14~~ **10** days after the mailing of the second such notice. ~~The owner of the property shall not be held responsible for any violations or penalties if they are actively trying to evict the offending tenants from the property.~~
- b. The person or persons who organized or sponsored such gathering.

## §7 Enforcement

This bylaw shall be enforced by criminal complaint in the District Court. Violations shall be punishable by a fine of \$300.00. In the alternative it may be enforced by the noncriminal disposition process of M.G.L. c.40 Section 21D. For the purpose of noncriminal enforcement, the enforcing persons shall be any police officer of the Town of Amherst. If enforced pursuant to noncriminal disposition, the following fines shall apply:

The Town of Amherst shall additionally seek administrative costs and response costs associated with enforcement of Sections 2 and 3, through all remedies or procedures provided by state or local law.

Sections 2 and 3 shall not limit the authority of police officers to make arrests for any criminal offense arising out of conduct regulated by Sections 2 and 3, nor shall they limit the Town of Amherst or the Commonwealth of Massachusetts' ability to initiate and prosecute any criminal offense arising out of the same circumstances necessitating the application of Sections 2 and 3.

#### §8. Local Authority and Severability

No provision of this bylaw shall apply where prohibited or preempted by state or federal law.

If any provision of this ordinance, or the application thereof to any person or circumstances, is declared invalid, that invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provisions or application, to this end the provisions of this ordinance are severable.]

Action taken 6/10/13

### **ARTICLE 40. Petition – Rental Housing Information (O'Connor et al)**

#### **DEFEATED**

[To see if the Town will vote to amend the Town's General Bylaws to include the following "Rental Housing Information Bylaw":

a. By August 1 of every year, a Town official designated by the Town Manager shall post on the Town website accessible via a prominent location on the front page of that website lagged "Rental Housing Regulations" an updated electronic version of the pamphlet "Your Rights and Responsibilities as a Landlord or Tenant in the Town of Amherst, Massachusetts" along with such other housing information, town bylaws and regulations as the Select Board, the Town Manager and other Town officials working together shall deem appropriate;

b. The Select Board, the Town Manager and other Town officials working together shall diligently endeavor to persuade the administration of the University of Massachusetts to email to each and every student living off-campus in the Town of Amherst an electronic version of the material prepared pursuant to section "B" of this bylaw.]

Action taken 6/10/13

### **ARTICLE 41. Petition – Residential Parking (O'Connor et al)**

#### **VOTED to DISMISS**

[To see if the Town will vote to amend the General Bylaws by adding the following:

#### Residential Parking

*Existing Residential Parking.* Parking in the front setback shall be limited to paved or surfaced areas and no parking shall be permitted on lawn areas or other unpaved or unsurfaced landscaped areas as part of the use of any residential property within the Town of Amherst. Waivers or modifications of these requirements, both permanent and temporary, may, for compelling reasons, be granted pursuant to a written request from the property owners by a code enforcement official designated by the Town Manager, which official may take into account site limitations, existing or proposed screening, previous owner-occupancy use, etc.;

*Residential Rental Property.* All leases and agreements for the use of rental property within the Town of Amherst shall contain clauses limiting parking as set forth above and providing penalties for violations. Owners or managers of rental properties shall maintain rosters of tenant vehicles authorized to be garaged at each separate rental property, house or apartment complex and shall make such rosters immediately available to police, fire or other Town officials upon request;

*New or Expanded Parking.* Any new or expanded parking shall comply with the Design Standards and Landscape Standards of the Amherst Zoning Bylaw;

*Violations and Enforcement.* Non-compliance with these regulations shall be considered a violation, the penalty for each violation shall be \$100 and each day a violation continues shall be considered a separate offense. This bylaw shall be enforced by criminal complaint in the court of competent jurisdiction, or as an alternative violators may be issued a citation under the noncriminal disposition process of M.G.L. c. 40 section 21D.]

Action taken 6/10/13

### **ARTICLE 42. Petition - Affordability Restriction Echo Hill Apartments (Boutilier et al)**

#### **VOTED Yes 95, No 93 to refer this article back to the Housing and Sheltering Committee**

(To authorize the Select Board to acquire from Echo Gatehouse Partners, LLC or their successors, by eminent domain, purchase, gift or otherwise, the fee simple interest or an affordable housing restriction in the land and improvements located at 24-30 Gatehouse Road, identified as Block 2, Parcel 21 of Map 18A of the Town Cadastre, known as the Echo Village Apartments, and comprising of 24 housing units on approximately 0.37 acres of land, for affordable housing purposes and/or general municipal purposes, and for the purpose of conveyance, and borrow \$2,600,000 to fund such acquisition and costs related thereto, and authorize the Treasurer, with the approval of the Select Board, to borrow said amount under and pursuant to Chapter 44 Section 7 of the Massachusetts General Laws or pursuant to any other enabling authority, the expenditure of such funds to be contingent on the receipt of grants, gifts and bequests in an amount equal to the 85% of the amount of the foregoing appropriation, and authorize the Select Board and the Town Manager to apply for and accept any gifts, bequests, or grants from the federal Government, the Commonwealth of Massachusetts and others, and, further, authorize the Select Board to convey said land and improvements or interest therein to the Amherst Housing Authority or

other non-profit affordable housing management organization in accordance with the applicable provisions of the Massachusetts General Laws.)

Action taken 5/29/13

At 9:52 pm on May 29, 2013, the meeting voted to adjourn to Monday, June 3, 2013 at 7:00 p.m. in the auditorium of the Amherst Regional Middle School. 196 town meeting members were checked in.

There were 251 town meeting members; 126 town meeting members constitute a quorum. The Constable reported a quorum at 7:10 p.m. and the Moderator immediately called the June 3 session of the May 6, 2013 Annual Town Meeting to order.

The Moderator asked Town Meeting to rise and observe a moment of silence in memory of Alice Epstein who recently passed away.

Town Meeting resumed with discussion of Article 43.

**ARTICLE 43. Petition - Purchase Conservation Restriction Parcels 84, 91 & 96 of Map 5A  
(Burke et al)**

**VOTED Yes 98, No 90 to DISMISS**

(To see if the Town will vote: (1) to acquire from W.D. Cows, Inc. or their successors by eminent domain, purchase, gift or otherwise in fee simple, as a conservation restriction, easement or other interest therein Parcels 84, 91 and 96 of Map 6A of the Town Cadastre, located between Flat Hills Road, Henry Street and Market Hill Road and comprising 5.3, 147.59 and 0.60 acres respectively or 153.49 acres more or less, for conservation and agricultural preservation purposes and to fund such acquisition appropriate \$1,200,000 subject to receipt of grants, gifts and bequests equivalent to 70% of such appropriation and to determine whether to meet such appropriation by taxation, the transfer of available funds, by borrowing, or otherwise and further to authorize the application for and acceptance of any gifts, bequests, or grants from the Federal Government, the Commonwealth of Massachusetts or otherwise and further authorize the Treasurer to borrow in anticipation of reimbursement for said grants; and (2) to authorize said land or interest in land to be managed and controlled by the Conservation Commission in accordance with Massachusetts General Laws, Chapter 40, Section 8-C.)

Action taken 6/3/13

**ARTICLE 44. Petition - Local Voting Rights for Legal-permanent Resident Non-citizens  
(Morales et al)**

**VOTED Yes 159, No 4** to authorize the Select Board to file with the legislature a request for a special act entitled, "An Act authorizing local voting rights for legal permanent resident non-citizens residing in Amherst," as follows:

Section 1. Notwithstanding the provision of section one of chapter fifty-one of the General Laws, or any other general or special law, rule or regulation to the contrary, legal permanent resident non-citizens eighteen years or older who reside in Amherst may, upon application, have their name entered on a list of voters established by the Town Clerk for the Town of Amherst and may thereafter vote in any election for local offices or local ballot questions.

Section 2. The Select Board of Amherst is authorized to formulate regulations and guidelines to implement the purpose of this act.

Section 3. Nothing in this act shall be construed to confer upon legal permanent resident non-citizens the right to vote for any state or federal office or any state or federal ballot question.

Action taken 5/22/13

**ARTICLE 45. Petition - Equitable Distribution of Social Service Funding (Greeney et al)  
VOTED unanimously to DISMISS**

(To see if the Town Meeting would appropriate up to \$90,000 to fund the social service projects which were submitted to the Town and might not receive funding during the Amherst 2013 CDBG transitional period. Not to exceed the individual amount request, Town Meeting shall distribute the appropriation equitably among these projects. The Projects can be reviewed on the Town's Website: <http://www.amherstma.gov/index.aspx?NID=1731>

- Education for Career Coaching for Immigrants (Center for New Americans);
- Emergency Funds for Resource Caseworker (Family Outreach of Amherst);
- Flexible Emergency Funds (Town of Amherst);
- Food Pantry (Amherst Survival Center);
- Housing and Stabilization Project (Amherst Community Connections);
- Mentoring Program (Big Brothers and Big Sisters of Hampshire County);
- Passport to Success; GED to Jobs Program (The Literacy Project); and
- Rental Assistance for Intermediate Living (Town of Amherst.)

Action taken on 5/20/13

At 10:01 pm on May 20, 2013, the meeting voted to adjourn to Wednesday, May 22, 2013 at 7:00 p.m. in the auditorium of the Amherst Regional Middle School. 199 town meeting members were checked in.

At 10:57 p.m. on Monday June 10, 2013, the business of the warrant having been completed, town meeting voted to dissolve the May 6, 2013 Annual Town Meeting. 181 town meeting members were checked in.