

**TOWN OF LINCOLN, MASSACHUSETTS
ANNUAL TOWN MEETING
Saturday, May 15, 2021**

MOTIONS

Note: Motions under articles 2, 3, 4, 5, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, and 31 are to be found on the green Consent Calendar. Due to the nature of their relatively non-controversial or routine subject matter, Consent Calendar items are voted together in one motion to expedite the business of town meeting.

Motion under ARTICLE 1 Board of Selectmen

Moved: That Chris Fasciano, Dot Taylor, Peter Borden, Christine Dugan, Laura Sander and Tom Sander be elected Fence Viewers, and Joel Freedman, David Henken, Carole Kasper, Pam Weisman, and Jean Horn be elected Measurers of Wood and Bark, for the ensuing year.

Motion under ARTICLE 6 Finance Committee

Moved: That the Town adopt as the FY22 budget appropriation the recommendations listed in the report of the Finance Committee, printed on pages 54 - 59 inclusive, of the Financial Section and Warrant for the 2021 Annual Town Meeting, with the following exceptions:

And that all items be raised by taxation except to the following extent:

- Dept. 1491 **Cemetery Department-Expenses-** \$5,000 to be transferred from Cemetery Perpetual Care Trust Fund Income-Expendable Trust.

- Dept. 1171 **Conservation Commission- Personnel Services-** \$15,000 to be transferred from the Wetlands Protection Fees-Receipts Reserved for Appropriation.

- Dept. 1290 **Town Offices- Personnel Services-** \$71,000 to be transferred from the Hanscom Fund.

- Dept. 1290 **Town Offices- Personnel Services-** \$60,000 to be transferred from the Water Enterprise Fund.

- Dept. 1331 **Lincoln-Sudbury Regional High School- Assessment-**\$9,000 to be transferred from the PEG Access Cable Fund.

- Dept. 176-17754 **Debt Service- Principal & Interest-** \$946 to be transferred from various Premium on the Sale of Bonds accounts.

- Dept. 61451 **Water Department**
 - Personnel Services-** \$629,686 to be transferred from the Water Enterprise Fund
 - Expenses-** \$772,000 to be transferred from Water Enterprise Fund
 - Debt Service-** \$480,000 to be transferred from Water Enterprise Fund

- Dept. 614513 **Water Department- Emergency Reserve-** \$50,000 to be transferred from Water Enterprise Retained Earnings (Water Surplus).

Motion under ARTICLE 7 Capital Planning Committee

Moved: That the Town accept the report of the Capital Planning Committee and that the following amounts (items A - I) be appropriated as stated in the table below for the following purposes, including, in each instance, all costs incidental and related thereto:

FY22 CAPITAL PROJECTS				
	ITEM	\$ AMT	SPONSOR	FUNDING SOURCE
A	To fund the purchase of a suite of electric powered tools for the Conservation Department, including a string trimmer, hedge trimmer, pole saw, top handle chainsaw, leaf blower, lawn mower, chainsaw, and spare batteries w/ chargers.	\$10,563	Selectmen	Raise and appropriate by taxation
B	To fund the purchase of all significant gear required for a Lincoln firefighter to be a member of the district dive team.	\$5,000	Selectmen	Raise and appropriate by taxation
C	To fund the refurbishment of the 2003 Ladder One vehicle for the Fire Department.	\$380,000	Selectmen	Raise and appropriate by taxation
D	To fund necessary furniture and technology needs for the Lincoln School renovation previously removed in value engineering.	\$410,557	School Committee	Raise and appropriate by taxation
E	To fund the replacement of an aerial lift for Lincoln-Sudbury Regional High School, and any related equipment and any related equipment.	\$4,999	Lincoln-Sudbury School Committee	Raise and appropriate by taxation
F	To fund the repair and resurfacing of the tennis courts at Lincoln Sudbury Regional High School.	\$5,468	Lincoln-Sudbury School Committee	Raise and appropriate by taxation
G	To fund the replacement of a 15-passenger van for Lincoln Sudbury Regional High School and any related equipment.	\$5,468	Lincoln Sudbury School Committee	Raise and appropriate by taxation
H	To fund the purchase and equipping of one replacement marked cruiser for the Police Department, and any related equipment, and to authorize the disposal of, by sale or otherwise, any related excess vehicles or equipment.	\$54,240	Selectmen	Raise and appropriate by taxation
I	To fund the purchase of cruiser cameras and body-worn cameras for the Police Department and any related equipment.	\$61,400	Selectmen	Raise and appropriate by taxation
	Total Cash Capital Appropriations	\$937,695		

Motion under ARTICLE 8 Capital Planning Committee

Moved: That the Town appropriate and transfer from free cash \$1,824,615 for the purchase and installation of a replacement public safety radio system, including all costs incidental and related thereto.

Motion under ARTICLE 9 Community Preservation Committee

Moved: That the Town receive and act upon a report from the Community Preservation Committee and that the following amounts (items A-T) be appropriated or reserved from Fiscal Year 2022 Community Preservation Fund Revenues, or transferred from prior years' revenues for Community Preservation purposes as specified:

CPA Article	Project	Total Appropriation	Source of Appropriation
	Appropriations:		
A	To fund, for historic preservation purposes, the Lincoln Library Parapet repair.	\$355,000	\$355,000 from general CPA fund balance
B	To fund, for historic preservation purposes, the FY22 debt service payment for the town offices renovation project.	\$307,891	\$307,891 from FY22 CPA projected revenues
C	To fund, for open space purposes, the acquisition of land.	\$200,000	\$200,000 from general CPA fund balance
D	To fund, for recreation purposes, the acquisition and installation of playground equipment on the school campus.	\$161,200	\$161,200 from general CPA fund balance
E	To fund, for community housing purposes, year three of the rental assistance program for residents at risk.	\$63,500	\$63,500 from community housing reserve
F	To fund, for recreation purposes, a drainage study for the Town Office athletic field.	\$26,800	\$26,800 from general CPA fund balance
G	To fund, for community housing purposes, regional housing support services.	\$21,000	\$21,000 from community housing reserve
H	To fund, for historic preservation purposes, conservation treatment of Photographs from the late 1800's to 1940's.	\$12,925	\$12,925 from historic reserve
I	To fund, for historic preservation purposes, conservation treatment of three Manuscript documents.	\$3,975	\$3,975 from historic reserve
J	To fund, for historic preservation purposes, the conservation treatment of three Maps 1894, 1901,1908.	\$3,570	\$3,570 from historic reserve
K	To fund, for historic preservation purposes, the conservation treatment of eight negatives of Plans of Bemis Hall.	\$3,310	\$3,310 from historic reserve
L	To fund, for historic preservation purposes, conservation treatment of Nelson photo glass plate negatives.	\$2,855	\$2,855 from historic reserve
M	To fund, for historic preservation purposes, the	\$558	\$588 from historic

	conversion of five 16mm films to Qtime HD & MP4 files.		reserve.
N	To fund, for historic preservation purposes, digitization setup & USB external drive	\$250	\$250 from historic reserve
O	To fund FY22 debt service payments due on permanent borrowing for previously voted CPA projects.	\$115,500	\$115,500 from FY22 CPA projected revenues
P	To fund CPC administrative expenses.	\$3,500	\$3,500 from FY22 CPA projected revenues.
	Project Appropriation Subtotal	\$1,281,834	
	Reserves:		
Q	Housing Reserve	\$103,812	From additional FY21 state revenue and FY22 CPA projected revenues
R	Open Space/Land Acquisition Reserve	\$0	From additional FY21 state revenue and FY22 CPA projected revenues
S	Historic Preservation Reserve	\$0	From additional FY21 state revenue and FY22 CPA projected revenues
T	Recreation Reserve	\$0	From additional FY21 state revenue and FY22 CPA projected revenues
	Reserves Subtotal	\$103,812	
	Additional Appropriation:		
	Grand Total of all CPA funded Appropriations	\$1,385,646	

Article 9 Explanations

This article proposes projects recommended by the Community Preservation Committee under Lincoln's Community Preservation Act (CPA) passed at the March, 2002 Annual Town Meeting and the November, 2002 Election. The descriptions of the proposed projects/actions are contained below:

- A. **Library Parapet Repair Project-Construction Phase-** This is the third, and final phase of this project. In 2019, a contract was awarded to perform a leakage investigation. As a result of that investigation, the Library Trustees sponsored, and Town Meeting approved at the June 2020 Town Meeting the Lincoln Library Parapet Design from CPA funds. This appropriation will repair the leaks and restore the parapets to retain the historic character of the Library.
- B. **Debt Service on Town Offices Renovation-** The 2011 Town Meeting approved project costs of \$6.8 million to renovate the Town Office Building. And the Town Meeting has approved the Committee's recommendation to fund the project's annual debt service from CPA funds every year since. This year's debt service payment is \$307,891. This represents a reduction from the previous debt service schedule of nearly \$65,000 due to refunding, or refinancing, of the original term of the bond at its call date. As a result, the Town will save \$1,278,600 million over the remaining 20-year term. The Committee is again recommending that the project's annual debt service be funded via CPA funds.
- C. **Conservation Land Acquisition-** This acquisition involves conservation of a portion of a 17-acre property located at 4 Twin Pond Lane and includes a public trail easement to provide a critical connection to existing public trails near Twin Pond and beyond. This land has been identified as "land of conservation interest" on the 2017 Open Space Plan map.
- D. **Lincoln School Campus Playgrounds-** In January 2020, the SBC was advised that construction bids for the school project came in significantly over budget and resulted in eliminating key project elements like a 50% reduction of the planned Pre-K and Green playgrounds' design. This request is to restore the Pre-K and Green playgrounds to their original designs as intended by the SBC & School Committee's design professionals, SMMA. Restoring the playgrounds to their original planned design allows for greater student capacity and increases the amount of playground elements available for Lincoln students and the community. In the newly renovated school, the green playground will be accessible by all students during lunch, and the Pre-Kindergarten playground will be a new playground will be located at the Smith School near the pre-kindergarten classes. Playgrounds serve as meeting places for families to come together without cost and give children the opportunity to develop life skills such as negotiating, compromising, imagining, and working together.
- E. **Housing Commission –Rental Assistance Program-**At the March 2019 Annual Town Meeting, voters approved the first year of funding for this program. Funds will continue to be used to support community housing by offering the opportunity for low-income residents who are homeless or who are at risk of homelessness to remain in our community through assistance in paying rent on affordable housing units or by providing emergency shelter until permanent affordable housing can be arrange.
- F. **Drainage Study for Town Office Athletic Field-**This study will consist of surveying and testing the field area, as well as a detailed conceptual design for the recommended final project. The proposed project will help preserve and further the Parks & Rec Commission's mission by allowing proper drainage to enhance the playing surface of the facility, thus providing for a safer playing field for participants of all ages.
- G. **Lincoln Housing Coalition –Regional Housing Support Services-** At the recommendation of the Town's three housing organizations (i.e., Housing Commission, Housing Trust and Lincoln Foundation), the Board of Selectmen recently contracted with a regional housing support organization, the Regional Housing Services Organization (RHSO) to provide technical support and to help ensure regulatory compliance. The job of monitoring, reporting, and ensuring compliance with various federal and state housing requirements has become quite complex and is beyond the capabilities and capacities of our local housing organizations and staff. The RHSO provides support to eight of our neighboring towns.

- H. **Treatment of Photographs from late 1800's to 1940's-** Preservation and digital imaging/printing of photos of buildings, Sandy Pond, and the Lincoln Center area tells Lincoln's historic story through photographs. Archiving these will make them more accessible to researchers and future generations.
- I. **Treatment of Three Manuscript Documents from the 18th & 19th Centuries-** Preservation of three manuscripts that document Lincoln's history. As provided by the Archives Department: 1) John Phillips, Boston 1760 "Rec. of the Church in Lincoln...," 2) Henry D. Thoreau, "This may certify that I have calculated the area of township...," 3) Charles Sterns, Lincoln 1797, "Committee appointed to take into consideration the third article...,"
- J. **Treatment of Three Maps dated 1894, 1901, 1908-** Preservation and digitization of three maps. As provided by the Archives Department: 1) map by U.S. Geological Survey 1894, printed in 1908 that includes Lincoln, 2) Route of the British, April 19, 1775 published in 1894, and 3) survey of Flint Farm 1901.
- K. **Treatment of Eight Negatives of Plans of Bemis Hall-**For the preservation and digital imaging/printing of the negatives of plans of Bemis Hall.
- L. **Treatment of the Nelson Photo Glass Plate Negatives-**George A. Nelson photographed the Lincoln Center area from 1880's to the 1900's. These photographs depict the rural aspect of the town over a century ago and show views of the town center before and after the 1890's construction of the Bemis Town Hall and the Stone Church.
- M. **Conversion of Five 16mm films to QTime HD and MP4 files-** For the preservation of five videos showing various footage of Lincoln: The Hurricane of 1938, the opening of Lincoln's bike path in 1967, and scenes of Lincoln from the 1930's through the 1960's.
- N. **Digitization Setup & USB External Drive-**This is a one-time charge for digitizing set up, and an external drive set up for all the above items being digitized.
- O. **FY22 Debt Service Payments-** Debt payment costs associated with the fifth year of permanent financing for previously voted CPA project pursuant to Article 11 of the March 25, 2017 Town Meeting for the purchase of land and development of an athletic field.
- P. **Administrative Expenses-** These funds will be used primarily to pay the annual membership dues in the Community Preservation Coalition, a statewide organization that represents the interests of CPA communities. Other administrative expenses include costs associated with public information, mailings, and public hearings. Any funds not spent prior to the end of FY22 will be returned to the CPA fund.
- Q. **Housing Reserve-** The CPA requires that a minimum of 10% of annual revenues be spent or set aside for affordable housing.
- R. **Open Space/Land Acquisition Reserve-** The CPA requires that a minimum of 10% of annual revenues be spent or set aside for open space/land conservation.
- S. **Historic Preservation Reserve-** The CPA requires that a minimum of 10% of annual revenues be spent or set aside for historic preservation.
- T. **Recreation Reserve-** The CPA permits, but does not require, the Town to spend or set aside funds for recreational purposes. No funds are reserved for recreational purposes at this time.

MOTION under ARTICLE 13 Board of Selectmen

Moved: That the Town act on a recommendation from the Board of Selectmen and Finance Committee and present the annual Bright Light Award to Tricia McGean and Patricia Miller for their skillful, devoted and compassionate leadership of the Town’s pandemic response efforts, and to transfer from Free Cash the sum of \$1,000 to support this award.

MOTION under ARTICLE 21 Finance Committee

Moved: That the Town transfer from free cash the sum of \$_____ to reduce the total amount to be raised by taxation pursuant to the votes previously taken under Article 6 of this Warrant, or any other article of this Warrant authorizing the appropriation of funds.

MOTION under ARTICLE 22 Water Commissioners

Moved: That the Town appropriate the following amounts (items A - E) as stated in the table below for the following purposes, including, in each instance, all costs incidental and related thereto:

Item	Category	Description	Amount	Funding Source
A	Regulatory compliance with high TTHM levels	Residuals Handling & Neutralization System Upgrades – WTP to comply with the EPA’s NPDES (National Pollutant Discharge Elimination System) discharge permit	\$350,000	Bonding
B	Aging infrastructure	Replace Tower Rd Well: Current well cannot pump at desired rates despite aggressive cleanings, due to clogged shutter-type screen.	\$480,000	Bonding
		Total from Borrowing	\$830,000	
C	Aging infrastructure	Replace Compressor #2 at WTP (Water Treatment Plant): 2 compressors in service since 1995, replace unit with more hours on it.	\$25,000	Water Retained Earnings
D	Increase resiliency	Investigate cost and engineering needed to interconnect with Wayland. A backup water source is needed for our emergency response plan.	\$13,600	Water Retained Earnings
E	Increase resiliency	Evaluate current condition of Storage Tank and reconsider previously proposed solutions to what is currently our sole storage tank.	\$39,000	Water Retained Earnings
		Total from Retained Earnings	\$77,600	
	Total Water Capital Projects		\$907,600	

and to meet this appropriation, i) \$77,600 is authorized to be transferred from Water Retained Earnings, and ii) the Treasurer, with the approval of the Selectmen, is authorized to borrow \$830,000 under the provisions of G.L. c.44 or any other enabling authority and to issue bonds or notes of the Town therefor; that such bonds or notes shall be general obligations of the Town unless the Treasurer with the approval of the Board of Selectmen determines that they should be issued as limited obligations and may be secured by local system revenues as defined in Section 1 of Chapter 29C, as amended, while any bonds or notes issued under the authority of this vote shall be a general obligation of the Town payable from any source of revenue, it is the intent of the Town, however, that the entire principal of and interest on such bonds or notes shall be paid, in the first instance, from water rates and/or surplus; that the Treasurer with the approval of the Board of Selectmen is authorized to borrow all or a portion of such amount from the Massachusetts Clean Water Trust established pursuant to Chapter 29C, as amended and in connection therewith to enter into a financing agreement and/or security agreement with the Trust and otherwise to contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the project or for the financing thereof; that the Board of Selectmen, Board of Water Commissioners or other appropriate local body or officials is authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expend all funds available for the project and to take any other action necessary or convenient to carry out the projects; and that any premium received upon the sale of any bonds or notes approved by this vote, and any prior vote authorizing debt, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with M.G.L. c. 44, §20, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

MOTION under ARTICLE 23 Water Commissioners

Moved: To pass over this article.

MOTION under ARTICLE 24 Board of Selectmen / Citizens' Petition

Moved: That the Town vote to amend the Town's General and Zoning Bylaws to change the name of the Board of Selectmen to the "Select Board," by striking out, in every instance in which they appear in reference to that body, the words "Board of Selectmen" or "Selectmen" and inserting in place thereof the words "Select Board"; and by striking out, in every instance in which they appear in reference to Board members, the word "Selectman" and "Selectmen" and inserting in place thereof the words "Select Board Member" or "Select Board Members"; and further to authorize the Town Clerk to make non-substantive, ministerial revisions to ensure that gender and numerical issues in related text is revised to properly reflect such change in title; provided, however, that regardless of such nomenclature, said board shall constitute a board of selectmen for purposes of the General Laws and of any special law applicable to the Town; and further that the authorization provided to the Town Clerk herein be extended to ensure gender neutrality more generally throughout the Town's General and Zoning Bylaws.

MOTION under ARTICLE 25 Board of Selectmen

Moved: To pass over this article.

MOTION under ARTICLE 26 Board of Selectmen /Council on Aging

Moved: That the Town vote to amend the language of Article XV (Council on Aging) of the Town of Lincoln General By-Laws as follows, with proposed deletions to the By-Law language shown in ~~striketrough~~ text and additions shown in ***bolded italic*** text.

ARTICLE XV Council on Aging ***and Human Services***

There shall be established a Council on Aging ***and Human Services*** for the purpose of coordinating and carrying out programs designed to meet the needs of older ***as well as younger*** citizens, pursuant to the provisions of MGL, Chapter 40, Section 8B. The Council shall consist of not less than nine (9) nor more than twelve (12) residents of this Town to be appointed by the Selectmen. Terms shall not exceed three (3) years, and shall be staggered so that no more than four appointments shall be made in any calendar year, except the first year. Officers of the Council shall be elected by the Council from its membership.

MOTION under ARTICLE 27 Board of Selectmen/Planning Board

Moved: That the Town vote to amend its General By-Laws by adopting a By-Law, entitled “Illicit Discharge Control and Stormwater Management Bylaw,” as follows:

ARTICLE XXVIII Illicit Discharge Control

Section 1. Purpose and Objectives

- A. The United States Environmental Protection Agency has identified land disturbance and polluted stormwater runoff as major sources of water pollution. Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the Town of Lincoln’s water bodies and groundwater resources and to safeguard the public health, safety, and welfare and the natural resources of the Town. Increased volumes of stormwater and contaminated stormwater runoff are major causes of:
1. Impairment of water quality and reduced flow in lakes, ponds, streams, rivers, wetlands, and groundwater,
 2. Contamination of drinking water supplies,
 3. Alteration or destruction of aquatic and wildlife habitat; and
 4. Flooding.
- B. The purpose of this Bylaw is to prohibit and eliminate illicit connections and discharges; safeguard the public health, safety, environment, and general welfare; protect aquatic resources and wildlife habitat; protect the quality and health of water resources; conserve groundwater supplies; and, foster climate change resiliency.
- C. This Bylaw seeks to meet that purpose through the following objectives:
1. To prevent pollutants from entering the Town’s municipal storm drain system;
 2. To prohibit illicit connections and unauthorized discharges to the municipal storm drain system;
 3. To require the removal of all such illicit connections;
 4. To comply with state and federal statutes and regulations relating to stormwater discharges; and
 5. To establish the legal authority to ensure compliance with the provisions of this Bylaw through inspection, monitoring, and enforcement.

Section 2. Definitions

For the purposes of this Bylaw, the following shall mean:

- A. CLEAN WATER ACT: The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.
- B. DISCHARGE OF POLLUTANTS: The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth of Massachusetts from any source.
- C. GROUNDWATER: Water beneath the surface of the ground including confined or unconfined aquifers.
- D. ILLICIT CONNECTION: A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this Bylaw.
- E. ILLICIT DISCHARGE: Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 7. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from firefighting activities exempted pursuant to Section 7, subsection B., of this Bylaw.
- F. MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM: The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town.
- G. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT: A permit issued by the United States Environmental Protection Agency (EPA) or jointly with the Commonwealth of Massachusetts that authorizes the discharge of stormwater to waters of the United States.
- H. NON-STORMWATER DISCHARGE: Discharge to the municipal storm drain system not composed entirely of stormwater.
- I. PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department, or political subdivision of the Commonwealth of Massachusetts or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.
- J. POLLUTANT: Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is considered toxic to humans or the environment and may be introduced into any sewage treatment works or waters of the Commonwealth of Massachusetts. Pollutants shall include, but not be limited to:
 - 1. paints, varnishes, and solvents;
 - 2. oil and other automotive fluids;
 - 3. non-hazardous liquid and solid wastes and yard wastes;
 - 4. refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
 - 5. pesticides, herbicides, and fertilizers;

6. hazardous materials and wastes; sewage, fecal coliform, and pathogens;
 7. dissolved and particulate metals;
 8. animal wastes;
 9. rock, sand, salt, and soils;
 10. construction wastes and residues; and
 11. noxious or offensive matter of any kind.
- K. **PROCESS WASTEWATER:** Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.
- L. **STORMWATER:** Stormwater, snow melt, and surface water runoff and drainage.
- M. **SURFACE WATER DISCHARGE PERMIT.** A permit issued by the Department of Environmental Protection pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.
- N. **TOXIC OR HAZARDOUS MATERIAL OR WASTE:** Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic or organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under MGL Chapter 21C and Chapter 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.
- O. **WATERCOURSE:** A natural or man-made channel through which water flows, or a stream of water, including a river, brook or underground stream.
- P. **WATERS OF THE COMMONWEALTH:** All waters within the jurisdiction of the Commonwealth of Massachusetts, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, groundwaters, and vernal pools.
- Q. **WASTEWATER:** Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

Section 3. Applicability

This Bylaw shall apply to flows entering the municipal storm drainage system.

Section 4. Authority

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and in accordance with the regulations of the federal Clean Water Act found at 40 CFR 122.34 and as authorized by the residents of the Town of Lincoln at the spring 2020 Town Meeting and as amended.

Section 5. Administration

- A. The Board of Selectmen shall administer, implement and enforce this Bylaw. Any powers granted to or duties imposed upon the Town may be delegated in writing by the Town Administrator to employees or agents of the Board of Health, Department of Public Works, Department of Conservation, Department of Building and Engineering, Planning Board or other Town Department.

- B. The decisions or orders of the Board of Selectmen shall be final. Further relief shall be to a court of competent jurisdiction.

Section 6. Amendments and Regulations

The Board of Selectmen may promulgate rules and regulations to effectuate the purposes of this Bylaw after conducting an advertised public hearing to receive comments on any proposed revisions. The hearings shall be duly advertised in a paper of general circulation in the Town of Lincoln no less than fourteen (14) days prior to the date of the public hearing. Failure by the Board of Selectmen to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Bylaw.

Section 7. Applicability and Exemptions

A. Prohibited Activities:

1. Illicit Discharges. No person shall dump, discharge, cause, or allow to be discharged any pollutant or non-stormwater discharge into the municipal storm drain system, into a watercourse, or into the waters of the Commonwealth of Massachusetts.
2. Illicit Connections. No person shall construct, use, allow, maintain, or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation, or custom at the time of connection.
3. Obstruction of Municipal Storm Drain System. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the Department of Public Works.

B. Exemptions:

1. Discharge or flow resulting from firefighting activities;
2. Discharge or flow that results from exigent conditions and occurs during a State of Emergency declared by any agency of the federal or state government, or by the Board of Selectmen or Board of Health.
3. The following non-stormwater discharges or flows are exempt from this Bylaw, provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:
 - (a) Waterline flushing;
 - (b) Flow from potable water sources;
 - (c) Springs;
 - (d) Natural flow from riparian habitats and wetlands;
 - (e) Diverted stream flow;
 - (f) Rising groundwater;
 - (g) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
 - (h) Discharge from landscape irrigation or lawn watering;
 - (i) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
 - (j) Water from individual residential car washing;
 - (k) Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided test data is submitted to the Town substantiating that the water meets the one ppm standard, and the pool is drained in such a way as not to cause a nuisance or public safety issue and complies with all applicable Town Bylaws;
 - (l) Discharge from street sweeping;
 - (m) Dye testing, provided written notification is given to the Department of Public Works prior to the time of the test;

- (n) Non-stormwater discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
- (o) Discharge for which advance written approval is received from the Board of Health or Conservation Commission as necessary to protect public health, safety, welfare or the environment.

Section 8. Emergency Suspension of Storm Drainage System Access

The Board of Selectmen may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Board of Selectmen may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

Section 9. Notification of Spills

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth of Massachusetts, the person shall take all necessary steps to ensure containment and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the Town's Fire and Police Departments.

Section 10. Enforcement

- A. The Board of Selectmen or an authorized agent of the Department of Public Works or Board of Health shall enforce this Bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- B. The Board of Selectmen or an authorized agent of the Department of Public Works or Board of Health may issue a written order to enforce the provisions of this Bylaw or the regulations thereunder, which may include:
 - 1. Elimination of illicit connections or discharges to the municipal storm drain system;
 - 2. Performance of monitoring, analyses, and reporting;
 - 3. That unlawful discharges, practices, or operations shall cease and desist; and/or
 - 4. Remediation of contamination in connection therewith.
- C. If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, undertake such work, with the approval of a court of competent jurisdiction, and all costs incurred by the Town shall be charged to the violator, to be recouped through all available means, including the placement of liens on the property.
- D. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Board of Selectmen within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Board of Selectmen affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the

costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in MGL Chapter 59, §57 after the thirty-first day at which the costs first become due.

Section 11. Entry to Perform Duties Under this Bylaw

To the extent permitted by Massachusetts law, or if authorized by the owner or other party in control of the property, the Board of Selectmen or its agents may enter upon privately owned property for the purpose of performing their duties under this Bylaw and regulations and may make or cause to be made such examinations, surveys, or sampling as the Board of Selectmen deems reasonably necessary.

Section 12. Civil Relief

If a person violates the provisions of this Bylaw, regulations, permit, notice, or order issued thereunder, the Board of Selectmen may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

Section 13. Criminal Penalty

- A. Any person who violates any provision of this Bylaw, regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- B. As an alternative to criminal prosecution or civil action, the Town may elect to utilize the non-criminal disposition procedure set forth in MGL Chapter 40, §21D, in which case the Board of Selectmen or an authorized agent of the Board of Selectmen shall be the enforcing person. The penalty for each violation shall be \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

Section 14. Remedies Not Exclusive

The remedies listed in this Bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

Section 15. Severability

If any provision, paragraph, sentence, or clause of this Bylaw shall be held invalid for any reason, all other provisions shall continue in full force and effect.

ARTICLE XXIX Construction and Post-Construction Stormwater Management

Section 1. Purpose and Objectives

- A. The purpose of this Bylaw is to establish minimum stormwater management requirements and procedures in order to minimize damage to public and private property and infrastructure; safeguard the public health, safety, environment and general welfare; protect aquatic resources and wildlife habitat; protect the quality and health of water resources; conserve groundwater supplies; and foster climate change resiliency.
- B. This Bylaw seeks to meet that purpose through the following objectives:
 - 1. Establish the Town as the legal authority to ensure compliance with the provisions of this Bylaw and its accompanying Stormwater Management Rules and Regulations through a review process, inspections, monitoring, and enforcement.
 - 2. Establish administrative procedures for: the submission, review, and approval or disapproval of Stormwater Management Permits; the inspection of approved active projects; and post-construction monitoring.

3. Establish decision-making processes surrounding new development and redevelopment that protect watershed integrity and preserve and/or restore the health of local water resources such as lakes, ponds, streams, rivers, wetlands, and groundwater.
4. Ensure compliance with requirements of the United States Environmental Protection Agency (EPA), National Pollutant Discharge Elimination System (NPDES), General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4) and other applicable state and federal mandates.

Section 2. Definitions

For the purposes of this Bylaw, the following shall mean:

- A. **AGRICULTURAL USE:** The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act, MGL Chapter 131, § 40, and its implementing regulations.
- B. **APPLICANT:** Any person, individual, partnership, association, firm, company, corporation, trust, or authority, agency, department, or political subdivision of the Commonwealth of Massachusetts or the federal government to the extent permitted by law requesting a Stormwater Management Permit for proposed land disturbance activity.
- C. **BEST MANAGEMENT PRACTICE (BMP):** An activity, procedure, restraint, or structural improvement that helps reduce the quantity or improve the quality of stormwater runoff.
- D. **CERTIFICATE OF COMPLETION:** Document issued by the Planning Board, its employees, or authorized agents upon receipt of a final inspection report and acknowledgement that all conditions of the Stormwater Management Permit have been satisfactorily completed.
- E. **CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL (CPESC):** A certified specialist in soil erosion and sediment control. This certification program, sponsored by the Soil and Water Conservation Society in cooperation with the American Society of Agronomy, provides the public with evidence of professional qualifications.
- F. **DISTURBANCE OF LAND:** Any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material including but not limited to clearing and grading.
- G. **ENFORCEMENT ORDER:** A written order issued by the Planning Board or its designee to enforce the provisions of this Bylaw.
- H. **MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM:** The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town.
- I. **NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT:** A permit issued by the EPA or jointly with the Commonwealth of Massachusetts that authorizes the discharge of stormwater to waters of the United States.

- J. **NEW DEVELOPMENT:** Any construction, land alteration, or addition of impervious surfaces on previously undeveloped sites resulting in a Disturbance of Land equal to or greater than 1 acre (or activities that are part of a larger common plan of development disturbing greater than 1 acre) that does not meet the definition of Redevelopment.
- K. **OWNER:** A person with a legal or equitable interest in property.
- L. **PERSON:** An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth of Massachusetts or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.
- M. **PLANNING BOARD:** Town of Lincoln Planning Board, its employees, or authorized agents designated to enforce this Bylaw.
- N. **PROFESSIONAL ENGINEER (P.E.):** A registered Professional Engineer within the Commonwealth of Massachusetts in good standing.
- O. **REDEVELOPMENT:** Development, rehabilitation, expansion, demolition, or phased projects that disturb the ground surface or increase the impervious area on previously developed sites. Any construction, land alteration, or improvement of impervious surfaces resulting in a Disturbance of Land equal to or greater than 1 acre (or activities that are part of a larger common plan of redevelopment disturbing greater than 1 acre) that does not meet the definition of New Development.
- P. **STORMWATER:** Stormwater runoff, snow melt runoff, and surface water runoff and drainage.
- Q. **STORMWATER MANAGEMENT PERMIT:** The written approval granted by the Planning Board to undertake a construction activity pursuant to a Stormwater Management Permit Application. A valid Stormwater Management Permit must be signed by a majority of the Planning Board participating at a duly noticed public hearing, and such permit must be recorded at the Middlesex South Registry of Deeds, prior to the start of any work.
- R. **WATERS OF THE COMMONWEALTH:** All waters within the jurisdiction of the Commonwealth of Massachusetts including without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, groundwaters, and vernal pools.
- S. **WETLAND RESOURCE AREAS:** Areas specified in the Massachusetts Wetlands Protection Act Regulations, 310 CMR 10.00, as amended, or in the Town of Lincoln Bylaw XVIII Wetlands Protection Bylaw, as amended.

Section 3. Authority

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the Regulations of the federal Clean Water Act found at 40 CFR 122.34.

Section 4. Administration

- A. The Planning Board shall be the Permit Granting Authority (PGA) for this Bylaw. Any powers granted to or duties imposed upon the Planning Board may be delegated by the Planning Board to any Town employee, board, commission, committee or agent, hereby known as the "Reviewing Agent."

- B. The Planning Board shall not have jurisdiction over stormwater issues within areas where the Conservation Commission has jurisdiction under the Wetlands Protection Act, the Town’s Wetlands Protection Bylaw.
- C. The Planning Board or its Reviewing Agent shall take any of the following actions as a result of an application for a Stormwater Management Permit as specifically defined within the Stormwater Management Rules and Regulations promulgated as a result of this Bylaw: Approval, Approval with Conditions, or Disapproval.
- D. A decision of the Planning Board or its Reviewing Agent shall be final. Further relief of a decision by the Planning Board or its Reviewing Agent made under this Bylaw may be sought in a court of competent jurisdiction in accordance with MGL Chapter 249 §4.

Section 5. Amendments and Regulations

The Planning Board may adopt, and periodically amend, the Stormwater Management Rules and Regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection, and/or consultant fees), procedures and administration of this Bylaw by majority vote of the Planning Board, after conducting an advertised public hearing to receive comments on any proposed revisions. The hearings shall be duly advertised in a paper of general circulation in the Town of Lincoln no less than fourteen (14) days prior to the date of the public hearing. Failure by the Planning Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Bylaw.

Section 6. Applicability and Exemptions

- A. No person may undertake a construction activity, including clearing, grading, or excavation that results in a Disturbance of Land to an area equal to or greater than one (1) acre of land or will disturb less than one acre of land but is part of a larger common plan of development or sale that will ultimately disturb an area equal to or greater than one (1) acre of land within the Town without first obtaining a Stormwater Management Permit issued by the Planning Board.
- B. Exemptions:
 1. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04, as amended;
 2. Removal of native plants, invasive growth, or other vegetation by methods that do not disturb underlying soils or ground conditions;
 3. Maintenance of existing landscaping, gardens, or lawn areas associated with a single-family dwelling;
 4. The construction of fencing that will not substantially alter existing terrain or drainage patterns;
 5. Normal maintenance and improvements of the Town’s publicly owned roadways and associated drainage infrastructure;
 6. Emergency repairs to any stormwater management system or feature that poses a threat to public health or safety, or as deemed necessary by a Town department or board;
 7. Projects that are wholly subject to jurisdiction under the Wetlands Protection Act and demonstrate compliance with the Massachusetts Stormwater Management Handbook, the Town’s Wetlands Protection Bylaw and with the stormwater management performance standards of this bylaw as reflected in an Order of Conditions issued by the Conservation Commission; and
 8. Incidental disturbance of ground cover related to project construction as a result of construction access, placement of erosion controls, vegetation clearing that does not disturb soils, or similar activity, does not count towards the one (1) acre of land disturbance under this bylaw.

Section 7. Enforcement

- A. The Planning Board, or an authorized agent of the Planning Board, shall enforce this Bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- B. The Planning Board may issue a written order to enforce the provisions of this Bylaw, which may include requirements to:
 - 1. Cease and desist from construction or land disturbing activity until there is compliance with this Bylaw and the Stormwater Management Permit;
 - 2. Repair, maintain, or replace the stormwater management system or portions thereof in accordance with the operation and maintenance plan;
 - 3. Maintain, install, or perform additional erosion and sediment control measures;
 - 4. Perform monitoring, analyses, and reporting;
 - 5. Remediate adverse impact resulting directly or indirectly from malfunction of the stormwater management system or erosion and sediment control system;
 - 6. Cease and desist from unlawful discharges, practices, or operations; and/or,
 - 7. Remediate contamination in connection therewith.
- C. If the Planning Board determines that abatement or remediation of adverse impacts is required, the Enforcement Order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, with the approval of a court of competent jurisdiction, undertake such work, and the property owner shall reimburse the Town's expense.
- D. Within thirty (30) days after completing all measures necessary to abate the violation, the violator and the property owner shall be notified of the costs incurred by the Town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Planning Board within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Planning Board affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in MGL Chapter 59, § 57, after the thirty-first day at which the costs first become due.

Section 8. Entry to Perform Duties Under this Bylaw

To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Planning Board or its agents may enter upon privately owned property for the purpose of performing their duties under this Bylaw and regulations and may make or cause to be made such examinations, surveys, or sampling as the Planning Board or agent deems reasonably necessary.

Section 9. Waivers and Provisions for Relief

- A. Planning Board may waive strict compliance with any requirement of this Bylaw promulgated hereunder, where:
 - 1. Such action is allowed by federal, state and local statutes and/or regulations,
 - 2. It is in the public interest,
 - 3. A public safety issue exists, or
 - 4. It is consistent with the purpose and intent of this Bylaw.
- B. Any applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of

this Bylaw does not further the purposes or objectives of this Bylaw. The Planning Board may require documentation to be submitted and stamped by a qualified P.E. registered in Massachusetts or a Certified Professional in Erosion and Sediment Control (CPESC).

Section 10. Civil Relief

If a person violates the provisions of this Bylaw, permit, notices, or order issued thereunder, the Planning Board may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

Section 11. Criminal Penalty

- A. Any person who violates any provision of this Bylaw, order, or permit issued thereunder, shall be punished by a fine of not more than \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- B. As an alternative to criminal prosecution or civil action, the Town may elect to utilize the non-criminal disposition procedure set forth in MGL Chapter 40, §21D, in which case the Board of Selectmen or an authorized agent of the Board of Selectmen shall be the enforcing person. The penalty for each violation shall be \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

Section 12. Remedies Not Exclusive

The remedies listed in this Bylaw are not exclusive of any other remedies available under any applicable federal, state, or local law.

Section 13. Surety

The Planning Board may require the permittee to post, before the start of land disturbance or construction activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by Town Counsel, and be in an amount deemed sufficient by the Planning Board to ensure that the work will be completed in accordance with the permit. If the project is phased, the Planning Board may release part of the bond as each phase is completed in compliance with the Stormwater Management Permit but the bond may not be fully released until the Planning Board has received the final inspection report as required by the Stormwater Management Rules and Regulations and issued a Certificate of Completion.

Section 14. Severability

If any provision, paragraph, sentence, or clause of this Bylaw shall be held invalid for any reason, all other provisions shall continue in full force and effect.

MOTION under ARTICLE 28 Planning Board

Moved: That the Town vote to amend its Zoning By-Law by amending Section 14.3.2 Requirements for an Accessory Apartment by 1) deleting Section 14.3.2 (c) Age of Structure, 2) adding a cap on the number of accessory apartments equal to 5% of all residential units, and 3) requiring a minimum rental term of 30 days where the accessory apartment or principal dwelling is occupied as a rental unit, as follows:

Additions are in ***bold italics*** deletions are crossed out.

14.3 Accessory Apartments in an R-1 District.

14.3.1 Definitions

- (a) Accessory Apartment: a distinct portion of a single-family dwelling, or a unit in an accessory structure on a single-family lot, having its own kitchen, sleeping, and bathroom facilities, and subordinate in size to the principal part of the dwelling or structure.
- (b) Affordable Accessory Apartment: An Accessory Apartment that is affordable to low and moderate income households, as defined by the Massachusetts Department of Housing and Community Development (“DHCD”), and that meets DHCD requirements for accessory apartments under the Local Initiative Program (“LIP”) and for inclusion in the Town’s Subsidized Housing Inventory.
- (c) Multiple Accessory Apartments: More than one accessory apartment per lot.

14.3.2 Requirements for an Accessory Apartment

The Board of Appeals may grant a Special Permit for an Accessory Apartment, provided that the **existing number of accessory apartments (not including any Affordable Accessory Apartments as defined in Section 14.3.4 below) does not exceed 5% of the number of residential units as stated in the most recent Federal Census and the** unit meets the following requirements:

- (a) Floor Area: the Accessory Apartment shall not exceed 1200 square feet, and (for a unit included in a single-family dwelling) shall not exceed 35% of the floor area of the principal dwelling unit and Accessory Apartment combined.
- (b) Lot Size: the lot on which the Accessory Apartment and principal dwelling unit are located shall contain at least 40,000 square feet.
- ~~(c) Age of Structure: The residential dwelling or the accessory structure in which the Accessory Apartment is to be located shall have been constructed at least ten (10) years prior to the date of application for the Special Permit. Any addition less than ten (10) years old shall be deemed to be part of the building(s), provided that the addition does not increase the floor area or volume of the original building(s) by more than 10% and does not alter the character of the building.~~
- ~~(c)~~ (d) Occupancy: either the Accessory Apartment or the principal residence is occupied by the owner of the lot on which the Accessory Apartment is to be located, except for bona fide temporary absences. If the lot on which the Accessory Apartment is to be located is owned by the Town of Lincoln, the owner-occupancy requirement of this paragraph shall not be applicable as long as the lot and the structures thereon continue to be owned by the Town of Lincoln.
- (e) Sewage: Adequate provision shall be made for the disposal of sewage, waste and drainage generated by the occupancy of such Accessory Apartment in accordance with the requirements of the Board of Health, as certified by a written report from the Board of Health, submitted to the Board of Appeals before or at the public hearing.
- (f) Access and Parking: adequate provision has been made for ingress and egress to the Accessory Apartment from the outside of the structure, and for off street parking of motor vehicles in such a fashion as is consistent with the character of a single family residence.
- (g) Number of Units: There shall be no other apartment on the lot on which the apartment is to be located except as provided under Section 14.3.5, “Multiple Accessory Apartments”.

(h-g) Appearance: The principal structure, after the creation of the Accessory Apartment, shall retain the appearance of a single-family structure. In general, any new external entrances shall be located on the side or rear of the building.

(h-h) Effect on Adjacent Properties and the Neighborhood: the Board of Appeals shall find that the construction and/or occupancy of the Accessory Apartment will not be detrimental to the neighborhood in which the lot is located or injurious to persons or property.

(i) Where the accessory apartment or the principal dwelling is occupied as a rental unit, the minimum occupancy or rental term shall be 30 days.

14.3.3 Procedures

(a) The applicant shall consult with the Planning Board prior to the hearing and the Planning Board shall submit, in writing, prior to the hearing, its recommendation and report to the Board of Appeals. The report of the Planning Board shall include as a minimum:

(i) a determination of the area of the lot on which the apartment is located;

(ii) a general description of the neighborhood in which the lot lies and the effect of the proposed apartment on the neighborhood;

(iii) the Planning Board's recommendations as to the advisability of granting the Special Permit and as to any restrictions which should be imposed as a condition of such permit.

(b) The applicant shall obtain and submit to the Board of Appeals a written report of the Board of Health, certifying that the conditions of Section 14.3.2(e) have been met.

(c) The Board of Appeals shall hold a public hearing on the application, in accordance with the procedures specified in MGL Chapter 40A.

(d) The Board of Appeals shall give due consideration to the report of the Planning Board and, where its decision differs from the recommendation of the Planning Board, shall state the reasons therefor in writing.

MOTION under ARTICLE 29 Historic District Commission

Moved: That the Town vote to add 126 Old Concord Road to the existing Town of Lincoln Historic District under Section 1.1 of Article XXV (Historic District) of the Town of Lincoln General By-Laws, the locations and boundaries of which proposed additions are shown on plans to be filed with Lincoln Town Clerk and the Massachusetts Historical Commission and to be recorded with the Middlesex South Registry of Deeds (Map/Parcel No. 140-25-0).

MOTION under ARTICLE 30 Historic District Commission

Moved: That the Town vote to add 11 Moccasin Hill Road to the existing Town of Lincoln Historic District under Section 1.2 of Article XXV (Brown's Wood Historic District) of the Town of Lincoln General By-Laws, the locations and boundaries of which proposed additions are shown on plans to be filed with Lincoln Town Clerk and the Massachusetts Historical Commission and to be recorded with the Middlesex South Registry of Deeds (Map/Parcel No. 181-13-0).

MOTION under ARTICLE 32 Board of Selectmen

Moved: That the Town vote to accept the provisions of MGL Chapter 40, §22F to allow any municipal boards or officers empowered to issue a license, permit, certificate, or to render a service, or perform work to fix reasonable fees or charges therefor.

MOTION under ARTICLE 33 Board of Selectmen

Moved: That the Town vote to authorize the Board of Selectmen to petition the General Court of the Commonwealth of Massachusetts to enact special legislation authorizing the Town to provide a local Property Tax Circuit Breaker program to homeowners who meet certain income and asset tests, and who have resided in Lincoln for at least five years, provided, however that the program would be 1) implemented by a vote of Town Meeting subsequent to approval by the General Court, and 2) subject to a Town meeting vote to renew every three years; and, further provided, that the General Court may make editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court that are within the scope of the general purpose objectives of this petition; as follows:

**HOME RULE PETITION – TOWN OF LINCOLN MEANS TESTED SENIOR CITIZEN PROPERTY
TAX EXEMPTION**

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

- a. As used in this section, the following words shall have the following meanings:

"town", shall be the Town of Lincoln, Massachusetts, Middlesex County.

"Parcel", a unit of real property as defined by the assessors of the town under the deed for the property, including a condominium unit.

"Income", taxpayer's total income for the purposes of the circuit breaker income tax credit, as defined in paragraph (1) of subsection (k) of section 6 of chapter 62.

- b. With respect to each qualifying parcel of real property classified as Class one, residential in the town there shall be an exemption from the property tax equal to the total amount of tax that would otherwise be assessed without this exemption less the sum of: (i) 10 per cent of income, or such other percentage of income as determined under subsection (d); and (ii) the circuit breaker income tax credit under subsection (k) of section 6 of chapter 62 the applicant was eligible to receive in the year prior to the application being filed. In no event shall property taxes be reduced by more than 50 per cent by this exemption.
- c. The board of assessors may deny an application for an exemption pursuant to this section if they find the applicant has excessive assets that place them outside of the intended recipients of the senior exemption created by this section. Real property shall qualify for the exemption under subsection (b) if all of the following criteria are met:

1. the real property is owned and occupied by a person whose prior year's income did not exceed the income limit established in clause (i) of paragraph (3) of subsection (k) of section 6 of chapter 62 and adjusted pursuant to paragraph (4) of subsection (k) of section 6 of chapter 62 for the prior year, whichever such income limit applies to the individual's filing status;
 2. the real property is owned and occupied by a single applicant age 65 or older at the close of the previous year or jointly by persons either of whom is age 65 or above at the close of the previous year and if the joint applicant is 60 years of age, or older;
 3. the real property is owned and occupied by the applicant or joint applicants as their domicile;
 4. the applicant or at least 1 of the joint applicants has been domiciled in the town of Lincoln for at least 5 consecutive years before filing an application for the exemption;
 5. the maximum assessed value of the domicile does not exceed the average value, plus 10%, of all single-family dwelling units in the Town of Lincoln
 6. the board of assessors has approved the application.
- d. The exemption under subsection (b) shall be in addition to any other exemption allowable under the General Laws; provided, however that there shall be a dollar cap on all the exemptions granted pursuant to this section equal to .5 per cent of the fiscal year's total property tax levy for the town, including the levy for any regional high school If not included in the town's tax levy at some subsequent date with the total exemption amount granted by this section allocated proportionally within the tax levy on all residential taxpayers. After the first year of such exemption, the total cap on the exemptions granted pursuant to this section shall be set annually by the board of selectmen, within a range of 0.5 to 1.0 per cent of the residential property tax levy for the town including the levy for any regional high school. In the event that benefits to the applicants may be limited because the percentage established annually by the selectmen would otherwise be exceeded, the benefits shall be allocated by raising the income percentage as required in subsection (b) as necessary to not exceed the cap. In the event the cap exceeds the need for the exemption, the total cap on the exemptions granted by this section shall be reduced to meet the need.
 - e. A person who seeks to qualify for the exemption under subsection (b) shall, before the deadline established by the board of assessors, file an application, on a form to be adopted by the board of assessors, with the supporting documentation of the applicant's income and assets as described in the application. The application shall be filed each year for which the applicant seeks the exemption.
 - f. No exemption shall be granted under this section until the department of revenue certifies a residential tax rate for the applicable tax year where the total exemption amount is raised by a burden shift within the residential tax levy.
 - g. The exemption under this section shall expire every three years after its acceptance or re-acceptance; provided, however, that the town may re-accept this section for additional 3-year intervals by a vote of Town Meeting.

MOTION under ARTICLE 34 Lincoln School Committee

Moved: That Town vote to authorize the Board of Selectmen to enter into a payment in lieu of taxes ('PILOT') agreement, or Tax Agreement, pursuant to M.G.L. Chapter 59, section 5 or section 38H(b), and Chapter 164, Section 1, and/or any other enabling authority, with Solar Star Lincoln School, LLC for personal and/or real property taxes associated with the solar photovoltaic facility to be located at the Ballfield Road Campus, 1-8 Ballfield Road, which is shown on Lincoln Assessors' Map 143 as parcel 143_15_0, for a term of up to 25 years, on such terms and conditions as the Board of Selectmen deems to be in the best interest of the Town, and to take any and all actions as may be necessary or convenient to accomplish the purpose of this article.

MOTION under ARTICLE 35 Minuteman Regional High School Committee

Moved: That the Town vote to authorize the Board of Selectmen to enter into a payment in lieu of taxes ('PILOT') agreement, or Tax Agreement, pursuant to M.G.L. Chapter 59, section 5 or section 38H(b), and Chapter 164, Section 1, and/or any other enabling authority, with Solect Energy for personal and/or real property taxes associated with the solar photovoltaic facility to be located at the Minuteman Regional High School Campus, with a principal address of 758 Marrett Road, for a term of up to 25 years, on such terms and conditions as the Board of Selectmen deems to be in the best interest of the Town, and to take any and all actions as may be necessary or convenient to accomplish the purpose of this article, or take any other action relative thereto.

MOTION under ARTICLE 36 Citizens' Petition

Moved: That the Town vote to adopt a citizen-sponsored resolution in support of:

1. The continuing participation of the United States in the Paris Climate Accord; and
2. The enactment by the state legislature and implementation by the executive branch of these statewide climate-related policies:
 - a. Promote environmental justice, by including those most impacted by climate change and fossil fuel pollution as participants in crafting new, equitable policies;
 - b. Accelerate the growth of clean energy, to achieve 100% renewable electricity by 2035 and 100% renewable energy for heating and transportation by 2045; and
 - c. Use mechanisms such as equitable carbon pricing or the transportation climate initiative to speed the transition away from fossil fuels and to invest in our future.
3. Conveying such vote to our elected officials at the federal and state level; and
4. Directing Town departments, boards, and committees to collaborate on and otherwise take expeditious action to adopt and implement appropriate measures to reduce the carbon footprint in Lincoln to the extent reasonably possible, following Town Meeting approval if necessary and desirable.

MOTION under ARTICLE 37 Citizens' Petition

Moved: That the Town vote to amend its General By-Laws by adopting a by-law, entitled "Polystyrene Reduction Bylaw"
Section I. Findings and Purpose

Styrene, a component of polystyrene, was classified in 2018 by the World Health Organization's International Agency for Research on Cancer (IARC) as Group 2A 'probable carcinogen'. Multiple peer-reviewed scientific studies have found that residual styrene from manufacturing can be leached from polystyrene items during reasonable, common uses – especially contact with hot, fat- containing, or acidic food or drinks – in levels that sometimes exceed present World Health Organization and/or US Environmental Protection Agency standards for styrene in drinking water.

Furthermore, polystyrene, and especially polystyrene foam, readily enters the environment, both land and sea, harming wildlife who mistake it for food, ingest it, and die. Especially in the marine environment, polystyrene persists for hundreds of years and often fragments into microplastics, adsorbs and concentrates environmental toxins, and can enter the food chain when consumed by fish, shellfish, and other organisms, risking both ecosystem health and potentially contaminating the human food supply. Polystyrene is made from fossil fuels, which are non-renewable resources that contribute to greenhouse gas emissions and anthropogenic climate change.

Polystyrene is not biodegradable nor compostable nor able to be economically recycled by our Town.

Less toxic, more durable, reusable, recyclable, biodegradable, and/or compostable alternatives are readily available for many food service and other applications, and are affordable and effective ways to reduce negative health and environmental impacts from the use of polystyrene items.

Therefore, the purpose of this Bylaw is to protect the health of Town residents and to protect the Town's unique beauty and irreplaceable natural resources by reducing the use and distribution of disposable food service ware made from polystyrene and other items made from unencapsulated foam polystyrene in the Town of Lincoln.

Section II. Definitions

The following words shall have the following meanings for purpose of this Bylaw:

"Disposable Food Service Ware" shall mean single-use or disposable products for heating, storing, packaging, serving, consuming, or transporting prepared or ready-to-consume food or beverages including, but not limited to, bowls, plates, trays, cartons, cups, lids, hinged or lidded containers, spoons, forks and knives. This includes any containers used by food establishments to heat, cook, or store food or beverages prior to serving, regardless of whether such containers are used to serve such food or beverages. Disposable Food Service Ware also includes any such implements sold by Retail Establishments to consumers for personal use.

"Foam Polystyrene" shall mean polystyrene in the form of a foam or expanded material, processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene).

"Food Establishment" shall mean any operation that serves, vends or otherwise provides food or other products to third-parties for consumption and/or use on or off the premises, whether or not a fee is charged, but not including the service of food within a home or other private setting. Any facility requiring a food permit in accordance with the Massachusetts State Food Code, 105 CMR 590.000, et seq. and/or regulations of the Board of Health shall be considered a "food establishment" for purposes of this bylaw.

"Health Agent" shall mean the Health Agent for the Lincoln Board of Health or his/her designee.

"Packing Material" shall mean material used to hold, cushion, or protect items packed in a container for shipping transport or storage.

"Prepared Food" shall mean food or beverages, which are serviced, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed, or otherwise prepared (collectively "prepared") for individual customers or consumers. Prepared Food does not include raw eggs or raw, butchered meats, fish, seafood, and/or poultry.

"Polystyrene" shall mean a synthetic polymer produced by polymerization of styrene monomer. Polystyrene includes both "Foam Polystyrene" and "Solid Polystyrene" as defined in this Bylaw. The International Resin Identification Code

assigned to polystyrene materials is "6". Polystyrene items may be identified by a "6" or "PS," either alone or in combination with other letters. The regulations and prohibitions relating to polystyrene in this bylaw are intended to apply regardless of the presence or absence of an International Resin Identification Code or other identifying marks on the item.

"Retail Establishment" shall mean a store or premises engaged in the retail business of selling or providing merchandise, goods, groceries, prepared take-out food and beverages for consumption off-premises or the serving of an item directly to customers at such store or premises, including, but not limited to, grocery stores, department stores, pharmacies, convenience stores, restaurants, coffee shops and seasonal and temporary businesses, including farmers markets and public markets; provided, however, that a "retail establishment" shall also include a food truck or other motor vehicle, mobile canteen, trailer, market pushcart or moveable roadside stand used by a person from which to engage in such business directly with customers and business establishments without a storefront, including, but not limited to, a business delivering prepared foods or other food items, web-based or catalog business or delivery services used by a retail establishment; provided further, that a "retail establishment" shall include a non-profit organization, charity or religious institution that has a retail establishment and holds itself out to the public as engaging in retail activities that are characteristic of similar type commercial retail businesses, whether or not for profit when engaging in such activity.

"Solid Polystyrene" shall mean polystyrene, including clear (oriented) polystyrene, produced in a rigid form with minimal incorporation of air or other gas. Solid polystyrene is also referred to as 'rigid polystyrene'.

Section III. Regulated Conduct

- A. After February 1, 2022, no Food Establishment in the Town of Lincoln may use, sell, offer for sale, or otherwise distribute disposable food service ware made from foam polystyrene or solid polystyrene.
- B. After February 1, 2022, no Retail Establishment in the Town of Lincoln may sell, offer for sale, or otherwise distribute:
 - 1. disposable food service ware made from foam polystyrene or solid polystyrene.
 - 2. meat trays, fish trays, seafood trays, vegetable trays, or egg cartons made in whole or in any part with foam polystyrene or solid polystyrene.
 - 3. packing materials, including packing peanuts and shipping boxes made in whole or in any part with foam polystyrene that is not wholly encapsulated within a more durable material.
 - 4. coolers, ice chests, or similar containers; pool or beach toys; and dock floats, mooring buoys, or anchor or navigation markers, which are made in whole or in any part with foam polystyrene that is not wholly encapsulated within a more durable material.
- C. For purposes of Section 3(b)(3), 'distributing packing material' does not include:
 - 1. Re-using packing materials for shipping, transport, or storage within the same distribution system, where the packing materials are not sent to a customer or end user.
 - 2. Receiving shipments within the Town of Lincoln that include polystyrene foam used as a packing material, provided that the goods were not packaged or repackaged within Lincoln.

Section IV. Exemption

- A. Nothing in this Bylaw shall prohibit individuals from using disposable food service ware or other items made of polystyrene purchased outside the Town of Lincoln for personal use.
- B. Prepared food packaged outside the Town of Lincoln is exempt from the provisions of this Bylaw, provided that it is sold or otherwise provided to the consumer in the same disposable food service ware in which it was originally packaged, and that the prepared food has not been altered or repackaged.
- C. The Board of Health or health agent may exempt a food establishment or retail establishment from any provision of this Bylaw for a period of up to six months upon written application by the owner or operator of that establishment. No exemption will be granted unless the Board of Health or health agent finds that (1) strict enforcement of the provision for which the exemption is sought would cause undue hardship; or (2) the food establishment or retail establishment requires additional time in order to draw down an existing inventory of a specific item regulated by this Bylaw. For purposes of this Bylaw, “undue hardship” shall mean a situation unique to a food establishment or retail establishment in which there are no reasonable alternatives to the use of materials prohibited by this Bylaw, and that compliance with this Bylaw would create significant economic hardship for the Establishment.

Section V. Enforcement

Health Agents shall have the authority to enforce this Bylaw. This Bylaw may be enforced through any lawful means in law or in equity, including but not limited to, noncriminal disposition pursuant to G.L. c. 40 § 21D and Article VI of the General Bylaws. The Town may enforce this Bylaw or enjoin violations thereof through any lawful process or combination of processes, and the election of one remedy by the Town shall not preclude enforcement through any other lawful means.

Violations of this Bylaw are punishable by a fine of up to \$300 per violation. Each successive day of noncompliance will count as a separate violation.

If non-criminal disposition is elected, then any Food or Retail Establishment that violates any provision of this Bylaw shall be subject to the following penalties:

First Offense: written warning

Second Offense: \$50 penalty

Third and each subsequent offense: \$200 penalty

Section VI. Regulations

The Board of Health may adopt and amend rules and regulations to effectuate the purposes of this Bylaw.

Section VII. Interaction with Other Laws

In the case of a conflict between the requirements of this Bylaw and any other federal, state or local law concerning the materials regulated herein, the more stringent requirements shall apply.

Section VIII. Severability

If any provision of this Bylaw is declared invalid or unenforceable the other provisions shall not be affected thereby;

And further, to authorize the Town Clerk to assign such numbering as is appropriate to said bylaw in conformance with the existing codification of the Town's Bylaws.

MOTION under ARTICLE 38 Citizens' Petition

Moved: That the Town vote to authorize the Select Board to petition the General Court to adopt legislation, as set forth below, to implement a minimum charge of \$0.10 for all new checkout bags distributed in the Town of Lincoln, which legislation would have the underlying purposes of 1) incentivizing consumers to reuse checkout bags, the most environmentally sustainable and economical option, 2) allowing consumers to have the choice of not paying for unwanted or unneeded new checkout bags, 3) allowing collected money to be retained by the retailer so as to help businesses defray the costs of switching to more environmentally sustainable checkout bag options, and 4) reducing the generation of waste and associated costs of disposal and recycling that must be borne by the Town and its residents; provided, however, that the General Court may make clerical and editorial changes of form only to said bill, unless the Select Board approves amendments to the bill prior to enactment by the General Court; and provided further that the Select Board shall be authorized to approve any such amendments which shall be within the scope of the general public purposes of this petition; as follows.

AN ACT AUTHORIZING THE TOWN OF LINCOLN TO ESTABLISH A FEE FOR CHECKOUT BAGS

SECTION 1. The following words, unless the context clearly requires otherwise, shall have the following meanings:

"Checkout Bag" shall mean a bag provided by a retail establishment to a customer at the point of sale. Checkout bags shall not include: (i) bags, whether plastic or not, in which loose produce or products are placed by the consumer to deliver such items to the point of sale or check out area of the store; (ii) a paper bag provided by a pharmacy to a customer purchasing a prescription medication; (iii) a non-handled bag used to protect items from damaging or contaminating other purchased items; or (iv) a non-handled bag that is designed to be placed over articles of clothing on a hanger.

"Retail Establishment" shall mean any business facility that sells goods directly to the consumer whether for or not for profit, including but not limited to, retail stores, restaurants, pharmacies, convenience and grocery stores, liquor stores, and seasonal and temporary businesses.

SECTION 2. (a) Notwithstanding any general or special law to the contrary, any retail establishment which makes available checkout bags in the Town of Lincoln shall charge for each such bag equal to or greater than \$0.10 per checkout bag, as established by regulations to be duly promulgated by the Lincoln Board of Health.

(b) All monies collected pursuant to this section shall be retained by the retail establishment.

(c) Any charge for a checkout bag shall be separately stated on a receipt provided to the customer at the time of sale and shall be identified as the "checkout bag charge" thereon.

SECTION 3. (a) The Health Agent for the Lincoln Board of Health or his/her designee shall have authority to enforce this law and any regulations promulgated thereunder. This law may be enforced through any lawful means in law or in equity, including but not limited to, noncriminal disposition pursuant to G.L. c. 40 § 21D and Article VI of the Town of Lincoln General Bylaws.

(b) The Lincoln Board of Health may adopt and amend rules and regulations to effectuate the purposes of this law.

SECTION 4. If any provision of this law is declared to be invalid or unenforceable, the other provisions shall be severable and shall not be affected thereby.

SECTION 5. This act shall take effect three months after its passage.

MOTION under ARTICLE 39 Citizens' Petition

Moved: That the Town vote to amend its General By-Laws by adopting a by-law, entitled "The Prohibition of Disposable Plastics," as follows:

Section I. Findings and Purpose

WHEREAS, the Town has a duty to protect the natural environment and the health of its citizens; and

WHEREAS, single use plastics are made from fossil fuels, a non-renewable resource; and

WHEREAS, most single use plastics are not biodegradable nor compostable and not able to be recycled in our town; and enters our environment, both land and sea, harming wildlife who mistake it for food, ingest it and die; and

WHEREAS, because most single use plastics are neither biodegradable nor compostable and not able to be recycled in our town, and break down into microplastics which enter the food chain when consumed by fish and shellfish; and

WHEREAS, affordable and effective ways to reduce the negative environmental impacts of single use plastics products through the use of reusable, recyclable, biodegradable and/or compostable materials are available for food service application; and

WHEREAS, ten other cities and towns in Massachusetts (as of October 2019), have banned single use beverage straws including Brookline, and Chelmsford, straws and stirrers in Lexington;

THEREFORE, the purpose of this Bylaw is to protect the Town's unique beauty and irreplaceable natural resources by reducing the use and distribution of disposable plastic straws, stirrers, and splash sticks in the Town of Lincoln, and to promote the use of reusable and non-plastic alternatives.

Section II. Definitions

The following words shall, unless the context clearly requires otherwise, have the following meanings:

"Disability" shall mean a physical, intellectual, or sensory impairment that substantially limits one or more major life activities.

“Disposable plastic straw, stirrer, or splash stick” shall mean a drinking straw, stirrer, or splash stick made predominantly from synthetic polymers and that is not a reusable or BPI certifiably compostable straw, stirrer, or splash stick. A disposable plastic straw, stirrer, or splash stick shall also include items made in whole or in part from synthetic polymers.

“Food Establishment” shall mean an operation that, with or without charge, stores, prepares, packages, serves, vends, or otherwise provides food or beverage for human consumption, as further defined by 105 CMR 590.001(C), the Massachusetts State Food Code, or any other local Board of Health rules or regulations. Food establishment shall include school cafeterias. This definition shall not apply to individual persons preparing and serving food for personal use.

“Health Agent” shall mean the Health Agent for the Lincoln Board of Health or his/her designee.

“Medical Condition” shall mean any illness, disease, disorder or injury that requires medical treatment.

“Reusable straw, stirrer, or splash stick” shall mean a drinking straw, stirrer, or splash stick that is manufactured from durable materials, and is designed to be adequately and repeatedly cleaned and sanitized for reuse. Certifiable (BPI) Compostable straws, bamboo, and paper straws, given they are not made of plastic are acceptable substitutes given they are truly compostable.

“Retail Establishment” shall mean a store or premises engaged in the retail business of selling or providing merchandise, goods, groceries, prepared take-out food and beverages for consumption off-premises or the serving of an item, directly to customers at such store or premises, including, but not limited to, grocery stores, department stores, pharmacies, convenience stores, restaurants, coffee shops and seasonal and temporary businesses, including farmers markets and public markets; provided, however, that a “retail establishment” shall also include a food truck or other motor vehicle, mobile canteen, trailer, market pushcart or moveable roadside stand used by a person from which to engage in such business directly with customers and business establishments without a storefront, including, but not limited to, a business delivering prepared foods or other food items, web-based or catalog business or delivery services used by a retail establishment; provided further, that a “retail establishment” shall include a non-profit organization, charity or religious institution that has a retail establishment and holds itself out to the public as engaging in retail activities that are characteristic of similar type retail businesses, whether or not for profit when engaging in such activity.

Section III. Regulated Conduct

- No food establishment in the Town of Lincoln may provide a disposable plastic straw, stirrer, or splash stick to a customer after February 1, 2022.
- No food establishment in the Town of Lincoln may provide a straw, stirrer, or splash stick that is not a reusable certifiably compostable straw, stirrer, or splash stick to a customer, except upon that customer’s specific request for such items or if the item is selected by a customer from a self-service dispenser.
- Retail establishments are prohibited from selling or distributing disposable plastic straws, stirrers, or splash sticks to customers unless equivalent non-plastic or reusable items are available for sale and are clearly labeled such that any customer can distinguish easily the non-plastic or reusable items.

Section IV. Exemptions

- Nothing in this bylaw shall prohibit individuals from bringing and using their own straws, stirrers and splash sticks of any type for personal use in a food establishment.
- Food establishments may provide a disposable plastic straw, stirrer, or splash stick, upon request, to a person in need due to a disability or medical condition.
- The Board of Health or health agent may exempt a food establishment from the requirements of this bylaw for a period of up to six months upon a finding by the Board of Health Director that a food establishment or retail establishment requires additional time in order to draw down an existing inventory of a specific item regulated by this bylaw.

Section V. Enforcement

Health Agents shall have the authority to enforce this bylaw. This bylaw may be enforced through any lawful means in law or in equity, including but not limited to, noncriminal disposition pursuant to G.L. c. 40 § 21D and Article VI of the General Bylaws.

Violations of this bylaw are punishable by a fine of up to \$300 per violation. Each successive day of non-compliance will count as a separate violation.

If non-criminal disposition is elected, then any Retail Establishment that violates any provision of this bylaw shall be subject to the following penalties:

First Offense: written warning

Second Offense: \$50 penalty

Third and subsequent offenses: \$200 penalty

Section VI. Regulations

The Board of Health may adopt and amend rules and regulations to effectuate the purposes of this bylaw.

Section VII. Severability

If any provision of this bylaw is declared invalid or unenforceable the other provisions shall not be affected thereby.

MOTION under ARTICLE 40 Citizens' Petition

Moved: That the Town vote to hear reports from the Board of Selectmen, Finance Committee and Capital Planning Committee on the status of the Community Center project.