

**DEDHAM  
FINANCE AND WARRANT COMMITTEE**



**REPORT & RECOMMENDATIONS  
FOR THE  
FALL ANNUAL TOWN MEETING**

**MONDAY, NOVEMBER 14, 2016**

**TOWN MEETING – 7:00 PM**

**DEDHAM HIGH SCHOOL AUDITORIUM**

## FISCAL YEAR 2017 DEDHAM FINANCE AND WARRANT COMMITTEE

	PRECINCT	TERM ENDS
JOHN HEFFERNAN, CHAIR	6	2017
KEVIN PRESTON, VICE CHAIR	2	2019
MARTY LINDEMANN	1	2018
SUSAN CARNEY	7	2018
SUSAN FAY*	4	2019
CECILIA EMERY BUTLER	4	2019
LIZ O'DONNELL*	5	2017
DAVID ROBERTS	3	2017
KEVIN HUGHES	5	2018

\* At Large

DANIEL J. DRISCOLL, MODERATOR (1993-PRESENT)

### PAST MODERATOR

H. HOLTON WOOD (1964-1993)

### PAST FINANCE COMMITTEE CHAIRS

2012-2014	RUSSELL C. STAMM
2007-2012	DAVID N. MARTIN
2006-2007	MARK DRISCOLL
2002-2006	CHRISTOPHER E. MELLEN
2001-2002	WILLIAM A. PODOLSKI
2000-2001	VALERIE T. IRVING
1998-2000	CONSTANTINE P. CALLIONTZIS
1996-1998	PAUL G. JOYCE
1995-1996	FRANCIS T. KEALLY
1993-1995	RICHARD C. BREMER
1992-1993	DAVID E. KRUSZ
1991-1992	KEVIN E. YOUNG
1990-1991	JAMES A. MACDONALD
1989-1990	SANDRA A. LYNCH
1988-1989	JAMES V. HERRIGAN
1987-1988	STEPHEN P. RAHAVY
1986-1987	MARGOT C. PYLE
1985-1986	JAMES S. MCDONALD
1984-1985	FRANCIS J. SALLY
1983-1984	DAVID THIBODEAU
1981-1983	JOHN I. STANTON, JR.
1980-1981	ANTHONY THACHER
1979-1980	JOHN W. PUTNEY
1978-1979	GEORGE R. HOELL
1977-1978	ROBERT F. ASHMAN
1976-1977	JONATHAN A. NOONAN
1975-1976	FRANCIS E. MANNING
1974-1975	EDWARD J. HUGHES
1973-1974	HARRISON K. CANER
1972-1973	JOHN J. CARROLL

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**TOWN OF DEDHAM**  
Town Moderator

To the Town Meeting Representatives and the Citizens of Dedham

The Fall Annual Town Meeting sometimes lacks the drama of the Spring Meeting where the budget is front and center. There is usually a controversial issue to get people's attention as well. The Fall Meeting is generally more of a housekeeping meeting, but even then there can be issues which have the potential to get dialogue flowing.

This year's Fall Meeting raises questions about some intoxicating questions, namely marijuana (Article 18), beer and wine (Article 15, 16, 17) and alcohol (Article 20).

The narratives on two long-running stories are also continued – new Town buildings (Article 3) and the Early Childhood Education Center (Article 20).

You will also be asked to consider again Massachusetts Community Preservation Act (Article 12) and to update our Parks and Recreation Master Plan (Article 8).

This is not a long warrant, but there are some important decisions to be made – I look forward to seeing you on November 14<sup>th</sup>. Please feel free to contact me with any questions at [djdriscoll29@gmail.com](mailto:djdriscoll29@gmail.com).

Sincerely,  
Dan Driscoll  
Moderator



**TOWN OF DEDHAM**  
Finance and Warrant Committee

To the Town Meeting Representatives and the Citizens of Dedham

Presented herein for your consideration and vote is the Warrant recommendations of your Finance and Warrant Committee. After hearing from the various proponents, departments, committees and citizens we believe our recommendations represent the best interests of the Town of Dedham.

The Town continues to meet the financial goals of maximizing the highest bond rating, maintaining a balance within the General Stabilization Fund and fully funding the Town's pension, healthcare and other post-retirement benefits.

This November 2016 Warrant consists of twenty one articles. Seventeen articles will be voted by the Finance and Warrant Committee (FWC). Four zoning articles will be voted by the Planning Board.

There are four articles requesting studies. Article 7 is a request for vehicular, pedestrian and bicycle circulation study for the High School, Middle School and Avery School. This article had extensive discussion at the FWC Hearings. The article is proposed evaluation for Safety and the Rail Trail in those school locations.

Article 12 is the Massachusetts Community Preservation Act. As stated in Chapter 44 of the General Laws, with a real property surcharge, the Town is eligible for an annual distribution from the CPA Trust Fund for investment in open space, recreation and historical preservation.

I would like to welcome Susan Fay to the FWC. Susan and I served on the Capital Expenditures Committee and I am happy to be working with her again.

I would like to thank Maureen Hanlon for her service on the FWC. Maureen was Vice Chair last year and as Chair, I really appreciated having someone with her experience. Maureen kept me laughing and humble and I hope for a chance to work with her again!

John Heffernan  
Chairman of the Finance and Warrant Committee



# Dedham Fall Annual Town Meeting 2016

## Fall Town Meeting Articles and Recommendations

*All recommendations of the Finance and Warrant Committee are by unanimous vote except where noted.*

### 1. LINE ITEM TRANSFERS

**ARTICLE ONE:** *By the Finance Committee:* To see if the Town will vote to raise and appropriate, or transfer from available funds a sum of money to meet additional expenses of the current fiscal year not adequately funded under Article Three of the 2016 Spring Annual Town Meeting or any other article thereof; or take any other action relative thereto. *Referred to Finance and Warrant Committee for study and report.*

**RECOMMENDATION OF THE FINANCE AND WARRANT COMMITTEE:** That the following sums of money, totaling \$426,481, be transferred from current appropriations or free cash as scheduled on the following chart to meet additional expenses for the current fiscal year:

Article 1 transfers money from free cash or one municipal account to another for the payment of expenses in the current fiscal year, ending June 30, 2017.

From Dept/ Free Cash			To			
	Line item	Amount	Department	Line Item	Amount	
1	Free Cash	n/a	\$ 50,000	Park & Recreation	16305700/572000	\$ 50,000
2	Finance	11305100/510135	\$ 81,738	Finance	11305700/530030	\$ 81,738
3	Police	12105100/510213	\$ 50,000	Finance	11305700/530030	\$ 50,000
4	Benefits	19105700/517080	\$ 188,173	Benefits	19105700/517060	\$ 188,173
5	School Facilities	14665100/511433	\$ 40,000	School Facilities	14665700/524044	\$ 40,000
6	Police	12105100/510213	\$ 16,570	Police	12105700/558070	\$ 6,250
				Police	12105700/530100	\$ 10,320
			<b><u>\$ 426,481</u></b>			<b><u>\$ 426,481</u></b>

- 1 Supplement Flag Day celebration for 50th anniversary.
- 2 Reclassify salaries to purchased services for cost of Accounting Services consulting.
- 3 Supplement additional Accounting Services and IT consulting.
- 4 Reclassify surplus in pension assessment budget to health insurance to cover actual increases in premium compared to budget.
- 5 Reclassify salaries to purchased services for electrical contractors.
- 6 Supplement additional subscriptions and IT support.

# Dedham Fall Annual Town Meeting 2016

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## **2. FUND IMPLEMENTATION OF ENERGOV PROJECT**

**ARTICLE TWO:** *By the Town Manager at the request of the Director of Finance.* To see if the Town will vote to raise and appropriate, or transfer from available funds a sum of money to meet the cost of implementing the Energov project for the Town, or take any other action relative thereto. *Referred to Finance and Warrant Committee for study and report.*

**RECOMMENDATION OF THE FINANCE AND WARRANT COMMITTEE:** The Finance and Warrant Committee voted 8-1 that the sum of \$280,000 be appropriated from Free Cash to meet the cost of implementing the Energov Project for the Town of Dedham.

Article 2 would provide funds for the implementation of the Energov Project; a cloud-based municipal permitting and land management system.

## **3. FUND SCHEMATIC DESIGN OF COMBINED PUBLIC SAFETY BUILDING**

**ARTICLE THREE:** *By the Town Manager.* To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money for the Schematic Design of a Combined Public Safety Building, to be located at the site of the current Town Hall located at 26 Bryant Street, or take any other action relative thereto. *Referred to Finance and Warrant Committee for study and report.*

**RECOMMENDATION OF THE FINANCE AND WARRANT COMMITTEE:** To amend the vote taken under Article 19 of the May 19, 2014 Annual Town Meeting which appropriated \$28.25 million for the purpose of acquiring and renovating the Ames School for Town Hall and a Senior Center, and renovating the existing Town Hall for a Police Station, and further to authorize \$1.15 million of such amount to be expended for the purpose of preparing a Schematic Design of a Combined Public Safety Building as part of the Municipal Campus.

Article Three would re-use funds originally appropriated in Article 19 of the May 19, 2014 Town Meeting to engage an Owner's Project Manager and Architect for the purpose of preparing a Schematic Design of a Combined Public Safety Building.



# Dedham Fall Annual Town Meeting 2016

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## 4. CLOSING OUT OF PRIOR YEARS ACCOUNTS

**ARTICLE FOUR:** *By the Town Manager at the request of the Director of Finance.* To see if the Town will vote to close out certain articles or accounts approved in prior years where the purposes of such articles have been met, the projects are completed and/or such appropriations are no longer necessary, which articles or accounts include operating capital accounts, special articles, land improvement articles, building improvement articles, and equipment articles, with articles closing to the General Fund listed on Schedule 4A and articles closing to the Mitigation Stabilization Fund listed on Schedule 4B, or take any other action relative thereto. *Referred to Finance and Warrant Committee for study and report.*

**RECOMMENDATION OF THE FINANCE AND WARRANT COMMITTEE:** That the accounts listed on Schedule 4A close to the General Fund, and that the accounts listed on Schedule 4B close to the Mitigation Stabilization Fund.

Approval of Article 4 would return monies from various continuing articles as shown in the exhibits below.

### November 2016 Town Meeting Article 4, Schedule 4A General Fund

<u>Prior Year Operating Capital</u>	<u>Balance</u>
001-130-5876-155 Replacement Technology Hardware	\$ 436.39 D
001-130-6016-145 FY16 Operating Capital Police Data Security	\$ 8,044.00 D
001-130-6016-146 FY16 Operating Capital Secondary Core Switch	\$ 7,250.00 X
001-138-5850 New Equipment	\$ 2,481.05 D
001-138-5870 Replacement Equipment	\$ 7,165.64 D
001-210-5875-211 Replacement Vehicles/Equipment Motorcycles	\$ 29,282.00 D
001-210-6016-167 FY16 Operating Capital Communications Equipment	\$ 629.16 D
001-220-5875-221 Replacement Vehicles/Equipment Rescue Equipment	\$ 8.88 D
001-220-5875-222 Replacement Vehicles/Equipment Truck Equipment	\$ 0.36 D
001-30-5851-815-1450 Computers & IT Equipment Replacement Computers	\$ 4.47 D
001-30-5871-502-7300 Operating Capital FY15 IT Data Center Cooling System	\$ 224.08 D
001-410-5876 Replacement Technology	\$ 2,973.50 D
001-410-6016-170 FY16 Operating Capital Computer Stations	\$ 4,291.91 D
001-410-6016-171 FY16 Operating Capital Engineering Vehicle	\$ 2,889.00 D
001-410-6016-173 FY16 Operating Capital Field Equipment	\$ 16,405.69 D
001-420-5876 Replacement Technology	\$ 5,315.00 D
	<u>\$ 87,401.13</u>

# Dedham Fall Annual Town Meeting 2016

## November 2016 Town Meeting Article 4, Schedule 4A General Fund Cont'd

### Prior Year Special Articles

002-192-192-5821-098	Building Improvements Conference Room Equipment- DVAC	\$ 17,030.00	A
002-130-000-5302-257	Prof / Tech Special Articles Financial System	\$ 7,405.25	D
002-210-210-5582-312	Other-Special Articles Prior Year	\$ 2,171.00	D
002-120-5302-951	Prof / Tech Special Articles Purchase of Services	\$ 4,835.00	D
002-120-5302-401	Prof / Tech Special Articles IT Strategic Plan	\$ 2,314.45	D
002-120-5302-373	Prof / Tech Special Articles Sr. Center Site Committee	\$ 30,000.00	D
002-120-5302-412	Prof / Tech Special Articles Feasibility Study-Municipal Camp	\$ 14,391.25	D
002-192-5821-939	Building Improvements Building Improvements	\$ 9,000.00	D
002-130-5781	Prior Year Bills	\$ 966.00	D
002-130-5302-603	Prof / Tech Special Articles Tax Takings	\$ 11,809.33	D
002-120-5302-952	Prof / Tech Special Articles Senior Citizens Center	\$ 5,000.00	X
002-130-5302-403	Prof / Tech Special Articles HRIS Implementation	\$ 50,000.00	X
		<u>\$ 154,922.28</u>	

### Prior Year Land Articles

610-120-000-5810-299	Land Acquisition 337 Common Street	<u>\$ 919.00</u>	
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### Prior Year Land Improvement Articles

615-120-000-5811-348	Land Improvements Striar Park Access	\$ 2,567.45	D
		<u>\$ 2,567.45</u>	

### Prior Year Building Improvement Articles

630-192-192-5821-330	Building Improvements Paint, Gutters, Ceiling, Window	\$ 0.50	D
630-192-192-5821-333	Building Improvements DHS Roof	\$ 2,220.00	D
		<u>\$ 2,220.50</u>	

### Prior Year Equipment Articles

640-130-155-5870-335	Replacement Equipment Financial Software Phase II	\$ 29,734.76	D
640-130-5870-401	Replacement Equipment FY14 Technology Replacements	\$ 6,883.95	D
640-130-5870-503	Replacement Equipment Software License Renewal	\$ 939.45	D
640-192-192-5870-376	Replacement Equipment Generator Main Fire Station	\$ 1,377.16	D
640-210-210-5850-338	New Equipment Cruiser Laptops	\$ 10,700.00	D
640-210-210-5870-339	Replacement Equipment Vehicles	\$ 9,467.40	D
640-210-5870-402	Replacement Equipment FY14 Police Vehicles	\$ 2,249.03	D
640-210-5870-404	Replacement Equipment FY14 2-Way Radios	\$ 307.20	D
640-220-220-5850-284	New Equipment Air Conditioning & Chairs	\$ 278.00	D
640-220-220-5850-666	New Equipment Dispatch Program	\$ 4.31	D
640-410-5870-409	Replacement Equipment Engineering Vehicle	\$ 1,055.00	D
640-420-000-5870-325	Replacement Equipment Dump truck	\$ 269.20	D
640-630-5870-411	Replacement Equipment Diving Board	\$ 997.00	D
640-161-000-5850-349	New Equipment Licensing System	\$ 10,500.00	X
		<u>\$ 74,762.46</u>	

Total Reversions from Prior Year Capital to General Fund	<u>\$ 322,792.82</u>
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# Dedham Fall Annual Town Meeting 2016

## November 2016 Town Meeting Article 4, Schedule 4B Mitigation Stabilization Fund

<u>Prior Year Special Articles</u>	<u>Balance</u>
002-30-301-530-2-5302-278 Prof / Tech Special Articles Project Diploma	\$ 2,000.00 A
002-220-220-5582-284 Other-Special Articles DFD Air Conditioners & Chairs	\$ 277.73 D
002-30-301-530-2-5302-279 Prof / Tech Special Articles Achieve 3000	\$ 170.00 D
002-30-301-530-2-5302-165 Prof / Tech Special Articles Drop-Out Prevention	\$ 723.74 D
002-173-000-5302-355 Prof / Tech Special Articles Conservation Commission Signage	\$ 2,328.00 D
002-173-000-5302-356 Prof / Tech Special Articles Dedham Green Business Program	\$ 430.00 D
002-173-000-5302-368 Prof / Tech Special Articles Garden Program	\$ 34.00 D
002-210-210-5582-361 Other-Special Articles 300mm Photo Lens	\$ 1,260.00 D
002-210-210-5582-362 Other-Special Articles Transmitter	\$ 1,990.00 D
002-210-210-5582-146 Other-Special Articles Speed Awareness Trailer	\$ 110.00 D
002-510-000-5582-169 Other-Special Articles Tough Notebooks-Prior Mitigation	\$ 7,326.00 X
	<u>\$ 16,649.47</u>
 <u>Prior Year Land Improvement Articles</u>	
615-630-650-5811-143 Land Improvements Churchill Park Playground	\$ 927.00 D
615-420-000-5811-275 Land Improvements Cemetery Mitigation	\$ 170.00 D
	<u>\$ 1,097.00</u>
 <u>Prior Year Equipment Articles</u>	
640-210-210-5850-150 New Equipment Auto Lic Plate Recog Sys-MIT	\$ 5,868.00 D
640-420-000-5870-365 Replacement Equipment Asphalt Patch Box	\$ 75.81 D
640-542-000-5870-170 Replacement Equipment Van	\$ 878.90 D
	<u>\$ 6,822.71</u>
Total Reversions from Prior Year Capital to Mitigation Fund	<u>\$ 24,569.18</u>

Notes:

- D = Done, close out remaining balance
- A= Done, paid from transfers/other sources
- X= Cancel project, revert balance

## **5. AMENDMENT OF AMOUNT OF FUNDS TRANSFERRED TO ROBIN REYES MAJOR CAPITAL FACILITIES STABILIZATION FUND**

**ARTICLE FIVE:** *By the Town Manager at the request of the Director of Finance.* To see if the Town will vote to raise and appropriate or transfer from available funds a sum or sums to one or more special purpose stabilization funds, and in connection therewith, to amend the vote taken under Article 10 of the May 16, 2016 Annual Town Meeting appropriating funds to the Robin Reyes Major Capital Stabilization Fund to reflect actual FY'16 meals and hotel tax revenues and to reflect the passage of the Robin Reyes Special Act, Chapter 2014 of the Acts of 2016, or take any other action relative thereto. *Referred to Finance and Warrant Committee for study and report.*

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**RECOMMENDATION OF THE FINANCE AND WARRANT COMMITTEE:** That the vote taken under Article 10 of the May 16, 2016 Annual Town Meeting appropriating funds to the Robin Reyes Major Capital Facilities Stabilization Fund be amended by reducing the amount transferred by the total sum of \$580,987.44, to reflect actual FY'16 meals and hotel tax revenues and passage of the Robin Reyes Special Act.

Article 5 adjusts the amount originally authorized to be transferred in Article 10 of the May 16, 2016 Annual Town Meeting to reflect actual receipts in FY'16 meals and hotel tax revenues. Article also returns Free Cash amount for FY'17 estimate relative to the passage of the Robin Reyes Special Act.

Distrib. Date	Period Covered	Room Occupancy Tax (2%)	Local Meals Tax (.75%)	Total	TM Request
3/31/16	December 2015-February 2016	\$ 172,562.91	\$ 212,718.00	\$ 385,280.91	May-16
6/30/16	March-May 2016	\$ 179,401.66	\$ 203,955.00	\$ 383,356.66	May-16
		<u>\$ 351,964.56</u>	<u>\$ 416,673.00</u>	<u>\$ 768,637.56</u>	
	Free Cash for receipts 12/15-5/16	<u>\$ 583,625.00</u>	<u>\$ 436,000.00</u>	<u>\$ 1,019,625.00</u>	
	Due to/(due from) RR Fund	(231,660.44)	(19,327.00)	(250,987.44)	
	FY17 Estimate Free Cash	\$ 211,200.00	\$ 118,800.00	\$ 330,000.00	May-16
	Due to/(due from) RR Fund	(211,200.00)	(118,800.00)	(330,000.00)	
	<u>Total Free Cash return to GF</u>	<u>(442,860.44)</u>	<u>(138,127.00)</u>	<u>(580,987.44)</u>	Nov-16

## 6. LEASE AGREEMENT WITH HEWLETT PACKARD

**ARTICLE SIX:** *By the Town Manager at the request of the Director of Finance.* To see if the Town will vote to authorize the Town Manager to enter into a lease agreement with Hewlett Packard for a term of not more than five (5) years for the purpose of a computer lease program, or take any other action relative thereto. *Referred to Finance and Warrant Committee for study and report*

**RECOMMENDATION OF THE FINANCE AND WARRANT COMMITTEE:** That it be so voted.

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Article 6 would authorize the Town Manager to enter into a contract for not more than five (5) years to fund a computer lease program.

## **7. FUNDING OF CIRCULATION STUDY FOR DEDHAM HIGH SCHOOL, MIDDLE SCHOOL AND AVERY SCHOOL**

**ARTICLE SEVEN:** *By the Town Manager.* To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money for the development of a vehicular, pedestrian and bicycle circulation study for the Dedham High School, Middle School and Avery School to evaluate and provide recommendations concerning traffic flow at the schools, including access and egress at drop off and pick up, sporting events, and other activities that impact circulation, or take any other action relative thereto. Referred to Finance and Warrant Committee for study and report.

**RECOMMENDATION OF THE FINANCE AND WARRANT COMMITTEE:** That it be indefinitely postponed.

Indefinite postponement of Article 7 will allow for completion of the Rail Trail Feasibility Study and a more specific definition of the scope of the circulation study.

## **8. FUNDING OF OPEN SPACE AND RECREATION STUDY**

**ARTICLE EIGHT:** *By the Park and Recreation Commission.* To see if the Town will vote to transfer \$50,000 from Article 13 of the November 17, 2014 Fall Town Meeting and \$25,000 from Article 3 of the May 16, 2016 Annual Town Meeting, Operating Capital Line 145, and raise and appropriate, or transfer from available funds an additional sum of money to update the 2010 Comprehensive Parks and Recreation and Open Space Master Plan to meet the requirements of the grant program established by the Executive Office of Environmental Affairs, Division of Conservation Services, assessing the passive and active recreation needs of current and future Town residents of all ages, identifying and building upon the Town's unique parks and recreation assets, identifying new opportunities, and establishing clear direction for the Park and Recreation Commissioners, staff, advisory committees, residents and private organizations in their collective efforts to enhance Town parks and recreation programs, services and facilities, or take any other action relative thereto. *Referred to Finance and Warrant Committee for study and report.*

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**RECOMMENDATION OF THE FINANCE AND WARRANT COMMITTEE:** Recommendation at Town Meeting.

Article 8 combines two previously authorized expenditures for the purpose of providing a comprehensive Open Space and Park and Recreation Usage plan.

## **9. FUNDING OF DESIGN RELATED TO TRAFFIC FLOW, ACCESS, EGRESS AND SIGNALIZATION FOR THE NEW EARLY CHILDHOOD EDUCATION CENTER**

**ARTICLE NINE:** *By the Town Manager.* To see if the Town will vote to raise and appropriate, borrow or transfer from available funds, a sum of money to be expended under the direction of the School Building Rehabilitation Committee for the purpose of designing extended measures related to traffic flow, access, egress and signalization at the new Early Childhood Education Center (“ECEC”), to be located at 1100 High Street in Dedham, Massachusetts, as required in connection with Site Plan Review, and which study and work related thereto is outside the scope of the Massachusetts School Building Authority project, and therefore the sole responsibility of the Town, or take any other action relative thereto. *Referred to Finance and Warrant Committee for study and report*

**RECOMMENDATION OF THE FINANCE AND WARRANT COMMITTEE:** Recommendation at Town Meeting.

Article 9 will provide funding for the design of traffic flow, access, egress and signalization at the new Early Childhood Education Center.

## **10. SUPPLEMENTAL APPROPRIATION TO FY’17 DEDHAM PUBLIC SCHOOLS EDUCATION OPERATING BUDGET**

**ARTICLE TEN:** *By the School Committee.* To see if the Town will vote to raise and appropriate, or transfer from available funds a sum of money to supplement the FY’17 Dedham Public Schools Education Operating Budget, or take any other action relative thereto. *Referred to Finance and Warrant Committee for study and report.*

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**RECOMMENDATION OF THE FINANCE AND WARRANT COMMITTEE:** The Finance and Warrant Committee voted 6-3 that the sum of \$100,000 be raised and appropriated to supplement the FY'17 Dedham Public Schools Education Operating Budget.

Article 10 seeks to restore \$100,000 to the FY'17 Dedham Public Schools Education Operating Budget.

## 11. **FUNDING ACCESSIBILITY AND SAFETY STUDY IN MCDONALD SQUARE**

**ARTICLE ELEVEN:** *By Park and Recreation Commissioner James Maher and District 5 Town Meeting Member Michael Leahy.* To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money to study and address accessibility and safety issues in McDonald Square, or take any other action relative thereto. *Referred to Finance and Warrant Committee for study and report.*

**RECOMMENDATION OF THE FINANCE AND WARRANT COMMITTEE:** That the sum of \$10,000 be appropriated from Free Cash to study and address accessibility and safety issues in McDonald Square.

Article 11 would authorize an accessibility and safety study of McDonald Square.

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# Dedham Fall Annual Town Meeting 2016

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## 12. ACCEPTANCE OF COMMUNITY PRESERVATION ACT

**ARTICLE TWELVE:** *By the Board of Selectmen at the request of Selectman Dennis J. Teehan, Jr.* To see if the Town will vote to accept Sections 3 to 7, inclusive, of Chapter 44B of the General Laws, otherwise known as the Massachusetts Community Preservation Act, to be effective for the Fiscal Year beginning July 1, 2017, by approving a surcharge on real property for the purposes permitted by said Act, including, acquisition, creation and preservation of open space; acquisition, preservation, rehabilitation and restoration of historic resources; acquisition, creation, preservation, rehabilitation and restoration of land for recreational use; acquisition, creation, preservation and support of community housing; and rehabilitation or restoration of open space and community housing that is acquired or created as provided in the Act; to determine the amount of such surcharge on real property as a percentage of not less than 1% of the annual real estate tax levy against real property; and to determine whether the Town will accept the following exemptions from such surcharge as permitted under Section 3(e) of said Act: (1) for property owned and occupied as a domicile by a person who would qualify for low income housing or low or moderate income senior housing in the city or town; and (2) for \$100,000 of the value of each taxable parcel of residential real property, or take any other action relative thereto. *Referred to Finance and Warrant Committee for study and report.*

**RECOMMENDATION OF THE FINANCE AND WARRANT COMMITTEE:** The Finance and Warrant Committee voted 6-3 that the Town accept Sections 3-7, inclusive, of G.L. c.44B, the Community Preservation Act, establish the CPA surcharge at 1% of the annual real estate tax levy against real property, and accept the following exemptions from such surcharge as permitted under Section 3(e) of said Act: (1) for property owned and occupied as a domicile by a person who would qualify for low income housing or low or moderate income senior housing in the town; and (2) for \$100,000 of the value of each taxable parcel of residential real property; and acknowledging that in order for the Act to take effect in Dedham, it must be approved by the voters at the 2017 Annual Town Election.

<p>Article 12 would adopt the Community Preservation Act (CPA) that helps communities preserve open space and historic sites, create affordable housing, and develop outdoor recreational facilities. The CPA creates a statewide Community Preservation Trust Fund, administered by the Department of Revenue (DOR), which provides distributions each year to communities that have adopted CPA.</p>
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## **13. AUTHORIZATION OF SEWER BETTERMENT – 163 PINE STREET**

**ARTICLE THIRTEEN:** *By the Town Manager.* To see if the Town will vote to transfer a sum of money from the Sewer Enterprise Fund retained earnings to fund the construction of a particular sewer to connect the property located at 163 Pine Street, identified as Assessors' Parcel ID 38-17, to the municipal sewer in accordance with General Laws, Chapter 83, Section 3, and to fund the construction of such municipal sewer facilities within Violet Avenue as are necessary to allow for such connection, and to provide the Board of Selectmen, pursuant to General Laws, Chapter 83, Sections 3, 14 and 23 and General Laws Chapter 80, shall assess 100% of the cost of constructing the particular sewer to the owner of said property, and shall further assess proportionately as betterments up to 100% of the cost to the Town of constructing such municipal facilities upon each of those properties that receive benefit thereby, by any of the methods allowed by law, or take any other action relative thereto. *Referred to Finance and Warrant Committee for study and report.*

**RECOMMENDATION OF THE FINANCE AND WARRANT COMMITTEE:** That the Town vote to transfer the sum of \$123,000 from the Sewer Enterprise Fund retained earnings to fund the construction of a particular sewer to connect the property located at 163 Pine Street, identified as Assessors' Parcel ID 38-17, to the municipal sewer in accordance with General Laws, Chapter 83, Section 3, and to fund the construction of such municipal sewer facilities within Violet Avenue as are necessary to allow for such connection, and further to provide that the Board of Selectmen, pursuant to General Laws, Chapter 83, Sections 3, 14, 23 and 24 and General Laws Chapter 80, shall assess 100% of the cost of constructing the particular sewer to the owner of said property at 163 Pine Street, and shall further assess proportionately as betterments 100% of the cost to the Town of constructing such municipal facilities upon each of those properties that receive benefit thereby, by any of the methods allowed by law.

<p>Article 13 allows for the extension of the existing sewer service for public benefit and allows the sewer commissioner to assess a betterment to each of those properties receiving that benefit. The betterment would fully cover the cost of extending the sewer service.</p>
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## **14. AUTHORIZATION OF SEWER BETTERMENT – 106 WASHINGTON STREET**

**ARTICLE FOURTEEN:** *By the Town Manager.* To see if the Town will vote to transfer a sum of money from the Sewer Enterprise Fund retained earnings to fund the

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construction of a particular sewer to connect the property located at 106 Washington Street, identified as Assessors' Parcel ID 77-54, to the municipal sewer in accordance with General Laws, Chapter 83, Section 3, and to fund the construction of such municipal sewer facilities within the public ways of Curve Street and Washington Street as are necessary to allow for such connection, and to provide the Board of Selectmen, pursuant to General Laws, Chapter 83, Sections 3, 14 and 23 and General Laws Chapter 80, shall assess 100% of the cost of constructing the particular sewer to the owner of said property, and shall further assess proportionately as betterments up to 100% of the cost to the Town of constructing such municipal facilities upon each of those properties that receive benefit thereby, by any of the methods allowed by law, or take any other action relative thereto. *Referred to Finance and Warrant Committee for study and report.*

**RECOMMENDATION OF THE FINANCE AND WARRANT COMMITTEE:** That the Town vote to transfer the sum of \$277,000 from the Sewer Enterprise Fund retained earnings to fund the construction of a particular sewer to connect the property located at 106 Washington Street, identified as Assessors' Parcel ID 77-54, to the municipal sewer in accordance with General Laws, Chapter 83, Section 3, and to fund the construction of such municipal sewer facilities within the public ways of Curve Street and Washington Street as are necessary to allow for such connection, and further to provide that the Board of Selectmen, pursuant to General Laws, Chapter 83, Sections 3, 14, 23 and 24 and General Laws Chapter 80, shall assess 100% of the cost of constructing the particular sewer to the owner of said property at 106 Washington Street, and shall further assess proportionately as betterments 100% of the cost to the Town of constructing such municipal facilities upon each of those properties that receive benefit thereby, by any of the methods allowed by law.

Article 14 allows for the extension of the existing sewer service for public benefit and allows the sewer commissioner to assess a betterment to each of those properties receiving that benefit. The betterment would fully cover the cost of extending the sewer service.
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## 15. ZONING AMENDMENT - SECTION 3.1.3 USE REGULATIONS TABLE

**ARTICLE FIFTEEN:** *By the Planning Board at the request of the East Dedham Revitalization Committee.* To see if the Town will vote to amend the Dedham Zoning Bylaw Section 3.1.3 Use Regulations Table by adding a new use entitled "Brewery,

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Distillery, or Winery with Tasting Room” under H. Manufacturing and Processing Uses and renumbering the remaining subsections of H as follows:

PRINCIPAL USE	DISTRICTS											
	SRA SRB	GR	PR	PC <sup>19</sup>	RDO	AP	LMA	LMB	HB	LB <sup>18</sup>	GB	CB
<b>H. MANUFACTURING AND PROCESSING USES</b>												
1. Manufacturing	NO	NO	NO	NO	NO	NO	SP	YES	NO	NO	NO	NO
2. Limited manufacturing	NO	NO	NO	SP	SP	NO	SP	YES	SP	NO	NO	NO
3. Research, experimental, or testing laboratory	NO	NO	NO	YES	YES	NO	YES	YES	SP	NO	SP	SP
4. Printing or publishing establishment with not more than 5,000 sq. ft. of floor area used for production	NO	NO	NO	SP	YES	NO	YES	YES	YES	NO	NO	NO
5. Bottling works for beverages and liquids of every kind (excluding alcoholic beverages)	NO	NO	NO	NO	NO	NO	NO	YES	NO	NO	NO	NO
<b>6. Brewery, Distillery, or Winery with Tasting Room</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>	<b>PB</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>
7. Major Nonresidential Project	NO	NO	NO	PB	PB	NO	PB	PB	PB	NO	PB	PB
8. Renewable and alternative energy manufacturing facilities <sup>27</sup>	NO	NO	NO	NO	NO	NO	NO	YES	NO	NO	NO	NO
9. Renewable and alternative energy research and development facilities	NO	NO	NO	NO	YES	NO	YES	YES	NO	NO	NO	NO

or take any other action relative thereto. *Referred to Planning Board for study and report.*

**RECOMMENDATION OF THE PLANNING BOARD:** The Planning Board conducted its required Public Hearing on October 13, 2016, at which time they voted unanimously to recommend approval of this article to Town Meeting.

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The Economic Development Director was approached this past summer by a real estate broker working with a company that wanted to purchase a property in East Dedham to make sake, bottle it, warehouse it and distribute it. The present zoning bylaw doesn't allow for the production, bottling, warehousing and distribution of alcoholic beverages. This amendment would allow it by special permit in the Limited Manufacturing A Zoning District by the Planning Board.

## 16. ZONING AMENDMENT – ADDING A NEW DEFINITION TO SECTION 10

**ARTICLE SIXTEEN:** *By the Planning Board at the request of the East Dedham Revitalization Committee.* To see if the Town will vote to amend the Dedham Zoning Bylaws by adding a new definition to Section 10 after “Assisted Living Residence” and before “Buffer Zone,” as follows:

**Brewery, Distillery, or Winery with Tasting Room:** A business located in a building where the primary use is for the production and distribution of malt, spirituous, or vinous beverages which includes warehousing, bottling and distribution of the product. A tasting room is permitted as an accessory use. The facility may host marketing events, special events, and/or factory tours and serve food for the events and tours. The facility may only sell beverages produced by, and commercial goods branded by, the brewery, distillery, or winery. The facility may sell permitted beverages to consumers for consumption off the brewery premises, or take any other action relative thereto. *Referred to Planning Board for study and report.*

**RECOMMENDATION OF THE PLANNING BOARD:** The Planning Board conducted its required Public Hearing on October 13, 2016, at which time they voted unanimously to recommend approval of this article to Town Meeting.

The Economic Development Director was approached this past summer by a real estate broker working with a company that wanted to purchase a property in East Dedham to make sake, bottle it, warehouse it and distribute it. The present zoning bylaw doesn't allow for the production, bottling, warehousing and distribution of alcoholic beverages. This amendment would define what a brewery means.

## 17. ZONING AMENDMENT – ADDING A NEW PARKING REQUIREMENT TO

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## **SECTION 5.1.4**

**ARTICLE SEVENTEEN:** *By the Planning Board at the request of the East Dedham Revitalization Committee. To see if the Town will vote to amend the Dedham Zoning Bylaws by adding a new parking requirement to Section 5.1.4 Required Parking Spaces Table 3 Industrial and Warehouse Uses as follows:*

INDUSTRIAL AND WAREHOUSE USES	
a. Manufacture, processing, assembly, testing, research and development, including the customary accessory uses, but no on-site sales	1 parking space per 500 sq. ft. floor area, but at least 5 parking spaces.
b. Warehouse, storage, and distribution of transshipment as the principal use, which may include customary office and repackaging accessory uses, such as mail order or wholesale, but no on-site retail sales, servicing, or other uses listed in paragraph 5.a. above:	1 parking space per 1,000 sq. ft. floor area, but at least 5 spaces. Where outdoor storage is allowed, 1 additional parking space shall be provided for every 2,000 sq. ft. of outdoor storage area. Separate additional parking shall be provided for trucks, vans, and other fleet vehicles and material handling equipment based on site.
c. Contractors, yards, lumber yards, bulk sales of fuel (tank farms) or building materials, utility company or public utility materials and equipment storage, and similar uses requiring large spaces for indoor or outdoor storage of trucks, special purpose vehicles, equipment, and materials:	1 parking space per 500 sq. ft. floor area, plus 1 parking space per 500 sq. ft. of outdoor storage of materials and commodities, in addition to off-street screened parking for fleet trucks, vans, and special purpose vehicles or equipment based on site.
d. <b>Brewery, Distillery, or Winery with Tasting Room</b>	<b>1 parking space per 500 sq. ft. floor area, but at least 5 parking spaces. 1 parking space per 200 sq. ft. when there is a tasting room</b>

or take any other action relative thereto. *Referred to Planning Board for study and report.*

**RECOMMENDATION OF THE PLANNING BOARD:** The Planning Board conducted its required Public Hearing on October 13, 2016, at which time they voted unanimously to recommend approval of this article to Town Meeting.

There isn't a specific parking requirement for a brewery if article 15 and 16 were to be approved this article would establish a parking requirement for a brewery.

## **18. ZONING AMENDMENT – ADDING A NEW SECTION: MORATORIUM ON MARIJUANA ESTABLISHMENTS**

**ARTICLE EIGHTEEN:** *By Trust Fund Commissioner Brian M.B. Keaney and Board of Health Member Jason Brogan. To see if the Town will vote to amend the Zoning Bylaws by inserting a new section as set forth below, and further to authorize the Town Clerk to*

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*identify and assign an appropriate number for said section in accordance with Section 1-5 of the Charter.*

## **Section \_: MORATORIUM ON MARIJUANA ESTABLISHMENTS**

### **Section \_1: HISTORY**

By vote at the State election on November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, distribution, possession and use of marijuana for recreational purposes. The law provides that it is effective on December 15, 2016.

### **Section \_2: PURPOSE**

This Bylaw is designed to allow the Town of Dedham sufficient time to engage in a planning process to address the effects of Marijuana Establishments and uses in the Town and to enact bylaws and regulations in a manner consistent with sound land use and municipal planning goals and objectives.

Currently under the Zoning Bylaw, Marijuana Establishments are not a permitted use in the Town pursuant to *Section 3 Principal Use Regulations Table*. Any regulations promulgated by the State Cannabis Control Commission are expected to provide guidance to the Town in regulating Marijuana Establishments newly authorized. The regulation of recreational marijuana raises novel and complex legal, planning, and public safety issues and the Town needs time to study and consider the regulation of Marijuana Establishments and address such novel and complex issues, as well as to address the potential impact of the State regulations on local zoning and to undertake a planning process to consider amending the Zoning Bylaw regarding regulation of Marijuana Establishments and other uses related to the regulation of recreational marijuana.

### **Section \_3: DEFINITION**

“Marijuana Establishments” shall mean a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business, as defined by Massachusetts law only, registered by the Cannabis Control Commission, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or

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ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to consumers.

## **Section .4: MORATORIUM**

For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for Marijuana Establishments. The moratorium shall be in effect through November 30, 2017. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of recreational marijuana in the Town, consider the Cannabis Control Commission regulations regarding Marijuana Establishments and related uses, and shall consider adopting new Zoning Bylaws to address the impact and operation of Marijuana Establishments and related uses, or take any other action relative thereto. *Referred to Planning Board for study and report.*

**RECOMMENDATION OF THE PLANNING BOARD:** The Planning Board conducted its required Public Hearing on October 13, 2016, at which time they voted unanimously to recommend approval of this article to Town Meeting.

This Bylaw is designed to allow the Town of Dedham sufficient time to engage in a planning process to address the effects of Marijuana Establishments and uses in the Town and to enact bylaws and regulations in a manner consistent with sound land use and municipal planning goals and objectives.

## **19. REPORT OF THE BYLAW REVIEW COMMITTEE**

**ARTICLE NINETEEN:** *By the Bylaw Review Committee.* To see if the Town will vote to accept and act upon a report of the Bylaw Review Committee pursuant to the provisions of Section 7-2 of the Town Charter, or take any other action relative thereto. *Referred to Bylaw Review Committee and Finance and Warrant Committee for study and report.*

**RECOMMENDATION OF THE FINANCE AND WARRANT COMMITTEE:** That it be indefinitely postponed.

As required by the Town Charter, the Bylaw Review Committee convened on two



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separate occasions to review with departments, boards, committees and commissions any proposed changes to the Town Bylaws. No changes were proposed, and therefore no action is required at this time.

## **20. AUTHORIZE SPECIAL LEGISLATION TO GRANT ADDITIONAL LICENSES FOR THE SALE OF ALCOHOLIC BEVERAGES FOR FEDERAL REALTY INVESTMENT TRUST D/B/A THE DEDHAM PLAZA**

**ARTICLE TWENTY:** : *By Attorney and District 4 Town Meeting Representative Kevin F. Hampe, at the request of Federal Realty Investment Trust (doing business as The Dedham Plaza, 725 Providence Highway, Dedham, MA)*

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court to file the following special legislation on behalf of the Town of Dedham provided, however, that the General Court may make clerical or editorial changes of form only to such bill, unless the Board of Selectmen approves amendments to the bill prior to enactment by the General Court, and provided further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition.

AN ACT AUTHORIZING THE TOWN OF DEDHAM TO GRANT AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES AND AN ADDITIONAL LICENSE FOR THE SALE OF WINE AND MALT BEVERAGES TO BE DRUNK ON PREMISES

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

Section 1. Notwithstanding Section 17 of Chapter 138 of the General Laws, or any other general or special law to the contrary, the licensing authority of the Town of Dedham may grant one (1) additional license for the sale of all alcoholic beverages to be drunk on the premises under section 12 of said Chapter 138 and one (1) additional wine and malt beverages license to be drunk on the premises under section 12 of said Chapter 138. The licenses shall be subject to all of said Chapter 138, except said section 17.

Section 2. The licensing authority shall restrict the licenses granted under Section 1 above to entities located at the premises known as The Dedham Plaza located at 725 Providence Highway in the Town of Dedham, MA. Licenses issued pursuant to this Act

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shall not be transferable to any other locations, persons, corporations, or organizations.

Section 3. Notwithstanding Sections 12 and 77 of Chapter 138 of the General Laws, the licensing authority for the Town of Dedham may restrict the licenses issued pursuant to this Act to holders of Common Victualer licenses.

Section 4. The additional licenses authorized by this Act shall be subject to an original application fee of \$5,000.00 more than the annual fee for existing alcoholic beverage licenses in the Town of Dedham, MA. The additional \$5,000.00 fee shall be deposited into an economic development account in the Town of Dedham and expended consistently with the purposes of such account.

Section 5. The licenses granted under this Act if revoked or no longer in use, may be granted by the licensing authority to new applicants who meet the criteria of this Act.

Section 6. This Act shall take effect upon its passage.

or take any other action relative thereto. *Referred to the Finance and Warrant Committee for study and report.*

**RECOMMENDATION OF THE FINANCE AND WARRANT COMMITTEE:** That it be so voted.

Article 20 would authorize the Town to petition the Legislature to authorize the Board of Selectmen to issue one additional All Alcoholic Common Victualer License and one additional Wine and Malt Common Victualer License for use at the property known as the Dedham Plaza, 725 Providence Highway, Dedham, MA.
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## **21. AUTHORIZE BOARD OF SELECTMEN TO RELEASE AND CONVEY SEWER EASEMENT ON 1056 EAST STREET**

**ARTICLE TWENTY-ONE:** *By the Town Manager at the request of the Director of Engineering.* To see if the Town will vote to authorize the Board of Selectmen to release and convey to the owner of the property at 1056 East Street identified as Assessors' Parcel ID 78-1 that sewer easement granted to the Town by deed recorded with the Norfolk Registry of Deeds in Book 32764, Page 91, or take any other action relative thereto. *Referred to Finance and Warrant Committee for study and report.*

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***RECOMMENDATION OF THE FINANCE AND WARRANT COMMITTEE:*** That it be so voted.

Article 21 would authorize the Board of Selectmen to release and convey a sewer easement currently held by the Town on Liana Lane; the property formerly known as 1056 East Street.

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# APPENDICES

**ARTICLE THREE (the information below reflects the original authorization to borrow in Article 19 of the May 19, 2014 Town Meeting)**

**ARTICLE NINETEEN:** *By the Board of Selectmen.* To see if the Town will vote to authorize the Board of Selectmen to acquire by gift, purchase or eminent domain, for general municipal purposes, all or a portion of the land and improvements identified in the Assessors' records as 450 Washington Street, shown as Lot 107 on Assessors' Map 108 and described in the deed recorded with the Norfolk County Registry of Deeds in Book 10442, Page 47 (the Ames School property), and further to raise and appropriate, transfer, or borrow a sum of money for the acquisition, improvement, renovation, demolition, construction/ reconstruction, and equipping of said real property and for the improvement, renovation, demolition, construction/reconstruction and equipping of that real property now owned by the Town located at 26 Bryant Street (Town Hall), 436 Washington Street (Main Fire Station) and 434 Washington Street, a portion of which sum may be used, as determined by the Board of Selectmen, to pay a deposit to secure the purchase of 450 Washington Street, and for all costs necessary and related to said acquisition and projects as described above; and further, to transfer the care, custody, management and control of the lands identified as 26 Bryant Street and 436 Washington Street, from such board and for such purposes as such land is presently held, to the Board of Selectmen for general municipal purposes; and to authorize the Board of Selectmen to apply for, accept, and expend any grants or loans in connection herewith, to enter into all agreements, execute any and all documents, and take all action necessary to carry out this project, or take any other action relative thereto. **Voted:** That the Board of Selectmen is authorized to acquire by gift, purchase or eminent domain, for general municipal purposes, all or a portion of the land and improvements identified in the Assessors' records as 450 Washington Street, shown as Lot 107 on Assessors' Map 108 and described in the deed recorded with the Norfolk County Registry of Deeds in Book 10442, Page 47 (the Ames School property), and that the sum of Twenty-Eight Million, Two Hundred and Fifty Thousand Dollars (\$28,250,000) is appropriated to pay costs of the acquisition, improvement, renovation, demolition, construction/ reconstruction, and equipping of said real property and for the improvement, renovation, demolition, construction/reconstruction and equipping of that real property now owned by the Town located at 26 Bryant Street (Town Hall), 436 Washington Street (Main Fire Station) and 434 Washington Street, a portion of which sum may be used, as determined by the Board of Selectmen, to pay a deposit to secure the purchase of 450 Washington Street, and for all costs necessary and related to said acquisition and projects as described above; all for the purpose of

creating, in phases, a Municipal Campus in the Town Center on the above-referenced properties to consist of a new Senior Center and Town Hall in the Ames School in Phase I, a new Police Station in the existing Town Hall in Phase II, and a new or renovated Main Fire Station in approximately its present location in Phase III, provided that additional funding for Phase III remains to be appropriated; that to meet this appropriation, the Treasurer, with the approval of the Selectmen, is authorized to borrow said amount under and pursuant to Chapter 44, Sections 7(3) and 7(3A) of the General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefor, it being further anticipated that debt service for such borrowing will be paid by appropriations transferred from the Robin Reyes Major Capital Facilities Stabilization Fund; and further, to transfer the care, custody, management and control of the lands identified as 26 Bryant Street and 436 Washington Street, from such board and for such purposes as such land is presently held, to the Board of Selectmen for general municipal purposes; and to authorize the Board of Selectmen to apply for, accept, and expend any grants or loans in connection herewith, to enter into all agreements, execute any and all documents, and take all action necessary to carry out this project. **AS DECLARED BY THE MODERATOR 2/3<sup>RD</sup> MAJORITY**

**ARTICLE FIVE (the information below reflects the original authorization in Article 10 of the May 16, 2016 Town Meeting)**

**ARTICLE TEN:** To see if the Town will vote to raise and appropriate or transfer from available funds a sum or sums to one or more special purpose stabilization funds, or take any other action relative thereto. **VOTED ON A NEW ORIGINAL MOTION:** That the followings sums be appropriated from Free Cash \$1,459,986 (6/15 to 12/15 Actual Receipts); \$1,019,625 (3/16 to 6/16 Estimated Receipts); \$330,000 (7/16 Estimated Receipts); and that the following sum be raised an appropriated from the Tax Levy \$2,086,088 (7/16 to 6/17 Estimated Receipts), and that such amounts be deposited into the Robin Reyes Major Capital Facilities Stabilization Fund. **AS DECLARED BY THE MODERATOR A 2/3<sup>rd</sup> MAJORITY**

**ARTICLE EIGHT (the information below reflects the original authorization in Article 13 of the November 17, 2014 Town Meeting)**

**ARTICLE THIRTEEN:** *By the Park and Recreation Commission.* To see what sum of money the Town will vote to raise, appropriate, or transfer from available funds for the development of a comprehensive Park and Recreation Master Plan.

This plan is intended to help meet the needs of current and future residents of all ages from youth to seniors by positioning Dedham to build on the community's unique parks and recreation assets and identify new opportunities. The Master Plan will establish a clear direction to guide the Park and Recreation Commissioners, staff, advisory committees, and interested residents and organizations in their efforts to enhance the community's parks and recreation programs, services and facilities. The plan will evaluate existing facilities, future needs assessment and a blueprint for planning and staffing requirements. And further, to create a Park and Recreation Master Plan Steering Committee to be comprised of: Two (2) members of the Park and Recreation Commission designated by the Commission, one (1) member of the Finance Committee or its designee, one (1) member of the Open Space and Recreation Committee or its designee, and three (3) residents at-large to be appointed by the Moderator. The Park and Recreation Director shall serve as an ex-officio member, or take any other action relative thereto. **VOTED:** That the sum of \$50,000 be appropriated from Free Cash for the purpose of developing a comprehensive Park and Recreation Master Plan, and to create a Park and Recreation Master Plan Steering Committee, comprised of two (2) members of the Park and Recreation Commission designated by the Commission, one (1) member of the Finance Committee or its designee, one (1) member of the Open Space and Recreation Committee or its designee, and three (3) residents at-large to be appointed by the Moderator with all designees authorized hereunder to be residents or employees of the Town of Dedham. The Park and Recreation Director shall serve as an ex-officio member. **BY MAJORITY VOTE**

### **SELECTED STATUTES REFERENCED**

#### **Ch. 44B Community Preservation, Sections 3 to 7**

**Section 3. (a) Sections 3 to 7, inclusive, shall take effect in any city or town upon the approval by the legislative body and their** acceptance by the voters of a ballot question as set forth in this section.

(b) Notwithstanding the provisions of chapter 59 or any other general or special law to the contrary, the legislative body may vote to accept sections 3 to 7, inclusive, by approving a surcharge on real property of not more than 3 per cent of the real estate tax levy against real property, as determined annually by the board of assessors. The amount of the surcharge shall not be included in a calculation of total taxes assessed for purposes of section 21C of said chapter 59.



(b 1/2) Notwithstanding chapter 59 or any other general or special law to the contrary, as an alternative to subsection (b), the legislative body may vote to accept sections 3 to 7, inclusive, by approving a surcharge on real property of not less than 1 per cent of the real estate tax levy against real property and making an additional commitment of funds by dedicating revenue not greater than 2 per cent of the real estate tax levy against real property; provided, however, that additional funds so committed shall come from other sources of municipal revenue including, but not limited to, hotel excises pursuant to chapter 64G, linkage fees and inclusionary zoning payments, however authorized, the sale of municipal property pursuant to section 3 of chapter 40, parking fines and surcharges pursuant to sections 20, 20A and 20A 1/2 of chapter 90, existing dedicated housing, open space and historic preservation funds, however authorized, and gifts received from private sources for community preservation purposes; and provided further, that additional funds so committed shall not include any federal or state funds. The total funds committed to purposes authorized under this chapter by means of this subsection shall not exceed 3 per cent of the real estate tax levy against real property, less exemptions, adopted. In the event that the municipality shall no longer dedicate all or part of the additional funds to community preservation, the surcharge of not less than 1 per cent shall remain in effect, but may be reduced pursuant to section 16.

(c) All exemptions and abatements of real property authorized by said chapter 59 or any other law for which a taxpayer qualifies as eligible shall not be affected by this chapter. The surcharge to be paid by a taxpayer receiving an exemption or abatement of real property authorized by said chapter 59 or any other law shall be reduced in proportion to the amount of such exemption or abatement.

(d) Any amount of the surcharge not paid by the due date shall bear interest at the rate per annum provided in section 57 of said chapter 59.

(e) The legislative body may also vote to accept one or more of the following exemptions:

(1) for property owned and occupied as a domicile by a person who would qualify for low income housing or low or moderate income senior housing in the city or town;

(2) for class three, commercial, and class four, industrial, properties as defined in

section 2A of said chapter 59, in cities or towns with classified tax rates;

(3) for \$100,000 of the value of each taxable parcel of residential real property;  
or

(4) for \$100,000 of the value of each taxable parcel of class three, commercial property, and class four, industrial property as defined in section 2A of said chapter 59.

*[ Paragraph added in subsection (e) by 2016, 218, Sec. 100 effective November 7, 2016.]*

A person claiming an exemption provided under this subsection may apply to the board of assessors, in writing, on a form approved by the commissioner of revenue, on or before the deadline for an application for exemption under section 59 of chapter 59. Any person aggrieved by the decision of the assessors, or by their failure to act, upon such application, may appeal as provided in sections 64 to 65B, inclusive, of chapter 59. Applications for exemption under this chapter shall be open for inspection only as provided in section 60 of chapter 59.

(f) Upon approval by the legislative body, the actions of the body shall be submitted for acceptance to the voters of a city or town at the next regular municipal or state election. The city or town clerk or the state secretary shall place it on the ballot in the form of the following question:

"Shall this (city or town) accept sections 3 to 7, inclusive of chapter 44B of the General Laws, as approved by its legislative body, a summary of which appears below"

(Set forth here a fair, concise summary and purpose of the law to be acted upon, as determined by the city solicitor or town counsel, including in said summary the percentage of the surcharge to be imposed.)

If a majority of the voters voting on said question vote in the affirmative, then its provisions shall take effect in the city or town, but not otherwise.

(g) The final date for notifying or filing a petition with the city or town clerk or the state secretary to place such a question on the ballot shall be 35 days before the city or town election or 60 days before the state election.

(h) If the legislative body does not vote to accept sections 3 to 7, inclusive, at least 90 days before a regular city or town election or 120 days before a state election, then a question seeking said acceptance through approval of a particular surcharge rate with exemption or exemptions, may be so placed on the ballot when a petition signed by at least 5 per cent of the registered voters of the city or town requesting such action is filed with the registrars, who shall have seven days after receipt of such petition to certify its signatures. Upon certification of the signatures, the city or town clerk or the state secretary shall cause the question to be placed on the ballot at the next regular city or town election held more than 35 days after such certification or at the next regular state election held more than 60 days after such certification.

(i) With respect to real property owned by a cooperative corporation, as defined in section 4 of chapter 157B, that portion which is occupied by a member under a proprietary lease as the member's domicile shall be considered real property owned by that member for the purposes of exemptions provided under this section. The member's portion of the real estate shall be represented by the member's share or shares of stock in the cooperative corporation, and the percentage of that portion to the whole shall be determined by the percentage of the member's shares to the total outstanding stock of the corporation, including shares owned by the corporation. This portion of the real property shall be eligible for any exemption provided in this section if the member meets all requirements for the exemption. Any exemption so provided shall reduce the taxable valuation of the real property owned by the cooperative corporation, and the reduction in taxes realized by this exemption shall be credited by the cooperative corporation against the amount of the taxes otherwise payable by or chargeable to the member. Nothing in this subsection shall be construed to affect the tax status of any manufactured home or mobile home under this chapter, but this subsection shall apply to the land on which the manufactured home or mobile home is located if all other requirements of this clause are met. This subsection shall take effect in a city or town upon its acceptance by the city or town.

Section 4. (a) Upon acceptance of sections 3 to 7, inclusive, and upon the assessors' warrant to the tax collector, the accepted surcharge shall be imposed.

(b) After receipt of the warrant, the tax collector shall collect the surcharge in the amount and according to the computation specified in the warrant and shall pay the amounts so collected, quarterly or semi-annually, according to the schedule

for collection of property taxes for the tax on real property, to the city's or town's treasurer. The tax collector shall cause appropriate books and accounts to be kept with respect to such surcharge, which shall be subject to public examination upon reasonable request from time to time.

(c) The remedies provided by chapter 60 for the collection of taxes upon real estate shall apply to the surcharge on real property pursuant to this chapter.

Section 5. (a) A city or town that accepts sections 3 to 7, inclusive, shall establish by ordinance or by-law a community preservation committee. The committee shall consist of not less than five nor more than nine members. The ordinance or by-law shall determine the composition of the committee, the length of its term and the method of selecting its members, whether by election or appointment or by a combination thereof. The committee shall include, but not be limited to, one member of the conservation commission established under section 8C of chapter 40 as designated by the commission, one member of the historical commission established under section 8D of said chapter 40 as designated by the commission, one member of the planning board established under section 81A of chapter 41 as designated by the board, one member of the board of park commissioners established under section 2 of chapter 45 as designated by the board and one member of the housing authority established under section 3 of chapter 121B as designated by the authority, or persons, as determined by the ordinance or by-law, acting in the capacity of or performing like duties of the commissions, board or authority if they have not been established in the city or town. If there are no persons acting in the capacity of or performing like duties of any such commission, board or authority, the ordinance or by-law shall designate those persons.

(b)(1) The community preservation committee shall study the needs, possibilities and resources of the city or town regarding community preservation, including the consideration of regional projects for community preservation. The committee shall consult with existing municipal boards, including the conservation commission, the historical commission, the planning board, the board of park commissioners and the housing authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the committee shall hold one or more public informational hearings on the needs, possibilities and resources of the city or town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the city or town.

(2) The community preservation committee shall make recommendations to the legislative body for the acquisition, creation and preservation of open space; for the acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition, creation, preservation, rehabilitation and restoration of land for recreational use; for the acquisition, creation, preservation and support of community housing; and for the rehabilitation or restoration of open space and community housing that is acquired or created as provided in this section; provided, however, that funds expended pursuant to this chapter shall not be used for maintenance. With respect to community housing, the community preservation committee shall recommend, whenever possible, the reuse of existing buildings or construction of new buildings on previously developed sites. With respect to recreational use, the acquisition of artificial turf for athletic fields shall be prohibited; provided, however, that any project approved by a municipality for the acquisition of artificial turf for athletic fields prior to July 1, 2012 shall be a permitted use of community preservation funding.

(3) The community preservation committee may include in its recommendation to the legislative body a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with community preservation.

(c) The community preservation committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the community preservation committee shall constitute a quorum. The community preservation committee shall approve its actions by majority vote. Recommendations to the legislative body shall include their anticipated costs.

(d) After receiving recommendations from the community preservation committee, the legislative body shall take such action and approve such appropriations from the Community Preservation Fund as set forth in section 7, and such additional non-Community Preservation Fund appropriations as it deems appropriate to carry out the recommendations of the community preservation committee. In the case of a city, the ordinance shall provide for the mechanisms under which the legislative body may approve or veto appropriations made pursuant to this chapter, in accordance with the city charter.

(e) For the purposes of community preservation and upon the recommendation of the community preservation committee, a city or town may take by eminent domain under chapter 79, the fee or any lesser interest in real property or waters located in such city or town if such taking has first been approved by a two-thirds vote of the legislative body. Upon a like recommendation and vote, a city or town may expend monies in the Community Preservation Fund, if any, for the purpose of paying, in whole or in part, any damages for which a city or town may be liable by reason of a taking for the purposes of community preservation.

(f) Section 16 of chapter 30B shall not apply to the acquisition by a city or town, of real property or an interest therein, as authorized by this chapter for the purposes of community preservation and upon recommendation of the community preservation committee and, notwithstanding section 14 of chapter 40, for purposes of this chapter, no such real property, or interest therein, shall be acquired by any city or town for a price exceeding the value of the property as determined by such city or town through procedures customarily accepted by the appraising profession as valid.

A city or town may appropriate money in any year from the Community Preservation Fund to an affordable housing trust fund.

Section 6. In each fiscal year and upon the recommendation of the community preservation committee, the legislative body shall spend, or set aside for later spending, not less than 10 per cent of the annual revenues in the Community Preservation Fund for open space, not less than 10 per cent of the annual revenues for historic resources and not less than 10 per cent of the annual revenues for community housing. In each fiscal year, the legislative body shall make appropriations from the Community Preservation Fund as it deems necessary for the administrative and operating expenses of the community preservation committee and such appropriations shall not exceed 5 per cent of the annual revenues in the Community Preservation Fund. The legislative body may also make appropriations from the Community Preservation Fund as it deems necessary for costs associated with tax billing software and outside vendors necessary to integrate such software for the first year that a city or town implements the this chapter; provided, however, that the total of any administrative and operating expenses of the community preservation committee and the first year implementation expenses shall not exceed 5 per cent of the annual revenues in the Community Preservation Fund.

Funds that are set aside shall be held in the Community Preservation Fund and spent in that year or later years; provided, however, that funds set aside for a specific purpose shall be spent only for the specific purpose. Any funds set aside may be expended in any city or town. The community preservation funds shall not replace existing operating funds, only augment them.

Section 7. Notwithstanding the provisions of section 53 of chapter 44 or any other general or special law to the contrary, a city or town that accepts sections 3 to 7, inclusive, shall establish a separate account to be known as the Community Preservation Fund of which the municipal treasurer shall be the custodian. The authority to approve expenditures from the fund shall be limited to the legislative body and the municipal treasurer shall pay such expenses in accordance with chapter 41.

The following monies shall be deposited in the fund: (i) all funds collected from the real property surcharge or bond proceeds in anticipation of revenue pursuant to sections 4 and 11; (ii) additional funds appropriated or dedicated from allowable municipal sources pursuant to subsection (b1/2) of section 3, if applicable; (iii) all funds received from the commonwealth or any other source for such purposes; and (iv) proceeds from the disposal of real property acquired with funds from the Community Preservation Fund. The treasurer may deposit or invest the proceeds of the fund in savings banks, trust companies incorporated under the laws of the commonwealth, banking companies incorporated under the laws of the commonwealth which are members of the Federal Deposit Insurance Corporation or national banks, or may invest the proceeds in paid up shares and accounts of and in co-operative banks or in shares of savings and loan associations or in shares of federal savings and loan associations doing business in the commonwealth or in the manner authorized by section 54 of chapter 44, and any income therefrom shall be credited to the fund. The expenditure of revenues from the fund shall be limited to implementing the recommendations of the community preservation committee and providing administrative and operating expenses to the committee.

### **Ch. 80, Betterments**

Section 1. Whenever a limited and determinable area receives benefit or advantage, other than the general advantage to the community, from a public improvement made by or in accordance with the formal vote or order of a board of officers of the commonwealth or of a county, city, town or district, and such order states that betterments are to be assessed for the improvement, such board

shall within six months after the completion of the improvement determine the value of such benefit or advantage to the land within such area and assess upon each parcel thereof a proportionate share of the cost of such improvement, and shall include in such cost all damages awarded therefor under chapter seventy-nine; but no such assessment shall exceed the amount of such adjudged benefit or advantage. The board shall in the order of assessment designate as the owner of each parcel the person who was liable to assessment therefor on the preceding January first under the provisions of chapter fifty-nine.

Section 2. An order under section one which states that betterments are to be assessed for the improvement shall contain a description sufficiently accurate for identification of the area which it is expected will receive benefit or advantage, other than the general advantage to the community, from such improvement, and shall refer to a plan of such area, and shall contain an estimate of the betterments that will be assessed upon each parcel of land within such area; and such order, plan and estimate shall be recorded, within ninety days from the adoption of the order, or from the acceptance by a town of the laying out, relocation or alteration of a way in case such acceptance is required before the establishment thereof, in the registry of deeds of every county or district in which the benefited area is situated. No betterments shall be assessed for such improvement unless the order, plan and estimate are recorded as herein provided, nor upon any parcel of land not within such area, nor for a greater amount than such estimate.

Section 3. An owner of land abutting on a public improvement and liable to assessment therefor under this chapter may give notice in writing to the board, within three months after the award of damages is made, that he elects to surrender his land; and if said board adjudge that the public convenience and necessity require the taking of such abutting estate for the improvement named, they may take the whole thereof, and shall thereupon estimate its value, excluding the benefit or advantage accruing from such improvement; and such owner shall convey the estate to the body politic or corporate on behalf of which the assessment was made and may recover therefrom in contract the value so estimated. The commonwealth, county, city, town or district may sell any portion of said land which is not needed for such improvement.

Section 4. Within a reasonable time after making the assessment the board shall certify to the assessors the list of assessments upon land in each town who shall forthwith commit such assessments with their warrant to the collector of taxes



thereof, and he shall forthwith send notice in accordance, except as to the date of notice, with section three of chapter sixty, to the person designated under section one as the owner of each parcel assessed, and any demand for the payment of such assessment shall be made upon such person. Except as otherwise herein provided, the collector shall have the same powers and be subject to the same duties with respect to such assessments as in the case of the annual taxes upon real estate, and the law in regard to the collection of the annual taxes, to the sale of land for the non-payment thereof and to redemption therefrom shall apply to assessments made under this chapter, so far as the same are applicable; but the owner of land assessed shall not be personally liable for the assessment thereon. Every collector of taxes receiving a list and warrant from the assessors shall collect the assessment therein set forth, and at such times as the assessors shall direct, or in the case of assessments relating to state funded projects, as the collector of taxes and the board determine shall pay over to the treasurer of the body politic on behalf of which the assessment was made the amounts collected by him.

Section 5. The owner of any real estate upon which betterments have been assessed may, within six months after notice of such assessment has been sent out by the collector, file with the board a petition for an abatement thereof, and the board shall grant such abatement as may be necessary to make such assessment conform to section one. Such petition may be filed with the clerk or secretary of the board, or delivered by mail or otherwise at their office. The board shall within ten days after their decision upon the petition give written notice thereof to the petitioner. If an assessment is abated by the board the assessment so determined shall stand as the assessment upon the land, and if it has not been paid shall be collected in the same manner as the original assessment. If the assessment has been paid, the person by whom it was paid shall be reimbursed by the body politic on behalf of which it was assessed to the amount of the abatement allowed, with interest at the rate of six per cent per annum from the time of payment.

Section 6. If a suit in which the validity of an assessment is drawn in question is brought within the time for filing a petition to the board for the abatement thereof or within six months after the determination of an earlier suit involving the same question, brought within the time for filing such petition, which failed for want of jurisdiction, defect of form or other like cause not decisive of the merits of the controversy, the petition may be filed within six months after the final determination of such suit.

Section 7. A person who is aggrieved by the refusal of the board to abate an assessment in whole or in part may within thirty days after notice of their decision appeal therefrom by filing a petition for the abatement of such assessment in the superior court for the county in which the land assessed is situated. If a single parcel of land so assessed lies in more than one county the petition may be filed in the superior court for either such county, and the court in which such petition is first filed shall have exclusive jurisdiction thereof.

Section 8. If a person who is entitled to petition for an abatement under this chapter dies within the time limited for such petition without having filed the same, his executor, administrator, heir or devisee, if interested, may, within one year after his interest vests, file such petition in the same manner and with the same effect as if filed by the deceased in his lifetime.

Section 9. Upon the filing of a petition under section seven, process shall issue and service be made as in suits in equity upon the body politic on behalf of which the assessment was made. Any defense to the petition not relating to the amount of the assessment must be pleaded within thirty days of the return day of the subpoena; but no answer relating solely to the amount of the assessment shall be filed, and there shall be no default for failure to enter an appearance. The trial shall be by the court unless one of the parties within the time prescribed in actions at law files a notice that he desires a trial by jury; and the court may appoint an auditor. Interrogatories may be filed with the same effect as in actions at law. The court, as the request of any party, shall advance the petition so that it may be heard and determined with as little delay as possible. In case petitions have been filed for the assessment of damages and for the abatement of betterments with respect to the same parcel of land and the same public improvement, the petitions shall be tried together. In case of trial by jury, if either party requests it the jury shall view the premises. If the assessment is not reduced the respondent shall recover costs and an execution shall issue therefor as in actions at law; but if the assessment is reduced the petitioner shall recover judgment for costs, and the assessment so determined shall stand as the assessment upon the land, and if it has not been paid shall be collected in the manner provided for an original assessment. If the assessment has been paid

judgment shall be entered for the petitioner for the amount of the reduction, with interest at the rate of four per cent per annum from the time of payment.

Section 10. A person who is aggrieved by the refusal of a board of officers of a city, town or district to abate an assessment may, instead of pursuing the remedy provided by section seven, appeal within the time limited therein to the county commissioners of the county in which the land assessed is situated. The person so appealing shall, within ten days after the filing of said appeal, give written notice thereof to such city, town or district. Such notice may be given by mailing a copy of the appeal by registered mail, postage prepaid, to the board which made the assessment or to the clerk of such city, town or district. The county commissioners shall hear the parties, and shall have the same powers and duties with respect to the abatement of such assessment as the board by which it was assessed, and may make an order as to costs. The decision of the county commissioners shall be final

Section 10A. If the board with which a petition for the abatement of an assessment has been duly filed in accordance with the provisions of section five fails to act upon said petition within four months of the date of the filing of such petition, the petition shall be deemed to be denied, and the petitioner shall have the right within sixty days after the expiration of said four months to appeal as if the board had in fact denied the said petition; provided, that if the assessment has been paid, no appeal shall be taken after the expiration of ten months from the time of payment.

Section 11. If an assessment is made upon land the whole or part of which is leased, the owner shall pay the assessment, and may collect of the lessee an additional rent for the portion so leased equal to ten per cent per annum on that proportion of the amount paid which the value of the leased portion bears to that of the whole estate, after deducting from the whole amount any money received for damages to such land in excess of what he has necessarily expended thereon by reason of such damages. A lessee aggrieved by the imposition of this burden may, within six months from the time demand is made upon him for such additional rent, file a petition in the superior court for the county in which the land is situated, to determine the proportion of the assessment which he ought to bear, and the proportion determined upon the petition shall be substituted for the proportion provided by this section. If such proportion is reduced the lessee shall recover costs from the owner; otherwise the owner shall recover costs from the lessee.

Section 12. Assessments made under this chapter shall constitute a lien upon the land assessed. The lien shall take effect upon the recording of the order stating

that betterments are to be assessed for the improvement. Notwithstanding any other provision of this section or chapter eighty-three, if a county, city, town, or district elects to send notice to the owner of the land assessed indicating the amount of the assessment for the betterment, and said owner pays the amount due, no lien shall be recorded. The assessors shall indicate on the next tax bill that the amount of the betterment assessment has been paid and no further notation or demand shall be made on land so assessed. Except as otherwise provided, such lien shall terminate at the expiration of two years from October first in the year in which the assessment is first placed on the annual tax bill under section thirteen or, if an assessment has been apportioned, from October first in the year in which the last portion is so placed upon the annual tax bill, whichever is later, if in the meantime in either case the estate has been alienated and the instrument alienating the same has been recorded. If there is no recorded alienation within such period, the lien shall continue until there is a recorded alienation. If the validity of an assessment made under this chapter is called in question in any legal proceeding to which the board which made the assessment or the body politic for the benefit of which it was made is a party, instituted prior to the expiration of the lien therefor, the lien shall continue until one year after the validity of the assessment is finally determined, even though an alienation be recorded in the meantime. If at any time while a lien established by this section is in force, a sale or taking cannot in the opinion of the collector be legally made because of any federal or state law or because of any injunction or other action of, or proceeding in, any federal or state court or because of the action of any administrative body, the lien shall, if the statement provided for in section thirty-seven A of chapter sixty is filed, continue as provided in said section thirty-seven A, subject, however, to any lawful action under any paramount authority conferred by the constitution or laws of the United States or the constitution of the commonwealth. If the time for payment of an assessment is extended under section thirteen A or under any general or special law, the lien shall, if the statement provided for in section thirty-seven A of chapter sixty is filed, continue as provided in said section thirty-seven A. A lien under this section may be dissolved by filing for record in the registry of deeds of the county or district where the land subject to the lien lies a certificate, in a form approved by the commissioner of revenue, from the collector of taxes that the assessment, constituting the lien, together with any interest and costs thereon, has been paid or legally abated. The collector of taxes shall charge four dollars for each certificate so issued, and the money so received shall be paid into the town treasury.

*[ Text of section effective until November 7, 2016. For text effective November 7, 2016, see below.]*

Section 13. Assessments made by a board of the commonwealth under this chapter shall bear interest at one rate of five per cent per annum or, at the election of the board at a rate not to exceed two per cent above the rate of interest chargeable to the body politic on behalf of which the assessment was made, for the betterment project to which the assessments relate, from the thirtieth day after assessments have been committed to the collector. All other assessments made under this chapter shall bear interest at one rate of five per cent per annum or, at the election of the city or town at a rate equal to two per cent above the rate of interest chargeable to the city or town, for the betterment project to which the assessments relate, from the thirtieth day after assessments have been committed to the collector. The assessors shall add each year to the annual tax assessed with respect to each parcel of land all assessments, constituting liens thereon, which have been committed to the collector prior to January second of such year and which have not been apportioned as hereinafter provided, remaining unpaid, as certified to them by the collector, when the valuation list is completed, with interest to the date when interest on taxes becomes due and payable. At any time before the completion by the assessors of the valuation list for the year in which such assessments will first appear on the annual tax bill, the board of assessors may, and at the request of the owner of the land assessed shall, apportion all assessments or unpaid balances thereof made under this chapter into such number of equal portions, not exceeding twenty, as is determined by said board or as is requested by the owner, as the case may be, but no one of such portions shall be less than five dollars; provided, that, if an original assessment exceeds one hundred dollars and has been placed upon the annual tax bill, or has been apportioned into a number of portions less than twenty and the first portion has been placed upon an annual tax bill, the board of assessors may in its discretion, upon a request for the apportionment of such assessment into twenty portions made by the owner prior to a sale or taking of the land for the non-payment of such assessment or portion and upon payment of any necessary intervening charges and fees and such portions of such assessment as would have become due and payable if the request for apportionment had been seasonably made, apportion or reapportion the said assessment as aforesaid, and if any other tax or assessment constituting a lien upon the parcel to which the assessment so apportioned or reapportioned relates remains unpaid after such apportionment or reapportionment, the collector may institute proceedings anew for the sale or taking of such parcel at any time prior to the expiration of the lien or of a period

of twenty days after such apportionment or reapportionment, whichever is the later. In any case in which an assessment relates to a state-funded project, the apportionment or reapportionment described herein shall be undertaken in accordance with the terms aforesaid by the board on whose behalf the assessment was made; provided, however, that the apportionment shall be made of said assessments or unpaid balances together with any interest due thereon. The assessors shall add one of said portions, with interest on the amount remaining unpaid from thirty days after the commitment of the original assessment to the collector to the date when interest on taxes becomes due and payable, to the first annual tax upon the land and shall add to the annual tax for each year thereafter one of said portions and one year's interest on the amount of the assessment remaining unpaid until all such portions shall have been so added; all assessments and apportioned parts thereof, and interest thereon as herein provided, which have been added to the annual tax on any parcel of land shall be included in the annual tax bill thereon. After an assessment or a portion thereof has been placed on the annual tax bill, the total amount of said bill shall be subject to interest under and in accordance with the provisions of section fifty-seven of chapter fifty-nine.

Notwithstanding a prior apportionment, the assessors, upon written application of the owner of the land assessed, shall order that the full amount, or any portion thereof, remaining unpaid of any assessment be payable forthwith and shall commit said amount, together with interest thereon from thirty days after the commitment of the original assessment if no portion has been added to a tax levy, or if a portion has been added to a tax levy, then with interest from October first of the year to which the last portion has been added, with their warrant therefor, to the collector for collection. If a part of a prior apportioned assessment is ordered to be payable forthwith, the payments shall be credited to the terminal or final years so as to reduce the period of payment.

### **Chapter 80: Section 13. Apportionment and reapportionment**

*[ Text of section as amended by 2016, 218, Sec. 191 effective November 7, 2016. For text effective until November 7, 2016, see above.]*

Section 13. Assessments made by a board of the commonwealth under this chapter shall bear interest at 1 rate of 5 per cent per annum or, at the election of the board at a rate up to 2 per cent above the rate of interest chargeable to the body politic on behalf of which the assessment was made, for the betterment project to which the assessments relate, from the thirtieth day after the date the

notice of such assessments was sent by the collector. All other assessments made under this chapter shall bear interest at 1 rate of 5 per cent per annum or, at the election of the city, town or district at a rate up to 2 per cent above the rate of interest chargeable to the city, town or district for the betterment project to which the assessments relate, from the thirtieth day after the date the notice of such assessments was sent by the collector. The assessors shall add each year to the annual tax assessed with respect to each parcel of land all assessments, constituting liens thereon, which have been committed to the collector prior to January second of such year and which have not been apportioned as hereinafter provided, remaining unpaid, as certified to them by the collector, when the valuation list is completed, with interest to the date when interest on taxes becomes due and payable. At any time before the completion by the assessors of the valuation list for the year in which such assessments will first appear on the annual tax bill, the board of assessors may, and at the request of the owner of the land assessed shall, apportion all assessments or unpaid balances thereof made under this chapter into such number of equal portions, not exceeding 20, as is determined by said board or as is requested by the owner, as the case may be, but no one of such portions shall be less than 5 dollars; provided, that, if an original assessment exceeds \$100 and has been placed upon the annual tax bill, or has been apportioned into a number of portions less than 20 and the first portion has been placed upon an annual tax bill, the board of assessors may in its discretion, upon a request for the apportionment of such assessment into 20 portions made by the owner prior to a sale or taking of the land for the non-payment of such assessment or portion and upon payment of any necessary intervening charges and fees and such portions of such assessment as would have become due and payable if the request for apportionment had been seasonably made, apportion or reapportion the said assessment as aforesaid, and if any other tax or assessment constituting a lien upon the parcel to which the assessment so apportioned or reapportioned relates remains unpaid after such apportionment or reapportionment, the collector may institute proceedings anew for the sale or taking of such parcel at any time prior to the expiration of the lien or of a period of 20 days after such apportionment or reapportionment, whichever is the later. In any case in which an assessment relates to a state-funded project, the apportionment or reapportionment described herein shall be undertaken in accordance with the terms aforesaid by the board on whose behalf the assessment was made; provided, however, that the apportionment shall be made of said assessments or unpaid balances together with any interest due thereon. The assessors shall add one of said portions, with interest on the amount remaining unpaid from 30 days after the date the notice of the original

assessment was sent by the collector to the date when interest on taxes becomes due and payable, to the first annual tax upon the land and shall add to the annual tax for each year thereafter 1 of said portions and 1 year's interest on the amount of the assessment remaining unpaid until all such portions shall have been so added; all assessments and apportioned parts thereof, and interest thereon as herein provided, which have been added to the annual tax on any parcel of land shall be included in the annual tax bill thereon. After an assessment or a portion thereof has been placed on the annual tax bill, the total amount of said bill shall be subject to interest under and in accordance with the provisions of section 57 or section 57C of chapter 59.

Section 13A. The board making the order for the assessment of any betterment upon land which is not built upon may extend the time of payment of the assessment until it is built upon or for a fixed time; but interest at the rate of four per cent per annum shall be paid annually upon the assessment from the time it was made, and the assessment shall be paid within three months after such land is built upon or at the expiration of such fixed time.

Section 13B. In a city or town which accepts the provisions of this section, the board of a county, city, town or district making the order for the assessment of any betterment, or balance of any assessment apportioned in accordance with the provisions of section thirteen, shall, upon the application of the owner of the real property assessed, if such owner is eligible for an exemption under clause Forty-first A of section five of chapter fifty-nine, enter into a deferral and recovery agreement with such owner on behalf of the city or town. In any instance in which a board of the commonwealth makes an order for the assessment of any betterments, said board of the commonwealth may enter into a deferral and recovery agreement on its own behalf in accordance with the terms of this section. Any such application shall be filed with the appropriate board within sixth months after notice of such assessment has been sent out by the collector. Such application may be filed with the clerk or secretary of said board, or delivered by mail or otherwise at their office.

The said agreement shall provide:

(1) that no sale or transfer of such real property may be consummated unless the betterment assessment which would otherwise have been collected on such real property has been paid, with interest as applied in accordance with the provisions of section thirteen;



(2) that upon the demise of the owner of such real property, the heirs-at-law, assignees or devisees shall have first priority to said real property by paying in full the total betterment assessment which would otherwise have been due, plus interest; provided, however, if such heir-at-law, assignee or devisee is a surviving spouse who enters into a betterment assessment deferral and recovery agreement under this section, payment of the betterment assessment and interest due shall not be required during the life of such surviving spouse;

(3) that if the betterment assessments due, plus interest, are not paid by the heir-at-law, assignee or devisee or if payment is not postponed during the life of a surviving spouse, such betterment assessments and interest shall be recovered from the estate of the owner; and

(4) that any joint owner or mortgagee holding a mortgage on such property has given written prior approval for such agreement, which written approval shall be made a part of such agreement.

In the case of each betterment assessment deferral and recovery agreement entered into between said board making the order for the assessment of a betterment and the owner or owners of such real property, said board shall forthwith cause to be recorded in the registry of deeds of the county or district in which the city or town is situated a statement of their action which shall constitute a lien upon the land covered by such agreement for such betterment assessment as has been assessed under the provisions of this chapter, plus interest as hereinafter provided. The statement shall name the owner or owners and shall include a description of the land. Unless such a statement is recorded the lien shall not be effective with respect to a bona fide purchaser or other transferee without actual knowledge of such lien. The filing fee for any statement recorded on behalf of a board of the commonwealth shall be paid by the owner or owners of such real property. The filing fee for other such statements shall be paid by the city or town and shall be added to and become a part of the taxes due.

Notwithstanding the foregoing, or any general or special law to the contrary, a city, town or district may elect to: (1) apportion any assessments, or the unpaid balances of such assessments, into annual portions equal to the number of years for which bonds are issued for the project for which the assessments are made; (2) structure the portions so that the amount payable each year for assessment principal and interest combined are as nearly equal as practicable or, in the

alternative, provides for a more rapid amortization of the assessment principal amount where the debt service on the bonds issued for the project is so structured; or (3) make the annual portion so structured payable in the same number of preliminary and actual installments as the real estate tax in the city, town or district, with each installment equal in amount and due at the same time as each installment of the tax.

Notwithstanding a prior apportionment, the assessors, upon written application of the owner of the land assessed, shall order that the full amount, or any portion thereof, remaining unpaid of any assessment be payable forthwith and shall commit said amount, together with interest thereon from 30 days after the date the notice of the original assessment was sent if no portion has been added to a tax levy, or if a portion has been added to a tax levy, then with interest from October 1 of the year to which the last portion has been added, with their warrant therefor, to the collector for collection. If a part of a prior apportioned assessment is ordered to be payable forthwith, the payments shall be credited to the terminal or final years so as to reduce the period of payment.

#### Section 14 - Repealed, 1923, 377, Sec. 6

Section 15. If land which is subject to a lien for an assessment made under this chapter is subsequently divided by sale, mortgage, partition or otherwise and such division has been duly recorded in the registry of deeds, the board, before the land has been advertised for sale for non-payment of the assessment, may, or upon the written request of the owner or mortgagee of a portion thereof, accompanied by a plan sufficient for the identification of the division of the whole estate, with the names of the different owners thereof, shall, divide said assessment or the amount thereof remaining unpaid, and the costs and interest accrued thereon, among the several parcels into which said land has been divided, assessing upon each parcel the part of the original assessment remaining unpaid proportionate to the special benefit received by such parcel from the improvement. After such assessment has been so divided, only the part of the assessment, interest and costs assessed upon each parcel shall constitute a lien upon such parcel. At least seven days prior to making such division the board shall send by registered mail to all owners of any interest in the land assessed, whose addresses are known to them, a notice of their intention to make such division and of the time appointed therefor, unless such notice has been waived. A person aggrieved by any action of the board under this section shall have the same remedy as a person aggrieved by the refusal of the board to abate an

assessment.

Section 16. If an assessment is invalid and has not been paid in full or has been paid under such circumstances that it can be recovered back, it may be reassessed by the board in the amount for which the original assessment ought to have been made, at any time before the expiration of two years from the date of the assessment, if the land has in the meantime been alienated; otherwise at any time before the alienation thereof. Such assessment shall be a lien upon any sum paid on account of the original assessment, and to the extent that it is not thereby satisfied shall be a lien upon the land. It shall be collected in the same manner as an original assessment, and shall in all other respects be subject to this chapter.

Section 17. Whenever a formal vote or order for the laying out or construction of a public improvement, or for the taking of land therefor, states that betterments are to be assessed, no betterments shall be assessed except under this chapter or chapter eighty A, and all proceedings relating to such betterments shall be as herein or therein provided, notwithstanding any special act hitherto enacted.

### **Ch. 83, Sewers, Drains and Sidewalks**

Section 3. The board or officers of a city or town having charge of the repair and maintenance of sewers may, upon request of the owner of land and payment by him of the actual cost thereof, construct a particular sewer from the street line to a house or building. A town may appropriate money for connecting estates within its limits with common sewers, and no estate shall, in any year in which such an appropriation is made, be connected with a common sewer except in the manner hereinafter provided. If bonds or notes are issued to pay the cost of making such connections, the assessments provided for in section twenty-four shall be applied to the payment of such bonds or notes. If the board of health of a town making such appropriation shall order land abutting upon a public or private way in which a common sewer has been laid to be connected with such sewer, or if the owner of such land shall make to the board or officer having charge of the maintenance and repair of sewers application to connect his land with a common sewer, such board or officer shall make such connection.

Section 14. A person who enters his particular drain into a main drain or common sewer, or who by more remote means receives benefit thereby for draining his land or buildings, shall pay to the town a proportional part of the charge of making and repairing the same, and of the charge, not already assessed, of making

and repairing other main drains and common sewers through which the same discharges, which shall be ascertained, assessed and certified by the aldermen, sewer commissioners, selectmen or road commissioners.

Section 23. A town by vote of its town meeting or a city by vote of its board of aldermen or city council shall determine whether it shall pay the whole or a portion of the cost of laying out and constructing main drains or of a system or systems of sewerage and sewage disposal, and if a portion, what portion. If the town or city votes to pay less than the whole cost, in providing for the payment of the remaining portion of the cost of said system or systems the town or city may avail itself of any or all of the methods of payment authorized by law to a town or city, and the provisions of chapter eighty relative to the apportionment, division, reassessment, abatement and collection of assessments, to liens therefor and to interests thereon, shall apply to assessments made under this chapter. At the same meeting at which it determines that any portion of the cost is to be borne by the town or city, it may by vote determine by which of such methods the remaining portion of said cost shall be provided.

Section 24. The owner of any land benefited by the laying out of a particular sewer from the common sewer to the boundary of the way shall pay to the town for the permanent privilege of using the same such reasonable amount as the aldermen or the sewer commissioners, selectmen or road commissioners determine, which may be fixed at the estimated average cost of all such particular sewers within the territory for which a system of sewers has been built or adopted. The board or officers authorized to lay out sewers shall assess the cost of connecting private land with a common sewer under section three upon the land so connected, and may require that an applicant for a connection of his land with a sewer shall pay in advance an amount equal to the estimated assessment therefor, which shall be applied to the payment of the assessment, and the remainder, if any, shall be repaid to the applicant.

### **Ch. 138. Alcoholic Liquors**

Section 12. A common victualler duly licensed under chapter one hundred and forty to conduct a restaurant, an innholder duly licensed under said chapter to conduct a hotel, a pub brewer, a continuing care retirement community and a keeper of a tavern as defined by this chapter, in any city or town wherein the granting of licenses under this section to sell all alcoholic beverages or only wines and malt beverages, as the case may be, is authorized by this chapter, subject however, in the case of a tavern, to the provisions of section eleven A, may be

licensed by the local licensing authorities, subject to the prior approval of the commission, to sell to travelers, strangers and other patrons and customers not under twenty-one years of age, such beverages to be served and drunk, in case of a hotel or restaurant or continuing care retirement community licensee, only in the dining room or dining rooms and in such other public rooms or areas of a hotel as the local licensing authorities may deem reasonable and proper, and approve in writing; and provided further, that the limitations relative to service and consumption in a restaurant or hotel or continuing care retirement community only in the dining rooms and such other public rooms or areas deemed reasonable and proper by the local licensing authority shall not be deemed to preclude the restaurant or hotel from allowing a patron to retain and take off the premises only so much as may remain of a bottled wine purchased by the patron in conjunction with a meal and not totally consumed by the patron during such meal; provided further, that the bottle shall be resealed in accordance with regulations promulgated by the commission and transported in a manner authorized in section 24I of chapter 90 when carried in a motor vehicle, as defined in section 1 of said chapter 90; provided, that no tavern license shall be granted to the holder of a hotel license hereunder. Such sales may also be made, by an innholder licensed hereunder, to registered guests occupying private rooms in his hotel, and in the dining room or dining rooms and in such other public rooms or areas of buildings on the same premises as the hotel and operated as appurtenant and contiguous to and in conjunction with such hotel, and to registered guests occupying private rooms in such buildings and in the case of condominium accommodations that are located appurtenant and contiguous to and also upon the same premises as a hotel, sales may be made by the hotel licensee as the local licensing authorities may deem reasonable and proper, and approve in writing. Such sales may also be made by a continuing care retirement community licensed hereunder, to residents or guests of residents in rooms in a continuing care retirement community, and in the dining rooms and in such other public rooms or areas of buildings on the same premises as the continuing care retirement community and operated as appurtenant and contiguous to and in conjunction with such continuing care retirement community, and to guests of residents in such buildings; provided, however, that such sales may be made by the continuing care retirement community licensee as the local licensing authorities may deem reasonable and proper and approve in writing. Such sales may be made by a restaurant licensee at such stands or locations in a sports arena, stadium, ball park, race track, auditorium or in any one building at an airport as the local licensing authority may deem reasonable and proper, and approve in writing. A local licensing authority may grant a license for the sale of

all alcoholic beverages or a license for the sale of wines and malt beverages at any location on the grounds of a golf course as it deems reasonable and proper. Upon an application for a restaurant license, the local licensing authorities may in their discretion grant such a license authorizing the sale of alcoholic beverages on all days of the week or one authorizing such sale on secular days only, and the decision of such authorities as to which of the two types may be granted upon any particular application shall be final. During such time as the sale of such alcoholic beverages is authorized in any city or town under this chapter, the authority to grant innholders' and common victuallers' licenses therein under chapter one hundred and forty shall be vested in the local licensing authorities; provided, that if a person applies for the renewal of both a common victualler's license or an innholder's license under said chapter one hundred and forty and a hotel or a restaurant license, as the case may be, under this section and the local licensing authorities refuse to grant said common victualler's or innholder's license or fail to act on the applications therefor within a period of thirty days, such applicant may appeal therefrom to the commission in the same manner as provided in section sixty-seven and all the provisions of said section relative to licenses authorized to be issued by local licensing authorities under this chapter shall apply in the case of such common victualler's license or innholder's license. The local licensing authority of any city or town wherein the granting of licenses under this section is authorized, notwithstanding any limitation on the number of licenses the city or town is authorized to grant in section 17, may grant a license to the holder of a farmer-winery license under section 19B or from any other state for service to travelers, strangers, and other patrons and customers who are at least 21 years of age, such wine to be served and drunk on the premises of the winery at such locations on the premises of the farm as the local licensing authority may deem reasonable and proper. For purposes of this section, a farm shall have the meaning ascribed to it in section 1A of chapter 128.

If a license granted under this section to a person holding a license as an innholder or common victualler is suspended or revoked for any particular cause, no action shall be taken on account thereof by such authorities with respect to such innholder's or common victualler's license prior to the expiration of the period provided for an appeal under section sixty-seven in case no such appeal is taken, or prior to the disposition of any such appeal so taken, nor thereafter, except for further cause, in case such disposition is in favor of the appellant. Any club in any city or town wherein the granting of licenses to sell alcoholic beverages, or only wines and malt beverages, as the case may be, is authorized under this chapter may be licensed by the local licensing authorities, subject to

the approval of the commission, to sell such beverages to its members only, and also, subject to regulations made by the local licensing authorities, to guests introduced by members, and to no others.

The local licensing authorities of any city or town wherein the granting of licenses under this section to sell all alcoholic beverages or only wines and malt beverages, as the case may be, is authorized by this chapter, may, subject to the approval of the commission and irrespective of any limitation of number of licenses contained in section seventeen, issue a license to any corporation the members of which are war veterans and which owns, hires or leases in such city or town a building, or space in a building, for the use and accommodation of a post of any war veterans' organization incorporated by the Congress of the United States, to sell such beverages to the members of such post only, and also, subject to regulations made by the local licensing authorities, to guests introduced by such members and to no others.

The local licensing authorities may determine in the first instance, when originally issuing and upon each annual renewal of licenses under this section, the amount of the license fee, for a tavern license or for any other license under this section for the sale of all alcoholic beverages, or for any other license under this section for the sale of wines and malt beverages, and provided that nothing herein shall prevent such authorities from establishing license fees differing in amounts within the limitations aforesaid for restaurant licenses authorizing such sale on secular days only. If different license fees are so established the fee for licenses authorizing the sale of alcoholic beverages on all days of the week shall not be more than twenty-five per cent higher than the fee for licensing such sale on secular days only. Before issuing a license to any applicant herefor under this section, or before a renewal of such license, the local licensing authority shall cause an examination to be made of the premises of the applicant to determine that such premises comply in all respects with the appropriate definition of section one and that the applicant is not less than twenty-one years of age and a person of good character in the city or town in which he seeks a license hereunder. No license shall be issued to any applicant who has been convicted of a violation of a federal or state narcotic drugs law.

The local licensing authorities may accept the surrender of a license issued under this section and may issue in place thereof to the same licensee any other form of license authorized under this section, and may allow as a credit on the fee for the new license the license fee paid for the license surrendered but no refund shall be

authorized. Different licenses issued as aforesaid for any portion of the same license year to the same licensee shall count as one license for the purposes of section seventeen.

The hours during which sales of such alcoholic beverages may be made by any licensee as aforesaid shall be fixed by the local licensing authorities either generally or specially for each licensee; provided, however, that no such sale shall be made on any secular day between the hours of two and eight o'clock antemeridian and that, except as provided in section thirty-three, no such licensee shall be barred from making such sales on any such day after eleven o'clock antemeridian and before eleven o'clock postmeridian, and no tavern shall be kept open on any such day between one o'clock antemeridian and eight o'clock antemeridian; provided, further, that any such licensee or his manager shall not be prohibited from being on the licensed premises at any time; provided, further, that the employees, contractors or subcontractors shall not be prohibited from being upon such premises at any time for the purpose of cleaning, making renovations, making emergency repairs to or providing security for, such premises or preparing food for the day's business or opening or closing the business in an orderly manner. The licensing authority shall not decrease the hours during which sales of such alcohol beverages may be made by a licensee until after a public hearing concerning the public need for such decrease; provided, however, that a licensee affected by any such change shall be given 2 weeks' notice of the public hearing.

No license issued under this section shall be subject to any condition or requirement varying the occupancy of the licensed premises as certified by any person or state or local agency charged with the administration or enforcement of the state building code or any of its rules or regulations.

No person, firm, corporation, association or other combination of persons, directly or indirectly, or through any agent, employee, stockholder, officer or other person, or any subsidiary whatsoever, licensed under the provisions of sections eighteen or nineteen shall be granted a license under this section. In cities and towns which vote to authorize under section eleven the granting of licenses for the sale of all alcoholic beverages, specific licenses may nevertheless be granted under this section for the sale of wines or malt beverages only, or both. The licensing authorities may refuse to grant licenses under this section in certain geographical areas of their respective cities or towns, where the character of the neighborhood may warrant such refusal.



All malt beverages sold by a licensee under this section containing not more than three and two tenths per cent of alcohol by weight shall be expressly sold as such. No malt beverage shall be sold on draught from a tap, faucet or other draughting device, unless there shall plainly appear on or attached to such device, in legible letters, the brand or trade name of the malt beverage so sold therefrom.

In any city or town wherein the granting of licenses under this section to sell alcoholic beverages or wines and malt beverages is authorized, a person may be granted a general on-premise license by the local licensing authorities, subject to the prior approval of the commission, authorizing him to sell alcoholic beverages without food to patrons and customers subject to all other relevant provisions of this chapter, provided that such beverages shall be sold and drunk in such rooms as the licensing authorities may approve in writing. The annual license fee for such general on-premise license shall be determined by the local licensing authority. For the purposes of section eleven an affirmative vote on subdivision A or B shall be considered an authorization for the granting of general on-premise licenses in a city or town.

A common victualler who holds a license pursuant to this section may provide on premises sample wine or malt beverage tasting; provided however, that such licensee shall not solicit orders for wine or malt for off premises consumption; and provided further, that any such wine tasting shall be limited to one ounce per serving and any such malt beverage tasting shall be limited to two ounces per serving and food shall be served in conjunction with any such wine or malt beverage tasting.

In any city or town which votes to accept the provisions of this paragraph, a common victualler, who holds a license under this section to sell wines and malt beverages may, upon written approval, also sell liqueurs and cordials pursuant to said license, subject, however, to all other licensing provisions of this chapter. A common victualler who holds a license for the sale of all alcoholic beverages or holds a license for the sale of wines and malt beverages and who also holds pursuant to this section written approval to sell liqueurs and cordials pursuant to his license may provide on premises sample liqueurs and cordials tasting; provided however, that a licensee shall not solicit orders for liqueurs and cordials for off premises consumption; and provided, further, that any such liqueurs and cordials tasting shall be limited to 1/4 of an ounce per serving and food shall be served in conjunction with any liqueurs and cordials tasting.

A common victualler who holds a license for the sale of all alcoholic beverages may provide on premises sample alcoholic beverages tasting; provided, however, that a licensee shall not solicit orders for alcoholic beverages for off premises consumption; and provided further, that any tasting of alcoholic beverages, other than wines and malt beverages, shall be limited to 1/4 of an ounce per serving and food shall be served in conjunction with any alcoholic beverages tasting. No license shall be issued or renewed under this section until the applicant or licensee provides proof of coverage under a liquor legal liability insurance policy for bodily injury or death for a minimum amount of \$250,000 on account of injury to or death of 1 person, and \$500,000 on account of any 1 accident resulting in injury to or death of more than 1 person. Proof of the insurance coverage required by this section shall be made by filing a certificate of insurance in a form acceptable to the local licensing authority. The insurance shall be subject to sections 5 and 6 of chapter 175A of the General Laws.

Section 17. Except as otherwise provided in this chapter, the number of licenses issued in any city or town under sections twelve and fifteen and in force and effect at any one time during any license year shall be limited as hereinafter provided:

The local licensing authorities of any city or town, except the city of Boston, may grant one license under the provisions of section twelve for each population unit of one thousand or additional fraction thereof, and, in addition, one such license for each population unit of ten thousand or fraction thereof, over the first twenty-five thousand, but may, regardless of population, grant at least fourteen licenses under said section twelve; and the local licensing authorities may also grant one license under the provisions of section fifteen for each population unit of five thousand or additional fraction thereof, but may, regardless of population, grant at least two licenses under said section fifteen.

In addition to the number of licenses otherwise authorized to be granted by the provisions of this section, the local licensing authorities of any city or town, except the city of Boston, which has voted to grant licenses for the sale of all alcoholic beverages as provided in the first question appearing in section eleven, may grant not more than one license for the sale of wines or malt beverages only, or both under section twelve, for each population unit of five thousand or fraction thereof; provided, that in any such city or town, said authorities may grant at least five additional licenses for the sale of such beverages, irrespective of its population; and the local licensing authorities may also grant not more than one

license for the sale of wines or malt beverages only or both under the provisions of section fifteen for each population unit of five thousand or fraction thereof; provided, that in any such city or town said authorities may grant at least five additional licenses for the sale of such beverages, irrespective of its population; and provided, further, that the establishment of this limitation shall not be construed to prevent the renewal of any license granted prior to June fifteenth, nineteen hundred and thirty-seven.

The local licensing authorities of any city or town, except the city of Boston, which has voted to grant licenses for the sale of wines and malt beverages, as provided in the second question appearing in section eleven, and which has also voted to grant licenses for the sale of all alcoholic beverages in packages, as provided in the third question appearing in the said section, may grant additional licenses under section fifteen for the sale of wines or malt beverages only, or both, equal to the number of licenses under the said section otherwise authorized to be granted in any such city or town by the provisions of this section.

The local licensing authorities of any city or town, except the city of Boston, may make an estimate prior to March the first in any year of any temporary increased resident population in such city or town as of July the tenth following, and one additional license under section fifteen, to be effective from April 1 to November 30 or from April 1 to the following January 15 at the discretion of the local licensing authority, may be granted by said authorities for each unit of five thousand or additional fraction thereof of such population as so estimated, and the local licensing authorities of any city or town in Berkshire county, in which the city council, in accordance with the provisions of its charter, or the town, at an annual or special town meeting, votes to authorize such authority to grant winter seasonal licenses, or of any town in Franklin county, may make an estimate not later than October the fifteenth in any year of any temporary increased resident population in such city or town as of February the tenth following, and one additional license under section fifteen, to be effective from December the first to April the first of the year following, may be granted by said authorities for each unit of five thousand or additional fraction thereof of such population as so estimated; provided, that not more than one additional license shall be granted under this paragraph to the same person or for the same premises in any one year; and provided, further, that the local licensing authorities of any city or town, except the city of Boston, may grant, in addition to and irrespective of any limitation of the number of licenses contained in this section, seasonal licenses under section twelve, to be effective from April first to January fifteenth of the

following year, or any portion thereof, and in any city or town in Berkshire county in which the granting of winter seasonal licenses is authorized as above provided, and in any town in Franklin county seasonal licenses under section twelve, to be effective from December the first to April the first, to the amount or number that such authorities deem to be in the public interest. Every estimate hereunder of temporary resident population shall be made and voted upon by the local licensing authorities at a meeting of said authorities called for the purpose after due notice to each of the members thereof of the time, place and purpose of said meeting and after investigation and ascertainment by them of all the facts and after co-operative discussion and deliberation. A copy of such an estimate, signed by a majority of the members of said authorities, stating under the penalties of perjury that all the foregoing requirements have been complied with and that the estimate is true to the best of their knowledge and belief, shall be forwarded forthwith to the commission. Upon the petition of twenty-five persons who are taxpayers of the city or town in which a seasonal license has been so granted, or who are registered voters in the voting precinct or district wherein the licensed premises are situated, filed within five days after the granting of such license, the commission shall, and upon its own initiative at any time may, after a hearing, examine and review any estimate made or action taken by the local licensing authorities in granting the same, and after such examination or review, may rescind, revoke, cancel, modify or suspend any such estimate or action. Nothing in this paragraph shall be deemed to authorize or permit the commission to deny a renewal of, or to rescind, revoke or cancel, because of a decrease in population, any seasonal license outstanding and in full force on April thirtieth, nineteen hundred and fifty.

*[ Fifth paragraph following the introductory paragraph effective until September 1, 2015. For text effective September 1, 2015, see below.]*

The licensing board for the city of Boston may grant 702 licenses for the sale of all alcoholic beverages under section 12; provided, however, that no further original licenses under said section 12 shall be granted until the number of licenses outstanding thereunder shall have been reduced to less than 650 by cancellation or revocation or by the failure of holders of such licenses to apply for renewals and, thereafter, not more 650 licenses under said section 12 shall be granted. The board may grant 250 licenses for the sale of all alcoholic beverages under section 15. The number of licenses for the sale of wines and malt beverages only, or both, in the city shall not exceed 320. The transfer of existing licenses shall be subject to a public hearing in the neighborhood in which the license is to

be relocated, properly advertised and at an appropriate time to afford that neighborhood an opportunity to be present.

*[Fifth paragraph following the introductory paragraph as amended by 2015, 119, Sec. 18 effective September 1, 2015 until September 1, 2016. See 2015, 119, Sec. 79. For text effective until September 1, 2015, see above. For text effective September 1, 2016, see below.]*

The licensing board for the city of Boston may grant 660 licenses for the sale of all alcoholic beverages under section 12. The board may grant 250 licenses for the sale of all alcoholic beverages under section 15. The number of licenses for the sale of wines and malt beverages only, or both, in the city shall not exceed 320. The transfer of existing licenses shall be subject to a public hearing in the neighborhood in which the license is to be relocated, properly advertised and at an appropriate time to afford that neighborhood an opportunity to be present.

*[Fifth paragraph following the introductory paragraph as amended by 2015, 119, Sec. 19 effective September 1, 2016. See 2015, 119, Sec. 80. See also 2014, 287, Sec. 73 as repealed by 2015, 119, Sec. 32 and 2014, 287, Sec. 132 as amended by 2015, 119, Sec. 33. For text effective until September 1, 2016, see above.]*

The licensing board for the city of Boston may grant 665 licenses for the sale of all alcoholic beverages under section 12. The board may grant 250 licenses for the sale of all alcoholic beverages under section 15. The number of licenses for the sale of wines and malt beverages only, or both, in the city shall not exceed 320. The transfer of existing licenses shall be subject to a public hearing in the neighborhood in which the license is to be relocated, properly advertised and at an appropriate time to afford that neighborhood an opportunity to be present.

The licensing board of the city of Boston may grant up to 25 additional licenses for the sale of all alcoholic beverages to be drunk on the premises and up to 30 additional licenses for the sale of wines and malt beverages to drunk on the premises. Notwithstanding the first sentence, 5 of the additional all alcoholic beverages licenses shall be granted only to innholders duly licensed under chapter 140 to conduct a hotel and 10 of the additional all alcoholic beverages licenses shall be granted to existing holders of licenses for the sale of wines and malt beverages under section 12 provided that those licensees return to the licensing board, the licenses that they currently hold. The remaining licenses for the sale of all alcoholic beverages to be drunk on the premises and the 30

additional licenses for the sale of wines and malt beverages to be drunk on the premises shall be granted in the areas designated by the Boston Redevelopment Authority as main street districts, urban renewal areas, empowerment zones or municipal harbor plan areas. Once issued to a licensee in a Boston Redevelopment Authority designated area, the licensing board shall not approve the transfer of that license to a location outside of the designated area. A license granted pursuant to this paragraph shall be nontransferable to any other person, corporation or organization and shall be clearly marked nontransferable on its face. A license issued under this paragraph, that is cancelled, revoked or no longer in use, shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing board and the licensing board may then grant that license to a new applicant consistent with the criteria set forth in this paragraph if the applicant files with the licensing board a letter from the department of revenue and a letter from the department of unemployment assistance indicating that the license is in good standing with those departments and that all applicable taxes, fees and contributions have been paid.

*[ Seventh paragraph following the introductory paragraph effective until September 1, 2016. For text effective September 1, 2016, see below.]*

In addition to the licenses granted pursuant to the preceding 2 paragraphs, the licensing board of the city of Boston may grant up to 30 additional licenses for the sale of all alcoholic beverages to be drunk on the premises and up to 10 additional licenses for the sale of wines and malt beverages to be drunk on the premises in either the zoning districts of Dorchester, East Boston, Hyde Park, Jamaica Plain, Mattapan, Mission Hill and Roxbury as designated by the Boston Zoning Commission or in the areas designated by the Boston Redevelopment Authority as main street districts. A license granted pursuant to this paragraph shall be nontransferable to any other person, corporation or organization and shall be clearly marked "nontransferable" and "neighborhood restricted" on its face. A license issued under this paragraph, if cancelled, revoked or no longer in use at the location of original issuance, shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing board which may then grant that license to a new applicant under the same conditions as specified in this paragraph if the applicant files with the licensing board a letter from the department of revenue and a letter from the department of unemployment assistance indicating that the license is in good standing with those departments and that all applicable taxes, fees and contributions have been paid; provided, however, that a license issued under this paragraph that is

cancelled, revoked or no longer in use at the location of original issuance shall only be issued to a new applicant in the same designated area of the city where the original license was granted."

*[ Seventh paragraph following the introductory paragraph amended by 2014, 287, Secs. 75 and 75B effective September 1, 2016. See 2014, 287, Sec. 132. For text effective until September 1, 2016, see above.]*

In addition to the licenses granted pursuant to the preceding 2 paragraphs, the licensing board of the city of Boston may grant up to 45 additional licenses for the sale of all alcoholic beverages to be drunk on the premises and up to 15 additional licenses for the sale of wines and malt beverages to be drunk on the premises in either the zoning districts of Dorchester, East Boston, Hyde Park, Jamaica Plain, Mattapan, Mission Hill and Roxbury as designated by the Boston Zoning Commission or in the areas designated by the Boston Redevelopment Authority as main street districts. A license granted pursuant to this paragraph shall be nontransferable to any other person, corporation or organization and shall be clearly marked "nontransferable" and "neighborhood restricted" on its face. A license issued under this paragraph, if cancelled, revoked or no longer in use at the location of original issuance, shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing board which may then grant that license to a new applicant under the same conditions as specified in this paragraph if the applicant files with the licensing board a letter from the department of revenue and a letter from the department of unemployment assistance indicating that the license is in good standing with those departments and that all applicable taxes, fees and contributions have been paid; provided, however, that a license issued under this paragraph that is cancelled, revoked or no longer in use at the location of original issuance shall only be issued to a new applicant in the same designated area of the city where the original license was granted."

As used in this section, the following words shall have the following meanings:--  
"Airline club", an establishment that is not open to the general public and which is operated by or for an airline at the airport to provide exclusive or special accommodations to members and their guests in accordance with airline policy.  
"Airport", the General Edward Lawrence Logan International Airport.  
"Boston license", a license for the sale of alcoholic beverages issued pursuant to the preceding paragraph and subject to the city of Boston municipal quota.

"Passenger terminals", the passenger terminals and designated airline clubs within the airport.

"Restricted airport licenses", licenses for: (i) the sale of all alcoholic beverages to be drunk on the premises within the passenger terminals; and (ii) the sale of wines and malt beverages to be drunk on the premises within the passenger terminals.

The licensing board for the city of Boston may grant restricted airport licenses to common victuallers duly licensed under chapter 140 and operating within the passenger terminals, subject to the approval of the alcoholic beverages control commission. Once issued to a licensee within the passenger terminals, the licensing board shall not approve the transfer of a restricted airport license to a location outside of the passenger terminals. A restricted airport license shall be nontransferable to any other person, corporation or organization operating outside the passenger terminals and shall be clearly marked "nontransferable outside the passenger terminals at the airport" on its face. Notwithstanding this section or any other special or general law to the contrary, restricted airport licenses shall not be subject to or counted against the municipal quota set forth in this section including, but not limited to, the city of Boston quota set forth in the sixth paragraph. A restricted airport license, if revoked or no longer in use, shall be returned physically, with all of the legal rights and privileges pertaining thereto, to the licensing board which may then grant that license to a new applicant operating within the passenger terminals, consistent with this paragraph.

Notwithstanding the provisions hereof, no quota established hereunder for any city or town shall be decreased because of any loss in population.

Unless expressly authorized by this chapter, local licensing authorities shall not grant licenses to any person, firm or corporation under more than one section of this chapter.

The population of any city or town for the purposes of this section shall be that enumerated in the most recent federal census.

In determining the population of any city or town for the purposes of this section the state secretary shall, if the last preceding census is the national census, by a writing filed by him in his office, make such adjustments in such census as will reflect the criteria used in making the last preceding state census.



Notwithstanding the provisions of this section, the number of licenses which a city or town was authorized to grant in nineteen hundred and thirty-three under this section shall not be decreased because of any loss in population, but only because of cancellation, revocation or failure to renew existing licenses, and no further original licenses shall be granted in a city or town where the population has decreased since nineteen hundred and thirty-three until the number of licenses outstanding shall have been reduced for the aforementioned reasons to a number which is less than that which may be granted based on such reduced population and thereafter the number of licenses in force and effect at any one time during the license year shall be based on such reduced population as provided in this section.

In addition to the number of licenses otherwise authorized to be granted pursuant to this section, a city or town may grant additional licenses under sections 12, 15 or 15F to the holder of a farmer-winery license under section 19B or in any other state for the sale of wine produced by or for the applicant. A license granted by a city or town under said section 12, 15 or 15F shall not be include as a license for purposes of determining the number of licenses allowed to be granted by a city or town under this section. A license granted pursuant to this paragraph shall be nontransferable to any other person, corporation or organization and shall be clearly marked nontransferable on its face.

Section 77. The licensing authorities may, after hearing or reasonable opportunity therefor, cancel any license issued under this chapter if the licensee ceases to conduct the licensed business. If the local licensing authorities determine that a license should be cancelled as aforesaid the licensee may appeal to the commission as if such authorities had refused to grant the license upon an original application therefor, and the decision of the commission upon such appeal shall be final.

**FINANCE COMMITTEE**



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Please bring this report to  
Town Meeting for reference.