

# COMMONWEALTH OF MASSACHUSETTS

## WORCESTER, SS

TO ANY CONSTABLE IN THE TOWN OF WESTBOROUGH, IN THE COUNTY OF WORCESTER, GREETINGS:

In the name of the Commonwealth of Massachusetts, you are directed to notify and warn the inhabitants of the Town of Westborough, qualified to vote in elections and town affairs, to meet in various precincts in Westborough on Tuesday, the 5<sup>th</sup> day of March, 2013 at 8:00 A.M. for the following purposes:

### **ARTICLE 1: Annual Town Election (Board of Selectmen)**

To bring in their votes for:

- Two (2) Selectmen (3 years)
- One (1) Planning Board member (5 years)
- Two (2) School Committee members (3 years)
- Three (3) Trustees of Public Library (3 years)
- One (1) Westborough Housing Authority member (5 years)
- One (1) Westborough Housing Authority member (3 years)

Polls will be open from 8 A.M. to 8 P.M. in the following places:

- Precinct 1 - Gibbons Middle School Gym, 20 Fisher Street
- Precinct 2 - Hastings Elementary School Gym, 111 East Main Street
- Precinct 3 - Gibbons Middle School Gym, 20 Fisher Street
- Precinct 4 - Mill Pond Intermediate School Gym, 6 Olde Hickory Path
- Precinct 5 - Mill Pond Intermediate School Gym, 6 Olde Hickory Path

And to act on the following articles at the adjourned session of said meeting on March 16, 2012, at 1:00 P.M. in the Westborough High School Auditorium and Gymnasium on West Main Street.

### **ARTICLE 2: Rule of the Meeting (Town Moderator)**

To see if the Town will vote to establish a rule for the meeting, applicable to this Town Meeting only, that will limit portable microphone service to the main floor and the first row of the balcony only. Those in the second row of the balcony and farther back will come forward and utilize the standing microphones. The Moderator shall ordinarily give priority in speaking to those in line at the standing microphones, which shall be available to any voter, or to take any action in relation thereto.

*Town Manager's Statement – The Town Moderator is seeking to keep the flow of discussion moving at a better pace rather than to have to wait while wireless microphones are moved around the audience.*

### **ARTICLE 3: Town Reports (Advisory Finance Committee)**

To see if the Town will vote to hear the reports of the several town officers and committees, and to dissolve any committees established by Town Meeting that have fulfilled their mission, or to take any other action thereon.

**ARTICLE 4: Fiscal Year 2013 Budget Transfers (Town Manager)**

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to fund any FY2013 operating budget transfers, or take any other action thereon.

**ARTICLE 5: Amend Wage and Salary Schedule (Personnel Board)**

To see if the Town will vote to amend the Salary Administration Plan by replacing the current plan, Section 1-A; 1-B (Wage and Salary Schedule, Non-Union) and Section V (Special Rate Section) with the following new schedules effective July 1, 2013:

Section 1-A

	FY2014 - Non-Union Rate Schedules						
Grade	MIN	2	3	4	5	6	MAX
S-30	1,844	1,938	2,034	2,133	2,241	2,352	2,471
S-26	1,517	1,592	1,671	1,757	1,844	1,938	2,034
S-25	1,444	1,517	1,592	1,671	1,757	1,844	1,938
S-24	1,375	1,444	1,517	1,592	1,671	1,757	1,844
S-23	1,312	1,375	1,444	1,517	1,592	1,671	1,757
S-22	1,248	1,312	1,375	1,444	1,517	1,592	1,671
S-21	1,186	1,248	1,312	1,375	1,444	1,517	1,592
S-20	1,133	1,186	1,248	1,312	1,375	1,444	1,517
S-19	1,077	1,133	1,186	1,248	1,312	1,375	1,444
S-18	1,026	1,077	1,133	1,186	1,248	1,312	1,375
S-17	978	1,026	1,077	1,133	1,186	1,248	1,312
S-16	932	978	1,026	1,077	1,133	1,186	1,248
S-15	887	932	978	1,026	1,077	1,133	1,186
S-14	844	887	932	978	1,026	1,077	1,133
S-13	806	844	887	932	978	1,026	1,077
S-12	766	806	844	887	932	978	1,026
S-11	731	766	806	844	887	932	978

Section 1-B

Grade	MIN	2	3	4	5	6	MAX
H-10	18.17	19.06	20.03	21.06	22.06	23.21	24.30
H-9	17.29	18.17	19.06	20.03	21.06	22.06	23.21
H-8	16.46	17.29	18.17	19.06	20.03	21.06	22.06
H-7	15.67	16.46	17.29	18.17	19.06	20.03	21.06
H-6	14.95	15.67	16.46	17.29	18.17	19.06	20.03
H-5	14.20	14.95	15.67	16.46	17.29	18.17	19.06
H-4	13.55	14.20	14.95	15.67	16.46	17.29	18.17
H-3	12.90	13.55	14.20	14.95	15.67	16.46	17.29
H-2	12.30	12.90	13.55	14.20	14.95	15.67	16.46
H-1	11.73	12.30	12.90	13.55	14.20	14.95	15.67

## Section V

	SPECIAL RATE SCHEDULE - FY2014	
Veterans Agent/Director of Vet Svcs		\$ 16,332
Veterans Asst Agent/Director of Vet Svcs		\$ 4,064

Or take any other action thereon.

*Town Manager's Statement – This article would fund a 1.6% Cost of Living Adjustment for non-union town staff. For the past three fiscal years, non-union town staff received a 0%; 1% and 1.5% Cost of Living Adjustment.*

### **ARTICLE 6: Fiscal Year 2014 Operating Budgets (Advisory Finance Committee)**

To see what sums the Town will vote to raise and appropriate or transfer from available funds for the support of the several offices, departments, boards and commissions of the Town of Westborough for Fiscal Year 2014 beginning July 1, 2013, and ending June 30, 2014, or to take any other action thereon.

### **ARTICLE 7: Regularly Recurring Articles (Town Manager)**

To see what action the Town may take on the following items, **A** through **H**, which may be voted as a block, or singly, or in any combination, but however voted, will be treated for accounting purposes as if each item were voted as a separate article:

**A. (Fire Department)** To see if the Town will vote to reauthorize a revolving fund, pursuant to MGL, Chapter 44, Section 53E ½, for the purpose of receiving and expending funds for public CPR and First Aid Training by the Fire Department. Receipts from materials, fees and tuition shall be deposited into this revolving fund, and expenditures not to exceed the sum of One Thousand Dollars (\$1,000) for fiscal year 2014 may be made by the Fire Department,

*Town Manager's Statement – This article provides an off-budget source to provide CPR training programs through charging fees and depositing the fees directly into a revolving fund to pay ongoing expenses for the program.*

**B. (Youth and Family Services)** To see if the Town will vote to reauthorize a revolving fund pursuant to Chapter 44, Section 53E ½ of the Massachusetts General Laws for the purpose of receiving and expending funds for youth activities by the Youth and Family Services Department. Receipts from deposits for youth activities will be deposited into this account, and expenditures not to exceed the sum of Fifteen Thousand Dollars (\$15,000) for the fiscal year 2014 may be made by the Youth and Family Services Department,

*Town Manager's Statement – This article provides funding for youth programs such as Hot Summer Nights and Red Cross Baby Sitter Training and allows for revenues from each participant to offset costs of the program.*

**C. (Board of Assessors)** To see if the Town will vote to accept the provisions of Section 4 of Chapter 73 of the Acts of 1986 as amended by Chapter 126 of the Acts of 1988 granting increased real estate tax exemptions in an amount equal to 100% to certain qualified persons effective July 1, 2013 and ending June 30, 2014,

*Town Manager's Statement - This article incorporates all of the real estate property tax exemptions to provide a uniform method of exemptions and requires annual adoption and provides that the Town exceeds the minimum exemption provided by statute (i.e. if the statutory exemption is \$500, Westborough provides a \$1,000 exemption).*

**D. (Advisory Finance Committee)** To see if the Town will vote to raise and appropriate or transfer from available funds the sum of Three Hundred Thousand Dollars (\$300,000), or such other amount as the Town Meeting may approve, for the Finance Committee General Reserve Fund, transfer Fifty Thousand Dollars (\$50,000), or such other amount as the Town Meeting may approve, from Water retained earnings for the Water Enterprise Reserve Fund, transfer Fifty Thousand Dollars (\$50,000), or such other amount as the Town Meeting may approve, from Sewer retained earnings for the Sewer Enterprise Reserve Fund, and transfer Twenty Thousand Dollars (\$20,000) from Country Club retained earnings for the Country Club Enterprise Reserve Fund, or such other amounts as the Town Meeting may approve, in accordance with Section 6 of Chapter 40 of the Massachusetts General Laws,

*Town Manager's Statement – These accounts provide funding for unforeseen expenses during the year through various reserve funds.*

**E. (Recreation Department)** To see if the Town will vote to raise and appropriate or transfer from available funds the sum of Two Thousand Five Hundred Dollars (\$2,500), or such other amount as the Town Meeting may approve, for the annual July 4<sup>th</sup> celebration to be expended by the Westborough July 4<sup>th</sup> Committee under the direction of the Board of Selectmen,

*Town Manager's Statement – This article pays part of the cost for the annual July 4<sup>th</sup> celebration.*

**F. (Local Emergency Planning Committee)** To see if the Town will vote to reauthorize a revolving fund, pursuant to MGL Chapter 44, Section 53 E ½, for the purpose of receiving and expending funds as a result of reimbursable incidents allowed under MGL Chapter 21E involving hazardous materials releases. Receipts generated shall be deposited into this revolving fund and expenditures, not to exceed One Hundred Thousand Dollars (\$100,000) for the fiscal year 2014 may be made by the Local Emergency Planning Committee to the respective responding departments,

*Town Manager's Statement – This article provides a revolving fund for the purpose of reimbursing the Town for personnel costs, vehicle usage, and replacing consumable goods used in the stabilization of hazardous materials releases. This allows for the Town to maintain resources when there are emergencies. Due to their complex nature, Town resources such as fire, police, emergency medical services, public works, and health may be needed for an extended time. Also, many hazardous materials handlers are insured whereby funds are available to reimburse these departments for their expenses.*

**G. Reconstruction and Improvement of Town Roads (Chapter 90) (DPW)**

To see if the Town will vote to transfer from available funds the sum of Eight Hundred Twenty Four Thousand Two Hundred Eighty Six Dollars (\$824,286) or such other amount as the Town Meeting may approve, to construct, reconstruct, or improve the town roads, and further, to authorize the Board of Selectmen to apply for and accept a grant in this full amount, more or less, which is to be the State's contribution and/or reimbursement under Section 34 (2A) of chapter 90 of the Massachusetts General Laws for work done under this article, or to take any other action thereon.

*Town Manager's Statement – This article allows the Town to borrow from itself thus avoiding interest costs to pay the upfront costs under the Chapter 90 funds (which is a reimbursable program) from Mass DOT for the purpose of repairing town roads.*

**H. Healthcare Reimbursement Account**

To see if the Town will vote to raise and appropriate the sum of Six Thousand Six Hundred Dollars (\$6,600) or such other amount as the Town Meeting may approve, to fund the Healthcare Reimbursement Account as agreed with the Town's Collective Bargaining Units, or take any other action thereon.

*Town Manager's Statement – This article funds the Town's Healthcare Reimbursement Account by setting aside an estimated amount (based on use through January) to allow the Town to meet its obligation to the Collective Bargaining Units. This was previously funded through the annual budget at \$150,000 and was removed last year with funding of \$100,000. At this point, the Town just needs to fund the difference of the amount used each year.*

**ARTICLE 8: Capital Improvement Plan (Town Manager/Capital Expenditure Planning Committee)**

To see what action the Town may take on the following items, **A** through **L**, which may be voted as a block, or singly, or in any combination, but however voted, will be treated for accounting

purposes as if each item were voted as a separate article:

**A. DPW Garage Roof (Public Works)** To see if the Town will vote to transfer from free cash and appropriate the sum of Fifteen Thousand Dollars (\$15,000), or such other amount as the Town Meeting may approve, for the purpose of studying the condition of the DPW Garage roof and develop bid specifications for replacement of the roof, or take any other action relative thereto.

*Town Manager's Statement – This article would review the need to replace the garage roof, develop a cost estimate and bid specifications. The roof at the DPW Garage is original to the building and installed in 1980 (33 years old) and has developed severe leaks. The cost to replace the roof will be on a future Town Meeting warrant.*

**B. DPW F350 Utility Truck (Public Works)** To see if the Town will vote to transfer from free cash and appropriate the sum of Fifty Seven Thousand Dollars (\$57,000), or such other amount as Town Meeting may approve, for the purpose of replacing Truck #13, or take any other action relative thereto.

*Town Manager's Statement – This article would replace a 2001 Ford F350 which was scheduled to be replaced in 2006. The vehicle has become unreliable and has excessive body rot and it has been difficult to pass state inspections.*

**C. DPW Backhoe (Water/Sewer)** To see if the Town will vote to transfer from Water Retained Earnings and appropriate the sum of One Hundred and Five Thousand Dollars (\$105,000) or such other amount as Town Meeting may approve, and from Sewer Retained Earnings and appropriate the sum of Thirty Five Thousand Dollars (\$35,000) or such other amount as Town Meeting may approve, for the purpose of replacing the 1995 Case Backhoe used by the Water and Sewer Department, or take any other action relative thereto.

*Town Manager's Statement – This article would fund the replacement of the 1995 Case Backhoe, scheduled to be replaced in 2005. This piece of equipment is used for emergency services (water/sewer main breaks) and routine water inspections. It has become unreliable and has excessive body rot.*

**D. DPW Van (Sewer)** To see if the Town will vote to transfer from Sewer Retained Earnings and appropriate the sum of Twenty Nine Thousand Five Hundred Dollars (\$29,500) or such other amount as Town Meeting may approve, for the purpose of replacing a 1999 Chevy Astro Van, or take any other action relative thereto.

*Town Manager's Statement – This article would fund the replacement of the 1999 Chevy Astro Van scheduled to be replaced in 2004 and used by the Sewer Department for emergency repairs and routine maintenance on the system and pump stations. This vehicle has become unreliable and has excessive body rot.*

**E. Pumper Truck Repairs (Fire)** To see if the Town will vote to transfer from free cash and appropriate the sum of Seventy Five Thousand Dollars (\$75,000) or such other amount as Town Meeting may approve, for the purpose of making various repairs on four fire trucks, or take any other action relative thereto.

*Town Manager's Statement – In order to prolong the life of four fire trucks, the Fire Department is seeking to have various repairs made on the following vehicles: 1996 Pumper – Needs corrosion repairs to its underneath and rear frame assembly and a complete brake job. 1991 Pumper – Needs pump repairs, radiator repairs, water manifold replacement and fuel injectors replaced. 1998 Rescue/Pumper – Needs a full brake job. Fire 1 needs a brake job, corrosion repairs and tires.*

**F. Window Replacement (Library)** To see if the Town will vote to transfer from free cash and appropriate the sum of One Hundred and Sixty Thousand Dollars (\$160,000) or such other amount as Town Meeting may approve, for the purpose of replacing the windows in the public Library, or take any other action relative thereto.

*Town Manager's Statement – This article is to replace the original windows in the 1908 section of the library which are original to the building. Many of the exterior frames are rotted and can no longer be opened due to safety concerns. These windows are single paned windows which are not energy efficient.*

**G. Police Cruisers (Police)** To see if the Town will vote to transfer from free cash and appropriate the sum of One Hundred Six Thousand Five Hundred Dollars (\$106,500) or such other amount as Town Meeting may approve, for the purpose of replacing two police cruisers and to purchase a 2010 Dodge Challenger used by the Department, or take any other action relative thereto.

*Town Manager's Statement – This article is part of the ongoing replacement schedule for the police department cruisers and seeks to replace two police cruisers that were scheduled to be replaced in 2011 and 2015 and to purchase the 2010 Dodge Challenger (\$17,000) that was donated to the Police Department to use at no cost for three years.*

**H. Fales Stairway (School Department)** To see if the Town will vote to transfer from free cash and appropriate the sum of Fifty Five Thousand Dollars (\$55,000) or such other amount Town Meeting may approve, for the purpose of replacing the exterior stairway at Fales Elementary School, or take any other action relative thereto.

*Town Manager's Statement – This article would replace the original 1963 exterior stairway at Fales Elementary School. The stairway is sinking causing a tripping hazard at the landing and the base of the rails are cracked and deteriorated. Additionally, the landing is cracked in several places and the stairs are separating. Students use this stairway daily to access the playground.*

**I. Mill Pond Gym Floor Replacement (School Department)** To see if the Town will vote to transfer from free cash and appropriate the sum of Two Hundred and Fifteen Thousand Dollars (\$215,000) or such other amount Town Meeting may approve, for the purpose of replacing the gym floor at the Mill Pond School, or take any other action relative thereto.

*Town Manager's Statement – This article would replace the deteriorated floor at the Mill Pond School Gym installed in 2001. The floor has rips and blisters resulting in a tripping hazard. The floor had a 2 year warranty and did not begin cracking until it was 3 years old. The proposal is to install the same type of floor as the existing floor in the Armstrong School with an estimated useful life of 15-20 years.*

**ARTICLE 9: Westborough Town Hall Building Renovation (Municipal Building Committee)**

To see if the Town will vote to appropriate a sum of money for the renovation of the Town Hall; to determine whether this appropriation shall be raised by borrowing or otherwise; or to take any other action relative thereto.

*Town Manager's Statement – This article is for the renovation of the Town Hall as previously proposed at an estimated cost of \$7,100,000 which is an increase of the estimate in 2012 of \$6,624,252. This increase is due to a 5% escalation in the costs due the construction industry getting better as the economy has improved plus \$185,000 to cover the cost of moving and leasing space for one year. As discussed at various meetings over the past year, the Town has reviewed the option of moving out of Town Hall and leasing space as an option and after a public hearing on this proposal, it was clear residents wanted the Town to remain in Town Hall. Additionally, during the past year, the Town obtained costs for making piecemeal repairs to Town Hall (and not installing an elevator and renovating the 2<sup>nd</sup> and 3<sup>rd</sup> floors, which would subsequently not support the plan to expand the Police Station in the Forbes Building), this cost was estimated at \$3,851,281 (plus mold remediation which would be over and above) and would be very disruptive due to removal of asbestos, mold and replacement of the electrical, heating and windows. This project is proposed within the limits of Proposition 2½ and maintains the “phased-in” approach discussed at the Fall 2012 Town Meeting that was planned to undertake four building projects over the course of the next several years while maintaining the total debt costs of the Town at a level less than Fiscal Year 2012.*

**ARTICLE 10: Forbes Roof Repairs (Municipal Building Committee)**

To see if the Town will vote to appropriate a sum of money for the repairs to the roof at the Forbes Municipal Building; to determine whether this appropriation shall be raised by borrowing or otherwise; and to take any other action relative thereto.

*Town Manager's Statement – The Town previously appropriated \$330,000 for replacement of the roof at the Forbes Municipal Building. The Town delayed this project while reviewing when the Forbes Building may be renovated so that it could be done in conjunction with the renovation. However, during a recent storm, a section of the trim around the roof blew off and while undertaking repairs, it was determined that there was substantial rot underneath the roof. This article is to supplement the previously appropriated \$330,000 to pay the full cost of the roof*



repair.

**ARTICLE 11: Installation of High Visibility Pedestrian Safety Crosswalk Signs (Bicycle and Pedestrian Ad Hoc Committee)**

To see if the Town will vote to transfer from free cash and appropriate the sum of Twenty Thousand Dollars (\$20,000) or such other amount as Town Meeting may approve, for the purpose of installing high visibility pedestrian safety crosswalk signs and high visibility reflectors at high traffic pedestrian street crossings in town; or take any other action in relation thereto.

*Town Manager's Statement – The Bicycle and Pedestrian Ad Hoc Committee is seeking to fund installation (through the DPW) of high visibility crosswalk signage estimated at a cost of \$1,000 per crosswalk for the 20 highest priority crosswalks in Town in order to improve public safety.*

**ARTICLE 12: Town Water System (Public Works)**

To see if the Town will vote to transfer from the following:

Article 10 of the Special Town Meeting in FY13	\$150,000.00
Article 21C of the Annual Town Meeting for FY07	\$ 2,791.27
Article 18A of the Annual Town Meeting for FY08	\$ 9,675.00
Article 17E of the Annual Town Meeting for FY09	\$ 5,058.43

And from the Water Retained Earnings One Hundred and Ten Thousand Nine Hundred Twenty Five and 81/100 Dollars (\$110,925.81) and appropriate, for the repair, replacement, upgrade and installation of various facilities within the water system including but not limited to cleaning/maintenance of the distribution system and investigation/design/modification of the water treatment process; or take any other action thereon.

*Town Manager's Statement – This article would provide funding from previous Water Fund Articles for work that has been completed and transfer from the Water Fund Retained Earnings Account for undertaking regular maintenance and cleaning on the water distribution system to reduce issues with dirty water as well as reviewing the water treatment process.*

**ARTICLE 13: CSX Mitigation Receipts Reserved Account Appropriation (Town Manager)**

To see if the Town will vote to transfer from the CSX Mitigation Receipts Reserved Account and appropriate the sum of One Million Dollars (\$1,000,000) for the purpose of providing the following:

<u>Department</u>	<u>Issue</u>	<u>Cost</u>
Fire	HazMat Training for 35 Firefighters	\$ 230,000
Fire	Foam Trailer Unit	\$ 100,000
Fire	10T GVW PickUP	\$ 40,000
Fire	Heated Storage Facility for Foam Unit	\$ 30,000
DPW	Electronic Height Sensor	\$ 150,000
Other	Walkup/Flanders Traffic Signal	\$ 250,000
Conservation	Beaver Removal	\$ 40,000
DPW	Paving Walkup or Painting E. Main Street Bridge	\$ 160,000
Total:		\$ 1,000,000

Or take any other action relative thereto.

*Town Manager's Statement – As part of the CSX Site Plan Approval, the Town negotiated with CSX to provide mitigation for their use which included providing assistance to the Fire Department and Public Works Department for items related to the CSX use of their property and for removal of beavers along the CSX rail line. In the past, the Town has been able to expend mitigation funds without Town Meeting appropriation, but was recently made aware of a Department of Revenue opinion that requires Town Meeting approval before spending mitigation funds.*

#### **ARTICLE 14: Assabet Regional Vocational School Reserve Fund (Assabet)**

To see if the Town will vote to approve Assabet Regional Vocational School District's establishment of a Reserve Fund for Compensated Absences for Employees Terminating Employment per provisions of MGL Ch. 40, Section 13D, or take any other action relative thereto.

*Town Manager's Statement – There is no direct appropriation associated with this article. The Assabet Regional School Committee voted to include \$25,000 in their FY14 operating budget to begin funding this account. The purpose of the account is to set aside funds to pay for future liabilities of sick and vacation time per contractual agreements.*

#### **ARTICLE 15: Youth Commission Membership (Youth Commission)**

To see if the Town will vote to increase the number of members of the Youth Commission established by Article 9 of the 1983 Annual Town Meeting from five (5) members with overlapping three year terms to nine (9) members, four (4) of whom will be high school juniors or high schools seniors or of the equivalent ages, and who will have overlapping two year terms. For the first year of implementation, of the four high school students, the seniors shall serve one year terms and juniors shall serve two year terms, or take any other action relative thereto.

*Town Manager's Statement – The Youth Commission was originally established as a 9-member Commission in 1983 and then subsequently the membership was reduced in 1989 to 5 members.*

*The Commission is seeking to increase the membership back to 9 members with 4 of the members being high school students (2 seniors and 2 juniors) to obtain their input on the activities of the Youth Commission.*

**ARTICLE 16: Proposed Amendment to the Westborough Zoning Bylaws to Regulate Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation by its complete disallowance. (Planning Board)**

To see if the Town will vote to amend the Westborough Zoning Bylaws by adding definitions of Medical Marijuana Treatment and Dispensing Facilities, Marijuana and Marijuana Cultivation by amending “Article 5, Definitions” adding the following:

**“Medical Marijuana Treatment and Dispensing Facilities”** shall mean a not-for-profit entity, as defined by Massachusetts Law as a Medical Marijuana Treatment Center, registered under this law, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, or sells material to qualifying patients or their personal caregivers. It shall also include any establishment having as any portion of its stock in trade marijuana or non-FDA approved marijuana based products or its active ingredient, THC (tetrahydrocannabinol); or paraphernalia for the consumption or delivery of marijuana or products containing marijuana as allowed for medical uses under Massachusetts Law, including but not limited to retail distribution, wholesale distribution or growth and/or cultivation of marijuana; production or sale of marijuana (cannabis) seeds; or the refinement or manufacturing or sale of marijuana infused products.

**Marijuana:** In addition to the Commonwealth’s definition under Chapter 94C of Mass General Laws, our definition shall include: Marijuana, Marihuana, Cannabis, Hashish, Cannabis seeds, THC (tetrahydrocannabinol) and its derivatives and extracts as well as any substances containing THC whether in plant, including its flowers, oil, resin, solid, liquid or aerosol form.

**Marijuana Cultivation:** The process of propagation, including germination, using soil, hydroponics, or other mediums to generate growth and maturity. The intended process of bringing a plant or other grown product to maturity for harvesting, sale, refining or use as an ingredient in further manufacturing or processing. This definition encompasses marijuana cultivation related to Medical Marijuana Treatment and Dispensing Facilities, personal cultivation by qualifying patients or cultivation by personal caregivers on behalf of qualifying patients or others.

And by amending the Westborough Zoning Bylaws by amending **Article 5, Definitions, Agricultural** by adding the following sentence:

**“Agricultural shall not include any uses or activities associated Medical Marijuana Treatment and Dispensing Facilities or Marijuana Cultivation. Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation are defined elsewhere in Article 5 Definitions.”**

so that the final definition shall be as follows:

**Agricultural:** shall mean the science, art and business of cultivating the soil, producing crops, and raising of livestock, useful to man. Agricultural shall not include any uses or activities associated Medical Marijuana Treatment and Dispensing Facilities or Marijuana Cultivation. Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation are defined elsewhere in Article 5 Definitions.

And by amending Section 2300, Use Regulation Schedule, by adding a new line as follows:

	C	R	AA AB	BA	G2	BB	IA	IB	IC	ID	M	AE	M1	All Other	DPOD	MUD
<b>Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation:</b>	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N

And by creating a new **Section 5700** as follows:

## **5700. MEDICAL MARIJUANA TREATMENT AND DISPENSING FACILITIES and MARIJUANA CULTIVATION**

“Note: Land use in the Town of Westborough is governed first and foremost as described in the “Use Regulation Schedule” of Section 2300 in which uses for Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation are disallowed altogether. If any aspect of Section 2300 of these Bylaws is adjudged by any court of competent jurisdiction to be invalid as it relates to the disallowance of land use for Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation in the Town of Westborough, the zoning of Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation uses in the Town of Westborough shall be governed in accordance with this section, Section 5700”.

### **5710. PURPOSE:**

The intent of this bylaw to address possible adverse public health and safety consequences related to the passage of Question 3 on the November 6, 2012 State Referendum. It is the purpose of this section titled “Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation” to minimize any potential adverse impacts on the quality of life in the Town. It is the intent of this bylaw to establish specific zoning standards and regulations for medical marijuana centers (treatment and dispensing facilities), medical marijuana infused products, medical marijuana paraphernalia, manufacturers, and medical marijuana growing and cultivation operations either related to Medical Marijuana Treatment Facilities and Dispensaries or the personal cultivation by qualified patients or cultivation by personal caregivers on the behalf of qualified patients or other users;

To provide for the limited establishment of Medical Marijuana Treatment and Dispensing Facilities in appropriate places and under strict conditions in acknowledgment of the passage of Initiative Petition 11-11 (Question #3 on the November, 2012 state ballot);

To minimize the adverse impacts of Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other land uses potentially incompatible with said Facilities;

To regulate the siting, design, placement, safety, monitoring, modification, and removal of Medical Marijuana Treatment and Dispensing Facilities; and Marijuana Cultivation; and

To limit the overall number of Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation activity in the Town to what is essential to serve the public necessity.

**5720. APPLICABILITY:**

The cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of marijuana for medical use is prohibited unless permitted as a Medical Marijuana Treatment and Dispensing Facility under this Section.

**5721.** No Medical Marijuana Treatment and Dispensing Facility or any Marijuana Cultivation use shall be established except in compliance with the provisions of this Section.

**5722.** Nothing in this Bylaw shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.

**5723.** If any provision of this Section or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this Section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Section are severable.

**5730. GENERAL:**

Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation shall be authorized by Special Permit only in District(s) provided, as set forth in Section 2300, Use Regulation Schedule of the Zoning Bylaws. Any such Special Permit issued by the Special Permit Granting Authority shall comply with all relevant local, state, and federal laws.

**5740. DISALLOWANCE:**

No Medical Marijuana Treatment and Dispensing Facilities or Marijuana Cultivation Special Permit shall be issued to any person convicted of violating the provisions of Mass General Law,

Chapter 119, Section 63, or General Law, Chapter 94C, or similar laws in other jurisdictions. Any applicant for special permit under this Bylaw must allow for a criminal background check which includes jurisdiction beyond Massachusetts.

#### **5750. ELIGIBLE LOCATIONS:**

Any Medical Marijuana Treatment and Dispensing Facility or Marijuana Cultivation activities permitted under this Section shall be located only in a zoning district that is designated for its use within this Zoning Bylaw.

No Medical Marijuana Treatment and Dispensing Facilities use or Marijuana Cultivation activities shall be located with five hundred (500) linear feet of a property line where the following Districts or activity or uses occur:

1. Any Residential District as defined in these Zoning Bylaws;
2. Any school or child care establishment; or place where minors frequent (e.g. a library, ball field, sports or family recreation facility, religious facility or the like);
3. Any other Medical Marijuana Treatment or Dispensing Facility or Marijuana Cultivation site;
4. Any drug or alcohol rehabilitation facility;
5. Any correctional facility, half-way house or similar facility; or
6. Any establishment licensed under the provisions of General Law, Chapter 138, Section 12.

**5751.** No marijuana or marijuana based product shall be sold or grown or cultivated, interior or exterior, of a residential dwelling unit or residential district. Growing and related cultivation activities shall occur only in districts as permitted in this Bylaw.

**5752. Separation:** Distances shall be calculated by direct measurement from the nearest property line of the land used for school or child care purposes or places where minors frequent or any other use listed above in Section 5750 to the nearest portion of the building in which the medical marijuana dispensary is located.

**5753. No Entitlement or vested rights to permitting:** No person shall be deemed to have any entitlement or vested rights to permitting under this Bylaw by virtue of having received any prior permit from the Town including, by way of example only, any zoning permit or any wholesale food manufacturer's license. In order to lawfully engage in the business of selling, cultivating marijuana, or manufacturing medical marijuana, or products containing marijuana, cannabis, or THC, in the Town on and after the date of passage of this Bylaw, any person must qualify for and obtain a special permit in accordance with the requirements of this Bylaw.

**5754. Off-site delivery prohibited:** All sales and distribution of medical marijuana by a licensed Medical Marijuana Treatment and Dispensing Facility shall occur only upon the permitted premises, and the registrant shall be strictly prohibited from delivering medical marijuana to any person at any other location.

**5755. Signage:** Any permitted Medical Marijuana Treatment and Dispensing Facilities site shall comply with the requirements of the Town Sign Bylaws at all times. In addition, upon penalty of special permit revocation, no permitted Medical Marijuana Treatment and Dispensing Facility or Marijuana Cultivation Facility shall use any advertising material that is misleading, deceptive, or false, or that is designed to appeal to minors. Off site signage or advertizing in any form, including billboards shall not be allowed.

**5756. Visibility:** There shall be no visibility of activities, products or treatment occurring within or on the premises of a Medical Marijuana Treatment or Dispensing Facility or Marijuana Cultivation Facility from the exterior of such facility or premises.

**5757. Manufacturing:** A local special permit for medical marijuana infused product manufacturing may be issued only in locations where Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation activities are permitted.

**5758. Cultivation Activities:** Cultivation, as defined in this Bylaw, by any qualifying patient, personal caregiver, or Medical Marijuana Treatment and Dispensing Facility in any location other than where specifically permitted shall be disallowed. This disallowance shall include cultivation, even where proposed as an accessory use, by any qualified patient, personal caregiver, or Medical Marijuana Treatment and Dispensing Facility.

#### **5760. TERM OF SPECIAL PERMIT:**

Any local special permit issued pursuant to this Section shall be valid for a period of two years from the date of issuance. Any renewal of the special permit shall be governed by the standards and procedures set forth in this Section and any regulations adopted pursuant thereto by the Planning Board/Zoning Enforcement Officer and/or Licensing Board.

**5761. Notification:** Any new applications sought under this Section must be publically advertised for a period of no less than fourteen (14) days, not including the date of the required special permit public hearing. Abutters within three hundred (300) feet shall be notified in writing of said application, and include any and all dates and locations of public hearings on said application.

#### **5770. CONFLICT OF LAWS:**

In the event of any conflict between the provisions of this Bylaw and any other applicable state or local law, the stricter provision, as deemed by the Zoning Enforcement Officer, shall control.

#### **DEFINITIONS:**

**“Medical Marijuana Treatment and Dispensing Facilities”** shall mean a not-for-profit entity, as defined by Massachusetts Law as a “Medical Marijuana Treatment Center”, registered under

this law, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, material to qualifying patients or their personal caregivers. It shall also include any establishment having as any portion of its stock in trade marijuana or non-FDA approved marijuana based products or its active ingredient, THC (tetrahydrocannabinol); or paraphernalia for the consumption or delivery of marijuana or products containing marijuana as allowed for medical uses under Massachusetts Law, including but not limited to retail distribution, wholesale distribution or growth and/or cultivation of marijuana; production or sale of marijuana (cannabis) seeds; or the refinement or manufacturing or sale of marijuana infused products.

**Marijuana:** In addition to the Commonwealth’s definition under Chapter 94C of Mass General Laws, our definition shall include: Marijuana, Marihuana, Cannabis, Hashish, Cannabis seeds, THC ([tetrahydrocannabinol](#)) and its derivatives and extracts as well as any substances containing THC whether in plant, including its flowers, oil, resin, solid, liquid or aerosol form.

**Marijuana Cultivation:** The process of propagation, including germination, using soil, hydroponics, or other mediums to generate growth and maturity. The intended process of bringing a plant or other grown product to maturity for harvesting, sale, refining or use as an ingredient in further manufacturing or processing. This definition encompasses marijuana cultivation related to Medical Marijuana Treatment and Dispensing Facilities, personal cultivation by qualifying patients or cultivation by personal caregivers on behalf of qualifying patients or others.

And by amending Section 2300, Use Regulation Schedule, by adding a new line as follows:

	C	R	AA AB	BA	G2	BB	IA	IB	IC	ID	M	AE	M1	All Other	DPOD	MUD
<b>Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation:</b>	N	N	N	N	N	N	N	N	N	N	N	SP(2)	N	N	N	N

**(2) Allowed by Special Permit issued by the Planning Board.**

*Town Manager’s Statement – This article seeks to prohibit the dispensing or growing of medical marijuana. If this is struck down by the Attorney General, the Article then provides for the dispensing and growing within an overlay zone within Town through a Special Permit granted by the Planning Board.*

**ARTICLE 17: CITIZEN PETITION (By Petition)**

To see if the Town will vote to limit the Tax Rate for FY15 and FY16 to 0% increase or less over FY14 Tax Rate. This will require that the Finance Advisory Committee produce a budget that shows the impact on Town Services. This Article is designed to direct the Selectmen to pursue



policies that will result in no increase in real estate taxes for 2 fiscal years.

And you are directed to serve this Warrant by posting up attested copies thereof at the Town Library Bulletin Board and Town Hall Bulletin Board in said Town fourteen days, at least, before the day of holding said meeting. Hereof fail not and make return of this Warrant, with your doings thereon, to the Town Clerk of said Westborough on or before the time of holding said meeting.

Given under our hands the 26th day of February in the year of our Lord Two Thousand and Twelve.

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Leigh Emery, Chairman

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Ian Johnson, Vice Chairman

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Timothy Dodd

---

George Barrette

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Denzil Drewry

SELECTMEN OF WESTBOROUGH

Worcester, ss

I have this day served the within Warrant by posting up attested copies thereof at the Town Library Bulletin Board and Town Hall Bulletin Board in said Westborough and by mailing a copy thereof to the residence of the Town Moderator all on February \_\_\_, 2013.

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Constable of Westborough