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**TOWN WARRANT**  
**Special Town Meeting**  
**November 2, 2005**

Hampshire, ss.

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

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

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

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

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

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

ARTICLE 3. Street Acceptance – Section of Tanglewood Road (Select Board)

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

ARTICLE 4. Easement – Main Street Bridge (Select Board)

To see if the Town will authorize the Select Board to acquire by purchase, gift, eminent domain or otherwise, temporary and permanent easements, as to be set forth by the Massachusetts Highway Department for roadway construction, roadway safety improvements and for the replacement of the Main Street Bridge over the Fort River.

ARTICLE 5. FY 06 Operating Budget Amendment(s) (Finance Committee)

A. To see if the Town will amend Article 30 of the 2005 Annual Town Meeting – Fiscal Year 2006 Operating Budget, by appropriating to the Health Claims Trust Fund \$705,443 for employee health insurance and to meet such appropriation transfer \$705,443 from Free Cash in the Undesignated Fund Balance of the General Fund, said appropriation to be reimbursed to the General Fund monthly via a temporary health insurance premium surcharge to employers and employees until such time the total appropriation has been reimbursed.

B. To see if the Town will amend Article 30 of the 2005 Annual Town Meeting – Fiscal Year 2006 Operating Budget, by increasing the appropriation for Public Safety by \$33,650 for Fire/EMS and to meet such increased appropriation transfer \$33,650 from Ambulance Receipts Reserved for Appropriation.

ARTICLE 6. Special Services - Amherst Community Television/Cable Advisory Committee

(Select Board, Cable Advisory Committee)

To see if the Town will raise and appropriate \$4,000 for the enforcement of the provisions of the 1996 License Agreement between the Town and Comcast and, under the terms of the 1996 contract between the Town and Amherst Community Television, for Amherst Community Television and related purposes if unused or uncommitted by the Cable Advisory Committee for enforcement purposes by March 1, 2007.

ARTICLE 7. Transfer Control of Wentworth Farm (Conservation Commission)

To see if the Town will approve the following resolution:

Whereas, 25 – 30 acres of land bounded by Belchertown Road, Old Farms Road, and land of the Conservation Commission abutting the Fort River and composed of Parcel 46 and portions of Parcel 17 and 18 of Map 18A of the Town Cadastre have been owned by the town and managed by the Conservation Commission since 1983; and,

Whereas, because of wetlands and vernal pools, this 25 – 30 acre parcel has only 3 plus buildable acres – which buildable acreage is compromised by being a functional part of the habitat of an endangered species; and,

Whereas, uses previously proposed for this land, i.e. an elementary school site (rejected by voters and town meeting, and later withdrawn as a school site by the superintendent), soccer fields (insurmountable environmental barriers), affordable housing (adverse environmental impacts plus the costs of very long driveways), and a playground (adverse environment impacts, driveway costs, and security), have proved to be unworkable; and,

Whereas, there are both private and public parcels that would be suitable for elementary school sites, if needed; and no parcel or parcels of conservation land north of the center of town or elsewhere are or have been determined to be suitable school sites for which this land could serve as compensation;

NOW, THEREFORE, BE IT RESOLVED, that the Amherst Representative Town Meeting transfer this 25 – 30 acres of land now informally managed for the town by the Conservation Commission and composed of Parcel 46/Map 18A and portions of Parcels 17 and 18 of Map 18A of the Town Cadastre and bounded by Belchertown Road, Old Farm Road, and land of the Conservation Commission abutting the Fort River from the care and custody of the Select Board to the formal management and control of the Conservation Commission under Massachusetts General Laws Chapter 40, Section 8C.

ARTICLE 8. Special Act and Transfer of Control – Olympia Drive (Select Board)

- A. To see if the Town will authorize the Select Board to petition the General Court for a Special Act to remove from the provisions of Article 97 of the Massachusetts Constitution and to allow to be used for affordable housing or general municipal purposes a certain parcel of land located on Olympia Drive, Amherst, Massachusetts, which parcel is the northwestern portion of the land taken pursuant to an Order of Taking dated July 13, 1987, and recorded in the Hampshire Registry of Deeds in Book 3018, Page 309, also being a portion of Assessors Map 8D, Parcel 20, and containing 11.9 acres, more or less.
- B. To see if the Town will transfer from the care and custody of the Select Board to the formal management and control of the Conservation Commission under Massachusetts General Laws Chapter 40, Section 8C a portion of a certain parcel of land located on Olympia Drive, Amherst, Massachusetts, which parcel is the southern and eastern portion of the land taken pursuant to an Order of Taking dated July 13, 1987, and recorded in the Hampshire Registry of Deeds in Book 3018, Page 309, also being a portion of Assessors Map 8D, Parcel 20, and containing 16 acres, more or less.

ARTICLE 9. Capital Program - Site Selection and Preliminary Design for Fire Station(s) in Amherst (Fire Station Committee)

To see if the Town will appropriate \$200,000 for site selection and preliminary design of a third fire station in Amherst and preliminary design for renovation of Central Fire Station and to meet that appropriation transfer \$200,000 from Ambulance Receipts Reserved for Appropriation.

ARTICLE 10. Capital Program – Amherst Area Transportation Plan (Public Transportation Committee)

To see if the Town will appropriate \$20,000 for preparation of the transportation component of the town's Comprehensive Plan under the guidance of the Public Transportation & Bicycle Committee in cooperation with the Comprehensive Planning Committee and other committees, as appropriate, and to meet such appropriation transfer \$20,000 from the Transportation Fund.

ARTICLE 11. Capital Program - Master Plan (Comprehensive Planning Committee, Joint Capital Planning Committee)

To see if the Town will raise and appropriate \$65,000 for development of a comprehensive Master Plan as required under Massachusetts General Laws 41, Section 81D and in implementation of Article 27 of the November 8, 2004 Special Town Meeting.

ARTICLE 12. Capital Program – Preliminary Survey of Town Commons (Public Works Committee)

To see if the Town will appropriate \$2,000 to survey and define the various Town commons for the purpose of producing recordable instruments and determine whether such appropriation shall be met by taxation, by the transfer of available funds, or otherwise and further to authorize the application for and acceptance of any gifts, bequests, or grants.

ARTICLE 13. Building Committee for Fort River and Wildwood School Renovations (School Committee)

To see if the Town will approve the establishment of a Fort River and Wildwood School Building Committee for development of the schematic design phase of the renovation of Wildwood and Fort River schools and authorize the Moderator to appoint its members, at least one of which shall be a member of the School Committee.

ARTICLE 14. Amend Town Bylaw – Council on Aging Bylaw (Council on Aging)

To see if the Town will amend the Town Bylaws, Article 5, by deleting the lined out language and adding the language in ***bold italics***, as follows :

**COUNCIL ON AGING**

There shall be a council on aging consisting of nine members, ***some members of which shall represent those age 60 and over***, appointed by the town manager for three year terms ~~except that at the outset three shall be appointed for a one-year term, three for a two-year term and three for a three-year term, all such terms to end at the opening of the annual council meeting for the appropriate year~~ ***unless they are completing an unexpired term. Any vacancy shall be filled by the town manager, who will take into consideration the recommendation of the Nominating Committee of the Council on Aging.*** The members shall serve without compensation. The council shall elect its own chairman and its secretary, ~~each~~ ***each*** for a one-year term. ~~The~~ ***A secretary shall keep minutes of its record all the proceedings of the meetings and attend to its correspondence. A Senior Center staff member may serve as secretary instead, if needed.*** ~~The council shall meet at least four times a year, a meeting in the spring to be its~~

~~annual meeting.~~ **Regular meetings of the Council may be held monthly, the date, time and place to be designated by the chair.** It shall have the authority granted to it by Section 8B, as now or hereafter amended, of Chapter 40 of the General Laws, and shall coordinate or carry out programs designed to meet the problems of the aging in coordination with ~~programs of the Commonwealth's Commission on Aging established under Section 73 of Chapter 6 of the General Laws.~~ **programs of the Department of Elder Affairs.**

ARTICLE 15. Amend Town Bylaw – Handicapped Parking (Select Board)

To see if the Town will amend the Town Bylaws, Article II, Handicapped Parking, by increasing the penalty in Section 2 from \$100 to \$200.

ARTICLE 16. Amend Town Bylaw – Article 1 (Town Meeting Coordinating Committee)

To see if the Town will incorporate into Article 1 of the Town Bylaws, immediately following the section headed "Finance Committee," the following By-Law:

**(a) The Town Meeting Coordinating Committee. Duties of the Committee**

There shall be a Town Meeting Coordinating Committee consisting of seven members who shall be elected, as required by Section (b) "Committee Elections," by the members of Town Meeting at the Annual Town Meeting.

*Duties of the Committee.* The first duty of this Committee shall be to provide continuing leadership and organization to Town Meeting and to extend outreach to the community on behalf of Town Meeting. The duties the Committee shall undertake shall include, but not be limited to the following: (1) organizing warrant forums prior to Town Meeting open to the public, (2) communicating to the public about Town Meeting through various means, (3) taking responsibility for the education and orientation for new Members. The Committee shall perform such other duties as Town Meeting shall determine from time to time.

**(b) Committee Elections; Term of Office; Termination of Membership; Committee Vacancies**

*Committee Elections.* The members shall hold office for two years. Four members shall be elected in even-numbered years and three in odd-numbered years. Nominations to the Committee shall be made in writing and delivered to the Town Clerk, with the consent of the nominee recorded on the nomination paper. The Town Clerk shall prepare a ballot of those nominated, which ballot shall be presented to each Town Meeting Member at a subsequent session of the Annual Town Meeting to be determined by the Moderator after consultation with the Town Clerk. Each Town Meeting Member shall cast a number of votes less than or equal to the number of seats available.

*Term of Office.* Committee members' terms shall begin upon the dissolution of the Town Meeting at which they were elected and expire upon the dissolution of the Annual Town Meeting of the second year following their election. Members shall be sworn in by the Town Clerk.

*Termination of Membership.* Membership on the Committee shall terminate when the member submits a letter of resignation to the Town Clerk or ceases to be a Town Meeting member.

*Committee Vacancies.* When a position on the Committee becomes vacant for any reason other than expiration of a term, the Moderator shall appoint, from among those unelected candidates of the most recent Committee election who are still Town Meeting members and still willing to serve, the candidate who received the highest number of votes in said election, ties to be resolved by a coin toss. If no unsuccessful candidate from the most recent election meets these qualifications, the Moderator shall appoint a Committee member from among the current Town Meeting members. Appointed Committee

members shall serve the remainder of the uncompleted term.

**(c) Committee Internal Organization and Procedures: Officers, Subcommittees, Minutes**

*Officers.* Upon dissolution of each Annual Town Meeting, the Committee shall elect from their membership a chairperson, vice-chairperson, a clerk, and a stacker, to serve until the dissolution of the next Annual Town Meeting.

*Subcommittees.* The Committee may, from time to time, constitute subcommittees as it deems appropriate. Subcommittees may include Town Meeting members who are not members of the Coordinating Committee. Each subcommittee shall be chaired by a member of the Coordinating Committee and appointed by the Chair of the Coordinating Committee.

*Minutes.* The Committee shall keep minutes of its proceedings and shall file these minutes with the Town Clerk. The proceedings of the subcommittees shall be rendered as reports to be included in the Committee's minutes.

ARTICLE 17. Zoning Bylaw – Planning Board Appointments (Planning Board)

To see if the Town will amend Section 10.02 of the Zoning Bylaw by deleting the ~~lined out~~ language and adding the language in ***bold italics***, as follows:

10.02 The Planning Board shall consist of nine regular members. In addition, two associate members may be appointed. All members shall be appointed by the Town Manager, ***with approval of the Select Board***, under Section ~~He 4.54~~ of the ~~Town Manager~~ ***Amherst Town Government Act*** and shall be appointed for a term of three years, except for appointments to fill an unexpired term.

ARTICLE 18. Zoning Bylaw – Zoning Board of Appeals Appointments (Select Board)

To see if the Town will amend Section 10.01 of the Zoning Bylaw by deleting the ~~lined out~~ language and adding the language in ***bold italics***, as follows:

10.01 The Zoning Board of Appeals shall consist of three members and four associate members, all residents of the Town of Amherst, ***the three members*** appointed and serving ***for three year terms and as otherwise*** set forth in Chapter 40A of the General Laws, as amended. ~~Each year the term of one of the regular members shall expire. The term of each member and associate member shall conclude at the later of the expiration of such term or the qualification of each successor. end at the date of the annual Town election of the year in which the term expires, or whenever a successor qualifies, whichever occurs last.~~ Said Board shall have all of the powers and duties of Boards of Appeals under said Chapter, and, in addition, all the powers and duties herein prescribed. Copies of rules promulgated by the Board of Appeals may be obtained from the Town Clerk's Office.

ARTICLE 19. Zoning Bylaw – Design Review Board Appointments (Select Board)

To see if the Town will amend Section 3.2 of the Zoning Bylaw by deleting the ~~lined out~~ language and adding the language in ***bold italics***, as follows:

3.201 Design Review Board

In accordance with the provisions of Chapter 40A of the Massachusetts General Laws, a Design Review Board is hereby established. The Design Review Board shall review applications for all actions that are subject to the provisions of this section and shall make recommendations to the

appropriate permit-granting authority concerning the conformance of the proposed action to the design review standards contained herein.

The Design Review Board shall consist of five members, two of whom are registered architects, landscape architects or persons with equivalent professional training, and one of whom operates a business or owns commercial property in the affected area. Appointments to the Design Review Board shall be made, ~~as follows~~ **by the Select Board. Of the five Design Review Board members, one member shall represent the Planning Board and one member shall represent the Historical Commission. The Planning Board and Historical Commission shall vote to recommend their representatives to the Select Board and forward those recommendations to the Select Board prior to appointment. These two representative members need not be members of the Planning Board or Historical Commission.**

~~1) One member shall be appointed by the Chairperson of the Planning Board, with the concurrence of a majority of said Board;~~

~~2) One member shall be appointed by the Chairperson of the Historical Commission, with the concurrence of a majority of said Commission; and~~

~~3) Three members shall be appointed by the Chairperson of the Select Board, with the concurrence of a majority of said Board.~~

The terms of all members of the Design Review Board shall be three years, except that when the Board is originally established, the Select Board shall make two of their appointments for a two year term and the remaining appointment shall be for a one year term.

#### ARTICLE 20. Zoning Bylaw – Cluster Dimensions (Planning Board)

To see if the Town will amend Table 3 of the Zoning Bylaw – Dimension Regulations, Footnotes, by deleting the ~~lined-out~~ language and adding the language in **bold italics**, as follows:

k. Requirements may be modified under a ~~Special Permit~~ **Site Plan Review approval** granted for a c subdivision.

#### ARTICLE 21. Zoning Bylaw – Fences (Planning Board)

To see if the Town will amend the following subsections of Section 6.2 of the Zoning Bylaw, Fences, to delete the ~~lined-out~~ language and add the language in **bold italics**, as follows:

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

6.29 **Under the provisions of Section 10.38 or 11.24, as applicable,** ~~F~~fence, wall, and planting requirements as found in Sections 6.23 through 6.28 may **for compelling reasons of safety, aesthetics, or site design** be modified by the ~~Zoning Board of Appeals by the issuance of a Special Permit, based upon a finding that such modification is not detrimental to the neighborhood nor that such modification will jeopardize vehicular traffic and/or pedestrian traffic~~ **Permit Granting Board or Special Permit Granting Authority with jurisdiction over the proposed or existing Principal or accessory use(s) for which the fence serves as an accessory structure.**

## ARTICLE 22. Zoning Bylaw – R-G Dimensions (Footnote m.) (Planning Board)

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

- m. ~~For new town houses (Section 3.322), apartments (Section 3.323), and subdividable dwellings (Section 3.324), these areas shall apply~~ In addition to the areas required by this table for any existing dwelling units on the lot. ~~In addition,~~ the density for new town houses; (**Section 3.322**) and apartments (**Section 3.323**) ~~, and subdividable dwellings~~ shall not exceed one dwelling unit per ~~6,000~~ **4,000** sq. ft. of the remaining lot area, or ~~the entire area~~ **for all new units beyond the first unit**, in the case where there are no existing dwelling units.

## ARTICLE 23. Zoning Bylaw – Flood Prone Conservancy (FPC) District Bylaw (Select Board)

To see if the Town will amend Sections 3.226, 3.3, 6.5, 12.22, and 12.35 of the Zoning Bylaw, as follows:

- A. Amend Section 3.226 by deleting the ~~lined out~~ language and adding the language in **bold italics**, as follows:
- 3.226 If any portion of a lot falls within the FPC District, **then 40 percent of** that portion ~~which~~ may be used to meet the lot area and **all of any side or rear** yard **setback** requirements for the district in which the remainder of the lot is situated. **The Special Permit Granting Authority may grant a Special Permit allowing the use of more than 40 percent of FPC District area on a given property to meet minimum lot area requirements of that property, if the Authority determines that such a modification will serve compelling purposes of safety, site design, aesthetics or the general welfare, as defined under Sections 10.38 or 11.24, as applicable, and where no construction, pavement, or other site alterations associated with the application will occur within that portion of the FPC District so used.**
- B. Delete the heading and text of existing Section 6.5, Lots Within the Flood Prone-Conservancy District, and replace with the heading and text of Section 6.6, Educational and Religious Uses.
- C. Amend Section 12.22 by deleting the ~~lined out~~ language and adding the language in **bold italics**, as follows:
- 12.22 Lot, Buildable: Any lot meeting the minimum lot area and lot frontage requirements of the zoning district in which it is located and which contains either 90 percent of its total lot area, or 20,000 square feet, in contiguous upland acreage. **A minimum amount of the required upland acreage for a buildable lot shall be outside the FPC District, said amount to be determined using the following formula for the applicable residential or business zoning district(s): Basic Minimum Lot Area x Maximum Lot Coverage (%) x 1.5. In all other districts, the minimum required upland acreage outside the FPC District shall be 12,000 square feet.**
- D. Amend Section 12.36 by deleting the ~~lined out~~ language and adding the language in **bold italics**, as follows:
- 12.36 Upland Acreage: Lot area, not including watercourses, water bodies, vernal pools, banks, ~~or~~ bordering or isolated vegetated wetland as defined by the Massachusetts Wetlands Protection Act Regulations 310 CMR 10.00, or the Amherst Wetlands Bylaw, **and 60 percent of any non-wetland area within the FPC District.**

**E.** Amend Section 3.3, Use Classification and Standards, as follows:

- 1) Change the permit requirement for Section 3.3121, Salesroom or farm stand for the sale of nursery, garden, or other agricultural produce (including articles of home manufacture from such produce) from Special Permit (SP) to Site Plan Review (SPR).
- 2) Change the permit requirement for Section 3.335, Public park, playground, or other public recreation facility, in the FPC District from Site Plan Review (SPR) to Special Permit (SP).
- 3) Change the permit requirement for Section 3.336.1, Philanthropic or charitable medical or residential facility in the FPC District from Site Plan Review (SPR) to Special Permit (SP).
- 4) Change the permit requirement for Section 3.340.1, Telephone exchange, radio or TV station, broadcasting facility, recording studio or other communication use, in the FPC District from Special Permit (SP) to No (N).
- 5) Amend Section 3.340.3 to read as follows (language in bold italics added), "Railroad or bus depot or other similar transportation facility," and change the corresponding permit requirement in the FPC District from Special Permit (SP) to No (N).

ARTICLE 24. Zoning Map – Flood Prone Conservancy (FPC) District Boundaries (Select Board)

To see if the Town will amend the Official Zoning Map and Section 3.223 of the Zoning Bylaw, as follows:

- A.** Amend the boundaries of the FPC District as shown on Exhibit A.
- B.** Amend Section 3.223 by deleting the ~~lined out~~ language and adding the language in **bold italics**, as follows:

3.223 The FPC District shall consist of those geographical areas hereinafter delineated which by virtue of their relationship to components of the natural hydrology of the Town of Amherst, have substantial importance to the protection of life and property against the hazards of floods, erosion, and pollution, and in general are essential to the public health, safety, and welfare. Those geographical areas include flood prone areas, natural water storage areas adjacent to ponds, rivers, streams ~~and~~, wetlands ~~as well as~~ **and** reservoirs.

The FPC District is considered to be:

3.2230 All areas designated as the FPC District on the Official Zoning Map on file in the Town Clerk's Office. The FPC District is determined by the following information: ~~Department of Interior Map of Flood Prone Areas 1969; Soils Survey, 1965; Wetlands Map, 1973; Town of Amherst Base mMap, 1972, or other current town base mapping~~, as revised; historical flood information; hydrologic surveys; U.S.G.S. topographic maps; ~~and~~ other topographic surveys; **the 100-year-flood zone (Zone A) on the 1981 and 1983 Flood Insurance Rate Map (FIRM), as amended; observed and projected flooding from any storm event of a statistical frequency equal to or exceeding once in 100 years.**

3.2231 **Except where otherwise shown on the Official Zoning Map, A**all land within a minimum of 75 feet horizontally of the crest of the bank of the Mill **or Fort** Rivers.

- 3.2232 ***Except where otherwise shown on the Official Zoning Map, All*** land within a minimum of 50 feet horizontally of the crest of the bank of Cushman Brook, Amethyst Brook, Adams Brook, Hearthstone Brook, ***Eastman Brook***, Swamp Brook, ***Hop Brook***, ***Plum Brook***, ***Muddy Brook***, Hawley Brook downstream from North East Street.
- 3.2233 All land within a minimum of 25 feet horizontally of the crest of the bank of ~~flowing~~ ***perennial and or*** intermittent streams not otherwise specified in Section 3.2230, 3.2231, 3.2232, but designated on the Town Base Map, 1972 ***or other current Town base mapping***, as revised.

ARTICLE 25. Zoning Bylaw & Map – Agricultural District (AG) (Select Board)

To see if the town will vote to amend the Zoning Bylaw by adding sections 3.29 and footnote “o” to Dimensional Regulation Footnotes for Table 3, to amend Section 2.05 and Section 5.090 of the Zoning Bylaw, and to amend the official zoning map, all as follows:

**Motion A.** Add the following new definition to Section 2.05, Resource Protection Districts

***AG Agricultural District***

***The Agricultural District shall only consist of those parcels or portions of parcels of agricultural land whose development rights have been purchased by or donated to the Commonwealth’s Agricultural Preservation Restriction Program, the Town of Amherst, or a private non-profit organization. The District shall not include land and buildings excluded by contract.***

Amend the official zoning map to re-zone portions of the following parcels of land whose development rights have been purchased or donated as described in the Section 2.05 Agricultural District definition from the RLD-FC (Low-Density Residential-Farmland Conservation) Zoning District and other districts listed in parenthesis following each individual parcel to the Agricultural (AG) Zoning District:

Map 4B, Parcel 5 (RO); Map 4D, Parcels 5 (RO), 6 (RO), 7 (RO), 13 (RO), 14 (RO) and 17 (RO); Map 5A, Parcel 2 (VC-R); Map 5C, Parcels 22 (RN) and 48; Map 7B, Parcels 1 (RO) and 2 (RO); Map 9A, Parcel 17 (RO); Map 9C, Parcels 20 (RO), 21, 22, 25 (RO), 28 (RO) and 43 (RO); Map 9D, Parcel 29; Map 12A, Parcels 8 (RO), 12 (RN and RO), 13 (RN), 15 (RN), 53 (RN), 54 (RN) and 61 (RN); Map 12C, Parcels 9 (RN) and 17 (RN); Map 15A, Parcels 29 (RN) and 56 (RN); Map 15C, Parcel 23 (RN); Map 16D, Parcels 1 (RO), 7 (RO), 8 (RO), and 241 (RO); Map 17C, Parcel 178 (RN); Map 17D, Parcels 1 (RN) and 14; Map 18A, Parcels 4 (RN) and 88 (RN); Map 19A, Parcel 4 (RO); Map 20B, Parcels 55, 64 and 70 (RN); Map 20C, Parcel 151 (RN and VC-R); Map 23D, Parcel 106 (RO); Map 26A, Parcels 41 (RO) and 43 (RO).

And, amend the official zoning map to re-zone portions of the following parcels of land in the ARP (Aquifer Recharge Protection) Overlay Zoning District whose development rights have been purchased or donated as described in the Section 2.05 Agricultural District definition from the RLD (Low-Density Residential) Zoning District and other districts listed in parenthesis following each individual parcel to the AG (Agricultural) Zoning District: Map 26B, Parcels 2 (RO) and 157 (RO); Map 27C, Parcels 41 (RO) and 57 (RO); and Map 27D, Parcel 1.

Add the following new Section 3.29 to Article 3:

***Section 3.29 Agricultural District***

***3.290 General***

*It is intended that the Agricultural District shall only consist of those parcels or portions of parcels of agricultural land whose development rights have been purchased by or donated to the Commonwealth's Agricultural Preservation Restriction Program, the Town of Amherst, or a private non-profit organization, and shall not include land and buildings on such parcels or portions of parcels excluded by contract.*

### **3.291 Use Regulations**

- 3.2910** *Except for uses separately authorized by this section, uses protected under Massachusetts General Laws Chapter 40A, section 3 or permitted under Sections 3.310, 3.311, 3.314 of this Zoning Bylaw shall be by right in the AG District.*
- 3.2911** *Residences constructed for owners of APR land or their immediate family shall meet all dimensional requirements of this Zoning Bylaw. Flaglots shall meet the requirements of the RLD-FC Zoning District and this Zoning Bylaw.*
- 3.2912** *Residences constructed to house agricultural workers, seasonal or otherwise shall require a Special Permit from the Zoning Board of Appeals for the use determined in writing by the town's Zoning Enforcement Officer, after review of the permit application, to most closely approximate a use allowed by this Zoning Bylaw.*
- 3.2913** *Surface water impoundments, flood retention ponds, or other surface water storage uses shall require a Special Permit from the Zoning Board of Appeals.*
- 3.2914** *Commercial greenhouses and the removal and processing of earth products shall require Site Plan Review approval by the Planning Board.*
- 3.2915** *Class I farmstands described in Section 3.3120 shall require Site Plan Review approval by the Planning Board, and Class II farmstands described in Section 3.3121 a Special Permit from the Zoning Board of Appeals.*
- 3.2916** *For wireless communication uses, the provisions of Section 3.340.2 shall apply and prevail.*

### **3.292 Dimensional Regulations**

- 3.2920** *All setbacks and heights, side and rear yards, frontage and lot areas, building and lot coverage shall conform to the dimensional regulations applicable to the nearest residential zoning district, except that all farm buildings in use on parcels initially or subsequent zoned into the AG Zoning District shall be deemed to be conforming as to height, setback, side and rear yard for the purpose of repairing, renovating or replacing said buildings.*

Amend the opening paragraph of Section 5.090 as follows:

#### **Section 5.090 Farm Conference Center**

The Board of Appeals may authorize by ~~issue of~~ Special Permit the use of a portion of a property as a Farm Conference Center in the R-LD, R-O, ~~and~~ R-N **and** AG Districts only, provided that:

- Motion B.** Add the following to the Dimensional Regulation Footnotes as footnote "o" to the Basic Minimum Rear and Side Yard line of Table 3 – Dimensional Regulations:

- o. No permanent residential or recreational structures or uses, or non-farm commercial or industrial structures or uses shall be constructed within 50 feet of the boundary of the AG Zoning District. Existing commercial, industrial, residential or recreational structures within 50 feet of land in the AG Zoning District shall be considered conforming uses for the purposes of repair, renovation or replacement. Existing lots and lots excluded from future APR parcels with wetland, floodplain or other physical constraints shall be exempted from the requirement of this footnote to the extent necessary to allow a single residential unit to be located on such a lot if said lot otherwise meets the requirements of this Zoning Bylaw and all other applicable laws and regulations.*

ARTICLE 26. Zoning Bylaw – Demolition Delay (Historical Commission)

To see if the Town will amend Sections 13.3 and 13.7 of the Zoning Bylaw by deleting the ~~lined out~~ language and adding the language in ***bold italics***, as follows:

- A. Amend Section 13.3 as follows:

**SECTION 13.3 PROCEDURE**

- 13.30 No permit for demolition of a significant structure shall be issued except as provided in this bylaw.
- 13.31 Every application for a demolition permit shall be made upon a form provided by the Building Commissioner, and shall be signed by the owner or the owner's agent under the power of attorney. Every application shall include such locational information, plans and narrative description and justification of the proposed demolition as shall be required under Historical Commission rules and regulations for such applications. ***Notice to abutters and parties in interest shall be done in accordance with the procedures required for Special Permits, as found on M.G.L. Chapter 40A.***
- 13.32 Upon receipt of any application for a demolition permit, the Building Commissioner shall within five (5) days transmit a copy thereof to the Amherst Historical Commission.
- 13.33 Within thirty-~~five~~ (~~30~~ 35) days of the Commission's receipt of a copy of the application for a demolition permit, the Commission shall hold a public hearing on such application, and shall make a determination as to whether the structure is a *significant structure* under one or more of the criteria set forth in Sections 13.40 and 13.41. The Commission shall give written notice of the time and place of the hearing, not less than seven (7) days prior to the hearing, to the owner by certified mail, ***to abutters and parties in interest by mail***, and by posting and by publication once in a local newspaper. The Commission may conduct a site visit prior to the hearing.
- 13.34 If, within thirty-~~five~~ (~~30~~ 35) days of the Commission's receipt of a copy of an application for a demolition permit, no public hearing has been held, or ***if within fourteen (14) days following the close of the public hearing*** no finding by the Commission has been filed with the Building Commissioner, the Building Commissioner may, subject to the requirements of the State Building Code and any other applicable laws, bylaws, rules and regulations, issue the demolition permit.
- 13.35 If after holding a public hearing the Commission shall determine that the structure is not a *significant structure* because it fails to meet one or more of the criteria set forth in Section 13.4, or if the Commission shall determine that the structure is a *significant structure* meeting one or more of the criteria set forth in Section 13.4, but that the

proposed demolition would not be detrimental to the historical or architectural heritage or resources of the Town, then the Commission shall notify the Building Commissioner in writing of its findings within fourteen (14) days of said determination. Upon receipt of such notification, or upon expiration of said fourteen (14) days without such notice, the Building Commissioner may issue a demolition permit, subject to the requirements of the State Building Code and any other applicable laws, bylaws, rules and regulations.

13.36 If, after such hearing, the Commission determines that the structure is a *significant structure* and that the proposed demolition would be detrimental to the historical or architectural heritage or resources of the Town, then it shall file written notice with findings, of its determination to the applicant and the Building Commissioner, and no demolition permit shall be issued until ~~six (6)~~ **twelve (12)** months after the date of such determination by the Commission.

B. Amend Section 13.7 as follows:

### **SECTION 13.7 ENFORCEMENT AND REMEDIES**

The following enforcement and remedies shall apply under this bylaw:

13.70 The Historical Commission is authorized to adopt rules and regulations to carry out its duties and functions under this bylaw.

13.71 The Commission and the Building Commissioner are each authorized to institute any and all proceedings in law or equity they shall deem necessary and appropriate to obtain compliance with the requirements of this bylaw, or to prevent a violation thereof.

***13.710 Any owner of a building and/or structure subject to this Bylaw who knowingly acts to demolish said building and/or structure, or damage a portion of a building or structure in a way which increases its likelihood of total failure, without first obtaining a building permit for demolition in accordance with the provisions of this Bylaw, or who likewise by some causative action contributes to the deterioration of said building or structure during the demolition review period, shall be in violation of this Bylaw and subject to enforcement by a non-criminal complaint pursuant to the provisions of M.G.L. Chapter 40, Section 21D, as amended.***

***13.711 Notwithstanding the provisions of Section 11.45, the fine for any such violation shall be three hundred dollars (\$300.00) for each offense. Each day the violation exists shall constitute a separate offense until the demolished building is rebuilt or re-created as directed by the Historical Commission, or unless otherwise agreed to by the Commission.***

***13.712 Notwithstanding the above, this section does not create an affirmative obligation to maintain a property.***

13.72 No building permit shall be issued with respect to any premises upon which a significant structure has been demolished in violation of this bylaw for a period of two (2) years from the date of the completion of such demolition.

ARTICLE 27. Capital Program - Historical Preservation Restriction – 575 North East St. (Select Board)

- A.** To see if the Town will appropriate \$50,000 for acquisition of an Historic Preservation Restriction on the pre-1815 brick Federal house known as the Benjamin Kimball House and associated property at 575 North East Street (Map 9C-1/Parcel 28); determine whether such appropriation shall be met by borrowing, taxation, the transfer of available funds, or otherwise, and authorize the application for and acceptance of any gifts, bequests, or grants; and authorize the Select Board to acquire said restriction, which shall include the following area and serve the following purposes:

The area of the Historic Preservation Restriction shall include the original brick portions of the Benjamin Kimball House and all immediately abutting land area in an exclusion from an Agricultural Preservation Restriction (APR) encumbering surrounding property, said Restriction beginning at the eastward edge of the North East Street public way, proceeding east to a line parallel to and twenty (20) feet from the rear (east) wall of the house, and bounded on the north and south by APR encumbered lands.

- B.** To see if the Town will authorize the Select Board to acquire by purchase or gift and appropriate \$1,300,000 for the acquisition of the property at 575 North East Street (Map 9C-1, Parcel 28) surrounding and including the Benjamin Kimball House; determine whether such appropriation shall be met by borrowing, taxation, the transfer of available funds, or otherwise and authorize the application for and acceptance of any gifts, bequests, or grants; and authorize the Select Board to thereafter sell or dispose of, upon such terms and conditions as the Select Board may deem reasonable and appropriate, any and all property interests except for an Historic Preservation Restriction to be retained by the Town.

ARTICLE 28. Capital Program - Agricultural Preservation Restriction – West Street (Select Board)

**A.** To see if the Town will authorize the Select Board to acquire by purchase, gift, eminent domain or otherwise, the easement rights held by Alvah G. Eldridge, Nettie M. Eldridge, Miriam D. Richards, Ethelyn E. Richards and/or any other persons claiming any rights in such easement, which easement permits drainage and sewage to be emptied onto certain land located on West Street, being Map 20C, Parcel 151 of the Town Cadastre, as more particularly described in the deed of Anna Elizabeth Nanartonis to the Nanartonis Family Trust dated January 2, 1991, and recorded at the Hampshire County Registry of Deeds in Book 3673, Page 117.

**B.** To see if the Town will authorize the Select Board to purchase, jointly with the Commonwealth of Massachusetts Department of Food and Agriculture, an Agricultural Preservation Restriction from the Nanartonis Family Trust on land located on West Street, being Map 20C, Parcels 149, 150 and 151 of the Town Cadastre, appropriate \$30,000 for said purchase, and determine whether such appropriation shall be met by borrowing, taxation, the transfer of available funds, or otherwise and authorize the application for and acceptance of any gifts, bequests, or grants.

ARTICLE 29. Community Preservation Act – Housing Project on Main Street (Select Board)

To see if the Town will advise and direct the Select Board to permit the Amherst Housing Authority to convey to a non-profit corporation the land acquired by the Housing Authority using funds appropriated under Article 11 of the 2005 Annual Town Meeting so as to allow such non-profit corporation to develop the community housing project as provided in Article 11.

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

Prec. 1	North Amherst Post Office	Prec. 6	Fort River School
Prec. 2	North Fire Station	Prec. 7	Crocker Farm School
Prec. 3	Marks Meadow School	Prec. 8	Munson Memorial Library

Prec. 4 Amherst Post Office  
Prec. 5 Town Hall

Prec. 9 Wildwood School  
Prec. 10 Campus Center, UMass

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

Given under our hands this seventeenth day of October, 2005.

Robie Hubley  
Robert B. Kusner  
Gerald S. Weiss  
Anne S. Awad

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October 18, 2005

Hampshire, ss.

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

Sgt. Charles Nelson  
Constable, Town of Amherst