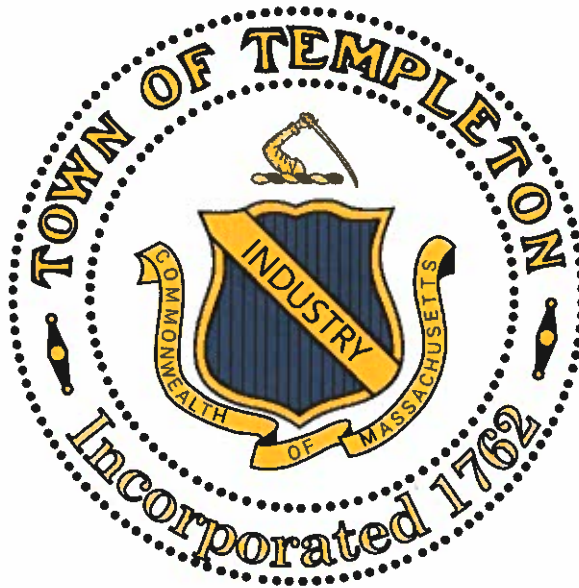


TOWN OF TEMPLETON

FALL TOWN MEETING WARRANT

October 18, 2018



**Narragansett Regional Middle School
460 Baldwinville Road, Baldwinville**

TOWN OF TEMPLETON

WARRANT FOR FALL TOWN MEETING

October 18, 2018

WORCESTER, ss.

To either of the Constables of the Town of Templeton in said County:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of the precincts of the Town of Templeton, County of Worcester, qualified to vote in elections and Town affairs to meet in the Narragansett Regional Middle School, 460 Baldwinville Road, Baldwinville, in said Templeton on:

Thursday, October 18, 2017, at 7:00 p.m.

Then and there to act on the following articles:

Article 1: Payment of Late Bills

To see if the Town will vote to authorize the payment of late bills from prior fiscal years from the FY '19 budgets of the follow departments in the following amounts:

Sewer Department	\$1,795.97
Cable Department	\$110.40
Highway Department	\$220.80

Or take any other action related thereto.

**Submitted by the Board of Selectmen
9/10ths Vote Required**

Article 2: Amend By-Laws Re Adoption of Building “Stretch Energy Code”

To see if the Town will vote to enact Section LVIX to its General By-Laws to be entitled “Stretch Energy Code”, for the purpose of regulating the design and construction of buildings for the effective use of energy, to read as follows:

The Stretch Energy Code, as codified by the Massachusetts Board of Building Regulations and Standards as 780 CMR 120.AA, including any future editions, amendments or modifications thereto, shall be a requirement of the issuance of any building permit by the Town’s Building Inspector under the relevant sections of the building code for both new construction and existing buildings of a residential and commercial nature. Buildings not included in this scope shall comply with 780 CMR 13.00, 34.00, 61.00, or 93.00, as applicable.

This By-Law shall take effect on July 1, 2019.

Or take any other action related thereto.

**Submitted by the Board of Selectmen
Majority Vote Required**

Article 3: Amend By-Laws Re: Repair of Private Ways

To see if the Town will vote to enact a new Section LVII to its General By-Laws to be entitled "Temporary Repairs of Private Ways" and read as follows:

1.0 This provision of the General By-laws is adopted under the authority of MGL Ch. 40 §6N.

2.0 The Town, in accordance with the conditions herein, may fill holes in the roadway surface with like or reasonably like materials, add gravel, grade surfaces, remove obstructions within the roadway such as rocks that have moved to the surface, cut-out failed surface areas and rebuild failed base of select areas, repave or pave select areas, and chip-seal of the entirety, by the use of work force or private contractors as the Town shall determine best.

3.0 The Town may clean drainage structures and piping, repair or replace failed structures, piping and culverts, and install new drainage. Provided that the Town first acquires necessary easements or access agreements as advisable, by the use of work force or private contractors as the Town shall determine best,

4.0 Any such repairs shall be made only upon a finding by the Board of Selectmen that the repairs are required by public necessity of access to residents for utilities, school bussing or public safety services such as police, fire and EMS.

5.0 Any such repairs may be made only after a petition of two-thirds of the property owners of parcels having frontage upon the way to be repaired is submitted to the Board of Selectmen on a form to be provided by the Town.

6.0 All costs incurred for the repairs for work force, material, or private contractors shall be recovered through a betterment to be assessed upon all property owners having frontage upon the way. The specific method of apportioning the betterment shall be determined by the Board of Selectmen. If the apportioned betterment is less than five hundred dollars and no cents (\$500.00), it shall be recovered over one year only. Otherwise, the apportioned betterment shall be recovered over a maximum of 20 years but in no event greater than the generally accepted useful life of the repair. If the Town shall use indebtedness for the repairs, it shall recover the apportioned betterment at a rate of two percentage points above the interest rate of the debt. If the Town shall use other sources of funding for the repairs, such as cash, it shall recover the apportioned betterment at a rate of five percent of the outstanding balance of the betterment. If the Town accepts MGL Ch. 80 §13B it shall inform property owners that they may be eligible for a deferral of payments pursuant to that section.

7.0 The Town shall have no greater liability for any repairs made under this section than if it had made such repairs on a public way. The Town shall defend against any claim that a liability has attached to it as a result of the making of such temporary repairs, no matter how often or to what

extent they were made and shall present that such acts did not constitute an acceptance by the Town of such private ways as public ways.

8.0 In considering the petition for a betterment, the Board of Selectmen must make a finding, in addition to that of public necessity, that the way has been opened to public use for a term of no less than ten years and, further, that it is anticipated the way will remain open to public use for a similar period of time.

9.0 No cash deposit shall be required for a repair of private ways provided however that if the property owners are requesting a provision of material only then such materials shall be paid for in advance or a specific party shall agree in writing to be personally liable for payment upon presentation of the invoice.

Or take any other action related thereto.

**Submitted by the Board of Selectmen
Majority Vote Required**

Article 4: Filing of Special Legislation Re: Betterment Fund

To see if the Town will vote to authorize the Board of Selectmen to petition the Legislation for a special act authorizing the Town to establish a Betterment Fund.

Or take any other action in relation thereto.

AN ACT ESTABLISHING A BETTERMENT FUND IN THE TOWN OF TEMPLETON
Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Section 1: Notwithstanding section 6N of chapter 40 of the General Laws or any other general or special law to the contrary, the Town of Templeton may make permanent repairs to private ways and other water, sewer, road, and sidewalk betterments within its corporate and municipal limits including improvements to grading, drainage, paving, resurfacing and curbing and to adopt By-laws to carry out the provisions of this act.

Section 2: Notwithstanding any general or special law to the contrary, the Town of Templeton may borrow, from time to time, such sums as may be necessary for the purpose of making such permanent repairs to private ways within the Town. Each authorized issue shall be payable within 20 years from its date. Indebtedness incurred under this act shall not be included in determining the limit of indebtedness of the Town under section 10 of Chapter 44 of the General Laws and except as provided in this act shall otherwise be subject to said chapter 44.

Section 3: Any By-laws of the Town of Templeton adopted under the authority of section 1 shall provide for the cost of the repairs and borrowing authorized by this act to be apportioned to and among the benefitted property owners along the road so repaired as a betterment pursuant to chapter 80 of the General Laws. The board of selectmen of the Town of Templeton shall set the

number of years a betterment will be assessed. The Town shall accept settlement in cash for the full amount so apportioned within 30 days or shall bill the property owner for the total cost to be divided over a period of years established pursuant to this section with interest to be computed at a rate of 2 per cent above the rate of interest charged to the Town on any funds borrowed by the Town for this purpose. If the Town shall use other sources of funding for the repairs, such as cash, it shall recover the apportioned betterment at a rate of five percent of the outstanding balance of the betterment if not paid by the assessed owner in full. The Town shall record appropriate orders to secure payment in the same manner as it acquires a lien for betterment assessment pursuant to chapter 80.

Section 4: The Town shall establish a fund, which the town treasurer shall keep separate and apart from all other monies of the town and into which shall be deposited all water, sewer, road and sidewalk betterment payments, and payments for temporary or permanent repairs of private ways, received by the Town for any such betterment made after the effective date of this act. The town treasurer may invest such funds in the manner prescribed in sections 54 and 55 of said chapter 44. Any interest earned thereon shall be credited to and become part of the fund. The principal and income earned on the fund shall be available for expenditure by the board of selectmen without further appropriation, including to make debt service payments and any direct and indirect costs associated with incurring debt, for the repairs of private ways under a Town By-law adopted in conformance of Section 6N of Chapter forty of the General Laws, for acceptance and improvement of private ways, which improvements shall be done in accordance with chapter 80 of the General Laws, and for other water, sewer, road, and sidewalk betterments.

Section 5: This act shall take effect upon its passage.

Provided however, that the Board of Selectmen may indicate the Town is receptive to minor changes of wording and grammar provided it does not substantially alter the intent and purpose of the sought legislation.

Or take any other action related thereto.

**Submitted by the Board of Selectmen
Majority Vote Required**

Article 5: Adoption of MGL Ch. 80 §13B Re: Defer Repayment of Certain Betterment Liens

To see if the Town will vote to adopt MGL Chapter 80 Section 13B, which provides the conditions under which certain persons over the age of 65 may defer betterment charges levied against their owner-occupied property until such time as they choose to pay the betterment or sell the property subject to the betterment.

Or take any other action related thereto.

**Submitted by the Board of Selectmen
Majority Vote Required**

Article 6: Amend By-Laws Re: Employment Contracts for Department Heads

To see if the Town will vote to enact a Section LVIII to its General By-Laws to be entitled “Employment Contracts” and read as follows:

The Town Administrator may negotiate and execute an employment contract for a period of time not to exceed three years to provide for the performance standards, salary, fringe benefits, and other conditions of employment, including but not limited to, severance pay, relocation expenses, reimbursement for expenses incurred in the performance of duties of office, liability insurance, performance standards, and leave for all department heads. Such employment contract shall be subject to Board of Selectmen action and shall prevail over any conflicting provisions of any town personnel by-law, rule, or regulation.

Or take any other action related thereto.

**Submitted by the Board of Selectmen
Majority Vote Required**

Article 7: Amend By-Laws Re: Animal Control

To see if the Town will vote to amend Town By-laws Article XVIII Restraining of Dogs, by deleting the Article in its entirety and replacing it to read as follows:

ARTICLE XVIII
DOG CONTROL AND LICENSING

Purpose

Section 1. Pursuant to the authority set forth in Chapter 140, Sections 136A through 174E of the General Laws and any other relevant statutes and regulations issues pursuant thereto, the following requirements are adopted for the regulation of dogs within the Town of Templeton.

Definition of Terms

Section 2. The definitions of words and terms set forth in Chapter 140, Section 136A of the General Laws are incorporated into this Section 133, Animal Control Bylaw, and shall be applicable to the interpretation thereof. In addition, unless context clearly indicates otherwise, the following words and terms, as used in this bylaw, shall have the following meanings:

DOG UNDER CONTROL: A dog that is (1) physically controlled by a person by means of a leash, cord or chain held by the person, or (2) a dog that is contained within a physical or electric fence; or (3) a dog that is at all times within sight of their person, is actively monitored by that person, and that at all times immediately responds to a recall command by their person.

RUNNING AT LARGE: A dog is running at large if it is not on the private property of its owner or keeper, or on private property with the express permission of that property's owner or is otherwise not a Dog Under Control as defined above.

Responsibility of Dog Owner or Keeper

Section 3. (a) No dog owner or keeper shall permit the dog to become or remain a nuisance dog or a dangerous dog, as those terms are defined and used in Chapter 140 Sections 136A and 157 of the General Laws.

(b) Every dog owner or keeper shall be responsible for expeditiously removing any feces that the dog deposits anywhere except on its owner's or keeper's private property, or on other private property with the property owner's permission.

(c) The owner or keeper shall annually license his/her dog in accordance with Section 5 of this bylaw.

Control Provisions

Section 4. All dogs owned or kept within the Town of Templeton shall be placed under restraint and controlled from going at large by the owner or keeper thereof.

Licenses

Section 5. (a) In accordance with Chapter 140, Section 137 of the General Laws, the owner or keeper of a dog within the town shall cause the dog to be initially licensed when it attains the age of six months and annually thereafter. Proof of a currently valid rabies vaccination shall be required prior to the issuance of any license.

(b) The annual licensing date shall be January 1st of any year.

(c) The Town Clerk shall, pursuant to Chapter 40, Section 22F of the General Laws, from time to time fix reasonable annual fees to be charged for the issuance of licenses for dogs. At the adoption of these By-laws, the annual licensing fee shall be fixed at \$15 for a spayed/neutered dog and \$20 for an intact dog. These fees shall not be increased without a majority vote of the voters present at a town meeting.

(d) The Town Clerk shall, pursuant to Chapter 40, Section 22F of the General Laws, from time to time fix reasonable annual fees to be charged for the issuance of licenses for kennels.

(e) The Town Clerk shall be responsible for the issuance of all licenses related to this bylaw.

(f) Any person who is the owner or keeper of a dog in the Town of Templeton, and who fails to license said dog by April 1st of any year, shall be subject to a late fee of twenty-five dollars (\$25.00) to be payable, in addition to the license fee. The license fee and the late fee(s) may be secured through the imposition of a municipal charges lien on any property standing in the name of the dog owner or keeper, pursuant to Chapter 40, Section 58 of the General Laws.

Violations and Penalties

Section 6. (a) The failure of the owner or keeper of any dog or pet to comply with this bylaw or with any order of the Animal Control Officer or the Board of Selectmen shall be a violation of this bylaw.

(b) The failure of the owner or keeper of any dog to comply with the registration and license requirements provided in this Section 133 of the By-laws and in Chapter 140, Sections 136A through 174E of the General Laws, shall be a violation of this bylaw.

- (c) In addition to any other remedy provided by law, this Section 133-6 of the By-laws may be enforced by the Animal Control Officer, or any police officer of the Town, or the Board of Selectmen, through any means available in law or equity, including but not limited to criminal indictment in accordance with Chapter 40, Section 21 of the General Laws, noncriminal disposition in accordance with Chapter 40, Section 21D of the General Laws and Section 133-14 of these By-laws entitled "Non-criminal Disposition", and, in instances of a violation of a nuisance dog or dangerous dog order issued pursuant to Chapter 140, Section 157 of the General Laws, in accordance with Chapter 140, Section 157A of the General Laws, as may be amended from time to time.
- (d) When enforced in accordance with Chapter 40, Section 21 of the General Laws, the maximum penalty shall be \$300 and each day a violation exists shall constitute a separate violation.
- (e) When enforced by the Animal Control Officer or the police officer of the town through non-criminal disposition, the penalties shall be as follows:

FIRST OFFENSE	\$100
SECOND OFFENSE	\$150
THIRD OFFENSE	\$300

- (f) Violation of Nuisance Dog or Dangerous Dog Order: An owner or keeper of a dog who fails to comply with an order of the Selectmen or district court issued pursuant to Chapter 140, Section 157A of the General Laws shall be punished as provided in that statute.

Animal Control Officer

Section 7.

- (a) The Board of Selectmen shall appoint an Animal Control Officer pursuant to Chapter 140, Sections 151 and 151A of the General Laws. The Animal Control Officer's duties shall include the enforcement of the Town of Templeton's Animal Control Bylaw, Section 133, and all applicable provisions of Chapter 140, Sections 136A through 174E of the General Laws.
- (b) The Animal Control Officer shall make a written record of and investigate all complaints arising within the Town pertaining to violations of any provision of this bylaw, Section 133, or to violations pertaining to Chapter 140, Sections 136A through 174 of the General Laws and any relevant state or local regulations. The Animal Control Officer shall report his or her findings to the Board of Selectmen.
- (c) The Animal Control Officer shall keep accurate, detailed records of the confinement and disposition of all dogs held in custody, all bite cases reported, and the results of investigations. The Animal Control Officer shall maintain a telephone log of all calls received regarding dogs and submit a quarterly report summarizing the log to the Board of Selectmen.
- (d) Issuance of Temporary Restraint Orders: The Animal Control Officer may issue a Temporary Restraint Order to the owner or keeper of any dog that is alleged to be a nuisance dog or a dangerous dog and is awaiting a decision under Section 8. A Temporary Restraint Order shall be in force for no more than thirty (30) days unless the Animal Control Officer renews it in writing for subsequent thirty (30) day period. The Animal Control Officer may rescind or stop renewing the order when, in the Animal Control Officer's judgment, restraint is no longer required. The Animal Control Officer's order shall expire upon receipt of a decision from the Board of Selectmen on the nuisance dog or dangerous dog hearing.

- (e) The Animal Control Officer may make arrangements for the temporary housing of any dog that requires such temporary housing and may issue an Order of Temporary Confinement authorizing such temporary housing. The housing may be at local veterinary clinics, or at dog kennels within the Town or neighboring towns and shall be at the dog owner's or keeper's expense.
- (f) It shall be the duty of the Animal Control Officer to apprehend any dog found to be in violation of Section 6 of this bylaw and to impound such dog in a suitable place or to order the owner or keeper thereof to restrain such dog.
- (g) If the Animal Control Officer impounds a dog found in violation of Section 7 or issues a Order of Temporary Confinement pursuant to Section 7 and the dog owner or keeper does not pay all fees directly to the kennel, veterinary clinic, or dog boarding facility, then the dog's owner or keeper shall be required to reimburse the Town for any expenses incurred in housing that dog. If the dog has not been licensed as required pursuant to this bylaw, the owner or keeper shall immediately apply to the Town Clerk to obtain a license, submit payment for the license fee, and pay any applicable late fees, and said dog shall not be released from confinement unless and until the issuance of a valid license, which shall not be unreasonably delayed or withheld.
- (h) The Animal Control Officer shall, in matters of impoundment or confinement, impoundment or confinement fees, and redemption of impounded or confined animals, carry out his/her duties in accordance with Chapter 140, Sections 151 and 151A of the General Laws, and any amendments thereto.

Board of Selectmen to Serve as the Hearing Authority

Section 8. Any person may file a complaint in writing to the Board of Selectmen that a dog owned or kept in the Town is a nuisance dog or a dangerous dog. All such complaints shall be investigated and addressed in accordance with Chapter 140, Section 157 of the General Laws.

Disposition of Funds

Section 9. The sums collected pursuant to this bylaw shall be accounted for and paid over to the Town Treasurer.

Severability

Section 10. In the event that the Massachusetts Attorney General or a court of competent jurisdiction deems any provision or section of this bylaw invalid or unenforceable, all other provisions shall remain in full force and effect.

Disposal of Animal Waste

Section 11. The purpose of this bylaw is to promote a sanitary environment, free of unintended contamination through contact with animal waste for all Templeton residents and nonresidents.

Removal Required

Section 12. (a) The owner, keeper, or any person in control of a dog, or other animal, shall be responsible for the prompt removal and proper disposal of any feces deposited by such dog, or other animal, upon any public ways, such as streets, roads, avenues, lanes, circles, highways, paths, sidewalks, trails, etc... or upon any public land within 10 feet of such public ways or upon any public land designated as parks, playgrounds, cemeteries, school yards, golf courses,

recreation areas, or any other municipal or government building and/or grounds, all within the Town of Templeton, as well as on property public or private and neither owned nor occupied by said person. Furthermore, no persons who owns, possess, or control such dog, or other animal, shall appear with such dog, or other animal, on any of the aforementioned areas without the means of removal of any such animal feces left by such dog, or other animal. Additionally, disposal of said animal feces in Town trash receptacles, or in storm drains is prohibited.

(b) For the purposes of this chapter, the means of removal shall be any tool, implement, or device carried for the purpose of removal or containment of such feces.

Applicability

Section 13. This Article shall not apply to a physically challenged person in sole custody of a dog, or other animal, or to any individual using a guide/service dog.

Enforcement, violations, and penalties

Section 14. (a) Enforcement shall be by the Animal Control Officer, Board of Health or any other duly appointed law enforcement officer.

(b) Penalty for violation of this bylaw will be by non-criminal disposition pursuant to MGL, Chapter 240, Section 21D. For the purpose of this bylaw, the penalty to apply in the event of a violation shall be as follows:

FIRST OFFENSE	\$25.00
SECOND OFFENSE	\$50.00
THIRD OFFENSE	\$100.00
FOURTH AND ANY SUBSEQUENT OFFENSE	\$200.00

(c) Each occurrence of a violation on any day shall be deemed a separate offense.

Or take any other action related thereto.

**Submitted by the Board of Selectmen
Majority Vote Required**

Article 8: MART Dial A Ride Promotion

To see if the Town will vote to appropriate the sum of Twelve Dollars and Thirty Cents (\$12.30) to an account entitled MART Dial A Ride and to meet said appropriation by a transfer from the revenues received from the Transportation Network Community Fee Assessment,

Or take any other action related thereto.

**Submitted by the Board of Selectmen
Majority Vote Required**

Article 9: Stone Bridge Road Study

To see if the Town will vote to appropriate the sum of Fifty Thousand Dollars and No Cents (\$50,000) to pay the costs of a Field Data Collection and Recommended Replacement Structure Study and to meet said appropriation by a transfer of said sum from certified free cash, or program funds of the Community Preservation Act, or any combination thereof,

Or take any other action related thereto.

**Submitted by the Board of Selectmen
Majority Vote Required**

Article 10: Fiscal 2019 Cable Department Operating Budget Supplement

To see if the Town will vote to appropriate the sum of Fifty Five Thousand Dollars (\$55,000.00), to increase the FY 2019 Cable Department budget by said sum to total, in the aggregate, the sum of One Hundred Twenty Eight Thousand Dollars One Hundred Seventy Seven Dollars (\$128,177.00) and to meet said appropriation from the receipts and revenues to be collected on the behalf of the Cable Department for said fiscal year,

Or take any other action related thereto.

**Submitted by the Board of Selectmen
Majority Vote Required**

Article 11: Capital Budget Supplements

To see if the Town will vote to appropriate the sum of One Hundred Seven Thousand Five Hundred Dollars (\$107,500) for supplemental appropriations for various capital activities as generally described below:

Department	Amount
Senior Center	\$100,000
Templeton Center Fire Station	\$7,500

And to meet said appropriation by a transfer of said sum from certified free cash,

Or take any other action related thereto.

**Submitted by the Board of Selectmen
Majority Vote Required**

Article 12: Capital Budget Appropriations

To see if the Town will vote to appropriate the sum of Thirty Seven Thousand Five Hundred Dollars (\$37,500.00) for various capital appropriations as generally described below:

Department	Amount
FY '19 Revaluation	\$25,000
Town Common	\$12,500

And to meet said appropriation by a transfer of said sum from certified free cash.

Or take any other action related thereto.

**Submitted by the Board of Selectmen
Majority Vote Required**

Article 13: Fiscal 2019 General Fund Operating Budget Supplements

To see if the Town will vote to appropriate the sum of Fifty Two Thousand Five Hundred Dollars (\$52,500) for supplemental appropriations to the Fiscal Year 2019 Operating Budget as follows:

Department	Amount	Notes
Public Works - Highway	\$15,000 ¹	1
Fire & EMS	\$5,000 ¹	1
Police	\$22,500 ²	2
Selectmen	\$5,000 ³	3
IT	\$5,000 ⁴	4

And to meet said appropriation by a transfer of said sum from certified free cash.

Or take any other action related thereto.

**Submitted by the Board of Selectmen
Majority Vote Required**

[Note: ¹ To backfill expenses incurred in responding to the Stone Bridge Road emergency of August of 2018.

² To cover the costs of relocating the Police Station to and from the Baldwinville Fire Station and the onetime cost of sending a new officer recruit to the police academy.

³ To cover the costs of unanticipated legal claims.

⁴ To cover unanticipated excess costs of deploying the new Office 360 software and email program(s)]

Article 14: NRSD Debt Payment

To see if the Town will vote to raise and appropriate the sum of Four Hundred Seventeen Thousand Nine Hundred Eleven Dollars (\$417,911.00) to pay the assessment upon it by the Narragansett Regional School District for the purposes of making payments upon the District's indebtedness.

Or take any other action related thereto.

**Submitted by the Board of Selectmen
Majority Vote Required**

Article 15: Fiscal 2019 Operating Budget Transfer

To see if the Town will vote to amend the FY 2019 operating budget by transferring the sum of Twenty Five Thousand Dollars \$25,000 from Insurance and Benefits to Fire & EMS,
Or take any other action related thereto.

**Submitted by the Board of Selectmen
Majority Vote Required**

Article 16: Deposits to General Fund Stabilization & OPEB Accounts

To see if the Town will vote to appropriate the sum of Three Hundred Twenty Two Thousand Five Hundred Dollars (\$322,500) to make deposits into its Operations (OPEX) and Capital (CAPEX) stabilization accounts and the OPEB reserve account as follows:

OPEX	\$225,000
CAPEX	\$65,000
OPEB	\$32,500

And to meet said appropriation by a transfer of said sum from free cash.

Or take any other action related thereto.

**Submitted by the Board of Selectmen
Majority Vote Required**

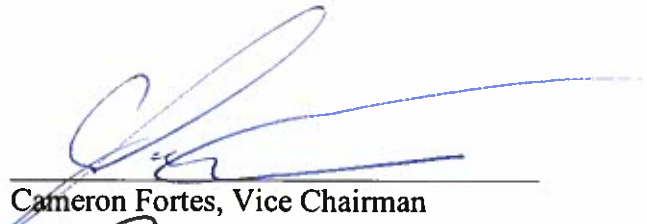
And you are hereby directed to serve this warrant by posting attested copies thereof in each precinct; namely at the Post Office in Templeton, the Post Office in East Templeton, the Post Office in Baldwinville, and at the Town Hall at 160 Patriots Road, East Templeton, fourteen (14) days at least before the time of holding said meeting and by causing notice of the same to be published once in the Gardner News, a newspaper published in said Worcester County, in the City of Gardner.

Given under our hands this 1st day of October, 2018.

BOARD OF SELECTMEN



John Caplis, Chairman



Cameron Fortes, Vice Chairman



Julie Richard, Clerk



Doug Morrison, Member



Diane Haley Brooks, Member

True Copy: ATTEST

Signature of Constable – Town of Templeton

Printed Name of Constable Signing Above

OFFICER'S RETURN
WORCESTER, SS

October _____, 2018

This is to certify that I have served the within warrant by posting attested copies thereof in each precinct; namely, at the Post Office in Templeton, the Post Office in East Templeton, the Post Office in Baldwinville, and at the Town Hall at 160 Patriots Road, East Templeton, fourteen (14) days at least before the time of holding said meeting and by causing notice of the same to be published once in the Gardner News, a newspaper published in said Worcester County, in the City of Gardner.

Signature of Constable – Town of Templeton

Printed Name of Constable Signing Above

A True Copy, ATTEST:

Carol A. Harris
Town Clerk of Templeton

Stretch Appendix to the Energy Code in Massachusetts

Question and Answer (Q&A)

General Questions:

1. What is the 'stretch' code?
2. How is the stretch code different from the existing 'base' energy code?
3. Why did the Board of Building Regulations and Standards (BBRS) create this option?
4. What are some of the expected benefits to a municipality of a more stringent energy code?
5. What is the anticipated cost of implementing a more stringent energy code?
6. Where can I find and read more about the stretch code appendix?

Scope:

7. What building types does the stretch energy code apply to?
8. Does the stretch code apply to major renovation projects as well as new construction?
9. Does the stretch code apply to minor additions to existing buildings?
10. What happens to buildings not covered by the 'stretch' energy code?
11. What categories do multi-family residential buildings fall into?
12. How does the stretch code apply to historic buildings?

Standards and Training:

13. What standards are the stretch code appendix based on?
14. What training and materials are available on these standards?

Process:

15. What is the process for adoption of the stretch energy code?
16. How would a town or city adopt the stretch energy code?
17. How soon after a town or city adopts it would the stretch code take effect?

Enforcement/Requirements:

18. How would the stretch code be implemented and enforced?
19. What is the role of Building Code Officials in a code that includes 3rd Party verification?

Residential Building Questions:

- R1. How do I meet the residential stretch code for new homes?
- R2. What is a HERS rating?
- R3. Do I have to get a HERS rating?
- R4. How do I meet the residential stretch code when making renovations to existing homes?
- R5. If I'm doing a small remodeling project, like a kitchen or a bathroom renovation, will I have to meet the stretch energy code?
- R6. How do I find a HERS rater?
- R7. What training do HERS raters undergo?
- R8. What testing equipment is required to meet the residential stretch code?
- R9. Are there enough HERS raters and testing equipment available?
- R10. How much more does it cost to build to the stretch code, and how does this compare to the energy savings?
- R11. What financial savings/rebates are there from building to the stretch code?
- R12. How is the MA stretch code different from the existing Energy star for Homes program?
- R13. Do I have to use the Energy Star program?
- R14. How does the building official in my town/city check whether I met the stretch energy code?
- R15. How does the stretch code work with LEED for Homes?

Commercial Building Questions:

- C1. What building types are covered by the commercial stretch code?
- C2. What is required for large new commercial buildings above 100,000 square feet?
- C3. What is required for new commercial buildings between 5,000 and 100,000 square feet?
- C4. What is required of small new commercial buildings, below 5,000 square feet?
- C5. How are commercial renovations handled by the stretch code?
- C6. How are new commercial buildings with special energy needs handled?
- C7. How do the benefits and costs of the Stretch Code standards compare to the baseline code?
- C8. How does the stretch code work with LEED buildings?
- C9. Does the stretch code require 3% renewable electricity or solar panels?

General Questions:

1. What is the 'stretch' code?

The 'stretch code' is an optional appendix to the Massachusetts building energy code that allows cities and towns to choose a more energy-efficient option. This 'stretch code' option increases the energy efficiency code requirements in any municipality that adopts it, for all new residential and many new commercial buildings, as well as for those residential additions and renovations that would normally trigger building code requirements.

2. How is the stretch code different from the existing 'base' energy code?

The stretch code appendix offers a streamlined and cost-effective route to achieving approximately 20% to 35% better energy efficiency in new residential buildings, and 20% in new commercial buildings, than is required by the existing base energy code. This is largely achieved by moving to a performance-based code, where developers are required to design buildings so as to meet an energy target substantially better than code and have flexibility in how they meet that target to allow for cost effective and appropriately designed solutions. New residential construction must use the performance-based approach, but residential renovations and most commercial buildings may instead follow a 'prescriptive' route that requires a set of specific energy efficiency improvements, which in the commercial case add up to approximately a 20% improvement over the current code. Many of these changes have been endorsed by the federal Department of Energy and are likely to be incorporated into the next International Energy Efficiency Code (IECC) in 2012, so to a large degree the stretch appendix is an early look at the potential 'next' code.

3. Why did the Board of Building Regulations and Standards (BBRS) create this option?

There have been mounting calls for additional stringency in the building energy code, linked to the desire to reduce energy costs, cut dependence on imported fuels, and address concerns about climate change and national security.

Several towns and cities asked for the ability to adopt their own stronger building energy code, and/or proposed legislative changes to allow municipalities to strengthen their building code options. The last legislative session in Massachusetts led to the creation of several new laws related to energy and the building sector, notably the Green Communities Act, the Green Jobs Act, and the Global Warming Solutions Act. In response to this, the BBRS, along with the energy and environmental agencies, collaborated with regional and national code experts to develop one alternative 'stretch' code that is consistent across the state, in order to meet demands for a stricter code without having multiple competing code standards developed and implemented at the town or city level.

4. What are some of the expected benefits to a municipality of a more stringent energy code?

In addition to allowing municipalities to take meaningful action on energy use and climate change, the adoption of the more stringent and more performance based 'stretch' energy code is anticipated to result in significant cost savings for local residents and businesses and increase design and construction firm competitiveness in the growing green building marketplace.

5. What is the anticipated cost of implementing a more stringent energy code?

Initial adoption of a higher performance standard for buildings is likely to result in slightly higher first costs for construction, estimated to be approximately \$8,000 for a typical single-family home, and in the 1% to 3% range for commercial buildings. However, after energy cost savings on heating and electricity are included these higher performance standards save money. In addition, the electric and gas utilities in the state provide financial incentives that further reduce the upfront costs of high performance buildings and allow for faster returns on the investment in energy saving measures.

For example, a residential home purchased with a 30-year mortgage would typically result in net savings to the homeowner in the first year due to energy bill savings that are larger than the increase in mortgage payments from construction and financing costs. Case studies of commercial buildings following the energy efficiency recommendations on which the commercial code changes are based have shown paybacks of 1 to 2 years, when standard incentives from electric utilities are included on the benefits side.

6. Where can I find and read more about the stretch code appendix?

The stretch code appendix language is freely available on the Massachusetts BBR website.¹ Also available on the BBR website is a 2-page summary² of the code. In addition, the stretch code appendix 120.aa can be found with the rest of the Massachusetts energy code in the state bookstore. Because the stretch code is an appendix to the base energy code, it is best read together with the new base energy code document published as the International Energy Conservation Code, 2009 edition (IECC2009) available from the ICC website³ and other online bookstores.

Scope

7. What building types does the stretch energy code apply to?

The stretch code appendix applies to both residential and commercial buildings:

i) All Residential buildings from single family homes up to and including buildings 3 stories or less of any size. This includes both new and existing residential buildings that are renovated. Historic buildings and existing buildings not being renovated are exempt from both the stretch code and the base code.

ii) New Commercial buildings over 5,000 square feet in size, including multi-family residential buildings over 3 stories, but excluding specialized facilities with unusual energy usage requirements such as supermarkets, laboratories, and warehouses up to 40,000 square feet. Other building types with unusual energy usage profiles can also apply for a waiver from the stretch code from the BBR.

8. Does the stretch code apply to major renovation projects as well as new construction?

For commercial buildings: no, for residential buildings: yes. The ‘stretch’ energy code does apply to residential building renovation and addition projects but has less stringent energy performance requirements for renovations than for new buildings. In addition, renovators have the option of using a simple ‘prescriptive’ path to code compliance, installing specified efficiency measures, instead of performance testing. This greater flexibility is available for residential renovations due to the greater design constraints in working with an existing building. Due to the wide variety in types and conditions of commercial buildings, at this time there are no widely-accepted standards for renovating such buildings, so only new commercial buildings are covered by the stretch code requirements.

9. Does the stretch code apply to minor additions to existing buildings?

1 Stretch code language: http://www.mass.gov/Eeops/docs/dps/inf/appendix_120_aa_jul09_09_final.pdf

2 Stretch code 2-page summary:
http://www.mass.gov/Eeops/docs/dps/inf/stretch_code_overview_jun05_09.pdf

3 The IECC 2009 code book is available for purchase from the ICC website at:
<http://www.iccsafe.org/e/prodshow.html?prodid=3800S09&stateInfo=fEadjxjbnWjcdbaj1729j5>

Additions to existing buildings that are large enough to require code compliance are treated in the same way as new construction for commercial buildings, and in the same way as renovations in residential buildings. In both cases additions can elect to follow the performance approach to code compliance or a simplified prescriptive path. In the case of residential additions, this requires following the Energy Star Homes Program National Builders Option Package, which results in modest, cost-effective, increases in energy savings over those already required by the new Massachusetts base code.

10. What happens to buildings not covered by the 'stretch' energy code?

Building types that do not fall under the 'stretch' energy code scope, such as small commercial buildings under 5,000 sq ft, or specialized use buildings like small laboratories, will follow the existing base code requirements, which are also changing to the 8th edition of the MA building code in 2010.

11. What categories do multi-family residential buildings fall into?

Residential multi-family buildings that are above 100,000 square feet and at least four stories tall have to follow the same performance path (20% better than the ASHRAE standard 90.1-2007) as other commercial buildings larger than 100,000 square feet. Residential buildings below 100,000 square feet and at least four stories tall would be classified with commercial buildings between 5,000 and 100,000 square feet. Multi-family buildings with one to three stories of any size fall under the residential stretch code standards. In the rare case of a multi-family building of three stories or less that is larger than 100,000 square feet, the developer may elect to be treated either as a residential or as a commercial building.

12. How does the stretch code apply to historic buildings?

The stretch code appendix, similar to the base energy code, allows an exemption for listed historic buildings. More specifically, historic buildings listed in state or national registers, or designated as a historic property under local or state designation law or survey, or with an opinion or certification that the property is eligible to be listed, are exempt from both the base energy code and the stretch appendix to the energy code.

Standards

13. What standards are the stretch code appendix based on?

The residential stretch code is based on the existing 'Energy Star for Homes'⁴ program developed by the federal EPA and Department of Energy and customized for Massachusetts. This Energy star program is in Rating System (HERS) which is developed and administered by the national residential energy organization called RESNET.⁵ The Commercial stretch code for buildings from 5,000 square feet to 100,000 square feet is based on a comparison to the current edition of the International Energy Conservation Code (IECC 2009), developed by the International Code Council⁶ (ICC), which will also be the new base energy code for Massachusetts. The energy saving improvements above the commercial IECC code are based on the New Buildings Institute (NBI) Core Performance program for commercial buildings, recently revised and published as the Core energy code.⁷ Above 100,000 square feet commercial buildings are required to show a percentage improvement below ASHRAE 90.1-2007 energy standards.⁸ This performance approach is also an option for smaller commercial buildings.

4The Massachusetts New Homes with Energy Star program website is:

<http://www.energystarhomes.com/>

5The RESNET website is: <http://www.natresnet.org/>

6The ICC website is: <http://www.iccsafe.org/>

7The Core energy code is available online at: <http://www.newbuildings.org/codes.htm>

8The ASHRAE 90.1-2007 standard is readable online in a Java enabled browser at:

http://openpub.realread.com/rserver/browser?title=/ASHRAE_1/ashrae_90_1_2007

IP 1280

14. What training and materials are available on these standards?

In addition to the websites referenced in the answer to the prior question, training on the IECC 2009 base energy code and an introduction to the stretch code appendix is being provided to all municipal code officials (at no cost), as well as to interested building professionals (at a cost), beginning in November 2009. In addition, the existing Massachusetts Energy Star Homes program provides regular training covering HERS and other requirements of the residential stretch code, and the major Massachusetts electric and gas utilities offer training on NBI Core Performance for commercial buildings.

Process

15. What is the process for adoption of the stretch energy code?

Now that it has been approved and published by the Board of Building Regulations and Standards (BBRS), the stretch code has been incorporated into the Massachusetts building code as optional appendix 120.AA. Towns and cities in Massachusetts are able to choose to remain on the base energy code, or to adopt the stretch energy code as their mandatory energy code requirement. A municipality would remain on the base energy code unless and until they adopt the stretch code through their appropriate public process.

16. How would a town or city adopt the stretch energy code?

The stretch energy code appendix may be adopted by any municipality in the commonwealth, by decision of its governing body. In a city having a Plan D or Plan E charter the governing body shall be the city manager and the city council, and in any other city the mayor and city council. In towns the governing body shall be the board of selectmen. In order to be adopted, the appendix must be considered at an appropriate municipal public hearing, subject to the municipality's existing public notice provisions.

17. How soon after a town or city adopts it would the stretch code take effect?

In order to provide consistency among communities, once adopted the stretch code can only go into effect on January 1st or July 1st, and there must be at least six months between adoption and when the stretch code becomes mandatory. For example: if Town A voted to adopt in November 2009, then on July 1st, 2010 the stretch code would replace the base energy code as the sole, mandatory energy code in Town A. During the interim period the stretch code would be available as an option for builders to use.

Enforcement/Requirements

18. How would the stretch code be implemented and enforced?

Once the stretch energy code is adopted by a town or city, it supplements the base energy code language and becomes the binding energy code language for building projects in that municipality. Implementation and enforcement of the code is similar to existing code, where the developer is responsible for submitting documentation of compliance to the building inspector for review, and the building inspector conducts a site review.

19. What is the role of a building code official and a HERS rater for residential projects?

Residential buildings meeting the stretch code through a HERS rating and thermal bypass checklist require independent certification by a HERS rater. Their work will produce a report detailing the energy systems in the building and will provide a HERS index score, together with proof of whether the home qualifies for the federal \$2,000 tax credit. Submission of a copy of the HERS report, together with a completed Energy Star Thermal Bypass checklist, and posting the relevant energy data on the electrical panel in the home are the steps required to demonstrate compliance with the energy portions of the code and must be submitted to the local building inspector prior to receiving a certificate of occupancy. In this way the local inspector retains their oversight role, but the additional energy requirements are intended to not place a significant additional burden on their time.

Residential Building Questions:

R1. How do I meet the residential stretch code for new homes?

For new residential homes including multi-family homes of 3 stories or less, builders essentially follow the Energy Star for Homes program requirement in Massachusetts and are required to show that each unit meets or is below a maximum HERS index score. For new homes greater than 3,000 square feet in size the maximum HERS score is 65 (Energy Star tier 2), for smaller homes less than 3,000 square feet in size the maximum HERS score is 70. In addition to the HERS score the homes must be inspected using the Energy Star ‘thermal bypass checklist’ and similar to the new base code may require duct testing. These inspections ensure that the home is well air sealed, while the HERS rating ensures that the home is designed to be well insulated with efficient heating and cooling and lighting – all measures that save energy and reduce utility bills.

R2. What is a HERS rating?

HERS stands for ‘Home Energy Rating System,’ and is a national standard that uses information on the design of the energy systems in a home to calculate, via computer modeling, the average energy needs of that home and give it a rating score. The HERS Index was developed by the non-profit Residential Energy Services Network (RESNET) for the mortgage industry and is utilized by the Federal Internal Revenue Service (IRS) and the LEED for Homes program. On the HERS 2006 index scale smaller numbers are better, with 0 representing a net zero energy home, and 100 represents a home built according to meet the national model energy code in 2006 (the IECC 2004 with 2005 amendments). A HERS rating of 65 means that the home uses about 35% less energy than the same size home built to the 2004/2005 IECC code requirements. The Residential Stretch code is based on the nationally successful ‘Energy Star for Homes’ program requirements, which utilize HERS ratings.

R3. Do I have to get a HERS rating?

New homes built under the stretch code will have to get a HERS rating. Renovations and additions to homes have the option of the HERS rating or a ‘prescriptive’ approach, whereby specific efficiency measures are required, but no computer modeling is done. The HERS performance-based approach provides a very good way to ensure that homes are not only well designed but also well built. As part of the HERS rating the home will be tested for air leakage, and under both the base and the stretch code homes with heating and cooling ducts may also have those tested for leakage. Combined with the thermal bypass checklist the HERS rater, builder and building inspector can have confidence that the completed homes really are energy efficient.

R4. How do I meet the residential stretch code when making renovations to existing homes?

Existing homes being renovated or expanded have two choices when it comes to stretch code compliance. The performance option is to use a HERS rating, and the prescriptive option is to use the Energy Star Builders Option Package and the base IECC 2009 code where it is more stringent (for example in wall insulation). If the prescriptive option is chosen, then you only need to meet code for the systems that are being replaced. This means that adding a new efficient boiler does not require changing the windows and adding wall and attic insulation does not require modifying the basement – although it may often make sense to combine measures where that is cost-effective.

However, choosing to follow the HERS rating approach used by new construction often makes sense when doing a whole house renovation. While using the same HERS approach as new homes, existing homes have an easier standard to meet. For home renovations greater than 2,000 square feet the maximum HERS score is 80 and for renovated homes less than 2,000 square feet the maximum HERS score is 85. 85 is also the maximum score allowed to meet the Energy Star Homes program baseline.

R5. If I'm doing a small remodeling project, like a kitchen or a bathroom renovation, will I have to meet the stretch energy code?

If a small renovation involved replacing a couple of windows and opening part of a wall cavity, then those new windows and wall cavity would have to be brought up to the stretch energy code, just as the plumbing in the kitchen or bathroom being remodeled would have to comply with the plumbing code. However, improving a kitchen or bathroom would not trigger required changes to the rest of the home such as attic insulation or a new heating system. Only the systems being modified have to be brought up to code. Despite not being required, your contractor, utility company and code official may help advise on cost effective changes – often with tax and rebate incentives to reduce your energy bills that you may want to consider doing at the same time.

R6. How do I find a HERS rater?

HERS raters work with the residential builder/developer/design team and should be included in the team from the outset. The easiest way to find and choose a HERS rater is to register for the free Energy Star for Homes program and work with the program staff to contact a HERS rater in your region.

R7. What training and certification do HERS raters undergo?

HERS raters are typically experienced building professionals, who in addition take a week or two week long intensive training course in residential energy efficiency. After completing the training, learning how to use HERS rating software, and passing a test,⁹ new raters must also complete at least 5 ratings with an experienced HERS rater before being able to independently award ratings. In addition to this initial training and certification, HERS raters must be affiliated with a certified HERS provider which is responsible for ongoing code education and quality assurance oversight of the HERS rater's work. The HERS providers also carry liability insurance and allow builders to request a review from a second HERS rater in the rare case of disputes.

R8. What testing equipment is required to meet the residential stretch code?

HERS ratings require testing of the air leakage rate of residential units. In addition, for homes that have forced air heating and central air conditioning systems that have ductwork running outside of the heated portion of a house, a duct leakage test is needed. These tests help calculate how much energy is needed to heat and cool a home and help builders to identify possible problems before a home is completed, when there is still time to fix them cost-effectively.

R9. Are there enough HERS raters and testing equipment available?

In 2008 over 15 percent of all new homes in Massachusetts were built through the Energy Star for Homes program, a percentage that is steadily increasing. The majority of these homes used HERS raters and testing equipment to achieve a HERS rating. Several states surrounding Massachusetts have higher percentages of new construction using HERS ratings on a voluntary basis. This means that there is already in place an active market for HERS raters and testing equipment and the gradual adoption of the stretch energy code is not likely to cause a dramatic increase in demand for these services. That said, the growing interest in HERS ratings has led to more building professionals going through HERS training and certification and expanded sales of blower door and duct testing equipment. This is a good sign of a market response to our growing green economy, and we don't anticipate demand for HERS raters exceeding supply in towns and cities adopting the stretch code.

R10. How much more does it cost to build to the stretch code, and how does this compare to the energy savings?

For new construction additional first costs are estimated at around \$8,100 based on a 2,700 square foot single family home, which translates to \$530 extra a year on a 30-year mortgage at 5% interest. These investments cut energy bills by about \$1,360/year, resulting in net annual savings to the homeowner of

⁹The passing score is 80% or higher. More information on the HERS rater test is available here: <http://www.resnet.us/rater/tests/rater.htm>

\$830. Initial costs will be slightly higher for larger homes, though the percentage of total costs will likely be lower. In addition, larger homes will have proportionally larger energy savings.

In the case of renovating a 3-unit urban triple-decker, the additional construction costs for all three units combined was around \$15,000, while the annual energy savings were over \$2,700/year, again yielding immediate net cash savings to the unit owners. Separate documents are available that summarize the detailed cost-benefit analysis that has been undertaken to help set the appropriate level of energy efficiency for the stretch code. These calculations do not include substantial financial incentives available both from utilities in Massachusetts and through federal tax credits (see next question). This economic benefit to the homeowner comes in addition to the broader societal benefits of more energy efficient buildings. Costs for HERS ratings currently range from \$400 to \$1,200 per unit in

Massachusetts, and they are also subsidized by the utility-sponsored Energy Star for Homes program. There are several companies providing this service and the price variation may reflect differing levels of technical assistance to the builder depending on their needs and preferences.

R11. What financial savings/rebates are there from building to the stretch code?

The stretch code is designed to allow builders to get the maximum benefits of the existing Energy Star Homes program with its full range of training, support and financial incentives. A new home with a HERS rating of 65 or less currently qualifies for \$1,250 from the Energy Star utility sponsors, and additional rebates are available for installing high efficiency heating and cooling equipment, appliances and lighting. The utility companies also partially cover the cost of hiring a HERS rater to work with the builder. In addition to these Massachusetts-based incentives there is a federal \$2,000 tax credit available for homes built with less than half of the heating and cooling load of a 2004 code home. The HERS rater and software can tell you whether a new home qualifies for this and the HERS report provides the core documentation needed.

For existing home renovations there are tax credits for the homeowner as well as the same utility incentives on efficient equipment, appliances, and windows. There are also major incentives available to add insulation to existing homes, through the MassSave program sponsored by the gas and electric utility companies.

R12. How is the MA stretch code different from the existing Energy Star for Homes program?

The Energy Star for Homes program is a voluntary program for home builders. In Massachusetts this program is currently administered by ICF International on behalf of the major energy utilities in the state and has several hundred builders enrolled. This program accounted for 15% of all new homes in Massachusetts in 2008. There are 2 or 3 tiers to the Energy Star program. The stretch code essentially makes the current Energy Star program requirements mandatory in any adopting municipality and sets a specific minimum HERS index rating of 65 or 70 based on size for new homes, and less strict requirements for renovations. This standard for new construction is more stringent than the base Energy Star for Homes requirement currently set at 85, but for large homes it is the same as the current Energy Star tier 2 set at a HERS index score of 65.

R13. Do I have to use the Energy Star program?

Residential builders in stretch code communities will be required to get a HERS rating for new homes. In the case of renovation or additions to existing buildings builders may instead meet the requirements of the Energy Star Builders Option package. In both cases builders must also complete the Energy Star thermal bypass checklist. In order to do this and also to simplify qualification for all the rebates and training and technical assistance that is offered we strongly recommend that builders participate in the Energy Star for Homes program. However, it is not mandatory, and in the future when the Energy Star Homes program or the stretch code is revised and updated they may take different approaches.

R14. How does the building official in my town/city check whether I met the stretch energy code?
Currently, under the 7th edition base energy code in Massachusetts it is already possible to meet the code requirements by achieving a HERS rating and/or Energy Star homes certification and submitting a copy of the HERS report and Energy Star paperwork to the local building code official to demonstrate this. The stretch code expands the use of this existing code compliance option to all residential construction. Building officials will be receiving free training on the new base energy code and the stretch code. This training is scheduled to begin before the end of the year to ensure that they are fully aware of this option and the requirements. The same training is also available to interested building professionals for a small fee to cover costs.

R15. How does the stretch code work with LEED for Homes?
LEED for Homes is a voluntary residential green building program that encompasses a significant energy efficiency component. The mandatory energy and atmosphere requirements of the LEED for homes program are that a home at least meets the minimum Energy Star Home requirements of a HERS rating of 85 and a completed thermal bypass checklist. Homes can then gain additional points for achieving a lower HERS score. Because LEED for Homes and the stretch code share the same HERS and Energy Star underpinnings they are completely compatible.

Commercial Building Questions:

C1. What building types are covered by the commercial stretch code?
New buildings, and new additions to existing buildings covered by the commercial energy code, that are greater than 5,000 square feet in size are covered by the stretch code appendix. New commercial buildings smaller than 5,000 square feet, as well as all existing commercial buildings and renovation to existing commercial buildings are exempt from the stretch code and would remain on the base energy code.

C2. What is required for large new commercial buildings above 100,000 square feet?
The designed energy use in large commercial buildings is required to be at least 20% below the use expected based on the building code energy modeling standards contained in ASHRAE 90.1 2007,¹⁰ which is the latest version of the national model code for commercial buildings. This would be determined by computer modeling of the building, taking into account factors such as air sealing, insulation, and efficiency of the cooling and heating systems, ventilation, and lighting design. Builders have the flexibility to choose the set of energy efficiency features they prefer, as long as modeling shows that overall, they yield the 20% reduction relative to the base ASHRAE 90.1-2007 requirements for the same building.

C3. What is required for new commercial buildings between 5,000 and 100,000 square feet?
Builders of such buildings have two choices. First, they can use the same modeling as for buildings above 100,000 square feet and meet the same standard of 20% below ASHRAE 90.1 2007. Alternatively, they can choose a set of “prescriptive” requirements for particular efficiency measures, based on the new base energy code for commercial buildings (International Energy Conservation Code 2009), supplemented by cost-effective energy saving enhancements taken from the Core Performance program developed by the New Buildings Institute.¹¹ The Core Performance program and the newly updated Core Energy Code are nationally-recognized standards already in use by Massachusetts gas and electric utility companies as the basis for providing financial incentives to commercial building developers.

¹⁰ Specifically: ASHRAE Standard 90.1-2007 Energy Standard for Buildings Except Low-Rise Residential Buildings, Appendix G.

¹¹ For more information please see the New Buildings Institute press release available here:
<http://www.newbuildings.org/downloads/press/MAAdoptsStretchCode.pdf>

C4. What would be required of small new commercial buildings, below 5,000 square feet? Such buildings would be exempt from the Stretch Code requirements.

C5. How are commercial renovations handled by the stretch code?
Commercial renovations are exempt from the Stretch Code requirements.

C6. How are new commercial buildings with special energy needs handled?
Supermarkets, laboratories, and warehouses **above 40,000** square feet in size must meet the performance modeling requirements of the stretch code that apply to regular commercial buildings greater than 100,000 square feet. Because these buildings often have large and unusual energy loads they are likely to be energy modeled, so meeting the standard of 20% below ASHRAE 90.1-2007 via energy modeling should be a straightforward compliance approach.

Supermarkets, laboratories, and warehouses **below 40,000** square feet are exempt from the stretch code requirements but must still meet the base energy code. Other specialty buildings could apply for waivers based on evidence that they have unusual energy loads, and that they are not typically built using energy modeling.

C7. How do the benefits and costs from the commercial Stretch Code standards compare to the baseline code?

Case studies of specific buildings by Massachusetts utility companies National Grid and NSTAR show that the savings in reduced energy costs far exceed the greater initial construction costs. If the costs are included in a mortgage, then owners would see immediate cash-flow savings. Moreover, the utilities offer generous incentives that make the efficiency improvements even more profitable. For example, on one mid-sized office building in Warwick, Rhode Island, the additional cost was \$91,000, while the annual energy savings were \$29,500, for a three-year payback. But NGRID provided a rebate of \$63,100, reducing the initial cost to \$28,000, which is covered by the first year's energy savings. More generally, we anticipate that any additional upfront costs incurred in construction should be recovered from energy savings with a payback after rebates of less than three years.

C8. How does the stretch code work with LEED buildings?

The commercial stretch code has two code compliance pathways. Both of these qualify for LEED new construction points and require no additional work because of the stretch code. If pursuing the performance approach, then achieving the stretch code standard of 20% below ASHRAE 90.1-2007 uses the same baseline and modeling as the 2009 LEED program and qualifies for 5 out of 19 LEED energy and atmosphere points. Many LEED buildings will go significantly beyond these energy efficiency requirements, in order to obtain additional LEED points. Similarly meeting the stretch code through the Core Performance-based prescriptive approach qualifies for LEED points.

C9. Does the stretch code require 3% renewable electricity or solar panels?

This question has come up because there is an option under the prescriptive path of the stretch code to meet the requirements of one section of the code with onsite renewable electricity generation. However, this is not a requirement, it is merely one of three options under this code approach, and there is also the alternative to meet the commercial stretch code requirements using the 20% better than ASHRAE 90.1-2007 modeling approach. The three options which appear in section 507 of the prescriptive code option for buildings between 5,000 and 100,000 square feet are:

- a) More efficient heating and cooling equipment – widely available and with utility rebates available to offset much of the incremental cost.
- b) More efficient lighting – also widely available and eligible for significant utility rebates.
- c) Providing at least 3% of the onsite electric load from onsite renewable generation – which qualifies for both large federal tax incentives and significant state renewable energy incentives from the Massachusetts Renewable Energy Trust (MRET)

Chapter 40, Section 6N: Private ways; temporary repairs, ordinances or by-laws

Section 6N. Cities and towns may by ordinance or by-law provide for making temporary repairs on private ways. Such ordinance or by-law shall determine

- (a) the type and extent of repairs;
- (b) if drainage shall be included;
- (c) if the repairs are required by public necessity;
- (d) the number of percentage of abutters who must petition for such repairs;
- (e) if betterment charges shall be assessed;
- (f) the liability limit of the city or town on account of damages caused by such repairs;
- (g) if the ways shall have been opened to public use for a term of years; and
- (h) if a cash deposit shall be required for said repairs.

MGL Ch. 80 §13B: Deferral and recovery agreements; application; recordation; lien

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 six 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.

MGL Ch. 59 §41A §5

Forty-first A, Real property, to an amount determined as hereinafter provided, of a person sixty-five years of age or over and occupied by him as his domicile, of a person who owns the same jointly with his spouse, either of whom is sixty-five years of age or over, and occupied as their domicile, or of a person who owns the same jointly or as a tenant in common with a person not his spouse and occupied by him as his domicile; provided, that such person has been domiciled in the commonwealth for the preceding ten years and

(1) has so owned and occupied as his domicile such real property or other real property in the commonwealth for five years; or

(2) is a surviving spouse who inherits such real property and has occupied such real property or other real property in the commonwealth as his or her domicile for five years and who otherwise qualifies under this clause; and provided further that such person, and such person and his spouse, if married, had, during the preceding year, gross receipts from all sources not in excess of twenty thousand dollars. Any city or town may also, by vote of its legislative body, adopt a higher maximum qualifying gross receipts amount for the purposes of this section; provided, however, that such maximum qualifying gross receipts amount shall not exceed the amount of income determined by the commissioner of revenue for the purposes of subsection (k) of section 6 of chapter 62, for a single person who is not a head of household.

In determining the total period ownership of an applicant for exemption under this clause, the time during which the same property was owned by a husband or wife individually shall be added to the period during which such property was owned by said husband and wife jointly. In computing the gross receipts of such an applicant or of such an applicant and his spouse, if married, ordinary business expenses and losses may be deducted but not personal and family expenses.

Any such person may, on or before the deadline for an application for exemption under section 59, apply to the board of assessors for an exemption of such real property from taxation during such year; provided, however, that in the case of real estate owned by a person jointly or as a tenant in common with a person not such person's spouse, the exemption shall not exceed that proportion of total valuation which the amount of such person's interest in such property bears to the whole tax due. The board of assessors shall grant such exemption provided that the owner or owners of such real property have entered into a tax deferral and recovery agreement with said board of assessors on behalf of the city or town. The said agreement shall provide:

(1) that no sale or transfer of such real property may be consummated unless the taxes which would otherwise have been assessed on such portion of the real property as is so exempt have been paid, with interest at the rate of eight per cent per annum or such lesser rate as may be determined by the legislative body of the city or town, subject to its charter, no later than the beginning of the fiscal year to which the tax relates;

(2) that the total amount of such taxes due, plus interest, for the current and prior years does not exceed fifty per cent of the owner's proportional share of the full and fair cash value of such real property;

(3) 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 taxes 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 tax deferral and

recovery agreement under this clause, payment of the taxes and interest due shall not be required during the life of such surviving spouse. Any additional taxes deferred, plus interest, on said real property under

a tax deferral and recovery agreement signed by a surviving spouse shall be added to the taxes and interest which would otherwise have been due, and the payment of which has been postponed during the life of such surviving spouse, in determining the fifty per cent requirement of subparagraph (2);
(4) that if the taxes 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 taxes and interest shall be recovered from the estate of the owner; and
(5) 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 tax deferral and recovery agreement entered into between the board of assessors and the owner or owners of such real property, said board of assessors 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 taxes as have been assessed under the provisions of this chapter, plus interest as hereinafter provided. A lien filed pursuant to this section shall be subsequent to any liens securing a reverse mortgage, excepting shared appreciation instruments. The statement shall name the owner or owners and shall include a description of the land adequate for identification. 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 such statement shall be paid by the city or town and shall be added to and become a part of the taxes due.

In addition to the remedies provided by this clause, the recorded statement of the assessors provided for in this clause shall have the same force and effect as a valid taking for nonpayment of taxes under the provisions of section fifty three of chapter sixty, except that: (1) interest shall accrue at the rate provided in this clause until the conveyance of the property or the death of the person whose taxes have been deferred, after which time interest shall accrue at the rate provided in section sixty-two of chapter sixty; (2) no assignment of the municipality's interest under this clause may be made pursuant to section fifty-two of chapter sixty; (3) no petition under section sixty-five of chapter sixty to foreclose the lien may be filed before the expiration of six months from the conveyance of the property or the death of the person whose taxes have been deferred.

Requirements for Betterment Deferrals MGL Ch. 89 Section 13

Eligibility:

1. One of the resident owners must be eligible for an exemption under Chapter 59, Section 5, Clause 41A.
 - Must be age 65 by July 1st
 - Must have lived in Massachusetts for 10 years continuously.
 - Must have owned home or any other property in Massachusetts for 5 years.
 - Person may own the property solely, as a joint owner or as a tenant in common.
 - Must occupy the home.
 - Must meet Annual Income Limit of \$ 40,000.
2. An initial 41A application must be filed with and approved by the Board of Assessors to prove eligibility.

Requirements:

1. In the case of each betterment assessment deferral and recovery agreement, a lien naming the owner(s) and describing the property will be filed with the Registry of Deeds.
 - The filing fee shall be paid by the town and shall be added to and become part of the taxes due.
2. Property cannot be sold or transferred unless the betterment, with interest, has been paid.
3. Upon the death of the owner, the heirs-at-law, assignees or devisees shall have first priority to the property by paying the total betterment assessment, including interest. Unless the heir is a surviving spouse who enters into a betterment assessment deferral and recovery agreement, payment of the betterment assessment and interest due will not be required during the life of the surviving spouse.
4. If the betterment assessments due, plus interest, are not paid by the heirs-at-law, assignees or devisee and payment is not postponed during the life of a surviving spouse, the betterment assessments and interest will be recovered from the estate of the owner and that any joint owner or mortgagee has given prior written approval for such agreement.