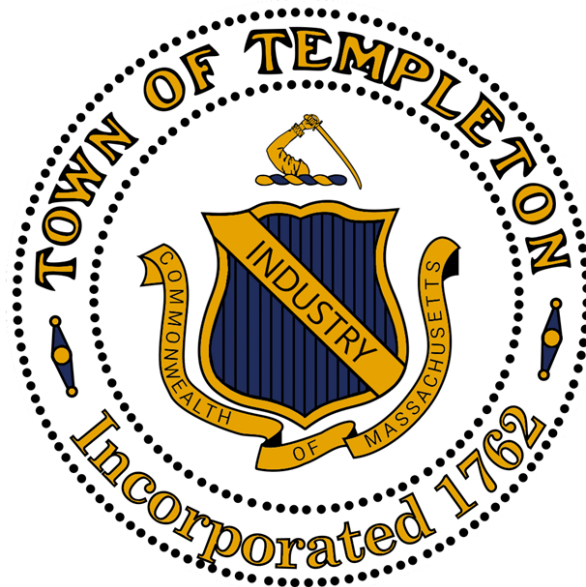


# TOWN OF TEMPLETON

## FALL TOWN MEETING REPORT

### VOTER INFORMATION

October 18, 2018 @ 7:00 PM



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

<http://www.templeton1.org>

**TOWN OF TEMPLETON, MA  
FALL TOWN MEETING  
VOTER INFORMATION**

Templeton has an Open Town Meeting/SelectBoard form of government. While there are many things the SelectBoard can do on a day to day basis, there are many things it cannot do. The SelectBoard cannot adopt by-laws, accept state laws, appropriate money or transfer it between accounts, buy or sell land and the like. These powers are held by the legislative body.

In our Town the legislative body is the Open Town Meeting; a form of government in which any registered citizen can appear, ask questions, speak on matters under consideration, make motions and amendments, and cast their vote as they deem in the best interests of the Town.

The Town will hold its Fall Town meeting on October 18, 2018 to act upon matters that will allow it to make capital purchases and improvements, establish or continue revolving funds which allow us to operate programs such as additional recreation programs and bulky waste collections, operate the Town for the coming Fiscal Year, adopt by-law changes to conform to state law or improve the operations of Town government and the like.

This Voter Information Guide provides you with the motions the Board of Selectmen anticipates making in support of the Articles that have been warned in the Warrant and a summary of the reasons behind the article and the consequences of the vote. Here is the format it follows:

**Article # and Title  
Article Sponsor  
Vote Required**

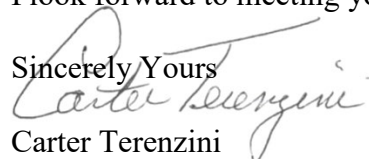
**Anticipated Motion:** The anticipated motion to be proposed by the Board of Selectmen which mostly mirror the original warrant articles. If there is a variation from the original warrant article you will see deletions in strikethrough (~~To see if the Town will vote~~) and you will see additions in bold italic (***I move***). In the instance of very lengthy warrant articles. You may you will find a motion to "...Approve the Article as published...".

**Summary:**

**Advisory Committee Comments & Recommendation:**

Please feel free to contact me at any time here at Town Hall, by phone on 1.603.498.0958, or by email at [townadministrator@templeton1.org](mailto:townadministrator@templeton1.org), or if you have questions before the meeting.

I look forward to meeting you at the Meeting.

Sincerely Yours  
  
Carter Terenzini  
Town Administrator

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## Moderator's Rules

On a general note, there are often materials on a display table near the check-in tables for people to use at Town Meeting or that provide general information to Town residents. These materials have been pre-approved by the Moderator prior to placement to ensure they are appropriate to be distributed at this forum. If you would like to make such materials available to Town Meeting members, please submit them to me for approval at least 48 hours before the start of Town Meeting. Only those materials approved by the Moderator will be on the display table. Any unapproved materials will be removed. You should submit any materials you wish to have pre-approved to the Moderator at [pawws626@aol.com](mailto:pawws626@aol.com) at least 48 hours before the meeting. I will respond as quickly as possible.

Town Meeting is run by a Town Moderator who is elected by the voters for a one-year term. Our By-Laws require that the most current issue of TOWN MEETING TIME is the general guideline for all procedures of town meetings, except those procedures already provided for by the by-laws. Subject to change, the Moderator has some additional guidelines including:

- 1.) Call the meeting to order and go over some housekeeping issues such as the location of free exits and asking you to silence cell phones and electronic devices;
- 2.) Recite the Pledge of Allegiance;
- 3.) Read the Constable's return of the Warrant to show that it was properly served and posted;
- 4.) Introduce Special Guests and the like;
- 5.) As each Article is called, a Motion will be read and seconded (generally by the Board of Selectmen unless it is a citizen petition) and shown on a screen behind me unless there is no ability for the room to readily accommodate such a screen;
- 6.) The Moderator will then ask for the Recommendation of the Advisory Committee (just the vote).
- 7.) Return to the Motion maker for any explanation.
- 8.) Open the floor for discussion (including first recognizing the Advisory Committee for any particular reasons behind their recommendation).
- 9.) Anyone wishing to speak on any issue must first proceed to a microphone and be recognized by the Moderator. The Moderator will not entertain speaking out of turn and you must use a microphone unless otherwise permitted. You will be asked to state your name and address every time you are given permission to speak. You may also be asked if you are speaking as a resident or on behalf of a board or committee. Any amendments to the main motion must be submitted to me in writing. Anyone unruly or disorderly will be given a warning and advised that they are out of order. If the situation continues they will be escorted out of the meeting and placed in a convenient place until the meeting is adjourned.
- 10.) If the Moderator is not certain of a voice vote or if a vote declared by the Moderator is immediately questioned by seven (7) or more people standing and or recognized by the Moderator will proceed to a hand count.

Otherwise general parliamentary procedure and common courtesy rule the meeting.

Derek Hall  
Town Moderator

## Common Terms of Finance

As you read the warrant articles there will be some terms that are unique to public finance or particular to Massachusetts. Below are some definitions of those terms to help you better understand what the request might be for and how it is to be funded.

**Fiscal Year:** Most government entities follow a budget year of their choosing, or that is specified by the state, that is different than the January 1 to December 31 calendar year. Templeton follows a Fiscal Year (FY) of July 1 of a year to June 30 of the following year. We always refer to the Fiscal Year as of the year in which it ends (June 30, 2018 is FY '18).

**Free Cash:** Most budgets assume you collect every dollar - and spend every dollar - you think you will. That never really happens. There are often variations. Free Cash is defined as the remaining, unrestricted funds from operations of the previous fiscal year (i.e. after any liabilities or potential variances you cannot account for) including unexpended free cash from the prior year. In simplest terms, it is actual receipts in excess of revenue estimates and unspent amounts in the appropriation line items. Free cash is not available for appropriation until certified by the Department of Revenue (DOR) Director of Accounts.

**Retained Earnings:** This is the phrase used for free cash of an enterprise fund such as the Sewer fund.

**Other Post-Employment Benefits (OPEB):** We promise the people we hire (under certain conditions) that we will give them other benefits (health, dental, and life insurance) beyond just their pensions when they retire. We are required to calculate how much money it would take to pay for those other benefits and to develop a plan to set that money aside to cover this promise.

**Stabilization Fund:** The state allows the Town to set up funds in which it can set aside monies in anticipation of paying for allowable, generally unforeseen (i.e. think “rainy day” funds) or high cost items expenditures. Generally speaking, it takes a majority vote to put money into these funds and a 2/3 vote to withdraw money from them. The Town has two such funds.

**Capital Expense (CAPEX):** This covers replacement or major repair of our equipment or facilities such as Town Hall and the like.

**Operating (OPEX):** This provides monies to getting through major economic downturns without having to devastate services, high cost unforeseen assessments the state or others might require of us, and the like.

**ARTICLE 1**  
**Payment of Late Bills**  
**Submitted by the Board of Selectmen**  
**9/10ths Vote Required**

**Anticipated Motion:**

~~To see if the Town will vote~~ ***I move*** 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.~~

**Summary: All bills for a fiscal year must be processed by July 15<sup>th</sup> following the end of a fiscal year (i.e. July 15, 2018 for the year ending June 30, 2018) or the Department must encumber funds to be held over to pay a bill once it is received. Payment of any bills received outside of those protocols must be approved by the Town Meeting by a 9/10<sup>th</sup> vote. In this instance, the same vendor failed to submit bills in a timely manner to these three Departments and they failed to encumber monies from their prior fiscal year to pay the bills once they were received. We now require Town Meeting approval to pay these bills.**

**Advisory Committee Comments & Recommendation:**

This article funds outstanding obligations from prior fiscal years that the Town must pay. These bills will be funded from the current fiscal year budget.

**Advisory Committee recommends favorable action on this article.**

**ARTICLE 2**  
**Amend By-Laws Re Adoption of Building “Stretch Energy Code”**  
**Submitted by the Board of Selectmen**  
**Majority Vote Required**

**Anticipated Motion:**

~~To see if the Town will vote~~ **I move** to enact Section LVIV~~X~~ to ~~its~~ **the Town’s** 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 ~~120.00A~~, **115.00A** 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.~~

**Summary: The Town is attempting to become designated a so-called “Green Community” which would bring us an initial grant of approximately \$150,000 for energy improvements to Town buildings. We can then compete annually for up to \$250,000 in additional grants for such improvements. Adopting this additional provision of the Building Code, as has been done by roughly 240 communities to date, is a requirement of this program. It applies to new residential construction (not improvements) and commercial buildings over 5,000 square feet. While there are some additional one-time costs during construction, those tend to be paid back over time from lower operational costs for fuel and electric.**

**Advisory Committee Comments & Recommendation:**

This article will increase the cost of building in Templeton, however, it is a step toward Templeton becoming a “Green Community” and should benefit the Town by way of grant eligibility in future efforts to save on energy costs Town wide.

**Advisory Committee recommends favorable action on this article.**

**ARTICLE 3**  
**Amend By-Laws Re: Repair of Private Ways**  
**Submitted by the Board of Selectmen**  
**Majority Vote Required**

**Anticipated Motion:**

I move to waive the reading and approve the article as published excepting the phrase “To see if the Town will vote to...” and the phrase “Or take any other action related thereto.”.

**Summary:** The entirety of the one plus page warrant article follows and is not being read at length as a matter of consideration to the meeting. There are approximately 40 private ways in Templeton. We cannot legally provide them with any repair services as of today. This proposed by-law will allow us to make the defined temporary repairs upon a petition from the owners of land which abut upon the public way.

**Advisory Committee Comments & Recommendation:** This article will allow all taxpayers to receive services paid for by tax dollars. Furthermore, this article along with other actions being pursued will allow these private roads to eventually become approved Town roads ending any stigma or division among Town residents concerning private roads versus Town accepted roads.

**Advisory Committee recommends favorable action on this article.**

**Original Warrant Article As Published:**

To see if the Town will vote to enact a new Section LVII to it’s 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.

**ARTICLE 4**  
**Filing of Special Legislation Re: Betterment Fund**  
**Submitted by the Board of Selectmen**  
**Majority Vote Required**

**Anticipated Motion:**

I move to waive the reading and approve the article as published excepting the introductory phrase of “To see if the Town will vote to...” and phrase of “Or take any other action related thereto”.

**Summary: The entirety of the one plus page warrant article follows and is not being read at length as a matter of consideration to the meeting. State law only allows Town’s to adopt by-laws providing for “temporary” repairs to private-ways. Further, state law currently provides that repayments of betterments go into the general fund. This means that every time the Town wants to undertake a betterment it must find a new source of funding. This proposed legislation would allow the Town to adopt a by-law to make “permanent” repairs to private ways. Further, it would provide that the repayments of funds expended for betterments would go into this separate fund to be used again in the future (think “revolving Fund”) thus – over time – building a possible permanent source of funding for betterments. This proposal is modeled on similar legislation for Spencer and Falmouth for a Betterment Fund and Gloucester for the additional authority to make “permanent repairs”.**

**Advisory Committee Comments & Recommendation:** This act would simply create an account /place for any funds collected from residents on private roads for permanent repairs or improvements completed on said roads/ways.

**Advisory Committee recommends favorable action on this article.**

**Original Warrant Article As Published:**

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.

**ARTICLE 5**  
**Adoption of MGL Ch. 80 §13B Re: Defer Repayment of Certain Betterment Liens**  
**Submitted by the Board of Selectmen**  
**Majority Vote Required**

**Anticipated Motion:**

~~To see if the Town will vote~~ **I move** 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.~~

**Summary:** During the discussion of the possibility of the undertaking additional betterments a concern was raised that some elders might not be able to absorb the annual repayments within their fixed income budgets. Adopting this statute would allow certain of our elders to defer the repayment until the wish to pay the betterment or sell the home.

**Advisory Committee Comments & Recommendation:** This article would help some residents over age 65 in the way in which betterment repayment is dealt with regarding the Town.

**Advisory Committee recommends favorable action on this article.**

**ARTICLE 6**  
**Amend By-Laws Re: Employment Contracts for Department Heads**  
**Submitted by the Board of Selectmen**  
**Majority Vote Required**

**Anticipated Motion:**

~~To see if the Town will vote~~ **I move** to enact a Section LVIII to ~~it's~~ **the Town's** 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.~~

**Summary: Current state law only allows us to enter into contracts for a few of our Department Heads. This can pose a recruitment and retention problem where other Towns have such provisions in their Town Charter, special legislation or a by-law. This by-law is proposed to address such a problem.**

**Advisory Committee Comments & Recommendation:** This article would allow the Town to utilize this option as a marketing tool in attempting to attract new Town employees. Town Meeting must realize that some elected boards, such as Board of Health have say in employment contracts under the law.

**Advisory Committee recommends favorable action on this article.**

<p><b>ARTICLE 7</b> <b>Amend By-Laws Re: Animal Control</b> <b>Submitted by the Board of Selectmen</b> <b>Majority Vote Required</b></p>
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**Anticipated Motion:**

I move to waive the reading and approve the article as published, excepting the phrase “To see if the Town will vote to...” and the phrase “Or Take any other action related thereto.” provided, however, that the reference to MGL Chapter 240 in Section 14 (b) shall be amended to read MGL Chapter 40.

**Summary: The entirety of the five page warrant article follows and is not being read at length as a matter of consideration to the meeting. It comes to us as a recommendation from Town Counsel to align our by-law with current state statute. Licensing fees are raised to cover the \$22,500+ annual cost of the Animal Control Officer and fines are raised to help motivate owners to comply with the by-law.**

**Advisory Committee Comments & Recommendation:** Action on this article consists of repealing the current existing Town by-law in its entirety and replacing it with article 7 verbiage to bring the by-law in step with current state law. This article also allows for increases in dog license fees as well as significant increase in non-criminal disposition fines.

**Advisory Committee recommends favorable action on this article.**

**Original Warrant Article As Published:**

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.

**ARTICLE 8**  
**MART Dial A Ride Promotion**  
**Submitted by the Board of Selectmen**  
**Majority Vote Required**

#### Anticipated Motion:

~~To see if the Town will vote *I move* 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.~~

**Summary: State law requires so-called “ride-share” services to assess a 10¢ fee on every pick up to be sent to the Town in which the pick up occurred. We may then use the monies to support non-traditional transportation efforts (think bicycle paths, car-pooling, MART and the like). In this case we will print brochures helping to promote our MART Dial-A-Ride service run out of the Senior/Community Center.**

**Advisory Committee Comments & Recommendations:** This article deals with the Town’s share of ride share fees with regards to services such as Uber and Lyft.

**Advisory Committee recommends favorable action on this article.**

**ARTICLE 9  
Stone Bridge Road Study  
Submitted by the Board of Selectmen  
Majority Vote Required**

**Anticipated Motion:**

~~To see if the Town will vote *I move* 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.~~

**Summary:** This study will provide us with the information needed to make an informed decision on how to best deal with the failed Stone Bridge. It also provides the information many possible grant sources will require. This bridge “... lies at the center of what was once a busy collection of mills... including Wilkerson’s (sp?) machine shop, where the 1<sup>st</sup> sewing machines were manufactured by Thomas White. The bridge was a critical by-way for the many people employed by these mills.”<sup>1</sup> and is considered a significant resource of local interest by the Town’s Historical Commission. Crossing the Burnshirt River, the roadway also has recreation possibilities. As of the date this guide was sent to the printer, it was unknown if the Community Preservation Committee would agree to fund all or a portion of the study. The final motion will be dependent upon that action. [<sup>1</sup> Narragansett Historical Society]

**Advisory Committee Comments & Recommendation:** This article deals with one step in the process that could allow the Town to pursue grants or other funding sources to be used in efforts to repair, maintain or replace of structure known as Stone (Stoney) Bridge.

**Advisory Committee recommends favorable action on this article.**

**ARTICLE 10**  
**Fiscal 2019 Cable Department Operating Budget Supplement**  
**Submitted by the Board of Selectmen**  
**Majority Vote Required**

**Anticipated Motion:**

~~To see if the Town will vote~~ ***I move*** 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.~~

**Summary: The Cable Access and Communications Department requests this raise in its FY19 appropriation to better meet revenues and prepare Templeton Community Television (TCTV) to satisfy current demand for community, educational and volunteer programming. TCTV and the Cable Access and Communications Department are self-funded by TV revenues as part of the cable license agreement with the cable TV operator. These funds are not raised by taxation, and must be used solely to maintain and operate TCTV, and for cable TV-related purposes.**

**Advisory Committee Comments & Recommendation:** This article allows for more of the funds collected by way of contract agreement with Comcast Cable to be utilized to support the operation of the Town's cable channel and broadcast of meetings of many Town boards, committees and events held in Templeton.

**Advisory Committee recommends favorable action on this article.**

**ARTICLE 11**  
**Capital Budget Supplements**  
**Submitted by the Board of Selectmen**  
**Majority Vote Required**

**Anticipated Motion:**

~~To see if the Town will vote~~ ***I move*** 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:

<b>Department</b>	<b>Amount</b>
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

**Summary:** The siding for the Senior Center has been put out to bid twice, drawing only one bidder each time, and exceeded the appropriation both times. These additional funds will provide the roughly \$65k needed to cover the higher bid as well as a needed contingency and oversight (Clerk of the Works) for the project. While the bid for the Templeton Center Fire Station came in within budget, we fear there may not be sufficient funds for a contingency (one never knows what one will find when one strips a roof clean), to repair some of the interior damage and cover oversight (Clerk of the Works) for the project.

**Advisory Committee Comments & Recommendation:** While the committee has reservations of going back to taxpayers multiple times for more funding on the same project (s), it also acknowledges that town assets must be protected and invested in for long term tax dollar savings.

**Advisory Committee recommends favorable action on this article.**

**ARTICLE 12**  
**Capital Budget Appropriations**  
**Submitted by the Board of Selectmen**  
**Majority Vote Required**

**Anticipated Motion:**

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

<b>Department</b>	<b>Amount</b>
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.~~

**Summary:** This article provides supplemental funds to cover the costs of upgrading the assessing software and to undertake a series of tree removals, pruning and replanting on the Town Common. It was originally anticipated that the software would be covered by a grant from another source. However, that funding source declined to do so in favor of a different project they favored more. The approach to the Common grew out of a study by a licensed arborist carried out to advise us on how to best address these dying and declining trees.

**Advisory Committee Comments & Recommendation:** This article deals with two subjects, one being money for the Assessor’s office to replace a funding source that was presented to Town Meeting by board of selectmen that “fell through” and the other item involves tree work on Templeton common, which falls in line with maintaining , protecting and investing in Town assets.

**Advisory Committee recommends favorable action on this article.**

**ARTICLE 13**  
**Fiscal 2019 General Fund Operating Budget Supplements**  
**Submitted by the Board of Selectmen**  
**Majority Vote Required**

**Anticipated Motion:**

~~To see if the Town will vote~~ *I move* 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:

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

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

~~Or take any other action related thereto.~~

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

<sup>2</sup> 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.

<sup>3</sup> To cover the costs of unanticipated legal claims.

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

**Summary: Given how early we are in the Fiscal Year, it is unlikely that Departments could absorb these one-time unanticipated costs within their operating budgets and safely make it through to the Annual Town meeting. It is also considered too early in the Fiscal Year to consider using the Advisory Committee's reserve fund. Most items are explained by their footnotes, but we do offer an additional note<sup>4</sup>. At the time of preparing the FY '19 operating budget, the estimate to deploy the Office 360 was \$5,000. However, the final quotation submitted after soliciting services was \$9,748. We would have to defer replacing aging work stations to absorb those added costs and some of those work stations are needed to be able to fully deploy the Office 360 program.**

**Advisory Committee Comments & Recommendation:** Again, the committee cautions against the continued practice of using one-time funds to support re-occurring expenses of the Town's general fund expenses. The Town does have a reserve fund to deal with unanticipated emergencies. The committee also questions the need to supplement a legal budget of \$60,000.00 as well as the need for additional IT funding this early in the fiscal year. Provided there is sufficient explanation of additional funding requests for legal and IT;

**Advisory Committee recommends favorable action on this article.**

**ARTICLE 14  
NRSD Debt Payment  
Submitted by the Board of Selectmen  
Majority Vote Required**

**Anticipated Motion:**

~~To see if the Town will vote~~ ***I move*** 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.~~

**Summary: In simplest terms, this portion of the NRSD budget was missed when presenting their funding Article at the Annual Town Meeting.**

**Advisory Committee Comments & Recommendation:** This article will fulfill Templeton’s obligation to pay debt service that was dealt with at the May 2018 Annual Town Meeting.

**Advisory Committee recommends favorable action on this article.**

**ARTICLE 15**  
**FY 2019 Operating Budget Transfer**  
**Submitted by the Board of Selectmen for the Cable Committee**  
**Majority Vote Required**

**Anticipated Motion:**

~~To see if the Town will vote *I move* 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.~~

~~Or take any other action related thereto.~~

**Summary: The Town adopted an over-ride of \$470,246 with the Fire/EMS Department being allocated \$290,740 of that and the Insurance & Benefits Department being allocated \$133,890 of that. As it is working out we need to rebalance those allocations. If approved the \$25k being transferred to the Fire/EMS Department will be split over the sub-accounts of Personnel and Other. The original allocations of the over-ride across the Fire/EMS and Insurance & Benefit Accounts were based upon the potential for filling the FF/EMT-P positions immediately with fully certified personnel drawing benefits. This has not happened. Two of the recently hired personnel must spend approximately 4 months apiece at the Firefighter Academy. While there is no charge for the academy itself, while they are in the academy we must pay these personnel their regular hourly and overtime and travel rates and backfill their positions in their absence. While we have saved on the Health Insurance, Pension, UC, Medicare and the like from the cumulative service time saved by their late entry, it has posed service problems from having the lack of these FF/EMT-Ps. While all ambulance shifts are covered, we must call in a Paramedic leave service when we have not been able to cover the ambulances with the paramedic level backfills. This is expected to cost us roughly \$12,500 over the course of the year. The Chief will do his best to minimize those costs but we believe a re-balancing of the monies is the best course of action at this time.**

**Advisory Committee Comments & Recommendations:** This article requests Town Meeting to approve a transfer of monies from one Town fund to another but it lacks specificity as to where the funds will be used; under Fire & EMS on the Town’s monthly expenditure report, there are funds for personnel, employee support, purchase of services, supplies and “other”. The committee feels that Town Meeting deserves to know what this



proposed transfer will be used for, salary increases, maintenance, etc. Due to insufficient information on this proposed reallocation of funds:

**Advisory Committee recommends against this article.**

**ARTICLE 16**  
**Deposits to General Fund Stabilization & OPEB Accounts**  
**Submitted by the Board of Selectmen**  
**Majority Vote Required**

**Anticipated Motion:**

~~To see if the Town will vote~~ **I move** 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.~~

**Summary: The Town’s Financial Management Policy contains a formula we follow to allocate the uses of certified free cash. The Department of Revenue (DOR) had not yet certified free cash when this was written so we used an estimate based upon the ranges DOR was telling us they might certify. That formula is to**

- (a) first deduct an amount anticipated to be needed at the Annual Town Meeting to meet unanticipated operating deficits such as snow and ice;
- (b) then deduct for extraordinary or unplanned needs which have arisen since the annual town meeting with a target of having a remainder of no less than fifty percent of the certified free cash
- (c) The remainder shall be, subject to rounding factors, used for contributions to reserves and as working capital for the balance of the fiscal year, provided that it shall be available for appropriation for capital needs at the annual town meeting, as follows:
  - 50% Reserved for Working Capital
  - 35% Transferred to the General Stabilization Fund
  - 10% Transferred to the Capital Stabilization Fund
  - 5% Transferred to the OPEB reserve

**This allocation follows that formula. Since then DOR has certified free cash that is roughly some \$275,000 higher. Therefore, you will see an additional contribution to these funds as an Article at the Annual Town Meeting.**

**Advisory Committee Comments & Recommendation:** The committee favors regular deposits into these funds, as it shows the Town is committed to building savings and/or reserve funds as well as providing a means to handle long term Town financial commitments and capital investment.

**Advisory Committee recommends favorable action on this article.**

**CLOSING ADVISORY COMMITTEE COMMENT**

In conclusion, Advisory recommends that residents of the Town be involved in the process of Town government by attending Town Meeting, voting and becoming involved through elected or appointed positions and committees that work to make the Town of Templeton a better place to work and live in.

**Stretch Appendix to the Building Energy Code in Massachusetts  
Frequently Asked Questions (FAQ) – July 1, 2011  
(MA Stretch Energy Code Appendix 780 CMR 115.AA)**

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## General Questions

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

MGL Chapter 169 requires that a municipality seeking to be a Green Community adopt an advanced energy conservation code for buildings. In order to meet the requirement of MGL c. 169, the BBRS, along with the state’s energy and environmental agencies, collaborated with regional and national code experts to develop one ‘stretch code’ that is consistent across the state.

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

The stretch code allows municipalities to take meaningful action on energy use and climate change; it will likely yield cost savings for local residents and businesses, and will increase design and construction firm competitiveness in the growing green building marketplace.

### **3. What are the anticipated costs of the stretch code?**

Construction costs are estimated to rise approximately \$3,000 for a typical single family home, and by 1% to 3% of total costs for commercial buildings. However, after energy cost savings on heating and electricity are included, these higher performance standards should\* save money. In addition, the state’s electric and gas utilities provide financial incentives that further reduce the upfront costs of high performance buildings.

\*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 utilizing the improvements 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.

### **4. Where can I find and read more about the stretch code appendix?**

The stretch code appendix language is freely available on the Massachusetts BBRS website,<sup>1</sup> along with a 2-page summary<sup>2</sup> of the code and other explanatory documents. In addition the stretch code appendix 780CMR 115.AA can be found with the rest of the Massachusetts energy code in the state bookstore. As the commercial stretch code in particular amends the base energy code, they are best read together. The base energy code is now the International Energy Conservation Code, 2009 edition (IECC 2009).

## Scope

### **5. Does the stretch code apply to major renovation projects as well as new construction?**

For commercial buildings: no. For residential buildings: yes. The stretch code has less stringent energy performance requirements for renovations than for new buildings. In addition, those doing additions and renovations have the option of using a simple “prescriptive” path to code compliance. The prescriptive path specifies a set of minimum energy efficiency requirements for different building materials and systems, instead of requiring energy performance modeling and testing. This flexibility is available due to the greater design constraints involved 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

<sup>1</sup> Stretch code language:  
[http://www.mass.gov/Eeops/docs/dps/8th\\_edition/115\\_appendices.pdf](http://www.mass.gov/Eeops/docs/dps/8th_edition/115_appendices.pdf)

<sup>2</sup> Stretch code 2-page summary:  
[http://www.mass.gov/Eeops/docs/dps/inf/stretch\\_code\\_overview\\_jun05\\_09.pdf](http://www.mass.gov/Eeops/docs/dps/inf/stretch_code_overview_jun05_09.pdf)

commercial buildings are covered by the stretch code requirements.

#### **6. Does the stretch code apply to minor additions to existing buildings?**

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 similarly to renovations in residential buildings. In both cases, those doing additions can follow the performance approach to code compliance or a simplified prescriptive path. For residential additions, the prescriptive path is very similar to the base energy code, but also requires the use of a checklist to ensure quality installation of insulation and air sealing, use of Energy Star windows, doors and skylights as appropriate, and tighter duct sealing for new heating and cooling systems.

#### **7. What happens to buildings not covered by the stretch code?**

Building types that do not fall under the stretch code scope, such as small commercial buildings under 5,000 sq. ft., will follow the existing base energy code requirements, which is the IECC 2009 with Massachusetts amendments which can be found at: [www.mass.gov/dps](http://www.mass.gov/dps)

#### **8. 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 are classified with commercial buildings between 5,000 and 100,000 square feet. Multi-family homes 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.

#### **9. Does the stretch code apply to historic buildings?**

Both the stretch code and the base energy code exempt historic buildings listed in state or national registers, or designated as a historic prop-

erty under local or state designation law or survey, or with an opinion or certification that the property is eligible to be listed.

## **Standards**

#### **10. What standards are the stretch code appendix based on?**

The residential stretch code is based on the pre-existing “Energy Star for Homes”<sup>3</sup> program developed by the federal EPA and Department of Energy, and customized for Massachusetts. This Energy Star program is in turn built upon the Home Energy Rating System (HERS) which is developed and administered by the national Residential Energy Services Network (RESNET).<sup>4</sup>

The Commercial stretch code for buildings from 5,000 to 100,000 square feet is based on the International Energy Conservation Code (IECC 2009), which is now the base energy code for Massachusetts, with further improvements derived from the New Buildings Institute (NBI) Core Performance program for commercial buildings (recently revised and published as the Core Energy Code).<sup>5</sup> Above 100,000 square feet commercial buildings are required to show a percentage reduction below ASHRAE 90.1-2007 energy standards.<sup>6</sup> This performance approach is also an option for smaller commercial buildings.

## **Enforcement/Requirements**

#### **11. 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 Energy Star Qualified Homes Thermal Bypass Checklist require independent certification by a HERS rater. The rater 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 any federal tax credits. Submission of the HERS report, together with a com-

<sup>3</sup> The Massachusetts New Homes with Energy Star program website is: <http://www.energystarhomes.com/>

<sup>4</sup> The RESNET website is: <http://www.natresnet.org/>

<sup>5</sup> The Core energy code is available online at: <http://www.newbuildings.org/codes.htm>

<sup>6</sup> The ASHRAE 90.1-2007 standard is readable online in a Java enabled browser at: [http://openpub.realread.com/rrserver/browser?title=/ASHRAE\\_1/ashrae\\_90\\_1\\_2007\\_IP\\_1280](http://openpub.realread.com/rrserver/browser?title=/ASHRAE_1/ashrae_90_1_2007_IP_1280)

pleted Energy Star Qualified Homes Thermal Bypass Checklist, 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 do not place a significant additional burden on their time.

**12. When is duct leakage testing required on existing building projects?**

The general guidance is that any new equipment and duct components, which are added to an existing HVAC system, should be leak tested.

However, this guidance may not be reasonable in certain projects; for example, small additions (under say 400 sq. ft.). In a case like this the cost of leak testing the new supply and return branch runs may be high relative to the cost of the HVAC project. Here the guidance is that if the leak testing exceeds 15% of the cost of the HVAC work then leak testing is not required (cost ratio to be submitted to the building official as part of the permit application). Additional guidance, in the absence of cost comparisons, is if the new supply and branch runs tie into existing trunks then leak testing is not required.

If as part of an HVAC system upgrade, a new furnace is installed, then it is reasonable to expect that the new furnace and new duct runs should be tested. This testing should be done prior to connecting the existing trunks, and supply and return branches to the new furnace.

Example A – Enclosing a small rear deck area: A small room that may require only two 7 inch branch runs would NOT require duct testing on the old system or the two new branch runs.

Example B – Finishing an area above a 3 car garage: An area of this size will typically require installing a small main supply, return duct trunk line and multiple branch duct runs. In this case the new work would need to be tested for leakage per the code guidelines.

Typically the easiest way to do this would be to test the new ductwork BEFORE it is tied to the original duct system of the dwelling and prior to

enclosure in soffits or sheetrock, which would block access for repairs.

**13. Who may perform duct leakage testing?**

There is no certification necessary to perform duct leakage testing.

## **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 2006 Energy Star for Homes program requirements in Massachusetts, and must show that each unit meets or is below a maximum HERS index score. For new homes greater than 3,000 ft<sup>2</sup> in size the maximum HERS score is 65 (similar but not identical to Energy Star Tier 2), for smaller homes less than 3,000 ft<sup>2</sup> the maximum HERS score is 70. In addition, the homes must be inspected using the Energy Star Qualified Homes Thermal Bypass Checklist, and as with the new base energy code, it will likely 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, cooling and lighting – all measures that save energy and reduce utility bills. The IECC usually publishes new editions approximately every three years.

**R2. Do I have to get a HERS rating?**

New homes built under the stretch code must 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 an excellent 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 Energy Star Qualified Homes Thermal Bypass Checklist, the HERS rater, builder, and building inspector can have confidence that the completed homes really are energy efficient.

**R3. 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 based on a HERS rating, while the prescriptive option uses the base IECC 2009 energy code, and in addition, requires quality assurance with Energy Star Qualified Homes Thermal Bypass Checklist and the use of Energy Star 5.0 (Version 3) for windows, doors, and skylights where replacements are made. If the prescriptive option is chosen, then code must be met 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 doing so is cost-effective.

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. The maximum allowable HERS score is 80 for home renovations greater than 2,000 ft<sup>2</sup> and 85 for renovated homes less than 2,000 ft<sup>2</sup>.

**R4. 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 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 suggest 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.

**R5. 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,<sup>7</sup> 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 company that is certified as a HERS provider, and 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.

**R6. 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.

**R7. Are there enough HERS raters and testing equipment available, and what do they cost?** In 2008 over 15% of all new homes in Massachusetts were built through the Energy Star for Homes program. In 2009, that climbed to 34% without any noticeable shortages. The majority of these homes used HERS raters and testing equipment to achieve a HERS rating. 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. The Massachusetts Energy Star Homes website now lists several new HERS provider companies,<sup>8</sup> and many more builders as Energy Star Homes partners. There is already in place an active market for HERS raters and testing equipment, and we don't anticipate demand for HERS raters exceeding the supply.

<sup>7</sup> More information on the HERS rater test is available here: <http://www.resnet.us/rater/tests/rater.htm>

<sup>8</sup> [http://www.energystar.gov/index.cfm?fuseaction=new\\_homes\\_partners.showStateResults&s\\_code=MA](http://www.energystar.gov/index.cfm?fuseaction=new_homes_partners.showStateResults&s_code=MA)



Costs for HERS ratings currently range from around \$600 to \$1,500 per unit in Massachusetts, and they are also subsidized by the utility-sponsored Energy Star for Homes program. The price variation may reflect differing levels of technical assistance to the builder depending on their needs and preferences.

**R8. How much more does it cost to build to the stretch code, and how does this compare to the energy savings?**

Data has shown that for new construction, additional first costs are estimated at around \$3,000 for a 2,700 square foot single-family home, including the cost of a HERS rater. This is reduced to about \$1,700 after receipt of \$1,300 in utility rebates, which translates into around \$125 a year when rolled into a 30-year mortgage at 6% interest. But these investments reduce energy bills by about \$500/year, resulting in a potential net annual savings to the homeowner of about \$400.

For a larger 4,400 square foot home, the additional costs are higher but so are the energy savings, resulting in a net annual savings of \$1,100.

In the case of renovating a 3-unit urban triple-decker, the minimum additional construction costs for all three units combined relative to meeting the new base energy code is only around \$1,400, while the annual energy savings are over \$130 per year, yielding small but immediate net cash savings to the unit owners. Larger annual savings could be achieved by more aggressive energy efficiency improvements, but the stretch code requirements for renovations are modest.<sup>9</sup>

**R9. What financial savings/rebates are there from building to the stretch code?**

The stretch code is designed to allow builders to maximize use of the 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

<sup>9</sup> 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).

heating and cooling equipment, appliances and lighting. The utility companies also provide \$650 to partially or fully cover the cost of hiring a HERS rater to work with the builder.

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 and reduce air leakage in existing homes, through the MassSave program sponsored by the gas and electric utility companies.<sup>10</sup>

**R10. 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 it is currently administered by ICF International on behalf of the major electric utilities in the state, and has over two hundred builders enrolled.<sup>11</sup> The program accounted for 15% of all new homes in Massachusetts in 2008 and 34% in 2009. There are currently 3 tiers to the Energy Star program. The stretch code essentially makes the 2006-2010 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.

**R11. Do I have to use the Energy Star program?**

The Energy Star Homes program is strongly recommended, but not required. It is also going through a transition from Energy Star v2.0 to Energy Star v2.5 and ultimately v3.0. Residential builders in stretch code communities will be required to get a HERS rating for new homes and the utility funded programs can help offset the cost of this rating. In the case of renovation or additions to existing buildings builders may instead utilize the prescriptive option – using only Energy Star qualified new windows, doors and skylights and carefully sealing ducts that are outside the heated space if installing new heating systems. In both cases builders must also complete the Energy Star Qualified Homes Thermal Bypass Checklist. In order to simplify qualification

<sup>10</sup> <http://www.masssave.com/residential/>

<sup>11</sup> [http://www.energystar.gov/index.cfm?fuseaction=new\\_homes\\_partners.showAreaResults&s\\_code=MA&msa\\_id=all](http://www.energystar.gov/index.cfm?fuseaction=new_homes_partners.showAreaResults&s_code=MA&msa_id=all)



tion for the rebates, training and technical assistance that are offered we recommend that builders participate in the Energy Star Homes program, but it is not mandatory.

**R12. How does the building official in my town/city check whether I met the stretch energy code?**

For several years, under both the 7<sup>th</sup> edition and the 8<sup>th</sup> edition base energy code in Massachusetts it has been possible to show code compliance 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.

**R13. How does the stretch code work with LEED for Homes?**

LEED for Homes is a voluntary residential green building program that includes a significant energy efficiency component. The mandatory energy and atmosphere requirements of the LEED for Homes program are the minimum Energy Star Home requirements of a HERS 85 rating and a completed Energy Star Qualified Homes 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 fully compatible.

**R14. When following the prescriptive path for residential additions or renovations can the builder or architect complete the thermal bypass checklist?**

Yes. They do have to sign to say that the relevant measures were checked in the field. A HERS rater is needed only if a HERS rating is needed or to go through the Energy Star Homes program (primarily for new construction and gut retrofits).

**R15. The energy conservation code requires that a certificate which indicates R-values,**

**HVAC equipment, etc. be posted. Is there a form available for this?**

Yes. The following form, created by building officials, is provided as a sample that meets this requirement: [Residential Energy Compliance Certificate](#).

## **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 ft<sup>2</sup> in size are covered by the stretch code appendix. New commercial buildings smaller than 5,000 square feet, as well as renovation to existing commercial buildings, are exempt from the stretch code and remain covered by 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 energy modeling standards contained in ASHRAE 90.1 2007,<sup>12</sup> which is the latest version of the national model code for commercial buildings. This is determined by computer modeling of the building energy use, taking into account factors such as air sealing, insulation, efficiency of the cooling and heating systems, and lighting design. Builders have the flexibility to choose the set of energy efficiency features they prefer, as long as modeling shows that overall these features yield the required 20% reduction relative to the base ASHRAE 90.1-2007.

**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 approach as buildings larger than 100,000 ft<sup>2</sup>, and show that the expected energy use is at least 20% below the code requirements of 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 (IECC 2009 Ch.5), supplemented by enhancements taken from the Core Energy Code developed by the New Buildings Institute (NBI).<sup>13</sup> The Core Energy Code and its precursor the Core Performance Guide are nationally-recognized

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<sup>12</sup> Specifically: ASHRAE Standard 90.1-2007 Energy Standard for Buildings Except Low-Rise Residential Buildings, Appendix G.

<sup>13</sup> For more information please see the New Buildings Institute press release available here: <http://www.newbuildings.org/downloads/press/MAAdoptsStretchCode.pdf>

standards already in use by Massachusetts gas and electric utilities as the basis for providing financial incentives to commercial building developers.

**C4. What is required of small new commercial buildings, below 5,000 square feet?**

Such buildings are 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 ft<sup>2</sup> 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 developers are likely to model their energy usage as a standard design practice, so meeting the standard of 20% below ASHRAE 90.1-2007 via energy modeling should not require a new compliance approach.

Supermarkets, laboratories, and warehouses below 40,000 ft<sup>2</sup> are exempt from the stretch code requirements, but must still meet the base energy code. Other specialty buildings can apply to the Mass. BBRS 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 Leominster, Mass, the additional cost was \$101,000, while the annual energy savings were \$27,600, for a four year payback. But the

utility energy efficiency program provided a rebate of \$66,600, reducing the initial cost to \$34,000. As a result, the energy savings pay for the extra costs in just over one year. 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?**

No – one of three possible options may be chosen under Section 507 of the prescriptive path of the stretch code to meet one of the requirements of the code. One of those three options includes on-site renewable electricity generation. Builders may also choose to meet the commercial stretch code requirements using the 20% better than ASHRAE 90.1-2007 modeling approach. The three options for buildings between 5,000 and 100,000 square feet are:

- a) More efficient heating and cooling equipment widely available and with utility rebates that 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 on-site electric load from on-site renewable generation – which qualifies for both large federal tax incentives and significant state renewable energy incentives administered by the Department of Energy Resources<sup>14</sup> and the Massachusetts Clean Energy Center<sup>15</sup> (MA CE

**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 1<sup>st</sup>
  - 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.

