

TOWN CLERK'S REPORT
ANNUAL TOWN MEETING
Monday, the 10th Day of May 2021

The Annual Town meeting of the Town of Foxborough convened at 7:33 PM in the auditorium of the Foxborough Senior High School, 120 South Street, Foxborough, Massachusetts with Town Moderator Francis J. Spillane presiding. The Reverend Matthew Westcott of Saint Mary's Church delivered the invocation. Paul Ivanouskis from the Advisory Committee led the Pledge of Allegiance. Moderator Francis J. Spillane recognized special guest, Representative Jay Barrows.

Robert E. Cutler, Jr., Town Clerk, read the Warrant and Return.

There were one hundred fifty-eight (158) registered voters recorded as present [a quorum being one hundred (100) registered voters].

ARTICLE 1: Town Clerk, Robert E. Cutler, Jr. reported on the election of Town Officials which was held on Monday, May 3, 2021. The results of the following positions were announced by Town Warden Kathleen Brady at the John J. Ahern Middle School: two Selectmen for three years; one Assessor for three years; two School Committee Members for three years; one Water & Sewer Commissioner for three years; one Board of Health member for three years; two Boyden Library Trustees for three years; one Boyden Library Trustee for two years; two Planning Board member for three years; one Housing Authority Member for five years; and one Housing Authority Member for two years.

ARTICLE 2: 242nd Annual Town Report of the Town Officers of Foxborough, Massachusetts together with the report of the School Department and Town Accountant/Finance Director for the year ending December 31, 2020 was made available at the Annual Town Meeting.

ARTICLE 3: **MOVED**, to hear the report of any committee and act thereon, and to choose any committee that may be wanted, and to see if the town will vote to raise and appropriate, transfer from available funds or borrow pursuant to any applicable statute such sums of money deemed necessary for expenses of any committee chosen under this article; or take any other action related thereto. No departments requested to provide reports to the town meeting attendees.

ARTICLE 4: **MOVED**, that the Town vote the compensation for elected officials and to raise and appropriate, transfer from available funds the sums of money herein specified and requested for the operation of various town boards, officers, commissions and departments of the Town during the Fiscal Year 2022, beginning July 1, 2021 and ending June 30, 2022 as follows:

Taxation, State Aid & Local Receipts	72,866,821
Ambulance Receipts	1,600,000
Recreation Revolving	59,118
Water Receipts	7,625,349
Water Retained Earnings	847,261
Sewer Receipts	1,662,177
Sewer Retained Earnings	184,686
Overlay Surplus	792,749
General Fund Free Cash	<u>900,000</u>
	86,538,161

ADOPTED 137 Affirmative 2 Negative 8:06 P.M.

ARTICLE 5: **MOVED**, that the Town vote to raise, transfer from available funds and appropriate the sums of money herein specified and requested for the purposes herein listed in Schedule A in order to implement the Capital Improvement Planning (CIP) Budget requested for Town Departments for expenditures within the Fiscal Year July 1, 2021 through June 30, 2022, as follows:

DEPARTMENT	Amount	Funding Sources
Information Systems	150,000	Free Cash
Inspections	35,000	Free Cash
Fire	235,000	Ambulance Receipts
Public Schools	386,000	Free Cash
Highway	81,230	Free Cash
Highway (Chapter 90)	623,656	Chapter 90 State Allocation
	<u>1,510,886</u>	

Funding Summary:

Free Cash	652,230
Ambulance Receipts	235,000
Chapter 90	623,656
Total	<u>1,510,886</u>

ADOPTED UNANIMOUSLY 141 Affirmative 0 Negative 8:09 P.M.

ARTICLE 6: MOVED, that the Town vote to insert into the Foxborough Code, Part I “Administrative Legislation”, Chapter 20 “Finances,” after Article IX entitled “Department of Revolving Funds,” of Chapter 20, a new section X entitled “Capital Improvement Planning Committee” section 20-34 through 20-37 as follows.

**Chapter 20
FINANCES
ARTICLE X
Capital Improvement Planning Committee**

Section 20-34. Membership; appointments.

There shall be a Capital Improvement Planning Committee consisting of five members who shall be registered voters in the Town of Foxborough. The Board of Selectmen shall appoint one member, the School Committee shall appoint one member, the Board of Water & Sewer Commissioners shall appoint one member, and the Town Moderator shall appoint two members. The Committee shall elect a Chairperson annually from its appointed voting members. The initial terms of appointment shall be three (3) years and one (1) year for the Moderator’s appointments, two (2) years for the School Committee’s and Selectmen’s appointments, and three (3) years for the Board of Water & Sewer Commissioners’ appointment. After the expiration of the initial terms of appointment, all appointments thereafter shall be for a term of three (3) years. No member shall hold any other full-time or part-time office or employment in the Town government. All members shall comply with Massachusetts General Law Chapter 268A Conflict Of Interest Law.

Section 20-35. Term of Office; vacancies.

Appointments shall be for a term of three years commencing on July 1. No member shall serve more than three consecutive terms. Any vacancy occurring in the committee shall be filled by the appropriate appointing body for the balance of the unexpired term.

Section 20-36. Nonvoting staff members.

In addition to the five voting members, the Finance Director, the Town Manager or her/his designee, and the School Superintendent or her/his designee shall serve as ex-officio committee staff members without the right to vote.

Section 20-37. Duties; procedure; expenditures.

(1) The Committee shall study long and short-term proposed capital projects and improvements including but not limited to:

(a) Major nonrecurring tangible assets; and

(b) Vehicles and equipment which:

[1] Are purchased or undertaken at intervals of not less than five years;

[2] Have a useful life of at least five years; and

[3] Cost over \$25,000.

(2) All officers, board and committees, including the Board of Selectmen and the School Committee, shall, on or before February 1 of each year, give to the Committee, on forms prepared by it, information concerning all anticipated projects, improvements, vehicles, and equipment ("capital improvements") requiring Town Meeting action during the ensuing five years. The Committee shall consider the relative need, impact, timing, and cost of these expenditures and the effect each will have on the financial position of the Town, and shall report the same, either favorable or unfavorable, to the Board of Selectmen. No appropriation shall be voted for a capital improvement requested by an officer, department, board, committee, or commission at any Town Meeting unless the proposed capital improvement is first submitted to, reviewed by, and voted by the committee as herein provided.

(3) The committee shall prepare an annual report recommending a capital improvement budget for the next fiscal year, and a capital improvement program including recommended capital improvements for the following five fiscal years. The report shall be submitted to the Board of Selectmen no later than the third Thursday in February of each year for its consideration and approval. The Board of Selectmen shall no later than the first Wednesday in March of each year submit its recommended capital budget to the Advisory Committee for their review and for the purpose of submitting a balanced budget to the Annual Town Meeting.

(4) Such capital improvement program, after its adoption, shall permit the expenditure on projects included therein of sums from departmental budgets for surveys, architectural or engineering or other professional advice; but no such expenditure shall be incurred on projects which have not been so approved by the Town through the appropriation of sums in the current year or in prior years, or for preliminary planning for projects to be undertaken more than five years in the future.

(5) The Committee's report and the Selectmen's recommended capital budget shall be published and made available in a manner consistent with the distribution of the Advisory Committee report. The Committee shall file its original report with the Town Clerk.

MOTION TO AMEND ARTICLE

MOVED to amend Article 6 to remove Chapter 35 Officials Section 35-4 Appointed officials Item "H" from the Foxborough Code

The beginning of the article will now read as follows:

Move that the Town vote to insert into the Foxborough Code, Part I "Administrative Legislation", Chapter 20 "Finances," after Article IX entitled "Department of Revolving Funds," of Chapter 20, a new section Article X entitled "Capital Improvement Planning Committee" section 20-34 through 20-37. Chapter 35 Officials Section 35-4 Appointed officials Item "H" of the Foxborough Code will be deleted and replaced with a new Item "H" stating "For future use." The new Chapter 20 Article X shall read as written in the warrant.

MOTION TO AMEND

ADOPTED 101 AFFIRMATIVE 37 NEGATIVE 8:42 P.M.

ARTICLE AS AMENDED, HAND COUNT

NOT ADOPTED 59 AFFIRMATIVE 77 NEGATIVE 8:43 P.M.

ARTICLE 7: MOVED, that the Town vote to transfer from Free Cash, the sum of Five Thousand and Twenty Five Dollars and Eight Cents (\$5,025.08), to compensate a resident of Foxborough, Deborah Cunniff, for taxes collected by the Town in error on a property never owned by the resident.

MOTION TO AMEND

MOVED to Amend Article 7 to read that the Town vote to transfer from Free Cash, the sum of Two Thousand Five Hundred and Seven Dollars (\$2,507), to compensate a resident of Foxborough, Deborah Cunniff, for taxes collected by the Town in error on a property never owned by the resident.

MOTION TO AMEND

ADOPTED 138 AFFIRMATIVE 0 NEGATIVE 8:52 P.M.

ARTICLE AS AMENDED

ADOPTED 139 AFFIRMATIVE 0 NEGATIVE 8:52 P.M.

ARTICLE 8: MOVED, that the Town vote to amend Chapter 20, Section 20-33, “Authorize Revolving Funds,” of the Code of the Town of Foxborough to include the following.

The table establishes:

- A. Each revolving fund authorized for use by a Town department, board, committee, agency or office;
- B. The department or agency head, board, committee or officer authorized to spend from each fund;
- C. The fees, charges and other monies charged and received by the department, board, committee, agency or officer in connection with the program or activity for which the fund is established that shall be credited to each fund by the Town Accountant/Finance Director;
- D. The expenses of the program or activity for which each fund may be used;
- E. Any restrictions or conditions on expenditures from each fund;
- F. The fiscal years each fund shall operate under this bylaw.

A	B	C	D	E	F
Revolving Fund	Department, Board, Committee, Agency, or Officer Authorized to Spend from Fund	Fees, Charges or Other Receipts Credited to Fund	Program or Activity Expenses Payable from Fund	Restrictions or Conditions on Expenses Payable from Fund	Authority Established for Fiscal Years
Recreation	Board of Recreation	Funds from program participation and field and building rentals	Expenses related to further operations of Recreation Department programs and services	Salary or wages of full-time Recreation Director shall be paid by annual General Fund budget appropriation	Fiscal Year 2018 and subsequent years
Police & Fire Apparatus Utilization	Police & Fire Departments	Vehicle apparatus rental fees collected from those hiring police and/or fire details requiring the use of police and/or fire vehicles	Repair, replacement or purchase of equipment for fire and police vehicles	Police and Fire department receipts and expenditures shall be accounted for separately and may only be credited or expensed to their respective departments	Fiscal Year 2018 and subsequent years
Highway Department	Highway Department	Fee for services and various Town department payments for	Fee for services and various Town department		Fiscal Year 2018 and subsequent years

		services	payments for services		
Council on Aging Senior Trips & Programs	Council on Aging Department	Funds from program participation	Council on Aging Department program-related expenses	Council on Aging salaries or wages cannot be paid from this account	Fiscal Year 2018 and subsequent years
Council on Aging Human Services	Council on Aging Department	Funds from program participation	Human Services clients and services expenses	Council on Aging salaries or wages cannot be paid from this account	Fiscal Year 2021 and subsequent years
Council on Aging Community Events	Council on Aging Department	Funds from community events and programs	Community event-related expenses	Council on Aging salaries or wages cannot be paid from this account	Fiscal Year 2021 and subsequent years
Public Health	Fire Department	Funds from inoculation reimbursement and public health services	Expenses related to inoculations and public health services	Public Health salaries or wages cannot be paid from this account	Fiscal Year 2021 and subsequent years
IT Technology	School Department	Funds from computer protection plan	Expenses related to computer repair or replacement	IT Technology salaries or wages cannot be paid from this account	Fiscal Year 2021 and subsequent years

ADOPTED 121 AFFIRMATIVE 0 NEGATIVE 8:57 P.M.

Approved by the A.G., August 23, 2021 / REC

ARTICLE 9: MOVED, that the Town vote to authorize annual spending limits for the Town's Revolving Funds pursuant to Massachusetts General Laws Chapter 44, Section 53E ½ for the Fiscal Year 2022, beginning July 1, 2021.

<i>Name of Revolving Fund</i>	<i>FY21 Spending Limit</i>	<i>FY22 Spending Limit</i>
Recreation Revolving	\$375,000	\$375,000
Police and Fire Apparatus Utilization Revolving Fund	\$100,000	\$100,000
Highway Department Revolving Fund	\$40,000	\$40,000
Council on Aging Senior Trips & Programs Fund	\$120,000	\$250,000
Council on Aging Human Services	\$5,000	\$5,000
Council on Aging Community Events	\$5,000	\$5,000
Public Health	\$100,000	\$100,000
IT Technology	\$100,000	\$100,000

ADOPTED 119 AFFIRMATIVE 0 NEGATIVE 8:59 P.M.

ARTICLE 10: MOVED, that the Town vote to amend the borrowing authorization for the sum of Eleven Million Dollars (\$11,000,000) as authorized in Article 23 of the 2019 Annual Town Meeting Warrant by adding the following language:

“Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with M.G.L. c. 44, section 20, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.”

2/3rds vote required

ADOPTED 119 AFFIRMATIVE 0 NEGATIVE 9:00 P.M.

ARTICLE 11: MOVED, that the Town vote to transfer from Free Cash, the sum of Thirty Four Thousand, Six Hundred and Thirty Six Dollars (\$34,636) to fund the cost items with respect to the collective bargaining agreement between the Town of Foxborough and the United Steelworkers, Unit A, for the Contract dated July 1, 2020 to June 30, 2021, in accordance with Chapter 150E of the General Laws of the Commonwealth.

ADOPTED 114 AFFIRMATIVE 0 NEGATIVE 9:08 P.M.

ARTICLE 12: MOVED, that the Town vote to transfer from Free Cash, the sum of Thirty Eight Thousand, One Hundred and Ninety Three Dollars (\$38,193) to fund the cost items with respect to the collective bargaining agreement between the Town of Foxborough and the United Steelworkers, Unit B, for the Contract dated July 1, 2020 to June 30, 2021, in accordance with Chapter 150E of the General Laws of the Commonwealth.

ADOPTED 124 AFFIRMATIVE 0 NEGATIVE 9:10 P.M.

ARTICLE 13: MOVED, that the Town vote to transfer from Free Cash, the sum of Sixty Nine Thousand, Seven Hundred and Ninety Eight Dollars (\$69,798) to fund the cost items with respect to the collective bargaining agreement between the Town of Foxborough and the Foxborough Police Department, Massachusetts Coalition of Police Local 379, MCOP, ALF-CIO for the Contract dated July 1, 2020 to June 30, 2021, in accordance with Chapter 150E of the General Laws of the Commonwealth.

ADOPTED 127 AFFIRMATIVE 0 NEGATIVE 9:12 P.M.

ARTICLE 14: MOVED, that the Town vote to transfer from the Fiscal Year 2022 Salary Reserve Fund Department 143, the sum of Thirty Six Thousand, Seven Hundred and Ninety Seven Dollars (\$36,797) to fund the cost items for a collective bargaining agreement between the Town of Foxborough and the United Steelworkers, Unit “A”, for the Contract dated July 1, 2021 to June 30, 2022, in accordance with Chapter 150E of the General Laws of the Commonwealth.

ADOPTED UNANIMOUSLY 119 AFFIRMATIVE 0 NEGATIVE 9:14 P.M.

ARTICLE 15: MOVED, that the Town vote to transfer from the Fiscal Year 2022 Salary Reserve Fund Department 143, the sum of Forty Thousand, Seven Hundred and Seventy Two Dollars (\$40,772) to fund the cost items for a collective bargaining agreement between the Town of Foxborough and the United Steelworkers, Unit “B”, for the Contract dated July 1, 2021 to June 30, 2022, in accordance with Chapter 150E of the General Laws of the Commonwealth.

ADOPTED UNANIMOUSLY 121 AFFIRMATIVE 0 NEGATIVE 9:16 P.M.

ARTICLE 16: MOVED, that the Town vote to transfer from the Fiscal Year 2022 Salary Reserve Fund Department 143, the sum of Fifty Three Thousand, Nine Hundred and Seventy One Dollars (\$53,971) along with the sum of Nineteen Thousand Dollars (\$19,000), to be raised by taxation, to fund the cost items for a collective bargaining agreement between the Town of Foxborough and the Foxborough Police, Massachusetts Coalition of Police, Local 379, MCOP, AFL-CIO, for the Contract dated July 1, 2021 to June 30, 2022, in accordance with Chapter 150E of the General Laws of the Commonwealth.

ADOPTED UNANIMOUSLY 119 AFFIRMATIVE 0 NEGATIVE 9:19 P.M.

ARTICLE 17: MOVED, that the Town vote to transfer from the Fiscal Year 2022 Salary Reserve Fund Department 143, the sum of Thirty Six Thousand, Eight Hundred and Nine Dollars (\$36,809) to fund the cost items for a collective bargaining agreement between the Town of Foxborough and the Foxborough Highway and Water Employees Union, AFSCME for the Contract dated July 1, 2021 to June 30, 2022, in accordance with Chapter 150E of the General Laws of the Commonwealth.

ADOPTED UNANIMOUSLY 118 AFFIRMATIVE 0 NEGATIVE 9:21 P.M.

ARTICLE 18: MOVED, that the Town vote to transfer from the Fiscal Year 2022 Salary Reserve Fund Department 143, the sum of Twenty Three Thousand, Six Hundred and Seventy Nine Dollars (\$23,679) to fund the cost items for a collective bargaining agreement between the Town of Foxborough and the Boyden Library Employee's Association, MLSA, MFT, AFTMA, AFL-CIO, for the Contract dated July 1, 2021 to June 30, 2022, in accordance with Chapter 150E of the General Laws of the Commonwealth.

ADOPTED UNANIMOUSLY 119 AFFIRMATIVE 0 NEGATIVE 9:23 P.M.

ARTICLE 19: MOVED, that the Town vote to authorize the Board of Selectmen and/or Town Manager to enter into a long term Lease Agreement with New Cingular Wireless PSC, LLC (the "Lessee"), with respect to the use and occupancy of a portion of the telecommunications tower located at the Foxborough Public Safety Building property, 8 Chestnut Street, Foxborough (the "Premises"), and, further, to authorize the Board of Selectmen to grant such rights or interests in and over the Premises and nearby public ways as may be necessary for the Lessee's access to the Premises and for the installation, construction and maintenance of telecommunications facilities, including an equipment building, utility wires, poles, cables, conduits, pipes and related facilities over, under or along the Premises and nearby Town rights of way, upon such terms and conditions as the Selectmen and/or Town Manager shall deem to be in the Town's best interest.

2/3rds vote required

ADOPTED UNANIMOUSLY 118 AFFIRMATIVE 0 NEGATIVE 9:26 P.M.

ARTICLE 20: MOVED, that the Town vote to authorize the Board of Selectmen to transfer and convey a parcel of Town-owned land located off of Oak Street, shown as Parcel 3 on a plan entitled "Lot Layout Plan (Sheet 8 of 8)" dated June 5, 1986, prepared by Raymond Keyes Associates, Inc., recorded with the Norfolk County Registry of Deeds in Plan Book 348, Plan 46, Sheet H, containing approximately 29.978 acres, to the Conservation Commission, to hold said property as a butterfly habitat, upon such terms and conditions as the Board of Selectmen deem appropriate, and to further authorize the Board of Selectmen to enter into such agreements and execute such instruments as may be necessary to effectuate the transaction subject of this vote.

2/3rds vote required

ADOPTED UNANIMOUSLY 115 AFFIRMATIVE 0 NEGATIVE 9:37 P.M.

ARTICLE 21: MOVED, that the Town vote to authorize the Board of Water and Sewer Commissioners to transfer and convey a parcel of Town-owned land located off of Oak Street, containing approximately 4.1 acres and shown as Parcel A on a plan entitled “Approval Not Required Plan of Land” prepared by Bay Colony Group, Inc. and on file and available for public inspection at the office of Town Clerk, to the Conservation Commission, to hold said property as a butterfly habitat, upon such terms and conditions as the Board of Water and Sewer Commissioners deem appropriate, and to further authorize the Board of Water and Sewer Commissioners to enter into such agreements and execute such instruments as may be necessary to effectuate the transaction subject of this vote; the Board of Water and Sewer Commissioners having determined at a meeting held on March 9, 2021 that the subject parcel is no longer needed for the purpose for which it was acquired.

2/3rds vote required

ADOPTED UNANIMOUSLY 112 AFFIRMATIVE 0 NEGATIVE 9:39 P.M.

ARTICLE 22: MOVED, that the Town vote to amend the Code of the Town of Foxborough by adding a new chapter entitled “Stretch Energy Code” (to become Chapter 237), for the purpose of regulating the design and construction of buildings for the effective use of energy, pursuant to Appendix 115.AA of the Massachusetts Building Code, 780 CMR, the Stretch Energy Code, including future editions, amendments or modifications thereto, with an effective date of July 1, 2021.

Chapter 237

STRETCH ENERGY CODE

§ 237-1 Definitions

§ 237-2 Purpose

§ 237-3 Applicability

§ 237-4 Stretch Code

§ 237-1 Definitions

International Energy Conservation Code (IECC) - The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency, and is updated on a three-year cycle. The baseline energy conservation requirements of the MA State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.

Stretch Energy Code - Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA of the Massachusetts building code, the Stretch Energy Code is an appendix to the Massachusetts building code, based on further amendments to the International Energy Conservation Code (IECC) to improve the energy efficiency of buildings built to this code.

§ 237-2 Purpose

The purpose of 780 CMR 115.AA is to provide a more energy efficient alternative to the Base Energy Code applicable to the relevant sections of the building code for new buildings.

§ 237-3 Applicability

This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 115.AA, as indicated.

§ 237-4 Stretch Code

The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA, including any future editions, amendments or modifications, is herein incorporated by reference into the Town of Foxbrough General Bylaws, Chapter 233.

The Stretch Code is enforceable by the inspector of buildings or building commissioner and effective as of July 1, 2021.

NOT ADOPTED 21 AFFIRMATIVE 88 NEGATIVE 10:03 P.M.

ARTICLE 23: MOVED, that the Town vote to allow the following parcels that have so requested to be incorporated in to the Sewer Service Area, and to amend the Sewer Service Area Map with the parcels so designated below.

<u>Address</u>	<u>Map</u>	<u>Lot</u>	<u>Estimated Capacity</u>
96 Mechanic Street	056	003	924 GPD
98 Mechanic Street	056	004	924 GPD

ADOPTED UNANIMOUSLY 110 AFFIRMATIVE 0 NEGATIVE 10:05 P.M.

ARTICLE 24: MOVED, that the Town vote to amend Section 9.3 of Chapter 275 of the Town of Foxborough By-Laws, by deleting Section 9.3 Flood Plain Overlay District (FPOD) in its entirety and replacing it with the below.

9.3 FLOOD PLAIN OVERLAY DISTRICT (FPOD).

9.3.1. Purpose. The purpose of the Floodplain Overlay District (FPOD) is to:

1. Ensure public safety through reducing the threats to life and personal injury;
2. Eliminate new hazards to emergency response officials;
3. Prevent the occurrence of public emergencies resulting from water quality, contamination and pollution due to flooding;
4. Avoid the loss of utility services that if damaged by flooding would disrupt or shut down the utility network and impact regions of the Town beyond the site of flooding;
5. Eliminate costs associated with the response and cleanup of flooding conditions; and
6. Reduce damage to public and private property resulting from flooding waters.

9.3.2. Definitions. The following terms as used in this Section 9.3. shall have the respective meanings as indicated:

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

FLOODWAY. The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

FUNCTIONALLY DEPENDENT USE. A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE. Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the United States Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (i) by an approved state program as determined by the Secretary of the Interior, or (ii) directly by the Secretary of the Interior in states without approved programs.

NEW CONSTRUCTION. Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. New construction includes work determined to be substantial improvement.

RECREATIONAL VEHICLE. A vehicle that is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

REGULATORY FLOODWAY. See FLOODWAY.

SPECIAL FLOOD HAZARD AREA. The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99.

START OF CONSTRUCTION. The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within one hundred eighty (180) days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

SUBSTANTIAL REPAIR OF A FOUNDATION. When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds fifty percent (50%) of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of fifty percent (50%) of the piles, columns or piers of a pile, column or pier supported foundation, the Building Commissioner shall determine it to be substantial repair of a foundation. Applications determined by the Building Commissioner to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of the Massachusetts State Building Code (780 CMR).

VARIANCE. A grant of relief from the terms of a flood plain management regulation.

VIOLATION. The failure of a structure or other development to be fully compliant with the Town's flood plain management regulations. A structure or other development without the

elevation certificate, other certifications or other evidence of compliance as required in 44CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

9.3.3. Overlay District. The FPOD is established as an overlay district. The FPOD includes all special flood hazard areas within the Town designated as Zone A, AE, AH, AO or A99 on the Norfolk County Flood Insurance Rate Map (FIRM) dated July 16, 2015 issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the FPOD shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the Norfolk County Flood Insurance Study (FIS) report dated July 16, 2015. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk and Inspections Department.

9.3.4. Floodplain Administrator. The Town Manager shall be the FPOD administrator for the Town but may delegate FPOD responsibilities to a suitably qualified employee of the Town.

9.3.5. Floodplain Permitting.

1. Permits are required for all proposed construction or other development in the FPOD, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.
2. The permit review process includes the use of a checklist of all Town, state and federal permits that will be necessary in order to carry out proposed construction or other development in the FPOD. The Applicant must acquire all necessary permits, and must submit the completed checklist demonstrating that all necessary permits have been acquired.
3. All construction or other development in the FPOD, including structural and non-structural activities, whether permitted by right or by special permit shall comply with each of the following: Massachusetts General Laws Chapter 131, Section 40; those sections of the Massachusetts State Building Code (780 CMR) that address floodplain areas; the Wetlands Protection Regulations of the Massachusetts Department of Environmental Protection (310 CMR 10.00); Inland Wetlands Restrictions of the Massachusetts Department of Environmental Protection (310 CMR 13.00); the Minimum Requirements for the Subsurface Disposal of Sanitary Sewage of the Massachusetts Department of Environmental Protection (310 CMR 15, Title 5); the Code of the Town of Foxborough, Massachusetts, Chapter 267: Wetlands Protection; and the Town of Foxborough Conservation Commission's Wetlands Protection Regulations.

9.3.6. Requirements.¹

1. All buildings and structures erected in areas prone to flooding, as designated on the Flood Insurance Rate Maps (FIRM) or as further enumerated, shall be constructed and elevated as required by the Massachusetts State Building Code.
2. In A Zones of the FPOD in the absence of FEMA BFE data and floodway data, the Inspections Department shall obtain, review and reasonably utilize base flood elevation and floodway data available from a federal, state or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

¹ The Town of Foxborough does not have AO or AH zones on the FEMA maps.

3. The following provisions shall apply in the floodway that is designated on the Flood Insurance Rate Map:
 - a. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided by the applicant demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the one hundred (100) year flood.
 - b. If the requirements of Section 9.3.5. are satisfied, all new construction and substantial improvements shall comply with all provisions of Sections 9.3.6.1. and 9.3.6.2.
4. In Zones A and AE of the FPOD along watercourses that have not had a regulatory floodway designation, the best available federal, state and local or other floodway data shall be used to prohibit encroachments in the floodways that would result in any increase in flood levels within the Town during the occurrence of the base flood discharge.
5. In a riverine situation, the Conservation Agent shall notify the following of any alteration or relocation of a watercourse: municipalities that are adjacent to the Town; the NFIP State Coordinator, Massachusetts Department of Conservation and Recreation, 251 Causeway Street, Suite 600-700, Boston, MA 02114-2104; and the NFIP Program Specialist, Federal Emergency Management Agency, Region I, 99 High Street, 6th Floor, Boston, MA 02110.
6. If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town shall within six (6) months notify FEMA of these changes by submitting the technical or scientific data that supports the change(s.) to FEMA Region I Risk Analysis Branch Chief, 99 High St., 6th floor, Boston, MA 02110, and shall copy such notification to Massachusetts NFIP State Coordinator, MA Dept. of Conservation & Recreation, 251 Causeway Street, Boston, MA 02114.
7. Subdivision proposals shall be designed to assure that such proposals minimize flood damage, all public utilities and facilities are located and constructed to minimize or eliminate flood damage, and adequate drainage is provided to reduce exposure to flood hazards.
8. Base flood elevation data is required for subdivision proposals or other developments greater than fifty (50) lots or five (5) acres, whichever is lesser, within unnumbered A Zones.
9. All recreational vehicles that are placed on a site in A1-30, AH and AE Zones of the FPOD shall be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements, or be on the site for less than one hundred eighty (180) consecutive days or be fully licensed and highway ready.

9.3.7. Variances from Floodplain Development Regulations.

1. Variances from the Massachusetts State Building Code. A variance from the provisions of the Massachusetts State Building Code shall comply with the following requirements:
 - a. The Inspections Department shall request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance, and will maintain this record in the Town's files.
 - b. The Inspections Department shall issue a written letter signed by the Building Commissioner to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, which such letter shall provide that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of

insurance coverage, and (ii) such construction below the base flood level increases risks to life and property.

- c. Such notification shall be maintained with the record of all variance actions for the referenced development in the FPOD.
2. Variances from these bylaws. A variance from the provisions of this Section 9.3. shall comply with and satisfy the applicable provisions of Section 10.2.2.3. of these bylaws and, in addition, may only be granted if (i) good and sufficient cause and exceptional non-financial hardship exist, (ii) the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public, and (iii) the variance is the minimum action necessary to afford relief.

9.3.8. Administrative.

1. Abrogation and greater restriction. The bylaws that are set forth in this Section 9.3. shall take precedence over any less restrictive conflicting bylaws, rules or regulations of the Town.
2. Disclaimer of liability. The degree of flood protection required by this Section 9.3. is considered reasonable but does not imply total flood protection.
3. Severability. If any section, provision or portion of this Section 9.3. is determined to be invalid by a court of competent jurisdiction, such invalidity shall not affect any other section, provision or portion thereof that can be given effect without that which is held invalid, provided that the result of such invalidity would not be contrary or detrimental to the purpose of such section.

2/3rds vote required

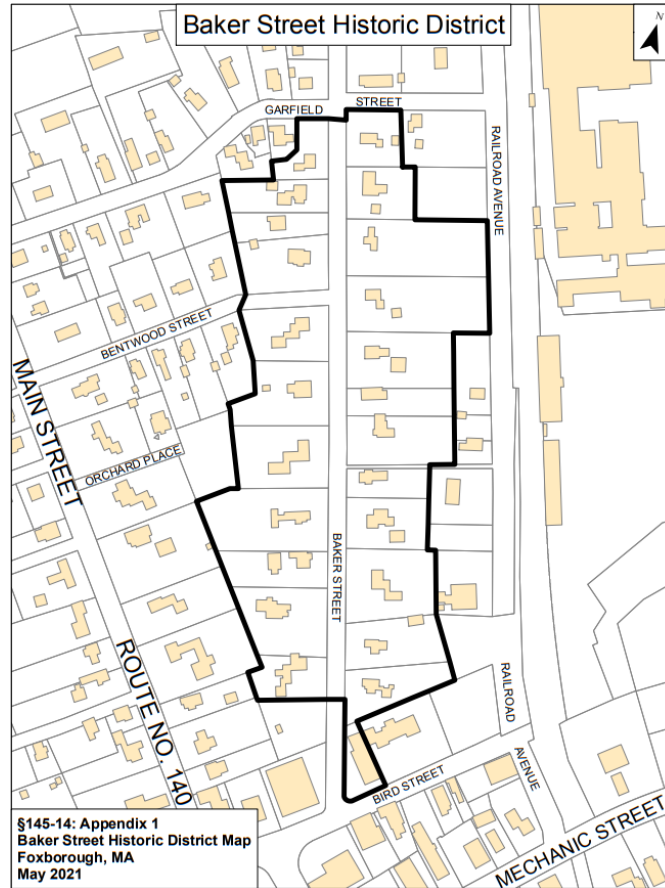
ADOPTED UNANIMOUSLY 107 AFFIRMATIVE 0 NEGATIVE 10:09 P.M.

Approved by the A.G., August 23, 2021 / REC

ARTICLE 25: MOVED, that the Town vote to amend Chapter 145 of the Town of Foxborough By-Laws, by deleting section 145-14 Appendices and replacing it with the following:

145-14 Appendices.

Appendix 1: Baker Street District. The Baker Street District shall be a district area under this bylaw. The location and boundaries of the Baker Street District are defined and shown on a map entitled “Baker Street Local Historic District Map dated May 2021”.



ADOPTED UNANIMOUSLY 108 AFFIRMATIVE 0 NEGATIVE 10:10 P.M.

Pending approval by the A.G. / REC

ARTICLE 26: MOVED, that the Town vote to amend Section 3.1.6., Table 3-1, Table of Uses, of Chapter 275 of the Town of Foxborough By-Laws, by deleting the letter “Y” for the following use in the R15, R40, GB, NB, HB, and GI Districts and replacing it with the letters “PB”, and by deleting the letters “PB” in the S-1 district and replacing them with the letter “N”.

G.12. Assisted living facility, nursing or convalescent home.

2/3rds vote required

ADOPTED UNANIMOUSLY 107 AFFIRMATIVE 0 NEGATIVE 10:12 P.M.

Approved by the A.G., August 23, 2021 / REC

ARTICLE 27: MOVED, that the Town vote accept as a public way Congdon Circle located within the “Highlawn Farm” subdivision, which has been constructed pursuant to the Planning Board Subdivision Control Regulations as follows:

Congdon Circle – from its intersection with Lawton Lane generally southerly approximately 400 feet more or less to its terminus at a cul-de-sac.

ADOPTED UNANIMOUSLY 108 AFFIRMATIVE 0 NEGATIVE 10:12 P.M.