

LYNNFIELD TOWN WARRANT
THE COMMONWEALTH OF MASSACHUSETTS
SPECIAL TOWN MEETING – OCTOBER 17, 2020

Essex, ss.

To the Constable of the Town of Lynnfield in the County of Essex, GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of said Town, qualified to vote in elections and in Town affairs, to meet at the Lynnfield High School athletic field, and in the Cafeteria and Gymnasium, if necessary, on Saturday, October 17, 2020 at 10:00 a.m. then and there to act on the following articles:

ARTICLE 1. To see if the Town will vote to raise and appropriate or appropriate by transfer from available funds, sums of money to pay overdue bills of a prior fiscal year; or to take any other action in relation thereto.

Submitted by BOARD OF SELECTMEN

ARTICLE 2. To see if the Town will vote to raise and appropriate or transfer from available funds, sums of money to supplement certain accounts in the current 2021 Fiscal Year for various purposes; or to take any other action in relation thereto.

Submitted by BOARD OF SELECTMEN

ARTICLE 3. To see if the Town will authorize the Board of Selectmen to petition the General Court to adopt legislation amending the Charter of the Town of Lynnfield, which is on file in the office of the archivist of the Commonwealth as provided in section 12 of chapter 43B of the General Laws, to reflect gender neutral terminology, with references to the “Board of Selectmen” and “Selectmen” to be replaced with references to the “Select Board”, and with references to “Chairman” to be replaced with references to “Chair,” and other appropriate gender neutral revisions; and further, that the General Court may make clerical or editorial changes of form only to the bill; or to take any other action in relation thereto.

Submitted by BOARD OF SELECTMEN

ARTICLE 4. To see if the Town will authorize the Board of Selectmen to extend the term of the existing agreement between the Town of Lynnfield and the Reading Municipal Light Department to July 9, 2040; or to take any other action in relation thereto.

Submitted by BOARD OF SELECTMEN

ARTICLE 5. To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase or to take by eminent domain, for municipal purposes including but not limited to historic preservation, the fee or any lesser interest in the real property known and numbered as 163 Lowell Street, Lynnfield, Massachusetts, also known as “Smith Farm,” including the structures and fixtures thereon erected, being the same

property conveyed by deed recorded with the Essex South District Registry of Deeds at Book 38091, Page 285 from Boston Clear Water Company, LLC to Virgil Lynnfield Properties, LLC, consisting of 40,050 square feet of land, more or less; to appropriate a sufficient sum of money for such acquisition, for incidental expert appraisals and legal expenses, and for any required relocation expenses, such money to be appropriated from available balances, provided by borrowing and/or furnished from other sources including grants and gifts; to authorize the Treasurer with the approval of the Selectmen to borrow the said sum pursuant to the provisions of G.L. c. 44, § 7 or any other enabling authority, and to authorize the issuance of bonds or notes therefor; and pursuant to G.L. c. 40, § 3; c. 30B, § 16, and any other applicable authority, to authorize the Selectmen to sell, transfer and convey the said real property subject to an historic preservation restriction under G.L. c. 184, §§ 31-33, pertaining to the said property and the exterior of the structures and fixtures thereon, such sale otherwise to be on such terms and subject to such conditions as the Selectmen may deem prudent; or to take any other action in connection therewith.

Submitted by BOARD OF SELECTMEN

ARTICLE 6. To see if the Town will vote to amend Chapter 143 of the General Bylaws, entitled “Fees,” by adding the following:

Article III BOARD OF ASSESSORS FEES

<i>Abutters Lists</i>	\$ 5.00
<i>Assessor's Maps</i>	\$ 2.00

Article IV BOARD OF SELECTMEN FEES

ANNUAL LICENSES (NOT ALCOHOL)

<i>Auctioneer Permit Annual</i>	\$ 500.00
<i>Automatic Amusement Device</i>	\$ 50.00 per machine
<i>Billiards Table</i>	\$ 50.00 first table
	\$ 25.00 each additional table
<i>Bowling Alley</i>	\$ 50.00 first alley
	\$ 25.00 each additional alley
<i>Coins & Metals</i>	\$ 50.00
<i>Class I auto license</i>	\$ 150.00
<i>Class II Auto License</i>	\$ 150.00
<i>Common Victualler</i>	\$ 50.00
<i>Entertainment License (weekdays)</i>	\$ 100.00
<i>Fortune Telling</i>	\$ 50.00
<i>Hawkers and Peddlers</i>	\$ 50.00
<i>Inflammable Storage</i>	\$ 100.00
<i>Lodging House</i>	\$ 50.00
<i>Second-hand Dealer</i>	\$ 50.00
<i>Sunday Entertainment License Annual</i>	\$ 200.00
<i>Taxi/Livery License</i>	\$ 50.00 per vehicle

ANNUAL LICENSES (ALCOHOL)

<i>Club License (All Alcoholic)</i>	\$1,710.00
<i>Restaurant All Alcoholic</i>	\$4,250.00
<i>Restaurant Wine & Malt Liquor</i>	\$2,800.00
<i>Package Store (All Alcoholic) (7 day)</i>	\$2,350.00
<i>Package Store (Wine & Malt) (6 day)</i>	\$1,275.00
<i>Package Store (Wine & Malt) (7 day)</i>	\$1,450.00

OTHER ALCOHOL LICENSES

<i>One-Day Liquor License</i>	\$ 35.00
<i>Seasonal Wine and Malt</i>	\$ 1,017.00
<i>Temporary Charity Wine Pouring License</i>	\$ 35.00

EVENT LICENSES

<i>Auctioneer Permit Single Event</i>	\$ 25.00
<i>Sunday Entertainment Single Event</i>	\$ 20.00

OTHER FEES

<i>Dock License (perpetual)</i>	\$ 5.00
<i>Public Hearing Notice Fee</i>	\$ 50.00

ARTICLE V FIRE DEPARTMENT FEES

<i>Open Burning Permit (Annual)</i>	\$ 10.00
<i>Smoke/CO Detector Single Family</i>	\$ 50.00
<i>Commercial Inspection with FACP</i>	\$ 50.00
<i>Commercial Inspection without FACP</i>	\$ 25.00
<i>Oil Burner Install/Alteration</i>	\$ 10.00
<i>LPN/Propane Storage</i>	\$ 10.00
<i>Fixed Extinguishing System</i>	\$ 25.00
<i>Nursing Home Inspection</i>	\$ 10.00
<i>Day Care Center</i>	\$ 10.00
<i>Private School</i>	\$ 10.00
<i>Innholders</i>	\$ 10.00
<i>Blasting Permit (detail required)</i>	\$ 10.00
<i>Tar Kettle Operation</i>	\$ 25.00
<i>Fireworks Display</i>	\$ 25.00
<i>Tank Truck Inspection (2 Years)</i>	\$ 15.00
<i>Storage of Flammable Fluids</i>	\$ 50.00
<i>Fire Report Copies</i>	\$ 50.00
<i>Welding/Cutting Permit</i>	\$ 50.00
<i>Underground Tank Removal</i>	\$ 50.00
<i>Aboveground Tank Removal</i>	\$ 50.00
<i>Tank Installation (Flammable Fluids)</i>	\$ 50.00
<i>Gunpowder Storage (5 Years)</i>	\$ 50.00
<i>Commercial Plan Review</i>	\$ 100.00

<i>Misc. Permit or otherwise not listed</i>	\$ 50.00
<i>Dumpster Permit</i>	\$ 20.00
<i>Master Box Fee</i>	\$ 250.00

EMERGENCY MEDICAL SERVICES FEES

<i>Mileage charge per mile</i>	\$ 50.00
<i>Basic Life Support</i>	\$1,650.00
<i>Advanced Life Support 1</i>	\$2,150.00
<i>Advanced Life Support 2</i>	\$3,150.00

ARTICLE VI POLICE DEPARTMENT FEES

<i>Accident Reports</i>	\$ 10.00
<i>Finger Prints</i>	\$ 100.00
<i>Detail Billing Surcharge</i>	10% admin fee
<i>Gun Licenses</i>	\$ 100.00

FALSE ALARM BUILDING

<i>First 3 calls in calendar year</i>	no charge
<i>Calls 4-6</i>	\$40.00 per call
<i>Calls 7-9</i>	\$50.00 per call
<i>Calls 10 and above</i>	\$100.00 per call

ARTICLE VII DEPARTMENT OF PUBLIC WORKS FEES

<i>White goods and televisions</i>	\$ 25.00
<i>with CRT's greater than \$36"</i>	\$ 50.00
<i>New recycle bins</i>	\$ 9.00
<i>Recycling yard stickers non-seniors</i>	\$ 10.00
<i>Recycling yard stickers for seniors</i>	\$ 5.00
<i>Street opening permits</i>	\$ 50.00
<i>Trench permits</i>	\$ 100.00
<i>Street access permits</i>	\$ 10.00

CEMETERY FEES

<i>Residents and Former Employees</i>	
<i>Single Grave</i>	\$ 350.00
<i>Perpetual Care</i>	\$ 400.00
<i>Total Cost Per Grave</i>	\$ 750.00
<i>Former Residents (Two-Grave Limit)</i>	
<i>Single Grave</i>	\$1,000.00
<i>Perpetual Care</i>	\$ 800.00
<i>Total Cost Per Grave</i>	\$1,800.00
<i>Interment</i>	\$ 650.00
<i>Saturday/Holiday Additional</i>	\$ 325.00
<i>Cremation Burial</i>	\$ 225.00
<i>Saturday/Holiday</i>	\$ 325.00
<i>Child Burial (Under 2 Years Of Age)</i>	\$ 200.00

<i>Stillborn</i>	<i>No Charge</i>
<i>Exhumation</i>	<i>\$ 650.00</i>
<i>Foundation (Minimum)</i>	<i>\$ 250.00</i>
<i>Purchase Of Lot (Per Square Foot)</i>	<i>\$ 100.00</i>
<i>Winter Fee (December 1-March 31)</i>	<i>\$ 100.00</i>
<i>Deed</i>	<i>\$ 20.00</i>
<i>Set Veterans Marker</i>	<i>No Charge</i>

ARTICLE VIII TAX COLLECTOR'S FEES

<i>Demand Fees</i>	<i>\$ 5.00</i>
<i>Warrant Fees</i>	<i>\$ 10.00</i>
<i>Municipal Lien Certificate</i>	<i>\$ 25.00</i>
<i>Interest For Excise</i>	<i>12.00%</i>
<i>Interest Real Estate/Pp</i>	<i>14.00%</i>
<i>Bad Check Fees</i>	<i>\$ 25.00</i>

Or 1 Percent of Check, whichever is higher

ARTICLE IX TREASURER'S FEES

<i>Tax Title Interest Rates</i>	<i>16 percent</i>
<i>Deferred Interest Rates</i>	<i>4 percent</i>
<i>Tax Title Charges & Fees - Legal Fees</i>	<i>\$ 125.00</i>
<i>Tax Title Charges & Fees - Demand</i>	<i>\$ 5.00</i>
<i>Tax Title Charges & Fees - Advertising</i>	<i>% of Bill</i>
<i>Tax Title Charges & Fees - Post Notice</i>	<i>\$ 5.00</i>
<i>Tax Title Charges & Fees - Recording</i>	<i>\$ 105.00</i>
<i>Tax Title Charges & Fees - Redemption</i>	<i>\$ 105.00</i>
<i>Bad Check Fees</i>	<i>\$ 25.00</i>

Or 1 Percent of Check whichever is higher

ARTICLE X ZONING AND INSPECTIONAL SERVICES FEES

BUILDING FEES

<i>1 and 2 Story Dwelling</i>	<i>\$150.00 per sq. ft.</i>
<i>Commercial Buildings</i>	<i>\$150.00 per sq. ft.</i>
<i>Residential Additions, alterations,</i>	<i>\$12.00/\$1,000 value</i>
	<i>\$50.00 minimum</i>
<i>Commercial Addition/Renovations</i>	<i>\$12.00 per \$1,000 value</i>
	<i>\$100.00 minimum</i>

ELECTRICAL FEES

Residential New Construction

<i>Fee based on building project construction value</i>	
<i>First \$50,000 of value</i>	<i>\$ 250.00</i>
<i>Each additional \$1,000 of value or fraction thereof</i>	<i>\$ 1.00</i>

<u>Residential Additions/Renovations</u>	
First 1-10 outlets (i.e. lighting, receptacles, appliances and special equipment)	\$ 50.00
Each additional outlet	\$ 2.00
<u>Residential Services: Changes or Alterations</u>	
Sub-panels	\$ 50.00
Each additional	\$ 25.00
<u>Commercial new construction</u>	
Fee based on building project construction value	
First \$100,000 of value	\$ 500.00
Each additional \$1,000 of value or fraction thereof	\$ 2.00
<u>Commercial Additions/Renovations</u>	
First 1-10 outlets (i.e. lighting, receptacles, appliances and special equipment)	\$ 50.00
Each additional outlet	\$ 2.00
<u>Residential Services: Changes or Alterations</u>	
Each 200 ampere or fraction thereof	\$ 100.00
Each sub-panel	\$ 50.00
<u>Miscellaneous</u>	
Alarm, residential	\$ 50.00
Alarms, Commercial	
First zone	\$ 100.00
Each additional zone	\$ 25.00
Central air conditioning, residential	\$ 50.00
Each additional unit	\$ 25.00
Central air conditioning, commercial	\$ 75.00
Each additional unit	\$ 25.00
Pools, inground	\$ 200.00
Pools, aboveground	\$ 100.00
Pools, storeable	\$ 50.00
Temporary services, residential	\$ 50.00
Temporary services, commercial	\$ 100.00
Re-inspection fee	\$ 50.00
<u>GAS/PLUMBING FEES</u>	
Commercial	
First three fixtures	\$ 100.00
Each additional fixture	\$ 20.00
Residential	
First three fixtures	\$ 50.00
Each additional fixture	\$ 10.00

<i>Water heater replacement – residential only (gas permit only)</i>	\$ 50.00
<i>Water heater new – residential only (fee covers both gas and plumbing permits)</i>	\$ 50.00
<i>Late filing fee</i>	\$ 50.00
<i>Re-inspection fee</i>	\$ 50.00
<i>New construction</i>	
<i>Residential minimum (first three fixtures)</i>	\$ 200.00
<i>Each additional fixture</i>	\$ 10.00
<i>Commercial minimum (first three fixtures)</i>	\$ 200.00
<i>Each additional fixture</i>	\$ 20.00

or to take any other action in relation thereto.

Submitted by BOARD OF SELECTMEN

ARTICLE 7. To see if the Town will vote to authorize the Board of Selectmen to sell, pursuant to G.L. c. 30B, § 16, a parcel of town-owned land shown on Assessor’s Map 52 as Lot 000, Plot 1243 for a price not less than \$98,000 with restrictions so as to not allow any structure on such parcel and not to allow the use of any portion thereof to render buildable any adjoining lot that is not independently buildable; or to take any other action in connection therewith.

Submitted by BOARD OF SELECTMEN

ARTICLE 8. To see if the Town will vote to adopt as Chapter 225 of the Code of the Town a general bylaw entitled “Tree Protection Bylaw,” as follows:

§ 225-1. Purpose.

The intent of the Tree Protection Bylaw (this “Tree Bylaw”) is to encourage the preservation and protection of trees by (a) designating specific areas of a lot where trees must be protected, and (b) requiring mitigation for trees removed via replanting or collection of fees to support the Town’s tree planting and maintenance efforts.

Trees are recognized for their abilities to mitigate heat island effects; provide shade cover; reduce energy consumption; improve air quality; reduce noise pollution; reduce topsoil erosion and storm water runoff; provide wildlife habitat; sequester carbon; enhance the quality of life and the environment of the town; increase property values; and enhance the overall appearance of the community. The Town of Lynnfield (the “Town”) deems that the preservation and protection of certain trees on private property, the requirement to replant trees to replace those removed, and the collection of financial contributions to support the Town’s tree planting and maintenance efforts are public purposes that protect the public health, welfare, environment and aesthetics. No part of this bylaw shall discourage the removal of Hazardous Trees, an act which may be important to public health and safety.

§ 225-2. Definitions.

The following words, terms, and phrases, when used in this Tree Bylaw, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- a. “Aggregate Diameter”: The combined diameter of a multiple trunk tree measured at breast height.
- b. “Caliper”: Diameter of a tree trunk in inches. For trees up to and including four (4) inches in diameter, the caliper is measured six (6) inches above the existing grade at the base of the tree. For trees larger than four (4) inches in diameter, the caliper is measured twelve (12) inches above the existing grade at the base of the tree
- c. “Certificate of Exemption”: Formal permission granted to proceed with Expansion Work without need for a Tree Permit.
- d. “Certified Arborist”: An arborist certified by the Massachusetts Arborists Association or International Society of Arboriculture, or any successor organization.
- e. “Critical Root Zone (CRZ)”: The minimum area beneath the canopy of a tree which must be left undisturbed in order to preserve a sufficient root mass to give a tree a reasonable chance of survival. The CRZ is represented by a circle centering on the tree’s trunk and extending outward towards the tree’s dripline. The minimum radius of the CRZ shall be determined by multiplying the tree’s Diameter Breast Height in inches by eighteen (18). For example: A tree with a DBH of twenty (20) inches shall have a CRZ with a minimum radius of 360 inches or 30 feet ($20 \times 18 = 360$ or 30’).
- f. “Diameter Breast Height (DBH)”: The diameter of the trunk of a tree 4½ feet above the existing grade at the base of the tree.
- g. “Expansion Work”: Work performed on a vacant lot, including but not limited to clearing and grading, or on vacant areas within a developed lot, including but not limited to new construction and additions.
- h. “Expansion Work Permit”: A permit or approval which is required in order to perform Expansion Work, including, but not limited to the following: a building permit; a demolition permit; curb cut and street opening permits; site plan approval; subdivision approval; or a special permit.
- i. “Hazardous tree”: A tree that is interfering with existing structures, utilities, streets, sidewalks or other existing improvements; or is dead, diseased, injured, in danger of falling, dangerously close to existing structures; or is causing disruption of public utility service, drainage or passage problems upon rights-of-way; or poses a threat to pedestrian or vehicular safety; and/or that is harming the health or condition of other trees on the same site.
- j. “Invasive Species”: Any plant listed on the most recent version of the Massachusetts Prohibited Plant List as published by the Massachusetts Department of Agriculture.

- k. “Overstory tree”: A tree that will generally reach a mature height of greater than forty (40) feet.
- l. “Protected tree”: Any tree within a Tree Yard having a diameter of six inches (6") DBH or larger or having an aggregate diameter of twelve inches (12") DBH or larger.
- m. “Remove (including removing and removal)”: The cutting down of any Protected Tree and all other acts that directly or indirectly result in the death of a Protected Tree within 2 years, as determined by a Certified Arborist based on arboricultural practices recommended by the International Society of Arboriculture (I.S.A.) including, but not limited to, damaging, poisoning, excessive pruning or other direct or indirect actions.
- n. “Tree Permit”: Formal permission granted to remove a Protected Tree.
- o. “Tree Save Area”: The area surrounding a Protected Tree to remain undisturbed so as to prevent damage to a tree.
- p. “Tree Yard”: A defined area along the perimeter of a lot.
- q. “Tree Warden”: The Director of Public Works or his/her designee.

§ 225-3. Applicability.

- a. The terms and provisions of this Tree Bylaw shall apply to any Protected Tree located within a Tree Yard as defined in subsection 3(c) that is not owned by the Town, the Commonwealth, or any independent authority of the Commonwealth, with the following exceptions:
 - i. The terms and provisions of this Tree Bylaw shall not apply to parcels with more than 50 percent of land permanently conserved as open space pursuant to Article 97 of the Articles of Amendment to the Constitution of the Commonwealth of Massachusetts or a perpetual restriction under G.L. Chapter 184 Section 31-33.
 - ii. The terms and provisions of this Tree Bylaw shall not apply to lots of less than 7,500 square feet.
- b. No person shall remove a Protected Tree on land subject to the provisions of this Tree Bylaw or commence legally permitted Expansion Work on any lot, without first obtaining a Tree Permit or a Certificate of Exemption from the Planning Board or its authorized enforcement agent. The location of the Tree Yard is defined by Table 1 below.
- c. In the case of a new subdivision, the Tree Yard shall be based on the new lot lines approved for the subdivision.

Table 1: Location of Tree Yard in Each Zoning District

Zoning District	Tree Yard (distance in feet from lot lines)		
	Front	Side	Rear
Residential A	30	15	20
Residential B	40	20	20

Residential C	40	25	40
Residential D	40	30	40
Elderly Housing	50	25	30
Limited Business	40	15	20
General Business	40	15	20
Commercial	40	15	20
Limited Industrial	100	100	40
Office Park	50	50	50
Notes: The Tree Yard is equal to the setbacks in the zoning district, except the rear Tree Yard is twice as large as the rear setback in Residential C and Residential D.			

§ 225-4. Activities Not Requiring a Tree Permit.

- a. Certificate of Exemption:
 - i. A Tree Permit is not required if a Certificate of Exemption has been granted by the Planning Board or its authorized enforcement agent.
 - ii. Granting of a Certificate of Exemption is at the discretion of the Planning Board and its authorized enforcement agent based on whether the Expansion Work has the potential to harm a Protected Tree.
- b. Pruning: A Tree Permit is not required for the pruning of Protected Trees. However, excessive pruning may be considered Tree Removal.
- c. Emergencies: If any Protected Tree shall be determined to be in a hazardous condition so as to immediately endanger the public health, safety or welfare or cause an immediate disruption of public services and require immediate removal without delay, oral authorization may be given by the Tree Warden, Planning Board or its authorized enforcement agent to remove such tree, utilizing such professional criteria and technical assistance as he/she deems necessary.
- d. Waiver: The requirements of this Tree Bylaw may be waived by the appropriate Town officials during the period of an emergency such as a tornado, windstorm, flood, or other act of God.

§ 225-5. Authority.

This Tree Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes.

§ 225-6. Administration.

The Planning Board or its authorized enforcement agent shall administer, implement, and enforce this Tree Bylaw, and any rules and regulations adopted thereunder. Any powers granted to or duties imposed upon the Planning Board may be delegated its employees or agents.

§ 225-7. Regulations.

The Planning Board may promulgate rules and regulations to effectuate the purposes of this Tree Bylaw. Failure by the Planning Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Tree Bylaw. Such rules may prescribe the size, form, contents, style, and number of copies of plans and specifications, the procedure for the submission and approval of such plans, and the procedure for determining final compliance with these regulations. The adoption or amendment of rules and regulations shall be after a public hearing to receive comments on the proposed or amended rules and regulations. The public hearing shall be advertised once in a newspaper of general local circulation, at least 14 days prior to the date of the public hearing.

§ 225-8. Appeal.

- a. Any person aggrieved by a decision of the authorized enforcement agent may file an appeal with the Planning Board. Said appeal must be in writing and must be received by the Planning Board within ten (10) business days of issuance of the authorized enforcement agent's written decision. The Planning Board shall conduct a public hearing on the appeal and shall give the public notice thereof, at the expense of the applicant. Public notice shall include mailed notice to all persons owning land within 300 feet of any part of the applicant's land at least 14 days before said hearing. The Planning Board shall rule within 20 days of the public hearing. No Protected Trees shall be removed while an appeal is pending.
- b. Appeals of final decisions of the Planning Board shall be pursuant to G.L. c. 249, § 4.

§ 225-9. Tree Protection.

When a Tree Permit is granted, tree protection measures are prescribed as follows:

- a. Tree Save Area:
 - i. Each Protected Tree to be retained on property planned for an Expansion Work Permit shall be protected by the establishment of a Tree Save Area, which at a minimum must include the Critical Root Zone ("CRZ") of the Protected Tree(s).
 - ii. The Tree Save Area must be adequately marked prior to the commencement of Expansion Work and maintained in place until work is completed on the property.

- iii. An applicant may choose to encroach within the CRZ of a Protected Tree; however, such proposed action shall require the applicant to submit a maintenance plan for the tree, to be prepared, stamped, dated and signed by a Certified Arborist as part of the Tree Permit application. Under these instances, the Tree Save Area may be reduced to protect only those areas of the CRZ not proposed for encroachment.
- b. Maintenance of Protected Trees: Should such tree die within a twenty-four (24) month period from the date of issuance of a Certificate of Occupancy, if applicable, of the Expansion Work, the owner of the property shall be required to provide mitigation consistent with the requirements for the removal of a Protected Tree as contained herein within nine (9) months from the death of the original tree.

§ 225-10. Mitigation Through Planting of Replacement Tree(s).

When Protected Tree removal is permitted, mitigation through planting of replacement trees is prescribed as follows:

- a. No mitigation measures are required for the permitted removal of hazardous trees.
- b. For each inch of DBH of the tree(s) removed, at least one inch of caliper of new tree(s) must be replaced in accordance with the following:
 - i. Each new tree must have a minimum caliper of two (2) inches.
 - ii. If the Protected Tree to be removed is an Overstory Tree species, the replacement tree(s) to mitigate the removal shall be an Overstory Tree species.
 - iii. Replanting shall occur no later than 18 months after Tree Removal.
 - iv. A replacement tree shall be planted on the same lot from which the tree was removed or on land abutting the said lot with the express written approval of the owner of such abutting land.
 - v. A replacement tree must not be an invasive species.
- c. Maintenance of Replanted Trees: All new trees replanted to mitigate the removal of Protected Tree(s) shall be maintained in good health for a period of no less than twenty-four (24) months from the date of planting. Should such tree die within this twenty-four (24) month period, the owner of the property shall replace it.

§ 225-11. Mitigation Through Contribution to Tree Replacement Fund.

When Protected Tree removal is permitted, mitigation may be effected through contribution to the Tree Replacement Fund, as prescribed as follows:

- a. The Tree Replacement Fund is a revolving fund established under Chapter 10 the Code of the Town. Any payments into the Tree Replacement Fund required by this Tree Bylaw shall be deposited in the Tree Replacement Fund and shall be used in accordance with subsection (c) hereof.
- b. Payment in lieu of planting replacement tree(s): In lieu of planting a replacement tree as provided in Section 10 Mitigation Through Planting of

Tree Replacement Tree(s), a person who has been granted a Tree Permit may make a contribution to the Tree Replacement Fund in an amount equal to the cost to replace the tree, which shall be determined by the Tree Warden based on the Town's current cost to purchase and install trees.

- c. Maintenance of Tree Replacement Fund: All sums deposited into the Tree Replacement Fund shall be used solely for the purpose of buying, planting and maintaining trees in Lynnfield.

§ 225-12. Enforcement.

- a. Notice of violation: Any person who violates any of the provisions of this Tree Bylaw shall be notified by the Planning Board of the specific violation by certified mail, return receipt requested, or by hand delivery. The notice shall set forth the nature of the violation and the date by which the Protected Tree(s) is to be mitigated with the planting of replacement trees or payment to the Tree Replacement Fund, for purposes of computing the "per day" violation fine.
- b. A Tree Permit may be suspended or revoked at any time by the Planning Board or its authorized enforcement agent upon written notice to the Tree Permit holder that the Tree Permit holder has failed to comply with either this article or the conditions of the Tree Permit. The written notice shall be sent by certified or registered mail, return receipt requested, or by hand delivery and shall provide an opportunity for the Tree Permit holder to correct the noncompliance and apply for a renewal of the Tree Permit upon compliance, where practicable. The suspension or revocation of a Tree Permit in accordance with this subsection shall not affect the validity of an Expansion Work Permit. It shall, however, be cause for levying a fine or fines for violation of the Tree Permit, and the requirement for replacement of any removed or damaged trees.
- c. Stop work order:
 - i. Upon notice from the Planning Board that work on any Protected Tree, or lot on which a Protected Tree is located, is being performed contrary to the provisions of this Tree Bylaw, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work; and shall state the conditions under which work will be permitted to resume.
 - ii. The Planning Board is also authorized to request the agency which has granted an Expansion Work Permit, to the extent permissible by law, to require the owner to cease any activity pursuant to the Expansion Work Permit that might affect such Protected Tree while a stop work order is pending.
 - iii. Any person who shall continue any work in or about the Protected Tree or lot on which a Protected Tree is located after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall

be liable to a fine(s) per the table in section 13(a). Each day during which a violation exists shall constitute a separate offense.

- d. Injunctive relief:
 - i. Whenever there exists reasonable cause to believe that a person is violating this Tree Bylaw or any standards adopted pursuant to this Tree Bylaw or any term, condition or provision of an approved Tree Permit, the Town may, either before or after the institution of any other action or proceeding authorized by this Tree Bylaw, institute a civil action in the name of the Town for a mandatory or prohibitory injunction and an order of abatement demanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property.
 - ii. Upon determination of a court that an alleged violation is occurring, it shall enter such order or judgment as is necessary to abate the violation. The institution of an action for injunctive relief under this subsection shall not relieve any party to such proceedings from any civil penalty prescribed for violation of this Tree Bylaw.

§ 225-13. Penalties.

- a. Removal without a permit: Each instance in which a Protected Tree is removed without a permit shall constitute a violation of this Tree Bylaw which shall be subject to a fine per the table below. This shall be in addition to the required payment for the replacement of the tree(s).

Offense	Fine
1st offense	\$100
2nd offense	\$200
3rd offense & each subsequent offense	\$300

- b. Failure to replace trees or make payment: Each failure to replace a tree or make a payment into the Tree Replacement Fund shall constitute a separate violation of this Tree Bylaw which shall be subject to a fine per the table above. Each day such violation continues shall constitute a separate offense.
- c. Failure to comply with a condition contained in a Tree Permit or stop work order: Each instance where there is a failure to comply with a condition contained in a Tree Permit or stop work order shall constitute a violation of this article which shall be subject to a fine in the amount per the table above. Each day such violation continues shall constitute a separate offense
- d. Town trees: Nothing herein shall be construed to require the Town to make a payment into the Tree Replacement Fund for any tree(s) which it removes.

§225-14. Severability, Effect on Other Laws.

- a. Severability: The provisions of this Tree Bylaw are severable. If any section, provision, or portion of this Tree Bylaw is determined to be invalid by a court of competent jurisdiction, then the remaining provisions of this Tree Bylaw shall continue to be valid.
- b. Conflict of laws: This Tree Bylaw shall not apply to any public shade tree as that term is defined by the General Laws, Chapter 87 or any amendments thereto. Nothing herein is intended to conflict with the General Laws, Chapter 87 and to the extent that any provision hereof conflicts with said Chapter 87, such provision shall not be valid. Nothing herein is intended to conflict with existing special permit procedures and to the extent that any provision hereof conflicts with said special permit procedures, such provision shall not be valid.
- c. Complying with the terms of this Tree Bylaw shall not relieve the owner of the subject property from complying with any other pertinent regulation, including but not limited to all state and local wetlands protection regulations.
- d. Nothing herein shall preclude the harvesting of timber or cordwood from properties under Mass. G.L. Chapter 61 which are being actively managed as working forest, if said cutting is part of an approved forest management plan for the property. No Tree Permits or mitigation fees shall be levied against forestry operations on such properties.

and to amend the Town’s Revolving Funds general bylaw, Chapter 10 of the Code of the Town, by adding the following at the end of the table in § 10-5.D:

<u>Revolving Fund</u>	<u>Purpose</u>	<u>Revenue Source</u>	<u>Authorized to Expend Funds</u>
Tree Replacement Fund	Buying, planting and maintaining trees in Lynnfield	Payments required under Tree Protection Bylaw	Planning Board

and to amend the Town’s Noncriminal Disposition general bylaw, § 58-3, by adding the following to the “Schedule of Violations, Fines and Enforcing Officers”:

“Section	Offense	Fine	Enforcement Agent
Chapter 225	Tree Bylaw violations		Planning Board or its designee
	First offense	\$100	
	Second offense	\$200	
	Third or Subsequent		

Offense

\$300”

or to take any other action in connection therewith.

Submitted by PLANNING BOARD

ARTICLE 9. To see if the Town will vote to amend the Zoning Bylaws by adding, as § 4.10 thereof, the following:

4.10 Open Space Residential Design (OSRD) Bylaw

4.10.1 Purpose

The primary purposes for this bylaw are to:

- 1) Encourage the permanent preservation of open space, agricultural land, forested land, wildlife habitat, water bodies, and wetlands;
- 2) Encourage the permanent preservation of natural and cultural features, such as mature trees, viewsheds, stone walls, and historic buildings;
- 3) Minimize the total amount of disturbance on the site;
- 4) Enable landowners to realize equity from development of their land;
- 5) Encourage the construction of homes affordable to new and existing Town residents through more modest unit sizes and deed-restrictions;
- 6) Encourage variety in housing design and site development while ensuring compatibility with surrounding land uses;
- 7) Encourage a strong sense of community among neighbors;
- 8) Expedite the permitting of projects;
- 9) Facilitate the construction and maintenance of housing, streets, utilities, and public services in a more economical and efficient manner;
- 10) Reduce energy consumption and greenhouse gas emissions; and
- 11) Further the goals and policies of the Town Master Plan.

4.10.2 Definitions

- 1) “Active Recreation” shall refer to outdoor recreation that requires significant alteration of the natural landscape to provide playground or active sports facilities such as tennis, basketball or other sport courts, ball fields, swimming pools or spray pads, golf courses, marinas, enclosed dog parks, boat rentals, concession stands, community gardens, outdoor skating rinks, bathroom buildings, bleachers or stands or other developed facilities.
- 2) “Low Impact Development” shall mean practices that limit off-site stormwater runoff (both peak and non-peak flows) to levels substantially similar to natural hydrology by emphasizing decentralized management practices and the protection of on-site natural features.

- 3) “Open Space Residential Design (OSRD)” shall mean a process for the development of land that: (a) calculates the amount of development allowed up-front; (b) identifies the significant natural, cultural, and historic features of the land; (c) concentrates development, through design flexibility and reduced dimensional requirements, in order to preserve those features; and (d) permanently preserves at least 50 percent of the land in a natural, scenic, or open condition or in agricultural, farming, or forest use.
- 4) “Passive Recreation” shall refer to any outdoor activity that occurs in a natural setting with minimum disturbance of the natural and cultural resources and that is consistent with quiet enjoyment of the land including but not limited to hiking, nature study, outdoor education, cross country skiing, snowshoeing, horseback riding, trail bicycling, hunting, fishing, picnicking, canoeing, ice-skating, community gardening in existing fields, swimming in a natural water body with minimal site development, or informal sports activities on an open natural field.
- 5) “Potential Development Area” shall mean the area outside of the Primary Conservation Areas and Secondary Conservation Areas, where development is most appropriate.
- 6) “Primary Conservation Area” shall mean the area with existing, regulatory restrictions on development potential, including but not limited to wetlands, riverfront areas, and floodplains regulated by state or federal law.
- 7) “Secondary Conservation Area” shall mean the unprotected landscapes or elements of the landscape with environmental or cultural significance, including but not limited to upland buffers to wetlands, woodlands, farmland, meadows, wildlife habitat including corridors for wildlife movement, historic and archaeological sites, mature trees, scenic views, and existing dwelling units of historical significance. Master and open space and recreation plan conservation goals are to be considered when identifying Secondary Conservation Areas.

4.10.3 Applicability

- 1) Location. OSRD is allowed by right under zoning within the Single Residence B, Single Residence C, and Single Residence D districts for all residential developments under a single tract, and for all residential developments on multiple tracts in one ownership that have a cumulative area of not less than 90,000 square feet.
- 2) Subdivision Regulations. OSRD is subject to the requirements of the subdivision regulations and any other generally applicable land use regulations.
- 3) By Right. Within the Single Residence B, Single Residence C, and Single Residence D districts, all housing developments under a single tract, and housing developments on multiple tracts in one ownership that have a cumulative area of not less than 90,000 square feet (including residential subdivisions) shall comply with the OSRD

provisions of this section, unless the Planning Board allows a development that deviates from the requirements of this section by Special Permit. Such deviations may be approved if the applicant demonstrates that the proposed alternative development configuration provides adequate protection of the site's environmental resources and fulfills the purposes of this section as well as or better than an OSRD.

- 4) Approval Not Required. Subsection 1 above does not apply to construction of homes on individual lots that existed prior to the date of adoption of this OSRD bylaw or to lots created through the "Approval Not Required" (ANR) process with frontage on existing ways that meet the standard specified in the Lynnfield Subdivision Regulations. However, if subdivision approval is not required an applicant may nevertheless voluntarily apply for an OSRD under this section. In such a case, prior to lot creation via the ANR process the application shall be subject to Site Plan Review as described in Section 10.6.
- 5) Streamlined Review. If the proposed OSRD involves shared driveways, and/or any other use that requires a Special Permit, or Site Plan Review for lot configuration or any other purpose, the proceedings for all such Special Permits and the Site Plan Review shall occur in one consolidated Special Permit proceeding before the Planning Board.

4.10.4 Four-Step Design Process

The proposed layout of streets, dwelling units, and open space in an OSRD shall be designed according to the following four-step design process, which the applicant shall conduct with assistance of a registered landscape architect.

- a) Identify primary and secondary conservation areas and potential development areas, and features to be preserved.
 - i) Potentially Developable Areas shall be delineated such that open space is contiguous to the extent feasible. Open space will still be considered contiguous if it is separated by a roadway with undeveloped frontage.
- b) Locate the approximate sites of dwelling units within the potentially developable areas. Include the delineation of private yards and shared amenities so as to reflect an integrated community, emphasizing consistency with the Town's historic development patterns.
- c) Align streets in order to access the house lots or dwelling units. New streets and trails should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks, existing or proposed new open space parcels, and trails on abutting public or private property.
- d) Draw in lot lines.

4.10.5 Review Process

- 1) Pre-Application Meeting. Prior to filing an application, an applicant is strongly encouraged to request a pre-application review at a regular business meeting of the Planning Board. If one is requested, the Planning Board shall invite the Conservation Commission and Board of Health. The purpose of a pre-application review is to minimize the applicant's costs of engineering and other technical experts, and to commence negotiations with the Planning Board at the earliest possible stage in the development.
- 2) Pre-Application Submissions. At the pre-application review meeting, the applicant shall present the following items, in addition to the submittal requirements of the Lynnfield Subdivision Regulations and any other information the Planning Board needs in order to understand and respond to the applicant's proposal:
 - a) Site Context Map. This map shall illustrate the parcel in connection to its surrounding neighborhood. Based upon existing data sources and field inspections, it shall show various kinds of major resource areas or features that cross parcel lines or that are located on adjoining lands. This map enables the Planning Board to understand the site in relation to what is occurring on adjacent properties.
 - b) Conceptual Site Plan. This map shall illustrate the Primary Conservation Areas, Secondary Conservation Area, and Potentially Developable Area.
 - i) The Planning Board may waive the contiguity requirement for all or part of the required open space where it is determined that allowing noncontiguous open space will promote the goals of this bylaw or protect identified Primary and Secondary Conservation Areas.
 - c) Documentation of the Yield Plan, as specified in Section 4.10.6 below
- 3) Site Visit. Prior to filing an application, a field visit by the applicant with members of the Planning Board and/or Conservation Commission is encouraged. The purpose of this site visit is to familiarize Town officials and staff with the property's special features, and to provide them an informal opportunity to offer suggestions to the applicant regarding the preferred location of the potential house locations and street alignment.
- 4) Conservation Findings. The Planning Board, in consultation with the Conservation Commission shall study the Pre-Application Submissions and site visit observations, if applicable, and shall formally determine which land should be preserved and where development may be located. As part of its decision the Planning Board shall make written findings supporting this determination ("the Conservation Findings"). These findings must provide a viable location for the number of units specified in Section 4.10.6 below.
- 5) Standard for Approval. The Planning Board shall deny any application that does not include sufficient information to make Conservation Findings, that deviates from the zoning requirements, or that does not preserve Primary or Secondary Conservation Area that the Planning Board determines should be preserved from development as a result of the Pre-Application Submissions, potential site visit, and Conservation

Findings. The Planning Board’s Conservation Findings shall be incorporated into its decision to approve, approve with conditions, or deny an application. The Conservation Findings shall also indicate preferred locations for development if the OSRD plan is denied based upon such findings.

4.10.6 Yield: Allowable Residential Units

- 1) Formulaic Yield Method. The base maximum number of residential units permitted in an OSRD may be calculated by a formula that accounts for the net acreage of the property and site-specific development limitations that make some land less suitable for development than other land. This calculation involves two steps, calculating the net acreage and dividing by the allowed density.
 - a) Net Acreage Calculation. The factors named below are included for net acreage calculation purposes only and do not convey or imply any regulatory constraints on development siting that are not contained in other applicable provisions of law, including this zoning bylaw. To determine net acreage, subtract the following from the total (gross) acreage of the site:
 - i) The total acreage of land which lies within a Flood Plain District or a Wetland as defined in MGL c. 131, § 40 or which is subject to easements or restrictions prohibiting development; and,
 - ii) Ten percent of the remaining site acreage after the areas of (1)(a) above are removed to account for subdivision roads and infrastructure.
 - b) Unit Count Calculation. The base maximum number of allowable residential dwelling units on the site is determined by dividing the net acreage by the required acreage (allowed density) for a dwelling unit in the district under this bylaw. Fractional units of less than .5 shall be rounded down and .5 or more shall be rounded up.

District	Required Space per Unit
Single Residence B	30,000 square feet
Single Residence C	45,000 square feet
Single Residence D	60,000 square feet

- 2) Alternative Yield Method. As an alternative to utilizing the above calculation for determining the base maximum number of residential units, an applicant may choose to create a conceptual site plan, clearly delineating floodplains, wetlands, roadways and infrastructure, and which demonstrates the potential number of lots that could result from a conventional subdivision of the site.
- 3) Groundwater Protection District. Projects located within the Lynnfield Groundwater Protection District are subject to nitrogen loading limitations per Title 5 of the State Environmental Code, 310 CMR 15.00. In these cases, the total number of bedrooms allowed in a development is limited to one bedroom per 10,000 square feet of lot area for the overall development.

- 4) Lots in More than One District. For lots in more than one district, the allowable unit count and required open space for each district shall be computed separately first. These totals shall be added together and then rounded as above. The allowable maximum bonus for the entire development shall be calculated based upon this combined total number of units. The permitted location of the units and protected open space shall be wherever the Planning Board determines best fits the characteristics of the land, based upon the Conservation Analysis and Findings.
- 5) Existing Dwellings. Dwelling units that exist on the site prior to the proposed new development and will be maintained as dwelling units shall be included in the project's total yield of dwelling units.

4.10.7 Dimensional Requirements

Lot size and shape, unit placement, and other dimensional requirements within an OSRD are subject to the following limitations.

- 1) Purpose. Lots/units shall be located and arranged to advance the resource conservation objectives of the master and open space and recreation plans and to protect views from roads and other publicly accessible points; farmland; wildlife habitat; mature trees; large intact forest areas; hilltops; ponds; steep slopes; and other sensitive environmental resources.
- 2) Monumentation. Industry-accepted monumentation of a type consistent with the use of the open space shall clearly delineate the boundaries of the open space in a manner that facilitates monitoring and enforcement.
- 3) Lot size. There is no required minimum lot size for zoning purposes. The limiting factor on lot size in OSRD is typically the need for adequate water supply and sewage disposal. This does not affect the ability of the Board of Health to require area on a lot for water supply protection and the disposal of wastewater. Common leaching areas may be proposed as part of an OSRD.
- 4) Frontage. There is no numerical requirement for road frontage in an OSRD. Each lot must have legally and practically adequate vehicular access to a public way or a way approved under the subdivision regulations either directly across its own frontage or via a shared driveway approved by Special Permit. In all cases, adequate provision must be made for fire and emergency access to the individual lots.
- 5) Lot coverage. There is no maximum required lot coverage.
- 6) Setbacks. The minimum setback for any building from a property line is given in the table below.

	Single	Single	Single
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	Residence B	Residence C	Residence D
Front setback	20	20	25
Rear setback	10	20	20
Side setback*	10	10	10
* Setbacks for attached dwellings may be zero feet.			

7) Height. All buildings restricted to 40 feet in height.

4.10.8 Permitted Uses

- 1) Residential
 - a) Single-family dwellings are allowed by right
 - b) Two-family dwellings are allowed by Special Permit
 - i) The number of dwelling units shall not exceed the allowable unit count as specified in this Section. Any OSRD application involving two-family dwellings shall include a Site Plan that shows the location, layout, height, and setbacks of such dwellings.
- 2) Agriculture and horticultural uses including but not limited to orchards, vineyards, forestry, farming for fruits and vegetables, and grazing animals;
- 3) Open space;
- 4) Active and passive recreation;
- 5) Accessory recreational uses (e.g., tennis court, pool, playground, gazebo, firepit, shared patio);
- 6) Clubhouse or community building; and
- 7) Educational and other uses not mentioned above which are exempt from regulation by zoning under Massachusetts General Laws Chapter 40A, Section 3.

4.10.9 Design Standards

The following standards shall apply to all OSRDs and govern the design and development process.

- 1) Walkability and connectivity: Street connectivity is encouraged. Where cul-de-sacs are necessary, public walking and biking trails shall connect the end of the cul-de-sac to nearby streets and trails, where appropriate.

- 2) **Disturbed Areas:** In order to maximize the amount and contiguity of preserved open space, every effort shall be made to minimize and concentrate the amount of disturbed area (defined as any land not left in its natural vegetated state), by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall maintain maximum natural topography and cover. To the maximum extent feasible, topography, tree cover, surface water buffers, and natural drainage ways shall be treated as fixed determinants of road and lot configuration rather than as malleable elements that can be changed to follow a preferred development scheme.
- 3) **Ways:** Streets shall be located and designed to maintain and preserve natural topography and tree cover; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel. The Planning Board may modify the applicable road construction requirements for a new road within an OSRD as provided in the Subdivision Regulations if it finds that such modifications will be consistent with the purposes of this section, the OSRD requirements of the Zoning Bylaw and the Master Plan.
- 4) **Aesthetics:** Development shall relate harmoniously to the terrain and the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings. All open space (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.
- 5) **Stormwater Management:** The use of Low Impact Development techniques is required. Drainage design shall comply with the most recent version of the Massachusetts Stormwater Management Policy standards. In the case that a detention pond is necessary, a conceptual landscape plan shall be provided demonstrating that the pond facility will have dedicated access for maintenance, shall be adequately screened from view, and protected from trespass.

4.10.10 Open Space Requirements

- 1) **Minimum.** A minimum of 50% of the land area of the OSRD shall be set aside as permanently conserved open space. Conserving more than 50% is encouraged, especially in Single Residence C and D districts. The percentage of the open space that is wetlands shall not normally exceed the percentage of the tract that is wetlands; provided, however, that the applicant may include a greater percentage of wetlands in such open space upon a demonstration that such inclusion promotes the purposes of this bylaw.
- 2) **Water and wastewater use of open space.** The minimum percentage of required open space may be reduced by no more than 20% provided the full required minimum open space is mapped and the land that would otherwise be permanently conserved is shown. This land shall be subject instead to a Restrictive Covenant under G.L.

Chapter 184, Sections 26-30, which shall be approved by the Planning Board and Board of Selectmen and enforceable by the Town. Said land may be utilized for common water supply wells and associated infrastructure, common subsurface leaching fields and other underground components of wastewater systems, and rain gardens, constructed wetlands, and other decentralized stormwater management systems consistent with Low Impact Development that serve the OSRD. Treated stormwater may be discharged into the protected open space or land subject to a restrictive covenant. All protected land must be shown on approved plans.

- 3) Permanent Conservation of the Required Open Space. Any land required to be set aside as open space, voluntarily preserved in excess of that required, conserved as a condition of Site Plan approval, or protected in exchange for additional density pursuant to a Special Permit, shall be permanently protected pursuant to Article 97 of the Articles of Amendment to the Constitution of the Commonwealth of Massachusetts or a perpetual restriction under G.L. Chapter 184 Section 31-33. Unless conveyed to the Town of Lynnfield Conservation Commission, the required open space shall be subject to a permanent Conservation, Watershed, or Agricultural Preservation Restriction conforming to the standards of the Massachusetts Executive Office of Environmental Affairs, Division of Conservation Services, or Department of Agricultural Resources in accordance with G.L. Chapter 184 Section 31-33, approved by the Planning Board and Select Board and held by the Town, the Commonwealth of Massachusetts, or a non-profit conservation organization qualified to hold conservation restrictions under G.L. Chapter 184, Section 31-33. Any proposed open space that does not qualify for inclusion in a Conservation Restriction, Watershed, or Agricultural Preservation Restriction or that is rejected from inclusion in these programs by the Commonwealth of Massachusetts shall be subject to a Restrictive Covenant in perpetuity under G.L. Chapter 184, Sections 26-30, which shall be approved by the Planning Board and Select Board and held by or for the benefit of the Town.
 - a) The restriction shall specify the prohibited and permitted uses of the restricted land, which would otherwise constitute impermissible development or use of the open space, consistent with the Allowable and Prohibited Uses subsections of this bylaw and any permits. The restriction may permit, but the Planning Board may not require, public access or access by residents of the development to the protected land.
- 4) Timing. Any restriction or other legal document necessary to permanently conserve open space as required herein shall be recorded before lots are released or building permits are issued, whichever comes first.
- 5) Allowable Use of the Open Space. Such land shall be perpetually kept in an open state, preserved exclusively for the purposes set forth herein and in the deed and/or in the restriction, and maintained in a manner which will ensure its suitability for its intended purposes. Proposed use(s) of the open space consistent with this section shall be specified in the application.

- a) The open space shall be used for wildlife habitat and conservation and related natural resource management and the following additional purposes: historic preservation, outdoor education, passive recreation, aquifer protection, agriculture, horticulture, forestry, scenic views, or a combination of these uses, and shall be served by suitable access for such purposes.
 - i) Where appropriate to the topography and natural features of the site, up to 10% of the open space may be altered and used for active recreation.
 - b) The Planning Board may permit a small portion of the open space, not to exceed 5%, to be paved or built upon (preferably using permeable pavement and other means of retaining natural hydrology) for structures accessory to the dedicated use or uses of such open space (i.e. barns or other farm structures, parking to facilitate public access for passive recreation, informational kiosks, pedestrian walks, ADA access, and bike paths) so long as the conservation values of the open space are not compromised.
 - c) The open space may be used as the land subject to a restriction for the purpose of an aggregate calculation under Title V.
- 6) Prohibited Use of the Open Space: The open space within an OSRD shall be perpetually kept in an open state, preserved exclusively for the purposes set forth in the Allowed Uses section of this bylaw, and maintained in a manner that will ensure its suitability for its intended purposes. The following uses are expressly prohibited except in conformance with an allowed use:
- a) Constructing or placing of any temporary or permanent building, tennis court, landing strip, mobile home, swimming pool, fences, asphalt or concrete pavement, sign, billboard or other advertising display, antenna, utility pole, tower, conduit, line or other temporary or permanent structure or facility on, above, or under the open space that is not in conformance with an authorized use of the open space (e.g. a barn or other structure associated with agriculture);
 - b) Mining, excavating, dredging, or removing soil, loam, peat, rock, gravel or other mineral resource or natural deposit;
 - c) Placing, filling, storing, or dumping of soil, refuse, trash, vehicles or parts thereof, rubbish, debris, junk, waste, or other substance or material whatsoever or the installation of underground storage tanks;
 - d) Cutting, removing, or destroying of trees, grasses or other vegetation unless in conformance with an authorized use such as agriculture, forestry, passive recreation, vegetation and habitat management, or scenic view preservation;
 - e) Activities detrimental to drainage, flood control, water conservation, water quality, erosion, soil conservation, or archeological conservation;
 - f) Purposefully introducing or allowing the introduction of species of plants and animals recognized by the Executive Office of Energy and Environmental Affairs to pose a substantial risk of being invasive or otherwise detrimental to the native plant and animal species and plant communities on the property;
 - g) The use, parking or storage of motorized vehicles, including all-terrain vehicles, motorcycles, and campers, except in conformance with an authorized use of the

- open space or as required by the police, firefighters, or other governmental agents in carrying out their duties; and
- h) Any other use or activity which would materially impair conservation interests unless necessary in an emergency for the protection of those interests.
- 7) Ownership of the Open Space: At the applicant's discretion the open space may be owned by:
- a) A private owner for agricultural, horticultural, forestry or any other purpose not inconsistent with the conservation restriction;
 - b) A non-profit organization or agency of the Commonwealth whose principal purpose is the conservation of open space for any of the purposes set forth herein;
 - c) The Town Conservation Commission; or
 - d) A homeowners association as defined herein owned jointly or in common by the owners of lots or units within the project. If option d) is selected the following shall apply:
 - i) The documents organizing the HOA shall be drafted and approved by the Planning Board before final approval of the OSRD development, recorded prior to the issuance of building permits, comply with all applicable provisions of state law, and pass with conveyance of the lots or units in perpetuity. Each individual deed, and the deed, trust, or articles of incorporation, shall include language designed to effect these provisions.
 - ii) Membership must be mandatory for each property owner, who must be required by recorded covenants and restrictions to pay fees to the HOA for taxes, insurance, and maintenance of common open space, private roads, and other common facilities.
 - iii) The HOA must be responsible in perpetuity for liability insurance, property taxes, the maintenance of recreational and other facilities, private roads, and any shared driveways.
 - iv) Property owners must pay their pro rata share of the costs in subsection iii) above, and the assessment levied by the HOA must be able to become a lien upon individual properties within the OSRD.
 - v) The HOA must be able to adjust the assessment to meet changed needs.
 - vi) The applicant shall make a conditional grant to the Town, binding upon the HOA, of the fee interest to all open space to be conveyed to the HOA. Such offer may be accepted by the Town, at the discretion of the Select Board, upon the failure of the HOA to take title to the open space from the applicant or other current owner, upon dissolution of the association at any future time, or upon failure of the HOA to fulfill its maintenance obligations hereunder or to pay its real property taxes.
 - vii) Ownership shall be structured in such a manner that real property taxing authorities may satisfy property tax claims against the open space lands by proceeding against individual property owners in the HOA and the dwelling units they each own.
 - viii) Town Counsel must find that the HOA documents presented satisfy the conditions in Subsections a through g above, and such other conditions as the Planning Board shall deem necessary.

Selection of ownership option a), b), or d) requires:

- i) The conveyance of a conservation restriction as outlined herein; and
 - ii) The granting of an access easement over such land sufficient to ensure its perpetual maintenance as agricultural, conservation, or recreation land. Such easement shall provide that in the event the trust or other owner fails to maintain the open space in reasonable condition, the Town may, after notice to the lot owners and public hearing, enter upon such land to maintain it in order to prevent or abate a nuisance. The cost of such maintenance by the Town shall be assessed against the properties within the development and/or to the owner of the open space. Pursuant to G.L. Chapter 40 Section 58 the Town may file a lien against the lot or lots to ensure payment for such maintenance. Pursuant to G.L. Chapter 40 Section 57 the Town may also deny any application for, or revoke or suspend a building permit or any local license or permit, due to neglect or refusal by any property owner to pay any maintenance assessments levied.
- 8) Maintenance: The Planning Board shall require the establishment of ongoing maintenance standards as a condition of development approval to ensure that utilities are properly maintained and the open space land is not used for storage or dumping of refuse, junk, or other offensive or hazardous materials. Such standards shall be enforceable by the Town against any owner of open space land, including an HOA. If the Select Board finds that the maintenance provisions are being violated to the extent that the condition of the utilities or the open land constitutes a public nuisance, it may, upon 30 days written notice to the owner, enter the premises for necessary maintenance, and the cost of such maintenance by the Town shall be assessed ratably against the landowner or, in the case of an HOA, the owners of properties within the development, and shall, if unpaid, become a property tax lien on such property or properties.
- 9) In extraordinary cases in which the project does not meet the minimum amount of conserved open space but does achieve the purposes of this bylaw, the Planning Board may grant a Special Permit.

4.10.11 Septic Requirements

- 1) The property shall be served by a private central sanitary sewer system, central septic system, or by individual septic systems. If, however, in the judgment of the Planning Board, the topography and/or soil conditions are such that it would be more efficient to allow the underground common septic system or individual septic systems to be placed in the preserved open space, this configuration may be permitted. All systems are subject to approval by the Board of Health and any other permitting authority of competent jurisdiction.

4.10.12 Parking and Shared Driveways Requirements

- 1) Purposes.
 - i) To provide practically adequate common vehicular access to and from a public street to lots and/or parking locations, which would otherwise be required to have their own access and frontage.
 - ii) To further encourage clustered parking spaces, reducing the need for driveways and impervious surfaces, while encouraging a more pedestrian-focused development.
- 2) The Minimum Parking Requirements defined in Table 9.5.8-1 Table of Parking Requirements apply to the OSRD.
- 3) Special Permit. The Planning Board may issue Special Permits allowing shared driveways and/or clustered parking that serve up to eight dwelling units. The owner(s) of all lots or dwelling units to be served by the shared driveway and/or clustered parking must be party to the application for a Special Permit.
 - a) If serving more than two units a shared driveway will be called a “way” with a sign placed in plain view of its intersection with a way on which the public has a right of access.
 - b) A portion, or all of required parking may be clustered in one or more lots, provided required parking is located within 150 feet of the entry door and adequate pedestrian access from said lots to associated units is constructed.
 - c) Applicants must provide evidence of deeded covenants for all lots or dwelling units served by the shared driveway and/or clustered parking, which include provisions that are adequate in the opinion of the Planning Board and Town Counsel to:
 - i) Establish a maintenance agreement between the joint owners as specified in deeded covenants or be included as part of the HOA comprised of the owners of all lots or units served by the shared driveway and/or clustered parking;
 - ii) Ensure continued maintenance of the shared driveway and/or clustered parking surface and its drainage structures;
 - iii) Provide for the collection of dues and assessments for any necessary ongoing maintenance, repairs, and any plowing/sanding of the shared driveway and/or clustered parking;
 - iv) Provide a compliance mechanism enforceable by the maintenance association or HOA in the event of non-payment of dues or assessments by a member;
 - v) Guarantees including but not limited to financial security that the shared driveway and/or clustered parking will be constructed if the permit is issued; and
 - vi) A plan signed by a registered professional engineer for the shared driveway and/or clustered parking showing alignments, grades, subsurface preparation, drainage facilities, and surface materials.
- 4) Emergency access. The shared driveway shall be designed to provide year-round access for emergency vehicles, and shall satisfy at least the regulations for driveways

in this bylaw. In no instance shall a shared driveway be longer than 750 feet or have a grade of over 6% if gravel or 12% if constructed of a hardened surface such as asphalt, concrete, or oil and stone. The Planning Board may require enhanced subsurface preparation, drainage, alignment, width, turnouts, and surfacing as long as the standards for the least stringent road standards within the Subdivision Regulations are not exceeded.

- 5) The Town may not be compelled to provide construction, reconstruction, maintenance, snow plowing, school bus pick-up, police patrols, or other services along a shared driveway.
- 6) Shared driveways need not become public ways.

and to amend § 4.1.2 of the Zoning Bylaws, the Table of Dimensional and Density Regulations, by adding a footnote 5 to the entries for “Single Residence B,” “Single Residence C,” and “Single Residence D,” which reads as follows:

“(5) Different dimensional standards apply to Open Space Residential Design developments, which are described in Article 4.10, below. Within the Single Residence B, Single Residence C, and Single Residence D Town of Lynnfield Zoning Bylaw Districts, all subdivisions shall be Open Space Residential Designs unless the Planning Board grants a Special Permit to allow a development that deviates from the Open Space Residential Design requirements (see 4.10.3 Applicability).”

or to take any other action in connection therewith.

Submitted by PLANNING BOARD

ARTICLE 10. To see if the Town will vote to accept to renovate, and add to as necessary, the existing Lynnfield Veterans Memorial located off Lynnfield Common to ensure that any Lynnfield resident who meets the long-standing eligibility criteria set forth below is listed on the Memorial; or to take any other action in connection therewith.

The criteria – For the Town to list any Veteran on the Lynnfield Veterans Memorial, the Veteran must have entered military service while a resident of Lynnfield, and received an honorable discharge.

Submitted by PETITION