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TOWN OF ROCKPORT
WARRANT FOR
FALL TOWN MEETING
Monday, September 11, 2023
The Commonwealth of Massachusetts

Essex, ss.

To: One of the Constables of the Town of Rockport,
Massachusetts in said County of Essex in the
Commonwealth of Massachusetts.

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 Town affairs to meet and assemble at the Rockport High School at 24 Jerden's Lane in said Rockport on Monday, the eleventh day of September, 2023 A.D., at 5:30 in the evening, then and there to act on the following articles, to wit:

ARTICLE A. To see if the Town will raise and appropriate, or appropriate and transfer, a sum of money to pay unpaid bills of previous fiscal years; or act on anything relative thereto. *(Board of Selectmen) (Requires 9/10 vote)*

ARTICLE B. To see if the Town will vote to raise and appropriate, or appropriate and transfer, a sum or sums of money to add to the appropriations made under Articles 5, 5A, 5B, 5C, 6, 6A and/or 6B of the April 1, 2023 Annual Town Meeting or to reduce appropriations made thereunder; or act on anything relative thereto. *(Board of Selectmen) (Requires majority vote)*

ARTICLE C. To see if the Town will hear and receive the annual report and recommendations of the Community Preservation Committee pursuant to Section 5 of Chapter 44B of the General Laws and Chapter 2, Section 5(d)(ii) of the Code of By-laws; or act on anything relative thereto. *(Community Preservation Committee) (Requires majority vote)*

ARTICLE D. To see if the Town will vote, pursuant to Section 6 of Chapter 44B of the General Laws, to set aside in the Community Preservation Fund sums of money from Community Preservation Fund FY2024 estimated annual revenues for later spending for the respective purposes indicated:

First, a sum of money to be deposited in the Community Housing Reserve Account;

Second, a sum of money to be deposited in the Open Space/Recreation Reserve Account;

Third, a sum of money to be deposited in the Historic Preservation Reserve Account;

or act on anything relative thereto. *(Community Preservation Committee) (Requires majority vote)*

ARTICLE E.

To see if the Town will vote to appropriate and transfer from the Community Preservation Fund or by borrowing the following amounts for the respective purposes indicated:

First, \$27,500 to be expended under the direction of the Harbormasters and Director of Public Works working with the Community Preservation Committee, to replace kayak racks at White Wharf for the restoration, rehabilitation, and/or preservation thereof to be used for recreational purposes;

Second, \$36,000 to be expended under the direction of the Board of Selectmen, working with the Community Preservation Committee, to conduct a study to create universal nature trails on Town parcels for recreational purposes;

Third, \$42,250 to be expended under the oversight of the Department of Public Works, working with the Community Preservation Committee, for the restoration, rehabilitation, and preservation of T-Wharf, Rockport, and to enhance the safety, historic integrity, and appearance of the wharf and its immediate surroundings;

Fourth, \$215,000 to be placed in the Conservation Fund, to be administered by the Rockport Conservation Commission, to be used for purposes consistent with the Community Preservation Act;

Fifth, \$175,000 as a grant to Harborlight Community Partners, a nonprofit corporation duly organized under the laws of the Commonwealth of Massachusetts, to be expended under the oversight of the Board of Selectmen working with the Community Preservation Committee, for the creation, support, construction, and establishment of affordable community housing at 5 Granite Street, Rockport;

Sixth, \$57,200 to be expended under the direction of the School Committee, working with the Community Preservation Committee, for the replacement of the Pre-School Playground at Rockport Elementary School at Jerden's Lane, Rockport for the restoration, rehabilitation, and/or preservation thereof for recreational purposes;

or act on anything relative thereto. *(Community Preservation Committee) (Requires majority vote)*

ARTICLE F.

To see if the Town will vote to amend the Town of Rockport Code of By-laws, CHAPTER 3 § 10 HOUSING AUTHORITY, subsection (a) COMPOSITION; TERM OF OFFICE as set forth below, specific only to the amendments indicated with strikethrough text to be deleted and new text to be inserted shown in bold, and further, that the Town Clerk be authorized to make any and all ministerial changes including but not limited to grammar, punctuation, and corrections to the codification and numbering to ensure correctness.

a. Composition; Term of Office. There shall be a Housing Authority consisting of five (5) members **as set forth in M.G.L. c. 121B § 5 and §5A:** ~~four~~ three (3) members shall be chosen by Town election; **the fourth member shall be a tenant member as defined by M.G.L. c. 121B § 1 and shall be appointed by the Select Board;** and the fifth member shall be a resident of the Town and appointed by the ~~Governor~~ **Department of Community Affairs**. Housing Authority members shall serve for five (5) year terms, so arranged that one (1) term shall expire each year. *(Government and By-Law Committee) (Requires majority vote).*

ARTICLE G.

be deleted

To see if the Town will vote to amend the Town of Rockport Code of By-Laws, CHAPTER 7E, Affordable Housing Trust Fund By-Law, as set forth below specific only to the amendments indicated with strikethrough text to be inserted and new text to be shown in bold; and further, that the Town Clerk be authorized to make any and all ministerial changes including but not limited to grammar, punctuation, and corrections to the codification and numbering to ensure correctness.

E. Affordable Housing Trust Fund

Section 1. Establishment of Trust.

There shall be a Rockport Affordable Housing Trust, ~~the purpose of which~~ that shall ~~be to~~ provide for the preservation and creation of affordable housing in the Town ~~Rockport~~ for the benefit of low and moderate income households and for the funding of community housing as defined in and in accordance with the provisions of **M.G.L. c. 44B Community Preservation.** ~~Massachusetts General Laws Chapter 44B (“Chapter 44B”).~~ The Trust shall be governed by a Board of Trustees in accordance with **M.G.L. C. 44, §55C Municipal Affordable Housing Trust Fund** ~~General Laws Chapter 44, Section § 55C (“Section 55C”),~~ as revised from time to time, and the authority granted by Town Meeting.

Section 2. Name of the Trust

The Trust shall be called the "Rockport Affordable Housing Trust" herein referred to as the "Trust" **and known by the acronym "RAFHT"**.

~~Section 2. Purpose~~

~~The purpose of the Trust shall be to provide for the preservation and creation of affordable housing in the Town of Rockport for the benefit of low and moderate income households and for the funding of community housing as defined in Chapter 44 B.~~

Section 3. Board of Trustees

There shall be a Board of Trustees (the "Board") consisting **of five (5) to seven (7) nine (9)** Trustees who shall be appointed by the ~~Board of Selectmen~~ **Select Board**. The members of the Board shall ~~include be comprised of~~ as follows:

~~one (1) members~~ **member** of the ~~Board of Selectmen~~ **Select Board**, or its designees; **and**

~~one (1) member of the Community Development Office of Fair Housing or its designee;~~

~~one (1) member of the Planning Board or its designee;~~

~~one (1) Housing Authority member from the Community Preservation Committee or its designee; and~~

four (4) to six (6) five (5) residents members at large, who to the extent possible, shall have backgrounds or interests in affordable housing, and specifically those with financial, legal, real estate, **architectural, social service** or development expertise.

Only residents of the Town of Rockport shall be eligible to hold the office of Trustee. The Trustees shall serve for a term ~~not to exceed~~ **of two (2) years**, with initial terms of **two (2) or three (3), as the case may be, of the at large five (5) resident members being to be for two (2) years and for the other two (2) or three (3), as the case may be, at large four members being for one (1) year, to provide staggered terms.** Any Trustee may resign by filing with the Town Clerk a written resignation, signed under the pains and penalties of perjury. Any vacancy in the office of Trustee shall be filled by the ~~Board of Selectmen~~ **Select Board** in writing for the remainder of the unexpired term. Upon the appointment of any Trustee and the filing of such

appointment and Trustee's acceptance with the Town Clerk, the title to the Trust estate shall thereupon and without the necessity of any conveyance be vested in such succeeding Trustee jointly with the remaining Trustees. Reference to the Trustee shall mean the Trustee or Trustees for the time being hereunder. Trustees may be removed by the ~~Board of Selectmen~~ **Select Board** at any time for cause following the opportunity for a hearing. For purposes of this by-law, **(in addition to the definition of "cause" under c. 1 § 2 (iii) of the By-Laws)**, the term "cause" shall include but not be limited to violation of any local, state, or federal law. ~~incapacity to perform the duties of a Trustee; and acts of a Trustee, that in the opinion of the Board of Selectmen, are negligent or detrimental to the Town of Rockport or the Trust.~~

Section 4. Meetings of the Trust

The Board shall meet at least quarterly in the Town of ~~Rockport~~ at such time and at such place as the Trustees shall determine.

Section 5. Powers of the Board

The Board shall have all of the powers and duties set forth in **M.G.L. c 44 §~~Section~~ 55C**, which powers and duties shall be carried out in accordance with and in furtherance of the provisions of said law. Notwithstanding the first sentence of this paragraph, however, the Board shall have no ability to borrow money, or mortgage or pledge Trust assets, purchase, sell, lease, exchange, transfer or convey any interest in real property, without the prior approval of the ~~Rockport Board of Selectmen~~ **Select Board**. Further, any borrowing by the Trust shall be pre-approved by a two-thirds **(2/3rds)** vote at **Town Meeting**. The Board, an individual Trustee, or any agent or office of the Trust shall not have the authority to bind the Town of ~~Rockport~~, except in the manner specifically authorized herein.

Section 6. Acts of Trustees

Provided that a quorum of the Board is present, a majority of those Trustees present and voting may exercise any or all of the powers of the Board hereunder, except as otherwise provided, and such Trustees may execute on behalf of the Board any and all instruments with the same effect as though executed by all the Trustees. No Trustee shall be required to give bond. No license of court shall be required to confirm the validity of any transaction entered into by the Board with respect to the Trust Estate.

Section 7. Status of Trust and Board of Trustees

The Trust is a public employer and the members of the Board are public employees for purposes of ~~General Laws Chapter M.G.L. c. 258~~ relative to liability and indemnification. The Trust shall be deemed a municipal agency and the members of the Board of Trustees special municipal employees for purposes of ~~General Laws Chapter M.G.L. c. 268A~~, the Conflict of Interest Law. The Trust is a governmental body for purposes of ~~Massachusetts General Laws Chapter M.G.L. c. 30A~~, §§18-25, the Open Meeting Law and **M.G.L. c. 66, the Public Records Law**. The Trust is also a board of the Town for purposes of ~~M.G.L. c. 30B-General Laws Chapter~~, procurement, and ~~M.G.L. c. 40, §15,-General Laws Chapter~~ abandonment of rights in realty, provided, however, that agreements and conveyances between the Trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the Town shall be exempt from said Chapter 30B.

Section 8. Custodian of Funds

The Town of ~~Rockport~~ Treasurer shall be the custodian of the funds of the Trust. The books and records of the Trust shall be audited annually by an independent auditor in accordance with accepted accounting practices for municipalities. Cost associated with the independent audit shall be borne by the Trust.

Section 9. Duration of the Trust

This Trust shall continue until terminated by a vote of the ~~Rockport~~ Town Meeting. Upon termination of the Trust, the Board, with the approval of the ~~Board of Selectmen~~ **Select Board**, may sell all or any portion of the Trust property, both real and personal, and, following the payment of all obligations and liabilities of the Trust and the Trustees, shall transfer to the Town the net assets of the Trust which shall be held by the ~~Board of Selectmen~~ **Select Board** for affordable housing purposes.

Section 10. Compensation of Trustees

Trustees shall not receive a salary, stipend, bonus or other means of compensation for their service as a Trustee, nor shall they be eligible for any benefits from the Town of ~~Rockport~~. Trustees may be compensated for reasonable out-of-pocket expenses for travel and other Trust-related expenses. All such out-of-pocket expenses shall be fully documented with receipts for expenses prior to payment by the Trust **in accordance with the Town's standard financial practice.**

Section 11. Annual Report

The Trustees shall prepare an annual report describing the activities of the Trust on a calendar year basis. The annual report shall be submitted to the ~~Rockport Board of Selectmen~~ **Select Board and to the Finance Committee** by December 31st of each year as well as be included in the Town's Annual Report. The annual report shall list all financial transactions conducted by the Trust including all revenues and costs, provide a balance sheet of liabilities and assets of the Trust, list an inventory of all affordable housing units created, sold, and/or managed by the Trust, and any other pertinent information related to the business of the Trust.

Section 12. Policies, Rules and Regulations.

The Trustees may establish such policies, rules and regulations as they deem necessary to carry out the terms of the Trust and that do not conflict with the terms of the by-law or the enabling statute M.G.L. c. 44 § 55C or M.G.L. c. 44B or any other applicable law. *(Government and By-Law Committee) (Requires majority vote).*

ARTICLE H.

To see if the Town will vote to amend the Town of Rockport Code of By-Laws, CHAPTER 8, SECTION A Board of Commissioners of Public Works, SECTION B Water, Sewer and Solid Waste Systems and SECTION C, Discharges into the Municipal Storm Drain, set forth below specific only to the amendments indicated with strikethrough text to be deleted and new text to be inserted shown in bold; and further, that the Town Clerk be authorized to make any and all ministerial changes including but not limited to grammar, punctuation, and corrections to the codification and numbering to ensure correctness.

CHAPTER 8. PUBLIC WORKS

A. Board of Commissioners of Public Works

Section 1. Appointed Officials

The ~~Selectmen~~ **Select Board** shall appoint a Board of Commissioners of Public Works, hereinafter called the **DPW** Commissioners, consisting of three **(3)** persons especially qualified by education, training or experience to oversee the Department of Public Works and to serve as highway, parks, water, sewer and

cemetery commissioners and may for cause remove any or all such appointees. The DPW Commissioners shall serve (3) three year terms, staggered so that the term of one (1) Commissioner expires each year.

Section 2. Appointment of Director

The DPW Commissioners shall appoint a Director of Public Works, herein called the Director, who shall be appointed without regard to his political beliefs **and who** He need not be a resident of the Town when appointed. **Such Director shall, if the DPW Commissioners so decide but shall** be a resident of the Town while ~~in service~~ **servng** as Director ~~should the Commissioners so decide~~. Before entering upon the duties ~~of his~~ **of the office**, the Director shall be sworn to the faithful and impartial performance thereof by the Town Clerk, or by a justice of the peace. ~~He~~ **The Director** shall execute a bond in favor of the Town for the faithful performance of ~~his~~ **the** duties of the office in such sum and with such surety or sureties as may be fixed or approved by the DPW Commissioners, the premium for said bond to be paid by the Town.

Section 3. Acting Director

The Director may designate, in writing ~~by letter approved by and~~ with the ~~approved~~ approval by of the DPW Commissioners, filed with the Town Clerk, a qualified officer of the Town to perform ~~his~~ the Director's duties during any temporary absence or **disability of less than fourteen (14) days, such written designation shall be filed with the Town Clerk and the Town Administrator. Notwithstanding the forgoing, in the event of** ~~Pending the appointment of a Director, or the filling of any disability lasting more than fourteen (14) days, a vacancy, or the failure of the Director of Public Works to designate a temporary Director, or during the suspension of the Director, the DPW Commissioners shall appoint a suitable person to perform the duties of the office.~~

Section 4. Removal of Director

The DPW Commissioners by a majority vote of the full membership of the Board may remove a Director.

Section 5. Compensation for Director

The Director shall receive such compensation for his services as the DPW Commissioners shall determine, but ~~it—~~**said compensation** shall not exceed the amount appropriated therefore by the Town.

Section 6. Powers and Duties of Director

In addition to other powers and duties expressly provided for in the ~~Town~~ Charter, the Director shall have the following powers and duties:

- a. The Director shall supervise and direct and shall be responsible for the efficient administration of all offices, boards and committees appointed by ~~him~~ **the Director** and their respective departments.
- b. The Director shall keep full and complete records of ~~his~~ **all operations** and shall render as may be required by the DPW Commissioners a full report of all operations during the period reported on.
- c. The Director shall keep the DPW Commissioners fully advised as to the needs of the Town and shall recommend to the DPW Commissioners for adoption such measures requiring action by them or by the Town as ~~he~~ the Director may deem necessary or expedient.
- d. The Director shall be responsible for the maintenance and repairs of all Town property except school buildings and grounds. ~~He~~ **The Director** shall be responsible for the preparation of plans and the supervision of work on all construction, reconstruction, alterations, improvements and other undertakings authorized by the Town, subject however, to the approval of the ~~Town committee~~ **School Committee** with respect to plans for the construction or improvement of school buildings or property.
- e. The Director shall perform such other duties consistent with ~~the~~ **his** office as may be required of ~~him~~ **the Director** by the by-laws, or by vote of the Town or by vote of the DPW Commissioners.
- f. The Director shall have access to all Town books and papers for information necessary for the proper performance of ~~his~~ **the Director's** duties.
- g. The Director shall appoint, upon merit and fitness alone, and may, subject to the provisions of ~~MGL Ch~~ .M.G.L. c. 31, where

applicable, may remove for cause any employees of the Department of Public Works.

h. Whenever any payroll, bill or other claim against the Town is presented to the Director, ~~of Public Works~~ ~~he~~ the Director shall, **if , in the opinion of the Director it seems is of doubtful** validity, excessive in amount, or otherwise contrary to the interests of the Town, refer it to the **DPW** Commissioners, who shall immediately investigate the fact and determine, what, if any, payment should be made. Pending such investigation and determinations by the **DPW** Commissioners, payment shall be withheld.

i. The Director shall prepare and submit a budget to the **DPW** Commissioners in sufficient time for the DPW Commissioners' review.

Section 7. Fees Paid to Treasury

The aggregate compensation of each Town ~~Officer~~ or ~~Employee~~ appointed by the Director of Public Works shall be limited to the amount established by **vote of Town Meeting** ~~in accordance with the provisions of this act or anything relative thereto~~, and all fees received **by such employees** in accordance with the provisions of any general or special laws shall be paid into the Treasury of the Town.

Section 8. Estimate of Expenditures

~~On or before the fifteenth (15th) day of December of a date set by the Board of Selectmen~~ **the Select Board** each year, the **DPW** Commissioners shall submit to the ~~Board of Selectmen~~ **Select Board** a copy of their annual budget, which shall contain a careful, detailed estimate of the probable expenditures of the Department of Public Works for the ensuing fiscal year, showing specifically the amount necessary to be provided for each office and activity, together with a statement of the expenditures for the same purposes in the two preceding years and an estimate of expenditures for the current year. With the assistance of the Town Accountant, the **DPW** Commissioners shall also submit to the **Select Board** ~~Selectmen~~ a statement showing all revenues received by the Town from the Department's activities in the two (2) preceding years, together with an estimate of the receipts of the current year.

B. Water, Sewer and Solid Waste System

Section 1. Administration

The water, sewer and solid waste functions and services, including maintenance of the water supply and distribution, sewers and sewerage systems, shall be performed by the Department of Public Works.

a. The Department of Public Works shall have and exercise all of the powers vested in the Town by the **federal, state, or local General Laws, Municipal State and Federal** laws, rules and or regulations or special acts pertaining to the water and sewer systems. The **DPW** Commissioners may appoint such officers, agents and assistants as shall be necessary to accomplish the administration of the water works and sewerage systems.

b. The Department of Public Works shall cause to be read all meters used for the purpose of measuring water and/or sewage utilized by the owner at least once in each year, and at more frequent intervals if so directed by the **DPW** Commissioners. Whenever water service is discontinued at the request of the owner of any premises, or for nonpayment of water and/or sewage bills, or any other reason, it shall forthwith read or cause to be read, the water user's meter. The **DPW** Commissioners, or their designee, shall assess all charges for water supplied by the Town and/or sewage utilized by the owner in accordance with the rates as established from time to time, and the same shall be committed to the collector, who shall after notice to the persons to whom they are assessed, collect the same and pay the proceeds to the Town Treasurer. All charges for water and/or sewage shall be due and payable to the Collector within thirty **(30)** days after the mailing a bill ~~delivery shall mail or deliver~~ to the water and/or sewage user.

c. The **DPW** Commissioners shall ~~have~~ **hereby be authorized** the ~~authority and duty~~ to adopt, issue and administer rules and regulations for the administration and operations of the water and sewer functions and services, water usage and all subjects related to the functioning of the water works and sewerage systems.

Section 2. Operations

a. An application for the use of water, signed by the owner or agent of the premises where **such service** it is desired, must be made at the office of the Department of Public Works **or otherwise as provided by the Department**. The application shall contain such information as shall be prescribed by the **DPW** Commissioners.

b. Each service pipe shall be of such size and material as the Department of Public Works shall determine ~~on~~ **with respect to** each application. The Department of Public Works shall maintain all water services from street main to curb valve near the property line with a proper service box at no expense to the property owner. A replacement of an existing line with a larger service and all new services shall be at the expense of the property owner.

The service pipe from the curb valve may be furnished and installed by any competent person whose work shall be satisfactory to the Department or its inspector. The Department may lay service pipe from curb valve to and through the cellar wall and place a meter valve on the end of the pipe. A Department estimate of the cost of the work to be performed by the Town shall be made and the amount shall be deposited with the Town Treasurer before the work is begun.

c. The **Department of Public Works** shall furnish and install, at least one **five eighths inch (5/8")** by three-quarter inch ($3/4''$) meter, approved by the Department, per building. Property owners needing a larger or additional meter **may** furnish and install such a meter at the property owner's sole expense in accordance with DPW specifications. The Town ~~of Røekpørt~~ shall maintain or replace a meter with an existing size meter at no cost to the property owner (except meters disconnected, lost, tampered, damaged by the property owner and/or stored per request of the property owner ~~to replace~~). Should a larger size or additional meter be requested in or outside of an existing building, the property owner shall pay for all related costs. (~~Amended ATM 03/21/98~~) Meters and their appurtenances, including outside meter reading devices, shall be located by the Department **of Public Works**, at the discretion of the Department head or ~~his~~ **the Department head's** designee, and shall become the property of the Town after installation.

d. When a water taker fails to receive a sufficient supply of water through ~~is~~ **the water taker's** service pipe, ~~he~~ the owner shall furnish information satisfactory to the Department **of Public Works** that the pipe is clear of obstructions within ~~his own~~ **the** premises to the curb valve before any opening will be made in the street by said Department.

e. The following regulations shall be considered a part of the contract with every person who takes water and every such person by taking the water shall thereby express ~~his~~ **that person's** assent to be bound thereby. Whenever any regulation is violated, the Department of Public Works may cut off the water to the building

or place of such violation, although two or more parties may receive the water and/or sewage utilized through the same pipe and it shall not be let on again except by order of the **DPW** Commissioners, or their designee, and on the payment of all applicable fees. In case of such violation, said **DPW** Commissioners shall have the right to retain as liquidated damages for such violation any payment made for the water and/or sewage utilized by the persons committing such violation.

i) Every person taking the water shall, at ~~his~~ **the person's** own expense, keep the pipes within ~~his~~ **the person's** premises in good repair and protected from frost and shall be held liable for all damage, which may result from ~~his~~ **the person's** failure to do so.

ii) Every person taking the water shall prevent all unnecessary waste of water and shall not conceal the purpose for which the water is used.

iii) No alteration shall be made in any of the pipes, meters or appurtenances belonging to the Town except by its agents.

iv) No water shall be supplied to a person not entitled to its use under these rules and regulations, except by special permission of the **DPW** Commissioners.

v) A representative of the Department of Public Works, upon reasonable notice, may enter the premises of any water user to install, repair, or read meters, or to examine pipes and fixtures used and the manner of their use.

Section 3. Rates

Water, sewer, solid waste, cemetery and related rates shall be set by the **DPW** Commissioners after a public hearing. ~~by the Commissioners.~~

a. If a meter fails to register, the consumer shall be charged for water and/or sewage upon the basis of the average consumption for a corresponding period as shown by the meter when in order or by estimate.

b. A charge may be made for water used through fixtures which that are installed solely for protection against fire.

c. The charge for turning on or turning off water shall be set by the **DPW** Commissioners within such limits as established by law.

d. The **DPW** Commissioners or their designee may make adjustments in the water charges to a consumer to correct an error in billing or usage.

Section 4. Transfer Station and Recycling Center

a. Transfer Station. No person or business using the ~~Town of Rockport's~~ **Town's** Transfer Station and Recycling Center shall place yard waste, tin or glass containers, aluminum containers, number 1 and number 2 plastic containers, newspapers, magazines and corrugated cardboard into the trash trailers.

b. Recycling Center. The articles **excluded from trash trailers** referred to above shall be recycled into the proper bin or designated area within the Transfer Station and Recycling Center. However, this section shall not prohibit the dumping of mixed waste material including the aforementioned recyclables by authorized Department of Public Works employees in the course of assigned duties.

Section 5. Underground Storage Tanks

The **Department of Public Works shall regulate** ~~Regulation of underground storage tanks, hazardous materials and regulated substances. will be regulated under the Department of Public Works Rules and Regulations.~~

C. Discharges to the Municipal Storm Drain System (MS4)

~~Section 1. — Purpose~~

~~Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the town's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment. The objectives of this bylaw are:~~

~~To prevent pollutants from entering the town's municipal separate storm drain system (MS4);~~

~~To prohibit illicit connections and unauthorized discharges to the MS4;~~

~~To require the removal of all such illicit connections;~~

~~To comply with state and federal statutes and regulations relating to storm water discharges; and
To establish the legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.~~

Section 1 Definitions

~~AUTHORIZED ENFORCEMENT AGENCY: The DPW of Board of Commissioners.~~

~~ABUTTER: The Owner(s) of land next to or sharing a common boundary with the land on which the activity is proposed to take place.~~

~~BEST MANAGEMENT PRACTICE (BMP): An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.~~

~~CLEAN WATER ACT: The Federal Water Pollution Control Clean Water Act (33 U.S.C. §1251 et seq.) as hereafter amended.~~

~~DISCHARGE OF POLLUTANTS: The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.~~

~~GROUNDWATER: Water beneath the surface of the ground.~~

~~TOXIC OR HAZARDOUS MATERIAL OR WASTE: Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under M.G.L. Ch. c. 21 and Ch. 21E, and the regulations at 310 CMR 30 and 310 CMR 40.~~

~~ILLICIT CONNECTION: A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain MS4 system of **non-stormwater**, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets.~~

~~ILLICIT DISCHARGE: Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 8. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from fire fighting activities exempted pursuant to Section 8 of this bylaw.~~

~~IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevent water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and roof tops.~~

~~MUNICIPAL SEPARATE STORM DRAIN SYSTEM or MS4 or MUNICIPAL STORM SEWER SYSTEM: The municipal storm drain system. **That is**, the system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Rockport.~~

~~NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT: A **National Pollutant Discharge Elimination System** permit issued by the United States Environmental Protection Agency or jointly with the state **Commonwealth of Massachusetts** that authorizes the discharge of pollutants to waters of the United States.~~

~~NON-STORMWATER DISCHARGE: Discharge to the municipal storm drain system not composed entirely of stormwater.~~

~~**OWNER: A person with a legal or equitable interest in the property at issue.**~~

~~PERSON: An individual, partnership, association firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.~~

~~POINT SOURCE: Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch channel, tunnel, conduit, well, discrete fissure, ground boring that produces~~

the discharge of water, or container from which stormwater and/or pollutants are or may be discharged.

POLLUTANT: Any element or property of sewerage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or non-point source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include without limitation:

- a) Paints, varnishes, and solvents;
- b) Oil and other automotive fluids;
- c) Non-hazardous liquid and solid wastes and yard wastes;
- d) Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, accumulations and floatables;
- e) Pesticides, herbicides, and fertilizers;
- f) Hazardous materials and wastes, sewage, fecal coliform and pathogens;
- g) Dissolved and particulate metals;
- h) Animal wastes;
- i) Rock, sand, salt and soils, **with the exception of winter salting and sanding in quantities that are necessary for public safety and are applied in accordance with best practices as outlined in the Stormwater Handbook;**
- j) Construction wastes and residues; and
- k) Noxious or offensive material of any kind.

PROCESS WASTEWATER: Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

~~**RECHARGE:** The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.~~

STORMWATER: ~~Storm water~~ **Rainfall** runoff, snow melt runoff, and surface water runoff and drainage.

SURFACE WATER DISCHARGE PERMIT. A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

UNCONTAMINATED PUMPED GROUNDWATER: **Pumped groundwater which has not come into contact with**

any pollutants as defined and which originates outside of a structure (residence, commercial building, etc.) or is specifically permitted by the Department of Public Works.

WATERCOURSE: A natural man-made channel through which water flows or a stream of water, including a river, brook, or underground stream.

WATERS OF THE COMMONWEALTH: All waters within the jurisdiction of the Commonwealth of **Massachusetts**, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

WASTEWATER: Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product.

Section 2. Applicability

This by-law (**8C**) shall apply to flows entering the ~~municipal storm drain system~~ **MS4**.

Section 3. Authority

This by-law is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act, and pursuant to the regulations of the Federal Clean Water Act found at 40 CFR 122.34 and the Phase II ruling from the Environmental Protection Agency found in the December 8, 1999 Federal Register.

Section 4. Responsibility for Administration

The ~~DPW Board~~ of Commissioners shall administer, implement and enforce this by-law **8C**. Any powers granted to or duties imposed upon the ~~DPW Board~~ of Commissioners may be delegated in writing by the ~~DPW Board~~ of Commissioners, to its ~~its~~ their employees and authorized agents.

Section 5. Regulations

The ~~DPW Board~~ of Commissioners may promulgate rules and regulations to effect purposes of this by-law. Failure by the DPW

~~Board of Commissioners~~ to promulgate such rules and regulations shall not have the effect of suspending or invalidating this by-law **8C**.

Section 6. Prohibited Activities

a. Illicit Discharges. No person shall dump, discharge, cause or allow to be discharged, **whether directly or indirectly**, any pollutant or ~~non-stormwater~~ discharge **not composed entirely of stormwater** into the ~~municipal separate storm drain MS4~~, into a watercourse, or into the waters of the Commonwealth.

b. Illicit Connections. No person shall construct, use, allow, maintain or continue any illicit connection to the ~~municipal storm drain system~~ regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

c. Obstruction of Municipal Storm Drain System. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the DPW Board of Commissioners.

Section 7. Exemptions

~~Discharge or flow from firefighting activities~~

The following non-stormwater discharges or flows are exempt from the prohibition of ~~nonstormwaters~~ set forth in § 6(a) provided that the source is not a significant contributor of a pollutant to the municipal storm drain system.

- a. **Discharge or flow resulting from firefighting activities except where they are identified as significant contributors of pollutants to surface waters or groundwater;**
- b. Waterline flushing;
- c. Flow from potable water sources;
- d. **Natural flow from** springs, water courses; riparian habitats and wetlands;
- e. Diverted stream flow;
- f. Rising groundwater;
- g. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
- h. Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;

- i. Incidental discharge from landscape irrigation or lawn watering;
- j. Water from individual residential car washing;
- k. Discharge from de-chlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week prior to draining, the pool is drained in such a way as not to cause a nuisance and notification is provided to the Department of Public Works;
- l. Discharge from street sweeping;
- m. Dye testing, provided verbal notification is given to the DPW Board of Commissioners as far in advance as possible prior to the time of the test;
- n. ~~Non-storm water~~ Discharge permitted under an NPDES permit or a surface water discharge permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency pursuant to 314 CMR 3.00 or the Massachusetts Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations;
- o. Discharge for which advanced written approval is received from the ~~DPW Board~~ of Commissioners as necessary to protect public health, safety, welfare or the environment; and
- p. Discharge or flow that results from urgent conditions and occurs during a State of Emergency declared by any agency of the federal or state government, or by the Town of ~~Reekport~~ Town Administrator, the ~~Board of Selectmen~~ **Select Board** or the Board of Health.

Section 8. Emergency Suspension of Storm Drainage System Access

The DPW ~~Board~~ of Commissioners may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the DPW ~~Board~~ of Commissioners may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

Section 9. Notification of Spills

- a. Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or

which may result in discharge of pollutants to the municipal **storm** drainage system or waters of the Commonwealth, the person shall take all necessary steps to ensure containment and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal Fire and Police departments, the DPW ~~Board of Commissioners~~ and the ~~Board of Selectmen~~ **Select Board**.

b. In the event of a release of non-hazardous material, the reporting person shall notify the ~~Board of Selectmen~~ **Select Board**, the DPW ~~Board of Commissioners~~ and the Fire Department no later than the next business day. The reporting person shall provide to the ~~Board of Selectmen~~ Select Board, the DPW Board of Commissioners and the Fire Chief written confirmation of all telephone, facsimile or in-person notifications within three (3) business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

Section 10. Enforcement

a. The DPW ~~Board of Commissioners~~, its **their** employees and its authorized agents (the “enforcing person”) shall enforce this by-law, ~~and any~~ the stormwater rules and regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

b. Civil Relief. If a person violates the provisions of this by-law, the stormwater rules and regulations, or a permit, notice, or order issued there under, the DPW ~~Board of Commissioners~~ may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

c. Orders.

i) The DPW ~~Board of Commissioners~~, its **their** employees and its authorized agents may issue a written order to enforce the provisions of this by-law or the regulations there under, which may include:

(a) elimination of illicit connections or discharges to the MS4;

(b) performance of monitoring, analyses, and reporting;

(c) require that unlawful discharges, practices, or operations shall cease and desist; and

(d) remediation of contamination in connection therewith.

- ii) If the ~~enforcing person~~ **DPW Commissioners or their agent** determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, undertake such work, and expenses thereof shall be charged to the violator.
- iii) Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the ~~property~~ **Owner** will be notified of the costs incurred by the Town, including administrative costs. The violator or ~~property~~ **Owner** may file a written protest objecting to the amount or basis of costs with the **Select Board of Selectmen** within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the ~~Select Board of Selectmen~~, affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in M.G.L. c. 59, § 57 after the thirty-first (**31st**) day at which the costs first become due.
- iv) **The DPW Commissioners may seek injunctive relief in a court of competent jurisdiction restraining a person from activities that would create further violations of this by-law or an order issued under it or compelling that person to perform abatement or remediation of the violation.**

d. Criminal Penalty. Any person who violates any provision of this by-law, regulation, order or permit issued there under, shall be punished by a fine of not more than three hundred dollars (\$300).00) penalty. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

e. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town of Rockport may elect to utilize the non-criminal disposition procedure set forth in M.G.L. ~~Ch.~~ c. 40, § 21D and the Town of Rockport General By-Laws ~~ch.~~ c.16, §2(b). The DPW Board of Commissioners, or its authorized employees or agents, shall have authority to issues notices of

violations. The penalty for the first violation shall be **one hundred dollars** (\$100.00). The penalty for the second violation shall be **two hundred dollars** (\$200.00). The penalty for the third and subsequent violations shall be **three hundred dollars** (\$300.00). Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

f. Entry to Perform Duties Under this By-law. To the extent permitted by state law, or if authorized by the owner or other party in control of the property the DPW Board of Commissioners, its **their** employees and authorized agents may enter upon privately owned property for the purpose of performing their duties under this by-law and related regulations and may make or cause to be made such examinations, surveys or sampling as the DPW Board of Commissioners, its **their** employees and its authorized agents deem reasonably necessary.

g. Appeals. The decisions or orders of the DPW Board of Commissioners shall be final. Further relief shall be to a court of competent jurisdiction.

h. Remedies Not Exclusive. The remedies listed in this by-law are not exclusive of any other remedies available under any applicable federal, state or local law.

Section 12 — Severability

~~The provisions of this bylaw are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.~~

Section 13 — Transitional Provisions

~~All property owners shall have thirty (30) days from the effective date of the by law to comply with its provisions or petition the DPW Board of Commissioners for an extension provided good cause is shown for the failure to comply with the by law during the specified period. (Government and By-Law Committee) (Requires majority vote).~~

ARTICLE I.

To see if the Town will vote to amend the Town of Rockport Code of By-Laws, CHAPTER 8, SECTION D, Stormwater Management by-Law, as set forth below, specific only to the amendments indicated with strikethrough text to be deleted and new text to be inserted shown in bold and further, that the Town Clerk be authorized to make any and all ministerial changes including but not limited to grammar, punctuation, and corrections to the codification and numbering to ensure correctness.

D. Stormwater Management By-law

Section 1 — Purpose and Intent

The purpose and intent of this bylaw are to:

1. — Protect water resources
2. — Require practices that mitigate soil erosion and sedimentation and control the volume and rate of stormwater runoff resulting from land disturbance activities so that the after development runoff characteristics are equal to or less than the pre-development runoff characteristics;
3. — Promote infiltration and the recharge of groundwater;
4. — Protect land resources, minimize cut and fill, encourage on site infiltration of stormwater
5. — Ensure that soil erosion and sedimentation control measures and stormwater runoff control practices are incorporated into the site planning and design process, and are implemented and maintained;
6. — Encourage the use of Low Impact Development practices such as reducing impervious cover and the preservation of green space and other natural areas, to the maximum extent practicable;
7. — Comply with state and federal statutes and regulations relating to stormwater discharges and establish regulations and decision-making processes in Rockport to accomplish this;
8. — Establish the town of Rockport as the legal authority to ensure compliance with the provisions of this by-law and associated regulations through inspection, monitoring and enforcement.
9. — Establish provisions for the long-term maintenance of structural stormwater control facilities and non-structural stormwater management practices to meet the permit criteria, including adequate funding mechanism, including surety. For proper review, inspection and long-term maintenance.

Definitions

ABUTTER: The owner(s) of land sharing a border with the land on which the activity is proposed to take place.

AGRICULTURE: The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act M.G.L. c. 131, § 40, and its implementing regulations.

APPLICANT: Any person requesting a soil erosion and sediment control permit for proposed land-disturbance activity.

~~AUTHORIZED ENFORCEMENT AGENCY: The Department of Public Works and/or its respective employees or agents designated to enforce this by law.~~

BEST MANAGEMENT PRACTICE (BMP): An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of storm water runoff as described in the Stormwater Management Handbook and any other applicable local regulations.

~~CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL~~

~~CPESC: A certified specialist certified in soil erosion and sediment control. This certification program, sponsored by the Soil and Water Conservation Society in cooperation with the American Society of Agronomy, provides the public with evidence of professional qualifications.~~

CONSTRUCTION AND WASTE MATERIALS: Excess or discarded building or site materials, including but not limited to concrete truck washout, chemicals, litter and sanitary waste at a construction site that may adversely impact water quality.

CLEAN FILL: Fill that does not contain lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, asphalt, concrete, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing or similar materials, or any other waste products or hazardous waste.

CLEARING: Any activity that removes the vegetative surface cover in part or in its entirety that causes irreversible damage to roots or trunks; destroying the structural integrity of vegetation; and/or any filling, excavation, grading, or

trenching in the root area of a tree which has the potential to cause irreversible damage.

DEVELOPMENT: The modification of land to accommodate a new use or expansion of use, usually involving construction.

DISTURBANCE OF LAND: Any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel, ledge or similar earth material, including without limitation earth fill, earth moving, and earth removal.

EARTH FILL: The addition of earth materials to a lot or parcel, including but not limited to, soil, sand, gravel, stone, loam, sod, clay and mineral products.

EARTH MOVING: The addition, removal or relocation of earth materials within **an area of land** lot or parcel, including but not limited to soil, sand, gravel, ledge, stone, loam, sod, clay and mineral products and includes the processes of grading and grubbing.

EARTH REMOVAL: The removal of earth materials from a lot or parcel, including but not limited to soil, sand, gravel, ledge, stone, loam, sod, clay and mineral products.

EROSION: The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

~~ESTIMATED HABITAT OF RARE WILDLIFE AND CERTIFIED VERNAL~~

~~POOLS: Habitats delineated for state-protected rare wildlife and certified vernal pools for use with the Wetlands Protection Act Regulations (310 CMR 10.00) and the Forest Cutting Practices Act Regulations (304 CMR 11.00).~~

GRADING: Changing the level or shape of the ground surface.

GRUBBING: The act of clearing land surface by digging up roots and stumps

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and roof tops.

LAND-DISTURBING ACTIVITY: Any activity that causes a change in the position or location of soil, sand, rock, gravel, ledge or similar earth material, including without limitation: earth fill, earth moving, earth removal, clearing, grubbing, or grading,

LOT: A single parcel of land held in identical ownership throughout and defined by metes, bounds, or boundary lines in a recorded deed or on a recorded plan.

LOW IMPACT DEVELOPMENT: A set of strategies that seek to maintain natural systems for treating stormwater during the development process and after the development is complete, **in accordance with low impact practices set forth in the Stormwater Management Handbook.** Stormwater is managed with a distributed network of swales and rain gardens, and other options rather than a centralized system of pipes and ponds.

~~MASSACHUSETTS ENDANGERED SPECIES ACT: (G.L. c. 131A) and its implementing regulations at (321 CMR 10.00) which prohibit the "taking" of any rare plant or animal species listed as Endangered, Threatened, or of Special Concern.~~

~~MASSACHUSETTS STORMWATER MANAGEMENT HANDBOOK POLICY: The **Handbook Policy** issued by the **Massachusetts** Department of Environmental Protection, **and as amended from time to time**, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act M.G.L. c.131 §40—and Massachusetts Clean Water Act M.G.L. c. 21 §23-56. The Policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.~~

~~MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or municipal storm drain system: The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Rockport.~~

NEW DEVELOPMENT: Development on sites that have not previously been subject to extensive land disturbing activities; development on sites with less than **two hundred fifty (250) square feet sf** of impervious surface; and development on sites with less than 10% of the site receiving disturbance of land in the last 25 years.

OPERATION AND MAINTENANCE PLAN: A plan setting up the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to insure that it continues to function as designed.

OUTFALL: The location where a sewer, drain, stream or other point source discharges into receiving waters.

~~**OUTSTANDING RESOURCE WATERS (ORWs):** Waters designated by Massachusetts Department of Environmental Protection as ORWs. These waters have exceptional sociologic, recreational, ecological and/or aesthetic values and are subject to more stringent requirements under both the Massachusetts Water Quality Standards (314 CMR 4.00) and the Massachusetts Stormwater Management Standards. ORWs include vernal pools certified by the Natural Heritage Program of the Massachusetts Department of Fisheries and Wildlife and Environmental Law Enforcement, all Class A designated public water supplies with their bordering vegetated wetlands, and other waters specifically designated.~~

OWNER: A person with a legal or equitable interest in property.

PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POINT SOURCE: Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, ground boring that produces the discharge of water, or container from which stormwater and/or pollutants are or may be discharged.

PRE-CONSTRUCTION: The conditions that exist at the time that plans for the disturbance of land are formulated and are subsequently submitted to the ~~Stormwater Permit Authority~~ **Planning Board** for a Stormwater **Management** Permit, or the conditions that exist at the time that plans for the disturbance of land are formulated for activities that require other permits or approvals to undertake the proposed activity in the ~~Town of Rockport~~

POST-CONSTRUCTION: The conditions that reasonably may be expected or anticipated to exist after completion of the land disturbing activity.

~~**PRIORITY HABITAT OF RARE SPECIES:** Habitats delineated for rare plant and animal populations protected pursuant to the Massachusetts Endangered Species Act and its regulations.~~

RAIN GARDEN A planted depression that is designed to absorb rainwater runoff from impervious areas like roofs, driveways, walkways, and compacted lawn areas. ~~This reduces rain runoff by allowing stormwater to soak into the ground (as opposed to flowing into storm drains and surface waters which causes erosion, water pollution, flooding, and diminished groundwater).~~

REDEVELOPMENT: Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites.

RUNOFF: Rainfall, snowmelt, or irrigation water flowing over the ground surface.

SEDIMENT: Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.

SEDIMENTATION: The process or act of deposition of sediment.

SITE: Any lot, or parcel of land or area of property where land-disturbing activities are, were, or will be performed.

SLOPE: The incline of a ground surface expressed as a ratio of vertical distance to horizontal distance (ratio of rise over run).

SOIL: Any earth, sand, rock, gravel or similar material.

STABILIZATION: The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or retard erosion.

STORMWATER: Rainfall runoff, snow melt runoff, and surface water runoff and drainage.

STORMWATER MANAGEMENT PERMIT: (SMP): A permit issued by the Planning Board ~~or Conservation Commission~~ after review of an application, plans, calculations, and other supporting documents, which is designed to implement this by-law **8D**.

STORMWATER MANAGEMENT PLAN: A **written** plan required as part of the application for a Stormwater Management Permit (see Section **6 below**) ~~and Planning Board Rules and Regulations~~). A document containing narrative, drawings and details developed by a qualified professional engineer (~~PE~~) or a ~~Certified Professional in Erosion and Sedimentation Control (CPESC)~~, which includes best management practices, or equivalent measures designed to control surface runoff, erosion

and sedimentation during pre-construction and construction related land disturbing activities.

~~STORMWATER PERMIT AUTHORITY: This title shall apply to any of the several entities authorized to issue Stormwater Management Permits in the following circumstances: The Conservation Commission shall be the Permit Authority when any part of the project comes solely under their jurisdiction in the Wetlands Protection Act and the Rockport Wetlands Protection Act and not under the jurisdiction of any other Town Board or Commission. The Planning Board shall be the Permit Authority for all applications subject to Rockport Zoning Bylaw including Site Plan Review, or Rules and Regulations Governing the Subdivision of land. The Zoning Board of Appeals shall be the Permit Authority for Comprehensive Permits under MGL Chapter 40B. The Planning Board shall be the Permit Authority for all other activities that require a Stormwater Management Permit. The Stormwater Permit Authority is responsible for coordinating the review, approval, and permit process as defined in this Bylaw. Other Boards and/or departments participate in the review process as defined in the Stormwater Regulations adopted by the Town of Rockport.~~

STORMWATER MANAGEMENT REGULATIONS: The rules and regulations promulgated by the Planning Board in accordance with section 3b of this by-law 8D.

~~STORMWATER UTILITY: A special assessment district set up to generate funding specifically for stormwater management. Users within the district pay a stormwater fee and the revenue generated directly supports operation, maintenance, and upgrading or expansion of existing storm drain systems, development of drainage studies, plans, flood control measures, and water-quality programs, administrative costs and construction of capital improvement projects and purchase of equipment necessary or the installation, operation and maintenance of the system. An entity created by the Department of Public Works, or its designee may, upon Town Meeting approval, adopt a Stormwater Utility pursuant to M.G.L. Chapter c. 83 Section 16 and Chapter c. 40 Section §1A. The Department of Public Works, or its designee, shall administer, implement and enforce this Utility. Failure by the Department of Public Works to promulgate such a Stormwater Utility through this Bylaw or a legal declaration of its invalidity by a court shall not act to suspend or invalidate the effect of this Bylaw.~~

STRIP: Any activity which removes the vegetative ground surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.

SWALE: A constructed watercourse shaped or graded in earth materials and

stabilized with site suitable vegetation, for the safe conveyance and water quality improvement of storm runoff.

TSS: Total Suspended Solids.

~~VERNAL POOLS: Temporary bodies of freshwater which provide critical habitat for a number of vertebrate and invertebrate wildlife species.~~

WATERCOURSE: A natural or man-made channel through which water flows or a stream of water, including a river, brook, or underground stream.

~~WETLAND RESOURCE AREA: Areas specified in the Massachusetts Wetlands Protection Act G.L. c. 131, § 40 and in the Town wetland protection by-law 14A.~~

Section 1. Authority

~~A.~~ a. This by-law is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule Procedures Act M.G.L. c43B, and the regulations of the federal Clean Water Act found at 40 CFR 122.34.

b. Nothing in this by-law is intended to replace the requirements of any other by-law that has been made or may be adopted by the Town of Rockport.

~~B.~~

Section 2. Applicability

~~A.~~ a. ~~This by-law shall apply to all land disturbing activities that are part of new~~

~~development or redevelopment that result in disturbance of an area of land 20,000 or more square feet that drain to the Municipal Separate Storm Sewer System (MS4. Any activity that will alter the drainage characteristics of a parcel of land, unless exempt pursuant to §2b of this Bylaw will be subject to the by-law. A permit from the applicable Stormwater Permit Authority shall be required for any land disturbing, new development, or redevelopment activity that results in a land disturbance that will disturb equal to or greater than 20,000) square feet; or will disturb less than 20,000 but which is part of a larger common plan of development or sale which will ultimately disturb 20,000 square feet or greater. which drains to the Rockport municipal separate storm sewer system.~~

A Stormwater Management Permit shall be required prior to:

- i) **Construction of any new dwelling or new dwelling replacing an existing dwelling**
- ii) **Any alteration, disturbance of land, development, or redevelopment that will exceed 2,000 square feet.**

B. b. Land disturbing activities that are exempt are:

- i) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulations 310 CMR 10.04 and **M.G.L** Chapter 40A, section §3;
- ii) Maintenance of existing landscaping, gardens, or lawn areas associated with a single family dwelling provided such maintenance does not include the addition of more than **one hundred** (100) cubic yards of soil or other material, or alteration of drainage patterns;
- iii) The construction of fencing that will not alter existing terrain or drainage patterns;
- iv) Normal maintenance of Town owned land, ways, and appurtenances;
- v) Repair or maintenance of an individual subsurface septic disposal system, and related elements such as pipes, etc. provided that the post-repair ~~condition~~ drainage is equal to the pre-repair ~~condition~~ **drainage.**
- vi) Any work or projects for which all necessary approvals and permits have been issued before the effective date of this by-law **8D.**
- vii) Activities undertaken in connection with any existing, permitted sand and gravel operation or similar enterprise where such activity is allowed by zoning, but shall not include expanded operations;
- viii) Maintenance, reconstruction or resurfacing of any public way; and the installation of drainage structures or utilities within or associated with public ways that have been approved by the appropriate authorities provided that written notice be filed with the Planning Board fourteen (14) days prior to commencement of activity, **and provided that the reconstruction does not include the addition of impervious coverage greater than a single lane width**
- ix) Activities undertaken in connection with the refurbishing of an existing athletic field;
- x) Activities that are subject to jurisdiction under the Wetlands Protection Act and demonstrate compliance

with the Massachusetts Stormwater Management **H a n d b o o k** Policy—as reflected in an Order of Conditions issued by the Conservation Commission, as authorized in the Phase II Small MS4 General Permit for Massachusetts.

Section 3 Responsibility for Administration

~~a. For the purpose of this Bylaw section, as noted in B. below, the term Stormwater Permit Authority shall indicate the Conservation Commission, The Planning Board, or the Zoning Board of Appeals as applicable in Section 2 of this Bylaw. Any powers granted to or duties imposed upon the Stormwater Permit Authority may be is delegated in writing by the Permit Authority to its employees and agents are responsible for administration of this by-law 8D, including the issuance of permits under by-law .~~

~~A. _____ To the extent that the Planning Board is the Permit Authority under the Zoning Bylaw, Section 11, and the Rules and Regulations Governing the Subdivision of Land, and for certain other activity; and to the extent that the Conservation Commission is under the Wetlands Protection Act; and to the extent that the Zoning Board of Appeals is under MGL Chapter 40B; then each of the above named Town boards or Commissions shall also be the Permit Authority in that instance.~~

~~a. _____ Applications, plans and accompanying data under this bylaw may be filed simultaneously with and may be incorporated into those plans and documents required in other permitting processes.~~

b. **Stormwater management** rules and Rregulations. The Planning Board shall adopt, and may periodically amend **stormwater management** rules and regulations to effectuate the purposes of this by-law 8D. Failure by the Planning Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this by-law. **The stormwater management** Rrules and Rregulations shall include but shall not be limited to: the size, quantity, and distribution of plans; filing fee; **timing of filing for a Stormwater Management Permit and associated plans**, required details for a Stormwater Management Plan; **an** Operation and Maintenance Plan or other plans required by this by-law; and

inspection and site supervision, etc.

- c. **In making its rules and regulations**, the ~~Stormwater Permit Authorities Planning Board~~ will utilize the policy, criteria and information including specifications and standards of the latest edition of the Massachusetts Stormwater Management ~~Policy~~ **Handbook** to execute the provisions of this by-law. ~~This Policy~~ **The Handbook** includes a list of acceptable stormwater treatment practices, including the specific design criteria for each. ~~The Handbook Policy may be updated and expanded periodically, based on improvements in engineering, science, monitoring, and local maintenance experience.~~ Unless specifically altered in the **Stormwater Management** regulations, stormwater treatment practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to be protective of Massachusetts water quality standards.

- d. Stormwater Credit System. ~~The Stormwater Authority Planning Board~~ may adopt a Stormwater Credit System as part of the regulations authorized by this by-law 8D. This credit system will allow applicants the option to use better site design practices to reduce some of the requirements specified in the criteria section of the **stormwater management** ~~rules and~~ regulations. Failure of the Planning Board to promulgate such a credit system through its regulations or a legal declaration of its invalidity by a court shall not act to suspend or invalidate the effect of this by-law **8D**.

Section 4 Stormwater Management Permits

- a. **In order to obtain a stormwater management permit, the applicant must submit to the Planning Board:**
 - (i) **A stormwater management plan designed to meet the Massachusetts stormwater standards set forth in the Stormwater Management Handbook and any standards set by the stormwater management regulations.**

 - (ii) **an erosion and sedimentation control plan that describes proposed erosion and sedimentation control measures, in the form and containing the information required under the stormwater management regulations.**

 - (iii) **an operation and maintenance plan that demonstrates how the operation of the site will comply with the**

Massachusetts Surface Water Quality Standards, 314 CMR 4.00, and how the stormwater management regulations will be met in all seasons throughout the life of the system;

- b. Applications, plans and accompanying data **for a stormwater management permit** may be filed simultaneously with and may be incorporated into those plans and documents and required in other permitting processes.
- c. **The Planning Board may require a pre-construction meeting at which to present and discuss the plans submitted in accordance with the town's stormwater management regulations.**
- d. **The Planning Board or its designated agent may make inspections in accordance with this by-law and/or the stormwater management regulations and shall either approve the portion of the work completed or shall notify the permittee if the work fails to comply with the approved plans and require any modification needed in order to achieve compliance.**
- e. **The Planning Board shall make a decision on a stormwater management permit application within 60 days of its completion and relay that decision to the applicant immediately.**
- f. **The permittee shall notify the Planning Board or its designated agent so that they can inspect premises at points in the process specified in the stormwater management regulations.**
- g. **Upon completion of the work for which a stormwater permit is to be granted, the permittee shall request a stormwater management compliance certificate from the town and prepare a report certifying that all erosion and sedimentation control devices, best management practices and low impact development strategies outlined in its plans, along with any approved changes and modifications, have been completed in accordance with the conditions of the approved permit along with certified as-built construction plans from a registered professional engineer, professional land surveyor, or CPESC. The report will be delivered to the Planning Board.**
 - (i) **The Planning Board will consider the application and vote on the stormwater**

management compliance certificate at a public meeting.

(ii) The stormwater management compliance certificate shall be recorded by the permittee at the Essex County Registry of Deeds and shall run with the title of the property. Proof of recording, including Registry Book and page or Land Court instrument number will be provided to the Building Inspector and Planning Board for their records.

h. The recipient of a stormwater compliance certificate shall provide to the Building Inspector on an annual basis certification in relation to the stormwater permit as required under the stormwater regulations.

~~Section 7 Performance Guarantee~~

- i.** The Planning Board may require the permittee to post, before the start of land disturbing activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security as performance guarantee, to be in an amount deemed sufficient by the Planning Board to ensure that the work will be completed in accordance with the permit. If the project is phased, the Planning Board may release part of the bond as each phase is completed in compliance with the permit but the bond may not be fully released until the Planning Board has received the final report as required by **§4g** above and issues a certificate of completion. The stormwater rules and regulations shall establish reasonable criteria for assessing the performance guarantee.
- j.** The fees for a **stormwater management permit** will be set in the Town's Stormwater Regulations.

~~Section 6 — Employment of Outside Consultants~~

k. The ~~Permit Authority~~ **Planning Board** may employ outside consultants, at the applicant's expense, under the terms of M.G.L. Ch. C. 44 §53G, this by-law, the ~~Town's of Rockport~~ zoning by-laws, **and stormwater management** regulations, to assist in its permit decision, including but not limited to plan review, drainage and stormwater analysis; to determine conformance with this by-law, **storm management regulations** ~~section~~ and other requirements; and

for construction inspection, etc. **Consultant fees shall be determined at the time of project review based on the specific scope of the work. Such fees will be outlined in the stormwater management regulations.**

~~Section 9. Duration of Stormwater Management Permit~~

1. A stormwater management permit is granted for a period of three years from the date of its approval and shall lapse if substantial use or construction has not commenced by such date, except for good cause as shown.

Section 5. Stormwater Utility

The Department of Public Works or its designee may, upon Town Meeting approval, adopt a Stormwater Utility pursuant to M.G.L. c.83 §16 and M.G.L. c.40 §1A. The Department of Public Works or its designee shall administer, implement and enforce this Utility. Failure to promulgate such a Stormwater Utility through this by-law or a declaration of its the invalidity of **the Utility** by a court shall not act to suspend or invalidate the effect of this by-law **8D**.

Section 6. Enforcement of Violations

a. ~~The Department of Public works, or its authorized agents~~ **The Planning Board through its agent** shall enforce this by-law **and related** regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

b. Orders

~~B.~~ i). ~~The authorized agent of the Department of Public Works~~ **Planning Board** may issue a written order to enforce the provisions of this by-law or the regulations thereunder, which may include:

- (a) requirement to cease and desist from the land-disturbing activity until there is compliance with the by-law and provisions of the **storm management** permit;
- (b) maintenance, installation or performance of additional erosion and sediment control measures;

- (c) monitoring, analyses, and reporting
- (d) remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity.

ii) ~~2.~~If the enforcing person **Planning Board** determines that abatement or remediation of erosion and sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of ~~Rockport~~ may, at its option, undertake such work and the property owner shall reimburse the Town's ~~of Rockport~~ expenses.

iii) The Planning Board through its agent may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

iii). ~~3.~~Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town of ~~Rockport~~ may elect to utilize the non-criminal disposition procedure set forth in **M.G.L. c. 40**

~~§21 D and General by-law c. 16, Section §2, Penalties for violation of the Town of Rockport.~~ The penalty for the first violation shall be \$100.00. The penalty for the second violation shall be \$200.00. The penalty for the third and subsequent violations shall be \$300.00 Each day or part thereof that such violation occurs or continues shall constitute a separate offense

iv). ~~4.~~ Appeals. The decisions or orders of the ~~Stormwater Permit Authorities~~ **Planning Board and its agents under this by-law 8D** shall be final. Further relief shall be to a court of competent jurisdiction.

v). ~~5.~~Remedies Not Exclusive. The remedies listed in this by-law are not exclusive of any other remedies available under any applicable federal, state or local law.

Section 10 — Severability

~~If any provision, paragraph, sentence, or clause of this by-law shall be held invalid for any reason, all other provisions shall continue in full force and effect.~~ *(Government and By-Law Committee & DPW Commissioners) (Requires majority vote)*

ARTICLE J. To see if the Town will vote to amend the Town of Rockport Code of By-Laws, CHAPTER 3, TOWN CLERK, SECTION 11 (c) ADDITIONAL POWERS AND DUTIES, to add subsection (xii) as shown in bold below; and further, that the Town Clerk be authorized to make any and all ministerial changes including but not limited to grammar, punctuation, and corrections to the codification and numbering to ensure correctness.

(xii) With the concurrence of the Government and By-law Committee, the Town Clerk shall be authorized to make non-substantive alphanumeric changes to the component provisions of the By-Laws; provided, however, that each such change shall be identified by footnote or other convention. *(Government and By-Law Committee) (Requires majority vote)*

ARTICLE K. To see if the Town will vote to amend the Town of Rockport Code of By-Laws, CHAPTER 10, Public Peace and Order, SECTION A, Prohibited Conduct, as set forth below specific only to the amendments indicated with strikethrough text to be deleted and new text to be inserted shown in bold; and further, that the Town Clerk be authorized to make any and all ministerial changes including but not limited to grammar, punctuation, and corrections to the codification and numbering to ensure correctness.

CHAPTER 10. PUBLIC PEACE AND ORDER

A. Prohibited Conduct

Section 1. Public Drinking of Alcohol

No person shall drink any alcoholic beverage (as defined in ~~Massachusetts General Laws, M.G.L. c. 138, § 1~~) or possess an opened container, full or partially full, of any alcoholic beverage, while in or upon any street, sidewalk, park, playground or other public place in the Town, **unless pursuant to a special (one day) alcohol license issued by the Select Board**

in accordance with M.G.L. c. 138, sec. 14. No person shall drink any alcoholic beverage (as defined in ~~Massachusetts General Laws, C.~~ **M.G.L. 138, § 1**) ~~or~~ possess an opened container, full or partially full, of any alcoholic beverage, while in or upon any private land or place in the Town without the consent of the owner or persons having control thereof.

Section 2. Window Peeping

No person, except an officer of the law in the lawful performance of **the officer's** duties, shall enter upon the premises of another with the intention of peeping into the windows of a residence or of spying in any manner upon any person or persons therein.

Section 3. Discharging Firearms

No person shall fire or discharge any gun, pistol or ~~other~~ firearm, **as defined by M.G.L. c. 140 § 121**, in or across any street or other public place within five hundred (500) feet thereof, or on private grounds beyond the five hundred (500) feet limit, against the objection of the owner. **This section shall not prevent the use of such weapons in the lawful defense of one's person, family, or property, or in the performance of any duty required or authorized by law.**

No person shall fire or discharge any firearms or explosives of any kind within the limits of any highway, park or other public property except with the written permission of the **Select Board of Selectmen**. ~~or~~ **No person shall** hunt or discharge any firearm on any private property except with the written permission of the owner or legal occupant thereof; provided, however, that this by-law shall not apply to the lawful defense of life or property or to any law enforcement officer acting in the discharge of **the officer's** ~~his or her~~ duties. Said consent of the ~~Board of Selectmen~~ **Select Board**, owner, or legal occupant shall be carried at all times by any person hunting, and upon request shall be shown to any police officer or officer of the Department of Conservation or the property owner or ~~his or her~~ **such owner's** agent. Any person violating this by-law shall be punished by a fine of not more than fifty dollars (**\$50**) for each offense.

Section 4. Dressing in Vehicles

~~No person shall dress or undress in a motor vehicle or trailer on any street in the Town.~~

Section 4. Defacing Public Grounds and Property

No person shall willfully deface or damage any gravestones ~~and~~ **or** markers in cemeteries, public playgrounds, planting, spaces, flower beds, guideposts

or guideboards, official signs, posts or signaling devices for the direction of traffic, lamp posts or lamps or lanterns, or any building, fence or monument, or other thing situated, erected or made for the use or ornament of the Town, subject to a **three hundred dollar** (\$300.00) fine.

Section 5. Canvassing, Soliciting and Distributing Handbills on Private Premises

No person shall canvass, solicit, throw, deposit or distribute any commercial or non-commercial handbill upon any private premises, if requested by the owner or occupant not to do so, or if there is placed on the premises in a conspicuous position near the entrance, a sign bearing the words: "No Trespassing", "No Peddlers or Agents", "No Advertising", "No Canvassing or Soliciting", or **any other words to a similar effect** notice. No person shall canvass or solicit in the Town except in relation ~~social or political causes~~ to **non-commercial purposes** without first having filled out an application form and offered sufficient identification in the form of a driver's license or other suitable picture identification with the ~~Police Department~~ **Select Board**.

Section 6. Use of ~~Tobacco~~ Smoking or Vaping Products

a. Definitions: As used in this section the following words ~~shall~~, unless the context clearly requires otherwise, **shall** have the following meanings:

Smoking: The lighting of any cigar, cigarette, pipe or other tobacco **or marijuana or nicotine product or of a device that heats up and vaporizes a liquid or solid tobacco, marijuana or nicotine product including but not limited to e-cigarettes, vape pen or similar products**, or having the possession of any **such** lighted cigar, cigarette, pipe or other tobacco product.

Public building: Any enclosed, indoor area ~~that is~~ located in a building owned or occupied by any department or agency of the Commonwealth, or any political subdivision thereof, **including the Town**.

School Property: Any land, public building, trailer, or motor vehicle owned or occupied by the Town School Department.

b. Smoking Prohibited on School Property. **Smoking, as that term is defined herein**, ~~the use of tobacco products~~ within school buildings, the school facilities, or on school grounds by any individual, including school personnel, is prohibited.

c. Public Buildings. No person shall smoke in any public building **in the Town**. ~~except in an area that has been designated as a smoking area.~~

d. Penalties. Any person who violates any provision in ~~b. and c. above~~ **this section 6 of the by-law** shall be punished by a fine as follows:

First Offense:	Warning
Second Offense:	\$25.00
Third and subsequent offense:	\$50.00

~~The violation of any other provision in this by law or in M.G.L., c. 140, §136A—§174B shall be punished by a fine not greater than one hundred dollars (\$100.00) for each offense.~~

Subsequent offenses shall be determined as offenses occurring within two (2) years of the date of the first noticed offense. Each day or portion thereof shall constitute a separate offense. If more than one (1), each condition violated shall constitute a separate offense. *(Government and By-Law Committee) (Requires majority vote).*

ARTICLE L.

To see if the Town will vote to amend the Town of Rockport Code of By-Laws, CHAPTER 11, Elected Officers, as set forth below with strikethrough text to be deleted and new text to be inserted shown in bold specific only to the amendments indicated; and further, that the Town Clerk be authorized to make any and all ministerial changes including but not limited to grammar, punctuation, and corrections to the codification and numbering to ensure correctness.

CHAPTER 11. MOTOR VEHICLES, STREETS AND PARKING

Section 1. Obstructing Streets and Sidewalks

No person, ~~unless he is the holder of~~ **with** a permit issued by the Department of Public Works and except in accordance with the terms and conditions of such permit, shall obstruct any street or sidewalk by placing therein any structure, house or other building, permanent or temporary, within the Town and allow it to remain there, or allow shrubbery to overhang sidewalks so as to impede free passage of pedestrians and snow removal equipment.

Section 2. Damage to Sidewalks

No person, ~~unless he is the holder of~~ **with** a permit issued by the Department of Public Works and ~~except~~ **acting** in accordance with the terms and conditions of such permit, shall break or dig up any public sidewalk, street, or highway in the Town. Any person having such a permit, shall before the expiration of same restore such sidewalk, street or highway to its original condition or to a condition satisfactory to such officials. Any such permit issued under the provisions of this section shall be in force for such time as the officials may specify and shall be subject to such other conditions as they may prescribe. During the whole of every night from sunset to sunrise, lighted lanterns, or similar devices, shall be provided by the permit holder to protect persons from danger. No person having obtained such a permit shall fail to comply with the conditions thereof. The official granting such permit shall have the right to revoke the same at any time, and may require a bond either before or after the commencement of work or during its progress to secure its performance.

Section 3. Placing Water in Streets

No person, shall knowingly permit any water or other liquid substance to run or be discharged from ~~any structure~~ property owned by that person or **the structures and appurtenances under his control under their the person's ownership or control**, or onto or across any sidewalk or street in the Town. Nothing in this section shall prohibit a person from washing windows or other parts of a building on private property so long as the activity does not endanger the public.

Section 4. Horses on sidewalks

No person shall ride or drive a horse on any public sidewalk in the Town. Nothing in this section shall prohibit a person from riding or driving a horse across a public sidewalk where it is necessary to access private property.

Section 5. Obstruction to Vision at Intersections

a. Prohibition. **In order to reduce the probability of collisions between motor vehicle an/or pedestrian traffic due to lack of visibility**, no a **person, owning, possessing or having** under ~~his~~ **that person's** control any real estate abutting any intersection of streets in any section of the Town, shall erect, place, plant or permit or suffer the erection, placing or planting or maintenance of any fence or structure, shrubbery, foliage, hedge, tree or the like in such a manner that it shall materially impede the vision of operators of motor vehicles between a height of two and one-half (2 ½) and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of said real estate and a line joining points thirty

(30) feet along said street lines from the point of intersection of said street lines.

b. Enforcement. This section shall be enforced by fence viewers.

Section 6 Snow and Ice on Streets

No person shall cause snow or ice to be deposited on a street, sidewalk or gutter other than in line with and contiguous to snow and ice plowed by the Town. Property owners shall remove snow and ice from sidewalks on and adjacent to their property to the extent practicable.

Section 7. Placing Objects on Streets and Sidewalks

No person shall place in any street or sidewalk any object so as to obstruct a free passage for travelers and pedestrians, nor allow any object to remain more than one hour after being notified by a police officer to remove it. Nothing in this section shall be construed to prohibit a person from using streets and sidewalks for building purposes if he is the holder of a permit issued by the Department of Public Works.

Section 8. Skateboarding, Coasting in Streets

No person shall use skateboards or similar devices or coast on sleds, inflatable tubes, toboggans or similar devices on any public way, street, sidewalk or private way to which the public has the right of access, except in those areas, if any, designated for such use by the Chief of Police, and approved by the **Select Board**~~Board of Selectmen~~.

Section 9 Parking

The **Select Board**~~Board of Selectmen~~ may make rules and regulations regulating traffic and parking upon the streets and highways of the Town and parking on Town property for the health, safety and welfare of its citizens. The rules and regulations shall be known as the Town of Rockport Traffic Rules and Regulations and shall be adopted in accordance with the provisions of M.G.L. c.40, ~~Section §~~ 22.

Section 10. Parades and Public Gatherings

No person shall form or conduct any parade in any public street, public sidewalk or public way within the Town or form or conduct for the purpose of display or demonstration, any procession or assembly of people, (except a military or funeral parade or procession within such public street, sidewalk

or way), without first obtaining a written permit from the ~~Chief of Police~~ **Select Board**; and no person shall take part in any such parade, procession or assembly which is not authorized by such a permit.

Section 11. Camping ~~Without Permission~~

No person shall set up on any property, public or private, at any time without written permission of the owner of the land, a camp or tent.

Section 12. Failing to Stop or Go When Directed by Police Officer

No person having charge of a vehicle, whether motor or horse driven, in any public way shall neglect to stop the same or to place the same when stopped as directed by a police officer of the Town, nor shall neglect ~~to~~ **or** refuse go upon that part of the said way to which such person is directed by a police officer of the Town.

Section 13. Motorcycle, Motorbike, Snowmobile, **All Terrain Vehicle**, Trail Bike, Motorized Scooter, or any other similar Motorized ~~Two-Wheeled~~ Vehicles. (added STM 09/10/01)

a. It shall be unlawful for any person to operate a motorcycle, motorbike, snowmobile, **all terrain vehicle**, trail bike, motorized scooter, or any other similar motorized ~~two-wheel~~ vehicle under the following circumstances and the operator shall be subject to the traffic laws and regulations of the commonwealth:

(i) **on** private property of another without the express permission to do so by the owner or occupant of the property;

(ii) **on** public school grounds, public property, park property, playgrounds, conservation areas, wetland areas, recreational areas, cemeteries and beaches without the express provision or permission to do so in writing by the proper public authority;

(iii) **in** a manner as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons;

(iv) **in** a careless, reckless or negligent manner so as to endanger the life and safety of any person or the property of any other person;

(v) **on** sidewalks and public paths; **or**

(vi) **While failing to yield right-of-way to pedestrians.**

b. Two-wheel motorized scooters

It is unlawful to:

~~(i) Operating a motorized scooter~~ **Operate on** any way without being equipped with a braking system to enable the operator to bring the scooter traveling at a speed of fifteen **(15)** miles per hour to a smooth safe stop within thirty **(30)** feet on a dry, clean, hard level surface; or to report any accident involving either personal injury

~~(ii) Operate a motorized scooter without a helmet as described under 540 CMR 22.08. Furthermore~~ This regulation states that any helmet **must** meet current U.S. Department of Transportation **(DOT)** Federal Motor Vehicle Safety Standard No 218, **49 CFR 571.218;**

~~(iii) Operate a motorized scooter during the period from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise without displaying to the front of the scooter a lamp emitting a white light visible from a distance of at least five hundred (500) feet, and to the rear of said scooter a lamp emitting a red light, or a red reflector visible for not less than six hundred (600) feet when directly in front of lawful lower beams of headlamps of a motor vehicle. A generator powered lamp that emits light only when the scooter is moving shall meet the requirements of the clause;~~

~~(iv) To Park a motorized scooter upon any way or sidewalk in such a manner as to obstruct vehicular or pedestrian traffic;~~

~~(v) Failure of the operator of a motorized scooter to report any accident involving either personal injury or property damage in excess of one hundred dollars (\$100.00) or both, to the Rockport Police Department; or~~

~~(xi) Operator of a motorized scooter not yielding right of way to pedestrians.~~

c. The Select Board shall adopt, and may, from time to time, amend regulations governing the use of Town property by off-road vehicles, including, without limiting the foregoing, mini-bikes, motorbikes and off-road vehicles. This section shall not apply to vehicles registered with the Commonwealth of Massachusetts on public and private ways and public parking areas

d. Penalty for Violation. Any person who violates any provision of this section shall be ~~fin~~**ed-punished by any means in law or in equity and may be fined up to three hundred dollars (\$300) per violation, This by-law may also be enforced by non-criminal disposition.** in accordance with Chapter 16, Section 2, Penalties of ~~these by-laws. the Rockport Code of By-laws.~~

Section 14. Repair of Private Ways (Added ATM, 04/07/2007)

a. The Town may make temporary repairs and perform temporary maintenance on private ways. ~~A~~ **For the purposes of this section, a** private way shall be defined as ~~private in ownership but a~~ **privately owned way** open to the public use. To qualify under this by-law, the private way must abut three (3) or more year-round occupied residences, be at least three hundred (300) feet in length and have been open to the public for a minimum of six (6) years. The repairs may include both the sub-surface and surface of a private way. This by-law shall not authorize the installation or repair of sewer piping, the installation, maintenance and repair of drainage, asphalt surfacing or resurfacing of the roadway, or the maintenance of any trees, shrubs or bushes.

b. Upon petition of the Director of Public Works, the **DPW** Board of Commissioners by fifty ~~(50%)~~ percent **(50%)** of the abutters of a private way open to the public for a minimum of six (6) years, the **Select Board**~~Board of Selectmen~~ by majority vote may declare that the repairs to the said private way are required because of public necessity and convenience.

c. Repairs to a private way proposed to be made pursuant to this by-law shall not be made unless eighty-five ~~percent~~ **(85%) percent** of the abutters adjacent to the affected area of said repairs have executed written agreements stipulating that the way in question is private and is open to public use, agreeing to the said repairs, and further agreeing to release, defend, indemnify and hold harmless the Town, its officers, employees and agents, from all claims arising out of the carrying out of said repairs, or out of the Town's failure to make repairs to any portion of the way at any time, including all claims brought pursuant to M.G.L. c. 84, §25. The Town shall incur no liability on account of damages caused by such repairs. Nothing in this by-law is intended to create any duty to maintain or repair such private ways on an annual basis. Betterments may be assessed for such repairs at the discretion of Town Meeting. The **DPW** Board of Commissioners ~~of Public Works~~ shall require a cash deposit of **seventy-five percent** (75%) of the total project cost from the abutters prior to beginning the project, which shall be applied toward the cost of such repairs. The requirement for a cash deposit can be waived by Town Meeting action. *(Government and By-Law Committee) (Requires majority vote).*

ARTICLE M. To see if the Town will vote to amend the Town of Rockport Code of By-Laws, CHAPTER 12, Public Safety, as set forth below specific only to the amendments indicated with strikethrough text to be deleted and new text to be inserted shown in bold; and further, that the Town Clerk be authorized to make any and all ministerial changes including but not limited to grammar, punctuation, and corrections to the codification and numbering to ensure correctness.

CHAPTER 12. PUBLIC SAFETY

Section 1. False Security Alarms

a. ~~of Definition~~ False Alarms. **For the purpose of this section the term false alarm shall mean:**

(i) the activation of an alarm through mechanical failure, malfunction, improper installation, or the negligence of the user of the alarm system, and/or ~~his their~~ **the user's** employees or agents;

(ii) any signal requesting, or requiring, or resulting in a response on the part of the Police and/or Fire **Departments when** in fact, there has been no unauthorized intrusion into the premises, and no attempted robbery or burglary at the premises. Excluded from this definition will be false alarms that are caused by power outages, hurricanes, tornadoes, earthquakes, wind, or rainstorms and similar conditions.

b. Persons to be Notified. Every alarm user shall submit to the Police ~~Department~~ and/or Fire **Departments**, the names, addresses and telephone numbers of at least two (2) other persons who can be reached at any time, day or night, and who ~~will be~~ **are** authorized to respond to an emergency signal transmitted by an alarm system, and who can open the premises wherein the alarm system is installed. The names, addresses and telephone numbers of these persons must be kept current at all times by the alarm user.

It shall be the responsibility of the user to instruct the persons receiving calls from the Police ~~Department~~ and/or Fire **Departments** as to their responsibility when notified of an alarm and their responsibility to accept all calls from the Police ~~Department~~ and/or Fire **Departments**, and accepting charges for said calls.

c. False Alarm Report. The Police ~~Department~~ and/or Fire **Departments** shall notify the user in writing of each false alarm attributable to **the user's** alarm system, and it shall be the responsibility of the user to forward a full written explanation specifying the reasons for such false alarms, and the corrective action to be taken to prevent the further occurrence of said false alarms. The written explanation shall be forwarded directly to the Police ~~Department~~ and/or Fire **Departments** no later than fifteen (15) days from the date of notification of a false alarm.

d. Penalties for False Alarms. Any user of an alarm system ~~which~~ **that** transmits false alarms shall be assessed a fine for each false alarm in excess of three (3) within the calendar year, as provided by the following schedule:

First Offense	No Charge
Second Offense	No Charge
Third Offense	No Charge
Fourth Offense	\$ 25.00
Fifth Offense	\$ 50.00
Sixth and Subsequent Offenses	\$100.00

The Police ~~Department~~ and Fire Departments shall provide written notification to the user of the assessment of ~~set~~ **said** fines. Payment shall be made to the Town of Rockport through the Police ~~Department~~ and/or Fire Departments within fifteen (15) days of the receipt of notification of the assessment. ~~In addition to all remedies under the law the~~ Failure to pay said fines within thirty **(30)** days of the assessment shall result in the disconnection of the alarm system from the Police Department until such payments of fines are made.

e. Testing of Equipment. No person shall work on, test, or demonstrate any alarm system designed to transmit emergency messages directly to the Police and/or Fire Departments. **without the permission of the Police or Fire departments.** Permission is not required to test or demonstrate alarm devices not transmitting emergency messages directly to the Police ~~Department~~ and/or Fire Departments. An unauthorized test will constitute a false alarm with a subsequent penalty imposed.

f. Start Up Period for New Connections. Each user shall be allowed a period of thirty (30) days from the date of installation to correct faults, and/or defects, within the system, and to properly train all persons in the operation of the system. During this start up period no fines will be assessed.

g. Waiver of Fines. The Chief of Police or Fire Chief shall be authorized to waive the fines assessed for false alarms in the event the alarms are the result of a problem that cannot be readily identified, provided the unidentified problem is substantiated by a written report of a qualified alarm company ~~which~~ **that** will also outline what steps are being made to identify the problem. Said waiver of fines may be granted by the Chief of Police or Fire Chief for a reasonable period not to exceed thirty (30) days to allow the system to be repaired.

h. Disconnection by Town. The Town, ~~of Rockport,~~ through its Chief of Police or Fire Chief, reserves the right to order the disconnection of any alarm system ~~which~~ **that** is connected in any way to the Police ~~Department~~ and/or Fire Departments for violation of any of the provisions of this by-law. Said disconnection shall occur only after the expiration of thirty (30) days from the date of written notification of pending actions by the Chief of Police or Fire Chief.

~~Section 2. — Swimming Pools~~

~~a. Any persons owning land in the Town of Rockport on which there is a swimming pool in ground or above ground, shall erect and maintain around such swimming pool an enclosure adequate to ensure that such pool is inaccessible to small children. Such enclosure shall extend from the ground to height of not less than five (5) feet above the ground or otherwise made inaccessible to children from the outside. Such enclosure shall be at least (5) feet from the edge of the swimming pool.~~

~~b. Above ground pool decks are subject to the requirements in Section 2. If the enclosure is on the deck around a swimming pool, it shall extend to a height of not less than five (5) feet above the deck at all points.~~

~~c. Pre-existing swimming pools lawfully installed prior to the original enactment of the requirements set forth herein are exempt from the requirement in the last sentence in Section 2, which requires a five (5) foot set back from the edge of the swimming pool, to the extent that the location or shape of the swimming pool precludes a minimum enclosure set back from the edge of the pool of at least five (5) feet.~~

Section 2. Street Names and Building Numbers

a. In order to promote public safety and to implement the Enhanced 911 system, the **Select** Board of ~~Selectmen~~ shall adopt rules and regulations for the identification of unnamed private driveways serving two (2) or more lots.

b. All buildings in the Town shall be numbered. Building numbers shall be of a sufficient size and shall be affixed so as to be visible from the public or private way that provides access to said building. (Added 03/21/98). *(Government and By-Law Committee) (Requires majority vote).*

ARTICLE N.

To see if the Town will vote to amend the Town of Rockport Code of By-Laws, CHAPTER 2, SECTION 5 (b), TOWN GOVERNMENT AND BY-LAW COMMITTEE, SUB SECTION (iv) DUTIES, specific only to the amendments indicated as set forth below with new text to be inserted shown in bold; and further, that the Town Clerk be authorized to make any and all ministerial changes including but not limited to grammar, punctuation, and corrections to the codification and numbering to ensure correctness.

(iv) Duties. The Town Government and By-law Committee shall review all warrant articles which would, if adopted, effect or require changes in these by-laws. The committee shall also be responsible for the quinquennial

review of the by-laws and for the review of proposed changes in the charter. The Committee shall investigate and report on those by-laws which appear to need revision as evidenced by non-compliance, at any time.

The committee shall prepare a written report stating the Committee's recommendations for favorable action or unfavorable action **or for no recommendation**, stating the reasons therefore, pertaining to any warrant articles which would, if adopted, effect changes in the by-laws or the charter. (*Government and By-Law Committee*) (*Requires majority vote*).

ARTICLE O.

To see if the Town will vote to amend the Town of Rockport Code of By-Laws, CHAPTER 14 Environmental Protection and Public Health, SECTION E Aesthetics and Environment, § 6 Exterior Residential Dwelling Lighting, as set forth below specific only to the amendments indicated with strikethrough text to be deleted and new text to be inserted shown in bold; and further, that the Town Clerk be authorized to make any and all ministerial changes including but not limited to grammar, punctuation, and corrections to the codification and numbering to ensure correctness.

Chapter 14 ENVIRONMENTAL PROTECTION AND PUBLIC HEALTH

E. Aesthetics and Environment

Section 6. Exterior Residential Dwelling-Lighting (Added ATM 03/24/01, Amended 9/11/2017)

~~A. Purpose~~

~~The need for exterior lighting is widely recognized. Used properly it increases safety, helps provide security, and can enhance the Town's nighttime character. New technologies have produced extremely powerful lights. Unless used properly, they can produce excessive glare and light trespass. Glare is a safety issue. Light trespass is a privacy issue. Exposure to artificial blue light is a health, safety and environmental issue. Regulating exterior lighting will benefit the ability of Rockport citizens and visitors to better view the nighttime sky.~~

a. Definitions

(i) Color temperature (of a light source): The temperature at which an opaque and non-reflective object will radiate light of a color comparable to that of the light source. Color temperature is expressed in degrees Kelvin (~~°K~~) **Kelvins (K)**. Light sources with higher color temperatures contain more blue light than light sources with lower color temperatures, and appear brighter to the human eye, all other conditions being equal.

Direct Light: The light emitted directly from the light source, off the reflector or reflector diffuser, or through the refractor or diffuser lens of a luminaire.

(ii) Floodlight: A broad-beamed high-intensity luminaire.

Foot-candle (FC): A measurement of the luminance reaching an object. One foot-candle equals one lumen per square foot.

(iii) Full-cutoff (fully shielded): A luminaire that is constructed, and installed so that no light is emitted at any angle above a horizontal plane passing through the lowest light emitting part (including refractors, reflectors, **translucent panels**) of said luminaire to a point five (5) feet above grade at the property line as might be viewed at that height by an observer standing at that place. **Clear panels that scatter light, such as seeded glass, are considered refractors. Only opaque non-reflective, and clear non-scattering, materials are not considered light-emitting parts.**

(iv) Glare: A visual sensation caused by excessive and uncontrolled brightness. Glare is a function of the color temperature of the light source.

Illuminance: A measure of how much incident light strikes a surface, measured in foot-candles.

(iv) Light source (also referred to as a “bulb” or “lamp”): The component of a luminaire which that produces light.

Light pollution: An unwanted consequence of outdoor lighting. It includes such effects as sky glow, light trespass, and glare.

(v) Light trespass: Illumination from a luminaire being cast where it is neither wanted nor needed, going beyond the lot lines of the lot on which the luminaire is located, at a level greater than the ambient illumination level as measured at the lot line in a horizontal and vertical plane.

Lumen: The measurement of the direct light emitted by its source. For the purposes of this section, the lumen output of a luminaire shall be the initial

lumen rating listed by the light source data sheet when operated at its rated conditions.

(vi) Luminaire: A complete lighting unit, consisting of light sources, ballast (when applicable), and any part designed to distribute the light, position the unit, protect the light sources (housing), and connect to the power supply. **Spotlights and floodlights which are further defined are included in this general definition as well.**

~~*Luminance:* The amount of light that passes through, is emitted from, or reflected from a particular area, and is thus an indicator of how bright a surface or light source will appear.~~

(vii) Motion detector (also referred to as a “motion sensor”): Any electronic device capable of detecting physical motion within the environment being monitored. For the purposes of this Bylaw, said motion detector shall be used to trigger one or more luminaires into operation and to maintain it or them in the illuminated state for a preset time interval, after which said illumination shall be extinguished.

~~*Residential dwelling:* A structure or part of a structure that is used as a home or residence by one or more persons who maintain a household, whether single family, multifamily, or mixed use.~~

(viii) Spotlight: A high-intensity luminaire projecting a sharply focused beam of light.

b. ~~C.~~ Exterior Residential-Lighting Regulations

The regulations set forth below shall apply to all exterior residential luminaires unless otherwise exempt under subsection c hereinafter set forth:

- ~~1) Temporary holiday lighting is exempt from these regulations.~~
- i) All **luminaires** shall emit a steady and constant light while powered on **unless exempt under subsection c.**
 - ii) **Luminaires** shall be full-cutoff design.
 - iii) All **luminaires** and light sources shall not exceed two thousand seven hundred fifty (2,750) K color temperature.
 - iv) Luminaires shall be oriented such that light trespass will not occur beyond all adjacent property lines.

- ~~2) Luminaires shall emit a steady and constant light while powered on~~
- ~~3) Existing full cutoff designed luminaire light sources shall not exceed 3,000^o K color temperature.~~
- ~~4) Other existing luminaire light sources shall not exceed 2,750^oK color temperature~~
- ~~5) Existing floodlights or spotlights shall be of full cutoff design.~~
- ~~6) New luminaires and replacement luminaires must be of full cutoff design and their light sources shall not exceed 2,750K color temperature.~~
- ~~7) Luminaires shall be oriented such that light trespass will not occur beyond all adjacent property lines.~~

c. ~~D.~~ Compliance Exemptions from these regulations

- i) Temporary holiday lighting is exempt from these regulations.**
- ii) Existing luminaries which are not in compliance with subsection b as of its effective date 9/11/2017 shall nevertheless be considered in compliance so long as said:**
 - a. luminaries are fully shielded, and do not exceed 3,000 K; or**
 - b. other exterior luminaires other than floodlights and spotlights (to which this exemption does not apply), are also exempt if they conform with either of the following alternative requirements:**
 - i. Remains extinguished between the hours of 11:00 P.M. and 5:00 A.M.**
 - ii. Only operate for five (5) minutes maximum and only when triggered by a motion detector.**
- iii) When said existing luminaires and light sources are replaced, they must be updated to comply with subsection b of this by-law.**

- ~~1. These regulations set forth in subsection C shall apply to all exterior residential luminaires.~~
- ~~2. Existing luminaires which are not in compliance with subsection C as of its effective date shall nevertheless be considered in compliance as long as said:~~
 - ~~a. Floodlight and spotlight~~

luminaires are fully shielded,
and

b. ~~Other exterior luminaires conform with either of the following alternative requirements:~~

- i. ~~Remains extinguished between the hours of 11:00 P.M. and 5:00 A.M.~~
- ii. ~~Operate for five (5) minutes maximum and only when triggered by a motion detector.~~

3. ~~All new luminaires and replacement luminaires and light sources must comply with subsection C.~~

d. Compliance

The Building Inspector shall enforce this bylaw through building permits, complaint resolution, or other means under the Inspection Services Department policies. *(Government and By-Law Committee) (Requires majority vote).*

ARTICLE P.

To see if the Town will vote to transfer a sum or sums of monies from the Opioid Use Disorder Stabilization Fund, to be expended by the Board of Selectmen for authorized purposes, including but not limited to support of opioid use disorder treatment, support programs for individuals in treatment, fund connections to care and training/prevention programs, or act on anything relative thereto. *(Board of Selectmen) (Requires 2/3 vote).*

ARTICLE Q.

To see if the Town will vote to transfer the care, custody and control of the Town-owned parcels of land located on Landmark Lane, identified on Assessors Map 10 as Lot 108, from the board or officer having custody thereof to said board or officer for such purposes and to the Board of Selectmen for the purpose of granting easements thereon, and to authorize the Board of Selectmen to grant access and utility easements on the Town property to the owners of property located at 29 Landmark Lane, identified on Assessors Map 10 as Lot 105, and 31 Landmark Lane, identified on

Assessors Map 10 as Lot 105A, on such terms and conditions, and for such consideration, as the Board of Selectmen deems appropriate, or act on anything relative thereto. *(Board of Selectmen) (Requires majority vote).*

ARTICLE R. To see if the Town will vote to appropriate for Capital Outlay Items for the Water Enterprise, provided by borrowing, or act on anything relative thereto. *(DPW Commissioners) (requires 2/3 vote)*

ARTICLE S. To see if the Town will vote to appropriate for Capital Outlay Items for the Sewer Enterprise, provided by borrowing, or act on anything relative thereto. *(DPW Commissioners) (requires 2/3 vote)*

ARTICLE T. To see if the Town will vote to authorize the Board of Selectmen, pursuant to the provisions of G.L. 44, § 21C, or any other enabling authority, to enter into a lease purchase financing agreement for the acquisition of a trackless MT7 tractor, and any equipment incidental thereto, such equipment as may be acquired through the issuance of debt pursuant to G.L. c 44, §7(1), the term of such agreement not to exceed ten (10) years, being the useful life of the equipment as determined by the Board of Selectmen, subject to appropriation for the first year payment therefor, or act on anything relative thereto. *(Board of Selectmen) (requires 2/3 vote).*

ARTICLE U. To see if the Town will vote to authorize the Board of Selectmen to convey the parcel of land located at 3 Dock Square, identified on Assessors Map 26 as Lot 38, with the Old Firehouse Trust Building thereon, on such terms and conditions, and for such consideration, or act on anything relative thereto. *(Board of Selectmen) (Requires majority vote).*

ARTICLE V. To see if the Town will vote to accept the provisions G.L c. 41 §110A Office Hours on Saturday. *(Town Clerk) (Requires majority vote).*

ARTICLE W. To see if the Town will vote to accept the provisions of G.L c. 59 §57A allowing for one annual billing for real estate or personal property bills under \$100. *(Town Treasurer) (Requires majority vote).*

ARTICLE X. To see if the Town will adopt the following non-binding resolution:

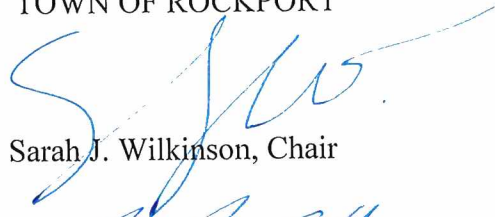
“To see if the Town will vote a non-binding resolution that the Board of Selectman vote to commemorate and name the municipal deep rock drinking water well located adjacent to the Cape Pond reservoir in the name of Frederick (Ted) H. Tarr III, or act on anything relative thereto.” *(Non-Binding Citizen Petition) (requires majority vote)*

And you are directed to serve this Warrant by posting attested copies of the same at each of the Post Offices, the Town Bulletin Board and in other public places in each village of the Town, fourteen days at least before the day of the holding of said FALL TOWN MEETING.

Hereof fail not and make due return of this Warrant, with your doings thereon to the Town Clerk, three days at least before Monday, September 11, 2023.

Given under our hands and seal of the Town this 22nd day of August 2023 A.D.

BOARD OF SELECTMEN
TOWN OF ROCKPORT



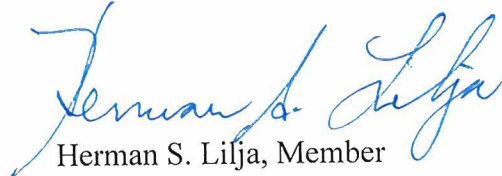
Sarah J. Wilkinson, Chair



Ross C. Brackett, Vice Chair



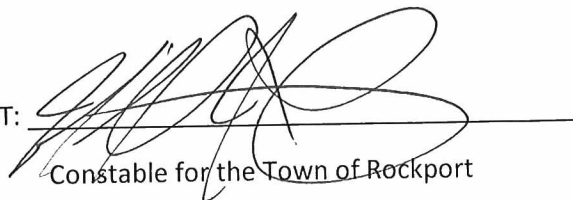
Paul F. Murphy, Member



Herman S. Lilja, Member

Denise C. Donnelly, Member

A TRUE COPY ATTEST:


Constable for the Town of Rockport