

COMMONWEALTH OF MASSACHUSETTS  
Worcester, s.s.

To either of the Constables of the Town of Berlin in the County of Worcester:

Greetings: In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of said Town, qualified to vote in elections and in Town affairs, to meet at the Berlin Memorial School in said Berlin on Monday, the first day of May, 2017, next, at 7:30 o'clock in the evening, then and there to act on the following articles; or in relation thereto:

ARTICLE 1 – To see if the Town will vote to fill all vacancies and choose all necessary Town Officers, not required to be chosen by ballot; or take any action relative thereto.

I move that the Board of Selectmen, or any other Board having the proper authority, appoint all necessary Town Officers as may be provided for by statute or other authority and who are not required by law to be chosen by ballot.

ARTICLE 2 – To see what action the Town will take on the printed reports of the officers and committees of the Town for the year 2016; or take any action relative thereto.

I move that the various reports of officers and committees of the Town as contained in the annual town report be accepted by the Town, but without imposing any personal liability on any individuals who are officers of any board for the action taken hereby.

ARTICLE 3 – To see if the Town will vote to authorize the Treasurer, with the approval of the Selectmen, to borrow in anticipation of reimbursement to the Town by the Massachusetts Department of Transportation for the repair of roads and bridges; and further, that any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with G.L. c.44, §20, thereby reducing by a like amount the amount authorized to be borrowed to pay such costs; or take any action relative thereto.

I move to authorize the Treasurer, with the approval of the Selectmen, to borrow money in anticipation of reimbursement to the Town by the Massachusetts Department of Transportation for the repair of roads and bridges.

ARTICLE 4 – To see if the Town will vote to establish and authorize the use of revolving fund accounts, for FY2018, pursuant to the provisions of M.G.L. Ch. 44, Sec. 53E1/2 for the purposes, maximum expenditure, and authority to expend as outlined in the table below. Expenditures shall not be made or liabilities incurred from any such revolving fund in excess of the balance of the fund or in excess of the total authorized expenditure. The authorized departments shall report to the Annual Town Meeting and the Board of Selectmen the total amount of receipts and expenditures for the prior fiscal year and the current fiscal year through December 31. Interest earned on any revolving funds shall be treated as general fund revenue of the Town; or take any action relative thereto.

TITLE	MAX. AMNT. EXPENDABLE	SOURCE OF RECEIPTS AND USE OF FUNDS	AUTHORITY TO EXPEND
Dog Licensing	\$600	Receipts: 50% of dog fees collected. Uses: Cost of licensing and purchase of dog tags.	Town Clerk
Library Video Fines	\$1,000	Receipts: Video fines, photocopier fees, fax fees and fees for lost materials. Uses: Purchase of new and replacement material.	Library Trustees/Director of Library

Assessors Maps	\$6,000	Receipts: Planning Board fees charged for map updates, monies collected for the sale of maps, deeds, and reports. Uses: The cost of updating Town maps.	Board of Assessors
Recreation	\$20,000	Receipts: Facility rental fees, contributions and other funds. Uses: Purchase services or supplies which are part of Recreation programs.	Recreation Committee
Town Hall	\$25,000	Receipts: Contributions, donations, user fees and fundraising activity receipts. Uses: Supplies, part time wages and related benefits, maintenance, general operating expenses & expenses related to fundraisers.	Board of Selectmen
Permitting Software	\$30,000	Receipts: 3% atop Building, Plumbing/Gas, and Electrical permit fees. Use: Payment to GeoTMS, Inc. for support for, training on, and right to use its permitting software.	Board of Selectmen

I move to establish revolving funds for Dog Licensing, the Library Trustees, the Assessors' Office, Recreation Committee, Town Hall and Permitting Software, for FY2018, as permitted under M.G.L. Ch. 44, Sec. 53E1/2, with the stipulations as described in Article 4 of the warrant for this meeting.

ARTICLE 5 - To see if the Town will vote pursuant to the provisions of M.G.L. Ch. 44, Sec. 53E1/2, as most recently amended, to amend the General By-laws by inserting a new by-law Article XX titled Revolving Funds establishing various revolving funds, specifying the departmental receipts to be credited to each fund, the departmental purposes or programs for which each fund may be expended, and the entity authorized to expend each fund, such by-law to provide as follows:

**Article XX - Revolving Funds**

SECTION 1. There are hereby established in the Town of Berlin pursuant to the provisions of M.G.L. Ch. 44, Sec. 53E1/2, the following Revolving Funds:

TITLE	SOURCE OF RECEIPTS AND USE OF FUNDS	AUTHORITY TO EXPEND
Dog Licensing	Receipts: 50% of dog fees collected. Uses: Cost of licensing and purchase of dog tags.	Town Clerk
Library Video Fines	Receipts: Video fines, photocopier fees, fax fees and fees for lost materials. Uses: Purchase of new and replacement material.	Library Trustees/Director of Library
Assessors Maps	Receipts: Planning Board fees charged for map updates, monies collected for the sale of maps, deeds, and reports. Uses: The cost of updating Town maps.	Board of Assessors
Recreation	Receipts: Facility rental fees, contributions and other funds. Uses: Purchase services or supplies which are part of Recreation programs.	Recreation Committee
Town Hall	Receipts: Contributions, donations, user fees and fundraising activity receipts. Uses: Supplies, part time wages and related benefits, maintenance, general operating expenses & expenses related to fundraisers.	Board of Selectmen

Permitting Software	Receipts: 3% atop Building, Plumbing/Gas, and Electrical permit fees. Use: Payment to GeoTMS, Inc. for support for, training on, and right to use its permitting software.	Board of Selectmen
---------------------	--	--------------------

SECTION 2. Expenditures from each revolving fund set forth herein shall be subject to the limitation established annually by Town Meeting or any increase therein as may be authorized in accordance with M.G.L. Ch. 44, Sec. 53E1/2.

Or take any action relative thereto.

I move to amend the General By-laws of the Town of Berlin by adding a new by-law, Article XX Revolving Funds, as printed in the Article 5 in the warrant for this meeting.

ARTICLE 6 – To see if the Town will vote to authorize the Selectmen to expend from the Highway Department Expense budget, as enacted under Article 9, a sum not to exceed three hundred dollars (\$300) for insect and pest control and a sum not to exceed two thousand dollars (\$2,000) for Dutch Elm disease control, provided that the Tree Warden shall request the expenditure of such funds of the Selectmen; or take any action relative thereto. (Tree Warden)

I move to authorize the Selectmen to expend from the Highway Department Expense Budget, as enacted under Article 9, a sum not to exceed three hundred dollars (\$300) for insect and pest control and a sum not to exceed two thousand dollars (\$2,000) for Dutch Elm Disease control, provided that the Tree Warden shall request the expenditure of such funds of the Selectmen.

ARTICLE 7 – To see if the Town will vote to authorize payment of a salary of fifty dollars (\$50) to each member of the Berlin School Committee as provided by Chapter 71, Section 52 of the General Laws; or take any action relative thereto. (Berlin School Committee)

I move to authorize payment of a salary of \$50 to each member of the Berlin School Committee as provided by Chapter 71, Section 52 of the General Laws.

ARTICLE 8 – To hear and act on the reports of any outstanding committees, or take any action relative thereto.

ARTICLE 9 – To see if the Town will vote to raise and appropriate, or borrow, or transfer from available funds, or otherwise provide all necessary sums of money to defray the Town’s expenses for the fiscal year beginning July 1, 2017 and to determine the salaries of the Town Officers for that period, or take any action relative thereto.

ARTICLE 10 – To see if the Town will vote to accept a sum of money for Perpetual Care in the Cemeteries and a sum of money for the Cemetery Flower Fund; or take any action relative thereto. (Cemetery Commission)

ARTICLE 11 – To see if the Town will vote to appropriate the apportionment of Chapter 90 Transportation Bond Issue monies in the amount certified by the Commonwealth of Massachusetts; or take any action relative thereto. (Highway Supt.)

ARTICLE 12 – To see if the Town will vote to raise and appropriate, or borrow, or transfer from available funds a sum of money from the Anna Hunt Fund to the Library Account, and, further, to authorize the acceptance of any other monies from various sources, to the Library Account; or take any action relative thereto. (Library Trustees)

ARTICLE 13 -- To see if the Town will vote to raise and appropriate, or borrow, or transfer from available funds the sum of ten thousand dollars (\$10,000) for the purpose of repairing or replacing, maintaining, testing, and

monitoring the Fire Cistern Tank and associated pump shed at Berlin Memorial School; or take any action relative thereto. (School Committee) Finance Committee recommends 4-0.

ARTICLE 14 - To see if the Town will vote to raise and appropriate, or borrow, or transfer from available funds the sum of ten thousand dollars (\$10,000) for the purpose of rehabilitation and/or repair to the Walk-in Cooler/Freezer; including, but not limited to, air sealing of unit, repairs of various components, and improvements to drain line and refrigeration controls at Berlin Memorial School, or take any action relative thereto. (School Committee) Finance Committee recommends 4-0.

ARTICLE 15 - To see if the Town will vote to raise and appropriate, or borrow, or transfer from available funds the sum of ten thousand dollars (\$10,000) for the purpose of rehabilitation and/or repair to the Dishwasher; including, but not limited to, replacement of the water pressure booster, installation of filter, and additional replacement components at Berlin Memorial School; or take any action relative thereto. (School Committee) Finance Committee recommends 4-0.

ARTICLE 16 - To see if the Town will vote to raise and appropriate, or borrow, or transfer from available funds the sum of seven thousand five hundred dollars (\$7,500) for the purpose of acquiring Shelving and Storage Units at Berlin Memorial School; or take any action relative thereto. (School Committee) Finance Committee recommends 4-0.

ARTICLE 17 - To see if the Town will vote to raise and appropriate, or borrow, or transfer from available funds the sum of five thousand dollars (\$5,000) for the purpose of design engineering services related to accessing gym HVAC units at Berlin Memorial School; or take any action relative thereto. (School Committee) Finance Committee recommends 4-0.

ARTICLE 18 - To see if the Town will vote to transfer from the Highland Commons cultural funds the sum of three thousand five hundred dollars (\$3,500) to be expended under the direction of the Berlin School Committee, for the purpose of the purchase and installation of heavy rubber mats under the swing sets and slide landings at the Berlin Memorial School; or take any action relative thereto. (Selectmen) Finance Committee recommends 4-0.

ARTICLE 19 - To see if the Town will vote to raise and appropriate, borrow or transfer from available funds the sum of five thousand dollars (\$5,000) for the continued development of the Master Plan for the Town of Berlin, said sum to be expended by the Planning Board; or take any action relative thereto. (Planning Board) Finance Committee recommends 4-0.

ARTICLE 20 - To see if the Town will vote to raise and appropriate, or borrow, or transfer from available funds the sum of five thousand dollars (\$5,000) for the purpose of making various repairs and performing maintenance to the Council on Aging bus; or take any action relative thereto. (Council on Aging) Finance Committee recommends 4-0.

ARTICLE 21 - To see if the Town will vote to raise and appropriate, and/or borrow, or transfer from available funds the sum of six thousand dollars (\$6,000) to purchase and install a new phone system for the Town Offices; or take any action relative thereto. (Data Systems Coordinator) Finance Committee recommends 4-0.

ARTICLE 22 - To see if the Town will vote to raise and appropriate, and/or borrow, or transfer from available funds the sum of ten thousand dollars (\$10,000) to re-pave driveways in the South Cemetery; or take any action relative thereto. (Cemetery Commission) Finance Committee recommends 4-0.

ARTICLE 23 - To see if the Town will vote to raise and appropriate, and/or borrow, or transfer from available funds the sum of thirty two thousand dollars (\$32,000) to replace carpeting and to clean the HVAC air ducts, both at the Town Office and Public Safety complex ; or take any action relative thereto. (Highway Supt.) Finance Committee recommends 4-0.

ARTICLE 24 - To see if the Town will vote to raise and appropriate, and/or borrow, or transfer from available funds the sum of thirty six thousand five hundred dollars (\$36,500) to purchase and equip a new police cruiser to

replace the 2012 Ford Taurus; or take any action relative thereto. (Police Chief) Finance Committee recommends 4-0.

ARTICLE 25 - To see if the Town will vote to raise and appropriate, and/or borrow, or transfer from available funds the sum of fifty thousand dollars (\$50,000) to purchase minor equipment; or take any action relative thereto. (Fire and EMS Chief) Finance Committee recommends 4-0.

ARTICLE 26 - To see if the Town will vote to raise and appropriate, and/or borrow, or transfer from available funds the sum of fifty thousand dollars (\$50,000) to purchase hydraulic rescue tools, or take any action relative thereto. (Fire and EMS Chief) Finance Committee recommends 4-0.

ARTICLE 27 - To see if the Town will vote to raise and appropriate, and/or borrow, or transfer from available funds the sum of two hundred twenty-five thousand dollars (\$225,000) for a new ambulance; or take any action relative thereto. (Fire and EMS Chief) Finance Committee does not recommend 0-4.

ARTICLE 28 - To see if the Town will vote to raise and appropriate, and/or borrow, or transfer from available funds the sum of fifty thousand dollars (\$50,000) to purchase a used street sweeper; or take any action relative thereto. (Highway Supt.) Finance Committee recommends 4-0.

ARTICLE 29 - To see if the Town will vote to raise and appropriate, and/or borrow, or transfer from available funds the sum of eighty thousand dollars (\$80,000) for the purchase of hot top and related application equipment to repair Town roads; or take any action relative thereto. (Highway Supt.) Finance Committee recommends 4-0.

ARTICLE 30 - To see if the Town will vote to raise and appropriate, and /or borrow or transfer from available funds the sum of fifty thousand dollars (\$50,000) dollars for the purpose of applying for a Library Design grant from the Massachusetts Board of Library Commissioners Design and Construction program; or take any action relative thereto. (Library Trustees) Finance Committee recommends 4-0.

ARTICLE 31 - To see if the Town will vote to appropriate forty-two thousand and five hundred dollars (\$42,500) from the PEG Access and Cable Related Fund for cable-related purposes consistent with the Charter Communications franchise agreement and/or M.G.L. Ch. 44, Sec. 53F3/4; or take any action relative thereto. (Cable Access Committee/Selectmen)

ARTICLE 32 - Shall the Town vote to change the positions of elected treasurer and elected tax collector to a combined treasurer-collector position to be appointed by the Board of Selectmen for a term of up to three years; provided, however, that such change shall not take effect unless it is also approved by the voters at an annual or special town meeting in accordance with MGL Chapter 41, Section 1B, or take any action relative thereto. (Treasurer)

ARTICLE 33 - To see if the Town will vote to accept Mass. Gen. Law Chapter 200A, Section 9A allowing there to be an alternative procedure for disposing of abandoned funds (often referred to as unclaimed checks or "tailings") held by the Town; or take any action relative thereto. (Treasurer)

ARTICLE 34 - To see if the Town will accept Mass. Gen. Law Chapter 138, Section 33B to permit on-premises liquor licensees to serve alcohol on Sundays and certain legal holidays between 10 a.m. and 12:00 noon; or take any action relative thereto. (Selectmen)

ARTICLE 35 - To see if the Town will vote to amend the General By-Laws of the Town of Berlin by adding Article XXI – Capital Planning Committee as follows:

#### Article XXI - Capital Planning Committee

SECTION 1. A Capital Planning Committee is hereby established (hereinafter "the Committee"). Its purpose will be to develop a Capital Improvement Plan (CIP), evaluate the financial effect of proposed expenditures and make recommendations for the priority and funding of items submitted

for consideration. The Committee will consider capital expenditures, and extraordinary expenses. For purposes of this bylaw, capital expenditures are defined as the request for town funding of an item(s) that will be bonded over multiple years. For the purposes of this by-law, extraordinary expenses are defined as any request for town funding of capital or expense items submitted outside of the entity's operating budget in the form of an independent town meeting article(s).

SECTION 2. Membership, Appointment and Term.\_The Committee shall be composed of five members appointed as follows:

- A. One member shall be appointed by the Moderator, one member shall be a member of the Finance Committee, two members shall be appointed by the Board of Selectmen and one member shall be appointed by the Planning Board. Excepting for the Finance Committee member, these appointees may be, but need not be, members of their respective boards.
- B. Terms of appointed members shall be two year terms. These terms shall end on June 30 of the second year excepting for the first terms of the Board of Selectmen appointees which shall initially be one year terms with two year terms thereafter.

SECTION 3. Duties of the Committee. The Committee is charged with the responsibility of reviewing all proposed capital and extraordinary expense items and to submit an annual CIP to the Board of Selectmen and the Finance Committee which shall include a) a recommended capital and extraordinary expense for the coming year and b) a capital and extraordinary expense budget for the following four (4) years of anticipated and continuing capital and extraordinary expenditures.

To this end:

- A. All officers, department heads, boards and committees, and inter/intra-municipal entities shall, by November 1 of each year, give to the Committee, requests concerning all capital expenditures or extraordinary expenses they anticipate proposing for the next five (5) years. The Committee shall act on emergency requests as deemed necessary.
- B. The Committee shall consider all such requests and, in doing so, may confer with any town officer, department, board or committee or request additional information it determines is needed in order to evaluate and prioritize submitted items.
- C. The Committee shall consider the relative need, impact, timing and cost of proposed capital expenditures or extraordinary expenses and the effect each will have on the financial position of the Town. In evaluating and scheduling the requests, the Committee will consider the following criteria:
  - 1. Risks to public safety or health;
  - 2. Deterioration of Town facilities;
  - 3. Educational, historic, cultural or community value;
  - 4. Coordination with other Capital requests;
  - 5. Requirement of state or federal law or regulation;
  - 6. Improvement of operating efficiency;
  - 7. Systematic replacement;
  - 8. Equitable provision of services and facilities; and
  - 9. Protection and conservation of resource.
- D. Each year by January 31, the Committee shall submit the CIP to the Board of Selectmen and the Finance Committee.
- E. The Committee shall meet when necessary and at a minimum of semi-monthly in the months of November, December and January and it shall meet annually upon submission of the CIP with Board of Selectmen and the Finance Committee to facilitate the funding recommendations and other consideration of the capital items at Town Meeting.

SECTION 4. The Board of Selectmen shall not place on the warrant any capital or extraordinary expense without prior review by the Committee unless the Board of Selectmen deems the item to be of an emergency nature subject to standards similar to those applying to reserve fund transfers.

SECTION 5. The Committee shall elect a Chairman, Vice Chairman and Clerk at the beginning of each fiscal year.

Or take any action relative thereto. (Selectmen/Finance Committee)

ARTICLE 36 - To see if the Town will vote to raise and appropriate, transfer from available funds or borrow, or any combination thereof, the sum of two million dollars (\$2,000,000) to be placed in the Conservation Fund pursuant to M.G.L. c. 40, §8C, for the purpose of acquiring by gift, purchase, or eminent domain the fee interest or conservation restriction in certain parcels of land in the Town to be held in the care, custody and control of the Conservation Commission pursuant to M.G.L. c. 40, §8C, for conservation and passive recreation purposes such as the creation of wildlife and hiking corridors, said funds to be expended by the Conservation Commission with the approval of the Board of Selectmen, and that to meet this appropriation the Treasurer with the approval of the Selectmen is authorized to borrow such sum pursuant to M.G.L. c. 44, §7, as amended, or any other lawful authority and to issue bonds and notes therefor; provided however, that the borrowing authorized hereunder shall be expressly contingent upon a vote to exclude from the limits imposed by Proposition 2 ½ so called, the amounts required to repay the bonds and notes issued for this project, or take any action relative thereto. Finance Committee recommends 3-1 for \$500,000.

ARTICLE: 37 - To see if the Town will vote to authorize the Board of Selectmen and the Conservation Commission to grant a perpetual conservation restriction in accordance with M.G.L. Chapter 184, Sections 31-33, on a certain property consisting of 27 acres more or less owned by the Ciesluk Family Realty Trust, located on the north easterly side of Allen Road, shown on Assessor's Map 23 as Lots 2 and 6, to Sudbury Valley Trustees, Inc., or take any action relative thereto. (Conservation Commission)

ARTICLE: 38 - To see if the Town will vote to amend the Town's Zoning By-laws by adding a new Article 16 - Temporary Moratorium on Recreational Marijuana Establishments, that would provide as follows, and further to amend the Table of Contents to add Article 16, "Temporary Moratorium on Recreational Marijuana Establishments":

#### ARTICLE 16: TEMPORARY MORATORIUM ON RECREATIONAL MARIJUANA ESTABLISHMENTS

##### **1610 Purpose**

On November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, processing, distribution, possession and use of marijuana for recreational purposes (new G.L. c. 94G, Regulation of the Use and Distribution of Marijuana Not Medically Prescribed). The law, which allows certain personal use and possession of marijuana, took effect on December 15, 2016 and (as amended on December 30, 2016; Chapter 351 of the Acts of 2016) requires a Cannabis Control Commission to issue regulations regarding the licensing of commercial activities by March 15, 2018 and to begin accepting applications for licenses on April 1, 2018. Currently under the Zoning By-laws, a non-medical Marijuana Establishment (hereinafter, a "Recreational Marijuana Establishment"), as defined in G.L. c. 94G, §1, is not specifically addressed in the Zoning By-laws. Regulations to be promulgated by the Cannabis Control Commission may provide guidance on certain aspects of local regulation of Recreational Marijuana Establishments. The regulation of recreational marijuana raises novel legal, planning, and public safety issues, and the Town needs time to study and consider the regulation of Recreational Marijuana Establishments and address such issues, as well as to address the potential impact of the State regulations on local zoning and to undertake a planning process to consider amending the Zoning By-laws regarding regulation of Recreational Marijuana Establishments. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Recreational Marijuana Establishments so as to allow sufficient time to address the effects of such structures and uses in the Town and to enact by-laws in a consistent manner.

##### **1620 Definition**

"Recreational Marijuana Establishment" shall mean a "marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business."

**1630 Temporary Moratorium**

For the reasons set forth above and notwithstanding any other provision of the Zoning By-laws to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for a Recreational Marijuana Establishment and other uses related to recreational marijuana. The moratorium shall be in effect through June 30, 2018 or until such time as the Town adopts Zoning By-law amendments that regulate Recreational Marijuana Establishments, whichever occurs earlier. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of recreational marijuana in the Town, and to consider the Cannabis Control Commission regulations regarding Recreational Marijuana Establishments, and shall consider adopting new Zoning By-laws in response to these new issues.

Or take any action relative thereto.

ARTICLE 39 - To see if the Town will vote to amend the Town of Berlin Zoning By-law Article 5, Supplemental Regulations with the following changes:

- 1. Renumber current Sub-Section 515 as 517.
- 2. Add a new Sub-Section 515 as follows:

**515 Special Permit**

The Board of Appeals may grant a special permit for use of a group of rooms in a single-family residence as an in-law apartment, subject to the criteria and conditions above. An in-law apartment which was in existence on May 1, 2017 and which meets the criteria outlined above, will have a period of five (5) years from the adoption of this section in which to receive a Special Permit.

- 3. Add a new Sub-Section 516 as follows:

**516 Duration of Special Permit**

Unless an earlier expiration date is specified by the Zoning Board of Appeals in a special permit, all special permits issued under this section shall expire automatically upon the expiration of five years from the date of issuance. Prior to expiration, the applicant may apply for renewal of the special permit for another five year period, said application to comply with all the provisions of Section 510 of this bylaw.

- 4. Add a new Sub-Section 525 as follows:

**525 Duration of Special Permit**

Unless an earlier expiration date is specified by the Zoning Board of Appeals in a special permit, all special permits issued under this section shall expire automatically upon the expiration of five years from the date of issuance. Prior to expiration, the applicant may apply for renewal of the special permit for another five year period, said application to comply with all the provisions of Section 520 of this bylaw.

And further, to amend the Town of Berlin Zoning By-law Article 3, Section 340, Table of Accessory Use Regulations, by deleting the strikethrough text and adding the bold text as follows:

ACCESSORY USE	RA	MD	CV	C	LB	LI
RESIDENTIAL USES						
In-Law Apartment	<b>YS</b>	<del>YS</del>	<del>YS</del>	<del>YS</del>	<del>NS</del>	<del>NS</del>

Or take any action relative thereto. (Planning Board)

ARTICLE 40 - To see if the Town will vote to amend the Berlin Zoning Bylaw Article 15: Growth Management, Section 1520 b, Applicability, by deleting the words “June 1, 2007” and adding the words “June 1, 2018” and in Section 1560, b, add the words “or an Village Overlay District special permit pursuant to Section 450” after the words “Section 720” or take any action relative thereto (Planning Board).



ARTICLE 41 - To see if the Town will vote to amend the Town of Berlin General Bylaws by deleting Article XVI "Supplemental Water Supply" in its entirety and replace it with the following:

## **Article XVI- Fire Protection Bylaw**

### **Section 1 – HISTORY**

As a rural community, the Town of Berlin must rely upon static water supplies for fire protection. To date, this has been in the form of water hole fitted with dry hydrants. With the last several years of drought, there have been all too many times that these sources have been insufficient to provide the needed protection. As the town grows, especially with multiple dwelling developments, there is a need for a viable alternative. The ultimate goal of this Bylaw is Life Safety and Property Conservation. We strive to protect the citizens and visitors to Berlin as well as our Public Safety Personnel who respond to those in need.

### **Section 2 - DEFINITIONS**

For the purpose of this by-law, the following terms, phrases, words and their derivations shall have the meanings herein given. The word "shall" is always mandatory and not discretionary.

ACCEPTANCE TESTING – A test conducted by the Berlin Fire Department utilizing the system for a predetermined period of time. The purpose of this test is to ensure proper operation and recharge.

AHJ – Authority having jurisdiction, the Fire Chief or his/her designee.

CISTERN – See NFPA 1142-23.

DRY HYDRANT SYSTEM – See NFPA 1142-11.

MGL – Massachusetts General Laws.

NFPA – The National Fire Protection Association.

NFPA 13 – The current edition of Installation of Sprinkler Systems.

NFPA 13D – The current edition of Sprinkler Systems in One and Two Family Dwellings and Mobile Homes.

NFPA 13R – The current edition of Sprinkler Systems in Residential Occupancies up to and including Four Stories.

NFPA 231 – The current edition of General Storage.

NFPA 231C – The current edition of Rack Storage of Materials.

NFPA 1231 – The current edition of Water Supplies for Suburban and Rural Fire Fighting.

### **Section 3 - GENERAL REGULATIONS**

Whenever an individual or firm constructs three (3) or more residential buildings or one (1) industrial or commercial building(s), the requirements of this chapter shall apply.

- A. Massachusetts General Laws, Chapter 148 Sections 26, 26A, 26A1/2, 26B, 26C, 26D, 26E, 26F, 26F1/2, 26G, 26G1/2, 26H and 26I are adopted in their entirety through this Bylaw.

B. **SPRINKLER SYSTEMS**

Sprinkler systems in accordance with NFPA 13, 13D, 13R, 231, 231C shall be installed and provided with an adequate water supply and meet the above NFPA requirements.

### **Section 4 - CISTERN AND DRY HYDRANT SYSTEMS**

- A. Cistern or Dry Hydrant Systems may be required by the AHJ in addition to the occupancy's sprinkler system water supply.
- B. When required the Cistern and dry Hydrant systems shall be constructed and installed in accordance with NFPA 1142-23.

### **Section 5 – LAWS AND REGULATIONS**

- A. Massachusetts General Law Chapter 148 Sections 1 - 59 and future revisions are adopted in their entirety through this Bylaw.
- B. The Board of Fire Prevention Regulations 527CMR 1.00 - 50.00 and future revisions are adopted in their entirety through this Bylaw.
- C. Massachusetts General Law Chapter 48 Section 42: Establishment of fire departments; appointment of fire chief; compensation; removal; powers and duties  
 Section 42. Towns accepting the provisions of this section and sections forty-three and forty-four, or which have accepted corresponding provisions of earlier laws may establish a fire department to be under the control of an officer to be known as the chief of the fire department. The chief shall be appointed by the selectmen, and shall receive such salary as the selectmen may from time to time determine, not exceeding in the aggregate the amount annually appropriated therefore. He may be removed for cause by the selectmen at any time after a hearing. He shall have charge of extinguishing fires in the town and the protection of life and property in case of fire. He shall purchase subject to the approval of the selectmen and keep in repair all property and apparatus used for and by the fire department. He shall have and exercise all the powers and discharge all the duties conferred or imposed by statute upon engineers in towns except as herein provided, and shall appoint a deputy chief and such officers and firemen as he may think necessary, and may remove the same at any time for cause and after a hearing. He shall have full and absolute authority in the administration of the department, shall make all rules and regulations for its operation, shall report to the selectmen from time to time as they may require, and shall annually report to the town the condition of the department with his recommendations thereon; he shall fix the compensation of the permanent and call members of the fire department subject to the approval of the selectmen. In the expenditure of money the chief shall be subject to such further limitations as the town may from time to time prescribe. The appointment of the chief of the fire department in any town or district having a population of five thousand or less may be for a period of three years.

**Section 6 – DANGEROUS BUILDINGS**

Ch. 139 Section 3A Demolition or removal of building or structure or securing of vacant land; owner's liability. Section 3A. If the owner or his authorized agent fails to comply with an order issued pursuant to section three and the city or town demolishes or removes any burnt, dangerous or dilapidated building or structure or secures any vacant parcel of land from a trespass, a claim for the expense of such demolition or removal, including the cost of leveling the lot to uniform grade by a proper sanitary fill, or securing such vacant parcel shall constitute a debt due the city or town upon the completion of demolition, removal, or securing and the rendering of an account therefore to the owner or his authorized agent, and shall be recoverable from such owner in an action of contract.

Any such debt, together with interest thereon at the rate of six per cent per annum from the date such debt becomes due, shall constitute a lien on the land upon which the structure is or was located if a statement of claim, signed by the mayor or the board of selectmen, setting forth the amount claimed without interest is filed, within ninety days after the debt becomes due, with the register of deeds for record or registration, as the case may be, in the county or in the district, if the county is divided into districts, where the land lies. Such lien shall take effect upon the filing of the statement aforesaid and shall continue, unless dissolved by payment or abatement, until such debt has been added to or committed as a tax pursuant to this section, and thereafter, unless so dissolved, shall continue as provided in section 37 of chapter 60; provided, however, that if any such debt is not added to or committed as a tax pursuant to this section for the next fiscal year commencing after the filing of the statement, then the lien shall terminate on October 1 of the third year next following the date of such filing. If the debt for which such a lien is in effect remains unpaid when the assessors are preparing a real estate tax list and warrant to be committed under section fifty-three of chapter fifty-nine, the mayor or the board of selectmen, or the town collector of taxes, if applicable under section thirty-eight A of chapter forty-one, shall certify such debt to the assessors, who shall forthwith add such debt to the tax on the property to which it relates and commit it with their warrant to the collector as part of such tax. If the property to which such debt relates is tax exempt, such debt shall be committed as the tax. Upon commitment as a tax or part of a tax, such debt shall be subject to the provisions of law relative to interest on the taxes of which they become, or, if the property were not tax exempt would become, a part; and the collector of taxes shall have the same powers and be subject to the same duties with respect to such debts as in the case of annual taxes upon real estate, and the provisions of law relative to the collection of such annual taxes, the sale or taking of land for the non-payment thereof, and the redemption of land so sold or taken shall, except as otherwise provided, apply to such claims. A lien under this section may be discharged by filing

with the register of deeds for record or registration, as the case may be, in the county or in the district, if the county is divided into districts, where the land lies, a certificate from the collector of the city or town that the debt constituting the lien, together with any interest and costs thereon, has been paid or legally abated. All costs of recording or discharging a lien under this section shall be borne by the owner of the property.

### Section 7 – STREET ADDRESS NUMBERING

A. Referencing Street Address Numbering: Massachusetts General Law

Chapter 148: Section 59 – Display of street address number on building; use in enhanced 911 service. Section 59. Every building in the Commonwealth, including, but not limited to, dwellings, apartment buildings, condominiums and business establishments shall have affixed thereto a number representing the address of such building. Said number shall be of a nature and size and shall be situated on the building so that, to the extent practicable, it is visible from the nearest street or road providing vehicular access to such building.

The statewide emergency telecommunications board shall cause such number and the address of such building to be entered into the electronic data base for use in enhanced 911 service as defined in section eighteen A of chapter six A.

B. Purpose: The standards and regulations set forth within the provisions of this By-Law shall have the purpose and effect of promoting the general health, safety, welfare and convenience of the inhabitants of the Town of Berlin by reducing the difficulty in quickly responding to individual residences in cases of police, fire, medical or other emergency situations requiring immediate location and response; by facilitating the delivery efforts of the United States Postal Service through the creation of a numbering system for all delivery locations; by decreasing the potential for traffic accidents caused by motorists searching for address locations; by improving local census data gathering capabilities; by improving the accuracy of important legal documents requiring address location information; and by assisting in the planning efforts of a growing community.

C. Administration: This By-Law shall be administered by the Fire and EMS Department of the Town of Berlin who shall see that building numbers are assigned to all residential, commercial and industrial structures, and that such numbering is conducted in conformance with the Town of Berlin Street Numbering Guidelines to be promulgated under the authority of the Planning Board in order to provide guidance in the development of a consistent numbering system within the Rules and Regulations of the Planning Board using the 40 foot rule.

D. Compliance: All building owners and/or occupants are required to display assigned numbers in the following manner.

1. Number on the structure or residence. Where the residence or structure is within fifty (50) feet of the edge of a street right-of-way, the assigned number shall be displayed on the front of the residence or structure in the vicinity of the front door or entry.

2. Number at the street line. Where the residence or structure is over fifty (50) feet from the edge of the street right-of-way, the assigned number shall be displayed on a post, fence, wall or mailbox at the property line in the vicinity of the walk or access drive to the residence or structure.’

3. Size and color of number. The numbers shall be 3 inches high minimum. The color of the number shall be of contrasting color from its background color.

Existing Structures: Within 60 days of the approval of this By-Law by the Attorney General, the owner of all structures within the Town shall ensure his property meets this By-Law.

Enforcement: Enforcement of this By-Law shall be as follows:

1. The Building Inspector of the Town of Berlin shall be the enforcement agent for the purposes of this By-Law.

2. No inspection shall be performed or certificate of occupancy or compliance issued, by any Town Inspector for any structure that does not comply with this By-Law.

3. Any property owner found to be in violation of any section of this By-Law shall be notified in writing of the violation by the Building Inspector. Any person who permits said violation to continue for a period of sixty (60) days subsequent to the receipt of a written notice from the Building Inspector concerning said violation shall be assessed a penalty by the Board of Selectmen of two hundred fifty dollars (\$250) for each violation. For the purposes of this By-Law, each successive day during which any violation is committed or

permitted to continue after sixty (60) days of the receipt of a written notice from the Building Inspector shall constitute a separate violation.

### **Section 8 – RAPID ENTRY SYSTEMS FOR THE FIRE DEPARTMENT**

- A. Any building other than a residential building of fewer than six (6) units which has a fire alarm system or other fire protection system shall provide a secure key box installed in a location accessible to the fire department in the event of an emergency. This key box shall contain the keys to fire alarm control panels and elevators and any other keys necessary for fire protection.
- B. The key box shall be a type approved by the Chief of the Berlin Fire and EMS Department or his designee and shall be located and installed as approved by the Chief or his designee.

SECTION - 3 All existing buildings shall be required to comply within twelve (12) months of the effective date of this by-law in all commercial buildings not normally occupied twenty-four (24) hours.

- C. All newly constructed buildings regardless of use or occupancy, except residential dwellings under six (6) units, shall install a key box system.

### **Section 9 – COMMON DRIVEWAY SIGNAGE, MARKING & DIMENSIONS**

- A. Common Driveways shall be a minimum of 14 feet wide and have a pitch of no larger than 7 percent. There shall be adequate signage posted indicating the address locations of each of the houses sharing the common driveway. The size and location of the signage shall be approved by the Fire Chief or his/her designee.

*Altering or parceling out an approved subdivision shall not circumvent any of this Bylaw*

Or take any action relative thereto. (Fire Chief/Selectmen)

ARTICLE 42 - To see if the Town will vote to establish a Senior Residential Development Overlay District (Section 430, Town of Berlin Zoning) for a 78+/- acre parcel of land located on the westerly side of Highland Street. The parcel is owned by Christopher Slade, Trustee of Ken-Chris Realty Trust. (Citizens Petition)

ARTICLE 43 - To see if the Town will vote to amend the Zoning Bylaws by adding new Subsection 458.5 "Special Drive-Through Window Requirements in the Village Overlay District" as follows:

#### 458.5 Special Drive-Through Window Requirements in the Village Overlay District

A drive-through window may be allowed pursuant to VO Site Plan Approval by the Planning Board subject to the following conditions:

- (a) Hours of operation may be established by the Planning Board.
- (b) Adequate queue space shall be provided to ensure that waiting vehicles do not back up onto public ways or parking areas on the premises.
- (c) Adequate refuse disposal facilities shall be provided as determined by the Planning Board.
- (d) A traffic circulation plan for the drive-through window shall be prepared showing that the drive-through window shall not result in safety issues for other customers, whether in vehicles or pedestrians.

Or what it will do in relation thereto. (Citizens Petition)

ARTICLE 44 - To see if the town will vote to authorize the Selectmen to appoint a Town Management Study Committee to address the issue of restructuring Berlin's Town government to meet the needs of the future. This committee will pursue the model of governance featuring a Town Administrator while preserving Berlin's Open Town Meeting forum.

The Study Committee will:

1. Review the Town's current organization and management structure at a high level of detail in an attempt to determine what works and what does not work. Carefully review all Town Bylaws and make recommendations for changes to content and format where appropriate.
2. Examine all appointed and elected officials and committees to determine if the current method is effective and determine alternatives if necessary.
3. Review all potential methods for managing a town of the size of Berlin with special emphasis on the use of a Town Administrator in conjunction with the Board of Selectmen and an Open Town Meeting.
4. Present a full report including all recommendations to the Board of Selectmen by February 1, 2018.

Said committee shall consist of the following: one current selectman (ex officio), the town treasurer (ex officio), the town clerk (ex officio) and 3 residents of the town, 2 of which have strong business backgrounds or act in relation thereto. (Citizens Petition)

ARTICLE 45 - To see if the Town will vote to raise and appropriate or transfer from available funds the sum of two hundred and fifty thousand dollars (\$250,000) to the Stabilization Fund; or take any action relative thereto. (Finance Committee) Finance Committee recommends 4-0.

ARTICLE 46 - To meet at the Berlin Town Offices, 23 Linden Street, lower level, in said Berlin on Monday, May 8, 2017, between the hours of 12:00 Noon and 8:00 p.m. to elect by ballot the following officers. Moderator for one year; Town Clerk for three years; Selectman for three years; Assessor for three years; Constable for three years; School Committee for three years; Trustee of Trust Funds for three years; Cemetery Commissioner for three years; Library Trustee for three years; Planning Board for five years; Planning Board for two years to fill a vacancy; and Board of Health for three years and to vote on the following question:

1. Shall the Town of Berlin be allowed to exempt from the provisions of Proposition Two and One-half, so called, the amounts required to pay for the bonds issued for the purpose of funding the acquisition of the fee interest or conservation restrictions of portions of or the entirety of certain parcels of land in the town for the linkage of wildlife and hiking corridors?

Yes \_\_\_\_\_ NO \_\_\_\_\_

2. Shall the Town vote to change the positions of elected treasurer and elected tax collector to a combined treasurer-collector position to be appointed by the Board of Selectmen for a term of up to three years; provided, however, that such change shall not take effect unless it is also approved by the voters at an annual or special town meeting in accordance with MGL Chapter 41, Section 1B.

Yes \_\_\_\_\_ NO \_\_\_\_\_

And you are directed to serve this Warrant, by posting up attested copies thereof as per vote of the Town in said Town, seven days at least before the time of holding said meeting.

Hereof fail not, and make due return of this warrant, with your doings thereon, to the Town Clerk, at the time and place of meeting as aforesaid.

Given under our hands this 10th day of April in the year of our Lord two thousand seventeen.

BOARD OF SELECTMEN

Judith Booman, Chairman  
 Thomas Andrew, Vice Chairman  
 Christine Keefe, Clerk