

# Annual T M Warrant May 5, 2008

## TOWN OF SAUGUS

Essex, ss.

To the Constable of the Town of Saugus

Greetings:

In the name of the Commonwealth of Massachusetts you are hereby required to notify and warn the inhabitants of the Town of Saugus, qualified to vote in Town affairs for the Annual Town Meeting at the Saugus Town Hall located at 298 Central Street on Monday, May 5, 2008 at 7:30 PM to hear and act on the following articles: viz;

**Article 1.** To hear and act on reports of Committees.

**Article 2.** To see what sums of money the Town will vote to raise and appropriate for town charges for the ensuing fiscal year 2009. (Town Manager)

**Article 3.** To see if the Town will vote to make supplementary appropriations to be used in conjunction with money appropriated under Article 2 of the 2007 Annual Town meeting during the current Fiscal Year, and determine whether the money shall be provided by transfer from available funds; or to see whatever other action the town wishes to make in the matter. (Town Manager)

**Article 4.** To see if the Town will vote to authorize the treasurer with the approval of the Board of Selectmen, to borrow up to \$1,350,628.00 at 0% interest from the MWRA Local Pipeline assistance Program for the purpose of designing and constructing improvements to water pipelines. (Town Manager)

**Article 5.** To see what sums of money the town will vote to raise and appropriate for the Water enterprise Fund for the ensuing fiscal year 2009. (Town Manager)

**Article 6.** To see what sums of money the Town will vote to raise and appropriate for the Sewer Enterprise Fund for the ensuing fiscal year 2009. (Town Manager)

**Article 7.** To see what sums of money the Town will vote to raise and appropriate for the Kasabuski Arena for the ensuing fiscal year 2009. (Town Manager)

**Article 8.** To see if the Town will vote to reauthorize a revolving fund for the purpose of supporting recreational programs for the community. Established fees will be used for the operating expenses in connection with maintaining these programs. (Town Manager)

**Article 9.** To see if the Town will vote to re-authorize a revolving fund for the Wetland Protection Act filing fees whereby the established fees for Fiscal Year 2009 will be used for operating expenses in connection with the enforcement of the Wetland Protection Act. (Town Manager)

**Article 10.** To see if the Town will vote to re-authorize a revolving fund for the purpose of supporting the water system cross-connection program. Established fees will be used for the operating expenses in connection with maintaining the program as mandated by the Department of Environmental protection. (Town Manager)

**Article 11.** To see if the Town will vote to re-authorize a revolving fund for the purpose of supporting programs and activities at the senior center. Established fees will be used for the operating expenses in connection with maintaining these programs. (Town Manager)

**Article 12.** To see if the Town will vote to re-authorize a revolving fund for the purpose of supporting the Senior Lunch Program at the Senior center. Established fees will be used for the operating expenses in connection with maintaining this program. (Town Manager)

**Article 13.** To see if the Town will vote to re-authorize a revolving fund for the Riverside Cemetery whereby the established fees will be used for the operating expenses in connection with maintaining the facility. (Town Manager)

**Article 14.** To see if the Town will vote to raise and appropriate a sum of money for the purpose of participation in Help for Abused Women and Their Children, Inc. (HAWC) or take any other action relative thereto. (Town Manager as a courtesy to HAWC)

**Article 15.** To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money (ten thousand dollars \$10,000.00) to pay for general maintenance and upkeep of buildings and grounds at the Riverside Cemetery. Pursuant to MGL Chapter 114, sections 15 and 25, source of funds to be the cemetery Land Sales Account. (Town Manager).

**Article 16.** To see if the town will vote to raise and appropriate or transfer from available funds a sum of money (two hundred and forty thousand dollars \$240,000.00) for the purpose of purchasing capital Equipment for the Highway Department. Said sum will be reimbursed by the Commonwealth under Provisions of MGL Chapter 90, section 34. (Town Manager).

**Article 17.** To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money (four hundred and eighty thousand dollars \$480,000.00) for street resurfacing. Said sum will be reimbursed by the Commonwealth under the Provisions of MGL Chapter 90, section 34. (Town Manager)

**Article 18.** To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money (one hundred and eighty thousand dollars \$180,000.00) for handicapped ramps and sidewalks. Said sum will be reimbursed by the Commonwealth under the Provisions of MGL Chapter 90, section 34. (Town Manager)

**Article 19.** To see if the town will vote to raise and appropriate or transfer from available funds a sum of money (sixty five thousand dollars \$65,000.00) for the purpose of being held in reserve for possible funding of chapter 90 eligible expenditures for costs associated with

constructing, maintaining, and policing of town streets or roads. Said sum will be reimbursed by the Commonwealth under the Provisions of MGL Chapter 90, section 34. (Town Manager)

**Article 20.** To see if the Town will vote to accept MGL Chapter 147, s.10F, the acceptance of which will authorize the Town to appoint parking control officers with those powers and duties conferred or imposed on police officers MGL Chapter 90, s 20A. (Town Manager)

**Article 21.** To see if the Town will vote to amend the Town Bylaws by adding the following Bylaw:

**Section 702.09 Billing of Water and Sewer Charges:**

The Town of Saugus shall bill all water and sewer users on a quarterly basis. All water receipts shall be deposited into the water enterprise fund and all sewer receipts shall be deposited in the sewer enterprise fund. (Town Manager)

**Article 22.** To see if the Town will vote to increase water rates with all receipts to be held within the Water enterprise fund to be used exclusively for water expenses, water maintenance and water improvement programs or take any other action relating thereto. (Town Manager)

**Article 23.** To see if the Town will vote to raise and appropriate a sum of money (\$195,000.00), to purchase capital equipment (high velocity sewer truck) for the Department of Public works Sewer Division. Said appropriation shall be raised by borrowing from the Sewer Enterprise Fund or otherwise. (Town Manager)

**Article 24.** To see if the Town will vote to accept the provisions of MGL Chapter 40 section 8j; Disability Commission; powers and duties. (Kathryn Forbes)

**Article 25.** To see if the Town will vote to amend the Town of Saugus By-laws by adding the following new section:

(As provided under Massachusetts General Laws Chapter 51 with regard to Listings of persons seventeen years of age or over.)

**301.01 Town Census Regulations**

All persons who own, lease, rent property as a domicile or within 30 days of residing within the Town of Saugus in such property, house apartment, condo, town house, or any other domicile provided under Section 10A of Chapter 51 of the Massachusetts General Laws shall file a Census Form with the Saugus Town Clerk's Office.

To Assist the Town Clerk to ensure an accurate census of all residents. This By-law shall require all Town Departments, Schools, Boards, Commissions, and Committees, to verify with the Office of the Town Clerk, a current Census Form is on file prior to the issuance of any License, Permit, Abatement, Refund, Compensation, Contract, Appointment, or Appeal.

Those persons found in violation of not filing a census form with the Saugus Town Clerk's Office as required, shall forfeit and pay for each offense a fine of Two Hundred (\$200.00)

dollars. (Stephen Sweezey)

**Article 26.** To see if the town will vote to reverse the decision of town Meeting on Article 16 at the Annual Town Meeting on June 18, 2002, which reads as follows:

“**Article 16.** To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money for the design, repair, replacement and or installation of sewer pipelines, locations include but not limited to Cliff road and Anderson Way; to determine whether this appropriation shall be raised by borrowing or otherwise; or to take any other action relative thereto. (Town Manager)”

The vote of Town Meeting is as follows:

“**Article 16.** voted to transfer from the Sewer Rehabilitation Account the sum of \$250,000.00 for the design, repair, replacement and or installation of sewer pipelines, locations include but not limited to Cliff road and Anderson way.

Yeas: 24 Nays 1 at 8:10 p.m.”

(Stephen Horlick)

**Article 27.** To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$25,000.00 for the Saugus Charter Commission. This does not include the \$5,000.00 already appropriated by statute in FY 2008. (Peter Manoogian, Chairman, Charter Commission)

**Article 28.** To see if the Town will vote to amend the Town By-laws by adding the following section:

515.00 Board of Selectmen

The Board of Selectmen shall, at every regularly scheduled meeting, allow any resident of the Town to appear at said meeting and address the Board on any subject matter involving the Town. The board, by majority vote, may establish rules and regulations regarding the conduct and procedure for the appearance of residents before the Board hereunder. The section shall not apply to executive sessions held by the board under the General Laws.

(Selectman Michael Kelleher)

**Article 29.** To see if the Town will vote, in accordance with Chapter 40, Section 5B, to establish a Targeted Stabilization Fund in the amount of \$100,000 for the purpose of purchasing new textbooks in the Saugus Public Schools. Said funds to be released by a two-thirds vote of Town meeting upon the School Committee presenting a specific plan indicating how such funds would be used to purchase textbooks. (Selectman Michael Kelleher)

**Article 30.** To see if the Town will vote to appropriate the sum of \$10,000 for the Saugus Historical commission to be used for an archeological reconnaissance survey of the town as recommended by the Massachusetts Historical Commission. (Historical Commission)

**Article 31.** To see if the Town will vote to raise and appropriate the amount of \$65,000.00 for the repair, replacement, and or installation of storm drains on Western Avenue and to determine whether this appropriation shall be raised by borrowing or to take any other action relative thereto. (Dennis Moschella)

**Article 32.** To see if the Town will vote to raise and appropriate the amount not to exceed \$100,000.00 which includes engineering and design for sewerage on Dale Street and to determine whether this appropriation shall be raised by borrowing or to take any other action relative thereto. (Dennis Moschella)

**Article 33.** To see if the Town will vote to add the following Bylaw as Section 902: Shade Tree Bylaw.

SECTION 1. Intent and Purpose.

- a. It is the intent of this Bylaw to sustain environmental health, enhance the economic well-being and maintain the quality of life for the citizens of the Town of Saugus. Shade trees make an important contribution to the character and heritage of Saugus's neighborhoods. This Bylaw establishes policy and guidelines for ensuring the health and longevity of the Town's community forest.
- b. It is the policy of the Town of Saugus to encourage new tree plantings on public and private property to cultivate a healthy flourishing community forest and increase its value as a whole.
- c. It is also the intent of this Bylaw to form and implement a community forest plan to benefit same. A goal of this community forest plan will be to obtain and maintain eligibility for annual recertification as a recognized "Tree City, USA."

SECTION 2. Definitions.

Whenever the following words or terms are used in this Bylaw, they shall have these meanings:

"Shade Tree" - All trees within a public way or on the boundaries thereof shall be public shade trees; and when it appears in any proceeding in which the ownership of or rights in a tree are material to the issue, that, from length of time or otherwise, the boundaries of the highway cannot be made certain by records or monuments, and that for that reason it is doubtful whether the tree is within the highway, it shall be taken to be within the highway and to be public property until the contrary is shown. Public shade trees shall also include those planted in public ways, or if deemed expedient by the Tree Warden, upon adjoining land at a distance not exceeding 20 feet in accordance with MGL Chapter 87, Section 7.

"Person" - Any person, firm association or corporation.

"Town" – The Town of Saugus and any of its departments and/or employees.

"Tree Warden" – The specific individual appointed by the Town Manager or Board of Selectmen to fill this position. Such person shall be qualified in accordance with MGL Chapter 87.

“DCR” – Massachusetts Department of Conservation and Recreation.

“Heritage Tree” – A public shade tree specifically designated by the DCR. Urban Forestry Program, upon recommendation by the Town Tree Warden to be a heritage tree. Heritage trees may qualify for state funds for maintenance under this program. A tree may qualify as a heritage tree if it meets one or more of the following criteria:

- a. Old Age – 100 years or greater; Size – 32 inches diameter or greater;
- b. Species rarity;
- c. Association with specific Historical Event or Person;
- d. Outstanding Scenic Enhancement; e.g., trees at parks etc.
- e. Notable Wildlife Value.

“Public Areas” and “Public Property” – Includes all public parks and other lands owned, controlled, or leased by the Town except DCR and Mass Highway controlled property.

“Public Nuisance” – Any tree or shrub or part thereof which by reason of its condition prohibits the use of any public areas, is infected with a plant disease, is infested with injurious insects or pests, significantly threatens existing public improvements, or immediately endangers the life, health, safety, or welfare of persons or property.

“Shrubs” – Any woody plant, normally having multiple stems and bearing foliage from the ground up.

“Tree” – Any woody plant greater than or equal to 1-1/2” diameter 12” from the ground.

“Topping” – The practice of cutting back large diameter branches of a mature tree to stubs. Topping is prohibited.

“Community Forest” – The sum total of all trees and other vegetation growing within the boundaries of a community.

“Community Forest Plan” – a document that describes the goals and objectives related to the management of a community forest.

“Green Industry” – Any and all businesses associated with landscaping, arboriculture, etc.

“ANSI” – American National Standards Institute.

“Major Alterations” – The following terms describe major alterations, to a shade tree, requiring a permit;

➤.....Crown cleaning is the selective removal of one or more of the following items: dead, dying, or diseased branches, weak branches and waterspouts.

➤.....Crown thinning is selective removal of branches to increase light penetration and air

movement or reduce weight.

➤.....Crown raising is the removal of the lower branches of a tree to provide clearance.

➤.....Crown reduction, also called crown shaping, decreases the height and/or spread of a tree.

➤.....Vista pruning is selective trimming of framework limbs or specific areas of the crown to allow a view of an object from a predetermined point.

➤.....Crown restoration pruning should improve the structure, form and appearance of trees, which have been severely topped, vandalized, or storm damaged.

### SECTION 3. Authorization of the Tree Committee regarding public shade trees.

a. The Tree Committee will work with and advise the Tree Warden on matters pertaining to tree and landscape planning and maintenance of shade and other public trees in the Town of Saugus. The board will review the Annual Work plan for tree maintenance, planting, and removal prior to its implementation. The board members shall consist of Saugus residents, appointed by the Town Manager or the Board of Selectmen. The Tree Warden shall be an ex-officio non-voting member.

b. Board members will be responsible for establishing rules and regulations (upon approval by the Board of Selectmen) that are required for the implementation of this by-law. The board shall meet on a periodic basis as determined by its membership.

c. The Tree Warden is hereby tasked to develop an Annual Work Plan for tree maintenance and replacement and removal for each fiscal year. The plan shall include locations of work and designated work to be accomplished. Such plan will be reviewed by the Board. Any public hearings required for implementation of the Annual Work Plan will be conducted in accordance with MGL Chapter 87 (Shade Tree) and Chapter 40 (Scenic Road).

d. The Board shall also be responsible for fostering educational programs regarding continued care of Shade Trees and their importance to the Town, shall publicize and foster participation in grants and tree planting programs of the State and/or private corporations/foundations.

e. The Board shall support and help stimulate interest in Arbor Day and Arbor Week programs in schools, conservation organizations, and private companies and families within the Town of Saugus.

f. The Board shall plan for and maintain the Saugus Tree Farm for the purpose of planting public shade trees on public property.

SECTION 4. Authorization of the Tree Warden. The Tree Warden and the Public Shade Tree Committee shall carry out the provisions of this Bylaw. As per Massachusetts Law Chapter 87 and Chapter 41, the Town of Saugus must appoint a Tree Warden. This individual shall be qualified by demonstrated training and experience in the field of arboriculture. It is recommended that this person be a Massachusetts certified arborist and possess a Massachusetts pesticide license. The Tree Warden shall be appointed by the Town Administrator or the Board of Selectmen.

### SECTION 5. Responsibilities and Authority of the Tree Warden.

a. The Tree Warden and the Shade Tree Committee shall be responsible for the creation and implementation of a Community Forest Plan to be incorporated into the Town Open Space and

Recreation Plan.

b. The Tree Warden shall be responsible for the periodic inspection of public shade trees to ensure they are free from disease or other conditions that may endanger tree health, or are a clear and immediate safety hazard to the public. The Tree Warden shall make every effort to repair and maintain shade trees prior to their removal in accordance with ANSI Standard A300 most current edition.

c. The Tree Warden is responsible for conducting public shade tree hearings in accordance with MGL Chapter 87, Section 3. All public tree hearings shall be held at a convenient time and location to the public (e.g., at 6:00 p.m., Mondays at the Town Hall) at the discretion of the Tree Warden. He shall conduct joint hearings with the Planning Board when required under the Scenic Roads Law, MGL Chapter 40, Section 15c.

d. The Tree Warden or the Shade Tree Committee shall be responsible for the location, selection, and identification of any trees, which may qualify as "heritage trees" and shall forward such recommendation to the DCR, Urban Forestry Program for consideration for future preservation. Any person may submit a petition recommending a tree, which they believe, qualifies as a heritage tree. Heritage trees so designated shall be marked by the Tree Warden and located on engineering plans used by the Town.

e. The Tree Warden shall be responsible for the marking of all public shade trees on scenic roads prior to the issuance of any driveway permit or building permit to prevent the inadvertent removal or damage to public shade trees on these roads. He shall mark any public shade tree so requested by any citizen.

f. The Tree Warden or Shade Tree Committee shall review all proposed subdivision plans for tree locations and measures taken to protect existing trees during construction and shall recommend to the Planning Board conditions required as part of their approval process.

g. The Tree Warden shall keep complete and accurate records on the condition of all public shade trees and all work completed on public shade trees to include all attempts at restoration or treatment of same prior to their removal.

h. The Tree Warden, in accordance with MGL Chapter 87, is hereby given authority, control, and supervision of all trees which now or which may hereafter exist upon any public property (except DCR or Mass highway property), street or highway belonging to the Town of Saugus, and over all trees which exist upon any private property in the Town of Saugus, when such trees are in such a hazardous condition as to immediately endanger public health, safety, and welfare. This power includes, but is not limited to, the power to enforce the rules, regulations, and specifications concerning the trimming, spraying, removal, planting, pruning, and protection of trees, shrubs, vines, hedges, and other plants upon the right of way of any street, alley, sidewalk, park, or other public place in the Town in accordance with this Bylaw and MGL Chapter 87. In addition, pursuant to MGL chapter 87, Section 2, The Tree Warden has the additional right to make regulations for the care and preservation of public shade trees and establish fines and forfeitures of not more than that specified in MGL Chapter 87, Section 2 in any one case for violation thereof; which, when posted in one or more public places, and, in towns, when approved by the Board of Selectmen, shall have the effect of town Bylaws.

i. The Tree Warden has the authority to supervise all work done by permit as described in this Bylaw, and to affix reasonable conditions to the granting of permits.

#### SECTION 6. Permit for Maintenance and Removal of Trees and Shrubs.

a. Permit Required – No person, except on order of the Town Warden, shall remove or do



major alterations specified herein and as determined by the Tree Warden on a tree or shrub in the public right of way, park areas, and other Town owned lands, or cause such act to be done by others without a permit for such work from the Tree Warden as herein provided. This includes all persons engaged in the business of cutting or removing trees or shrubs. Any person may apply for and obtain a permit, but all work must be accomplished or supervised by a certified arborist. The hearing and notice process required by MGL Chapter 87, Section 3 must be complied with.

b. Permit Required and Conditions – When a permit is requested, the Tree Warden must decide that the proposed work is necessary and in accord with the purposes of this chapter. The Tree Warden must take into account safety, health, and welfare, location of utilities, public sidewalks, driveways, and streetlights.

c. Exemption – In cases of emergency situations such as hurricanes, snow/ice storms, or other acts of God where immediate removal is required of downed trees or limbs, work necessary to restore safe conditions is allowed. No permit shall be required to cultivate, fertilize, or water trees and shrubs on Town property.

d. Permit Form, Expiration, Inspection – Permits shall be logged by the Tree Warden on a standard form and include a description of the work to be done and shall specify the location. Any work done under such permit must be performed in strict accordance with this chapter and ANSI Standard A300 (most current edition). Permits issued under this section shall expire three months after date of issuance. There is no charge for permits.

#### SECTION 7. Permits for Planting Trees and Shrubs.

a. Planting – All trees and shrubs planted on all public property within the Town of Saugus become the property of the Town of Saugus. Watering of newly planted trees by citizens is encouraged to insure the survival and health of the trees.

1) The planting of the following species is prohibited on any Town of Saugus property, except with the express written approval of the Tree Warden:

- a) Ailanthus altissimo (Tree of Heaven)
- b) Catalpa Bignoniaceae (Catalpa species)
- c) Acer platanoides (Norway Maple)

2) There is no charge for the permit. The permit shall be on a standard form. Permits logged under this section shall expire 6 months after date of issuance.

3) No person shall plant any tree, shrub, or other vegetation in the public right-of-way, park areas, and other town owned lands without first obtaining a permit for such work from the Tree Warden. The request for such permit shall specify the size; species and variety of tree, shrub, or other vegetation to be planted shall be submitted to the Tree Warden for approval before planting. Approved tree and shrub lists as well as guidance on planting procedures are available at the Tree Warden Office.

4) Planting locations and minimum distances will be based on the mature size and landscape variables of the plants. Proper distances and planting locations shall be determined by the Tree Warden based on the recommendation contained in the Community Forest Plan.

b. No person shall plant on any public or private premises situated at the intersection of two

or more streets or alleys in the town, any hedge, tree, shrub, or other vegetation device that may obstruct the view of the operator of any motor vehicle or pedestrian approaching such intersection.

c. Only small maturing trees or shrubs are authorized for planting under any overhead utility wires or cables. No trees should be planted over underground utilities systems unless approved by the Tree Warden.

d. In new subdivisions or when the development of commercial property occurs, the Tree Warden or the Shade Tree Committee shall review landscaping plans and may suggest locations of street trees to be planted in any of the streets, and other public places henceforth developed. Tree species and sizes are to be recommended by the Tree Warden. Landscaping shall conform to the Saugus subdivision regulations unless otherwise waived by the Planning Board.

SECTION 8. Licensing. All work performed on Town owned trees is to be done by or supervised by the Tree Warden or a Massachusetts certified arborist or ISA certified arborist.

Section 9. Trimming.

a. To ensure high quality shade trees, shaped for maximum aesthetic appreciation and to prevent interference with traffic and utility wires, all newly planted trees in public lands shall be trimmed and shaped as necessary for five years after planting.

b. Trimming (pruning) of all trees in public areas shall be done according to current technical specifications of the American National Standard for Tree, Shrub and other Woody Plant Maintenance-Standard Practices (ANSI A300). The current safety specifications of the American National Standard for Tree Care operations (ANSIZ133) apply. All specifications and procedures are available from the Tree Warden.

c. Trimming of trees or bushes upon private property may be accomplished, upon order of the Board of Selectmen, where the same obstructs, endangers, hinders or incommodes persons traveling on streets or sidewalks.

d. Trees shall not be topped.

SECTION 10. Removal of Trees and Stumps.

a. Dangerous, Obstructive, and Infected Trees – Any dead public tree or part thereof that the Tree Warden shall find to be infected, immediately hazardous so as to endanger the public or other trees, plants, shrubs grown in the Town, or to be significantly injurious to sewers, sidewalks, or other public improvements may be removed by the Town in accordance with the procedures set forth in MGL Chapter 87. All wood must be removed from the street prior to the end of each working day, and all holes shall be filled to normal grade level with topsoil as soon as practical.

b. Any public shade tree that has been removed, except those removed as a visibility hazard, shall be replaced with one or more trees at a location to be determined by the Tree Warden. Size and species shall also be determined by the Tree Warden.

SECTION 11. Obstructions.

a. Mature trees and shrubs standing in or upon any Town land or upon any private premises adjacent to any public right of way or public areas shall be kept trimmed so that the lowest branches projecting over the public street provide a clearance of not less than fourteen feet.

The Tree Warden may waive the provision of this section for newly planted trees if determined that they do not interfere with public travel or endanger public safety. The Town shall have the right to trim any tree or shrub in the Town when it interferes with the safe use of streets or sidewalks or with visibility of any traffic control and it is so ordered by the Board of Selectmen.

b. Clearance from sidewalk to lower branches shall not be less than seven feet. All trees standing upon private property in the Town, the branches of which extend over the line of the sidewalk shall be trimmed (pruned) so that no branches shall grow or hang over the line of the sidewalk lower than seven feet above the level of the sidewalk.

## SECTION 12. Prohibited Acts.

a. Damage to Public Trees – No person shall, without the consent of the owners in the case of a private tree or shrub or without written permits from the Tree Warden in case of public trees, do or cause to be done by others any of the following acts:

1. Secure, fasten, or run any rope, wire, sign, unprotected electrical installation, or other devices or material to, around, or through a tree or shrub except to secure leaning or newly planted trees.
2. Break, injure, mutilate, deface, kill or destroy any tree or shrub.
3. Remove any guard, stake, or other device or material intended for the protection of a public tree or shrub, or close or obstruct any open space above the base of a public tree or shrub designed to permit access of air, water, and fertilizer.
4. Attach any sign, poster, notice, or other object on any tree, or fasten any guy wire, cable, rope, nails, screws, or other devices to any tree, except that the Town may authorize tying temporary signs to trees when necessary.
5. Cause or encourage any fire or burning near or around any public tree.

b. Excavation – All trees on any Town owned land near excavation or construction of any building, structure, landscape, or street or utility work, shall be sufficiently guarded and protected by those responsible for such work as to prevent injury to said trees. No person shall excavate any ditches, tunnels, or trenches, or install pavement within a radius of ten feet from any public tree without a permit from the Tree Warden.

## SECTION 13. Requirements and Penalties.

a. Any person who violates any provision of this by-law or who fails to comply with notices issued pursuant to provisions of this Bylaw shall be subject to fines of up to \$300 for each separate offense. Any builder, contractor or agent who intentionally assisted in the commission of any such violation shall be liable for each separate violation. All such violations which are of a continuing nature shall constitute a separate offense for each day of such continuance, and each tree removed shall constitute a separate offense. Any tree removed in violation of this Bylaw shall also be replaced by the violator on an inch-for-inch basis.

b. Fines shall be assessed and collected under MGL Chapter 21D adopted as part of this Bylaw. The Tree Warden shall have the requisite police power established under MGL chapter 21D.

c. Appeal – Any person who receives any order under this Bylaw from the Tree Warden and objects to all or any part thereof shall have the right to appeal such order. The Board of Selectmen shall hear such appeal within 30 days of receipt of written notice of the appeal. The Board of Selectmen shall, by letter, notify the party appealing the order of its decision within ten days after the hearing closes and file written decision with the Town Clerk.

SECTION 14. Evaluation and Future Update of Bylaw. A successful implemented management strategy must be monitored to ensure that progress is being made and standards are being met. Evaluation provides the feedback necessary to determine whether the management strategy is working. Periodic evaluation also provides an opportunity to reassess the needs and goals of the community. The management strategy may need to be adjusted to reflect new or altered goals. By providing for regular evaluation as part of the management process, the need for change can be identified before a crisis develops. Evaluation methods include surveys and record keeping as well as public opinion heard through polls or hearings.

The Tree Warden and the Tree Committee shall conduct periodic evaluations of this Bylaw and implementing instructions and policies.

SECTION 15. Severability. In the event that any part or provision of this Bylaw are found or determined to be illegal or unenforceable by the Massachusetts Attorney General or any of the Massachusetts Court of competent Jurisdiction, than the illegality or unenforceability of any such provision shall not affect the validity of any other provision of this Bylaw which provisions will remain in full force and effect. (Timothy Hawkes)

**Article 34.** To see if the Town will vote to amend the Town's Zoning Map and Zoning By-law by rezoning Lot A-130 on Assessor's Plan 3016 (also shown as Lot 5 Block 13 Map G5) from R-1 Residential Single Family to R-4 Residential Multi-density. Property located at 190 Lincoln Ave. (Richard Magnan)