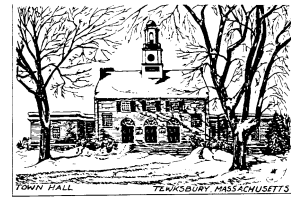


# Town of Tewksbury

TOWN HALL  
1009 MAIN ST  
TEWKSBURY, MASSACHUSETTS 01876

## OFFICE OF TOWN CLERK



Phone: 978-640-4355

Fax: 978-851-8610

[dgraffeo@tewbury-ma.gov](mailto:dgraffeo@tewbury-ma.gov)

DENISE GRAFFEO, CMC/CMMC  
TOWN CLERK

Tewksbury Memorial High School  
320 Pleasant Street  
Special Town Meeting  
October 1, 2019

Town Clerk, Denise Graffeo called to order the October 1, 2019 Special Town Meeting at 7:00 PM given that a quorum of voters was present and a properly served and returned warrant was in possession. Due to the Moderator Jayne Wellman's election to the Board of Selectmen at the 2019 Annual Town Election, the Moderator position became vacant. The first order of business was the election of a Temporary Moderator. Anne Marie Stronach, member of the Board of Selectmen, nominated Keith Rauseo as Temporary Moderator for the October 1, 2019 Special Town Meeting. This nomination was seconded by Board of Selectmen Chair Jay Kelly and confirmed by a vote of the Assembly. Keith Rauseo was sworn in as Temporary Moderator by Ms. Graffeo.

On Tuesday, October 1, 2019, there were 285 voters and 24 visitors in attendance.

Moderator Rauseo made the following introductory comments:

*Good evening. I appreciate and am grateful for your confidence, and will do my best to be worthy of it. Welcome to all of you who have come to participate in the governing of our town.*

*I will now ask Scott Wilson, the newest member of the School Committee, to lead us in the Pledge of Allegiance.*

School Committee member, Scott Wilson led the Assembly in the Pledge of Allegiance.

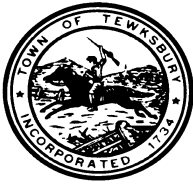
*Before I go through the required preliminaries, I'll ask your indulgence for a couple of personal comments. First, I'd like to recognize and thank Mr. Dennis Francis for his 10 years of stellar service on the Tewksbury School Committee. Having seen Dennis's involvement in various committees and activities over the last 20 years, I can attest that his concern for the Tewksbury Public Schools is seldom matched. I wish him and his family all the best.*

*Second, on August 7, Mr. Ron Hall passed away. Ron was a tireless and constant leadership presence on town committees, at town activities, and on Town Meeting floor for almost 30 years. He provided energy and insight to Tewksbury throughout that time, and he will be missed. Please join me in a moment of silence in honor of Ron's memory.*

*Voters are wearing orange ribbons. Display those ribbons prominently so our counters and I can see them. Visitors are wearing red ribbons, and must sit in the visitors section in the bleachers to my left. The press table is to my left. Members of the press must remain at the table while they are in the hall.*

*Emergency exits are located at the back corners of the gymnasium to my left and right and in the cafeteria to both the left and right after you leave the gym. Restrooms are straight out of the entrance to the gym. During the meeting, no one may stand in the entrances to the gym.*

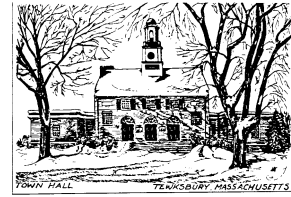
*Officials and article sponsors who are addressing the voters may use the podium on the floor. Voters speaking on an issue may use the microphone in the middle aisle at the front of the seating area. Please begin your remarks by stating your full name and street address for the record, and speak slowly and clearly into the microphone. There is a five-minute limit for any appearance at the podium – if you ask questions, the clock will not stop during the response. If necessary, you may return to the podium after other voters who wish to speak have had their turn. Address all comments and questions to or through the Moderator, not to officials or other voters.*



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TOWN CLERK

*Town Meeting works when voters respect its rules and respect each other. Please maintain a proper spirit of decorum throughout Town Meeting, and keep any disagreements civil.*

*During debate on an article, if a voter submits an amendment for consideration, we will debate and act on the amendment immediately, then continue debate on the article, so only one amendment is pending at any time. Amendments must be submitted in writing to the Town Clerk.*

*Town Meeting Guidelines are printed in the back of the warrant. Reference those guidelines during the meeting and ask questions if you are confused about procedural matters.*

*While in the hall, remain seated during debate so I know who wishes to speak. During standing counts, please sit after the counters tally your vote and nod to you. Finally, please turn your cell phones off or on silent and do not make phone calls or have side conversations in the hall.*

*Mr. Jay Kelly, the chairman of the Board of Selectmen, has an announcement.*

Board of Selectmen Chair, Jay Kelly made the following announcement:

- Fall Clean-up Half-Way to Earth Day will be on Saturday, October 5<sup>th</sup> from 9:00 AM - 2:00 PM. Last year over 100 volunteers came out and worked to clean up our Town. Sign up on the town website or come to the Town Common that morning.

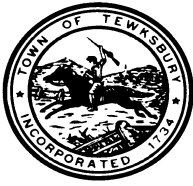
*Mr. Robert Kocsmiersky, the chairman of the Finance Committee, will make the first motion on every article unless the Finance Committee is deferring to another board. The sponsor of each article, or their designated representative, will be the first person recognized to speak on it. Mr. Kocsmiersky, do you have a motion concerning the reading of the articles?*

Finance Committee Chairman, Robert Kocsmiersky, motioned to Waive the Reading of the Warrant Articles, and this motion was Adopted Unanimously 7:08 PM 10/1/19

*Mr. Kocsmiersky, may I now have a motion to allow non-resident elected officials, committee members, and town employees to speak on issues when recognized by the Moderator?*

Finance Committee Chairman, Robert Kocsmiersky motioned to admit Assistant Town Manager Steve Sadwick, Fire Chief Mike Hazel, Superintendent of Schools Chris Malone, School Business Manager Dave Libby, DPW Superintendent Brian Gilbert and Town Engineer Kevin Hardiman, and other non-resident employees to speak to answer residential questions, and this motion was Adopted. 7:09 PM 10/1/19

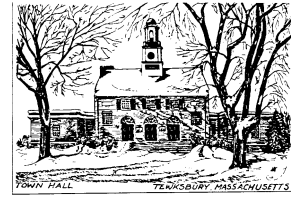
Finance Committee Chairman, Robert Kocsmiersky, motioned to Adjourn the October 1, 2019 Special Town Meeting Sine Die, and this motion was Adopted. 10:03 PM 10/1/19



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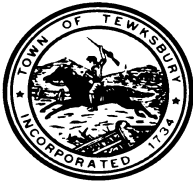
### APPROPRIATION CERTIFICATE – SPECIAL TOWN MEETING – OCTOBER 1, 2019

Chief Assessor, Finance Director, Treasurer, Collector, Town Manager, Board of Selectmen, and Finance Committee: Pursuant to Section 15A, Chapter 41, Massachusetts General Laws, I hereby certify to the funds appropriated at the Annual Town Meeting, convened by proper Warrant, on October 1, 2019.

ARTICLE	RAISE & APPROPRIATE	TRANSFER FROM FREE CASH	CPA RESERVE	WATER ENTER RETAINED	SEWER ENTER RETAINED	BORROW
1	FY20 BUDGET	4,825,827.36				
2	FY19 OUTSTANDING BILLS	971.80				
3	TOWN EMPLOYEE ABSENCE LIABILITY		150,000.00			
4	TOWN CAPITAL EXPENDITURES		241,106.00			
5	DEWING/HEATH BROOK CAPITAL IMPROVEMENT DESIGN & ENGINEERING		300,000.00			
6	DPW/SCHOOL MAINTENANCE FACILITY DESIGN, ENGINEERING & PROJECT MGMT	800,000.00	700,000.00	350,000.00	350,000.00	
7	STABILIZATION FUND		2,256,048.00			
8	NEW FIRE STATION APPROPRIATION INCREASE					2,500,000.00
9	NEW LIGHTS/POLES HAZEL FIELD			350,000.00		
		5,626,799.16	3,647,154.00	350,000.00	350,000.00	2,500,000.00

<b>Raise &amp; Appropriate</b>	<b>\$5,626,799.16</b>					
<b>Transfer From Free Cash</b>		<b>\$3,647,154.00</b>				
<b>CPA Reserve</b>			<b>\$350,000.00</b>			
<b>Water Enterprise Retained</b>				<b>\$350,000.00</b>		
<b>Sewer Enterprise Retained</b>					<b>\$350,000.00</b>	
<b>Borrow</b>						<b>2,500,000.00</b>

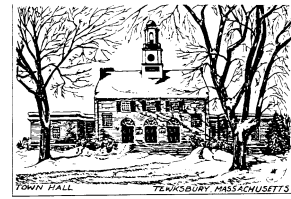
ATTEST: DENISE GRAFFEO  
TOWN CLERK



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DENISE GRAFFEO, CMC/CMMC  
TOWN CLERK

### ARTICLE 1

To see if the Town will vote to raise and appropriate the sum of \$4,825,827.36 to fund the following Fiscal Year (FY2020) Budgets; or take any other action relative thereto.

School Debt Exempt Principal:	\$2,725,000.00
School Debt Exempt Interest:	\$2,100,827.36
<b>Total:</b>	<b>\$4,825,827.36</b>

Town Manager

Motion: The Finance Committee motioned to Adopt; raise and appropriate \$4,825,827.36 for the purpose of the article

Vote: Article 1 was Adopted 7:10 PM 10/1/19

**Executive Summary:** This article raises and appropriates funds to FY2020 Budgets. The additional funding is from a debt exclusion voted by the residents at the local election in April 2019.

### ARTICLE 2

To see if the Town will vote to raise and appropriate the sum of \$971.80 to pay for the following outstanding bills from the previous year; or take any other action relative thereto.

Comcast	\$ 481.80
Badger Meter	\$ 390.00
Lowell General Hospital	\$ 100.00
<b>Total</b>	<b>\$ 971.80</b>

Town Manager

Motion: The Finance Committee motioned to Adopt; raise and appropriate \$971.80 for the purpose of the article

Vote: Article 2 was Adopted Unanimously (9/10 Required) 7:11 PM 10/1/19

**Executive Summary:** According to M.G.L. c. 44 § 64, bills that are late must be approved by Town Meeting before payment. This article authorizes the charges to be paid.

### ARTICLE 3

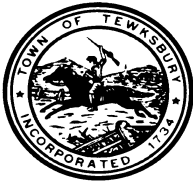
To see if the Town will vote to transfer from the certified General Fund Free Cash the sum of \$150,000 to be expended by the Town Manager to fund future compensated absence liability for Town employees; or take any other action relative thereto.

Town Manager

Motion: The Finance Committee motioned to Adopt; raise and appropriate \$150,000 for the purpose of the article

Vote: Article 3 was Adopted 7:11 PM 10/1/19

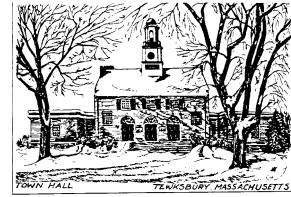
**Executive Summary:** This article transfers funds to be set aside to assist in addressing a future liability for benefits such as sick leave buyback benefits and accrued vacation.



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TOWN CLERK

### ARTICLE 4

To see if the Town will vote to transfer from the certified General Fund Free Cash a sum of \$241,106 to be expended by the Town Manager to fund the following; or take any other action relative thereto.

<b>General Government</b>	
Voting Tabulators	\$ 6,250
<b>Total General Government</b>	<b>\$ 6,250</b>
<b>DPW</b>	
Pinnacle Street Culvert	\$ 100,000
<b>Total DPW</b>	<b>\$ 100,000</b>
<b>Police</b>	
Motorola Repeater and Installation	\$ 46,802
<b>Total Police</b>	<b>\$ 46,802</b>
<b>Facilities and Grounds</b>	
HVAC Town Hall Annex	\$ 44,466
Field Sweeper	\$ 38,438
Sander	\$ 5,150
<b>Total Parks</b>	<b>\$ 88,054</b>

Town Manager

Motion: The Finance Committee motioned to Adopt; raise and appropriate \$241,106 for the purpose of the article

Vote: Article 4 was Adopted

7:12 PM

10/1/19

**Executive Summary:** This article transfers certified free cash for specific one time capital expenditures.

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### ARTICLE 5

To see if the Town will vote to transfer from the certified General Fund Free Cash the sum of \$300,000 for the School Department to undertake design and engineering for capital improvements to the Heath Brook and Dewing Elementary Schools; or take any other action relative thereto.

Town Manager

Motion: The Finance Committee motioned to Adopt; raise and appropriate \$300,000 for the purpose of the article

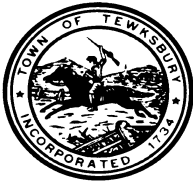
Vote: Article 5 was Adopted

7:12 PM

10/1/19

**Executive Summary:** This article transfers certified free cash for specific one time capital expenditures.

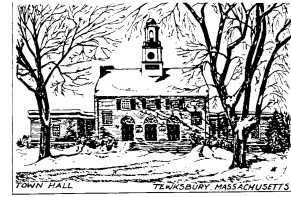
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TOWN CLERK

### ARTICLE 6

To see if the Town will vote to authorize the Town Manager to expend up to \$2,200,000 for the design, engineering and project management of a new DPW and School maintenance facility, of which the Town will raise and appropriate \$800,000 from revenue of the current year, as well as transfer \$700,000 from free cash, \$350,000 from Sewer Enterprise Fund Retained Earnings, and \$350,000 from Water Enterprise Fund Retained Earnings; or take any other action thereto.

Town Manager

Motion: The Finance Committee motioned to Adopt Article 6  
Town Manager, Richard Montuori spoke in support of the article  
Board of Selectmen Chair, Jay Kelly spoke in opposition of the article  
Selectman, Brian Dick spoke in support of the article  
Joseph Gill motioned for Indefinite Postponement  
Dennis Francis motioned to Move the Question

Vote:	The motion to Move the Question was Adopted	7:37 PM	10/1/19
	The motion for Indefinite Postponement Failed Yes 89/No 134	7:41 PM	10/1/19
	Article 6 was Adopted Yes 120/No 104	7:43 PM	10/1/19

**Executive Summary:** This article funds design, engineering and project management of a new combined DPW and School maintenance facility at the current site of the DPW Facility on Whipple Road.

### ARTICLE 7

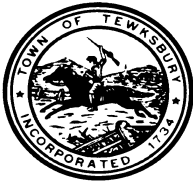
To see if the Town will vote to transfer the sum of \$2,256,048 from certified General Fund Free Cash to the Town Stabilization Fund; or take any other action relative thereto.

Town Manager

Motion: The Finance Committee motioned to Adopt; transfer \$2,256,048 from free cash to the stabilization fund

Vote:	Article 7 was Adopted Unanimously (2/3 Required)	7:44 PM	10/1/19
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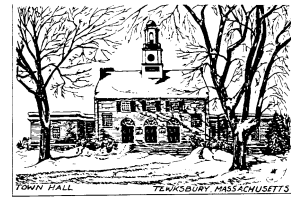
**Executive Summary:** This article seeks approval to set aside these funds in the Stabilization Fund to be used for future emergencies or one time purchases or projects.



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TOWN CLERK

### ARTICLE 8

To see if the Town will vote to appropriate the sum of \$2,500,000 to be expended by the Town Manager for the cost of design and engineering, construction and furnishing of a new Center Fire Station and for the payment of all costs incidental and related thereto, and to determine whether such amount should be raised by taxation, by transfer from available funds, by borrowing or by any combination of the foregoing; and, if by borrowing, the Town Treasurer, with the approval of the Selectmen, is hereby authorized to borrow said sum under and pursuant to Chapter 44 Section 7 of the Massachusetts General Laws, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefore; or take any action relative thereto. Any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

The motion to be presented shall read:

**Motion:** That the Town hereby appropriates the sum of \$2,500,000 to be expended by the Town Manager for the cost of design and engineering, construction and furnishing of a new Center Fire Station, and for the payment of all costs incidental and related thereto, and that to meet this appropriation the Town Treasurer, with the approval of the Selectmen, is hereby authorized to borrow said sum under and pursuant to Chapter 44 Section 7, of the Massachusetts General Laws, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefore. Any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

Town Manager

**Motion:** The Finance Committee motioned to Adopt; appropriate \$2,500,000 for the purpose of the article  
Town Manager, Richard Montuori spoke in support of the article  
Board of Selectmen Chair, Jay Kelly spoke in opposition of the article

**Vote:** Article 8 was Adopted Yes 151/No 29 (2/3 Required=120) 7:52 PM 10/1/19

**Executive Summary:** This article authorizes the Town to borrow \$2,500,000 for the cost of building a new Center Fire Station. Originally the Town approved the appropriation of \$15,896,809.85 for the project and this debt is excluded from the property tax levy. Construction estimates are higher than the appropriation and the additional funding will cover any contingencies during construction.

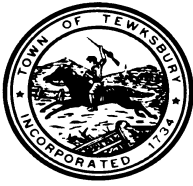
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### ARTICLE 9

To see if the Town will vote to appropriate the sum of \$350,000 from the Community Preservation Fund Undesignated Reserve to be expended with the approval of the Town Manager for the purpose of new lights, poles and associated electrical work at Hazel Field at Saunders Recreation Area on Livingston Street. Pursuant to M.G.L. c 44B or any other enabling authority, said funds to be expended under the direction of the Community Preservation Committee; or take any other action relative thereto.

Community Preservation Committee

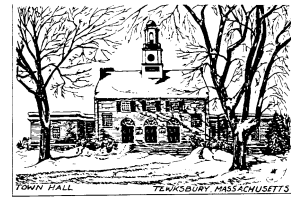




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Point of Order: Phyllis Giblin rose to a Point of Order that a Defect had occurred during the vote to Adopt Article 9 at 7:53 PM. She further explained that she didn't understand Moderator Rauseo when he asked her if she was standing to speak and therefore sat down even though she was prepared to speak and was not given the opportunity to do so.

Moderator, Keith Rauseo, recessed for 2 minutes and reconvened at 7:57 PM to present his ruling.

Ruling: Moderator, Keith Rauseo ruled in favor of Phyllis Giblin's Point of Order and accepted the Motion to Reconsider due to an Oversight.

Point of Order: Elizabeth Carey rose to a Point of Order that Phyllis Giblin was speaking out of the scope of the article after Ms. Giblin made a motion to amend the Article.

Ruling: Moderator Rauseo ruled in favor of Elizabeth Carey's Point of Order and explained to Ms. Giblin that she must keep her discussion relative to Article 9. He also gave a brief explanation relative to the limitations of expenditures from the Community Preservation Act Fund and general Town Meeting procedures.

Motion: The Finance Committee motioned to Adopt; appropriate \$350,000 from the Community Preservation Fund Undesignated Reserve for the purpose of the article  
Phyllis Giblin motioned to Reconsider Article 9

Vote:	The Motion to Reconsider was Adopted	7:57 PM	10/1/19
	Article 9 was Adopted Yes 191/No 23	8:06 PM	10/1/19

**Executive Summary:** This article will fund installation of new lights, poles and associated electrical work at Hazel Field located at Saunders Recreation Area on Livingston Street.

### ARTICLE 10

To see if the Town will accept the provisions of Chapter 44, § 53F½ of the Massachusetts General Laws establishing a Stormwater Management Operations Enterprise Fund effective July 1, 2020 (Fiscal Year 2021); or take any other action relative thereto.

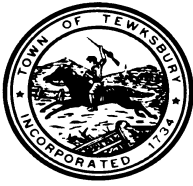
Town Manager

Motion: The Finance Committee motioned to Adopt  
Town Manager, Richard Montuori spoke in support of the article  
Board of Selectmen Chair, Jay Kelly spoke in opposition of the article  
Planning Board member, Eric Ryder spoke in opposition of the article  
Board of Selectmen member, Ann Marie Stronach supported the article  
Moderator Rauseo Moved the Question

Vote:	The motion to Move the Question was Adopted	8:43 PM	10/1/19
	Article 10 was Adopted Yes 177/No 52	8:46 PM	10/1/19

**Executive Summary:** This article authorizes the Town to create an Enterprise Fund to account for the revenues and expenditures of all operations and activities for Stormwater Management Operations.

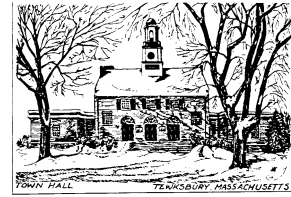




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DENISE GRAFFEO, CMC/CMMC  
TOWN CLERK

### ARTICLE 11

To see if the Town will vote to authorize the Board of Selectmen to grant an easement to National Grid and its successors and assigns for the purpose of placing and maintaining a pole and underground cables, wires and conduit with the necessary appurtenances which would provide for the electric transmission in, on and over a certain parcel of land to service the New Elementary School owned by the Town and under the control of the School Committee and described below:

135 Pleasant Street, Tewksbury, Massachusetts

Parcel of land shown on Assessors Map 47, Block 40. Recorded Deed Book 842, Page 320 at the Middlesex North District Registry of Deeds, Lowell, Massachusetts.

Town Manager

Motion: The Finance Committee motioned to Adopt

Vote: Article 11 was Adopted 8:46 PM 10/1/19

**Executive Summary:** This article requests the Town authorize an easement for National Grid for new electric service to the new Elementary School.

### ARTICLE 12

To see if the Town will vote to authorize the Board of Selectmen to grant an easement to National Grid and its successors and assigns for the purpose of placing and maintaining a pole and underground cables, wires and conduit with the necessary appurtenances which would provide for the electric transmission in, on and over a certain parcel of land to service the Regional Emergency Communications Center owned by the Town and described below:

999 Whipple Road, Tewksbury, Massachusetts

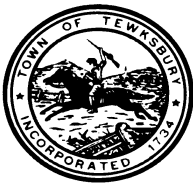
Parcel of land shown on Assessors Map 30, Block 26. Recorded Deed Book 846, Page 402 at the Middlesex North District Registry of Deeds, Lowell, Massachusetts.

Town Manager

Motion: The Finance Committee motioned to Adopt

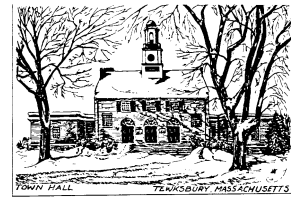
Vote: Article 12 was Adopted 8:47 PM 10/1/19

**Executive Summary:** This article requests the Town authorize an easement for National Grid for new electric service to the Regional Emergency Communications Center.



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### ARTICLE 13

To see if the Town will vote to accept a donation of an easement from PSI Atlantic Tewksbury LLC. The easement is shown on a plan entitled "As-Built Plan Cubesmart Self-Storage Facility 395 Woburn Street Tewksbury & Lowell, MA" dated May 8, 2019, revised August 15, 2019, prepared by Hayner/Swanson, Inc., 3 Congress Street Nashua, NH; or take any action relative thereto. A copy of the plans may be viewed at the Department of Public Works, Engineering Division 999 Whipple Road, Tewksbury, MA 01876, and the Town Clerk's Office, Town Hall, 1009 Main Street, Tewksbury, MA 01876.

Town Manager

Motion: The Finance Committee motioned to Adopt

Vote: Article 13 was Adopted

8:47 PM

10/1/19

**Executive Summary:** PSI Atlantic Tewksbury LLC is providing the Town a drainage easement across their land at 395 Woburn Street. The drainage piping and manholes for the stormwater management system on Woburn Street are located within this easement.

### ARTICLE 14

To see if the Town will vote to authorize the Board of Selectmen to sell all or a portion of the following parcels of land; or take any action relative thereto.

Address	Assessors		Square Feet	Current
	Map and Block	Acreage		Assessed Value
Maryland Road	81/15	0.46	20,038	\$ 27,900
Maryland Road	81/16	1.09	47,480	\$ 31,000
Mississippi Road	81/97	0.31	13,504	\$ 27,100
Boisvert Road	44/125	0.24	10,454	\$ 134,200
New York Road	81/169	0.31	13,504	\$ 27,100
New York Road	81/173	0.15	6,534	\$ 25,900
Maryland Road	81/140	0.19	8,276	\$ 131,600
Washington Street	49/9	0.15	6,534	\$ 58,100
Clinton Street	48/58	0.11	4,792	\$ 800
Rockland Street	34/30	0.18	7,841	\$ 29,600
David Street	101/17	0.24	10,454	\$ 35,200

Town Manager

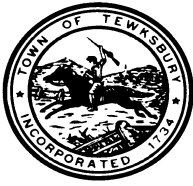
Motion: The Finance Committee motioned to Adopt

Vote: Article 14 was Adopted

8:48 PM

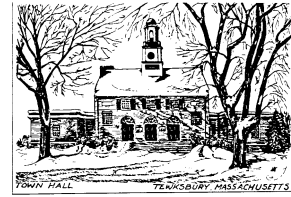
10/1/19

**Executive Summary:** This article would allow for the sale of these parcels of land in accordance with the Town By-Law.



# Town of Tewksbury

TOWN HALL  
1009 MAIN ST  
TEWKSBURY, MASSACHUSETTS 01876



## OFFICE OF TOWN CLERK

DENISE GRAFFEO, CMC/CMMC  
TOWN CLERK

Phone: 978-640-4355  
Fax: 978-851-8610  
[dgraffeo@tewbury-ma.gov](mailto:dgraffeo@tewbury-ma.gov)

### ARTICLE 15

To see if the voters of the Town of Tewksbury will vote to amend the Tewksbury General Bylaws by amending Chapter 6.04 Dogs - 6.04.160 Penalty Bylaw violation. (1) as shown, with DELETIONS denoted in strike-through format and ADDITIONS denoted in bold underline format. The amendment to the penalty structure shall include violations of 6.04.100 - Leash law. and 6.04.110 - Public nuisances; or take any action relative thereto.

#### **6.04.160 Penalty Bylaw violation.**

(1) The following penalties, except where otherwise indicated herein, shall be in effect for violations of the provisions of this bylaw:

Non-Criminal Disposition through Chapter 1.08, General Penalty Town of Tewksbury, Town By-Laws:		
1st Offense	<del>Warning</del>	<del>\$50</del>
2nd Offense	<del>\$ 50.00</del>	<del>\$100</del>
3rd Offense		<del>\$300</del>
Each Subsequent Offense	<del>\$100.00</del>	<del>\$500</del>

Town Manager

Motion: The Finance Committee motioned to Adopt

Vote: Article 15 was Adopted

8:56 PM

10/1/19

**Executive Summary:** Passage of this article will modify the existing Dog Bylaw to comply with new state regulations (MGL Chapter 140 Section 173A and Chapter 219, Acts of 2018)

### ARTICLE 16

To see if the town will adopt the following General by-Law; or take any action relative thereto.

#### **Chapter 21.04 MAINTENANCE OF VACANT BUILDINGS AND LAND**

##### **Sections:**

**21.04.010 Purpose**

**21.04.020 Definitions.**

**21.04.030 Maintenance Requirements.**

**21.04.040 Inspections.**

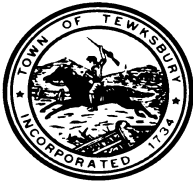
**21.04.050 Violations and Penalties.**

**21.04.060 Unsafe Buildings.**

**21.04.070 Severability.**

##### **21.04.010 Purpose.**

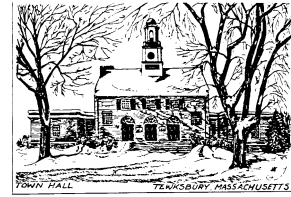
The purposes of this bylaw are to protect the welfare and economic vitality of the residents of the Town of Tewksbury (Town) by protecting property values, maintaining neighborhood integrity and accessibility, safeguarding against economic property blight, protecting Town resources, and ensuring the safe and sanitary maintenance of all vacant properties. Among other things, vacant properties can degrade the vitality of



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TOWN CLERK

Tewksbury's business districts, frustrate local planning and development efforts, create increased specific risks of fire damage, vandalism and unlawful entry or uses, and give rise to other public health and safety hazards. This bylaw is intended to promote the Town's public welfare and economic health by requiring all property owners to register and properly maintain vacant commercial and industrial properties.

### 21.04.020 Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

"Building Commissioner"- The Building Commissioner of the Town or his or her designee.

"Legally occupied" - Occupied in accordance with the provisions of the Massachusetts Building Code.

"Owner" - A person or entity who, alone or severally with others:

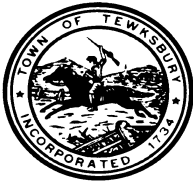
- A. Has legal or equitable title to any building or has care, charge or control of any building in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the holder of legal title; or
- B. Is a tenant with a legal right to possess an entire building; or
- C. Is a mortgagee in possession of any building; or
- D. Is an agent, trustee, receiver or other person appointed by the courts and vested with possession or control of a building; or
- E. Is an officer or trustee of an association of unit owners of a condominium or cooperative which contains a vacant property.

"Vacant Building" -Any unoccupied nonresidential commercial or industrial real property which:

- A. Is not legally occupied, is abandoned, or is not used for a period of at least twenty-one (21) consecutive days or longer by occupants having custody or legal right of entry to such property; or
- B. Which is intermittently occupied by persons with legal right of entry, but exhibits in the opinion of the Building Commissioner dilapidated walls or doors which fail to prevent the entry of a trespasser for a period of more than seven (7) days.

### 21.04.030 Maintenance Requirements.

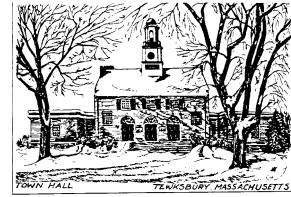
- A. The owner of a vacant building must maintain the vacant building in accordance with all applicable local and state Sanitary Codes, Building Codes and Fire Codes, pertaining to the external/visible maintenance of the building and major system maintenance of the property.
- B. The owner of a vacant building must promptly repair all broken windows, doors, other openings and any unsafe conditions at a vacant building. Boarding up of open or broken windows and doors is prohibited except as a temporary measure, unless the Building Commissioner determines that, due to vandalism or security reasons and due to circumstances out of the owner's control, the proper boarding of windows and doors is necessary for a determined period of time. Boards or coverings must be fitted to the opening size and colored to blend with the existing building color scheme.



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DENISE GRAFFEO, CMC/CMMC  
TOWN CLERK

- C. The owner must maintain the building and property for the duration of the vacancy or abandonment. The owner shall maintain the condition of the building and property so as to appear not to be vacant. Upon notice by the Building Commissioner, any accumulated trash and/or graffiti shall be removed from the property by the owner within seven (7) days. The Building Commissioner and/or his or her designee will document violations. The owner of any building vacant for a period exceeding six months, whose utilities have been shut off, shall have those utilities removed or cut and capped to prevent accidents.
- D. The owner may include advertising materials in the vacant space or displayed in the vacant property's street-facing windows.
- E. Compliance with this bylaw shall not relieve the owner of any obligations set forth in any other applicable bylaw, regulation, codes, covenant conditions or restrictions and/or association rules and/or regulations. In case of a conflict with these rules and regulations, the stricter of the rules and/or regulations shall apply.

### 21.04.040 Inspections.

- A. The Building Commissioner, Police Chief, Fire Chief and the Health Director, or their designees, shall have the authority to periodically inspect the exterior and interior of any building subject to this bylaw for compliance.
- B. The Building Commissioner shall have the discretionary authority to disconnect utilities immediately if a potential hazard that may be dangerous to life and limb is present.

### 21.04.050 Violations and Penalties.

- A. Violations of any portions of this bylaw shall be punishable by a fine of \$100 per day.
- B. The Building Commissioner or his or her designee shall enforce all provisions of this bylaw and shall institute all necessary administrative or legal action to assure compliance. Any owner found to be in violation of this bylaw shall receive a written warning and a minimum of seven (7) days to remedy all violations prior to the institution of any enforcement action by the Commissioner. The Building Commissioner, acting on behalf of the Town, may also bring a civil action in a court of competent jurisdiction seeking equitable relief to enforce this bylaw. This bylaw may also be enforced through non-criminal disposition in accordance with the provisions of the Town bylaws.

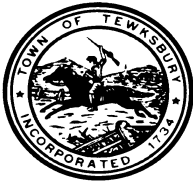
### 21.04.060 Unsafe Buildings.

If the Building Commissioner determines the building to be unsafe, the Building Commissioner may act immediately in accordance with the Massachusetts State Building Code to protect public safety. Furthermore, nothing in this bylaw shall abrogate the powers and/or duties of municipal officials to act pursuant to any general statutory authority including, without limitation, MGL c.139, § 1 et seq. and MGL c.143, § 6 et seq.

### 21.04.070 Severability

If any provision of this bylaw is held to be invalid by a court of competent jurisdiction, such provision shall be considered separate and apart from the remaining provisions, which shall remain in full force and effect; or take any action relative thereto.

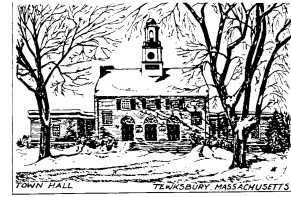
Board of Selectmen



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DENISE GRAFFEO, CMC/CMMC  
TOWN CLERK

Motion: The Finance Committee motioned to Adopt  
Richard Levasseur motion to Amend Article 16

Vote:	The Amendment was Adopted	8:59 PM	10/1/19
	Article 16 was Adopted as Amended	9:01 PM	10/1/19

**AMENDMENT:** Section 21.04.050, Subsection A: Replace \$100 with \$250. Add the following sentence: This fine cannot be waived by any town entity.

**ARTICLE 16 AS AMENDED:**

To see if the town will adopt the following General by-Law; or take any action relative thereto.

### Chapter 21.04 MAINTENANCE OF VACANT BUILDINGS AND LAND

**Sections:**

- 21.04.010 Purpose**
- 21.04.020 Definitions.**
- 21.04.030 Maintenance Requirements.**
- 21.04.040 Inspections.**
- 21.04.050 Violations and Penalties.**
- 21.04.060 Unsafe Buildings.**
- 21.04.070 Severability.**

**21.04.010 Purpose.**

The purposes of this bylaw are to protect the welfare and economic vitality of the residents of the Town of Tewksbury (Town) by protecting property values, maintaining neighborhood integrity and accessibility, safeguarding against economic property blight, protecting Town resources, and ensuring the safe and sanitary maintenance of all vacant properties. Among other things, vacant properties can degrade the vitality of Tewksbury's business districts, frustrate local planning and development efforts, create increased specific risks of fire damage, vandalism and unlawful entry or uses, and give rise to other public health and safety hazards. This bylaw is intended to promote the Town's public welfare and economic health by requiring all property owners to register and properly maintain vacant commercial and industrial properties.

**21.04.020 Definitions.**

As used in this bylaw, the following terms shall have the meanings indicated:

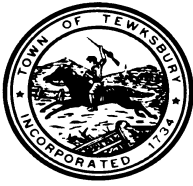
"Building Commissioner"- The Building Commissioner of the Town or his or her designee.

"Legally occupied" - Occupied in accordance with the provisions of the Massachusetts Building Code.

"Owner" - A person or entity who, alone or severally with others:

- A. Has legal or equitable title to any building or has care, charge or control of any building in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the holder of legal title; or
- B. Is a tenant with a legal right to possess an entire building; or

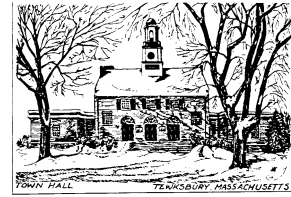




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TOWN CLERK

- C. Is a mortgagee in possession of any building; or
- D. Is an agent, trustee, receiver or other person appointed by the courts and vested with possession or control of a building; or
- E. Is an officer or trustee of an association of unit owners of a condominium or cooperative which contains a vacant property.

"Vacant Building" -Any unoccupied nonresidential commercial or industrial real property which:

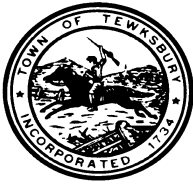
- A. Is not legally occupied, is abandoned, or is not used for a period of at least twenty-one (21) consecutive days or longer by occupants having custody or legal right of entry to such property; or
- B. Which is intermittently occupied by persons with legal right of entry, but exhibits in the opinion of the Building Commissioner dilapidated walls or doors which fail to prevent the entry of a trespasser for a period of more than seven (7) days.

### 21.04.030 Maintenance Requirements.

- A. The owner of a vacant building must maintain the vacant building in accordance with all applicable local and state Sanitary Codes, Building Codes and Fire Codes, pertaining to the external/visible maintenance of the building and major system maintenance of the property.
- B. The owner of a vacant building must promptly repair all broken windows, doors, other openings and any unsafe conditions at a vacant building. Boarding up of open or broken windows and doors is prohibited except as a temporary measure, unless the Building Commissioner determines that, due to vandalism or security reasons and due to circumstances out of the owner's control, the proper boarding of windows and doors is necessary for a determined period of time. Boards or coverings must be fitted to the opening size and colored to blend with the existing building color scheme.
- C. The owner must maintain the building and property for the duration of the vacancy or abandonment. The owner shall maintain the condition of the building and property so as to appear not to be vacant. Upon notice by the Building Commissioner, any accumulated trash and/or graffiti shall be removed from the property by the owner within seven (7) days. The Building Commissioner and/or his or her designee will document violations. The owner of any building vacant for a period exceeding six months, whose utilities have been shut off, shall have those utilities removed or cut and capped to prevent accidents.
- D. The owner may include advertising materials in the vacant space or displayed in the vacant property's street-facing windows.
- E. Compliance with this bylaw shall not relieve the owner of any obligations set forth in any other applicable bylaw, regulation, codes, covenant conditions or restrictions and/or association rules and/or regulations. In case of a conflict with these rules and regulations, the stricter of the rules and/or regulations shall apply.

### 21.04.040 Inspections.

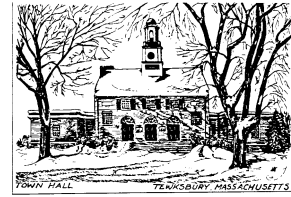
- A. The Building Commissioner, Police Chief, Fire Chief and the Health Director, or their designees, shall have the authority to periodically inspect the exterior and interior of any building subject to this bylaw for compliance.
- B. The Building Commissioner shall have the discretionary authority to disconnect utilities immediately if a potential hazard that may be dangerous to life and limb is present.



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TOWN CLERK

### 21.04.050 Violations and Penalties.

- A. Violations of any portions of this bylaw shall be punishable by a fine of \$250 per day and this fine cannot be waived by any town entity.
- B. The Building Commissioner or his or her designee shall enforce all provisions of this bylaw and shall institute all necessary administrative or legal action to assure compliance. Any owner found to be in violation of this bylaw shall receive a written warning and a minimum of seven (7) days to remedy all violations prior to the institution of any enforcement action by the Commissioner. The Building Commissioner, acting on behalf of the Town, may also bring a civil action in a court of competent jurisdiction seeking equitable relief to enforce this bylaw. This bylaw may also be enforced through non-criminal disposition in accordance with the provisions of the Town bylaws.

### 21.04.060 Unsafe Buildings.

If the Building Commissioner determines the building to be unsafe, the Building Commissioner may act immediately in accordance with the Massachusetts State Building Code to protect public safety. Furthermore, nothing in this bylaw shall abrogate the powers and/or duties of municipal officials to act pursuant to any general statutory authority including, without limitation, MGL c.139, § 1 et seq. and MGL c.143, § 6 et seq.

### 21.04.070 Severability

If any provision of this bylaw is held to be invalid by a court of competent jurisdiction, such provision shall be considered separate and apart from the remaining provisions, which shall remain in full force and effect; or take any action relative thereto.

**Executive Summary:** The purposes of this bylaw are to insure properties are properly maintained and do not adversely affect the residents of the Town.

## ARTICLE 17

To see if the Town will vote to amend the Tewksbury General Bylaw, Chapter 5.10 Marijuana Establishments by deleting the sentence below shown as a strikeout; or take any other action relative thereto.:

### Chapter 5.10 Marijuana Establishments

Consistent with M.G.L. c. 94G, § 3(a)(2), all types of marijuana establishments as defined in M.G.L. c. 94G, § 1, including marijuana cultivators, independent testing laboratories, marijuana product manufacturers, and/or any other types of licensed non-retailer marijuana-related businesses, except, however, marijuana retailers previously prohibited, shall be prohibited within the Town. ~~This provision will expire December 31, 2019; or take any other action relative thereto.~~

Board of Selectmen

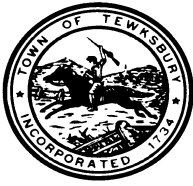
Motion: The Finance Committee motioned to Adopt  
The Board of Selectmen recommended Against Adoption of Article 17

Vote: Article 17 Failed

9:04 PM

10/1/19

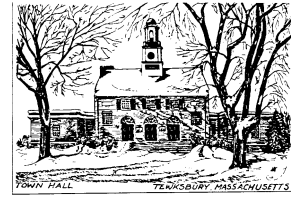
**Executive Summary:** Based on a non-binding ballot resolution the Town of Tewksbury voted against these types of marijuana establishments. This article removes the sunset provision, making the ban permanent.



# Town of Tewksbury

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## ARTICLE 18

To see if the Town will vote to amend the Tewksbury Zoning Bylaw Section 6800.2 by deleting the sentence below shown as a strikeout; or take any other action relative thereto.:

### 6800.2 Marijuana Establishments

Consistent with M.G.L. c.94G, § 3(a) (2), all types of marijuana establishments as defined in M.G.L.c.94G, § 1, including marijuana cultivators, independent testing laboratories, marijuana product manufacturers, and/or any other types of licensed non-retailer marijuana-related businesses, except however, marijuana retailers previously prohibited, shall be prohibited within the Town. ~~This provision will expire December 31, 2019.~~

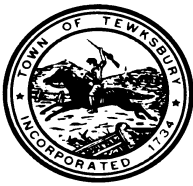
#### Board of Selectmen

Motion: The Finance Committee motioned to Adopt  
The Board of Selectmen recommended Against Adoption of Article 18  
The Planning Board voted 5-0 to recommend Adoption at their Public Hearing held September 9, 2019  
Planning Board Chair, Stephen Johnson rose in opposition to the article and informed the Assembly that the Planning Board has since re-voted 5-0 and changed their recommendation to Defeat the Article

Vote: Article 18 Failed Yes 8/ No 64 (2/3 Required) 9:05 PM 10/1/19

**Executive Summary:** Based on a non-binding ballot resolution the Town of Tewksbury voted against these types of marijuana establishments. This article removes the sunset provision, making the ban permanent.

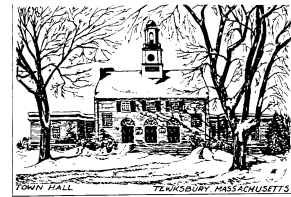
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TOWN CLERK

## ARTICLE 19

To see if the Town will vote to amend the Tewksbury Zoning Map dated September 2017 by adding parcels 102-16 and 103-102 to the HI1 district as depicted by the cross-hatched map below; or take any other action relative thereto.

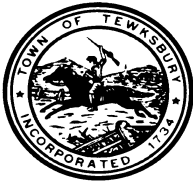


Town Manager

Motion: The Finance Committee motioned to Adopt  
The Planning Board recommended Adoption  
Jonathan Ricker motioned for Indefinite Postponement

Vote:	Indefinite Postponement Failed	9:12 PM	10/1/19
	Article 19 was Adopted 61 Yes/2 No (2/3 required=42)	9:13 PM	10/1/19

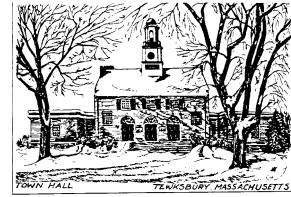
**Executive Summary:** Article 36 of the 2019 Annual Town Meeting was approved by vote of 152 Yes to 18 No to change the zoning of parcels 102-16 and 103-102 to HI1. The Attorney General’s review of the article informed the Town that the Zoning Map itself needs to be amended to reflect the approved changes of Article 36.



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DENISE GRAFFEO, CMC/CMMC  
TOWN CLERK

### ARTICLE 20

To see if the Town will vote to amend the zoning By-Laws as follows:

By adding to that portion of Appendix A, Table of Use Regulations, Section B, Exempt and Institutional Uses, the use "Assisted Living Facility" as defined in Section 10000 of the Zoning By-Laws.

And by adding that portion of Appendix A, Table of Use Regulations, Section B, Exempt and Institutional Uses, the use "Special Care Residence" as defined in 651 CMR 12.00.

B. EXEMPT AND INSTITUTIONAL USES	R40	FA	LB	COM	TR	P	MN	MFD	MFD/55	CDD	HI	HI-1	OR	WNB
13. Assisted Living Facility	PB	N	N	PB	N	N	PB	N	N	N	PB	PB	PB	PB
14. Special Care Residence	PB	N	N	PB	N	N	PB	N	N	N	PB	PB	PB	PB

And by amending Section 10000. DEFINITIONS by inserting the following:

**SPECIAL CARE RESIDENCE:** A "special care residence" as defined in 651 CMR 12.00.

Michael Saccone

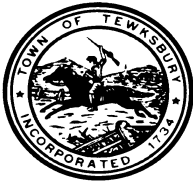
Motion: The Finance Committee deferred to the Planning Board  
The Planning Board motioned to Amend Article 20  
Jonathan Ricker motioned to Amend Article 20  
Robert Wald motioned to Amend Article 20  
David Plunkett motioned to Adopt the Article as Amended  
Judith Norton motioned to Move the Question on Wald's Amendment

Point of Order: Robert Wald's motion to Amend Article 20 Failed on a voice vote. Barbara Flanagan and seven others challenged the voice vote causing the Moderator to perform a standing count

Vote:	The Planning Board Amendment was Adopted	9:32 PM	10/1/19
	Jonathan Ricker's Amendment was Adopted	9:34 PM	10/1/19
	The motion to Move the Question on Wald's Amendment was Adopted	9:54 PM	10/1/19
	Robert Wald's Amendment Failed on a Voice Vote	9:55 PM	10/1/19
	Robert Wald's Amendment Failed by Standing Count 88 Yes/91 No	9:57 PM	10/1/19
	Article 20 Failed as Amended Yes 80/No 100 (2/3 required)	10:02PM	10/1/19

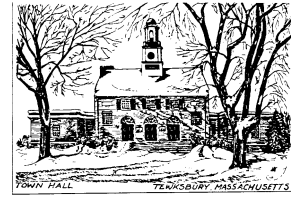
### PLANNING BOARD AMENDMENT - ADOPTED:

B. EXEMPT AND INSTITUTIONAL USES	R40	FA	LB	COM	TR	P	MN	MFD	MFD/55	CDD	HI	HI-1	OR	WNB
13. Assisted Living Facility	<del>PB</del> N	N	N	PB	N	N	PB	N	N	N	PB	PB	PB	PB
14. Special Care Residence	<del>PB</del> N	N	N	PB	N	N	PB	N	N	N	PB	PB	PB	PB



# Town of Tewksbury

TOWN HALL  
1009 MAIN ST  
TEWKSBURY, MASSACHUSETTS 01876



## OFFICE OF TOWN CLERK

DENISE GRAFFEO, CMC/CMMC  
TOWN CLERK

Phone: 978-640-4355

Fax: 978-851-8610

[dgraffeo@tekwksbury-ma.gov](mailto:dgraffeo@tekwksbury-ma.gov)

### JONATHAN RICKER'S AMENDMENT: - ADOPTED:

B. EXEMPT AND INSTITUTIONAL USES	R40	FA	LB	COM	TR	P	MN	MFD	MFD/55	CDD	HI	HI-1	OR	WNB
13. Assisted Living Facility	<del>PB</del> N	N	N	<del>PB</del> N	N	N	<del>PB</del> N	N	N	N	PB	PB	<del>PB</del> N	<del>PB</del> N
14. Special Care Residence	<del>PB</del> N	N	N	<del>PB</del> N	N	N	<del>PB</del> N	N	N	N	PB	PB	<del>PB</del> N	<del>PB</del> N

### ROBERT WALD'S AMENDMENT - FAILED:

B. EXEMPT AND INSTITUTIONAL USES	R40	FA	LB	COM	TR	P	MN	MFD	MFD/55	CDD	HI	HI-1	OR	WNB
13. Assisted Living Facility	N	N	N	<del>N</del> PB	N	N	N	N	N	N	PB	PB	N	N
14. Special Care Residence	N	N	N	<del>N</del> PB	N	N	N	N	N	N	PB	PB	N	N

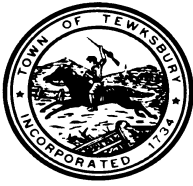
**Summary:** (Town By-Law 204.020). The purpose of this article is to allow the lawful use, with planning board approval, of a new or existing building as an assisted living facility in the HI zoning district. In addition, purpose of this article is to allow the lawful use, with planning board approval, of a new or existing building as a special care residence in the HI zoning district.

## ARTICLE 21

- To see if the Town will vote to amend Section 2000 "Districts," by adding a new zoning district to Section 2100 "Establishment" entitled "Residence R10 District- (R10)".
- To see if the Town will vote to amend "Appendix A Table of Use Regulations" by adding a new column entitled R10 to the Table of Use Regulations as follows:

A. RESIDENTIAL USES	R10
1. Single-family dwelling	Y
2. Two-family dwelling	N
3. Multi-family dwelling	N
4. Multi-family dwelling/55	N
5. Community Development Project	N
6. Cluster Development	PB
7. Open Space Residential Design	PB
8. Family Suite By Right	Y
9. Family Suite By Special Permit	PB

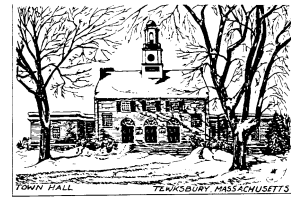




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3. To see if the Town will vote to amend "Appendix B Table of Dimensional Requirements" by adding a new column entitled R10 to the Table of Dimensional Requirements as follows:

<u>DISTRICT</u>	<u>Min. Lot Area (acre)</u>	<u>Min. Frontage (ft.)</u>	<u>Min. front yard (ft.)</u>	<u>Min. side and rear yard (ft.)</u>	<u>Max. Building Height (stories/ft.)</u>	<u>Max. Building Coverage (%of lot)</u>
R10	.25	100	25	15	2.5/35	20

4. To see if the Town will vote to amend the Town of Tewksbury Zoning Map dated September 2017 to include a Residence R10 Zoning District as identified below:



Oblate Fathers

Motion: On behalf of the Oblate Fathers, Attorney David Plunkett motioned to Withdraw Article 21

Vote: Article 21 was Withdrawn 10:03PM 10/1/19

**Summary:** The intent of the proposed articles is to provide a new Zoning District (R10) to allow for .25 acre zoning at the property at 527 Chandler Street owned by the Oblate Fathers for single family dwellings.

Finance Committee Chairman, Robert Kocsmiersky, motioned to Adjourn the October 1, 2019 Special Town Meeting Sine Die, and this motion was Adopted. 10:03 PM 10/1/19

RESPECTFULLY SUBMITTED:

DENISE GRAFFEO, TOWN CLERK