

MARTHA COAKLEY  
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION  
10 MECHANIC STREET, SUITE 301  
WORCESTER, MA 01608

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[www.mass.gov/ago](http://www.mass.gov/ago)

March 29, 2013

Via Electronic Mail

Sandra J. Burgess, Town Clerk  
Town of Amherst  
4 Boltwood Avenue  
Amherst, MA 01002

RE: Amherst Special Town Meeting of November 19, 2012 - Case # 660  
Warrant Articles # 10, 11, 13, 14, 15 and 17 (Zoning)  
Warrant Articles # 9 and 19 (General)

2013 MAR 29 PM 1:36  
AMHERST TOWN CLERK

Dear Ms. Burgess:

Articles 9, 10, and 19 – We approve the amendments adopted under these Articles on the warrant for the Special Town Meeting which first convened on November 19, 2012. Our comments on Article 9 are detailed below.

Articles 11, 13, 14, 15 and 17 – Pursuant to the provisions of G.L. c. 40, § 32 (as amended by Chapter 299 of the Acts of 2000), the deadline for the AGO decision on these Articles has been extended for an additional 30 days to April 30, 2013. We have filed the signed extension agreement with you this date.

Article 9 – The amendments adopted under Article 9 add a new general by-law prohibiting food establishments and town facilities from dispensing prepared food to customers in containers made from expanded polystyrene (“EPS”) as of January 1, 2014. The amendments are consistent with the Town’s police power to protect the health, safety and welfare of the Town’s inhabitants, and do not conflict with state law. *See, e.g.*, General Laws Chapter 40, Section 21 (“Towns may...make such ordinances and by-laws, not repugnant to law, as they may judge most conducive to their welfare...” including by-laws “[f]or directing and managing their prudential affairs, preserving peace and good order...”). *See also Bloom v. Worcester*, 363 Mass. 136, 154 (1973) (requiring a “sharp conflict” between a local by-law and a state statute before the local by-law may be held invalid). On this basis we approve the amendments adopted

under Article 9, but offer the following comments on certain sections of the by-law.<sup>1</sup>

The new general by-law adopted under Article 9, "Ban of EPS Foam in Food Establishments and Town Facilities," is supported by a list of specific findings reflecting the purpose of the by-law. The findings include the following: EPS containers are not recyclable or biodegradable, and EPS containers form a "significant portion of the solid waste stream going into our landfills;" styrene, the "key ingredient" in EPS containers, was recently added to the "National Toxicology Program's list of carcinogens (U.S. Department of Health and Human Services);" "Styrene can leach from polystyrene containers into food and beverages;" and "[a]ppropriate alternative products are readily available from the vendors used by local food establishments; cooperative bulk buying arrangements are possible." These findings reflect a dominant purpose of the by-law to be protection of "the health and welfare of Town inhabitants." (Section 3, "Findings").<sup>2</sup>

The prohibition section of the by-law establishes that, beginning January 1, 2014 food establishments and town facilities from dispensing prepared food to customers in containers made from EPS.<sup>3</sup> The by-law authorizes the Board of Health to grant a one year deferment upon written application and after a public hearing, upon a showing by the food establishment that the by-law's requirements would cause an undue hardship. (Section 6 (A)). "Undue hardship" is defined as a situation unique to the food establishment where there are no reasonable alternatives to the use of EPS food containers and compliance with the by-law would cause significant economic hardship. (Section 6). Although the Health Department is authorized to adopt regulations and administrative procedures to carry out the terms of the by-law, we note that the by-law itself does not establish when after the hearing the Board of Health must issue its decision on a deferment application. We suggest that the Town discuss with Town Counsel these and other hearing and decision requirements to ensure that it satisfies due process requirements.

We also note that Section 6 (F) states that "Deferment decisions are effective immediately and final." We construe this to mean the Town has not established any Town-based appeal procedure to another Town Board, such as the Board of Selectmen. Those affected by an adverse decision will have the opportunity to challenge the Board of Health decision in court.

The Health Department or its designee is established as the primary enforcement agency and is authorized to suspend or revoke a food service permit for failure to comply with the by-law. Before the Town may revoke a license, the Town must first hold a hearing with notice to interested parties in order to comply with due process requirements. Lapointe v. Licensing Board

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<sup>1</sup> This Office has previously approved a similar by-law adopted by the towns of Great Barrington (decision issued August 30, 1990) and Nantucket (decision March 14, 1990).

<sup>2</sup> We note these findings because they reflect a proper legal purpose for the by-law, as opposed to policy arguments. The Attorney General's review of bylaws pursuant to G.L. c. 40, § 32 is limited to the bylaw's consistency with state substantive and procedural law, rather than a consideration of the policy arguments for or against the enactment. Amherst v. Attorney General, 398 Mass. 793, 798-799 (1986) ("Neither we nor the Attorney General may comment on the wisdom of the town's by-law.").

<sup>3</sup> The terms "Disposable Food Service Container," "Food Establishments," "Expanded Polystyrene," "Polystyrene," "Prepared Food," "Town Facility," and "Town Facility Users" are all clearly defined in Section 4, Definitions.

of Worcester, 389 Mass. 454, 458 (1983). We suggest the Town discuss with Town Counsel what notice and hearing provisions may be necessary to ensure the Town complies with due process requirements before suspending or revoking a food service permit.

The by-law authorizes the Health Department to issue regulations or administrative procedures to carry out the by-law's terms. (Section 7 (C)). We urge the Health Department to consult with Town Counsel when drafting these regulations and policies because the Town has no authority to adopt regulations or policies that are inconsistent with state law. American Lithuanian Naturalization Club v. Board of Health of Athol, 446 Mass. 310, 321 (2006).<sup>4</sup>

**Note:** Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

MARTHA COAKLEY  
ATTORNEY GENERAL

*Margaret J. Hurley*

by: Margaret J. Hurley, Assistant Attorney General  
Chief, Central Massachusetts Division  
Director, Municipal Law Unit  
Ten Mechanic Street, Suite 301  
Worcester, MA 01608  
(508) 792-7600 x 4402

cc: Town Counsel Joel B. Bard (via electronic mail)

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<sup>4</sup> During the course of our review of Article 9 we have received communications from the food industry urging us to disapprove the by-law on policy grounds. While we cannot base our decision on such policy arguments, the input has helped inform our understanding of the issue and its importance to the industry.



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March 28, 2013

Sent Via Electronic Mail

Joel Bard, Esq.  
Town Counsel, Town of Amherst  
Kopelman & Paige, P.C.  
101 Arch Street  
Boston, MA 02110

Re: Extension of 90 day review period of Articles 11, 13, 14, 15 and 17  
Amherst Special Town Meeting of November 19, 2012 - Case # 6603

2013 MAR 29 PM 1:36  
AMHERST TOWN CLERK

Dear Attorney Bard:

Pursuant to the requirements of G.L. c. 40, § 32, as amended by Chapter 299 of the Acts of 2000, the Attorney General and the Town Council are authorized to extend the 90-day period provided for the Attorney General's review of town by-laws for not more than an additional 90 days. This letter serves to satisfy the requirements of G.L. c. 40, § 32, as amended. In light of our need for time to further discuss the by-laws' consistency with state law, we hereby jointly agree to extend the Attorney General's 90-day review period of Articles 11, 13, 14, 15 and 17 for an additional 30 days. The decision on Articles 11, 13, 14, 15 and 17 will now be due on or before April 30, 2013.

Please sign this letter to reflect your agreement and email it back to us or authorize this Office to sign it on your behalf. We will then file the letter with the Town Clerk via electronic mail, with a copy to you. Thank you.

Very truly yours,  
MARTHA COAKLEY  
ATTORNEY GENERAL

*Margaret J. Hurley*

by: Margaret J. Hurley, Assistant Attorney General  
Chief, Central Massachusetts Division  
Director, Municipal Law Unit  
Ten Mechanic Street, Suite 301  
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(508) 792-7600 x 4402

*Atty Joel Bard (KEG)*  
Town Counsel

03/28/13  
Date

Town of



# Amherst Massachusetts

DEPARTMENT NAME

Sandra J. Burgess, Town Clerk  
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## ARTICLE 9

### Form 1 – Submission 2

### TOWN MEETING ACTION

#### ARTICLE 9. General Bylaw – Ban of EPS Foam In Food Establishments and Town Facilities (Recycling and Refuse Management Committee)

**VOTED** to adopt the following bylaw regarding the use of expanded polystyrene disposable food and beverage containers by food establishments in the Town of Amherst.

#### SECTION 1 PURPOSE

This bylaw is enacted pursuant to the general police power in order to protect the health, safety and welfare of the inhabitants of the Town.

#### SECTION 2 EFFECTIVE DATE

This bylaw shall take effect on January 1, 2014.

#### SECTION 3 FINDINGS

Expanded polystyrene food containers form a significant portion of the solid waste stream going into our landfills. Local landfills are running out of room; our future solid waste may have to be transported hundreds of miles to a landfill at considerable cost.

Expanded polystyrene food containers are not recyclable, nor are they biodegradable. Once buried in our landfills, they will persist for centuries.

Styrene, the key ingredient in expanded polystyrene, was recently added to the National Toxicology Program's list of carcinogens (U.S. Department of Health and Human Services). Styrene can leach from polystyrene containers into food and beverages.

Many communities in the United States have banned expanded polystyrene food containers, including Seattle WA, Freeport Maine, Great Barrington MA and Nantucket MA.

Approximately 60% of Amherst food establishments have already stopped using expanded polystyrene food containers.

University of Massachusetts/Amherst, Amherst College, and Hampshire College food services have eliminated single-use expanded polystyrene food containers from their dining halls.

Appropriate alternative products are readily available from the vendors used by local food establishments; cooperative bulk buying arrangements are possible.

Thus, elimination of expanded polystyrene food containers is in the best interest of the health and welfare of Town inhabitants.

#### SECTION 4 DEFINITIONS

"Disposable Food Service Container" means single-use disposable products for serving or transporting prepared, ready-to-consume food or beverages. This includes but is not limited to plates, cups, bowls, trays and hinged or lidded containers. This definition does not include single-use disposable items such as straws, cup lids, or utensils, nor does it include single-use disposable packaging for unprepared foods.

"Food Establishment" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption, as further defined in 105 CMR 590.002. Any establishment requiring a permit to operate in

accordance with the State Food Code, 105 CMR 590.000, et. seq., shall be considered a Food Establishment for purposes of this bylaw.

“Expanded Polystyrene” (EPS) means polystyrene that has been expanded or “blown” using a gaseous blowing agent into a solid foam.

“Polystyrene” means expanded polystyrene which is a thermoplastic petrochemical material utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, form molding, and extrusion-blow molding (extruded foam polystyrene). The term “polystyrene” also includes clear or solid polystyrene which is known as “oriented polystyrene”.

“Prepared Food” means any food or beverage prepared for consumption on the Food Establishment’s premises, using any cooking or food preparation technique. This does not include any raw uncooked meat, fish or eggs unless provided for consumption without further food preparation.

“Town Facility” means any building, structure, land or park owned or operated by the Town of Amherst, its agents and departments.

“Town Facility Users” means all persons, societies, associations, organizations or special event promoters who require a permission to use a Town Facility. Town Facility Users also includes concession contracts with the Town, Town-managed concessions, Town-sponsored events and food services provided at the Town’s expense.

#### SECTION 5 PROHIBITION

A. Except as provided herein, Food Establishments are prohibited from dispensing Prepared Food to customers in Disposable Food Service containers made from Expanded Polystyrene.

B. Town Facility Users are prohibited from dispensing Prepared Food to customers in Disposable Food Service containers made from Expanded Polystyrene.

#### SECTION 6 DEFERMENTS

A. Upon written application, the Board of Health, after a public hearing, may defer application of this Bylaw for a Food Establishment for a one year period, upon a showing by the Food Establishment that the conditions of this Bylaw would cause undue hardship. For purposes of this Bylaw, an “undue hardship” is a situation unique to the Food Establishment where there are no reasonable alternatives to the use of expanded polystyrene disposable food service containers and compliance with this provision would cause significant economic hardship to that Food Establishment.

B. A Food Establishment granted a deferment by the Town must reapply prior to the end of the one year exemption period and demonstrate continued undue hardship, if it wishes to have the deferment extended. Deferments may only be granted for intervals not to exceed one year.

C. A deferment granted in accordance with this Section may be extended for no more than one additional one year period, upon written application to the Board of Health at least two months prior to the expiration of the first deferment period and upon a showing that the circumstances justifying the deferment continue to exist.

D. A deferment application shall include all information necessary for the Town to make its decision, including, but not limited to, documentation showing the factual support for the claimed deferment. The Board of Health may require the applicant to provide additional information to permit it to determine facts regarding the deferment application.

E. The Board of Health may approve the deferment application, in whole or in part, with or without conditions that it deems necessary to protect the public health and further the interests of this Bylaw.

F. Deferment decisions are effective immediately and final.

#### SECTION 7 ENFORCEMENT

A. The Health Department or its designee shall inquire on an annual basis regarding any food establishment’s compliance with this bylaw as a condition for renewal of the establishment’s food service permit.

B. The Board of Health, after a hearing conducted in accordance with the procedures set forth in 105 CMR 590.14 and 105 CMR 590.15, may suspend or revoke the food service permit for any establishment failing to comply with this bylaw.

C. The Health Department or its designee shall have primary responsibility for enforcement of this provision and shall have authority to issue citations for violation(s). The Health Department or its designee is authorized to establish regulations or administrative procedures and to take any and all actions reasonable and necessary to further the purposes of this chapter or to obtain compliance with this chapter, including, but not limited to, inspecting any vendor's premises to verify compliance in accordance with applicable law.

D. The Health Department may enforce this by-law or enjoin violations thereof through any lawful process, and the election of one remedy by the Health Department shall not preclude enforcement through any other lawful means.

E. Penalties and Fines for Violations

Violations of this ordinance may be enforced as follows:

1. This bylaw shall be enforced by the Health Department or its designee, including the Department of Public Works. Whoever violates any provision of this bylaw may be penalized by a non-criminal disposition process as provided in G.L. c.40, §21D and the Town's non-criminal disposition bylaw. If non-criminal disposition is elected, then any person who violates any provision of this bylaw shall be subject to the following penalties:

For the first violation, the Health Department or its designee, upon determination that a violation has occurred, shall issue a written warning notice to the food establishment which will specify the violation and the appropriate penalties in the event of future violations.

Thereafter, the following penalties shall apply:

(a). A fine of one hundred dollars (\$100.00) for the first violation following the issuance of a warning notice.

(b). A fine of two hundred and fifty dollars (\$250.00) for the second and any other violation that occurs following the issuance of a warning notice.

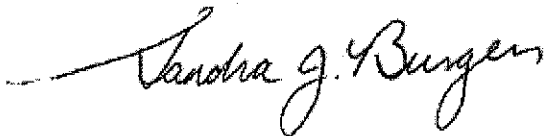
2. Fines are cumulative and each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

3. Whoever violates any provision of this bylaw may be penalized by indictment or on complaint brought in the district court. Except as may be otherwise provided by law and as the district court may see fit to impose, the maximum penalty for each violation or offense shall be three hundred dollars.

Action taken on 11/19/12

*(A motion was made to change the implementation date to July 1, 2013. Motion to amend was defeated)*

A true copy, Attest:



Sandra J. Burgess  
Town Clerk





Town of



# Amherst Massachusetts

DEPARTMENT NAME

Sandra J. Burgess, Town Clerk  
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4 Boltwood Avenue  
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## ARTICLE 19

### Form 1 – Submission 2

### TOWN MEETING ACTION

#### ARTICLE 19. Petition – General Bylaw – Nuisance House Bylaw Change (Maurianne Adams et al)

Amherst Representative Town Meeting having found that:

1. the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst has been adversely affected by the unusually large number of violations of law at or near residential rental premises with absentee ownership, committed by the residents of such properties and their guests, that require the frequent attention of the town's police, ambulance, and other services, thereby straining the towns financial capacity and ability to respond to calls for assistance from others; and,
2. the owners and managers of these rental properties have failed to exercise control over them in a responsible manner, allowing disruption to neighborhoods and undue expense to the Town;

**VOTED** to amend its General Bylaws "Nuisance House" by adding the language in **boldface** and deleting the underlined language as follows:

#### Purpose

In accordance with the Town of Amherst's Home Rule Authority, and to protect the health, safety, and welfare of the inhabitants of the Town, this bylaw shall permit the Town to impose liability on owners, **rental property managers** and other responsible persons for the nuisances and harm caused by loud and unruly gatherings on private property and shall discourage the consumption of alcoholic beverages by underage persons at such gatherings.

#### §1. Definitions

Alcohol means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

Alcoholic beverage means all liquids intended for human consumption as a beverage which contain one half of one percent or more of alcohol by volume at sixty degree Fahrenheit, including malt beverages.

Eviction means actively trying to evict a tenant from a premise by delivery of a notice to quit and subsequent court proceedings, if a tenant fails to vacate the premises.

Gathering is a party, gathering, or event, where a group of persons have assembled or are assembling for a social occasion or social activity.

Legal Guardian means (1) a person who, by court order, is the guardian of the person of a minor; or (2) a public or private agency with whom a minor has been placed by the court.

Underage Person means any person under twenty-one years of age.

Parent means a person who is a natural parent, adoptive parent, foster parent, or stepparent of another person.

Premises means any residence or other private property, place, or location, including any commercial or business property.

Property owner means the legal owner of record as listed by the tax assessors records.

Public Nuisance means a gathering of persons on any premises in a manner which constitutes a violation of law or creates a substantial disturbance of the quiet enjoyment of private or public property in a significant segment of a neighborhood. Unlawful conduct includes, but is not limited to excessive noise, excessive pedestrian and vehicular traffic, obstruction of public streets by crowds or vehicles, illegal parking, public urination, the service of alcohol to underage persons, fights, disturbances of the peace, and litter.

Response costs are the costs associated with responses by law enforcement, fire, and other emergency response providers to a gathering as set forth in a schedule of costs established by the Board of Selectmen.

Rental Property Manager or Management organization.

Any person or organization acting on behalf of a rental housing owner or owners to screen and place tenants, collect rent, security deposits and other fees, maintain and secure rental housing property, or any or all of the above.

## §2. Consumption of Alcohol by Underage Persons Prohibited in Public Place, Place Open to Public, or Place Not Open to Public

Except as permitted by state law, it is unlawful for any underage person to:

- (a) consume at any public place or any place open to the public any alcoholic beverage; or
- (b) consume at any place not open to the public any alcoholic beverage, unless in connection with the consumption of the alcoholic beverage the underage person is being supervised by his or her parent or legal guardian.

## §3. Hosting, Permitting, or Allowing a Public Nuisance or Party, Gathering, or Event Where Underage Persons Consuming Alcoholic Beverages Prohibited

(a) It is the duty of any person having control of any premises who knowingly hosts, permits, or allows a gathering at said premises to take all reasonable steps to prevent the consumption of alcoholic beverages by any underage person at the gathering. Reasonable steps include, but are not limited to, controlling access to alcoholic beverages at the gathering; controlling the quantity of alcoholic beverages present at the gathering; verifying the age of persons attending the gathering by inspecting driver's licenses or other government-issued identification cards to ensure that underage persons do not consume alcoholic beverages while at the gathering; and supervising the activities of underage persons at the gathering.

(b) A gathering constituting a public nuisance may be abated by all reasonable means including, but not limited to, an order by the Police requiring the gathering to be disbanded and citation and/or arrest of any persons under any applicable provision of local or state law.

(c) It is unlawful for any person having control of any premises to knowingly host, permit or allow a gathering to take place at said premises where at least one underage person consumes an alcoholic beverage, provided that the person having control of the premises either knows an underage person has consumed an alcoholic beverage or reasonably should have known that an underage person

consumed an alcoholic beverage and the person having control of said premises failed to take all reasonable steps to prevent the consumption of an alcoholic beverage by an underage person.

(d) This Section shall not apply to conduct involving the use of alcoholic beverages that occurs exclusively between an underage person and his or her parent or legal guardian as set forth in G.L. c.138, §34.

(e) This Section shall not apply to any Massachusetts Alcoholic Beverages Control Commission licensee at any premises regulated by the Massachusetts Alcoholic Beverage Control Commission.

#### §4. Mailing of Notice to Property Owner.

Notice of response by police or other local officials to a gathering shall be mailed **by the Amherst Police Department** to any property owner listed on the Town of Amherst property tax assessment records **and the rental housing manager or management organization, advising them property owner** that the third such response on the same premises within a one year period, as measured from the date of the first notice, shall result in liability of the property owner **and rental housing manager or management organization** for all penalties associated with such response as more particularly described below.

#### §5. Persons Liable for a First and Second Response to a Gathering Constituting a Public Nuisance.

If the police department is required to respond to a gathering constituting a public nuisance on the premises, the following persons shall be jointly and severally liable for fines as set forth below. Response costs **shall may** also be assessed.

- (a) The person or persons residing on or otherwise in control of the property where such gathering took place.
- (b) The person or persons who organized or sponsored such gathering.
- (c) All persons attending such gatherings who engage in any activity resulting in the public nuisance.

#### §6. Persons Liable for a Third and Subsequent Response to a Gathering Constituting a Public Nuisance.

If the police department is required to respond to a gathering constituting a public nuisance on the premises more than twice in any one year period, as measured from the date of the first response, the following persons shall be jointly and severally liable for fines as set forth below. Response costs **shall may** also be assessed.

- (a) The person or persons who own **and/or manage** the property where the gathering constituting the public nuisance took place, provided that notice of the first and second responses has been mailed to the owner of the property as set forth herein and the gathering occurs at least fourteen (14) days after the mailing the second such notice. The owner of the property shall not be held responsible for any violation and penalties if they are actively trying to evict a tenant from the property.
- (b) The person or persons who organized or sponsored such gathering.
- (c) All persons attending such gatherings who engage in any activity resulting in the public nuisance.

#### §7. Enforcement

This bylaw shall be enforced by criminal complaint in the District Court. Violations shall be punishable by a fine of \$300.00. In the alternative it may be enforced by the noncriminal disposition process of M.G.L. c.40 Section 21D. For the purpose of noncriminal enforcement, the enforcing persons shall be any police officer of the Town of Amherst. If enforced pursuant to noncriminal disposition, the following fines shall apply:

First offense: \$300  
Second offense: \$300  
Third and subsequent offense: \$300

The Town of Amherst ~~shall~~ **may** additionally seek administrative costs and response costs associated with enforcement of Sections 2 and 3, through all remedies or procedures provided by state or local law.

Sections 2 and 3 shall not limit the authority of police officers to make arrests for any criminal offense arising out of conduct regulated by Sections 2 and 3, nor shall they limit the Town of Amherst or the Commonwealth of Massachusetts' ability to initiate and prosecute any criminal offense arising out of the same circumstances necessitating the application of Sections 2 and 3.

§8. Local Authority and Severability

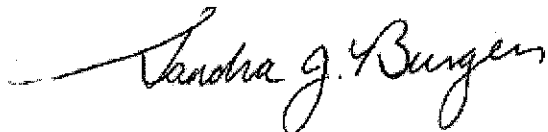
No provision of this bylaw shall apply where prohibited or preempted by state or federal law.

If any provision of this ordinance, or the application thereof to any person or circumstances, is declared invalid, that invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provisions or application, to this end the provisions of this ordinance are severable.

Action taken on 11/28/2012

*[Language existing in the Nuisance House Bylaw was inadvertently omitted from the Petitioner's article. The omitted language was included in the motion presented to Town Meeting.]*

**A true copy, Attest:**



**Sandra J. Burgess  
Town Clerk**

Town of



Amherst Massachusetts

DEPARTMENT NAME

Sandra J. Burgess, Town Clerk  
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**ARTICLE 10**  
**Form 2 – Submission 2**  
**TOWN MEETING ACTION**

**ARTICLE 10. Zoning Bylaw – Public Water Supply Protection (Planning Board)**  
**VOTED unanimously** to amend Section 3.1, Restricted Uses – All Districts, and Section 3.24, Watershed

Protection (WP) District, by adding the language in *bold italics*, as follows:

**A. Amend Section 3.1 by adding a new Section 3.14, as follows:**

***3.14 Development Near Public Water Supply Sources***

***Notwithstanding any other provision of this Zoning Bylaw, in all zoning districts, any use of land located within Zones I, II, and III for a public water supply well, wellfield, or spring, or within Zones A, B, and***

***C of a surface public water supply source shall be subject to the provisions of 310 CMR 22, including***

***310 CMR 22.20A-20G and 22.21, as amended, and all such Amherst Board of Health regulations as may apply.***

**B. Amend Section 3.24, Watershed Protection(WP) District, by adding a new Section 3.2439, as follows:**

The following are restricted or prohibited, as the case may be, in the WP District, except as part of normal agricultural operations: . . .

***3.2439 Any uses of land or related activities specifically restricted or prohibited under 310 CMR 22, including 310 CMR 22. 20A-20G and 22.21, as amended, and all such Amherst Board of Health regulations as may apply.***

Action taken on 11/26/2012

**A true copy, Attest:**

**Sandra J. Burgess**  
**Town Clerk**

