

COMMONWEALTH OF MASSACHUSETTS

TOWN OF SWANSEA ANNUAL TOWN MEETING

GREETINGS:

To either of the Constables of the Town of Swansea,

In the name of the Commonwealth you are hereby required to notify and warn the inhabitants of said Town who are qualified to vote in elections and Town affairs to meet at the JOSEPH CASE HIGH SCHOOL, 70 SCHOOL STREET, Swansea, Massachusetts, on MONDAY, the **SIXTEENTH (16th)** day of **MAY**, at **Seven-Thirty P.M.**, then and there to act on the following article in the warrant:

- Article 1: To hear the report of the Advisory & Finance Board.
- Article 2: To act on the reports of the Town Officers and all Town Committees.
- Article 3: To appoint members of the Advisory & Finance Board and to fill vacancies as provided by § 7-4 of the General Bylaws.
- Article 4: To fix the salaries of all Town Officers for the fiscal year beginning July 1, 2022 and ending June 30, 2023, or take any other action in relation thereto.

Selectmen:	Chairman	\$ 5,000
	Vice Chairman	\$ 5,000
	Clerk	\$ 5,000
Town Clerk:		\$78,500.00
Treasurer/Collector:		\$93,287.00
Assessors:	Chairman	\$ 2,000
	Vice Chairman	\$ 1,000
	Clerk	\$ 1,000
Moderator:		\$ 500
Tree Warden:		\$ 500

Recommended by A&F Committee Unanimously

- Article 5: To see if the Town will vote to raise, appropriate or transfer such sums of money as may be deemed necessary to defray Town charges for the fiscal year beginning July 1, 2022 and ending June 30, 2023. (See Budget Book)

- Article 6: To see if the Town will vote to authorize the Board of Selectmen to accept and to enter into contracts for the expenditure of any funds allotted or to be allotted by the Commonwealth and/or the County for the construction, reconstruction and improvement of Town roads, bikeways and waterways.
- Article 7: To see if the Town will vote to raise, appropriate or transfer a sum of money not to exceed \$7,946,992.00, to pay the expense of meeting the insurance needs of the Town of Swansea and its employees, or take any other action in relation thereto. ***(Raise and Appropriate)***
- Article 8: To see if the Town will vote to raise, appropriate or transfer a sum of money not to exceed \$47,000 to meet the expense of the annual audit or take any other action in relation thereto. ***(Raise and Appropriate)***
- Article 9: To see if the Town will vote to raise, appropriate or transfer a sum of money not to exceed \$10,000 to meet the Town's expenses for Tax Title purposes, or take any other action in relation thereto. ***(Raise and Appropriate)***
- Article 10: To see if the Town will vote to raise, appropriate, or transfer a sum of money not to exceed \$9,350 to complete an actuarial report as required by the Governmental Accounting Standards Board Standard Number 45, or take any other action in relation thereto. ***(Raise and Appropriate)***
- Article 11: To see if the Town will vote to raise and appropriate, or transfer a sum of money not to exceed \$45,000.00 to meet the expense of providing for the cyclical revaluation, certification, and other consulting services of all real and personal property located within the Town of Swansea, or take any other action relative thereto. ***(Raise and Appropriate)***
- Article 12: To see if the Town will vote to establish a Police Details Revolving Fund pursuant to M.G.L. c. 44, sec. 53E ½ to be used for all costs and expenses associated with maintenance, repair and acquisition of police department vehicles and vehicle equipment, by amending the Revolving Fund Table in § 20-11 of the Town General Bylaws, by adding a new row with the following information:
- A. In the column entitled "Revolving Fund": Police Details;
 - B. In the column entitled "Department, Board, Committee, Agency or Officer Authorized to Spend from Fund": Chief of Police;
 - C. In the column entitled "Fees, Charges or Other Receipts Credited to Fund": All fees received for police details;
 - D. In the column entitled "Program or Activity Expenses Payable from Fund": Maintenance, repair and acquisition of police department vehicles and vehicle equipment;
 - E. In the column entitled "Restrictions or Conditions on Expenses Payable from Fund": Cap of \$75,000.00;
 - F. In the column entitled "Other Requirements/Reports": Report supplied to the Board of Selectmen for each expenditure; and
 - G. In the column entitled "Fiscal Year": FY2023 and subsequent years.

Article 13: To see if the Town will vote to set the maximum spending limits for FY2023, pursuant to § 20-8C of the General Bylaws and Massachusetts General Laws, Chapter 44, Section 53E1/2, for the Town's revolving funds as follows, with the Police Details Revolving Fund being contingent upon the approval of Article 12:

Social Day Care Program Revolving Fund:	\$158,000.00
Fire Alarm Inspections Revolving Fund:	\$50,000.00
Boat Ramp Revolving Fund:	\$12,000.00
Shellfish Revolving Fund:	\$40,000.00
Police Details Revolving Fund:	\$75,000.00

Article 14: To see if the Town will vote pursuant to Chapter 44, Section 53F ½ to raise, appropriate, or transfer a sum of money not to exceed \$1,426,550.00 from the General Fund, the Solid Waste Enterprise Fund Receipts Account and/or the Solid Waste Enterprise Fund Retained Earnings Account to meet the expenses of the Solid Waste Enterprise Fund Account, or to take any other action in relation thereto.

Article 15: To see if the Town will vote to appropriate, or reserve for later appropriation monies from the Community Preservation Fund annual revenues or available funds for the administrative expenses of the Community Preservation Committee, and the funding of reserves and all other necessary and proper expenses for the year, or take any other action in relation thereto.

PROPOSED FISCAL YEAR 2022-23 COMMUNITY PRESERVATION BUDGET

Purpose	Recommended Amount
Appropriations Community Preservation Administrative Expenses	\$ 23,237.28
Community Housing Reserve	\$ 46,475.76
Historic Resources Reserve	\$ 46,475.76
Open Space Reserve	\$ 46,475.76
Payment of Debt Service on Medeiros Farm Open Space Purchase	\$ 91,625.00
FY' 22-23 Annual Budgeted Reserve	\$ 210,456.04

Article 16: To see if the Town will vote to transfer from available funds a sum of money not to exceed \$109,500, to be expended from the Historic Preservation Reserves portion of the Community Preservation Fund, to The National Society of the Colonial Dames of America, for the restoration of the Martin House stone barn, located at 2118 GAR Highway, or take any other action relative thereto. (CPA)

- Article 17: To see if the Town will vote to transfer from available funds a sum of money to not exceed \$50,000, to be expended from the Undesignated Reserves portion of the Community Preservation Fund, to the Conservation Commission, for a comprehensive site plan for active and passive recreational use at Medeiros Farm, 1100 Bark Street, or take any other action relative thereto. *(CPA)*
- Article 18: To see if the Town will vote to transfer from available funds a sum of money not to exceed \$125,000, to be expended from the Undesignated Reserves portion of the Community Preservation Fund, to the Swansea Historical Society, for restoration of interior and exterior walls at the Luther Museum, 160 Old Warren Road, Map 61, Lot 138, or take any other action relative thereto. *(CPA)*
- Article 19: To see if the Town will vote to transfer from available funds a sum of money not to exceed \$53,000, to be expended from the Undesignated Reserves portion of the Community Preservation Fund, to the Conservation Commission to subsidize the costs of the Wildlands Trust in monitoring four separate conservation restrictions that the Wildlands Trust holds over Town-owned land, specifically on Barneyville Road, Map 11 Lot 16; Northern section of Village Park, Hortonville Road Map 16, Lot 34; Wilson Curtis Land, Stevens Road, Map 8 Lot 5; and Raymond Wood/Herbert Baker Farm, Wood Street, Map 15 Lot 13, or take any other action relative thereto. *(CPA)*
- Article 20: To see if the Town will vote to raise, appropriate or transfer from available funds a sum of money not to exceed \$500,000, with not more than \$100,000 of said amount to be expended from the Undesignated Reserves portion of the Community Preservation Fund, to the Park Commission for the purchase of recreational playground equipment at Swansea Veterans Memorial Park, Milford Road, or take any other action relative thereto. *(\$100,000 CPA and \$400,000 certified free cash)*
- Article 21: To see if the Town will vote to transfer from available funds a sum of money not to exceed \$2,035,000 to the Conservation Commission for the purpose of purchasing a conservation restriction on the real property, consisting of 190 acres more or less of riverfront land, that has an address of 299 Market Street, and which is shown as Lot 1 on Assessor's Map 11, in order to ensure that said land shall remain available to the public for conservation and recreation purposes.

And further, to clarify that said transfer shall be distributed as follows:

Up to \$535,000 to be expended from the Undesignated Reserves portion of the Community Preservation Fund; and

Up to \$1,500,000 to be expended from certified free cash .

And further, to clarify that only so much of said maximum of \$1,500,000 may actually be transferred from Free Cash as is equaled by the total amount that the Conservation Commission first receives, or otherwise secures by contract for receipt or reimbursement, from any federal, state or other local sources of funding, including, without limitation, from the Municipal Vulnerability Preparedness Program, but exclusive of the Community Preservation Fund transfer that is concurrently authorized by the approval of this Article.

And further, to authorize the Conservation Commission to enter into, execute, submit and file any and all applications, agreements and instruments on behalf of the Town that are necessary or expedient in order to effectuate both the receipt of any such grants, reimbursement or other funds from any such federal, state or local source, and the purchase of said conservation restriction.

Or take any other action relative thereto. ***(\$535,000 CPA & \$1.5 million free cash in anticipation of reimbursement of MVP grant funds)***

- Article 22: To see if the Town will vote to raise, appropriate or transfer a sum of money not to exceed \$155,000 to be expended by the Police Chief to meet the expense of purchasing three (3) police cruisers with equipment, including radios, or take any other action relative thereto. ***(Raise and Appropriate)***
- Article 23: To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money not to exceed \$10,000 to additionally fund account #01-122-59-52101 (STM 11/18/19- Article 13) to be expended to continue work related to opening access to the waterways throughout the town, or to take any other action relative thereto. ***(Raise and Appropriate)***
- Article 24: To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money not to exceed \$50,000 to resurface and/or replace the stairs at the Police Station, or to take any other action relative thereto. ***(Certified Free Cash)***
- Article 25: To see if the Town will vote to raise and appropriate or transfer from available funds a sum not to exceed \$50,000 for scanning and archiving documents for various Town departments, or to take any other action relative thereto. ***(Certified Free Cash)***
- Article 26: To see if the Town will vote to raise and appropriate or transfer from available funds a sum not to exceed \$25,000 to conduct a wage comparison and salary survey, or to take any other action relative thereto. ***(Raise and Appropriate)***
- Article 27: To see if the Town will vote to raise and appropriate or transfer from available funds a sum not to exceed \$70,000 to purchase a pick up truck with plow to replace an emergency vehicle at the Fire Department, or to take any other action relative thereto. ***(Raise and Appropriate)***
- Article 28: To see if the Town will vote to raise and appropriate or transfer from available funds a sum not to exceed \$65,000 to purchase a pickup truck with plow and related accessories, or to take any other action relative thereto. ***(Raise and Appropriate)***
- Article 29: To see if the Town will vote to raise and appropriate or transfer from available funds a sum not to exceed \$120,000 to purchase a F600 dump truck with plow and related accessories, or to take any other action relative thereto. ***(Raise and Appropriate)***
- Article 30: To see if the Town will vote to raise and appropriate or transfer from available funds a sum not to exceed \$65,000 to purchase a 3-ton asphalt hot box and related accessories, or to take any other action relative thereto. ***(Certified Free Cash)***

- Article 31: To see if the Town will vote to raise and appropriate or transfer from available funds a sum not to exceed \$50,000 to replace the fence in Field #2 at the Swansea Memorial Park, or to take any other action relative thereto. (***Raise and Appropriate***)
- Article 32: To see if the Town will vote to raise and appropriate and transfer a sum of money for the continued funding of reserve accounts, by adding \$200,000 to the Stabilization Fund and by adding \$200,000 into the Capital Stabilization Fund or take any other action in relation thereto. (***Raise and Appropriate***)
- Article 33: To see if the Town will vote to raise, appropriate or transfer a sum of money not to exceed \$200,000 for the Other Post Employment Benefits Liability Trust Fund or take any other action in relation thereto. (***Raise and Appropriate***)
- Article 34: To see if the Town will vote to raise, appropriate, or transfer a sum of money not to exceed \$150,000 for the purpose of funding the Length of Service Awards Program for the Firefighters of Swansea, or take any other action in relation thereto. (***Raise and Appropriate***)
- Article 35: To see if the Town will vote to authorize the Board of Selectmen to sell, convey or otherwise dispose of Map 12, Lot 29 Kispert Court consisting of 0.39 acres and Map 80, Lot 59 Taft Avenue, consisting of 0.64 acres, or to take any other action relative thereto.
- Article 36: To see if the Town will vote to amend the General Bylaws by deleting § 7-27 in its entirety and replace it with the following:

§ 7-27 Establishment.

A Soil Conservation Board is hereby established in the Town of Swansea for the purpose of exercising the powers and duties of such Boards under the laws of the Commonwealth of Massachusetts, including Massachusetts General Laws, Chapter 40, Section 21(17), as well as Chapter 150 of these General Bylaws.

- A. Appointment. The members of the Soil Conservation Board shall consist of two members to be appointed by the Board of Selectmen, both of which must be residents of the Town, one member of the Planning Board, one member of the Board of Health, and one member of the Conservation Commission. Whenever any of these multi-member bodies lacks a required representative on the Soil Conservation Board, it shall appoint said representative by a majority vote of said multi-member body at any meeting of the same at which a quorum is present. If a member of the Soil Conservation Board ceases to be a member, for whatever reason, of the multi-member body that appointed him to the Soil Conservation Board, then he concurrently shall cease to be a member of the Soil Conservation Board.
- B. Conflicts of interest. No person who engages in commercial activities relating to the importation, manufacturing, processing, removal or disturbance of earth minerals and soils shall be eligible to serve on the Soil Conservation Board.
- C. Removal. The appointment of a representative to the Soil Conservation Board may be revoked

in the same manner that said appointment was made.

- D. Other appointments. The Soil Conservation Board may appoint a secretary and an inspector, neither of whom shall be a member of said Board. The inspector shall carry out such duties as may be assigned to him by the Soil Conservation Board or Chapter 150 of these General Bylaws, or as may be provided by statute.
- E. Rulemaking. To the extent that it is expressly authorized by Chapter 150 of these General Bylaws, the Soil Conservation Board may promulgate Rules and Regulations in order to supplement the provisions of said Chapter.

Or take any other action relative thereto.

Article 38: To see if the Town will vote to amend the General Bylaws by deleting Chapter 150 in its entirety and replacing it with the following:

CHAPTER 150

EARTH AND SOIL REMOVAL

§ 150-1 Authority.

This Chapter is promulgated pursuant to the provisions of Massachusetts General Laws, Chapter 40, Section 21(17).

§ 150-2 Purpose.

No more than sixty (60) cubic yards of earth minerals or soils may be removed during any given calendar year from any parcel of land within the Town that is not in public use, except in accordance with the provisions of this Chapter.

- A. Exceptions. This Chapter shall not apply to the removal of any quantity of earth minerals or soils when any of the following apply:

- (1) As provided in Massachusetts General Laws, Chapter 40, Section 21(17), when such removal is reasonably necessary in the course of operating pursuant to:

- (a) A building permit that has been issued by the Building Department for a single family home;
 - (b) A Title 5 subsurface sewage disposal construction permit that has been issued by the Board of Health; or
 - (c) An enforcement order issued by the Conservation Commission or Board of Health requiring removal.

These exceptions shall apply only for the improvements that are shown on the plans that have been approved by the Building Department, Conservation Commission, or Board of

Health. Removal of earth minerals or soils prior to, or in anticipation of, receiving such approval shall still be subject to the requirements of this Chapter.

(2) When such removal is undertaken as part of, and in accordance with, customary agricultural practices on established agricultural land, including, but not limited to, soil manipulation by harrowing or plowing; stone removal from harrowed or plowed fields; the harvesting of root crops; and nursery or orchard stock cultivation or removal; provided, however, that this exception shall not apply to the digging of ponds or cranberry bogs, or to any other alteration of the land in anticipation of its conversion to agricultural use.

(3) When such removal is reasonably necessary in order to complete any environmental remediation that is required by, and conducted in accordance with, the provisions of 310 CMR 40.00.

- B. Inapplicability of volume minimum. The Sixty (60) cubic yards per calendar year allowance shall not apply to the removal of improperly disturbed earth minerals or soils. The removal of any quantity of the same shall be subject to the requirements of this Chapter.

§ 150-3 Definitions.

As used in this Chapter, the terms below shall have the following definitions:

APPLICANT

Shall mean the person, corporation or other legal entity, including any agent of the same, that files an initial application or renewal application with the Board for a permit or determination of exemption pursuant to this Chapter.

BOARD

Shall mean the Soil Conservation Board of the Town, as provided in Chapter 7, Article VIII, § 7-27 of these General Bylaws.

DETERMINATION OF EXEMPTION

Shall mean the written authorization of the Board to remove disturbed earth minerals or soils without the requirement of a permit.

DISTURBED EARTH MINERALS OR SOILS

Shall mean earth minerals or soils that have been removed from one location and are thereafter mechanically or artificially deposited in non-natural piles at another location, regardless of whether those different locations exist on the same parcel of land, and regardless of whether the earth minerals or soils have been manufactured or processed into other earth minerals, soils or soil aggregate product.

EARTH MINERALS OR SOILS

Shall include soil, loam, sand, gravel, clay, silt, stone, stone walls, rocks, boulders, bedrock, and any other minerals or soils that are normally found in or on the surface of the earth. This definition shall exclude composted yard waste, stumps, brush and other organic by-products or products, including the stockpiling of the same, as well as asphalt, brick, concrete and other non-natural by-products or products.

IMPROPERLY DISTURBED EARTH MINERALS OR SOILS

Shall mean disturbed earth minerals or soils that were originally removed from land within the Town in violation of: 1) this Chapter, or any prior iteration of the same, however codified; 2) any provision of the Zoning Bylaw of the Town; 3) any other statute, by-law, rule or regulation governing such removal; or 4) the terms of any permit or other written allowance that was issued by the Town, including by the Board, for said removal.

INSPECTOR

Shall mean the individual or individuals who are appointed by that Board pursuant to § 7-27D of these General Bylaws.

NATIVE EARTH MINERALS OR SOILS

Shall mean earth minerals or soils that: 1) are naturally occurring; 2) have been intentionally reintegrated into the native geologic landscape; or 3) have otherwise been reintegrated into the native geologic landscape as determined by § 150-5D(1).

OPERATOR

Shall mean an applicant that has been granted a permit or determination of exemption by the Board pursuant to this Chapter.

PROJECT PARCEL

Shall mean the parcel at which removal occurs, whether or not in accordance with the provisions of this Chapter or the terms or conditions of a permit or determination of exemption that is issued pursuant to the same.

PERMIT

Shall mean the written authorization of the Board to remove either native earth minerals or soils, or improperly disturbed earth minerals or soils.

REMOVAL AREA

Shall mean the specific portion of a project parcel at which removal occurs, whether or not in accordance with the provisions of this Chapter or the terms or conditions of a permit or determination of exemption that is issued pursuant to the same.

REMOVE(D) AND/OR REMOVAL

Shall mean the activity of excavating, moving, blasting, stripping or digging earth minerals or soils on a property.

TOWN

Shall mean the Town of Swansea, Massachusetts.

Any terms that have not been defined specifically herein shall have their normal English meanings, unless the context indicates otherwise.

§ 150-4 Permits.

The removal of more than sixty (60) cubic yards of native earth minerals or soils in any given calendar year, or of any quantity of improperly disturbed earth minerals or soils, from land that is not in public use in the Town shall require a permit from the Board.

- A. Limitations on issuance of permit. No permit shall be issued by the Board if it determines that the requested removal will endanger the general health or safety of the public. Furthermore, no permit shall be issued by the Board until and unless the applicant either obtains from the Swansea Zoning Enforcement Officer a finding and statement that the requested removal will not violate the Zoning By-Laws of the Town, or otherwise obtains zoning relief to allow said removal from the Zoning Board of Appeals pursuant to Chapter 40A and said Zoning By-Laws. Finally, no permit shall be issued by the Board until and unless the applicant provides the Board with the performance guarantee that is required by § 150-8.
- B. Initial application for a permit. The initial application for a permit shall include the following:
 - (1) A completed application form and filing fee, as established by the Rules and Regulations of the Board.
 - (2) A form showing resource area delineation of the proposed project parcel(s). The contents of this form must have been previously approved for such purposes both pursuant to the Wetlands Protection Act (Massachusetts General Laws, Chapter 131, Section 40) and its associated regulations (310 CMR 10.00), and pursuant to the Town's Wetlands Bylaw (Chapter 256 of the General Bylaws).
 - (3) A scaled site plan, which has been prepared by a registered land surveyor or professional engineer that is licensed in the Commonwealth of Massachusetts, and that shows: a) the proposed project parcel(s); b) the proposed and existing contours of the land of each such parcel, at intervals of not more than two (2) feet; c) the boundary lines for each such parcel; d) the Assessor's map and lot information for all lots for which information is provided pursuant to Paragraph (4) below; e) all wetlands that are within one hundred (100) feet, all dwellings that are within two hundred (200) feet, and all road layouts that are within three hundred (300) feet of the proposed removal area(s); and f) satisfaction of the setback and grading requirements of § 150-7.
 - (4) The names of owners, addresses, and Assessor's map and lot information for all lots that are within one hundred (100) feet – including across any street, body of water or municipal boundary – of the proposed project parcel(s), as taken from the most recent tax list that has been certified by the Board of Assessors. The name and business address of the owner(s) of the project parcel(s) also shall be provided, if different than the applicant.
 - (5) The quantity of earth minerals or soils that the applicant is requesting authorization to remove, as shown on the submitted scaled plan, and which must be calculated by a professional engineer or registered land surveyor that has been licensed in the Commonwealth of Massachusetts.

- C. Hearing notice. After receipt of an initial application for a permit, the Inspector shall confirm that it is complete and satisfies the requirements of § 150-4B, and shall thereafter provide the applicant with the time, date and location of the public hearing for said application. The applicant then shall provide written notice of this hearing to all of the abutters whose information was provided pursuant to § 150-4B(4). This notice shall list the time, date and location of the hearing, shall reference the reason for the hearing, shall provide the applicant's contact information, and shall have attached to it the completed application. The applicant is responsible for mailing this notice to all abutters by certified mail at least ten (10) days in advance of the public hearing. If, at or before the scheduled hearing, the applicant fails to provide the Board with the timely certified mail confirmation of the receipt or attempted delivery of all such required notices, then the hearing shall be rescheduled, with the applicant again responsible for providing notice of the same pursuant to this Subsection.
- D. Permit expiration. A permit issued under this Chapter shall expire one (1) year from the date of issuance, or upon completion of the removal of earth minerals or soils that was authorized thereby, whichever occurs sooner.
- E. Permit Renewal.
- (1) Permits may be renewed annually; provided, that the failure to obtain the renewal of a permit prior to the completion of all authorized removal activities shall require the operator to undertake the restoration of the removal areas in accordance with § 150-10A. The Board shall establish through its rules and regulations the procedures for submitting a permit renewal application, the form of said application, the filing fee for said application, and any documentation that should accompany this submission; provided, that any change in the location or scope of the removal area(s), the quantity or type of earth minerals or soils to be removed, the final grade of the removal area, the operator of the removal operation, or any other substantive change to the removal operation, shall require the submission of a new initial permit application pursuant to §§ 150-4B and 150-4C. The operator may submit a permit renewal application for the original removal project concurrently with the submission of a new initial permit application for said substantive change. The Board will act first upon the new initial permit application, and if and only if that application is denied, the Board thereafter will act upon the permit renewal application.
 - (2) Completed permit renewal applications, including the renewal fee, should be received thirty (30) days prior to the expiration of the permit. The Inspector shall confirm that a permit renewal application is complete and satisfies the requirements of the rules and regulations of the Board, and shall thereafter provide the applicant with the time, date and location of the public hearing for said application. The Board will then take action upon the permit renewal application at its next meeting. If the completed permit renewal application is received by this deadline, then the current permit shall be valid until the Board meets to take action upon the renewal application, notwithstanding the standard annual expiration date that is provided in Subsection 150-4D. If the completed permit renewal application is not received by this thirty (30) day deadline, then

the current permit shall be subject to said annual expiration date; provided, that a permit renewal application, rather than a new initial application, may still be submitted up to six (6) months after the expiration of the permit; further provided, that all soil removal operations must be suspended after said expiration until such time as a renewal permit has been issued.

- (3) As provided in § 150-8C, the performance guarantee that was required for the approval of the initial permit application must remain valid in order for the permit to be renewed.

§ 150-5 Determinations of Exemption.

No permit shall be required for the removal of disturbed earth minerals or soils; provided, that if the disturbed earth minerals or soils have been stored in a manner that failed to ensure their proper separation from the surrounding native earth minerals or soils, then a determination of exemption from the permitting requirement nonetheless shall be required from the Board prior to the removal of more than sixty (60) cubic yards of said disturbed earth minerals or soils in any given calendar year. The existence of the lack of proper separation shall be determined at the discretion of the Board, but shall include, without limitation, the failure to utilize concrete, tarping or other non-natural materials as a barrier between the disturbed and native earth minerals or soils.

- A. Application procedures for determination of exemption. The Board shall establish through its rules and regulations the procedures for submitting an application for a determination of exemption for a project parcel or parcels, including any renewal of the same, the form of said application, and the filing fee for said application.
- B. Soil evaluator. The applicant for a determination of exemption must retain the services of a soil evaluator who has been licensed in accordance with 310 CMR 15.000, in order to determine the limits of the disturbed earth minerals or soils. The Board will not act on an application for a determination of exemption until a soil evaluation has been performed by said licensed soil evaluator, in the presence of the Inspector, and to the maximum depth to which the proposed removal of the disturbed earth minerals or imported soils will occur.
- C. Site plans. At the discretion of the Board, plans showing the proposed removal site that have been prepared by a registered land surveyor or professional engineer shall accompany the determination of exemption application.
- D. Limitations on issuance of determination of exemption.
 - 1) No determination of exemption shall be granted in instances where the disturbed earth minerals or soils have become reintegrated into the native geologic landscape through the passage of time, as indicated by the presence of established woody vegetative growth over the originally artificial piles in a density of not less than one (1) woody plant per thousand (1000) square feet of surface area of disturbed earth minerals or soils; provided, that no such woody plant shall be included in this determination unless the stem of the same has a diameter of at least three (3) inches at a height of four (4) feet from the surface of the disturbed earth minerals or soils.

Such integrated piles shall be considered to have reverted to the status of native earth minerals or soils, just as if they had been intentionally incorporated into the geologic landscape, thereby requiring a permit in order to remove more than sixty (60) cubic yards of the same in any given calendar year.

- 2) Irrespective of whether proper separation exists, the removal of any quantity of improperly disturbed earth minerals or soils shall require a permit, as provided in §§ 150-2B and 150-4.
- E. Expiration of determinations of exemption. A determination of exemption expires upon removal of the disturbed earth minerals or imported soils that have been specified by the Board in said determination, or within one (1) year of the date of the issuance of said determination, whichever occurs sooner.

§ 150-6 Restrictions on the Use of Permits and Determinations of Exemption.

The issuance of any permit or determination of exemption is subject to the following restrictions:

- A. Conditions. The Board may, in its discretion, impose such conditions on a permit or determination of exemption as it believes are necessary or prudent in order to protect the general health and safety of the public, prevent nuisances, protect native earth minerals or soils, protect native vegetation, and ensure compliance with the terms of said permit or determination of exemption and all of the Town's rules and regulations, General Bylaws, including this Chapter, and Zoning Bylaw. The Board may alter, delete or add new conditions to a permit or determination of exemption upon the submission of a renewal application.
- B. No substitution for other Town approval. The issuance of a permit or determination of exemption by the Board shall not be construed as, or otherwise substitute for, the authorization, under any statute, regulation or other by-law, of any other local board, commission or officer, including, without limitation, the Building Commissioner, Board of Health, Zoning Board of Appeals, Planning Board, Conservation Commission or Historical Commission.
- C. No authorization for use of land. The issuance of a permit or determination of exemption by the Board shall not constitute, or be construed as constituting, any affirmation by the Board in general, or the Town in particular, that the applicant is the owner of the project parcel(s) for which said permit or determination of exemption was issued, or has an easement interest or the permission of said owner to operate on said parcel(s) in accordance with said permit or determination of exemption. Such ownership, easement interest or permission is a prerequisite to the lawful use of any such permit or determination of exemption under this Chapter. By accepting a permit or determination of exemption, the applicant concurrently accepts these restrictions and agrees to indemnify the Town and its boards, commissions, committees, officers, employees, officials, agents and attorney against any claims that are brought against them by the owner of said parcel(s), including with respect to trespass, in

response to any removal activities that are conducted pursuant to said permit or determination of exemption.

- D. Non-transferability. Permits and determinations of exemption are not transferable, even to successors in interest to the operator.

§ 150-7 Requirements for Permitted Removals.

In order to obtain a permit pursuant to § 150-4, any proposed removal of earth minerals or soils must satisfy the following requirements:

- A. Minimum setbacks. The removal project must satisfy the following minimum setbacks from the removal area(s), as shown on the scaled site plan that was submitted with the initial permit application:

- (1) One hundred and fifty (150) feet from all dwellings and commercial structures that are intended for occupation, and that are not in common ownership with the project parcel(s);
- (2) One hundred (100) feet from all improved public ways and improved private ways that are available for use by the public; and
- (3) Twenty five (25) feet from all property boundaries with parcels that are not in common ownership with the project parcel(s).

- B. Grading.

- (1) The removal project must satisfy the following grading requirements for the removal area(s) after the completion of removal activities pursuant to the permit, as shown on the scaled site plan that was submitted with the initial permit application:
 - (1) Grading within seventy-five (75) feet of a property boundary with a parcel that is not in common ownership with the project parcel(s) must be no steeper than three (3) feet horizontal to one (1) foot vertical slope;
 - (2) Grading within one hundred and fifty (150) feet of an improved public way, or an improved private way that is available for use by the public, must be no steeper than three (3) feet horizontal to one (1) foot vertical slope; and
 - (3) All other grading must be no steeper than two (2) feet horizontal to one (1) foot vertical slope, unless the applicant utilizes either stone reinforced slopes or terraced grading with retaining walls. Such methods must be designed by a professional engineer that has been licensed in the Commonwealth of Massachusetts;

- (2) The grading provisions of this Subsection shall not apply to bedrock that protrudes from the ground surface, pond banks that are below the high-water level, or any aspects of cranberry bog construction.

§ 150-8 Performance Guarantee.

In order to receive a permit for the removal of earth minerals and soils, the applicant shall provide a performance guarantee, whether in the form of a bond, a deposit of money, a letter of credit from a lending institution, or some other form of security that is approved in advance by the Board. The Board shall be listed on said performance guarantee as a party to be notified in the event of any change in the status of the same.

A. Calculating performance guarantee. Such performance guarantee shall be calculated by the Board as follows:

- A. The amount of the performance guarantee for a project shall be based upon the permitted removal area(s), with said area being rounded to the nearest one half (1/2) of an acre; and
- (2) The amount per acre shall be established by the Board on a case-by-case basis, based upon the impact of the removal activities upon the project parcel, the extent of restoration work that will be needed at the conclusion of removal activities in order to meet the restoration requirements of § 150-10A, and the mitigation of any safety hazards that may arise during such restoration.

B. Release of performance guarantee.

- (1) Performance guarantees can only be released upon completion of restoration as required by § 150-10A, as determined by a majority vote of the Board at any meeting at which a quorum is present; provided, that when stone reinforced slopes or retaining walls were utilized in constructing the grading of the removal area, any such release additionally shall first require that a professional engineer that has been licensed by the Commonwealth of Massachusetts certify in writing that said slope or wall construction has met the minimum designs standards that were approved for such construction by the Board in issuing the permit.
- (2) Any request by the operator for the release of the performance guarantee must be in writing along with supporting documentation; provided, that an operator may request a partial release of the performance guarantee in response to the completion of removal activities at, and subsequent restoration of, only a portion of the removal area(s). In the situation of a partial release, the operator must submit an as-built plan of the removal area(s) that will remain open in order to demonstrate that the remaining performance guarantee amount is adequate to cover the remaining restoration costs.

C. Continued validity of performance guarantee. For a permit to be valid, a performance guarantee must be provided in the amount that is specified in the permit, must be given in the name of the applicant and made payable to “the Town of Swansea Soil Conservation

Board”, and must remain valid for twelve (12) months after the conclusion of the term of said permit, including any renewal terms, unless a longer period is required pursuant to Subsection 150-10A.

§ 150-9 Inspections.

The Inspector shall inspect any removal area(s) that are subject to a permit or determination of exemption not less than two (2) times per calendar year. No prior notice of such inspections needs to be given; provided, that such inspection shall take place only during business hours. An inspection fee, in an amount to be set by the Board’s rules and regulations, shall be collected annually. In the case of removal operations that are subject to a permit, said fee shall be collected until such time as restoration of the removal area(s) has been completed in accordance with § 150-10A and the performance guarantee has been released, as provided in § 150-8B. In the case of removal operations that are subject to a determination of exemption, said fee shall be collected for so long as said determination is renewed. In applying for, and accepting, a permit or determination of exemption pursuant to this Chapter, the applicant concurrently accepts and agrees to the requirements of this Section.

§ 150-10 Operational Performance Standards.

The removal of earth minerals or soils shall be subject to the following performance standards:

A. Restoration of removal areas.

- (1) Within six (6) months of the removal of all of the earth minerals or soils that are specified in a permit, or prior to completion of said removal once six (6) months have elapsed since said permit has expired without filing a renewal application, or upon the denial by the Board of a renewal application where said denial occurred after said six (6) months had elapsed, or immediately upon an order from the Board to cease and desist any removal of earth minerals or soils that is either unpermitted or in violation of the terms of an issued permit, the operator shall be obligated to commence the restoration of the project parcel(s). Such restoration shall be completed within twelve (12) months of the conclusion of the expiration of the last valid permit that was issued to the operator for the project parcel(s); provided, that if restoration is required as a result of a cease and desist order, then such restoration shall be completed within twelve (12) months of the issuance of said order; further provided, that this restoration period may be extended by the Board in its sole discretion, and then only if the operator submits documentation that the timeframe during which the required performance guarantee is valid has been extended to coincide with the length of the requested extension of the restoration period. Restoration of the project parcel(s) shall be considered complete upon the return of the removal area(s) to a functional use that will not create nuisance conditions, whether on the project parcel or another parcel, through exposed earth minerals or soils. Furthermore, whenever the Board concludes, whether before or after removal, that it is necessary in order to secure exposed excavated slopes, such restoration shall include the covering of such slopes with soil that is capable of supporting plant growth, and that is applied with a perennial ground cover seed. Restoration additionally shall include the planting of trees or shrubs for such slope stabilization purposes only if the Board so

states in conditioning the permit pursuant to § 150-6A. The seeded area will not be considered to be in a restored state until such time that established plant growth covers the majority of the seeded surface area, with at least one growing season having elapsed.

(2) This Subsection shall not apply to removal operations that are subject to a determination of exemption.

B. Daily securing of removal areas. Excavated faces shall be knocked down and sloped at the end of each day to the extent that it is necessary in order to prevent dangerous conditions that may arise due to collapsing soils from overhangs, vertical banks or straight faces.

§ 150-11 Enforcement and Revocation.

A. Fines. Every violation of this Chapter, and every violation of the terms and conditions of any permit or determination of exemption that is issued pursuant to the same, shall be subject to \$50 for the first offense, \$100 for the second offense and \$200 for any subsequent offense, or such other fines as may be specified in Massachusetts General Laws, Chapter 40, Section 21(17), as it may be amended from time to time. Each day during any portion of which such violation is allowed to continue shall be considered a separate offense. All such fines shall be subject to the non-criminal disposition procedures as provided in § 48-9 of these General Bylaws and Massachusetts General Laws, Chapter 40, Section 21D, and all such fines shall be remitted to the General Fund of the Town.

B. Judicial relief. The Board may seek the enforcement of this Chapter, and of the terms and conditions of any permit or determination of exemption that is issued pursuant to the same, through the issuance of injunctive or other equitable relief by the Superior Court.

C. Suspension or Revocation. Failure of an operator to abide by the provisions of this Chapter, or the conditions on a permit or determination of exemption that is issued pursuant to the same, shall subject said permit or determination of exemption to suspension or revocation by the Board after a hearing. The operator shall be notified of said hearing in writing by certified mail at least five (5) business days in advance of the same.

§ 150-12 Severability.

The provisions of this Chapter are severable. If any court of competent jurisdiction determines that any such provision is in violation of the laws, constitutions or regulations of the Commonwealth of Massachusetts or the United States of America, the remaining provisions shall not be affected thereby and shall continue in full force and effect.

Article 38: To see if the Town will vote to amend the Town's General Bylaws by deleting from Chapter 64 SELECTMEN the following: § 64-3 Claims against Town; § 64-4 Appearance before committees; and § 64-5 Notice of regular meetings, or take any other action relative thereto.

Article 39: To see if the Town will vote to accept the provisions of Massachusetts General Laws Chapter 39, Section 23D for all types of adjudicatory hearings that are held by the

boards, committees and commissions of the Town, or take any other action relative thereto.

Article 40: To see if the Town will vote to accept the provisions of Massachusetts General Laws Chapter 64L, Section 2 relative to establishing a meals tax of 0.75%, or take any other action relative thereto.

Article 41: To see if the Town will vote to approve the borrowing of up to \$293,479,760 by the Greater Fall River Vocational School District School Committee, with the Town to be responsible for, and to be assessed by said District for reimbursement of such percentage of the debt service for said borrowing amount as is provided in the District Agreement, and with the purpose of said borrowing being to pay the costs of designing, engineering, constructing and equipping the new District high school and related athletic facilities located at 251 Stonehaven Road in Fall River, Massachusetts, including the payment of all costs incidental or related thereto, which school facility shall have an anticipated useful life as an educational facility for the instruction of school children of at least 50 years, said amount to be expended at the direction of Greater Fall River Vocational School District School Committee; provided, that the District has been approved for a school construction grant from the Massachusetts School Building Authority in an estimated amount of up to \$148,671,938.00, that said grant shall be disbursed as a reimbursement against said approved borrowing amount, and that said grant, in its final disbursed amount, shall offset accordingly by said percentage the debt service for which the Town shall be responsible and assessed; or take any other action relative thereto

Citizens Petition:

Town Hall Building Committee

Article 42: To see if the Town will vote to raise, appropriate or transfer a sum of money not to exceed \$250,000 for the purpose to Reestablish the Town Hall Building Committee. (Committee) That said Committee be comprised of;

One member of the Board of Selectmen

One Member of the School Committee

One member of the Planning Board

Two members of the Advisory & Finance Board and that said members be appointed by the Chair of the Advisory and Finance Committee.

The Town Moderator

Five registered Voters

The purpose of the Committee is to review the past documents produced by the previous Town Hall Building Committee and to consider any new options that may present itself for a Town Hall including but not limited to the use of the present Joseph Case Jr High School located at 195 Main Street when replaced by a new middle school, and that said sum be raised by direct taxation.

And you are hereby directed to serve this warrant by posting attested copies thereof seven (7) days at least before the day of said meeting as prescribed by law.

Hereof fail not and make return of this warrant with your doings thereon to the Town Clerk within twenty-four (24) hours after making service thereof.

Given under our hands this _____ day of _____, 2022.

Steven H. Kitchin, Chairman

Christopher R. Carreiro, Vice Chairman

Robert C. Medeiros, Clerk

A true copy, Attest:

Constable of Swansea:

I hereby certify that the above warrant has been posted in accordance with the Massachusetts General Laws and the By-Laws of the Town of Swansea in the following eight places:

**Town Hall
C.O.A./Community Center
Water District
United States Post Office**

**Police Station
St. Dominic's Credit Union
Fire Station No. 2
Harvest Market Tap and Table**

Constable

(Date)