

# TOWN OF GILL

MASSACHUSETTS



[www.gillmass.org](http://www.gillmass.org)

## SELECTBOARD MEETING MINUTES

*March 7, 2016*

Call to Order: The Selectboard meeting was called to order at 5:32 PM.

John stated that Greg Snedeker will participate remotely in today's meeting for reasons of geographic distance (northern Vermont). It was noted that meetings with a remote participant must use roll call for all votes.

Members Present: Greg Snedeker (remote), John Ward, and Randy Crochier      Members Absent: none  
Others Present: Ray Purington, Admin. Assistant; Janet Masucci, Aidan Belanger, Gene Beaubien.

Fire Department PO: Fire Chief Gene Beaubien requested approval of a purchase order to buy one additional set of turnout gear from Firematic for \$2,200. The Selectboard had previously approved two sets, but Beaubien explained that turnout gear is sized, and that it doesn't always work out that new firefighters wear the same size gear as those who have recently left the Department. There were no objections to the request, and the purchase order was approved by consensus.

Beaubien also reported that the new telephone system for the Fire Station will be installed on March 9<sup>th</sup>. Beaubien left the meeting at 5:38 PM.

Minutes: Greg made a motion, seconded by Randy, to approve the minutes of 1/11/16 and 2/22/16. The roll call vote was unanimous in the affirmative.

Green Community Grant: The window inserts for the library were delivered and installed today.

Sewer I&I Study: Nothing to report.

Safety Complex Roof / Wall Insulation: Nothing to report.

Gill Elementary Well: Ray is still waiting for a report from Health Agent Glen Ayers on his conversations with DEP about the possibility of a scaled-back treatment system for manganese.

Mariamante/Community Solar: Nothing to report.

Montague Request to Support Intervention in DPU Docket 15-178: The Selectboard reviewed a request from the Montague Selectboard for the Town of Gill to consider contributing \$5,000 toward Montague's ongoing costs for legal representation as an Intervenor in the Mass. Dept. of Public Utilities docket 15-178. The docket is "a proceeding that will approve or disapprove Berkshire Gas's proposed contract to buy gas transportation on the portion of the NED pipeline that would ship gas from Pennsylvania's fracking fields..."

Greg made a motion, seconded by John, to support Montague's efforts at the DPU and contribute \$5,000 toward the legal expenses. Ray noted that if the motion is approved, Gill's Town Accountant has recommended that we directly pay an invoice from Montague's attorneys (Burns & Levinson, LLP), rather than sending a check to the Town of Montague.

During discussion, it was asked if any other towns have stepped forward with contributions toward Montague's legal costs. No other contributions are known as of now, but several towns are actively discussing the idea. A roll call vote was taken. Greg – yes. John – yes. Randy – no. The motion was approved, 2-1.

MCAP Use of Town Seal for Letterhead: The Municipal Coalition Against the Pipeline (MCAP), of which Gill is a member, has raised the idea of developing a letterhead for the Coalition that features the town seals of all the member towns. The Selectboard felt that the town seal could imply official town support for the contents of any document that uses it. There was consensus that if Gill's town seal is used, the Selectboard would want to preview

any document containing the seal. There were also questions about who within MCAP would be authorized to use the town seals letterhead. It was decided to table the matter until MCAP can provide more information about how the letterhead would be used.

Sewer Commitment: Randy made a motion, seconded by Greg, to sign the sewer commitment of \$18,653.36 with a bill date of 3/8/2016. The roll call vote was unanimous in the affirmative. It was noted that the water readings (which are the basis for the sewer bills) are lower than normal, perhaps because of a high-use property that recently changed hands. Sewage volumes to Montague are up slightly, most likely due to the several heavy rainstorms during the preceding 3 months. With no snow on the ground, and little to no frost, it is expected that elevated sewage volumes associated with the “spring melt” have already occurred.

AgCom Resignation: Bruce Yukl has submitted his resignation from the Agricultural Commission. The Selectboard accepted it with regret. There are now two vacancies on the AgCom; Ray will include a call for volunteers in the next newsletter.

ConCom Appointments: Randy made a motion, seconded by Greg, to appoint Stephen Baskowski and Philip Gilfeather-Girton to the Conservation Commission through June 30, 2018. The roll call vote was unanimous in the affirmative. It was noted that for the first time in several years, the ConCom now has a full slate of five members.

Potential New Town Bylaws: The Selectboard had a general discussion about three potential new town bylaws – “Drinking Water Protection Bylaw” (protection from impacts of blasting), “Noise, Earth Removal, and Related Disturbances Bylaw for Large Scale Industrial & Commercial Facilities,” and “Local Road Preservation Bylaw.” Various towns in Franklin County are discussing and adopting some or all of these bylaws as a way of putting protections in place prior to any pipeline construction activities (although all of the bylaws are worded so as to apply to more than just pipeline construction).

It was decided that there needs to be a much broader discussion of these bylaws before any are presented to Town Meeting. The Selectboard will host a meeting to discuss the potential bylaws, and will invite all town boards and interested residents to attend.

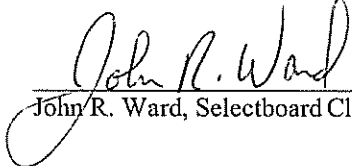
Complete Streets: The Selectboard reviewed information from the FRCOG about the “Complete Streets Program,” which is a “transportation policy and design approach that involves planning, designing, operating, and maintaining streets for safe, convenient and comfortable travel and access for users of all ages and abilities regardless of their mode of transportation.” It was felt that the program is too broad and too large, and isn’t the place for Gill to start. It appears to be a better fit for a town like Greenfield, not Gill. There were also concerns that while there is currently state funding for this program, when the funding goes away Gill could be left with policy and design requirements that it can’t afford on its own. Ray will send a letter to the FRCOG thanking them for the information but declining participation at this time.

Aidan Belanger left the meeting at 6:10 PM.

Warrant: The Selectboard reviewed and signed the FY 2016 warrant #19.

The meeting adjourned at 6:55 PM.

*Minutes respectfully submitted by Ray Purington, Administrative Assistant.*

  
\_\_\_\_\_  
John R. Ward, Selectboard Clerk



*Board of Selectmen*  
**Town of Montague**

1 Avenue A  
Turners Falls, MA 01376

(413) 863-3200 xt. 108

FAX: (413) 863-3231

Request to Support Montague's Intervention in DPU Docket 15-178,  
Concerning the NED Pipeline  
\$5000 requested from pipeline funds  
*Submitted to the Town of Gill by Montague Select Board*

To the Board of Selectmen of Gill:

As you know, the Town of Montague on January 12, 2016 was accepted as a full intervenor in the Dept. of Public Utilities (DPU) docket 15-178—a proceeding that will approve or disapprove Berkshire Gas's proposed contract ("precedent agreement") to buy gas transportation on the portion of the NED pipeline that would ship gas from Pennsylvania's fracking fields to Wright, NY. Challenging such contracts is fundamental to challenging the alleged "need" for this pipeline.

Being a full intervenor in this docket allows Montague's attorney and gas-industry expert to investigate the pipeline at its roots. Although the Federal Energy Regulatory Commission (FERC) has ultimate approval of the pipeline, FERC will only approve a pipeline that has enough contracts in place. The FERC Commissioners emphasized that capacity contracts are the only criteria they currently consider in determining the need for a pipeline in two major rulings issued Jan. 28.

[[http://elibrary.ferc.gov/idmws/File\\_list.asp?document\\_id=14423084](http://elibrary.ferc.gov/idmws/File_list.asp?document_id=14423084), paragraph 39; and  
[http://elibrary.ferc.gov/idmws/File\\_list.asp?document\\_id=14422989](http://elibrary.ferc.gov/idmws/File_list.asp?document_id=14422989), paragraphs 21-22]

As a full intervenor in this docket, Montague is entitled to have its legal representatives and witnesses examine the confidential aspects of Berkshire's proposed contract, and to determine whether Berkshire deliberately bypassed other, better options for serving its customers. Full intervenors also have the right to receive answers to other questions (discovery) from the Company, to cross-examine witnesses, and to appeal the DPU's eventual decision on the contract to the courts.

Having funded this intervention with \$15,000 of Town funds to date, and received a generous anonymous grant toward the work of the expert analyst for the case, and with preparation underway to seek additional funding from Town Meeting in the spring, Montague seeks grants from other communities whose interests will be served by a robust intervention at the state level.

We noted with appreciation that Gill's Special Town Meeting on Feb. 22 voted to allocate \$5000 for legal representation and technical assistance related to the pipeline. We especially appreciate that proponents of the Article focused on Montague's Berkshire Gas intervention as the intended use of these funds.

Montague views our participation in this DPU docket as serving the interests of every community that is concerned about the impacts and risks of the NED project.

To summarize what Greg Snedeker, Ivan Ussach, and other town voters stated at Gill's Special Town Meeting, according to the *Montague Reporter*: Gill will be impacted because of its proximity to the proposed pipeline route and the location of the proposed Northfield natural gas compressor station. The town is concerned about the real and potential negative impacts on public safety, air quality, water quality, noise, and light pollution. Concerns were also expressed about the costs and the broader environmental impacts of expanding the role of natural gas in our energy supply.

Any harm or risk that Gill may face due to NED is tied to this DPU case. If Berkshire Gas and a handful of other gas companies had not gotten together to support this pipeline, Franklin County would not be facing the project. The multiple interests that Berkshire Gas and its corporate owner Avangrid have in the NED project are a significant reason the proposed pipeline exists.

DPU docket 15-178 will shed light on this Berkshire Gas contract with NED, and the alternatives that Berkshire had, and has, to supply its customers. Therefore, it is in Gill's interest to support Montague in legal representation and technical assistance to examine Berkshire's claims and its true purposes for investing in this pipeline.\*

*\*The Company's confidential information will not itself be shared with the Towns nor the public; however, the consultant's overall assessment of the contract's validity, the possible alternatives, and the moratorium are expected to become part of the public record.*

**The Montague Select Board appreciates Gill's consideration of this funding request. We hope you will find it in the Gill's best interest to assist in this intervention at the DPU.**

*Respectfully submitted,*

A handwritten signature in black ink, appearing to read "Michael Nelson". The signature is fluid and cursive, with a long horizontal stroke at the end.

The Town of Montague Selectboard  
Michael Nelson, Chairman

# TOWN OF GILL

M A S S A C H U S E T T S



[www.gillmass.org](http://www.gillmass.org)

## OFFICE OF THE BOARD OF SEWER COMMISSIONERS Sewer Use Charges and Inspection Fees

To: Town Accountant

You are hereby notified that COMMITMENT(S) as shown below has (have) this day been made by the Board of Sewer Commissioners to Veronica LaChance, Tax Collector (Town Collector) and Collector of Sewer Charges. Bill date is March 8, 2016.

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To: Veronica LaChance, Tax Collector (Town Collector) and Collector of Sewer Charges for the Town of Gill in the County of Franklin:

You are hereby required to collect from the several persons named in the list dated February 25, 2016, herewith committed to you the amount of the sewer usage charges assessed therein to each such person, with penalties, the sum total of such list being Eighteen Thousand Six Hundred Fifty Three and 36/100 Dollars (\$18,653.36).

Given under our hands the 7<sup>th</sup> day of March, 2016.

\_\_\_\_\_  
Gregory M. Snedeker

*John R. Ward*

\_\_\_\_\_  
John R. Ward

*[Signature]*  
\_\_\_\_\_  
Randy P. Crochier

Board of Sewer Commissioners of the Town of Gill

# Local Law Filing

New York State Department of State  
Division of Corporations, State Records and Uniform Commercial Code  
One Commerce Plaza, 99 Washington Avenue  
Albany, New York 12231-0001  
www.dos.state.ny.us/corps

County of Rensselaer

Local Law No. (INTRODUCTORY) of the year 2015

A Local Law of the County of Rensselaer, New York Drinking Water Protection Law

By: Brownell, Goodermote, Breselor, Reid and Shannon

Be it enacted by the County Legislature of the  
(Name of Legislative Body)

County of Rensselaer as follows:

## Section 1. Title

This Local Law shall be known as the “Drinking Water Protection Law.”

## Section 2. Legislative Findings

The Rensselaer County Legislature hereby finds and determines that it is in the best interests of the residents of the County of Rensselaer to protect surface and groundwater within the borders of the County of Rensselaer, particularly surface and groundwater used for drinking water.

The purpose of this Local Law is to protect public health and safety by requiring the completion of well-water sampling and analysis prior, and subsequent, to any blasting within Rensselaer County that may adversely affect the quality or the volume or yield of surface water and groundwater drinking water sources within a one-half (1/2) mile radius of any proposed or actual blasting locations.

## Section 3. Definitions

As used in this Local Law, the following terms shall have the following meanings:

(A) “Blaster” is a person licensed as such by the New York State Department of Labor.

(B) “Blast” is the rapid release of heat and large quantities of high-pressure gases that expand rapidly with sufficient force to overcome confining forces resulting from the very rapid decomposition of a chemical compound or mixture initiated by heat, shock, impact, friction, or a combination of these conditions.

(C) “Blasting entity” is a person, a corporation or other legal business entity that blasts or engages a blaster to blast either on its own behalf or on behalf of another person, corporation or other entity within Rensselaer County.

(D) “Blast effect area” consists of all properties within one-half (1/2) mile of a blast; provided, however, that in the case of a blast within two (2) miles of a site listed on the United States National Priorities List under the Comprehensive Environmental Response, Compensation and Liability Act (42 USC 9601 *et seq.*), the term, “blast effect area” consists of all properties within two (2) miles of that blast.

(E) “Blast notification” is a notification of a blast satisfying the requirements for notification of the public, residents within a blast’s blast effect area, and the Rensselaer County Department of Health that are set out in Subdivision 4(A) of this Local Law.

(F) “Hazardous substance,” is as defined in rules and regulations promulgated, adopted, and approved pursuant to Section 6 of this Local Law; however, until action has been completed, that term shall be as defined in the rules and regulations of the New York State Department of Environmental Conservation.

(g) “Independent provider” is any person, corporation, or other legal business entity certified by the New York State Department of Health and approved and designated by the Rensselaer County Department of Health to conduct pre-blast and post-blast water quality sampling, analysis, and reporting on same for residents in Rensselaer County.

(H) “Quality” is a measure of the chemical, physical, biological, and radiological characteristics of water as identified in Part 5 of Title 10 of the Official Compilation Of Codes, Rules and Regulations of the State of New York (10 NYCRR Part 5).

(I) “Recharge rate” of a well is the quantity of water per unit of time that replenishes or refills that well.

(J) “Private drinking water supply sampling and analysis” is the sampling and analysis of the drinking water from a private drinking water well to determine the presence of hazardous substances and of turbidity and to determine the recharge rate of that well, with such sampling and analysis meeting the following requirements, which requirements may be expanded upon by duly promulgated and adopted rules and regulations of the Rensselaer County Department of Health under Section 6 of this Local Law:

(i) sampling performed only by an individual approved by New York State or by the Rensselaer County Department of Health to undertake and perform such sampling; and

(ii) analysis performed only by an environmental laboratory approved in accordance with Subpart 55-2 of Title 10 of the official compilation of the Codes, Rules and Regulations of the State of New York (10 NYCRR Subpart 55-2). However, measurements for pH, temperature, conductivity, turbidity, disinfectant residual, alkalinity, calcium, orthophosphate, bromide, chlorite, total organic carbon (TOC) concentration, dissolved organic carbon concentration, ultraviolet (UV) absorption, and silica may be performed by any person with a demonstrated ability to perform these analyses.

(K) “Resident” is any person residing within Rensselaer County.

(L) “Third Party Monitor” is an independent seismic testing company duly approved and retained by the Rensselaer County Department of Health to monitor and report on a blast, including pre-blast notification, pre-blast preparation, the blast itself, and post-blast aftermath and effects.

#### **Section 4. Notification**

(A) Responsibilities of Blaster and Blasting Entity:

(i) Blasting Schedule – Any blaster or blasting entity who intends to blast within Rensselaer County shall publish a blast notification in newspapers that have general circulation within Rensselaer County at least forty-five (45) days in advance of the start of a schedule for blasting, or, if an individual blast, a blast; and shall send a copy of the blast notification by United States certified mail and by e-mail to the Rensselaer County Department of Health and by United States certified mail to all residents within the blast effect area at least forty-five (45) days in advance of a blast. The Rensselaer County Department of Health is hereby authorized to implement a dedicated e-mail address for this purpose. The blast notification shall include the following information: 1) the specific location of the blast; 2) the date and time when each blast will occur; 3) a description detailing how access to the blast effect area will be controlled to prevent property damage and personal injury; and 4) the types and patterns of blast warnings and of signals that blasting has been completed and passage through the blast effect area is safe. The Rensselaer County Department of Health is authorized to promulgate and adopt rules and regulations under Section 6 of this Local Law that require such additional information as it may determine appropriate to be included in the blast notification.

(ii) Pre-Blast Private Drinking Water Supply Sampling and Analysis – The blast notification mailed to residents within the blast effect area under paragraph 4(A)(i) of this Local Law must contain the following information in addition to the information identified in that paragraph: 1) an offer to provide free of charge to any resident and at the blaster’s or blasting entity’s expense pre-blast private drinking water supply sampling and analysis conducted and reported by an independent provider; 2) contact information in order to schedule the pre-blast private drinking water supply sampling and analysis; and 3) that a report detailing the results of the pre-blast private drinking water supply sampling and analysis shall be provided to the Rensselaer County Department of Health and to the resident within thirty (30) days of completion of the sampling and analysis. The Rensselaer County Department of Health is authorized to promulgate and adopt rules and regulations under Section 6 of this Local Law that require such additional information as it may determine appropriate to be included in the blast notification mailed to residents.

(B) Residents within the blast effect area who require guidance regarding the pre-blast private drinking water supply sampling and analysis may contact the Rensselaer County Health Department at the following address, telephone number, and facsimile number:

Rensselaer County Department of Health  
1600 Seventh Avenue  
Troy, New York 12180  
Telephone: (518) 270-2626  
Fax: (518) 270-2638



(C) The blaster and blasting entity shall undertake a blast in strict accordance with the information contained in the blast notification pertaining to such blast, as may be revised by direction of the Rensselaer County Department of Health.

**Section 5. Blast Records**

Records of all blasts must be maintained by the blasters or blasting entities for a period of at least five (5) years from the date of a blast, or the date of the last blast, if more than one blast occurs in a blasting program. These records shall be made available for inspection upon written request by, and at no cost to, the public.

**Section 6. Rensselaer County Department of Health’s Authority**

The Rensselaer County Public Health Director is authorized to promulgate and adopt rules and regulations, including restrictions on the days of the week and hours in the day that blasting can take place, as well as under what weather conditions blasting can be conducted, in addition to such other and further site-specific conditions, restrictions, or limitations, as are reasonable and necessary to assure the safety of the public, and to take any and all other reasonable actions necessary to implement and enforce this Local Law. In addition, the Rensselaer County Public Health Director is expressly delegated the authority to promulgate and adopt rules and regulations that make Sections 4, 7, 8, and 9 of this Local Law applicable to public drinking water supplies and when, and under such circumstances, deemed appropriate by the Public Health Director, to retain third party monitors and require the costs of the services of such third party monitors to be borne by the blasting entity. Before being adopted, any rules and regulations so promulgated shall be subject the approval of the Rensselaer County Board of Health, and shall be made available on the County of Rensselaer website.

**Section 7. Pre-Blast Private Drinking Water Supply Sampling and Analysis**

Blasters and blasting entities shall be responsible for the reasonable costs of the pre-blast private drinking water supply sampling and analysis requested by residents and conducted, and for the reasonable costs of the report concerning same, prepared by the independent provider pursuant to Section 4 of this Local Law.

**Section 8. Post-blast Private Drinking Water Supply Sampling and Analysis**

(A) Formal Complaints – A resident within the blast effect area who requested a pre-blast private drinking water supply sampling and analysis and suspects post-blast private drinking water supply contamination or a reduction in recharge rate may file a formal complaint with the Rensselaer County Department of Health within six (6) months of the date of a blast or of the date of the last blast if more than one blast occurs in a blasting program.

(B) Investigation – The Rensselaer County Department of Health is authorized to initiate an investigation upon receipt of a formal complaint from a resident within the blast effect area and to take any and all reasonable suppression, abatement, and remediation actions that the Rensselaer County Department of Health deems necessary and appropriate to protect an individual or public health and safety. Blasters or blasting entities shall make their blast records available to the Rensselaer County Department of Health for any resident who has filed a formal complaint.

(C) Responsibilities of Blaster or Blasting Entity – Upon receipt of a formal complaint from a resident within the blast effect area, the Rensselaer County Department of Health will retain the services of an independent provider to perform and complete a post-blast private drinking water supply sampling and analysis within thirty (30) days of the request date and then to submit to the Rensselaer County Department of Health, to the resident, to the blaster, and to the blasting entity a report detailing the results of such post-blast private drinking water supply sampling and analysis within thirty (30) days of completion of such post-blast private drinking water sampling and analysis. The blaster and blasting entity shall bear all costs associated with such post-blast private drinking water sampling and analysis and reporting on same.

## **Section 9. Penalties**

(A) Civil Penalty for Lack of Notice – If the Rensselaer County Department of Health finds and determines that any blaster or blasting entity failed to meet the blast notification requirements in Section 4 of this Local Law and as may be further described in the Rensselaer County Department of Health rules and regulations promulgated and adopted under Section 6 of this Local Law, such violation shall be punishable by a civil penalty not to exceed \$15,000 per violation.

(B) Civil Penalty for Not Conducting or Paying for Pre-Blast Private Drinking Water Supply Sampling and Analysis, for Not Paying for Post-Blast Private Drinking Water Supply Sampling and Analysis Water Contamination, and for Recharge Rate Reduction in the Blast Effect Area -

(i) No blaster or blasting entity shall fail to conduct or to pay for any pre-blast private drinking water supply sampling and analysis and reporting or to pay for any post-blast private drinking water supply sampling and analysis and reporting. Each such failure constitutes a separate and distinct violation.

(ii) No blaster or blasting entity shall conduct a blast that reduces the quality of a drinking water supply, that results in the presence in a drinking water supply of any hazardous substance, or that shall increase the turbidity of such drinking water supply.

(iii) No blaster or blasting entity shall conduct a blast that results in the recharge rate in any well used for drinking water by a resident to decrease.

(iv) Unless proven otherwise by clear and convincing evidence, a blast shall be considered the cause of the presence in a drinking water supply of any hazardous substance and, in the case of a well providing drinking water, the cause of any reduction in the recharge rate of any such well, or an increase in the turbidity of such drinking water supply.

(v) After an investigation, and upon a finding by the Rensselaer County Department of Health that any blaster or blasting entity, failed to conduct or to pay for any pre-blast private drinking water supply sampling and analysis or reporting or to pay for any post-blast private drinking water supply sampling and analysis or reporting; or caused, by its blasting, contamination of a resident's drinking water, a functional reduction in the recharge rate of a groundwater well supplying drinking water to a resident, or an increase in the turbidity of such drinking water supply, each such violation shall be punishable by a civil penalty not to exceed \$15,000 for each such failure and for each such contamination, functional reduction, or increase in turbidity. In addition, the blaster and blasting entity shall be required to abate each violation and provide alternate water supplies to an affected resident at

the blaster's and blasting entity's expense until the contamination or turbidity is fully abated and, if applicable, the recharge rate is restored to pre-blast conditions.

(C) Civil penalties collected by the Rensselaer County Department of Health under this Local Law may be used for abatement purposes for any wells used to provide drinking water to residents within Rensselaer County that have been adversely affected as a result of blasting.

(D) Nothing contained in this Section 9 of this Local Law shall be construed to prevent or prohibit the commencement of any civil or administrative action or proceeding to enjoin any conduct constituting a violation of this Local Law or to recover any penalty for such violation or any damages occasioned by such violation.

## **Section 10. Mines, Water Well Drillers and Other Exempt Activities**

(A) This Local Law shall not apply to:

(i) mines subject to local municipal regulation or state regulation under Title 27 of Article 23 of the Environmental Conservation Law; or

(ii) water well drillers subject to state regulation under Title 15 of Article 15 of the Environmental Conservation Law;

(iii) a blast undertaken by, or under contract with and specifically regulated by, the State or Federal government; the United States military; a city, town or village within Rensselaer County, including all of its particular departments, agencies and divisions, acting within the proper performance of its duties and functions; the Rensselaer County Sheriff acting within the proper performance of his or her duties; or any school district, police, or fire-fighting force acting within the proper performance of its duties; or

(iv) a municipality whose governing body, by adoption of local law, elects not to be covered under this Local Law; provided, however, that such municipality, by equivalent process, may elect to return to becoming subject to this Local Law.

(B) The Rensselaer County Department of Health may suspend or modify any requirement of this Local Law for a blast upon a determination of good cause, which determination shall be based on, among other matters, findings that the blast is necessary to protect the health, safety and welfare of the public and that adequate safeguards will be implemented to prevent, for all drinking water wells within the blast effect area, reduction in the quality of a drinking water supply, introduction into a drinking water supply of any hazardous substance, and any increase in the turbidity of such drinking water supply. In evaluating any application for suspension or modification of any requirement of this Local Law, the Rensselaer County Department of Health is hereby authorized to retain the services of such experts as it may deem appropriate to properly evaluate such application and to charge in advance a fee sufficient to cover the full reasonable costs the Rensselaer County Department of Health will incur in retaining such experts.

**Section 11. State Environmental Quality Review Act compliance**

The Rensselaer County Legislature determines that the adoption of this Local Law constitutes a “Type II action” as that term is defined in the State Environmental Quality Review Act (“SEQRA”), and that no further action with respect to same is required under SEQRA.

**Section 12. Preemption**

If any part or provision of this Local Law is inconsistent with any federal or state statute, law, rule, or regulation, then such statute, law, rule, or regulation shall prevail. If any part or provision of this Local Law or the application of this Local Law to any person or circumstance be adjudged invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision of this Local Law, or the application of this Local Law, directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law, or the application of this Local Law to other persons or circumstances.

**Section 13. Reverse Preemption**

This Local Law shall be null and void on the day that statewide or federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this Local Law, or in the event that a pertinent state or federal administrative agency duly promulgates and adopts regulations preempting such action by the County of Rensselaer. The Rensselaer County Legislature may determine via resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this Section.

**Section 14. Severability**

If any section, subdivision, paragraph, clause, sentence, or other part of this Local Law or its application shall be adjudged by a court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or otherwise invalidate the remainder of this Local Law, which shall remain in full force and effect except as limited by such order or judgment.

**Section 15. Effective Date and sunset provision**

This Local Law shall be effective immediately upon filing with the Office of the Secretary of State. This Local Law shall be null, void, and of no force and effect on and after three years from the effective date.

Local Law ADOPTED by the following vote:

Ayes:

Nays:

Abstain:

November 23, 2015

Approved by the County Executive:

Dated: \_\_\_\_\_

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Kathleen M. Jimino  
County Executive

**TOWN OF [REDACTED]**  
**NOISE, EARTH REMOVAL, AND RELATED DISTURBANCES BYLAW FOR**  
**LARGE SCALE INDUSTRIAL & COMMERCIAL FACILITIES**

**Article [REDACTED]: Noise, Earth Removal, and Related Disturbances Bylaw**

**Section 1.0 Purpose**

The purpose of this Bylaw is to provide for the public health, welfare, and safety of the residents of the Town of [REDACTED] (the "Town") through implementation of regulations and performance standards for noise, earth removal, and other related disturbances associated with the construction or operation of large scale industrial and commercial facilities including natural gas transmission pipelines and appurtenant facilities (e.g. compressor, metering and venting stations), wind facilities, mining operations and other large scale manufacturing or commercial facilities. This bylaw is adopted pursuant to the authority granted to towns pursuant to M.G.L Chapter 40; Section 21 and large scale industrial or commercial facilities are also subject to all the requirements of the Town's Zoning Bylaws to the maximum extent permitted by law. The purpose of the Bylaw is to:

1. Reduce adverse environmental impacts from the construction and operations of large scale industrial and commercial facilities;
2. Minimize noise, earth removal and related disturbance impacts to surrounding residential properties, businesses, and municipal and institutional facilities;
3. Preserve the pre-existing character of neighborhoods, especially in rural areas and on agricultural lands adjacent to large scale industrial and commercial facilities;
4. Avoid exposing residents and public and private property to risk of injury or damage;
5. Minimize accidental damage to facilities due to man-made events or natural forces such as severe weather events; and
6. Ensure the construction and operations are in compliance with local, State and Federal requirements.

Application and study requirements required by this Bylaw are in addition to and should be coordinated with any requirements of the local Zoning Bylaws or Subdivision regulations.

**Section 2.0 Definitions**

Large Scale Industrial and Commercial Facility (LSICF)-- A large-scale industrial or commercial facility is defined as any facility, including any associated facilities, which are subject to the Massachusetts Environmental Policy Act (MEPA) and/or require the preparation of a Federal

Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA).

Appurtenant Facilities (ASEF) – Any structure, equipment, or other facilities (e.g. parking or staging areas) associated with the construction, operation or maintenance of the LSICF.

Applicant - Owner and/or Operator of the LSICF and/or ASEFs.

Certificate Granting Authority – The Select Board shall be responsible for issuing a Certificate of Compliance to construct or operate a LSICF and/or ASEF if it determines that such facility is in compliance with this Bylaw.

### **Section 3.0 Applicability**

3.1 This article applies to all LSICF and ASEFs that will be permitted or constructed after the effective date of the article.

3.2 All existing LSICF and ASEFs constructed prior to the adoption of this article shall not be required to meet the requirements of this article, provided that any modification to an existing LSICF or ASEF that occurs after the effective date of this article and materially alters the size, type, location, or operation of the LSICF or ASEF shall require compliance with this Bylaw, as determined by the Select Board.

3.3 If any part or provision of this Bylaw or the application thereof to any person or business is adjudged invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision of this Bylaw judged invalid and shall not affect or impair the validity of the remainder of this Bylaw, or the application thereof to other persons, businesses or circumstances.

3.4 The Select Board shall have **180 days** from the submission of a completed Application to determine if the proposed LSICF and ASEFs will meet the requirements of this Bylaw. The Select Board will identify any deficiencies or insufficient information needed to determine compliance. Applicant may not proceed with the construction or operation of the LSICF or ASEFs until compliance with the all requirements of the Bylaw has been achieved and a “Certificate of Compliance” has been issued by the Select Board.

### **Section 4.0 Compliance with Bylaw**

4.1 No LSICF or ASEFs shall be constructed or operated within the Town unless such facilities can meet all the requirements of this Bylaw. Compliance with this Bylaw shall be determined by the Select Board, based upon an application and any independent studies the

Select Board may require. In order to determine compliance, the Select Board may require independent noise or engineering studies, air and water quality testing, or other tests or studies to be paid for by the Applicant in accordance with this Bylaw.

4.2 The application for a LSICF and ASEFs shall be accompanied by a fee as established by resolution of the Select Board.

4.3 Any modification to an existing LSICF or ASEFs that materially alters its size, type, location, or operation shall require a new Application and must meet all requirements of this Bylaw. Like-kind replacements shall not require a new Application if so determined by the Select Board.

### **Section 5.0 Pre-Application Conferences**

5.1 The Applicant (“Owner/Operator”) is strongly encouraged to meet with the staff or municipal officials of the Town to determine the requirements of and the procedural steps and requirements of the Application. The intent of this process is for the Applicant to obtain necessary information and guidance before entering into any commitments or incurring substantial expenses with regard to the site and Application.

5.2 The pre-application conference is intended for the benefit of the Applicant in order to address the required submittals and is advisory only and shall not bind the Town/Municipality.

### **Section 6.0 Application**

The Applicant shall provide to the Select Board all of the following materials with eight (8) copies and an electronic version:

6.1 A narrative describing an overview of the project, including the number of acres to be involved and the location, number and description of the planned facilities, including staging and storage areas and other locations needed during the construction, operation or maintenance of the LSICF and ASEFs.

6.2 GIS mapping, in paper and digital versions, at an appropriate scale of the proposed location of the LSICF and ASEFs for the purpose of identifying properties that may be impacted by noise, earth removal or other related disturbances and to inform the Fire Chief, Police Chief, Emergency Management Director, Highway Superintendent and other emergency responders. Included in this map shall be an area within the development site for the location and parking of vehicles and equipment used in the transportation of personnel and/or development and use of the site. Such location shall be configured to allow the normal flow of traffic on public streets to be undisturbed.



6.3 The contact information of the Applicant and if different the organization and individuals responsible for the construction, operation and maintenance of the LSICF and ASEFs shall be provided to the Select Board and all emergency responders. Such information shall include a phone number where such individual or individuals can be contacted 24 hours per day, 365 days a year. Annually, or upon any change of relevant circumstances, the applicant shall update such information and provide it to the Select Board and all emergency providers.

6.4 A certification or evidence satisfactory to the municipality that, prior to the commencement of any activity related to the LSICF or ASEFs, the Applicant shall have accepted and complied with any applicable bonding or permitting requirements. Bonding shall be required to ensure repair by the applicant of any damage to municipal property including but not limited to roads, culverts, bridges, water or sewer facilities, cemeteries, buildings and to any private property including damage to residential or business structures, private roads, private water wells, septic systems, and landscaping caused by the construction, operation or maintenance of the LSICF and ASEFs.

6.5 A description of and commitment to maintain safeguards that shall be taken by the Applicant and its agents to ensure that the municipality's streets and property utilized by the Applicant shall remain free of dirt, mud and debris resulting from construction, operation or maintenance activities and the Applicant's assurance that such streets or property will be promptly repaired, swept or cleaned if damage, dirt, mud and debris occur as a result of Applicant's usage, with guaranties that meet the requirements of §13.0 of this article.

6.6 Verification that a copy of the Applicant's "Operation's Preparedness, Prevention and Contingency Plan" for public health and safety has been provided to the Select Board and all emergency responders, including a statement that the Applicant/Owner, upon changes occurring to the Operation's Preparedness, Prevention and Contingency Plan, will provide to the municipality and all emergency responders a revised copy marked with the revision date.

6.7 Assurance that, at least 30 days prior to the commencement of any construction activities, the Applicant shall provide an appropriate site orientation and training course of the Operation's Preparedness, Prevention and Contingency Plan for all emergency responders. The cost and expense of the orientation and training shall be the sole responsibility of the applicant. The Applicant or Owner shall be required to hold at least one site orientation and training course every six months under this section unless such requirement is waived by the Select Board in their sole discretion.

6.8 A copy of the documents submitted to the Massachusetts Department of Environmental Protection (MassDEP) and a Community and Environmental Impact Analysis meeting the requirements set forth in §7.0 of this article.

- 6.9 A copy of all permits and plans from appropriate Federal, State, and/or local regulatory agencies or authorities issued in accordance with all environmental requirements and regulations.
- 6.10 A copy of all permits and plans from the appropriate Federal, State, and/or local regulatory agencies or authorities issued in accordance with applicable laws and regulations for the proposed use.
- 6.11 A traffic impact study and roadway maintenance and repair agreement meeting the requirements set forth in §10.0 of this Bylaw.
- 6.12 Assurance that before the commencement of any construction, operation, maintenance or emergency activities that potentially pose a nuisance or public health or safety concern to residents and businesses, information shall be provided to residents and businesses per the requirements in §9.0 of this Bylaw.
- 6.13 Certification that private freshwater well testing will be completed in compliance with §11.0 of this article.
- 6.14 Submission of a Water Withdrawal Plan identifying the source of the water, how many gallons will be used and withdrawn each day, the origination of the water, proposed truck routes, and all permits issued by the Commonwealth or any other governmental body. The site for the treatment and disposal of the water shall also be identified.
- 6.15 Submission of a Hazardous Materials Management Plan that includes a complete list of chemicals, pesticides, herbicides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use. For those activities using or storing such hazardous materials, a Hazardous Materials Management Plan shall be prepared and filed with the Fire Chief, Police Chief, Emergency Management Director and the Board of Health. The Plan shall include: provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and clean-up procedures; provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces; evidence of compliance with the Massachusetts Hazardous Waste Management Act 310 CMR 30, including obtaining an EPA identification number from the Massachusetts Department of Environmental Protection; and proposed down-gradient location(s) for groundwater monitoring well(s), should the Select Board or Board of Health deem the activity a potential groundwater threat.
- 6.16 Submission of a Stormwater Management, Erosion and Restoration Plan to the Select Board and Conservation Commission prior to the commencement of any construction, operation or maintenance activities. The clearing of natural vegetation shall be limited to that which is necessary for the construction, operation, and maintenance of the LSICF and ASEFs.

Revegetation shall be provided for restoration areas required for construction but not necessary for ongoing maintenance or operations. Only native species typically found in the facility's environment may be used for restoration. Stormwater management shall meet all MADEP requirements and shall follow MADEP's Best Management Practices.

All Application materials shall be submitted to the Select Board with copies sent to the Planning Board, Conservation Commission, Board of Health, Zoning Board of Appeals, Fire Chief, Police Chief, Emergency Management Director and Highway Superintendent. Such boards and municipal officials shall have **90 days** to identify concerns or deficiencies or to provide recommendations to the Select Board with respect to the LSICF or ASEFs. The Select Board shall hold a Public Hearing to provide interested parties with the opportunity to comment at least 30 days before the issuance or denial of the Certificate of Compliance.

## **7.0 Community and Environmental Impact Analysis**

7.1 A Community and Environmental Impact Analysis Statement shall be submitted to the Select Board to determine compliance with the requirements of this Bylaw and shall be drafted by a qualified environmental engineering consultant whose fee is paid by the applicant. The purpose of the statement is to determine the impact of the project on the environment of the existing site and the resultant changes the proposal will have on the site and surrounding area. This information will assist the Town/Municipality to determine if the LSICF and ASEFs can meet the requirements of this Bylaw. At a minimum, the statement shall provide the following information:

1. A description of the proposed development, its purpose, a schedule of construction and length of operation. This information and technical data must be sufficient to allow a thorough assessment of the proposed LSICF and ASEFs impacts on municipal services, environmental resources and public health and safety during construction and operation.
2. A comprehensive description of baseline environmental conditions including but not limited ambient noise levels, air and water quality, stormwater and drainage patterns before any activities associated with the development occur.

7.2 A description of the environmental impacts of the proposed development both during and after complete build out of the proposed development. This description should focus on the environmental resources most likely to be affected by the development proposal and on the broader regional aspects of the environment impacts, including ecological inter-relationships. These impacts shall be defined as direct or indirect changes in the existing environment and as either beneficial or detrimental. Whenever possible, these impacts should be quantified. This discussion should include the impact not only upon the natural environment but upon land use as well.

7.3 Provide a separate analysis of all potential hazard impacts and hazard areas that could be caused by man-made accidents and natural hazards (flooding, hurricanes, earthquakes, tornadoes, snow/ice storms) and their probabilities and risks, with supporting statistics developed by an analysis of similar LSICF and ASEF's in comparable locations.

7.4 A discussion of measures which are required by federal, state or local regulations to protect or mitigate impacts upon the environment, including any associated research or monitoring. Include sufficient documentation and supporting material to demonstrate that the proposed measures will function as expected.

7.5 A discussion of the unavoidable adverse impacts described in Subsections 7.2 and 7.3 — both the short-term impacts (i.e., those occurring during build out of the LSICF and ASEF's), the long-term impacts, and the cumulative impacts to the environment. Particular attention should be paid to the LSICF and ASEF's relationship to trends of other LSICF or ASEF's developments (i.e., cumulative noise or air quality degradation posed by other industrial or commercial development).

7.6 Hydrologic analysis and information, including, but not limited to, a description, inventory, analysis and evaluation of the existing groundwater conditions and mapping of surficial geology. This analysis must be focused in terms of both surface water and groundwater quality and quantity; a discussion of likely and possible changes to these resources; and a discussion of measures to reduce or mitigate the identified impacts. Included in the analysis should be an analysis of potential impacts on residents and businesses that rely on private well water within 750 feet of the proposed LSICF and ASEFs (see Section §11.0).

7.7 Odor, vapors or particulate matter produced by the LSICF and ASEF's shall not exceed federal or state air quality standards. Applicant shall identify all hazardous pollutants that will be emitted that affect air quality that are regulated by MassDEP or the EPA. Applicant shall provide assurance that air quality testing will be conducted on a daily, weekly or more frequent basis at any LSICF or ASEF emission location including Compressor Stations, Metering Stations or Venting Stations located in the Town during the operation of the facility to protect public health and safety. An ambient air quality monitoring station(s) should be installed at least a year prior to the construction and operation of the LSICF or ASEF's in order to establish baseline conditions. Air quality reports should be provided to Town and State officials at minimum on a monthly basis.

7.8 The express standards and conditions referenced herein shall be addressed by the Applicant and submitted with the Application. An escrow account for the review by professional consultants pursuant to M.G.L. Chapter 44, Sec. 53G shall be established by the Applicant in the initial amount of \$100,000 or such other amount as the Select Board may determine. The escrow account shall be maintained following final approval of the Application to provide for inspections in accordance with §8.0 herein.

## 8.0 Professional Consultants

The Town may employ a professional consultant or consultants to conduct peer reviews of the proposal in accordance with M.G.L. Chapter 44, Sec. 53G, at the expense of the Applicant.

8.1 The function of the peer review consultant(s) shall be to advise, counsel, represent and/or aid the Town in ensuring compliance with this Bylaw and any other applicable municipal codes on such matters relating to the construction or operations of LSICF and ASEFs.

8.2 During the construction, operation, maintenance, decommissioning or reclamation activities associated with the LSICF and ASEFs, the Town shall require the services of an on-site inspector with proven background and experience in the type of LSICF and ASEFs proposed to be constructed, whose role will include but not be limited to the following:

1. Review of all applications for construction or operation of the LSICF and ASEF.
2. Inspection of site during key phases of development.
3. Inspection of LSICF or ASEFs upon receipt of a complaint.
4. Communication with appropriate municipal personnel if the inspector believes the Applicant, operator or contractor is violating a municipal code addressed in this Bylaw or another bylaw of the municipality or any other State or Federal law or regulation.
5. Authority to request and receive any records, logs, reports relating to the status or condition of the LSICF and ASEFs needed to determine compliance with this Bylaw.
6. In the event a professional peer review consultant is employed for the purpose of advising, counseling or representing the Select Board relative to ensuring compliance with this Bylaw, the cost for such services of the professional consultant shall be assessed against and paid for by the Applicant or Owner of the LSICF or ASEF in addition to any other consulting fees or charges assessed pursuant to this Bylaw.

## 9.0 Information Provided to Residents and Municipal Officials

9.1 Prior to the commencement of any construction activities of the LSICF and ASEFs, but no later than one month prior, the operator shall provide the following information to each resident within **1,000 feet** of any construction or staging area and any resident identified to be in a hazard zone (e.g. explosion, fire, etc.). For natural gas transmission lines and associated venting, metering and compressor stations, the **Potential Impact Radius (PIR)** appropriate for the diameter and maximum allowable operating pressure for the proposed pipeline will be determined and GIS mapping of the impacted areas will be provided to the municipality and residents in those zones as well as information on what to do or not do in the event of an emergency.<sup>1</sup>

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<sup>1</sup> See Exhibit 1 for information on how to calculate the PIR.

9.2 A GIS map of the location of the LSICF and ASEFs and a copy of the plans prepared by a professional engineer or land surveyor licensed in the Commonwealth of Massachusetts showing the proposed location of all construction activity including equipment and structures and all permanent improvements for the LSICF or ASEFs including any post-construction surface disturbance in relation to natural resources and public or private property in the surrounding area. Following the construction of the LSICF and ASEFs, “as-built” drawings based on surveys completed by a professional surveyor and stamped by a Professional Engineer shall be provided to the Select Board, Fire Chief, Police Chief, Emergency Management Director and Highway Superintendent. Both large scale paper copies and digital versions shall be provided at an appropriate scale.

9.3 A general description of the planned operations at the LSICF and ASEFs.

9.4 The contact information for the construction manager and/or operator of the LSICF and ASEFs.

9.5 The availability of the construction manager and/or operator to hold a meeting with residents and municipal officials to allow for questions and answers. The meeting(s) shall be held at least **three months** prior to the start of construction.

9.6 Applicant will identify any aspect of construction or operations of the LSICF or ASEFs that will cause a disturbance such as noise, vibration, pollution, erosion, etc. Applicant will certify that it will provide notice of any planned blasting, venting of gas or release of other hazardous materials at least 2 weeks in advance. Any venting of gas or release of other hazardous materials, erosion, or other disturbance created as a result of an emergency shall be reported to the Select Board within 24 hours of the event.

## **10.0 Road Use and Construction Site Access**

The operator shall provide a traffic impact study or description of the plan for transportation and delivery of equipment, machinery, water, chemicals, products, materials, water products and other items that may be utilized or produced in the siting, construction, completion, alteration or operation of the LSICF and ASEFs and maintenance after construction is completed. Such description shall include the following:

10.1 A map showing the planned vehicular access route to the development, indicating all private access roads, all state, county and local roads, bridges and other transportation infrastructure that may be used, and the type, weight, number of trucks, and delivery schedule necessary to support each phase of the development.

10.2 A list of all trucking contractors or employees of the Applicant who will travel to and from the development site with evidence of required registrations, licenses and insurance coverage.

10.3 The proposed routes must be designed to ensure adequate capacity for existing and projected traffic volumes, allow for efficient movement of traffic, including appropriate turning radii and transition grade, and minimize hazards to users of public roads as well as adjacent property and human activity.

10.4 To the maximum extent feasible, vehicle access to any construction or staging area should be an arterial or collector street.

10.5 Use of streets serving exclusively residential neighborhoods is prohibited.

10.6 The Select Board reserves the right to designate alternate routes in the event the Applicant's proposed routes are deemed inadequate, unsafe or overly disruptive to normal vehicular traffic by a Massachusetts registered professional engineer working on behalf of the municipality.

10.7 The Select Board also reserves the right to reduce speed limits on areas of roads that may present public safety hazards for trucks hauling construction materials.

10.8 The Applicant and operator of the LSICF and ASEF's shall execute a roadway maintenance and repair agreement with the Town and post a bond in a form acceptable to the Select Board and its Town Counsel prior to beginning any work on the LSICF or ASEFs (see §13.0 of this Bylaw).

10.9 The roadway maintenance and repair agreement shall require the owner or operator to conduct an inventory, analysis and evaluation of existing conditions on Town roads, culverts and bridges along the proposed transportation route, including photography, video and core boring. The roadway maintenance and repair agreement will identify the responsibilities of the Applicant and Operator to prepare, maintain or repair Town roads, culverts or bridges before, during and immediately after construction and during operation of the LSICF and ASEF. The operator shall take all necessary corrective action and measures as directed by the Select Board pursuant to the agreement.

10.10 Beginning with its intersection with a public street, any access road for the LSICF or ASEFs shall be improved in accordance with Select Board or Conservation Commission requirements to prevent water pollution and soil erosion or damage to roads. No water, sediment or debris shall be carried off-site onto any public or private property. If any substantial amount of mud, dirt or other debris is carried onto public or private property from the development site of the LSICF or ASEFs, the operator shall immediately stop work, clean the mud, dirt or debris and implement a remedial plan as directed by the Select Board to manage

stormwater and prevent runoff of mud, dirt or other debris onto public or private property including roads, wetlands and surface waters.

10.11 All-weather access roads suitable to handle emergency equipment shall be provided and maintained in accordance with the directions of the Select Board in consultation with the Fire Chief, Police Chief, Emergency Management Director and the Conservation Commission.

10.12 The operator shall take necessary safeguards to ensure appropriate dust control measures are in place.

10.13 All applicable permits or approvals must be obtained, including access or driveway permits, to State, county or local roads, construction permits within state, county or local roads, and permits for overweight or oversize loads. Access directly to State roads shall require MassDOT highway occupancy permits for overweight vehicles. The Select Board shall be provided a copy of this and all other applicable permits or approvals.

10.14 A suitable off-street area within the development site for vehicles to stand while gaining access to and from the LSICF and ASEF development site shall be provided so that the normal flow of traffic on public or private streets is undisturbed. Ingress and egress points to the development site from any public road shall be located and improved in order to meet the requirements of the 2006 MassDOT Project Development and Design Guide.<sup>2</sup> Private roads, easements, and driveways may not be used for access to the LSICF and ASEF development site unless written permission from the property owner is obtained and a copy of such permission is provided to the Select Board prior to construction.

10.15 The operator shall take all necessary precautions to ensure the safety of persons in areas established for road crossing and/or adjacent to roadways (for example, persons waiting for public or school transportation). Where necessary and permitted, during periods of anticipated heavy or frequent truck traffic associated with the development, the operator will provide flagmen to ensure the public safety and shall include adequate signs and/or other warning measures for truck traffic and vehicular traffic.

## 11.0 Private Fresh Water Well Testing

The Applicant and Operator of a LSICF and/or ASEFs shall provide the Select Board and Board of Health with the results of a pre-construction and post-construction water analysis and flow rate for each existing freshwater well **within 750 feet<sup>3</sup>** of the LSICF and/or ASEFs ne. If surficial geology warrants a greater testing area, the Board of Health can direct the Applicant and

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<sup>2</sup><https://www.massdot.state.ma.us/highway/DoingBusinessWithUs/ManualsPublicationsForms/ProjectDevelopmentDesignGuide.aspx>

<sup>3</sup> MADEP Interim Wellhead Protection Area default radius for non-community sources for non-transient wells (NTNC).



Operator to conduct testing for additional wells within the larger area. The tests shall conform to the following requirements:

11.1 Water samples must be collected and analyzed utilizing proper sampling and laboratory protocol from an independent MassDEP certified water testing laboratory.

11.2 Well samples shall be analyzed and flow rates (gpm) determined prior to any construction activity to document baseline water quality data and flow rates of the well, especially before any planned blasting.

11.3 A post-construction sample analysis shall be submitted for water quality testing by the operator within three months after construction is completed for wells within 750 feet. Wells within 300 feet of the facility or associated structures shall be tested on an annual basis throughout the life of the facility with the results provided to the property owner with a copy to the local Board of Health. If surficial geology warrants a greater testing area, the Board of Health can direct the Applicant and Operator to conduct testing for additional wells within the larger area on an annual basis.

11.4 Parameters to be tested for include, but are not limited to, methane, chloride, sodium, TDS, pH, arsenic, barium and strontium, and a subgroup of the volatile organic chemicals (VOCs) called BTEX (benzene, toluene, etc.).

11.5 If it is found that a freshwater well is no longer in use and without possibility of future use or if the freshwater well owner objects to having the well water tested, the owner of the freshwater well may waive the right to have the operator test the water. In such instance, the owner must execute an agreement releasing and holding harmless the Town, its officers and its employees from any damages.

11.6 If the results of the pre-construction and post-construction sample analyses indicate that well water contamination has occurred or flow rates have been reduced, the owner of the well should file a complaint against the Owner/Operator with the regional MassDEP office with a copy to the Town Board of Health. The Owner and Operator shall be required to conduct clean-up activities or repair or replace the well affected. If clean-up activities are conducted, the well shall be tested monthly for the contaminants listed in 11.4 for a 24-month period to ensure that the clean-up has been properly completed. The well(s) shall be tested annually thereafter.

## **12.0 Design and Installation**

12.1 Access.

1. Unless permission is granted by the Select Board, no LSICF or ASEF construction or operations site shall have access solely through a local street. To the maximum extent feasible, access to the LSICF and ASEFs shall be from an arterial or collector street.
2. Accepted professional standards pertaining to minimum traffic sight distances for all access points shall be adhered to.

#### 12.2 Structure height.

1. Permanent structures associated with the LSICF and ASEFs shall comply with the height regulations for the zoning district in which the LSICF or ASEF is located.
2. There shall be an exemption to the height restrictions contained in this section for the temporary placement of construction equipment necessary for the construction of a LSICF or ASEFs. The duration of such exemption shall not exceed the actual time period of construction or re-construction of the LSICF or ASEF.
  - (a) The time period of such construction and exemption shall not exceed six months.
  - (b) The operator shall give the Select Board prior written notice of at least 30 days before the beginning date for its exercise of the exemption.

12.3 Setbacks. Surface land uses affiliated with the LSICF or ASEF and all supporting equipment and structures shall be setback a minimum of seven hundred and fifty (750) feet from residential buildings and all commercial, industrial and institutional uses or a minimum of five hundred (500) feet from the nearest lot line, whichever is greater. Setbacks in areas of "High On-site Populations" shall be increase to ¼ mile (1,320 feet). The Select Board shall determine whether setbacks should be increased beyond ¼ mile if the area that could be impacted in the event of an accident at the LSICF or ASEF, is greater than ¼ mile. High On-site Populations<sup>4</sup> are defined in the footnote below. Property owners of existing or proposed residential or commercial development that cannot comply with the setback requirements can request a waiver from the Select Board for this requirement.

12.4 Screening and fencing. The applicant shall provide a plan prepared by a registered Landscape Architect licensed in Massachusetts showing landscaping proposed to be installed to screen and buffer surface land uses affiliated with the LSICF and ASEFs. The landscape plan shall incorporate the use of native vegetation, including evergreens, shrubbery and trees, which shall be of sufficient density to screen the facility. Security gates and fencing as appropriate to ensure public safety shall be installed after consultation with the Select Board, Fire Chief, Police Chief and Emergency Management Director with openings no less than 12 feet wide. Any fence installed shall be surrounded by native vegetation to provide screening. Existing vegetation in proximity to LSICF and ASEFs shall be preserved to the greatest extent possible. Emergency

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<sup>4</sup> High on-site populations are defined as the following: retirement housing; assisted living facilities; congregate living facilities; convalescent services; parks, detention facilities; day care services (commercial); hospitals; medical offices exceeding 5,000 sq. ft. of gross floor area; and educational facilities (public or private) that pose a public safety concern due to the characteristics of the occupants, development, or site that would make evacuation difficult in the event of an emergency.

responders shall be given means to access all LSICF and ASEFs in case of an emergency. Warning signs shall be placed on the security gates or fencing associated with the LSICF or ASEFs, providing notice of the potential dangers and the contact information in case of an emergency.

12.5 Lighting. No LSICF and ASEFs shall be artificially lighted except as required for emergency night time access. Any such lights shall be full-cutoff down lighting and shall be shielded so as to prevent intrusion upon nearby properties.

12.6 Noise. The Applicant and Operator shall take the following steps to minimize, to the extent possible, noise resulting from the LSICF and ASEFs:

1. Prior to the construction or operation of a LSICF and ASEFs, the Applicant shall identify ambient noise levels at the nearest property line of a residence and any public building, school, medical, emergency or other High On-site Population location or at 300 feet from the nearest residence or public building, medical, emergency or other High On-site Population location, whichever point is closer to the LSICF or ASEF. For linear facilities such as pipelines ambient noise level shall be measure at a minimum every ¼ mile along the proposed route. "Ambient" is defined as the background A-weighted sound level that is exceeded 90% of the time measured during the quietest part of the day or night. All testing required by this Bylaw shall be done by a qualified licensed professional acoustical engineer paid for by the Applicant. All testing shall be done in accordance with the professional standards of the appropriate accrediting agencies and the sound level meter used in conducting any evaluation shall meet the American National Standard Institute's standard for sound meters or an instrument and associated recording and analyzing equipment. The Select Board may have the results of the noise testing "peer reviewed" in accordance with §8.0 of this Bylaw.
2. The Applicant shall provide the Select Board and Board of Health documentation of the established ambient noise level prior to starting construction of a LSICF or ASEF.
3. The noise generated during the LSICF or ASEF operations shall comply with the provisions of the Massachusetts Department of Environmental Protection's, Division of Air Quality Noise Regulations (310 CMR 7.10), as amended, and shall not exceed the average ambient noise level by more than 5 (five) db(A).
4. A source of sound will be considered in violation of this Bylaw if the source:
  - (a) increases the broadband sound level by more than 5 db(A) above ambient pre-construction noise levels during construction activities and subsequent operations or increases the broadband sound level by more than 5db(C) above the pre-construction ambient noise level during construction activities and subsequent operations; or

- (b) produces a “pure tone” condition, when an octave band center frequency sound pressure level exceeds the two (2) adjacent center frequency sound pressure levels by three (3) decibels or more; or
  - (c) results in sound or noise levels greater than 40 db(A) during the day or 30 db(A) at night (typical range 30-40 db(A) for rural or quiet residential areas); or
  - (d) results in excessive low frequency noise.
5. Exemption from the standards established in this subsection may be granted by the Select Board during the construction stages of a LSICF or ASEF development for cause shown and upon written agreement between the applicant and the Select Board. However, any such exceedances of the noise standards shall not be allowed between 7:00 p.m. and 7:00 a.m.
6. Complaints received by the Town shall be addressed by the Applicant and Operator of the LSICF or ASEF within 24 hours following receipt of notification by continuously monitoring for a period of 48 hours at the nearest property line to the complainant's residential or public building or 100 feet from the complainant's residential or public building, school, medical, emergency or other High On-site Population location public facilities, whichever is closer. The Applicant and Operator shall report the findings to the Select Board and Board of Health and shall mitigate the problem to the allowable level if the noise level exceeds the allowable standard.
7. LSICF and ASEFs shall be constructed and operated to mitigate sound levels and shall install devices or use other equipment to mitigate sound levels to ensure that the noise level standards at residential or public buildings, medical, emergency or High On-site Population locations are not exceeded.
- 12.7 Hours of operation. Except for emergency operations, hours of construction activities or operation at a LSICF or ASEFs are limited to Monday through Friday, 7:00 a.m. to 7:00 p.m. and not permitted on weekends or legal holidays. Truck traffic related to the construction or operations of the LSICF or ASEFs shall be allowed only during these hours of operation. Exemption from the standards established in this subsection may be granted by the Select Board for cause shown and upon written agreement between the Applicant and the Town.
- 12.8 Reclamation/restoration of all disturbed areas.
- 1. Reclamation shall be initiated as soon as weather and ground conditions permit after construction or re-construction of a LSICF or ASEFs, and reclamation shall be completed no more than six months after this point.
  - 2. Reclamation shall be carried out on all disturbed areas and achieve the following objectives:
    - (a) Final soil profiles shall be designed to equal or reduce soil erosion potentials over stable pre-operation conditions, and final land forms shall be stable;

- (b) Preexisting visual character of site shall be restored or enhanced through planting of local or adaptive vegetation. Invasive species shall not be considered acceptable; and
- (c) Disturbance of soil cover shall be minimized.

#### 12.9 Prohibitions.

1. No LSICF or ASEF shall be allowed to be constructed or operated in the floodway designated as such in the Flood Insurance Study (FIS) and shown on the Federal Emergency Management Agency (FEMA) maps.
2. Construction or operation of a LSICF or ASEFs in the one-hundred-year floodplain is discouraged but may be permitted by the Select Board in its discretion if the following provisions are met:
  - (a) The Applicant must provide conclusive documentation that no other location is more appropriate for location of the LSICF or ASEF other than a location within the floodplain.
  - (b) An adequate emergency evacuation plan shall have been produced by the applicant and filed with the Town.
  - (c) No storage of chemicals shall be permitted within the floodplain. An exemption from this requirement may be granted by the Select Board, in consultation with the Board of Health, if the Applicant and Operator can show that such storage will not potentially cause any harm to property, persons or the environment in the case of a one-hundred-year flood, and further provides security to the Town ensuring the Applicant's and Operator's ability to remedy any damage or injury that may occur.
  - (d) Only necessary and needed structures will be permitted within the floodplain.
  - (e) All structures within the flood zone shall be designed to withstand a **one-hundred year** storm event.
  - (f) An engineer registered in Massachusetts and qualified to present such documentation that the LSICF or ASEF will not cause additional flooding on adjacent, upstream and/or downstream properties shall provide such documentation to the Town.

#### 13.0 **Performance Bond, Insurance and Indemnity**

- 13.1 Performance Bond or Escrow Account. The Applicant shall submit to the Town a Performance Bond from a surety authorized to do business in the state to cover any damage to public or private property that occurs as a result of the construction of the LSICF and any ASEF's in an amount and for a term (e.g. construction period plus 2-3

years) determined by a professional engineer and acceptable to the Town. In addition, the Applicant shall provide a bond or establish an escrow account that will ensure that all testing and maintenance provisions required during the life of the LSCIF or ASEF facility are completed in accordance with this bylaw and any agreement with the Select Board related to the LSCIF and/or ASEF.

The bonds shall provide, but not be limited to, the following condition: there shall be recoverable by the Town, jointly and severally from the principal and surety, any and all damages, loss or costs suffered by the Town in connection with the Applicant's geophysical operations within the Town. The rights reserved to the Town with respect to the bond are in addition to all other rights of the Town, and no action, proceeding or exercise of a right with respect to such bond shall affect any other rights of the Town.

- 13.2 Insurance. Prior to conducting any operations hereunder, the Applicant, Operator and/or its contractors shall furnish a certificate of insurance to the Select Board showing the Town as an additional insured with respect to operations conducted within the Town and showing liability insurance covering commercial, personal injury, and general liability in amounts not less than \$1,000,000 per person, \$10,000,000 per occurrence, and \$10,000,000 property damage. The Applicant and/or Operator shall also provide furnish a certificate of insurance to the Select Board showing the Town as an additional insured under umbrella insurance with a minimum amount of \$10,000,000.
- 13.3 Indemnity. The applicant shall protect, indemnify, defend and hold the Town its officers, employees, agents and representatives harmless from and against all claims, demands and causes of action of every kind and character for injury to, or death of, any person or persons, damages, liabilities, losses and/or expenses, occurring or in any way incidental to, arising out of, or in connection with the Applicant or its contractors', agents', or representatives' construction or operation of the LSICF or ASEF, including attorneys' fees and any other costs and expenses incurred by the Town in defending against any such claims, demands and causes of action. Within 30 days of receipt of same, the Applicant and/or Operator shall notify the Town in writing, of each claim for injuries to or death of persons, or damages or losses to property occurring or in any way incidental to, arising out of, or in connection with the Applicant's or its contractors', agents', or representatives' operations conducted or associated with the LSICF or ASEFs. At the Town's discretion, the Town may conduct an independent investigation, monitor, and review the processing of any such claim, to ensure that such claim is handled as required herein.
- 13.4 Notwithstanding anything contained herein to the contrary, construction and/or operation of the LSICF or ASEF is not allowed until a copy of all Bonds, Insurance Certificates, Agreements or Studies required by this Bylaw have been completed and provided to the Select Board and its Town Counsel. The Performance Bond and the

Certificates of Insurance must also be filed with the Town Clerk and with the Franklin County Registry of Deeds.

#### **14.0 Removal Requirements and Abandonment**

- 14.1 Removal and Abandonment. Any LSICF or ASEF which has reached the end of its useful life or has been abandoned consistent with Section 14.0 of this bylaw shall be removed. The Owner and/or Operator shall physically remove the installation no more than 180 days after the date of discontinued operations. The Owner or Operator shall notify the Select Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:
- (a) Physical removal of all LSICF or ASEF structures, equipment, security barriers and transmission lines from the site.
  - (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
  - (c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Select Board may allow the Owner or Operator to leave landscaping or designated below-grade foundations or structures in order to minimize erosion and disruption to vegetation.
  - (d) Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the LSICF or ASEF shall be considered abandoned when it fails to operate for more than one year without the written consent of the Select Board. If the owner or operator of the LSICF or ASEF fails to remove the installation in accordance with the requirements of this section within 180 days of abandonment or the proposed date of decommissioning, the Town retains the right, after the receipt of an appropriate court order, to enter and remove an abandoned, hazardous or decommissioned LSICF or ASEF. The Applicant and Operator shall agree to allow entry to remove an abandoned or decommissioned installation. The Town's cost for the removal may be charged to the property owner in accordance with the provisions of M.G.L. 139.
  - (e) The Owner/Operator of a LSICF or ASEF shall provide a form of surety, either through an escrow account, bond or other form of surety approved by the Select Board to cover the cost of removal in the event the town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Select Board, in consultation with a Professional Engineer and Town Counsel, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the Applicant and the Town. Such surety will not be required for municipal or state-owned facilities. The Applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

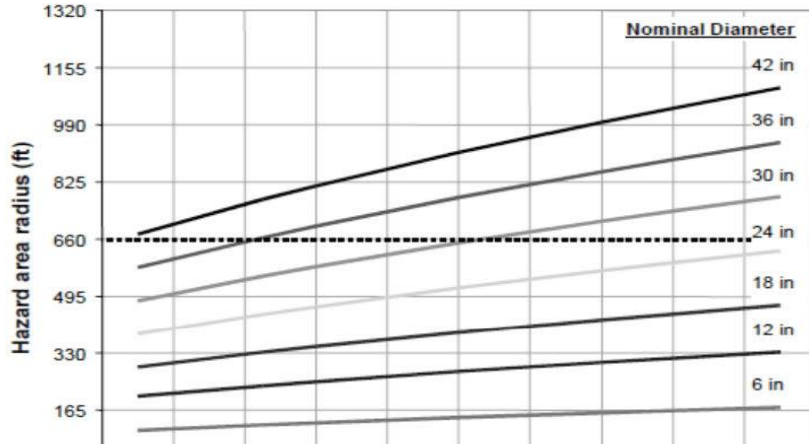
**15.0 Violations and Penalties**

- 15.1 Any owner, operator or other person who violates or permits a violation of this Bylaw shall pay to the Town a fine of \$300 per violation per day plus all court costs, including, but not limited to, reasonable attorney's fees, incurred by the Town on account of such violation. Each day a violation exists shall constitute a separate offense. Further, the appropriate officers or agents of the Town are hereby authorized to issue a cease and desist notice and/or to seek equitable relief, including injunction, to enforce compliance herewith.

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Exhibit 1- Potential Impact Radius (PIR) and Pipeline Class Locations



Pipeline MAOP (psig)	Pipeline Diameter (inches)								
	6	8	10	12	16	24	30	36	42
200	59	78	98	117	156	234	293	351	410
400	83	110	138	166	221	331	414	497	580
600	101	135	169	203	270	406	507	608	710
800	117	156	195	234	312	468	585	703	820
1000	131	175	218	262	349	524	655	786	916
1200	143	191	239	287	382	574	717	860	1004
1400	155	207	258	310	413	620	775	929	1084

This table gives Planning Zone distances (in feet) for natural gas transmission lines, based on the PIR calculation for different combinations of pipeline diameters and MAOP. For example, a 30-inch pipeline with MAOP of 1,000 psig has a PIR of 655 feet. In this case, a Planning Zone extending 655 feet on either side of the pipeline could be defined.

**Source:** Brookings County, South Dakota, Article 24.00, Transmission Pipeline Risk Reduction Overlay District.

**Class Locations**

Many of the inspection protocols through PHMSA and/or PA PUC are based on the pipeline “class location”; in general, class determines pipeline standards and frequency of inspections. Below are listed

## Exhibit 1- Potential Impact Radius (PIR) and Pipeline Class Locations

the various class locations. In essence, Class 3 & 4 areas are places where there would be greater human injury potential from a pipeline incident and therefore require more vigorous inspection regimes. Class locations are checked routinely and revised based on new development occurring in an area. Class locations are determined by the number of buildings within 660 feet (220 yards) on each side of a pipeline per sliding mile.

Class 1 location – 10 or fewer buildings.

Class 2 location – more than 10 but less than 46 buildings.

Class 3 & 4 locations – more than 46 buildings and buildings with high occupancy (churches, schools, etc.).

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## Model Local Road Preservation Bylaw – Revised 12/15/15

### Section 1. Purpose.

The purpose of this bylaw is to maintain the safety and general welfare of the residents of the Town of \_\_\_\_\_ by regulating high frequency and high impact commercial transportation activities that have the potential to adversely impact local roads and public property.

### Section 2. Definitions.

**Designated Route** – The route for the High Impact Truck Traffic.

**High Impact Truck Traffic** – Traffic to and from a single project site, whether or not located in the Town of \_\_\_\_\_, that generates more than ten (10) truck trips per day over Local Roads for more than three (3) consecutive days, involving trucks that exceed twenty (20) tons (combined truck and load).

**High Impact Truck Traffic** – Traffic to and from a project site, whether or not located in the Town of \_\_\_\_\_, that generates more than ten (10) truck trips per week over Local Roads, involving trucks that exceed twenty (20) tons (combined truck and load).

**Local Road** – A road or public right-of way located in the Town of \_\_\_\_\_ that is owned and/or maintained by the Town of \_\_\_\_\_. A local road includes, but is not limited to the road (subsurface), road surface, shoulders, ditches, all structures (bridges, culverts, pipes), other appurtenances (guardrails, public utilities, signs, traffic signals) and other improvements to the road or public right-of-way.

**Permittee** – The holder of a High Impact Use Permit.

### Section 3. High Impact Use Permit Required.

Any user of a Local Road that will undertake transportation activities that meet the definition of High Impact Truck Traffic shall obtain a permit prior to engaging in such transportation activities (“High Impact Use Permit”).

### Section 4. Permitting Authority.

The Board of Selectmen or its designee shall be responsible for the administration and enforcement of this bylaw as the Permitting Authority.

### Section 5. High Impact Use Permit Application Requirements.

Applicants are strongly encouraged to meet with the Permitting Authority to discuss its proposed transportation activities prior to submitting an application. The following information must be provided by the applicant as part of an application for a High Impact Use Permit:

- a) Applicant’s contact information including company name, address, telephone number and the name and title of the person responsible for the transportation activities regulated herein.

**Comment [PS1]:** I think this standard may be too high for a rural town that has very little heavy truck traffic on local roads. A possible alternative is shown in the yellow highlighted area below. Each town will have to determine the appropriate standard for their town.

- b) A road map and narrative description of the Designated Route.
- c) Video documentation of the condition of Local Roads along the Designated Route completed by an independent third party selected by the Permitting Authority and paid for by the applicant.
- d) The Permitting Authority may require additional studies of the Local Roads by an independent third party selected by the Permitting Authority and paid for by the applicant, including but not limited to distress surveys, rutting and cross slope assessments, road roughness assessments, core sampling, and culvert and bridge condition surveys.
- e) Any other documents, maps, sketches and plans that the Permitting Authority may require.
- f) All other submittals required by this bylaw, including but not limited to proof of insurance and a financial surety to cover roadway maintenance and repair.
- g) A High Impact Use Permit fee of \$\_\_\_\_\_.

Section 6. **Technical Review Fee.**

When reviewing the application material for a High Impact Use Permit the Permitting Authority may hire outside consultants to assist with its review. In such cases, the Permitting Authority may require that the applicant pay a “technical review fee” consisting of the reasonable costs incurred by the Permitting Authority for the employment of qualified independent consultants engaged by the Permitting Authority to assist in the review of the application.

Section 7. **Permittee Liable for Damages to Local Roads.**

Permittee is responsible for all costs and expenses to repair damage to Local Roads caused by the Permittee’s transportation activities. Permittee shall not be responsible for normal wear and tear or pre-existing damage identified in the original assessment of road conditions that was not worsened by the transportation activities of the Permittee.

Section 8. **Post Transportation Local Road Assessment.**

Within two weeks of the completion of the transportation activities regulated under the High Impact Use Permit, an independent third party selected by the Permitting Authority and paid for by the applicant shall re-assess the condition of Local Roads along the Designated Route in the same manner as the original assessment. The independent third party shall prepare a written report identifying the damage, if any, caused by the Permittee’s transportation activities, including a cost estimate to repair the damage. The Permittee will also be responsible for repairing any additional damage identified by the Town after the initial independent assessment for up to 12 months.

Section 9. **Required Repairs to Local Roads.**

- a) Upon the completion of the post transportation assessment of the Local Roads, the Permittee shall undertake such repairs to restore the Local Roads along the Designated Route to their pre-existing condition, ensuring that all damage identified in the assessment attributable to the Permittee’s use of

the Local Roads has been addressed to the satisfaction of the Permitting Authority. Any such repairs shall be made promptly according to the specifications and timeline of the Permitting Authority.

- b) An independent third party selected by the Permitting Authority and paid for by the applicant shall re-assess the condition of Local Roads impacted after repairs have been completed and such repairs must be completed to the satisfaction of the permitting authority. If the Permittee fails to make such repairs as required herein the Permitting Authority may call-in the roadway repair and maintenance financial surety to pay for the repairs.

Section 10. **Responsibility to Meet Higher Standards.**

If the replacement or repairs to Local Roads requires meeting higher standards due to new state or federal regulations, the Permittee shall pay the additional costs necessary to meet those standards.

Section 11. **Roadway Repair & Maintenance Financial Surety.**

- a) An applicant shall present to the Town of \_\_\_\_\_ a roadway repair and maintenance financial surety in a form and amount acceptable to the Permitting Authority which it deems sufficient, based on estimates from a qualified civil engineer, to cover the estimated cost of repair or reconstruction of all Local Roads along the Designated Route.
- b) In determining the dollar amount required, the Permitting Authority shall take into account the type of road (dirt, gravel, oil and stone, asphalt), width of road, existence of bridges, culverts, drainage pipes and other features as deemed appropriate.
- c) Prior to the roadway repair and maintenance financial surety expiring or being changed, cancelled or expended the Permittee shall renew, extend or replace the financial surety on the same terms and conditions of the original financial surety and immediately provide proof thereof to the Permitting Authority.
- d) The Permitting Authority may revoke the High Impact Use Permit if the Permittee fails to provide a current roadway repair and maintenance financial surety as required herein.
- e) Upon a determination by the Permitting Authority that the Permittee has caused no damage to the Local Roads along the Designated Route or upon a determination by the Permitting Authority that the damage has been repaired to its satisfaction, the Permitting Authority shall release the roadway repair and maintenance financial surety. However, the Permitting Authority in its discretion may take up to 24 months after the completion of transportation activities to make its final determination in order to allow for sufficient time to elapse for hidden damage to be evidenced. The Permittee shall maintain the financial surety during this 24 month time period unless sooner released by the Permitting Authority.

Section 12. **Insurance.**

An applicant shall present proof of insurance to the Permitting Authority in the form and amounts as provided below:

- a) General liability coverage in the amount of two million dollars (\$2,000,000) naming the Town of \_\_\_\_\_ and its employees as an additional insured.
- b) General aggregate liability insurance in the amount of two million dollars (\$2,000,000) naming the Town of \_\_\_\_\_ and its employees an additional insured.
- c) Permittee shall maintain the insurance policies as required by this section while the transportation activities authorized under the High Impact Use Permit are continuing.
- d) The Permitting Authority may revoke the High Impact Use Permit if the Permittee fails to maintain a current insurance policy as required by this section.

Section 13. **Additional Conditions on High Impact Use Permits.**

The following conditions shall apply to all High Impact Use Permits:

- a) Permittee shall provide the Permitting Authority with five (5) days written notice prior to undertaking the transportation activities authorized by the High Impact Use Permit.
- b) Permittee shall provide the Permitting Authority with prompt notice of the completion of the transportation activities authorized by the High Impact Use Permit.
- c) Permittee shall provide the Permitting Authority, the fire chief and the police chief with three (3) days written notice of any anticipated traffic issues that might prevent emergency vehicles from having access to the entirety of the town.
- d) Permittee is limited to using the Designated Route for High Impact Truck Traffic activities.
- e) Modifications to the Designated Route require the Permittee to obtain a new High Impact Use Permit.
- f) The High Impact Use Permit shall not be transferred or assigned without the written consent of the Permitting Authority.
- g) Permittee shall be liable for the actions of any individual or entity operating under its High Impact Use Permit.
- h) Valid insurance and roadway repair and maintenance financial surety shall be maintained while the activities authorized under the High Impact Use Permit are continuing and until released by the Permitting Authority.
- i) Permittee is responsible for all damages to any Local Roads that it caused, even those outside of the Designated Route. The amount of the roadway repair and maintenance financial surety shall in no way limit the financial liability of the Permittee to repair damage it caused to the Local Roads.

Section 14. **Waiver.**

A request for a waiver from the requirements of this bylaw shall be made in writing to the Permitting Authority at the time of the application and contain the relief sought and the reasons therefor. In order to grant the waiver the Permitting Authority must find that:

- a) Granting the waiver conforms to the purpose and intent of this bylaw;

- b) Special circumstances exist that support the request for a waiver;
- c) Denying the waiver would result in a hardship to the applicant, provided such hardship is not self-imposed; and
- d) The waiver is the minimum necessary to accomplish its purpose.

Section 15. **Violations – Fines & Revocation.**

- a) A violation of this bylaw or of the requirements or conditions of a High Impact Use Permit issued under this bylaw is punishable by a fine not to exceed \$300 for each offense.
- b) Each trip to or from the project site over Local Roads in violation of this bylaw or the requirements or conditions of a High Impact Use Permit constitutes an additional, separate and distinct offense.
- c) In addition to the fines provided herein, upon the violation of any requirement or condition of the High Impact Use Permit or this bylaw, the Permitting Authority may suspend the High Impact Use Permit for no more than thirty (30) days and following a public hearing at which the Permittee shall have the right to appear and be heard, the Permitting Authority may permanently revoke the High Impact Use Permit on written notice to the Permittee.

Section 16. **Severability.**

Should any section of this bylaw be declared by a court of competent jurisdiction to be invalid, such decisions shall not affect the validity of the bylaw as a whole or any part thereof other than the part declared to be invalid.

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For questions or comments about this model bylaw please contact Brian Domina, BRPC Senior Land Use Planner at (413) 442-1521 ext. 14 or [bdomina@berkshireplanning.org](mailto:bdomina@berkshireplanning.org)





# Franklin Regional Council of Governments

February 17, 2016

Ray Purington, Administrative Assistant  
Town of Gill  
Town Hall  
325 Main Street  
Gill, MA 01354

Dear Ray,

As part of the Franklin County Mass in Motion Project, the Franklin Regional Council of Governments (FRCOG) is providing towns with information on Complete Streets and the Massachusetts Complete Streets Certification Program. Complete Streets refers to a transportation policy and design approach that involves planning, designing, operating, and maintaining streets for safe, convenient and comfortable travel and access for users of all ages and abilities regardless of their mode of transportation. As you may already be aware, the Massachusetts Complete Streets Funding Program, which was created as part of the 2014 Transportation Bond Bill, provides technical assistance and incentives for towns to adopt Complete Streets policies and implement projects.

At this time, the FRCOG is contacting all of the towns in Franklin County to provide information on Complete Streets and this new funding program and the requirements for participation. A summary of the information on Complete Streets and the funding program that was presented at a recently held workshop is enclosed. Additionally, one of the requirements for participation in the program is that towns adopt a Complete Streets policy. A sample Complete Streets policy is enclosed.

The FRCOG is seeking to gauge interest in participating in the Complete Streets Funding Program. We are also interested in whether the town will be considering the adoption of a complete streets policy and if the FRCOG staff can provide assistance to the town in this process.

This letter is intended to provide some general information on the Complete Streets Program, and I will call you during the next few weeks to find if your town is interested in receiving assistance from the FRCOG. Please do not hesitate to contact me sooner at 413-774-3167 x 125, or via e-mail at [giannini@frcog.org](mailto:giannini@frcog.org), if you have questions or require additional information. I look forward to working with the Town. Thank you very much for your attention in this matter.

Sincerely,

A handwritten signature in black ink that reads "Beth" followed by a long, sweeping horizontal line.

Elizabeth Giannini  
Senior Transportation Planner II

Overview of  
MassDOT Complete Streets 101 Presentation  
December 16, 2015

## Background

This is a summary of the information that was presented at the Baystate Roads Complete Streets 101 training workshop on December 16, 2016. Please note that attendance at either the Complete Streets 101 or 201 workshop is a requirement for participation in the Massachusetts Complete Streets Funding Program. This summary is being provided to highlight important information and not replace attendance. The Baystate Roads workshops are free and town representatives or interested individuals may sign up on the Baystate Road website at <http://baystateroads.eot.state.ma.us/workshops/>.

## Complete Streets

A **Complete Street** is one that provides safe and accessible options for all travel modes including walking, biking, transit, and motor vehicles, and for people of all ages and abilities. Complete Streets improvements may be a large scale redesign or a small scale improvement that is focused on one mode.

The **Massachusetts Complete Streets Funding Program** was created as part of the 2014 Transportation Bond Bill. The Complete Streets Funding Program FY16 provides technical assistance and incentives for adoption of Complete Streets policies at the municipal level. It is also intended to facilitate better travel for pedestrians, bicyclists, transit riders and motorists of all ages and abilities by addressing critical gaps in infrastructure and safety.

There are a number of resources which provide guidance that are helpful in developing Complete Streets projects.

- The 2006 MassDOT *Design Guide*;
- Transportation Research Board (TRB) *Highway Capacity Manual* 2010;
- MassDOT *Separated Bike Lane Planning and Design Guide* 2015;
- AASHTO *A Policy on Geometric Design of Highways and Streets* 2011;
- FHWA *Manual on Uniform Traffic Control Devices* 2009
- AASHTO *Guide for the Development of Bicycle Facilities* 2012;
- FHWA *Separated Bike Lane Planning and Design Guide*;
- NACTO *Urban Street Design Guide*; and
- MBTA *Bus Stop Design Guidelines* 2014.

## Complete Streets Funding Program Overview

MassDOT has allocated \$12.5 million over the next two years (FY 2016 and 2017) for the Complete Streets Funding Program. The FY16 funding is particularly focused on rewarding municipalities that commit to adopting Complete Streets best practices through the Community Compact Cabinet program. The Community Compact is a separate, but linked, program in which cities/towns voluntarily enter into an agreement with the Baker-Polito Administration to implement at least one best practice. By entering the agreement the city/town receives priority for specific Commonwealth technical assistance resources to help achieve the chosen best practice(s). Complete Streets is one of the best practices.

The Complete Streets Funding Program has three tiers for participation. **Tier 1** involves Complete Streets policy development. The requirements and funding available through Tier 1 is summarized in the table below. There is no funding for policy development, but MassDOT provides a guidance document to assist towns in developing a policy. Additionally, there are sample policies on the Smart Growth America's website <http://www.smartgrowthamerica.org/>.

### **Tier 1: Complete Streets Policy Development**

#### **Requirements:**

1. Attend Complete Streets 101 or 201 Baystate Roads training;
2. Develop a Complete Streets Policy;
3. Adopt the policy by a chief elected official or board with one public meeting; and
4. Submit policy to MassDOT for scoring (The policy must score 80 or higher of 100 potential points in order to advance to Tier 2).

**Funding:** There is not funding available from MassDOT, but the FRCOG could provide technical assistance.

**Tier 2** focuses on the completion of a Complete Streets Prioritization Plan. Through the development of a Complete Streets Prioritization Plan municipalities look holistically at Complete Streets needs, safety and/or network gaps, and develop a list of priorities. MassDOT will provide a model spreadsheet format and review Prioritization Plans for completeness, but MassDOT will not score the Plans. There are three ways in which municipalities may enter the Tier 2 portion of the program. These requirements are summarized in the following table.

**Tier 2: Complete Streets Prioritization Plan**

**Three Options for Participation in Tier 2:**

1. Municipalities adopted a Complete Streets policy that scored an 80 or higher in the MassDOT scoring system, and submitted their completed Complete Streets Prioritization Plan to MassDOT for review.
2. Municipalities adopted an eligible policy that scored an 80 or higher in the MassDOT scoring system and requested up to \$50,000 in technical assistance funding to develop the Complete Streets Prioritization Plan.
3. Municipalities commit to adopting a policy and developing a Complete Streets Prioritization Plan through a letter of commitment to MassDOT, and request Technical Assistance of up to \$50,000 to develop the Complete Streets Prioritization Plan.

**Funding:** Up to \$50,000 for Technical Assistance for developing the Complete Streets Prioritization Plan.

To receive the technical assistance funding the town must enter into a contract with MassDOT that allows for the reimbursement of funds. The program will require paperwork and reimbursement similar to the Chapter 90 process. The technical assistance funding up to \$50,000 can only be used in support of the work needed to develop a Prioritization Plan, and may not be used for policy development.

**Tier 3** involves project approval and notice to proceed. In entering Tier 3, the municipality identifies projects from its Prioritization Plan for funding of up to \$400,000. They enter into a contract with MassDOT for reimbursement of funds. The municipality and the MassDOT District State Aid office will be notified of approved projects, and the municipality will then enter a process similar to Chapter 90.

**Tier 3: Project Approval, Notice to Proceed**

**Requirements:**

1. Identify projects from Prioritization Plan for funding.
2. Enter into contract with MassDOT for reimbursement of funds.

**Funding:** Up to \$400,000 to complete eligible improvements.

## **Eligible Roadways**

- Local Roads
- Collectors
- Arterials
- Project can enhance a programmed TIP project, but for larger projects, Federal aid eligible roads should follow TIP program process.

## **Examples of Eligible Infrastructure Projects**

### **Traffic and Safety**

- Street Lighting
- Traffic calming measures
- Intersection Improvements
- Pedestrian signal timing
- Pavement markings or signage that provides guidance for alternative modes
- Addition of, or widening of shoulders
- Additional regulatory signing
- Curbing

### **Transit Facilities**

- Improving transit connections for pedestrians
- Transit signal prioritization
- Bus pull-out areas
- Railroad grade crossings improvements (signs, flange way fill, etc.)
- Transit-only or Transit Contra-flow lanes
- Transit shelters

### **Pedestrian Facilities**

- New sidewalks or sidewalk widening or repairs
- New or improved crossing treatments at intersections, midblock
- ADA/AAB compliant curb ramps
- Pedestrian buffer zones
- Pedestrian Refuge Islands
- Curb extensions at pedestrian crossings
- Crosswalks
- Accessible pedestrian signals
- Detectable Warning Surfaces
- Pedestrian wayfinding signs
- Pedestrian plazas

## **Bicycle Facilities**

- New shared use paths or improvement of shared use paths (non-safety related)
- Designated bicycle lanes/Separated bike lanes/Bicycle boulevards
- Shared lanes (sharrows)
- Advance stop facilities (bike box, two-stage turn box)
- Bicycle parking on-street, at transit or other locations
- Bicycle-safe drainage grates
- Elimination of hazardous conditions on shared use paths
- Bicycle wayfinding signs/Bike route signs

## **Model Policy Guidance**

As previously noted, Towns must adopt a Complete Streets policy that scores an 80 or higher to be eligible for technical assistance or infrastructure funding. MassDOT provides guidance on the elements that should be included, but allows for flexibility in the specific language so that Towns may adopt a policy that works for them. The adopted policies are scored based on how well the following 10 key policy elements are incorporated:

### **Vision and intent (10 points)**

The policy clearly states the vision and intent.

### **Users and Modes (20 points)**

The policy provides a clear statement affirming that all users and people of all ages and abilities are legitimate users of the transportation system and equally deserving of safe facilities to accommodate their travel.

### **All Projects and Phases (15 points)**

All transportation improvements are viewed as opportunities to create safer, more accessible streets for all users. The Policy should address development of procedures for embedding Complete Streets in construction and/or routine maintenance including resurfacing, restriping, minor residential street reconstruction, or improvements such as intersection signal retiming and curb ramp construction.

### **Clear and Accountable Exceptions (10 points)**

The policy defines a process for exceptions to providing for all modes in each project. MassDOT recognizes the following exceptions are appropriate with limited potential to weaken the policy.

- Accommodation is not necessary on corridors where specific users are prohibited, such as interstate freeways or pedestrian malls.
- Cost of accommodation is excessively disproportionate to the need or probable use. There is a documented absence of current and future need.

### **Network (10 points)**

The policy addresses the need for a connected, integrated network that provides transportation options to many potential destinations.

### **Jurisdiction (5 points)**

The need to work with others in achieving the Complete Streets vision is clearly articulated, and instances when the policy applies is noted.

**Design (10 points)**

The policy states that Complete Streets implementation relies on using the best and latest design standards to maximize design flexibility.

**Context Sensitivity (5 points)**

The policy incorporates context sensitivity in order to adapt roads to fit the character of the surrounding neighborhood. An effective policy is sensitive to the surrounding character of the community.

**Performance Measures (5 points)**

Performance measures are defined in the policy.

**Implementation Steps (10 points)**

Steps to embed the Complete Street policy into procedures and practices are included.

**Timeline**

Complete Streets 101 Training	Dec – March 2016
Complete Streets 201 Training	Spring 2016
Final Program Guidance and Application Portal	Late Jan 2016
Tier 1 Rolling Policy Review and Scoring	Feb – Early June 2016
Enter into Tier 2 Contract with MassDOT (4-8 weeks)	Early March 2016
Tier 2 CS Prioritization Plan review begins	June – Nov 2016
Tier 3 Project Review and Approval	Early June 2016
Enter into Tier 3 Contract with MassDOT and Begin Process with District State Aid Office (4-8 weeks)	Early Aug 2016
Projects under Tier 3 receive NTP (FY17) (about 11 months to complete work)	Early Aug 2016