

**ANNUAL TOWN MEETING
TOWN OF MONTAGUE
COMMONWEALTH OF MASSACHUSETTS
MAY 7, 2022**

Franklin, ss.

To either of the Constables of the Town of Montague in the County of Franklin:

GREETING:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the Inhabitants of the Town of Montague qualified to vote in Town affairs to meet in the Turners Falls High School Theater, 222 Turnpike Road, Turners Falls, Massachusetts, on Saturday, May 7, 2022, at **8:30 A.M.** and to act on the following articles and any motions which may be presented.

ARTICLE 1: To see if the Town will vote to receive and act upon the reports of the Officers of the Town and to receive the report of any committees and act thereon.

(Selectboard Request)

ARTICLE 2: To see if the Town will vote to authorize the Selectboard, or other Town departments with the approval of the Selectboard, to apply for and accept grants from the Federal Government, Commonwealth of Massachusetts, or any other source, and to expend the same for purposes received without further appropriation or pass any vote or votes in relation thereto.

(Selectboard Request)

ARTICLE 3: To see if the Town will vote to amend Section 7 of Article II of the Town of Montague General Bylaws, pursuant to the provisions of Massachusetts General Laws Chapter 44, Section 53E½, by amending the Airport Fuel Revolving Fund for the Fiscal Year beginning July 1, 2022, with the changes as shown in ~~strikeout~~ and **bold** below; or pass any vote or votes in relation thereto.

Section 7: Revolving Funds

(a) There are hereby established in the Town of Montague pursuant to the provisions of Massachusetts General Laws Chapter 44, Section 53E½, the following revolving funds:

<u>Revolving Fund</u>	<u>Spending Authority</u>	<u>Revenue Source</u>	<u>Allowed Expenses</u>
Hazardous Materials Response Planning	SARA Title III Comm	Fees collected from individuals responsible for oil and hazardous	For the purpose of cleaning up oil and hazardous material spills

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Committee (a.k.a. SARA Title III Committee)		material spills	
Montague Tree Fund	Tree Warden	Fees received under the Public Tree Protection Bylaw	Tree planting and maintenance consistent with the Public Tree Protection Bylaw
Airport Fuel	Airport Manager	Fees from sale of Airport aviation fuel	Purchase of Airport aviation fuel to be sold and used at the Airport, system maintenance, parts, and inspections

(b) Expenditures from each revolving fund shall be subject to the limitations established by Town Meeting, and to any additional limitations as otherwise set forth in Massachusetts General Laws Chapter 44, Section 53E½.

(Airport Commission Request)

ARTICLE 4: To see if the Town will vote to amend the classification plan as shown below or pass any vote or votes in relation thereto.

- A. To see if the Town will vote to establish the position of Assistant Town Administrator within the Classification Plan at Grade I, with such benefits as are awarded to other non-union management personnel.
- B. To see if the Town will vote to establish the position of Selectboard Administrative Assistant within the Classification Plan at Grade B as per a Memorandum of Agreement between the Town of Montague and the National Association of Government Employees (NAGE).
- C. To see if the Town will vote to establish the position of WPCF Laboratory Manager within the Classification Plan at Grade D as per a Memorandum of Agreement between the Town of Montague and the National Association of Government Employees (NAGE).

(Selectboard Request)

ARTICLE 5: To see if the Town will vote to fix the salaries of all elected officials as required by law for the fiscal year beginning July 1, 2022, as set forth in Schedule I, Elected Officials, a copy of which is on file in the Office of the Town Clerk and on the Town’s website at <https://www.montague-ma.gov/p/374> or pass any vote or votes in relation thereto.

(Selectboard Request)

ARTICLE 6: To see if the Town will vote to fix the salaries of all appointed officials as required by law for the fiscal year beginning July 1, 2022, as set forth in Schedule II, Appointed Officials, a copy of which is on file in the Office of the Town Clerk and on the Town's website at <https://www.montague-ma.gov/p/374> or pass any vote or votes in relation thereto.

(Selectboard Request)

ARTICLE 7: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$11,176,944, or any other amount, for the maintenance of the several departments of the Town, said sums to be allocated in accordance with Schedule III, Budget, a copy of which is on file in the Office of the Town Clerk and on the Town's website at <https://www.montague-ma.gov/p/374> and for any other necessary charges, or pass any vote or votes in relation thereto.

(Selectboard Request)

ARTICLE 8: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$2,872,377, or any other amount, for the purpose of operating the Water Pollution Control Facility and associated pumping stations, said sums to be allocated in accordance with Schedule IV, WPCF Budget, a copy of which is on file in the Office of the Town Clerk and on the Town's website at <https://www.montague-ma.gov/p/374>, or pass any vote or votes in relation thereto.

(Selectboard Request)

ARTICLE 9: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$49,950, or any other amount, for the purpose of funding the operations, maintenance, and debt service of the Colle Building, or pass any vote or votes in relation thereto.

(Selectboard Request)

ARTICLE 10: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$316,015, or any other amount, for the purpose of operating the Turners Falls Airport, or pass any vote or votes in relation thereto.

(Airport Commission Request)

ARTICLE 11: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$1,029,566, or any other amount, for the purpose of paying the Franklin County Technical School District for Montague's share of the assessment for the yearly operation of the Franklin County Technical School, or pass any vote or votes in relation thereto.

(Franklin County Technical School Request)

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ARTICLE 12: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$11,341,466, or any other amount, for the purpose of paying the Gill-Montague Regional School District for Montague's share of the assessment for the yearly operation of the Gill-Montague Regional Schools, or pass any vote or votes in relation thereto.

(Gill-Montague Regional School District Request)

ARTICLE 13: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow, or otherwise provide the sum of \$10,000, or any other amount, for the purpose of supplementing the Waidlich Conservation Fund, or pass any vote or votes in relation thereto.

(Conservation Commission Request)

ARTICLE 14: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow, or otherwise provide the sum of \$45,000, or any other amount, for the purpose of providing tuition and transportation for a Montague resident attending Smith Vocational School, or pass any vote or votes in relation thereto.

(Town Accountant Request)

ARTICLE 15: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$100,000, or any other amount, for the purpose of purchasing, equipping, and making major repairs to DPW vehicles and equipment, including all incidental and related costs, or pass any vote or votes in relation thereto.

(Department of Public Works Request)

ARTICLE 16: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow, or otherwise provide the sum of \$745,000, or any other amount, for the purpose of purchasing and installing Screw Pumps at the Water Pollution Control Facility, including all incidental and related costs, or pass any vote or votes in relation thereto.

(WPCF Request)

ARTICLE 17: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow, or otherwise provide the sum of \$130,000, or any other amount, for the purpose of purchasing and installing a facility back-up generator for the Water Pollution Control Facility and all incidental installation costs to include but not be limited to the corresponding moving of transfer switches and fuel tank, or pass any vote or votes in relation thereto.

(WPCF Request)

ARTICLE 18: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$21,584, or any other amount, for the purpose of increasing the amount appropriated pursuant to Article #18C of the May 22, 2021, Annual Town Meeting, which provided funds for bid and project overruns, or pass any vote or votes in relation thereto.

(Town Administrator and CIC Requests)

ARTICLE 19: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$540,000, or any other amount, for the following Town projects and all incidental and related costs, or to pass any vote or votes in relation thereto.

- A. \$125,000 for Town Hall Roof
- B. \$60,000 for Shea Front Roof
- C. \$130,000 for Carnegie Basement Renovation
- D. \$100,000 for Montague Center Library Masonry Repair
- E. \$125,000 for Vactor Truck Lease Payment

(Town Administrator and CIC Requests)

ARTICLE 20: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the following sums, or any other amount, for the purpose of increasing the special purpose funds set forth below, or pass any vote or votes in relating thereto.

Fund	Amount (\$)
Town Capital Stabilization Fund	131,200
OPEB Trust Fund	50,000
GMRSB Stabilization Fund	40,608
FCTS Stabilization Fund	124,356
Total:	346,164

(Finance Committee Request)

ARTICLE 21: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$173,800, or any other amount, for costs associated with the establishment and operation of a marijuana establishment known as 253 Farmacy, or pass any vote or votes in relation thereto.

- A. \$86,900 for contracted services of a licensed alcohol and drug abuse counselor and related curriculum material expenses for the Gill-Montague Regional School District
- B. \$86,900 for contracted services of a licensed alcohol and drug abuse counselor and related curriculum material expenses for the Franklin County Technical School

(Selectboard Request)

ARTICLE 22: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow, or otherwise provide the sum of \$40,000, or any other amount, for the purpose of providing Science, Technology, Engineering, and Math afterschool enrichment programs, or pass any vote or votes in relation thereto.

(Selectboard Request)

ARTICLE 23: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow, or otherwise provide the sum of \$25,000, or any other amount, for the purpose of developing a Preliminary Design and Feasibility Assessment of Complete Streets (Multi-modal) Design on Millers Falls Road and Industrial Boulevard, or pass any vote or votes in relation thereto.

(Town Planner Request)

ARTICLE 24: To see if the Town will vote to rescind the unused \$286,081.30 borrowing authority as voted pursuant to Article #8 of the February 25, 2021, Special Town Meeting, which appropriated \$1,450,000 for the purpose of acquiring three properties for airport and aviation purposes, or to pass any vote or votes in relation thereto.

(Town Accountant Request)

ARTICLE 25: To see if the Town will vote to rescind the unused \$1,305,011.05 borrowing authority as voted pursuant to Article #1 of the March 29, 2018, Special Town Meeting, which appropriated \$11,146,762 for the purpose of building and equipping a new DPW Facility, or to pass any vote or votes in relation thereto.

(Town Accountant Request)

ARTICLE 26: To see if the Town will vote, in accordance with Massachusetts General Laws, Chapter 40, Section 5B, to establish a special purpose stabilization fund to be known as the "Canal District Utility Improvement Fund", for the purpose of funding installations, repairs, and upgrades of utility services for the Canal District of the Town, and anything incidental or related thereto; and further to accept the provisions of the fourth paragraph of said Massachusetts General Laws, Chapter 40, Section 5B, to allow one hundred percent (100%) of the funds received pursuant to the Town's August 9, 2021 Agreement with FirstLight MA Hydro, LLC to be

dedicated to said Fund, without further appropriation, to be effective for the Fiscal Year beginning on July 1, 2022; or pass any vote or votes in relation thereto.

(Selectboard Request)

ARTICLE 27: To see if the Town will vote to amend the Town’s General Bylaws to add a new Bylaw, to be titled “Demolition Delay”, as shown below, and to authorize the Town Clerk to assign such numbering as is appropriate to bring said bylaw into conformance with the existing codification, or to pass any vote or votes in relation thereto.

DRAFT submitted for Counsel Review. Approved by Historic Commission

Montague Demolition Delay Bylaw

§ 1 Purpose.

The purpose of this Bylaw is to preserve and protect, through advance notice of their proposed demolition, Significant Buildings within the Town of Montague which constitute or reflect distinctive features of the architectural, cultural, political, economic, or social history of the Town, to encourage owners of Preferably Preserved Significant Buildings to seek out persons who might be willing to purchase and to preserve, rehabilitate, or restore such buildings rather than demolish them, to alert residents of the Town to impending demolitions of Significant Buildings, and by furthering these purposes to promote the public welfare, to preserve the resources of the Town, and to make the Town a more attractive and desirable place to live. To achieve these purposes, the Montague Historical Commission is empowered to advise the Montague Inspector of Buildings with respect to the issuance of permits involving demolition, and the issuance of demolition permits for Significant Buildings is regulated as provided in this Bylaw.

§ 2 Definitions.

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

APPLICATION

An application for a permit involving the demolition of a Significant Building. Every application shall include the address of the building to be demolished, the owner's name, address and telephone number, photographs of all sides of the building visible from a public way taken within the past year, plans, a narrative description of the building and justification of the proposed demolition, and a brief description of the proposed reuse, reconstruction, or replacement.

BUILDING

Any combination of materials capable of providing shelter for persons, animals, or property.

COMMISSION

The Montague Historical Commission.

DEMOLITION

Any act of pulling down, destroying, removing, or razing a structure or significant portion thereof, or commencing the work of total or substantial destruction with the intent of completing the same. Significant portion is defined as twenty-five percent (25%) of the volume of the building or structure, or twenty-five percent (25%) of the roof structure. For purposes of this Bylaw, the term "demolition" shall not include the ordinary maintenance or repair of any building or structure, interior renovations, or removal or demolition of any ancillary portion of a structure such as porches, decks, or windows, provided that in the instance of demolition of said ancillary portions for the purpose of repair or replacement, said repair or replacement shall be done using like-kind or better materials.

DEMOLITION PERMIT

A permit issued by the Inspector of Buildings under the State Building Code for the demolition of a building or structure.

INSPECTOR OF BUILDINGS

The administrative chief of the building department in a municipality who is charged with the administration and enforcement of 780 CMR, the Massachusetts State Building Code.

SIGNIFICANT BUILDING

- A.** Any building or structure individually listed on the National Register of Historic Places or is the subject of a pending application for listing on said National Register; or
- B.** Any building or structure evaluated by Massachusetts Historical Commission to be a contributing building within a National Register or State Register District; or
- C.** Any building or structure which has been certified by the Massachusetts Historical Commission to meet eligibility requirements for individual listing on the National Register of Historical Buildings; or
- D.** Any Building or structure constructed, or a portion of which was constructed, over 100 years ago that contributes to the historical or architectural heritage or resources of the Town.

§ 3 Preferably Preserved Significant Buildings.

- A.** A Preferably Preserved Significant Building is any Significant Building which the Montague Historical Commission determines, pursuant to the procedure detailed in § 4, is in the public interest to be preserved or rehabilitated rather than to be demolished. A

Preferably Preserved Significant Building is subject to the one-year delay period of this Bylaw.

B. The Montague Historical Commission may determine that a building or structure be designated as a Preferably Preserved Significant Building if it meets one or more of the following criteria:

(1) It is listed on, or is within an area listed on, the National Register of Historic Places, or is the subject of a pending application for listing on said National Register; or

(2) The Montague Historical Commission determines that the structure meets one or more of the following three criteria:

(a) Historical importance. The structure meets the criteria of historical importance if it:

[1] Has character, interest, or value as part of the development, heritage or cultural characteristics of the Town of Montague, the Commonwealth of Massachusetts, or the nation; or

[2] Is the site of an historic event; or

[3] Is identified with a person or group of persons who had some influence on society; or

[4] Exemplifies the cultural, political, economic, social, or historic heritage of the community.

(b) Architectural importance. The structure meets the criteria of architectural importance if it:

[1] Portrays the environment of a group of people in an era of history characterized by a distinctive architectural style; or

[2] Embodies those distinguishing characteristics of an architectural type; or

[3] Is the work of an architect, master builder or craftsman whose individual work has influenced the development of the Town; or

[4] Contains elements of architectural design, detail, materials, or craftsmanship which represent a significant innovation.

(c) Geographic importance. The structure meets the criteria of geographic importance if:

[1] The site is part of, or related to, a square, park, or other distinctive area; or

[2] The structure, as to its unique location or its physical characteristics, represents an established and familiar visual feature of the neighborhood, or the community as a whole.

§ 4 Procedure.

- A.** No permit for the demolition of any building or structure shall be issued other than in conformity with this Bylaw. The Inspector of Buildings, on the day of receipt of an application for demolition of a Significant Building or within seven days, shall cause a copy of each such permit application to be forwarded to the Montague Historical Commission. At such time, the applicant will be notified that their permit application has been submitted to the Montague Historical Commission. No demolition permit shall be issued at that time, unless the Inspector of Buildings deems the building is in need of emergency demolition and the emergency demolition provisions of this Bylaw have been met.
- B.** The Montague Historical Commission shall hold a public hearing within 45 days of receiving a copy of such application and shall give public notice thereof by publishing notice of the time, place, and purpose of the hearing in a local newspaper at least 14 days before said hearing. The Montague Historical Commission shall mail a copy of said notice to the applicant and shall, at least seven days prior to said hearing, notify the Selectboard, Town Administrator, Inspector of Buildings, Planning Department, Planning Board, Zoning Board of Appeals, and such other persons as the Montague Historical Commission shall deem entitled to notice. The applicant shall notify all abutting landowners as they appear on the most recent local tax list no later than seven days prior to said hearing.
- C.** If, after such hearing, the Montague Historical Commission determines that the demolition of the Significant Building would not be detrimental to the historical or architectural heritage or resources of the Town, the Montague Historical Commission shall so notify the Inspector of Buildings and Selectboard within seven days of such determination. Upon receipt of such notification, or after the expiration of 21 days from the date of the close of the public hearing, if he or she has not received notification from the Montague Historical Commission, the Inspector of Buildings may, subject to the requirements of the State Building Code and any other applicable laws, rules, or regulations, issue the demolition permit.
- D.** If, after such hearing, the Montague Historical Commission determines that the demolition of the Significant Building would be detrimental to the historical or architectural heritage or resources of the Town, such building shall be considered a Preferably Preserved Significant Building. The Montague Historical Commission's determination remains in effect for one year from the date of decision. Upon a

determination by the Montague Historical Commission that the Significant Building which is the subject of the application for a demolition permit is a Preferably Preserved Significant Building, the Montague Historical Commission shall, within seven days, so advise the applicant by registered mail, and the Inspector of Buildings, and no demolition permit may be issued until at least one year after the date of designation as a Preferably Preserved Significant Building. The applicant shall, upon notice of said designation, secure the building or site against vandalism, fire or other destruction and post a copy of said designation on the building in a place visible from the nearest public way. The applicant shall give reasonable access to the building or site to the Montague Historical Commission.

E. Notwithstanding the preceding section, the Inspector of Buildings may issue a demolition permit for a Preferably Preserved Significant Building at any time after receipt of written advice from the Montague Historical Commission to the effect that either:

(1) The Montague Historical Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate, or restore such building; or

(2) The Montague Historical Commission is satisfied that reasonable efforts have been made to identify a purchaser to preserve, rehabilitate or restore the subject building, and that such efforts have been unsuccessful.

§ 5 Emergency demolition.

Nothing in this Bylaw shall be construed to derogate in any way from the authority of the Inspector of Buildings derived from Massachusetts General Laws Chapter 143.

A. If a building poses an immediate threat to public health or safety due to its deteriorated condition, the owner of such building or structure may request issuance of an emergency demolition permit from the Inspector of Buildings.

B. Upon receipt of any application for an emergency demolition permit, the Inspector of Buildings shall within five days transmit a copy thereof to the Montague Historical Commission.

C. As soon as is practicable, but within 14 days after receipt of such an application, and regardless as to whether a copy of the emergency demolition permit has been transmitted to the Montague Historical Commission, the Inspector of Buildings shall inspect the building with an inspection team consisting of the Inspector of Buildings, Fire Chief, Montague Historical Commission Chair, or the designees of said officials.

- D.** Within five days after inspection of the building and after consultation with other members of the inspection team, the Inspector of Buildings shall determine:
- (1)** Whether the condition of the building or structure represents a serious and imminent threat to public health and safety; and
 - (2)** Whether there is any reasonable alternative to the immediate demolition of the building which would protect public health and safety.
- E.** If the Inspector of Buildings finds 1) that the condition of the building or structure poses a serious and imminent threat to public health and safety, and 2) that there is no reasonable alternative to the immediate demolition of the building or structure which would protect public health and safety, then the Inspector of Buildings may issue an emergency demolition permit to the owner of the building.
- F.** If the Inspector of Buildings finds 1) that the condition of the building does not pose a serious and imminent threat to public health and safety, and/or 2) that there are reasonable alternatives to the immediate demolition of the building which would protect public health and safety, then the Inspector of Buildings may refuse to issue an emergency demolition permit to the owner of the building or structure.
- G.** Upon issuing an emergency demolition permit under the provisions of this section, the Inspector of Buildings shall submit a brief written report to the Montague Historical Commission describing the condition of the building and the basis for his/her decision to issue an emergency demolition permit. Nothing in this section shall be inconsistent with the procedure for the demolition and/or securing of buildings and structures established by G.L. c. 143, §§ 6 through 10.

§ 6 Enforcement and remedies.

The Inspector of Buildings is specifically authorized to institute any and all actions and proceedings, in law or equity, as he/she may deem necessary and appropriate to obtain compliance with the provisions of this Bylaw or to prevent a threatened violation thereof.

- A.** No permit for erection of a new structure on the site of an existing Preferably Preserved Significant Building may be issued prior to issuance of a permit for demolition of such existing building.
- B.** No permit for erection of a new building, paving of drives or for parking shall be issued for one year from the commencement of such work if a structure is demolished in violation of this Bylaw. The Commission may suspend this moratorium if it determines that earlier reconstruction, restoration, or other remediation of any demolition in violation of this Bylaw better serves the intent and purpose of this Bylaw.

C. Any owner of a building and/or structure subject to this Bylaw who knowingly acts to demolish said building and/or structure, or damage a portion of a building or structure in a way which increases its likelihood of total failure, without first obtaining a building permit for demolition in accordance with the provisions of this Bylaw, or who likewise by some causative action contributes to the deterioration of said building or structure during the demolition review period, shall be in violation of this Bylaw and subject to enforcement by a noncriminal complaint pursuant to the provisions of G.L. c. 40, § 21D, as amended.

D. Notwithstanding the provisions of Article 30 of the Town of Montague Bylaws, the fine for any such violation shall be \$300 for each offense. Each day the violation exists shall constitute a separate offense until the demolished building is rebuilt or recreated as directed by the Montague Historical Commission, or unless otherwise agreed to by the Montague Historical Commission.

§ 7 Historic Districts Act.

If any provision of this Bylaw conflicts with Massachusetts General Laws Chapter 40C, the Historic District Act, that Act shall prevail.

(Historical Commission Request)

ARTICLE 28: To see if the Town will vote to adopt the 2022 Update to the Montague Economic Development and Industrial Corporation’s Economic Development Plan developed in accordance with Mass General Laws Chapter 121 C, a copy of which is on file in the Office of the Town Clerk and on the Town’s website at [https://www.montague-ma.gov/files/MEDIC ECON DEV PLAN 2022 DRAFT.pdf](https://www.montague-ma.gov/files/MEDIC_ECON_DEV_PLAN_2022_DRAFT.pdf), or to pass any vote or votes in relation thereto.

(MEDIC Request)

ARTICLE 29: To see if the Town will vote to amend the Town’s Zoning Bylaws, in accordance with Chapter 40R of the Massachusetts General Laws, to add a new Section 10, to be titled “Smart Growth Overlay Districts (SGODs), as shown below, or to pass any vote or votes in relation thereto.

SECTION 10: SMART GROWTH OVERLAY DISTRICTS (SGODs)

A. General Regulations that apply to all Smart Growth Overlay Districts

A.1. PURPOSE

The purposes of this Section are:

1. To establish Smart Growth Overlay Districts (SGODs) to encourage smart growth in accordance with the purposes of G. L. Chapter 40R;
2. To encourage the revitalization of historically developed properties to benefit the general health and welfare of our residents and the region;
3. To encourage the creation of new multifamily and residential developments in appropriate locations at appropriate densities; and,
4. To maintain or increase the supply of affordable dwelling units;
5. To maintain a consistently high level of design quality.

A.2. DEFINITIONS

For purposes of this Section the following definitions shall apply. All capitalized terms shall be defined in accordance with the definitions established under the Governing Laws or Section A.2.0, or as set forth in the PAA Regulations. With respect to their application to Section 10, to the extent that there is any conflict between the definitions or terms set forth in, or otherwise regulated by, the Governing Laws and those defined or used in Section 10, inclusive of any applicable Design Standards, PAA Regulations, or any other applicable associated local zoning requirement (e.g., zoning requirement contained in another section of the Zoning Bylaw that is nonetheless incorporated by reference), the terms of the Governing Laws shall govern.

Affordable Homeownership Unit - an Affordable Housing unit required to be sold to an Eligible Household.

Affordable Housing - housing that is affordable to and occupied by Eligible Households.

Affordable Housing Restriction - a deed restriction of Affordable Housing meeting the statutory requirements in G.L. Chapter 184, Section 31 and the requirements of Section A.5.5 of this Bylaw.

Affordable Rental Unit - an Affordable Housing unit required to be rented to an Eligible Household.

Applicant – the individual or entity that submits a Project application for Plan Approval.

As-of-right - a use allowed under Section 10.A.4.0 without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Project that requires Plan Approval by the PAA pursuant to Sections 10.A.8.0 through 10.A.12.0 shall be considered an as-of-right Project, subject to review and

approval by DHCD of any Municipal 40R regulations, guidelines, application forms, or other requirements applicable to review of Projects by the Plan Approval Authority under the 40R Zoning and 760 CMR 59.00.

Department or DHCD - the Massachusetts Department of Housing and Community Development, or any successor agency.

Design Standards – provisions of Section A.12 made applicable to Projects within the SGOD that are subject to the Plan Approval process.

Eligible Household - an individual or household whose annual income is less than or equal to 80 percent of the area-wide median income as determined by the United States Department of Housing and Urban Development (HUD), adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

Governing Laws - G.L. Chapter 40R and 760 CMR 59.00.

Mixed-Use Development Project – a Project containing a mix of residential uses and non-residential uses, as allowed in Section 10.A.4.2, and subject to all applicable provisions of Section 10.

Monitoring Agent or Administering Agent – the PAA or a qualified housing entity designated by the PAA, pursuant to Section 10.A.5.2, to review and implement the Affordability requirements affecting Projects under Section 10.A.5.0.

PAA Regulations – the rules and regulations of the PAA adopted pursuant to Section 10.A.8.3.

Plan Approval Authority (PAA) - The local approval authority authorized under Section 10.A.8.2 to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the SGOD.

Project - a Residential Project or Mixed-use Development Project undertaken within the SGOD in accordance with the requirements of Section 10.

Residential Project - a Project that consists solely of residential and any allowed or required parking and/or accessory uses, as further defined in Section A.4.1.

SGOD – A Smart Growth Overlay District established in accordance with Section 10.

Zoning Bylaw - the Zoning Bylaw of the Town of Montague.

A.3. APPLICABILITY OF SGODs – SCOPE AND AUTHORITY

A.3.1 Applicability of SGODs. An applicant may seek development of a Project located within the SGOD in accordance with the provisions of the Governing Laws and Section 10, including a request for Plan Approval by the PAA. In such case, notwithstanding anything to the contrary in the Zoning Bylaw, such application shall not be subject to any other provisions of the Zoning Bylaw, including limitations upon the issuance of building permits for residential uses related to a rate of development or phased growth limitation or to a local moratorium on the issuance of such permits, or to other building permit or dwelling unit limitations. To the extent that there is any conflict between the Governing Laws and Section 10, inclusive of the Design Standards, the PAA Regulations, and any otherwise applicable associated local zoning requirement (e.g., zoning requirement contained in another section of the Zoning Bylaw that is nonetheless incorporated by reference), the Governing Laws shall govern.

A.3.2 Underlying Zoning. The SGOD is an overlay district superimposed on all underlying zoning districts. The regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s) shall remain in full force, except for those Projects undergoing development pursuant to Section 10. Within the boundaries of the SGOD, an Applicant may elect either to develop a Project in accordance with the requirements of the SGOD, or to develop a project in accordance with requirements of the regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s).

A.3.3 Administration, Enforcement, and Appeals. The provisions of Section 10 shall be administered by the Building Inspector, except as otherwise provided herein. Any legal appeal arising out of a Plan Approval decision by the PAA under Sections A.8 through A.12 shall be governed by the applicable provisions of G. L. Chapter 40R. Any other request for enforcement or appeal arising under this Section shall be governed by the applicable provisions of G. L. Chapter 40A.

A.4. PERMITTED USES - GENERAL

The following uses are permitted As-of-Right for Projects within SGODs unless otherwise specified under the corresponding section of the district-specific requirements.

A.4.1 Sub-District A (Griswold Mill). The following uses are allowed:

- a) Multifamily residential uses, which may include live/work units
- b) Mixed-use Projects, incorporating multifamily residential uses and any of the following non-residential uses, where the minimum gross floor area devoted to residential uses shall be 50% of the gross floor area of the Project:
 - Offices, including medical offices.
 - Retail stores, including banks, but excluding wholesale establishments and establishments with drive-through windows.
 - General service establishments and personal service establishments, including daycares.
 - Bakeries and artisan food or beverage producers.
 - Restaurants and cafes, indoor or outdoor.
 - Hotels.
 - Community, education, or recreational uses, including museums, parks, playgrounds, health clubs and gym/fitness centers.
 - Municipal facilities.
 - Light industrial uses
- c) Accessory uses, including home occupations, and parking accessory to any of the above permitted uses

A.4.2 Sub-District B (First Street). The following uses are allowed:

- a) Single-family, two-family, three-family, or multifamily residential uses, any of which may include live/work units.
- b) Mixed-use Projects, incorporating multifamily residential uses and any of the following non-residential uses, where the minimum gross floor area devoted to residential uses shall be 50% of the gross floor area of the Project:
 - Offices, including medical offices and co-working facilities
 - Retail stores, including banks, but excluding wholesale establishments and establishments with drive-through windows.
 - General service establishments and personal service establishments.
 - Bakeries and artisan food or beverage producers.
 - Restaurants and cafes, indoor or outdoor.
 - Hotels
- c) Accessory uses, including home occupations, and parking accessory to any of the above permitted uses.

The total gross floor area devoted to Non-residential uses within a Mixed-use Development Project shall not exceed 50% of the total gross floor area of the Project.

A.5. HOUSING AND HOUSING AFFORDABILITY

A.5.1 Number of Affordable Housing Units. For all Projects, not less than twenty percent (25%) of housing units constructed shall be Affordable Housing. For purposes of calculating the number of units of Affordable Housing required within a Project, any fractional unit shall be deemed to constitute a whole unit.

A.5.2 Monitoring Agent. A Monitoring Agent which may be the local housing authority or other qualified housing entity shall be designated by the PAA. In a case where the Monitoring Agent cannot adequately carry out its administrative duties, upon certification of this fact by the designating official or by DHCD such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the designating official. In any event, such Monitoring Agent shall ensure the following, both prior to issuance of a Building Permit for a Project within the SGOD, and on a continuing basis thereafter, as the case may be:

1. prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;
2. income eligibility of households applying for Affordable Housing is properly and reliably determined;
3. the housing marketing and resident selection plan conform to all requirements, have been approved by DHCD specifically with regard to conformance with M.G.L. c.40R and 760 CMR 59.00, and are properly administered;
4. sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given; and
5. Affordable Housing Restrictions meeting the requirements of this section are approved by DHCD specifically with regard to conformance with M.G.L. c.40R and 760 CMR. 59.00, recorded with the proper registry of deeds.

A.5.3 Submission Requirements. As part of any application for Plan Approval for a Project within the SGOD submitted under Sections 10.A.8.0 through 10.A.12.0, the Applicant must submit the following documents to the PAA and the Monitoring Agent:

- 1) evidence that the Project complies with the cost and eligibility requirements of Section 10.A.5.4:

- 2) Project plans that demonstrate compliance with the requirements of Section 10.A.5.5; and
- 3) a form of Affordable Housing Restriction that satisfies the requirements of Section 10.A.5.6.

These documents in combination, to be submitted with an application for Plan Approval, shall include details about construction related to the provision, within the development, of units that are accessible to the disabled and appropriate for diverse populations, including households with children, other households, individuals, households including individuals with disabilities, and the elderly.

A.5.4 Cost and Eligibility Requirements. Affordable Housing shall comply with the following requirements:

1. Affordable Housing required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.
2. For an Affordable Rental Unit, the monthly rent payment, including applicable utility allowances, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless another affordable housing program methodology for calculating rent limits, as approved by DHCD, applies.
3. For an Affordable Homeownership Unit the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, and insurance, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless another affordable housing program methodology for calculating rent limits, as approved by DHCD, applies.

Prior to the granting of any Building Permit for a Project, the Applicant must demonstrate, to the satisfaction of the Monitoring Agent, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to Montague.

A.5.5 Design and Construction. Units of Affordable Housing shall be finished housing units. With respect to the minimum required number for a given Project, units of Affordable Housing shall be equitably integrated and proportionately dispersed throughout the residential portion of the Project of which they are part, across all residential buildings, floors, distinct unit types, and with respect to the gross floor area devoted to residential units, in accordance with the affordable housing restriction and marketing and tenant selection plan approved by DHCD and be comparable in initial construction quality, size, amenities, and exterior design to the other housing units in the

Project. Unless expressly required otherwise under one or more applicable state or federal housing subsidy programs, the bedroom-per-unit average for the Affordable Housing must be equal to or greater than the bedroom-per-unit average for the unrestricted/market-rate units.

A.5.6 Affordable Housing Restriction. Each Project shall be subject to an Affordable Housing Restriction which is approved by DHCD pursuant to the Governing Laws and recorded with the appropriate registry of deeds or district registry of the Land Court and which contains the following:

1. specification of the term of the Affordable Housing Restriction which shall be stipulated in the Plan Approval decision but in no case be less than thirty years;
2. the name and address of the Monitoring Agent with a designation of its power to monitor and enforce the Affordable Housing Restriction;
3. a description of the Affordable Homeownership Unit(s), by address and number of bedrooms in a Project or portion of a Project which is homeownership; and a description of the overall quantity, initial unit designations and number of bedrooms and number of bedroom types of the Affordable Rental Unit(s) in a Project or portion of a Project which is rental. Such restriction shall apply individually to the specifically identified Affordable Homeownership Unit and shall apply to a percentage of rental units of a rental Project or the rental portion of a Project with the initially designated Affordable Rental Units identified in, and able to float subject to specific approval by DHCD in accordance with, the corresponding Affirmative Fair Housing Marketing Plan (AFHMP) and DHCD's AFHMP guidelines.
4. reference to an affirmative fair housing marketing and resident selection plan, to which the Affordable Housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. Such plan shall be consistent with DHCD guidance and approved by DHCD. Consistent with DHCD guidance, such plan shall include a preference based on need for the number of bedrooms in a unit and a preference based on need for the accessibility features of a unit where applicable and may only provide for additional preferences in resident selection to the extent such preferences are also consistent with applicable law and approved by DHCD.
5. a requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the housing marketing and selection plan;
6. reference to the formula pursuant to which rent of an Affordable Rental Unit, or the maximum resale price of an Affordable Homeownership Unit will be set;

7. a requirement that only an Eligible Household may reside in Affordable Housing and that notice of any lease of any Affordable Rental Unit shall be given to the Monitoring Agent;
8. provision for effective monitoring and enforcement of the terms and provisions of the Affordable Housing Restriction by the Monitoring Agent;
9. provision that the AHR on an Affordable Homeownership Unit shall run in favor of the Monitoring Agent and/or the municipality, in a form approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household;
10. provision that the AHR on Affordable Rental Units in a rental Project or rental portion of a Project shall run with the rental Project or rental portion of a Project and shall run in favor of the Monitoring Agent and/or the municipality, in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household;
11. provision that the owner[s] or manager[s] of Affordable Rental Unit[s] shall file an annual report to the Monitoring Agent, in a form specified by that agent certifying compliance with the Affordability provisions of this Bylaw and containing such other information as may be reasonably requested in order to ensure affordability; and
12. a requirement that residents in Affordable Housing provide such information as the Monitoring Agent may reasonably request in order to ensure affordability.

A.5.7 Costs of Housing Marketing and Selection Plan. The housing marketing and selection plan or any associated Monitoring Services Agreement may make provision for payment by the Project applicant of reasonable costs to the Monitoring Agent to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements.

A.5.8 Age Restrictions. Nothing in Section 10 shall permit the imposition of restrictions on age upon Projects unless proposed or agreed to voluntarily by the Applicant. However, the PAA may, in its review of a submission under Section 10.A.5.3, allow a specific Project within the SGOD designated exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Project shall be in compliance with all applicable federal, state and local fair housing laws and regulations and not less than twenty-five percent (25%) of the housing units in such a restricted Project shall be restricted as Affordable Housing units.

A.5.9 Phasing. For any Project that is approved and developed in phases in accordance with Section 10.A.8.4, the percentage of Affordable units in each phase shall be at least equal to the minimum percentage of Affordable Housing

required under Section 10.A.5.1. Where the percentage of Affordable Housing is not uniform across all phases, the unit dispersal and bedroom proportionality requirements under Section 10.A.5.5 shall be applied proportionately to the Affordable Housing provided for in each respective phase.

A.5.10 No Waiver. Notwithstanding anything to the contrary herein, the Affordability provisions in Section 10.A.5.0 shall not be waived unless expressly approved in writing by DHCD.

A.6. DIMENSIONAL AND DENSITY REQUIREMENTS - GENERAL

A.6.1 Residential Density. Multifamily Residential (four or more dwelling units) and Mixed Use Development Projects in a SGOD, and in any Sub-District, may be developed as-of-right at a minimum density of 20 dwelling units per acre of Developable Land. Two-family and three-family residential Projects may be developed as-of-right in Sub-District B at a minimum density of 12 dwelling units per acre of Developable Land. Single-family residential use Projects may be developed as-of-right in Sub-District B at a minimum density of 8 dwelling units per acre of Developable Land.

A.6.2 Lot Area, Frontage, and Yard Setbacks

Each Project shall have:	
Minimum Project area:	4,000 square feet
Minimum length of frontage:	30 feet
Minimum front yard setback:	0 feet
Maximum front yard setback:	no maximum setback
Minimum side yard setback:	no requirement between buildings within a Project; 10 feet between any Project building and the boundary of the applicable Sub-District
Minimum rear yard setback:	no requirement between buildings within a Project; 10 feet between any Project building and the boundary of the applicable Sub-District

For the purposes of this subsection, frontage and front yard setbacks shall be determined with respect to public and private streets, as well as to private ways providing similar access.

Access: Individual buildings or parcels within a Project site shall have coordinated street access. There shall be not more than one driveway (curb cut) per 50 feet of frontage.

A 6.3 Open Space: A minimum of 20 percent of the total Project area shall be open space. For the purpose of this subsection, “open space” shall be defined as yards, playgrounds, walkways and other areas not covered by parking and driveways; such open space need not be accessible to the public. This minimum percentage may be reduced by the PAA through the Plan Approval process only if the Project provides for direct access or enjoyment of the Connecticut River.

A6.4. Building Height, maximum:

Subdistrict A: 60 feet

Subdistrict B: 40 feet

A.7. PARKING REQUIREMENTS - GENERAL

The parking requirements applicable for Projects within the SGOD are as follows.

A.7.1 Number of parking spaces. Unless otherwise found to be Unduly Restrictive with respect to Project feasibility and approved by the PAA, the following minimum and maximum numbers of off-street parking spaces shall be provided and allowed, respectively, by use, either in surface parking, within garages or other structures, or on-street:

Residential Project: Minimum One parking space per residential unit, maximum 2 parking spaces per residential unit.

Mixed-use Project: Same formula for residential units plus the applicable quantity computed per Section 7.2.2 for non-residential uses

The PAA may allow for additional visitor parking spaces beyond the 1.5 maximum spaces per unit if deemed appropriate given the design, layout and density of the proposed residential or other development. The PAA may allow for a decrease in any required parking as provided in Sections A.7.2 and A.7.3 below.

A.7.2 Shared Parking. Notwithstanding anything to the contrary herein, the use of shared parking to fulfill parking demands noted above that occur at different times of day is strongly encouraged. Minimum parking requirements above may be reduced by the PAA through the Plan Approval process, if the Applicant can demonstrate that shared spaces will meet parking demands by using accepted methodologies (e.g. the Urban Land Institute Shared Parking Report, ITE Shared Parking Guidelines, or other approved studies) or the PAA is otherwise satisfied that the reduced parking is nonetheless sufficient and consistent with smart growth practices.

A.7.3 Reduction in parking requirements. Notwithstanding anything to the contrary herein, any minimum required amount of parking may be reduced by the PAA through the Plan Approval process, if the Applicant can demonstrate that the lesser amount of parking will not cause excessive congestion, endanger public safety, or that lesser amount of parking will provide positive environmental or other benefits, taking into consideration:

- a) the availability of surplus off-street parking in the vicinity of the use being served and/or the proximity of a bus stop or transit station;
- b) the availability of public or commercial parking facilities in the vicinity of the use being served;
- c) shared use of off-street parking spaces serving other uses having peak user demands at different times;
- d) To the extent consistent with 760 CMR 59.04(1)(g) and 760 CMR 59.04(l)(i)1., age or other occupancy restrictions which are likely to result in a lower level of auto usage;
- e) impact of the parking requirement on the physical environment of the affected lot or the adjacent lots including reduction in green space, destruction of significant existing trees and other vegetation, destruction of existing dwelling units, or loss of pedestrian amenities along public ways; and
- f) Any applicable transportation demand management strategies that will be integrated into the Project or such other factors as may be considered by the PAA.

A.7.4 Location of Parking. Any surface parking lot shall, to the maximum extent feasible, be located at the rear or, where such location is deemed infeasible or inferior by the PAA, the side of a building, relative to any principal street, public open space, or pedestrian way.

A.8. PLAN APPROVAL OF PROJECTS: GENERAL PROVISIONS

A.8.1 Plan Approval. An application for Plan Approval shall be reviewed by the PAA for consistency with the purpose and intent of Sections 10.A.8.0 through 10.A.12.0. Such Plan Approval process shall be construed as an As-of-Right review and approval process as required by and in accordance with the Governing Laws. The following categories of Projects shall be subject to the Plan Approval process:

- a) Any Residential Project containing at least 13 residential units;
- b) Any Mixed-use Development Project;
- [c] any Project consisting solely of non-residential uses; and
- d) Any Project seeking a waiver.

A.8.2 Plan Approval Authority (PAA). The Montague Planning Board consistent

with G.L. Chapter 40R and 760 CMR 59.00, shall be the Plan Approval Authority (the "PAA"), and it is authorized to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the SGOD.

A.8.3 PAA Regulations. The Plan Approval Authority may adopt administrative rules and regulations relative to Plan Approval. Such rules and regulations and any amendments thereof must be approved by the Department of Housing and Community Development.

A.8.4 Project Phasing. An Applicant may propose, in a Plan Approval submission, that a Project be developed in phases, provided that the submission shows the full buildout of the Project and all associated impacts as of the completion of the final phase, and subject to the approval of the PAA. Any phased Project shall comply with the provisions of Section 10.5.9.

A.9. PLAN APPROVAL PROCEDURES

A.9.1 Preapplication. Prior to the submittal of a Plan Approval submission, a "Concept Plan" may be submitted to help guide the development of the definitive submission for Project buildout and individual elements thereof. Such Concept Plan should reflect the following:

1. Overall building envelope areas;
2. Open space and natural resource areas; and
3. General site improvements, groupings of buildings, and proposed land uses.

The Concept Plan is intended to be used as a tool for both the Applicant and the PAA to ensure that the proposed Project design will be consistent with the Design Standards and other requirements of the SGOD.

A.9.2 Required Submittals. An application for Plan Approval shall be submitted to the PAA on the form provided by the PAA and approved by DHCD, along with application fee(s) which shall be as set forth in the PAA Regulations. The application shall be accompanied by such plans and documents as may be required and set forth in the PAA Regulations. For all Projects, the application shall be accompanied by all materials required under Section 10.A.5.3. All site plans shall be prepared by a certified architect, landscape architect, and/or a civil engineer registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All plans shall be signed and stamped, and drawings prepared at a scale of [one inch equals forty feet (1"=40') or larger], or at a scale as approved in advance by the

PAA.

A.9.3 Filing. An Applicant for Plan Approval shall file the required number of copies of the application form and the other required submittals as set forth in the PAA Regulations with the Montague Clerk and a copy of the application including the date of filing certified by the Montague Clerk shall be filed forthwith with the PAA.

A.9.4 Circulation to Other Boards. Upon receipt of the application, the PAA shall immediately provide a copy of the application materials to the Select Board, Board of Appeals, Board of Health, Conservation Commission, Fire Department, Police Department, Building Department, Department of Public Works, the Monitoring Agent (if already identified, for any Project subject to the Affordability requirements of Section 10.A.5.0), and other municipal officers, agencies or boards for comment, and any such board, agency or officer shall provide any written comments within 60 days of its receipt of a copy of the plan and application for approval.

A.9.5 Hearing. The PAA shall hold a public hearing for which notice has been given as provided in Section 11 of G.L. Chapter 40A. The decision of the PAA shall be made, and a written notice of the decision filed with the Town Clerk, within 120 days of the receipt of the application by the Town Clerk. The required time limits for such action may be extended by written agreement between the Applicant and the PAA, with a copy of such agreement being filed in the office of the Town Clerk. Failure of the PAA to take action within said 120 days or extended time, if applicable, shall be deemed to be an approval of the Plan Approval application.

A.9.6 Peer Review. The Applicant shall be required to pay for reasonable consulting fees to provide peer review of the Plan Approval application, pursuant to G.L. Chapter 40R, Section 11(a). Such fees shall be held by the Town in a separate account and used only for expenses associated with the review of the application by outside consultants, including, but not limited to, attorneys, engineers, urban designers, housing consultants, planners, and others. Any surplus remaining after the completion of such review, including any interest accrued, shall be returned to the Applicant forthwith.

A.10. PLAN APPROVAL DECISIONS

A.10.1 Plan Approval. Plan Approval shall be granted where the PAA finds that:

1. the Applicant has submitted the required fees and information as set forth in the PAA Regulations; and
2. the Project as described in the application meets all of the requirements

and standards set forth in Section 10 and the PAA Regulations, or a waiver has been granted therefrom; and

3. any extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated.

For all Projects, compliance with condition (2) above shall include written confirmation by the Monitoring Agent that all requirements of Section 10.A.5.0 have been satisfied. Any Plan Approval decision for a Project shall specify the term of such affordability, which shall be no less than thirty years. The PAA may attach conditions to the Plan Approval decision that are necessary to ensure substantial compliance with Section 10, or to mitigate any extraordinary adverse potential impacts of the Project on nearby properties.

A.10.2 Plan Disapproval. A Plan Approval application may be disapproved only where the PAA finds that:

1. the Applicant has not submitted the required fees and information as set forth in the Regulations; or
2. the Project as described in the application does not meet all of the requirements and standards set forth in Section 10 and the PAA Regulations, or that a requested waiver therefrom has not been granted; or
3. it is not possible to adequately mitigate extraordinary adverse Project impacts on nearby properties by means of suitable conditions.

A.10.3 Waivers. Upon the request of the Applicant and subject to compliance with the Governing Laws and Section 10.A.5.10, the Plan Approval Authority may waive dimensional and other requirements of Section 10, including the Design Standards, in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the SGOD, or if it finds that such waiver will allow the Project to achieve the density, affordability, mix of uses, and/or physical character allowable under Section 10.

A.10.4 Project Phasing. The PAA, as a condition of any Plan Approval, may allow a Project to be phased at the request of the Applicant, or it may require a Project to be phased for the purpose of coordinating its development with the construction of Planned Infrastructure Improvements (as that term is defined under 760 CMR 59.00), or to mitigate any extraordinary adverse Project impacts on nearby properties. For Projects that are approved and developed in phases, unless otherwise explicitly approved in writing by the Department in relation to the specific Project, the proportion of Affordable units in each phase shall be at least equal to the minimum percentage of Affordable Housing required under Section 10.A.5.1.

A.10.5 Form of Decision. The PAA shall issue to the Applicant a copy of its decision containing the name and address of the owner, identifying the land affected, and the plans that were the subject of the decision, and certifying that a copy of the decision has been filed with the Town Clerk and that all plans referred to in the decision are on file with the PAA. If twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the Town Clerk shall so certify on a copy of the decision. If a plan is approved by reason of the failure of the PAA to timely act, the Town Clerk shall make such certification on a copy of the application. A copy of the decision or application bearing such certification shall be recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the Applicant.

A.10.6 Validity of Decision. A Plan Approval shall remain valid and shall run with the land indefinitely, provided that construction has commenced within two years after the decision is issued, which time shall be extended by the time required to adjudicate any appeal from such approval and which time shall also be extended if the Project proponent is actively pursuing other required permits for the Project or there is other good cause for the failure to commence construction, or as may be provided in a Plan Approval for a multi-phase Project.

A.11. CHANGE IN PLANS AFTER APPROVAL BY PAA

A.11.1 Minor Change. After Plan Approval, an Applicant may apply to make minor changes in a Project involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall buildout or building envelope of the site, or provision of open space, number of housing units, or housing need or affordability features. Such minor changes must be submitted to the PAA on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the PAA. The PAA may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The PAA shall set forth any decision to approve or deny such minor change by motion and written decision and provide a copy to the Applicant for filing with the Town Clerk.

A.11.2 Major Change. Those changes deemed by the PAA to constitute a major change in a Project because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the PAA as a new application for Plan Approval pursuant to Sections 10.A.8.0 - through 10.A.12.0.

A.12. DESIGN STANDARDS - GENERAL

A.12.1. Design Standards. The Plan Approval Authority may adopt, by simple majority vote, Design Standards which shall be applicable to Development Projects subject to Plan Approval by the Plan Approval Authority. Such Design Standards must be objective and not subjective and may only address the scale and proportions of buildings, the alignment, width, and grade of streets and sidewalks, the type and location of infrastructure, the location of building and garage entrances, off street parking, the protection of significant natural site features, the location and design of on-site open spaces, exterior signs, and buffering in relation to adjacent properties. DHCD may, at its discretion, may require Design Standards to contain graphics illustrating a particular standard or definition in order to make such standard or definition clear and understandable.

A.12.2. DHCD Approval. After adopting Design Standards, the PAA shall submit Design Standards to DHCD for approval. Design Standards shall not take effect until approved by DHCD and filed with the Town Clerk. In submitting proposed Design Standard for DHCD approval, the PAA shall also submit sufficient documentation clearly showing that the proposed Design Standards will not add unreasonable costs to Development Projects or unreasonably impair the economic feasibility of a Development Project. A letter from a developer, property owner or other interested party indicating that the Design Standards will not add unreasonable costs or unreasonably impair the economic feasibility of a Development Project shall not constitute sufficient documentation. At its discretion, DHCD may disapprove Design Standards if it finds that the PAA has not adopted objective Design Standards or has not submitted such documentation.

A.12.3. Plan Approval. An application for Plan Approval that has been submitted to the Town Clerk pursuant to this Section [x] shall not be subject to Design Standards that have not been approved by DHCD and filed with the Town Clerk

A.13. SEVERABILITY.

If any provision of Section 10 is found to be invalid by a court of competent jurisdiction, the remainder of Section 10 shall not be affected but shall remain in full force. The invalidity of any provision of Section 10 shall not affect the validity of the remainder of the Montague Zoning Bylaws.

SECTION 6. OVERLAY DISTRICTS

6.4. Smart Growth Overlay District

6.4.1 Establishment. The Smart Growth Overlay District, herein referred to as the “SGOD,” is an overlay district having a land area of approximately 4 acres in size that is superimposed over the underlying zoning district(s) and is shown on the Zoning Map as set forth on the map entitled “Smart Growth Overlay District, dated ___, prepared by ___.” This map is hereby made a part of the Zoning Bylaw and is on file in the Office of the Town Clerk.

6.4.2 Subdistricts. The SGOD contains the following Sub-Districts:
Sub-District A: Griswold Mill comprising approximately 3.02 acres and;
Sub-District B: First Street comprising approximately 1.16 acres.

(Town Planner Request)

ARTICLE 30: That the Town vote in accordance with MGL c. 40, § 15A to transfer from the board or commission having the care, custody, and control of a parcel of land containing 2.27 acres of land, more or less, located at 11 Power Street and identified as Assessors’ Parcel ID 03-0-027 further described in a deed recorded with the Franklin Registry of Deeds in Book 6418, Page 65, and referenced in a judgement in a tax lien case recorded with said Registry in Book 7959, Page 332 and shown on a plan recorded with said Registry in Plan Book 133, Page 21 to the Selectboard for the purposes of economic development or the development of low or moderate income housing; and further, that the Selectboard be authorized to sell, lease, transfer or convey any portion or all of the aforesaid property upon such terms and conditions and for such amounts as the Selectboard shall deem fit, subject to the approval of the Montague Economic Development and Industrial Corporation, and further that the Selectboard be authorized to execute any and all instruments, including deeds, leases or other agreements and take all other actions necessary or appropriate to effectuate the vote taken hereunder, or pass any vote or votes in relation thereto.

(Town Planner Request)

ARTICLE 31: To see if the Town will vote to transfer care, custody and control of a parcel of land containing 0.65 acres of land, more or less, located on First Street and identified as Assessors’ Parcel ID 04-0-0031, from the Selectboard for general municipal purposes to the Selectboard for general municipal purposes or for developing low or moderate housing and to authorize the Selectboard to sell or lease, transfer or convey all or any portion of such land for such sum and upon such conditions determined by the Selectboard to be in the best interests of the Town, pursuant to G.L. c. 30B, and to authorize the Selectboard to execute any and all instruments, including deeds, leases or other agreements and take all other actions necessary or appropriate to effectuate the vote taken hereunder, or pass any vote or votes in relation thereto.

(Town Planner Request)

ARTICLE 32: To see if the Town will vote to authorize the Selectboard to petition the General Court for special legislation providing that all of the positions in the Police Department after passage of the Act not be subject to the Civil Service statute, all as set forth below; provided,

however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Selectboard approves amendments to the bill before enactment by the General Court which are within the scope of the general public objectives of the petition, and to authorize the Selectboard to approve such amendments, or pass any vote or votes in relation thereto.

AN ACT EXEMPTING ALL POSITIONS IN THE POLICE DEPARTMENT OF THE TOWN OF MONTAGUE FROM THE CIVIL SERVICE LAW

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, all positions in the police department of the town of Montague shall be exempt from chapter 31 of the General Laws.

SECTION 2. This act shall not impair the civil service status of a person holding a position described in section 1 on the effective date of this act.

SECTION 3. Notwithstanding the provisions of Section 2, no appointments or promotions made after the effective date of this act will be governed in any way by chapter 31 of the General Laws.

SECTION 4. This act shall take effect upon its passage.

ARTICLE 33. To see if the Town will vote to authorize the Selectboard to petition the General Court for one (1) additional all alcohol on premises liquor license to be exercised and located at 196 Turners Falls Road in the Montague Center village of the Town, by the El Nopalito Restaurant, 196 Turners Falls Road, Montague, or its successors or assigns, said license not to be transferred to any other location; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Selectboard approves amendments to the bill before enactment by the General Court which are within the scope of the general public objectives of the petition, or pass any vote or votes in relation thereto.

The petition for special legislation shall take the following form:

AN ACT AUTHORIZING THE TOWN OF MONTAGUE TO ISSUE ONE ADDITIONAL LIQUOR LICENSE.
Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. (a) Notwithstanding section 17 of chapter 138 of the General Laws or any other general or special, rule or regulation to the contrary, the licensing authority of the town of Montague may grant one (1) additional license for the sale of all alcoholic beverages to be consumed on premises under section 12 of said chapter 138 to El Nopalito Restaurant, or its successors or assigns, to be exercised at and located at 196 Turners Falls Road, in the Montague Center village in said town. A license granted under this section shall be subject to all of said chapter 138 except said section 17.

(b) Once issued, the licensing authority shall not approve the transfer of the license issued under this section to any other location, but it may grant the license to a new applicant at the same location if the applicant files with the authority a letter from the department of revenue indicating that the license is in good standing with the department and that all applicable taxes have been paid.

(c) If the license granted under this section is cancelled, revoked or no longer in use, it shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority, which may then grant the license to a new applicant at the same location under the same conditions as specified in this section.

(Board of Selectmen Request)

ARTICLE 34: Petitioned Article

FAIR SHARE AMENDMENT-MONTAGUE RESOLUTION OF SUPPORT

WHEREAS, Massachusetts needed new investments in our transportation and public education systems even before the COVID-19 pandemic, and those investments are needed more than ever to lift our economy into an equitable and long-lasting recovery;

WHEREAS, the best way to help working families and rebuild a strong economy for us all is to make sure that we have quality public schools for our children, affordable public higher education, and a reliable transportation system; and

WHEREAS, Montague has numerous structurally deficient bridges and overdue road repair and replacement projects; and

WHEREAS, students need a well-rounded education and major investments in public education are needed to help students recover academically, socially, and emotionally from the COVID-19 pandemic; and

WHEREAS, tuitions and fees at our public colleges are among the highest in the country, forcing students to take on enormous debt just to receive a degree; and

WHEREAS, new state revenue is necessary to rebuild crumbling roads and bridges, improve our public schools from Pre-K through college, expand access to vocational and technical training invest in reliable and decarbonized public transportation, make public higher education affordable again, and expand opportunities for healthy walking and bicycling; and

WHEREAS, wealth Massachusetts residents saw their investments grow during the pandemic while working families struggled, and Massachusetts' wealthiest residents should pay their fair share to support our communities and grow our economy; and

WHEREAS, the Legislature's Constitutional Convention voted 159-41 to place the Fair Share Amendment on the November 2022 statewide ballot;

THEREFORE, let it be resolved that the Montague Town Meeting Supports the proposed Fair Share Amendment that would create an additional tax of four percentage points on annual income above one million dollars and dedicate the funds raised by this tax to quality public education, affordable public colleges and universities, and for the repair and maintenance of roads, bridges, and public transportation.

And you are directed to serve this warrant by posting attested copies thereof in some conspicuous place in each of the Post Offices, Libraries, Website, and Town Hall of the Town, at least fourteen days before said meeting.

Hereof fail not and make due return of this document with your doings thereon to the Town Clerk fourteen days before said meeting.

Given under our hands this 11th day of April in the Year of Our Lord Two Thousand and Twenty-Two.

Matthew Lord

Christopher M. Boutwell, Sr.

Richard Kuklewicz, Chairman
Selectboard, Town of Montague

Franklin, ss Montague, MA April ____, 2022

Pursuant to the within warrant, I have warned the Inhabitants of the Town of Montague by posting attested copies of the same in a conspicuous place in each of the Post Offices, Libraries, and the Town Hall of the Town of Montague at least seven days before said meeting as within directed.

Constable of Montague