

Town of Shirley  
Massachusetts



**WARRANT**

*for the*

**ANNUAL  
TOWN MEETING**

**Monday  
June 7, 2010  
7:15 PM  
Shirley Middle School  
Auditorium  
1 Hospital Road**

**Town of Shirley  
Warrant  
Annual Town Meeting  
June 07, 2010  
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**NOTICE**

*If the business of this Warrant for the Annual Town Meeting is not concluded on June 7th, it is proposed to adjourn as follows, provided that the Meeting so votes:  
to Tuesday, June 8, 2010 at 7:15 p.m.*

**Town of Shirley  
Annual Town Meeting  
June 7, 2010  
Warrant**

COMMONWEALTH OF MASSACHUSETTS  
MIDDLESEX, ss.

To either of the Constables, Police Officers, or Justices of the Peace of the Town of Shirley in said County,

Greetings:

In the name of the Commonwealth aforesaid, you are hereby required to notify and warn the Inhabitants of said Town, qualified to vote in Town affairs, to assemble in the Auditorium of the Shirley Middle School at 1 Hospital Road in Shirley Village on

**Monday, the Seventh Day of June, 2010, at 7:15 p.m.,**

then and there to act on the following Articles:

**Article 1. Accept Annual Town Report**

To see if the Town will accept the Reports of the Selectmen and other Town Officers for the Fiscal Year July 1, 2008 through June 30, 2009, as published and promulgated, a copy having been filed in the Office of the Town Clerk; or take any other action relative thereto.

**Article 2. Pay Prior Year's Bills**

To see if the Town will vote to appropriate the following sums of money, to be expended by the Departments indicated, in order to pay bills of a prior Fiscal Year for the goods or services described:

<u>Department</u>	<u>Line Item</u>	<u>Vendor</u>	<u>Goods/Services</u>	<u>Amount</u>
Ambulance Department	#231	Ricky's Towing	Repairs	\$50.00

Such appropriation to be provided by transfer from Retained Earnings of the Ambulance Enterprise Fund; or take any other action relative thereto.

**Article 3. Amend Appropriations for the Current Fiscal Year**

To see if the Town will vote to amend the amounts appropriated under Article 9 of the June 8, 2009 Annual Town Meeting by reducing Line Item #913 – "Unemployment Insurance – Expenses" by \$50,000 to a revised budget of \$220,000; and further to appropriate \$50,000 to the Stabilization Fund of the Town by transfer from available funds; or take any other action relative thereto.

#### **Article 4. Adopt General Operating Budget for FY11.**

To see if the Town will vote to appropriate a sum of money as and for the General Operating Budget of the Town for the period beginning July 1, 2010 through June 30, 2011, in order to defray the operations and other necessary and proper charges, costs, and expenses of the Boards, Commissions, Committees, Officers, and Departments of the Town, together with the payment of debt service, for said Fiscal Year 2011, with each item considered to be a separate appropriation, all as set forth below;

and further, that the Town authorize the Board of Selectmen, with the concurrence of the Finance Committee, to transfer funds among line items defined within the budget, provided that such transfers shall only occur within the last two months of the fiscal year, and the total transfer amount shall not be more than 1% of the total budget amount, and provided further, that any such transfer shall require a majority vote of each of the Board of Selectmen and the Finance Committee at a duly posted public meeting.

Such amounts to be provided by taxation and/or by transfer from available funds (Free Cash, Stabilization Fund, etc.); or take any other action relative thereto.

**\* INSERT BUDGET HERE \***













## Article 5. Adopt Sewer Department Budget for FY11.

To see if the Town will vote to raise and appropriate, borrow, or transfer from available funds the sum of **\$1,481,991** to be expended by the Sewer Commissioners, as and for the Budget of the Sewer Department for the period from July 1, 2010 through June 30, 2011, in order to defray the operations and other necessary and proper charges, costs, and expenses of the Sewer Department for said Fiscal Year 2011, with each item considered to be a separate appropriation, all as set forth below; such amounts to be provided from estimated revenues of **\$894,584** from Betterment Assessments and an estimated **\$457,407** from User Fees and **\$130,000** from Retained Earnings; or take any other action relative thereto.

### LINE 442: FY10 SEWER DEPARTMENT BUDGET

<b><u>Description</u></b>	<b><u>Appropriated FY10</u></b>	<b><u>Requested FY11</u></b>
Wages, Hourly	\$ 29,836	\$ 29,836
Health Insurance	\$ 12,725	\$ 13,766
Medicare	\$ 455	\$ 479
Contracted Services / Operations & Maintenance	\$ 426,835	\$ 426,626
General Operations / User Expenses	\$ 86,700	\$ 86,700
Reserve Fund	\$ 30,000	\$ 30,000
Capital Assessments & Debt Service / Betterment Expenses	<u>\$ 895,724</u>	<u>\$ 894,584</u>
<b>Total Sewer Department</b>	<b>\$ 1,482,275</b>	<b>\$ 1,481,991</b>
Sewer Enterprise Fund Indirect Cost Expenses	<u>\$ 40,429</u>	<u>\$ 40,429</u>
<b>Total Sewer Department Enterprise Fund Spending</b>	<b>\$ 1,522,704</b>	<b>\$ 1,522,420</b>

## Article 6. Adopt Ambulance Department Budget for FY11.

To see if the Town will vote to raise and appropriate, borrow, or transfer from available funds the sum of **\$106,125** to be expended by the Ambulance Department for the period from July 1, 2010 through June 30, 2011 in order to defray the operations and other necessary and proper charges, costs, and expenses of the Ambulance Department for said Fiscal Year 2011, with each item considered to be a separate appropriation, all as set forth below; such amounts to be provided from **\$36,125** in retained earnings and estimated receipts of **\$70,000** in User Fees to be charged by the Ambulance Department; or take any other action relative thereto.

### LINE 231: FY10 AMBULANCE DEPARTMENT BUDGET

<b><u>Description</u></b>	<b><u>Appropriated FY10</u></b>	<b><u>Requested FY11</u></b>
Salary, Ambulance Director	\$ 12,735	\$ 12,735
Wages, Hourly – On-Call EMTs, Billing Clerk	\$ 30,351	\$ 30,351
EMT Stipends	\$ 4,350	\$ 4,350
Health Insurance	\$ 24,925	\$ 27,531
Medicare	\$ 660	\$ 660
Expenses	\$ 25,498	\$ 25,498
Capital – Power Patient Stretcher	\$ 12,000	\$ 0
Reserve Fund	<u>\$ 5,000</u>	<u>\$ 5,000</u>
<b>Total Direct Ambulance Department Expenses</b>	<b>\$ 115,519</b>	<b>\$ 106,125</b>
Ambulance Enterprise Fund Indirect Cost Expenses	<u>\$ 49,967</u>	<u>\$ 49,967</u>
<b>Total Ambulance Enterprise Fund Spending</b>	<b>\$165,486</b>	<b>\$156,092</b>

## **Article 7. Adopt Curbside Solid Waste/Recycling Budget for FY11.**

To see if the Town will vote to raise and appropriate, borrow, or transfer from available funds the sum of **\$150,000**, to be expended by the Board of Health, for the period of July 1, 2010 through June 30, 2011 in order to defray the operations and other necessary and proper charges, costs and expenses associated with the Solid Waste/Recycling Curbside Collection Program; such amount to be provided from an estimated **\$150,000** in User Fees; or take any other action relative thereto.

## **Article 8. Approve Five-year Capital Improvement Program**

To see if the Town will approve the Capital Improvement Program for Fiscal Year 2011 and the ensuing four years as set forth hereunder; or take any other action relative thereto.

**\*INSERT CAPITAL PLAN HERE\***

## **Article 9. Accept Wage & Salary Classification Plan and Wage Scale**

To see if the Town will accept its Salary & Wage Scale, most recently amended under Article 9 of the Special Town Meeting held on November 14, 2009, for Fiscal Year 2011, as set forth in Appendix A and Appendix B of this Warrant; or take any other action relative thereto.

## **Article 10. Authorize Transfers for Managing Debt.**

To see if the Town will vote to authorize the Treasurer, with the approval of the Selectmen and the Finance Committee, to transfer funds among Line Items #711, Debt Service (Long-term Principal and Interest and Short Term Interest) and Line #712, Debt Issue Cost (Expense) in the Budget for Fiscal Year 2011; provided that such transfers remain within the total appropriations for these Line Items and Sub-accounts; or take any other action relative thereto.

## **Article 11. Renew Limited Additional Property Tax Exemption for Qualified Persons.**

To see if the Town will accept the provisions of Chapter 73, Section 4, of the Acts of 1986, as amended by Chapter 126 of the Acts of 1988, to allow an additional property tax exemption, which shall be uniform for all exemptions, but not to exceed more than a 100% additional property tax exemption, for Fiscal Year 2011, for those who qualify (persons who are blind, infirm, orphaned, over 70 years of age, widowed, etc.) under Chapter 59, Section 5, of the Massachusetts General Laws; or take any other action relative thereto.

## **Article 12. Establish and Re-establish Departmental Revolving Funds.**

To see if the Town will establish and re-establish the following Departmental Revolving Funds for Fiscal Year 2011 in accordance with Chapter 44, Section 53 E 1/2, of the Massachusetts General Laws:

### **A. Council on Aging Van Service (Renew).**

Fiscal Year Expenditure Limit: \$43,000

Authorized Department: Council on Aging.

Program or Purpose: Van Service for transporting the elderly and disabled.

Revenue Source: Fees, Fares or Reimbursement from Montachusett Regional Transportation Authority

### **B. Advertising & Postage Costs Advanced by Applicants (Renew).**

Fiscal Year Expenditure Limit: \$5,000

Authorized Department: Relevant Departments

Program or Purpose: Pass-through account for legal advertisements and postage funded by applicants for licenses, permits, etc.

Revenue Source: Charges, costs, and fees advanced or reimbursed by applicants in connection with applications for licenses, permits, variances, or other matters.

### **C. Dog Licensing & Other Expenses (Renew).**

Fiscal Year Expenditure Limit: \$5,000

Authorized Department: Town Clerk, Dog Officer.

Program or Purpose: Dog Licensing & other expenses relating to dogs.

Revenue Source: Fees for licensing dogs.

**D. Boarding & Caring for Impounded Dogs (Renew).**

Fiscal Year Expenditure Limit: \$5,000  
Authorized Department: Police Department.  
Program or Purpose: Boarding and caring for impounded dogs.  
Revenue Source: Fines and payments by owners for boarding dogs

**E. Wetlands By-law Expenses (Renew).**

Fiscal Year Expenditure Limit: \$25,000  
Authorized Department: Conservation Commission.  
Program or Purpose: Pass-through account for expert engineering and consulting services retained by the Conservation Commission for review of applications under the Wetlands By-law.  
Revenue Source: Costs and fees advanced by applicants.

**F. Fees & Expenses of Animal Control Officer (Renew).**

Fiscal Year Expenditure Limit: \$3,000  
Authorized Department: Board of Health.  
Program or Purpose: Pass-through account for paying the Animal Control Officer's stipend, fees and other expenses.  
Revenue Source: Fees and charges assessed to owners for the inspection of domestic animals in accordance with Massachusetts General Laws Chapter 129, Section 19.

**G. Fees for Deputy Collector (Renew).**

Fiscal Year Expenditure Limit: \$15,000  
Authorized Department: Town Collector.  
Program or Purpose: Pass-through account to pay statutory fees earned by the Town's Deputy Collector (independent contractor).  
Revenue Source: Fees added to and paid with overdue bills.

**H. Fees & Expenses of Field Driver (Renew).**

Fiscal Year Expenditure Limit: \$2,000  
Authorized Department: Police Department.  
Program or Purpose: Pass-through account for paying the fees and expenses of the Town's Field Driver.  
Revenue Source: Charges assessed to owners for collecting, transporting, and impounding their strayed animals.

**I. Fees & Expenses of Police Lock-up (Renew).**

Fiscal Year Expenditure Limit: \$5,000  
Authorized Department: Police Department.  
Program or Purpose: Pass-through account for providing lock-up facilities to other governmental entities.  
Revenue Source: Fees paid for use of cells.

**J. Expenses of Planning Board (Renew).**

Fiscal Year Expenditure Limit: \$40,000  
Authorized Department: Planning Board.  
Program or Purpose: Pass-through account for expert engineering, other consulting services & for legal advertising required & expenses incurred by the Planning Board for review of applications under its Subdivision Control Regulations.  
Revenue Source: Costs and fees advanced by applicants

**K. Expenses of Recycling (Renew)**

Fiscal Year Expenditure Limit: \$3,000  
Authorized Department: Board of Health.  
Program or Purpose: Pass-through account for expenses of recycling cardboard, glass, metals, paper, plastics, etc.  
Revenue Source: Payments for recycled materials.

**L. Expenses of Recreational Fields (Renew)**

Fiscal Year Expenditure Limit: \$25,000  
Authorized Department: Recreation Fields Committee  
Program or Purpose: For the costs of maintenance, equipment & supplies, renovation and/or improvements to any and all Town owned Recreation fields, including related design services  
Revenue Source: Fees, Donations, Gifts

; or take any other action relative thereto

**Article 13. Appropriate Chapter 90 Funds.**

To see if the Town will appropriate, directly for expenditure by the Public Works Department, for such purposes as may be approved by Massachusetts Highway Department for capital expenditures, all Highway Aid received from the Commonwealth during Fiscal Year 2011, in accordance with Chapter 90 of the Massachusetts General Laws; or take any other action relative thereto.

**Article 14. Post Employment Benefit Program**

To see if the Town will vote to accept the provisions of Chapter 479 of the Acts of 2008 (codified as M.G.L Chapter 32B, Section 20), to provide for the establishment of an “Other Post Employment Benefits Liability Trust Fund” and further, to establish a “Other Post Employment Benefits Liability Trust Fund” to account for appropriations made to cover the unfunded actuarial liability for retirees’ health care and life insurance benefits; or take any other action relative thereto.

**Article 15. Proposed Town By-Law – Sex Offender Residency**

To see if the Town will amend the provisions of the Shirley Town Bylaws by adding a new Article XXVIII – “Sex Offender Residency Bylaw” as set forth in Appendix C of this Warrant; or take any other



action relative thereto.

### **Article 16. Amend Protective Zoning By-Law – Flood Plain Protection Overlay District**

To see if the Town will vote to amend its Zoning By-law in Section 4.12 – “Flood Plain Protection Overlay District”, Section 4.13 – “Water Supply and Wellhead Protection Overlay District”, and 1.7.7 – “Boundaries of Districts, as set forth in Appendix D of this Warrant; or take any other action relative thereto.

### **Article 17. Proposed Town By-Law Change - Council on Aging**

To see if the Town will vote to amend its Bylaws, Article V, “Records and Reports”, by deleting in Section 7, Subparagraph 2 the following sentence: “The Board of Selectmen shall annually appoint a council chairman.”; or take any other action relative thereto

### **Article 18. Lease of the Dow Property**

To see if the Town will vote to authorize the Conservation Commission to lease for agricultural use for up to ten years, a portion of the land under its care and custody located on Groton Road known as the “Dow Parcel” (Assessors’ Map 95A, Parcel 7.14) and to authorize the Selectmen to file special legislation with the General Court, pursuant to Article 97, authorizing the Conservation Commission to lease the land known as the “Dow Parcel” (Assessors’ Map 95A, Parcel 7.14) for agricultural use for up to ten years; or take any other action relative thereto.

### **Article 19. Special Legislation - Sewer Betterment Abatement - Phoenix Street**

To see if the Town will vote to authorize the Board of Selectmen to request special legislation that would permit the Town to grant one abatement of the sewer betterments assessed upon the property located at 23 Phoenix Street, after the expiration of the six month period to petition for an abatement as provided for in MGL Ch. 80, § 5; or take any other action relative thereto.

### **Article 20. Transfer to the Stabilization Fund for FY11.**

To see if the Town will vote to appropriate a sum of money to the Stabilization Fund of the Town, by a transfer from available funds, or take any other action relative thereto.

\* \* \* \*

\* \* \* \*

And you will serve this Warrant by posting true and attested copies of same at the Town Offices and the Hazen Memorial Library in Shirley Village, at the Center Town Hall in Shirley Center, and a like copy at the United States Post Office in Shirley Village, Seven days at least before the time appointed for said Meeting.

Hereof fail not and make due return of this Warrant with your doings therein to one of the Selectmen, on or before the date of the Meeting.

Given under our hands at Shirley, this Twenty-Forth Day of May, 2010

**BOARD OF SELECTMEN**

\_\_\_\_\_  
*Armand Deveau*  
Chairman

\_\_\_\_\_  
*Kendra J. Dumont*

\_\_\_\_\_  
*David N. Swain*

A true copy.  
Attest:

\_\_\_\_\_  
*Amy R. McDougall*  
Town Clerk

\* \* \* \*

\* \* \* \*

## RETURN OF SERVICE

I certify that on the \_\_\_\_\_ Day of \_\_\_\_\_, 2010, I duly posted true and attested copies of the foregoing Warrant at the following places and times:

Town Offices \_\_\_\_\_M.

U. S. Post Office \_\_\_\_\_M.

Center Town Hall \_\_\_\_\_M.

Hazen Memorial Library \_\_\_\_\_M.

\_\_\_\_\_  
*Constable, Police Officer  
Or Justice of the Peace*

\* \* \* \*

## Appendix A

### Salary Classification Plan

Town of Shirley Salary Classification Plan	
Grade	Title
14	Police Chief
13	Public Works Director
12	
11	Town Administrator Fire Chief Police Lieutenant
10	
9	Accountant/Budget Officer Treasurer/Benefits Coordinator Principal Assessor
8	Library Director Building Inspector
7	Firefighter (Full Time)
6	Assistant Assessor Conservation Administrator Police Dept. Executive Secretary <b><u>Executive Assistant to the Board of Selectmen</u></b> <b><u>Youth Services Librarian</u></b> Reserve Police Officer
5	Assistant Accountant Assistant Treasurer Community Development Coordinator <b><u>Assistant Collector</u></b> Health/Inspections Office Mgr/Assistant/ZBA Public Works Assistant <b><u>Planning Administrator</u></b> Sewer Dept. Office Mgr/Assistant Assistant Librarian
4	Conservation Secretary Dispatcher Finance Committee Admin. Secretary Selectmen's Secretary Board of Assessor's Clerk Board of Appeal's Secretary
3	
2	Custodian Library Aide Police Matron
1	

## **APPENDIX B**

**\*INSERT WAGE SCALE\***

**APPENDIX C**  
**ARTICLE XXVIII**  
**SEX OFFENDERS**

**FINDINGS AND INTENT**

A. It is the intent of this by-law to serve and to protect the Town's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the Town by creating areas around locations where children, or the elderly regularly congregate in concentrated numbers wherein certain registered sex offenders are prohibited from loitering and establishing temporary or permanent residence.

B. After careful consideration, the Town finds that this by-law is the most narrowly tailored means of limiting, to the fullest extent possible, the opportunity for registered sex offenders to approach or otherwise come in contact with children, or the elderly in places where children, or the elderly would naturally congregate, and that the protection of the health and safety of our children, and elderly is a compelling governmental interest.

C. By the enactment of this or any other by-law, the Town understands that it cannot remove the threat posed to or guarantee the safety of children, or the elderly, or assure the public that registered sex offenders will comply with the mandates of this statute. This legislation is intended to create a civil, non-punitive regulatory scheme in order to protect children, and the elderly to the extent possible under the circumstances and not as a punitive measure of any kind.

D. Registered sex offenders pose a clear threat to the children, and the elderly residing or visiting in the community. Because registered sex offenders are more likely than any other type of offender to reoffend for another sexual offense, the Town desires to impose safety precautions in furtherance of the goal of protecting the children and elderly. The purpose of this by-law is to reduce the potential risk of harm to children and the elderly the community by impacting the ability for registered sex offenders to be in contact with unsuspecting children and the elderly in locations that are primarily designed for use by or are primarily used by children and the elderly, the grounds of a public or private school for children, a center or facility that provides day care or children's services, a park, other public recreational facility, elderly housing facilities or the Senior Citizens Center. The Town desires to add location restrictions to such offenders to the extent state law is silent.

**DEFINITIONS**

The following words, terms and phrases, when used in this by-law, shall have the meanings ascribed to them in this by-law, except where the context clearly indicates a different meaning:

**CHILD or CHILDREN**: Person or persons under 18 years of age.

**DAY-CARE CENTER**: Any establishment, whether public, private or parochial, which provides care for children and is registered with and licensed pursuant to the laws of the Commonwealth of Massachusetts by the Department of Early Education and Care.

**ELDER or ELDERLY**: Person or persons over 60 years of age.

**ELDERLY HOUSING FACILITY/SENIOR CITIZENS CENTER/OVER 55 COMMUNITY**: Includes any building or buildings which provides a group residence for the elderly or a location where the elderly gather and/or reside and is located within the Town of Shirley.

ESTABLISHING A RESIDENCE : To set up or bring into being a dwelling place or an abode where a person sleeps, which may include more than one location, and may be mobile or transitory, by means of purchasing real property or entering into a lease or rental agreement for real property (including a renewal or extension of a prior agreement whether through written execution or automatic renewal).

LOITERING: To remain for more than fifteen (15) minutes within a five hundred (500) foot distance of the location in question.

PARK: Includes active and passive public land designated for recreational or athletic use by the Town of Shirley and located within the Town of Shirley.

PERMANENT RESIDENCE: A place where a person lives, abides, lodges or resides for 14 or more consecutive days.

RECREATIONAL FACILITY: Includes, but is not limited to, a playground, a forest preserve, conservation area, jogging trail or running track, hiking trail, beach, water park, wading pool, soccer field, baseball field, football field, basketball court or hockey rink, whether publicly or privately owned, to which the public has a right of access as an invitee and which is located within or potentially located within the Town of Shirley.

REGISTERED SEX OFFENDER: For the purposes of this by-law shall mean: a) any person who is designated as a sexually violent predator pursuant to Chapter 6, § 178K(2)(c), of the Massachusetts General Laws and who is required to register as a sex offender pursuant to the guidelines of the Sex Offender Registry Board; b) any person who is required to register as a sex offender pursuant to Chapter 6, § 178C of the Massachusetts General Laws and for so long as such person is finally classified as a Level 3 offender pursuant to the guidelines of the Sex Offender Registry Board; and c) any person who is required to register as a sex offender pursuant to Chapter 6, § 178C of the Massachusetts General Laws, for so long as such person is finally classified as a Level 2 offender pursuant to the guidelines of the Sex Offender Registry Board, and who has committed a sex offense against a child, an elder and/or a mentally retarded person.

Level 1 Sex Offenders: Where the Sex Offender Registry Board determines that the risk of re-offense by an offender is low and the degree of dangerousness posed to the public by that offender is not such that a public safety interest is served by public availability, the Board shall give that offender a Level 1 designation. Information on Level 1 offenders will not be available to the public. Neither the police nor the Board have authority to disseminate information to the general public identifying a Level 1 offender. Information identifying Level 1 offenders may only be given to the Department of Correction, any county correctional facility, the Department of Youth Services, the Department of Social Services, the Parole Board, the Department of Probation and the Department of Mental Health, all city and town police departments and the Federal Bureau of Investigation for law enforcement purposes.

Level 2 Sex Offenders: Where the Board determines that the risk of re-offense is moderate and the degree of dangerousness posed to the public is such that a public safety interest is served by public availability of registration information, it shall give a level 2 designation to the sex offender. The public shall have access to the information regarding a level 2 offender through the Local Police Department and through the Sex Offender Registry Board.

Level 3 Sex Offenders: Where the Board determines that the risk of re-offense is high and the degree of dangerousness posed to the public is such that a substantial public safety interest is served by active dissemination, it shall give a level 3 designation to the sex offender. The public shall have access to the information regarding a level 3 offender through the Local Police Departments and through the Sex Offender Registry Board.

SCHOOL : Any public or private educational facility that provides educational instruction to children in grades pre-K through 12.

SCHOOL BUS STOP: Any area designated by the public school district or by a private or parochial school within or potentially within the Town of Shirley as a school bus stop.

SEX OFFENDER and SEX OFFENSE: The same meanings as provided for in MGL c. 6, § 178C.

TEMPORARY RESIDENCE: A place where a person lives, abides, lodges or resides for a period of less than 14 consecutive days or 14 days in the aggregate during any calendar year, which is not the person's permanent address or place where the person routinely lives, abides, lodges or resides and which is not the person's permanent residence; but "temporary residence," shall not include residence at a hospital or other health care or medical facility for less than 14 consecutive days or 14 days in the aggregate during any calendar year.

## **RESIDENCY RESTRICTIONS**

A. Prohibition. A registered sex offender is prohibited from establishing a permanent residence or temporary residence within 1,000 feet of any school, day-care center, park, other recreational facility, elderly housing facility, over 55 Community or Senior Citizens Center; provided, however, that the prohibition contained in this by-law shall not apply to any level 3 offender, to the extent and in the manner such Level 3 offender is already governed by MGL c. 6, § 178K(2)(e).

B. Evidentiary matters; measurements. For purposes of determining the minimum distance separation under this section, the distance shall be measured by following a straight line from the outer property line of the permanent or temporary residence to the nearest outer property line of any school, day-care center, park, recreational facility, elderly housing facility, over 55 Community or Senior Citizens Center.

C. Exceptions. A registered sex offender residing within 1,000 feet of any school, day-care center, park, recreational facility, elderly housing facility, over 55 Community or Senior Citizens Center does not commit a violation of this by-law if any of the following apply:

(1) The registered sex offender established the permanent residence prior to the effective date of this by-law, and:

(a) Permanent residence was established by purchasing the real property where the residence is established, as long as the registered sex offender continues to reside in and does not move to another restricted location in Shirley different from the permanent residence established prior to the effective date of this by-law;

(b) Permanent residence was established through a valid, fixed-term, written lease or rental agreement, executed prior to the effective date of this by-law, as long as the registered sex offender continues to reside within and does not move to another restricted location in Shirley different from the permanent residence established prior to the effective date of this by-law; or

(c) Permanent residence was established through a verbal lease or rental agreement at the will of the landlord, as long as the registered sex offender continues to reside within and does not move to another restricted location in Shirley different from the permanent residence established prior to the effective date of this by-law.



(2) The registered sex offender is a minor living with his or her parent(s) or legal guardian(s), which parent(s) or legal guardian(s) has (have) established a permanent residence. .

(3) The school, day-care center, park, recreational facility, elderly housing facility, over 55 Community or Senior Citizens Center within 1,000 feet of the registered sex offender's permanent residence was opened after the registered sex offender established the permanent residence.

D. Forfeiture of exception. If, either after the effective date of this by-law or after a new school, day-care center, park, recreational facility, elderly housing facility, over 55 Community or Senior Citizens Center opens, a complaint or an indictment is issued by a court against a registered sex offender otherwise enjoying an exception under Subsection C that such sex offender has committed another sex offense, he/she will immediately forfeit that exception and be required to comply with this by-law.

E. Notice to move. A registered sex offender who resides on a permanent or temporary basis within 1,000 feet of any new school, day-care center, park, recreational facility, elderly housing facility, over 55 Community or Senior Citizen Center shall be in violation of this by-law and shall, within 30 days of receipt of written notice of the registered sex offender's noncompliance with this by-law, move from said location to a new location, but said location may not be within 1,000 feet of any new school, day-care center, park, recreational facility, elderly housing facility, over 55 Community or Senior Citizens Center. It shall constitute a separate violation for each day beyond the 30 days the registered sex offender continues to reside within 1,000 feet of any new school, day-care center, park, recreational facility, elderly housing facility, over 55 Community or Senior Citizen Center. Furthermore, it shall be a separate violation each day that a registered sex offender shall move from one location in the Town to another that is within 1,000 feet of any new school, day-care center, park, recreational facility, elderly housing facility, over 55 Community or Senior Citizen Center.

F. Penalties. Any violation of this section shall be enforced by noncriminal disposition pursuant to MGL c. 40, § 21D, as follows:

(1) First offense by registered sex offender: noncriminal fine of \$150 and notification to offender that he/she has 30 days to move.

(2) Subsequent offense by registered sex offender: noncriminal fine of \$300 and notification to offender's parole officer and/or probation officer, and the commonwealth's Sex Offender Registry Board, that the sex offender has violated a municipal by-law.

## **SAFETY ZONES**

A. Prohibitions.

(1) A registered sex offender is prohibited from entering upon the premises of a school or day-care center unless previously authorized specifically in writing by the school administration or day-care center owner.

(2) A registered sex offender is prohibited from entering upon the premises of an elderly housing facility, over 55 Community or Senior Citizens Center, unless previously authorized in writing by the on-site manager of the elderly housing facility, over 55 Community or Senior Citizen Center.

(3) A registered sex offender is prohibited from entering upon the premises of a park or any recreational facility.

(4) A registered sex offender, after having received notice from the Shirley Police Department that he/she is loitering by having remained for more than fifteen (15) minutes within five hundred (500) feet of a school, a day care center, a park, any recreational facility, elderly housing facility, over 55 Community or Senior Citizen Center, is prohibited from continuing to so loiter. For purposes of determining the minimum distance separation under this section, the distance shall be measured by following a straight line from the registered sex offender to the outer property line of the school, a day-care center, a park, any recreational facility, elderly housing facility, over 55 Community or Senior Citizen Center.

(5) A registered sex offender, after having received notice from the Shirley Police Department that he/she is loitering by having remained for more than fifteen (15) minutes within five hundred (500) feet of a school bus stop, is prohibited from continuing to so loiter; provided, however, that this prohibition shall not apply on days when the schools within the Town of Shirley are not in session.

#### B. Exceptions.

(1) The prohibitions defined in this By-Law shall not be construed or enforced so as to prohibit a registered sex offender from exercising his or her right to vote in any federal, state or municipal election, conducting town and/or police business or from attending any religious service.

(2) The prohibitions defined in this By-Law do not apply to a registered sex offender's place of residence when such residence is excepted under this By-Law.

#### C. Penalties.

(1) Any violation of this section may be enforced by noncriminal disposition pursuant to MGL c. 40, § 21D, resulting in a noncriminal fine of \$150 for a first violation and a noncriminal fine of \$300 for each additional violation of this section. A registered sex offender commits a separate offense for each and every violation of this section.

### **EXEMPTIONS**

The provisions of this by-law shall not be applicable to registered sex offenders incarcerated in any facilities owned, maintained and/or operated by the Town Of Shirley and/or the State of Massachusetts.

### **ENFORCEMENT**

A. The Shirley Police Department shall be charged with the enforcement of this By-Law.

B. A written list describing the prohibited areas defined in this by-law inclusive of school bus stops, as well as a map depicting the residency restriction areas and a map depicting the safety zones exclusive of school bus stops, shall be created by the Town and maintained by the Shirley Police Department. As to school bus stops, the list and not the map depicting the safety zones shall govern. The Town shall review both the list and the maps no less than annually for changes. The list, the maps and a copy of this By-Law will be available to the public at the Shirley Police Department and Shirley Town Clerk's office, and on the Town of Shirley's website.

## **APPENDIX D**

### **Changes to the Town's 2005 Protective Zoning By-Laws**

To see if the Town will amend its 2005 Protective Zoning By-Laws as follows:

**I. By Deleting in Section 4 – “SPECIAL REGULATIONS, Subsection 4.12.2 “District Delineation” the following:**

**4.12.2. District Delineation**

The general boundaries of the Flood Plain District are shown on the Town of Shirley Flood Insurance Rate Map (FIRM), in seven (7) panels, dated July 5, 1983, as Zones A, A 1-30 to indicate the 100 year flood plain. The exact boundaries of the District are defined by the 100 year water surface elevations shown on the FIRM and further defined by the Flood Profiles contained in the Flood Insurance Study, dated January 5, 1983. The floodway boundaries are delineated on the Town of Shirley Flood Boundary Floodway Map (FBFM), dated July 5, 1983, and further defined by the Floodway Data Tables contained in the Flood Insurance Study. These two (2) maps as well as the accompanying Study are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Conservation Commission, Board of Assessors, and Building Inspector and Zoning Enforcing Officer.

Within Zone A, where the 100 year flood elevation is not provided on the FIRM, the developer/applicant shall obtain any existing flood elevation data and it shall be reviewed by the Building Inspector. If the data is sufficiently detailed and accurate, it shall be relied upon to require compliance with this Bylaw and the State Building Code.

**And replacing it with the following:**

**4.12.2 District Delineation**

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Shirley designated as Zone A and AE on the Middlesex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Middlesex County FIRM that are wholly or partially within the Town of Shirley are panel numbers 25017C0068E, 25017C0069E, 25017C0181E, 25017C0182E, 25017C0183E, 25017C0184E, 25017C0191E, 25017C0192E, 25017C0193E, 25017C0194E, 25017C0203E and 25017C0211E dated June 4, 2010. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report dated June 4, 2010. The FIRM and FIS report are incorporated herein by reference and are on file with the Planning Board Office.

**II. By Deleting in Section 4 – “SPECIAL REGULATIONS, Subsection 4.12.3 – “Use Regulations” the following:**

**4.12.3. Use Regulations**

The Flood Plain District is established as an overlay district to all other districts. All development, including structural and non-structural activities, whether permitted by right or by Special Permit must be in compliance with Ch. 131, Sec. 40, MGL, and with the requirements of the Massachusetts State Building Code pertaining to construction in the flood plains (currently Section 744).

Permitted Use - The following uses of low flood damage potential and causing no obstructions to flood flows shall be allowed provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment:

- a. Agricultural uses such as farming, grazing, truck farming, horticulture, etc.;
- b. Forestry and nursery uses;
- c. Outdoor recreational uses, including fishing, boating, play areas, etc.;
- d. Conservation of water, plants, wildlife;
- e. Wildlife management areas, foot, bicycle, and/or horse paths;
- f. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises; and,
- g. Buildings lawfully existing prior to the adoption of these provisions.

**And replacing it with the following:**

#### **4.12.3 Use Regulations**

The Flood Plain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

- a. Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR 120.G, "Flood Resistant Construction and Construction in Coastal Dunes");
- b. Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
- c. Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);
- d. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

Permitted Use - The following uses of low flood damage potential and causing no obstructions to flood flows shall be allowed provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment:

- a. Agricultural uses such as farming, grazing, truck farming, horticulture, etc.;
- b. Forestry and nursery uses;
- c. Outdoor recreational uses, including fishing, boating, play areas, etc.;
- d. Conservation of water, plants, wildlife;
- e. Wildlife management areas, foot, bicycle, and/or horse paths;
- f. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises; and,
- g. Buildings lawfully existing prior to the adoption of these provisions.

Base Flood Elevation Data - Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.

Notification of Watercourse Alteration - In a riverine situation The Shirley Conservation Commission shall notify the following of any alteration or relocation of a watercourse:

- a. Adjacent Communities
- b. NFIP State Coordinator  
Massachusetts Department of Conservation and Recreation  
251 Causeway Street, Suite 600-700  
Boston, MA 02114-2104
- c. NFIP Program Specialist  
Federal Emergency Management Agency, Region I  
99 High Street, 6th Floor  
Boston, MA 02110

**III. By Adding to Section 4 – “SPECIAL REGULATIONS”, Subsection 4.13.4 – “Water Supply and Wellhead Protection Overlay District of the Town’s Protection Overlay District”, Paragraph (g). “Prohibited Uses”, the following item:**

- 3. “All uses set forth in 310 CMR 22.21 (2)(a) and 310 CMR 22.21 (2)(b) unless designed in accordance with the performance standards specified therein.”

**IV. By Deleting in Section 1 “GENERAL PROVISIONS”- Subsection 1.7 – “Boundaries of Districts”, the following**

“1.7.7. Boundaries of the Flood Plain District are shown and set forth in the Shirley Flood Insurance Rate map (FIRM), dated July 5, 1983, or as subsequently revised, on file in the Planning Board Office.”