

# Town of Franklin

355 East Central Street  
Franklin, Massachusetts 02038-1352



Phone: (508) 520-4949  
[www.franklinma.gov](http://www.franklinma.gov)

OFFICE OF THE TOWN ADMINISTRATOR

## Memorandum

March 13, 2020

To: Town Council  
From: Jamie Hellen, Town Administrator

**Re: Water Resource District**

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I am requesting that the Town Council amend the Water Resource District Bylaw to reflect the updated overlay district map. Please note that this is a housekeeping action to reflect the new district boundaries as defined by MassDEP, this is not a local policy option.

These are the changes that have occurred on our Water Resource District map:

1. An Interim WellHead Protection Area was added around the Populatic Area.
2. The Interim WellHead Protection Areas around the Camp Haiastan wells were modified.
3. The Interim WellHead Protection Areas around the Upper Union St wells were modified.
4. The boundary around the proposed well in the Washington and South Street area was removed.
5. The underlying town map was updated to provide more detail with parcel lines shown.

If you have any questions please feel free to ask.

# **FRANKLIN PLANNING & COMMUNITY DEVELOPMENT**

355 EAST CENTRAL STREET, ROOM 120  
FRANKLIN, MA 02038-1352  
TELEPHONE: 508-520-4907  
FAX: 508-520-4906

## **MEMORANDUM**

**TO:** FRANKLIN TOWN COUNCIL

**FROM:** BRYAN W. TABERNER, AICP, DIRECTOR

**RE:** PROPOSED ZONING BYLAW AMENDMENT 20-854,  
UPDATE TO FRANKLIN'S WATER RESOURCE DISTRICTS MAP

**CC:** JAMIE HELLEN, TOWN ADMINISTRATOR; FRANKLIN PLANNING BOARD;  
MARK G. CEREL; CHRISSY WHELTON; ROBERT CANTOREGGI; MICHAEL  
MAGLIO; LAURIE RUSZALA; GUS BROWN; AMY LOVE

**DATE:** MARCH 4, 2020

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The Town of Franklin's Zoning Map includes several Overlay District Maps listed in §185-4B of Franklin Town Code. One of the more important overlay districts, Franklin's Water Resource District, was created to protect the Town's many wells and related aquifers. At this time the Department of Public Works is requesting an update to the Town's Water Resource District map, and an amendment to a related section of the Zoning Bylaw (§185-40).

The reasons for the proposed zoning bylaw amendment are explained in an attached letter from Town Engineer Michael Maglio. Zoning Bylaw Amendment 20-854 is likely the easiest bylaw amendment Town Council will ever need to consider; the proposed amendment makes one simple date change to §185-40B.

If Council members support the proposed Zoning Bylaw Amendment we request Town Council vote to refer Zoning Bylaw Amendments 20-854 to the Planning Board for a Public Hearing. Let me know if you have questions or require additional information.

### Attachments:

- A. Letter from Town Engineer Michael Maglio;
- B. Existing Town of Franklin Water Resource Districts Map (2008);
- C. Updated Town of Franklin Water Resource Districts Map (2020); and
- D. Zoning Bylaw Amendment 20-854. Changes to §185-40. Water Resource District.



## TOWN OF FRANKLIN

### DEPARTMENT OF PUBLIC WORKS

Franklin Municipal Building  
257 Fisher Street  
Franklin, MA 02038-3026

March 4, 2020

To: Jamie Hellen, Town Administrator

Re: **Water Resource Map Update**

Dear Jamie,

We are requesting that the Town Council amend the Water Resource District Bylaw 185-40 to reflect the updated overlay district map. This is a housekeeping action to reflect the new district boundaries as defined by MassDEP.

Under Bylaw 185-40.B, the Water Resource District is defined as "those areas designated DEP Approved Zone 1; DEP Approved Zone 2; submitted for approval DEP Zone 2; and DEP approved Interim Wellhead Protection Areas." MassDEP defines the limits of the Water Resource District and occasionally updates those limits and releases the data through GIS updates to the Town.

The District boundaries on the current Water Resource District Map were accurate as of March 28, 2008, however MassDEP has issued subsequent revisions since that time and we are requesting that the Council update the bylaw to reflect the most current data as shown on the attached map.

We will monitor new data releases from the State for future changes to the District boundaries and will request future map amendments accordingly.

Sincerely,

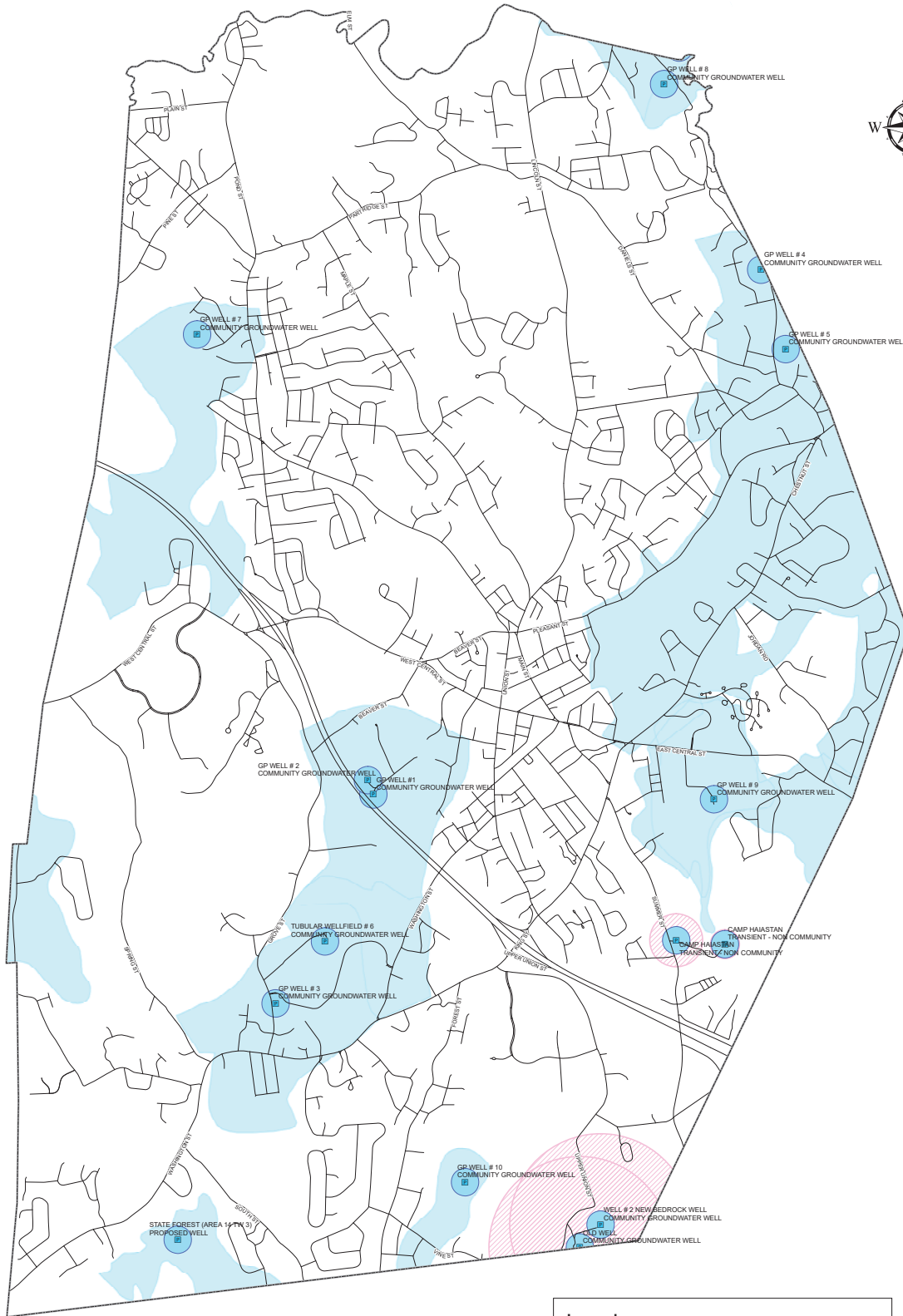
Michael Maglio, PE  
Town Engineer

Cc: Robert Cantoreggi, Director of Public Works  
Laurie Ruzala, Water & Sewer Superintendent  
Bryan Taberner, Director of Planning and Community Development  
Mark Cerel, Town Attorney

# Town of Franklin Water Resource Districts

Dated: MARCH 28, 2008

**Attachment B**  
Existing Town of Franklin  
Water Resource Districts Map



## Legend

- Public Water Supply Wellhead Location
- DEP Approved ZONE 1
- DEP Approved ZONE 2 & Submitted for Approval DEP Zone 2
- DEP Approved Interim Wellhead Protection Areas (IWPA)



Produced By:  
Town of Franklin GIS

0 2,000 4,000 8,000 12,000 Feet

MAP SCALE  
1:17,000

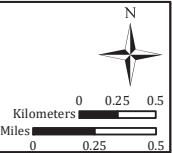


# Water Resource Districts

- Public Water Supply
- DEP Approved Interim
- Wellhead Protection Areas (IWPA)\*
- DEP Approved Zone I\*

- DEP Approved Zone II\*
- Parcel
- Municipal Boundary

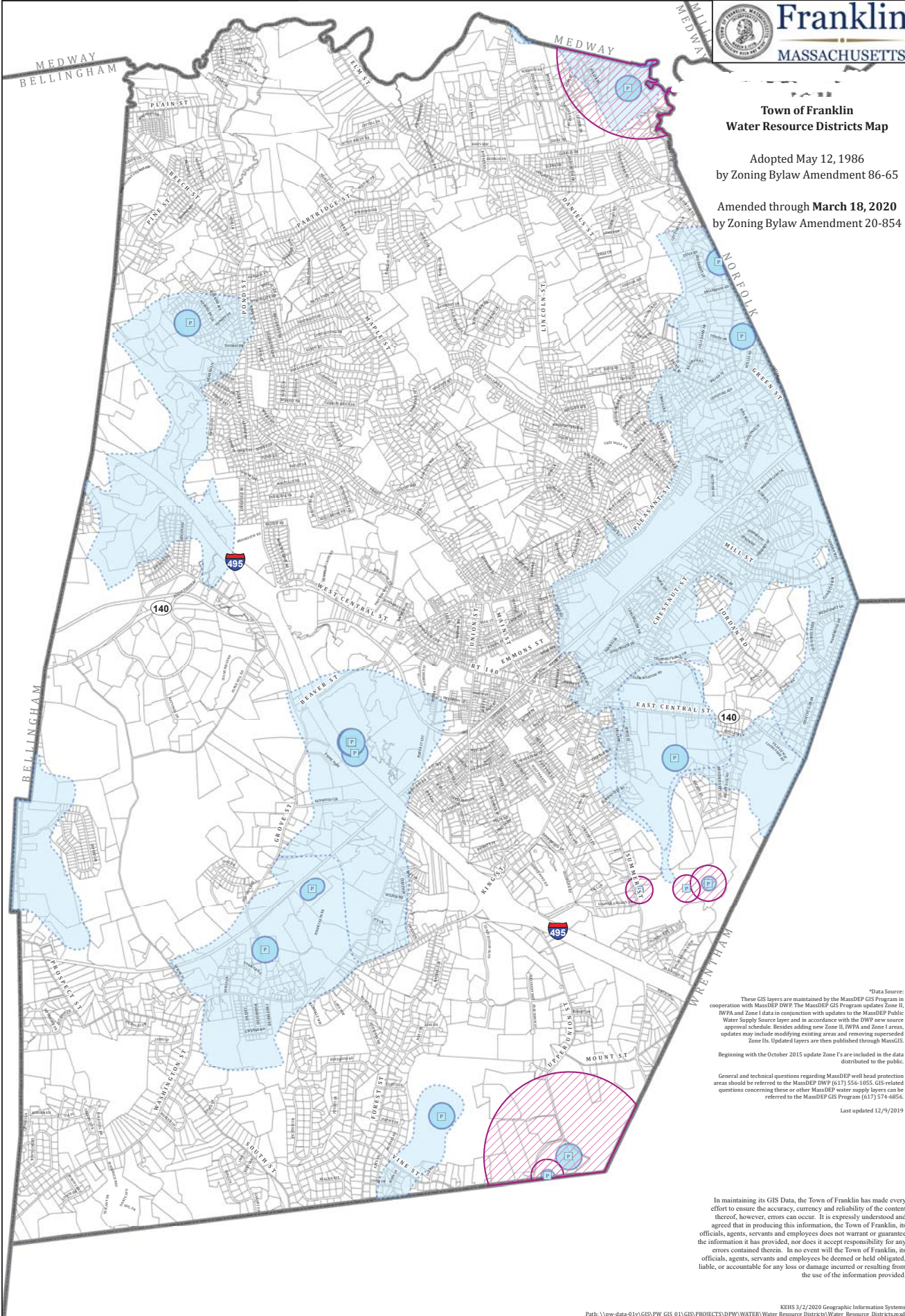
## Attachment C



### Town of Franklin Water Resource Districts Map

Adopted May 12, 1986  
by Zoning Bylaw Amendment 86-65

Amended through **March 18, 2020**  
by Zoning Bylaw Amendment 20-854



\*Data Source:  
These GIS layers are maintained by the MassDEP GIS Program in cooperation with MassDEP DWP. The MassDEP GIS Program updates Zone II, IWPA and Zone I data in conjunction with updates to the MassDEP Public Water Supply Source layer and in accordance with the DWP new source approval schedule. Besides adding new Zone II, IWPA and Zone I areas, updates may include modifying existing areas and removing superseded Zone IIs. Updated layers are then published through MassGIS.  
Beginning with the October 2015 update Zone I's are included in the data distributed to the public.  
General and technical questions regarding MassDEP well head protection areas should be referred to the MassDEP DWP (617) 556-1055. GIS-related questions concerning these or other MassDEP water supply layers can be referred to the MassDEP GIS Program (617) 574-6856.  
Last updated 12/9/2019

In maintaining its GIS Data, the Town of Franklin has made every effort to ensure the accuracy, currency and reliability of the content thereof; however, errors can occur. It is expressly understood and agreed that in producing this information, the Town of Franklin, its officials, agents, servants and employees does not warrant or guarantee the information it has provided, nor does it accept responsibility for any errors contained therein. In no event will the Town of Franklin, its officials, agents, servants and employees be deemed or held obligated, liable, or accountable for any loss or damage incurred or resulting from the use of the information provided.

SPONSOR: *Town Administration*



**TOWN OF FRANKLIN  
ZONING BY-LAW AMENDMENT 20-854**

**CHANGES TO §185-40. WATER RESOURCE DISTRICT**

**A ZONING BY-LAW TO AMEND THE FRANKLIN TOWN  
CODE AT CHAPTER 185, SECTION 40.D**

**BE IT ENACTED BY THE FRANKLIN TOWN COUNCIL THAT:** The Code of the Town of Franklin is hereby amended by the following additions and ~~deletions~~ to §185-40. Water Resource District, sub-section B:

Establishment of district. The Water Resource District is hereby established as an overlay district. This overlay district shall apply to all new construction, reconstruction or expansion of existing buildings and new or expanded uses. The Water Resource District is defined as those areas designated DEP Approved Zone 1; DEP Approved Zone 2; submitted for approval DEP Zone 2; and DEP approved Interim Wellhead Protection Areas. The Water Resource District is delineated on the map entitled "Town of Franklin Water Resource Districts," dated ~~March 28, 2008~~ March 18, 2020, appended to this Zoning Bylaw and on file with the Town Clerk and Building Inspector.

The foregoing Zoning By-law amendment shall take effect in accordance with the Franklin Home Rule Charter and Massachusetts General Law Chapter 40A, Section 5.

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**DATED:** \_\_\_\_\_, 2020

**VOTED:**

**UNANIMOUS:** \_\_\_\_\_

**A True Record Attest:**

**YES:** \_\_\_\_\_ **NO:** \_\_\_\_\_

**ABSTAIN:** \_\_\_\_\_

**ABSENT:** \_\_\_\_\_

**RECUSED:** \_\_\_\_\_

**Teresa M. Burr, CMC  
Town Clerk**

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**Glenn Jones, Clerk  
Franklin Town Council**

# Town of Franklin

355 East Central Street  
Franklin, Massachusetts 02038-1352



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OFFICE OF THE TOWN ADMINISTRATOR

## Memorandum

March 13, 2020

**To:** Town Council

**From:** Jamie Hellen, Town Administrator

**Re: Resolution 20-17: Well 3A Conservation Restriction**

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I am requesting approval of this Conservation Restriction (CR), which will help protect the drinking water supply for Well 3A as part of the new Water Treatment Plant and well rehabilitation projects.

The amount of land is slightly more than a half acre. A map is attached at the end of the packet.

The CR has been approved by the Commonwealth of Massachusetts and all parties. This is the final action.

I am happy to answer any questions you may have.



## **TOWN OF FRANKLIN RESOLUTION 20-17**

### **Acceptance of and Authorization for Town Administrator to Execute Conservation Restriction on a Portion of Unimproved Land Located at Grove**

#### **Street Parcel 322-001-001**

**WHEREAS,** the Town of Franklin (hereinafter: "Town") owns property located at 352 Grove Street and operates Franklin Well No. 3A therein, being a component of the Town's public drinking water supply, and Massachusetts Department of Environmental Protection's regulations require that said well be protected by a four hundred foot radius Wellhead Protection Zone, and

**WHEREAS,** Franklin Property Owner, LLC is the owner of a parcel of unimproved land located at Grove Street Parcel 322-001-001, immediately abutting the Town's above described property at 352 Grove Street, title reference: deed recorded at Norfolk County Registry of Deeds in Book 32948 at page 250, and is willing to grant Town a conservation restriction on an approximately 26,804.29 square foot (0.61 acre) portion of said land for public water supply (wellhead) protection, for nominal consideration, and has executed the "Conservation Restriction" a true copy of which is attached hereto as "Exhibit 1", and

**WHEREAS,** The Town Council hereby approves of said "Conservation Restriction" in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws,

**NOW THEREFORE, BE IT ORDERED** that the Town of Franklin, acting by and through its Town Council acting as its Board of Water Commissioners, accepts the grant to the Town of a conservation restriction on the above-described unimproved parcel of land, said conservation restriction being on approximately 26,804.29 square feet (0.61 acre) of said parcel for public water supply (wellhead) protection as further described in "Conservation Restriction" attached hereto as "Exhibit 1" and it is further ordered that the Franklin Town Administrator is hereby authorized to execute the original copy of said grant of conservation restriction on the Franklin Town Council's behalf and that an attested copy of this resolution be recorded with the original grant of conservation restriction at Norfolk County Registry of Deeds.

This Resolution shall become effective according to the provisions of the Town of Franklin Home Rule Charter.

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**DATED:** \_\_\_\_\_, 2020

**VOTED:**

**UNANIMOUS:** \_\_\_\_\_

**A True Record Attest:**

**YES:** \_\_\_\_\_ **NO:** \_\_\_\_\_

**ABSTAIN:** \_\_\_\_\_

**ABSENT:** \_\_\_\_\_

**Teresa M. Burr, CMC**  
**Town Clerk**

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**Glenn Jones, Clerk**  
**Franklin Town Council**



GRANTOR: Franklin Property Owner, LLC

GRANTEE: Town of Franklin

ADDRESS OF  
RESTRICTED PREMISES: Assessor's Parcel Number 322-001-001-000, Grove Street,  
Franklin, Massachusetts

FOR GRANTOR'S TITLE SEE: Norfolk County, Registry of Deeds, Plan 32948, Page 250

### CONSERVATION RESTRICTION

Franklin Property Owner, LLC, with an address of 133 Pearl Street, Boston, MA, 02110, being the sole owner of the Restricted Premises as defined herein, and for its successors and assigns ("Grantor"), acting pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws, and otherwise by law, grants with QUITCLAIM COVENANTS to the Town of Franklin acting by and through its Town Council acting as its Board of Water Commissioners by authority of Sections 38, 39B, 39E, and 41 of Chapter 40 of the Massachusetts General Laws, with an address of 355 East Central Street, Franklin MA 02038, their permitted successors and assigns ("Grantee"), for nominal consideration, IN PERPETUITY AND EXCLUSIVELY FOR PUBLIC DRINKING WATER SUPPLY PROTECTION AND CONSERVATION PURPOSES, the following Conservation Restriction on a 0.61-acre portion of a 5.94-acre parcel of land in Franklin, Massachusetts ("Restricted Premises"), which Restricted Premises is more particularly described in Exhibit A and shown on the reduced copy of a plan attached hereto in Exhibit B entitled: "Well 3A Conservation Restriction Sketch Plan" prepared by the Town of Franklin dated April 12, 2019 (the "Plan"), both of which are attached hereto and incorporated herein.

This Conservation Restriction shall apply exclusively to the Restricted Premises and not to any of the remaining unrestricted portions of the Grantor's property abutting the Restricted Premises.

Grantee acquires this Conservation Restriction subject to the approval of the Massachusetts Department of Environmental Protection pursuant to Massachusetts General Laws



Chapter 40 Sections 39B and 41 and subject to the approval of the Secretary of Energy and Environmental Affairs pursuant to Massachusetts General Laws Chapter 184, Section 32. The Town of Franklin Town Council voted to accept and approve this Conservation Restriction at a Town Council meeting held on \_\_\_\_\_, 2020, and a copy of the resolution authorizing such acceptance and providing the Town Council's approval of this Conservation Restriction in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws is attached hereto as Exhibit C.

For Grantor's title to said land, see deed dated March 9, 2015, recorded in the Norfolk County Registry of Deeds in Book 32948, Page 250.

## **I. PURPOSES**

This Conservation Restriction is defined in and authorized by Sections 31, 32, and 33 of Chapter 184 of the General Laws, and otherwise by law. The purpose of this Conservation Restriction is to protect the public drinking water supply and quality of the Franklin Well No. 3A ("Well") approved by the Massachusetts Department of Environmental Protection ("MassDEP") as a source of public drinking water, PWS Source ID 2101000-13G, to ensure the protection of the four-hundred (400) foot radius surrounding the Well, and to ensure that the Restricted Premises will be retained and maintained in perpetuity for conservation purposes, in their natural, scenic, open and undeveloped condition, and to prevent any use of the Restricted Premises that would materially impair or interfere with its conservation and preservation values ("Conservation Values").

The Conservation Values include the following:

1. Drinking Water Supply Protection. The Restricted Premises is located partially in the Zone I of the Well. This land area is identified by MassDEP as the immediate protection area around the wellhead that must be owned or controlled by the public water supplier pursuant to Massachusetts Drinking Water Regulations 310 CMR 22.00.
2. Adjacency to Conserved Land. The Restricted Premises is adjacent to permanently conserved land owned by the Town of Franklin, including land identified as being within the 100-year flood plain of Mine Brook. The protection of the Restricted Premises will add to the existing network of conserved land and further protect the floodplain of Mine Brook.

## **II. PROHIBITED ACTS AND USES, EXCEPTIONS THERETO, AND PERMITTED USES**

### **A. Prohibited Acts and Uses**

- (1) Subject to the exceptions set forth in Section II.B, all activities and uses of the Restricted Premises are prohibited.

- (2) Any use of the Restricted Premises or activity which is inconsistent with the purpose of this conservation restriction for public drinking water supply purposes or would materially impair its conservation values is prohibited.

**B. Reserved Rights and Exceptions**

The Grantor reserves the right to conduct or permit the following activities and uses on the Restricted Premises, but only if such uses and activities do not materially impair the conservation values or purposes of this Conservation Restriction:

- (1) Activities conducted by the Town of Franklin which are necessary and incidental to the construction, installation, operation, maintenance, inspection, repair, replacement and protection of the Well and associated infrastructure necessary and incidental to the use of the Well as a public water supply consistent with the requirements of Massachusetts Drinking Water Regulations 310 CMR 22.00.
- (2) Within the Restricted Premises there is an access road shown on the Plan in Exhibit B as "Financial Park" in which the Grantor reserves the right to conduct or permit the following activities and uses:
  1. The right to use, maintain, repair, or replace such existing access road.
- (3) The exercise of any right reserved by Grantor under this Paragraph B shall be in compliance with zoning, the Wetlands Protection Act, and all other applicable federal, state and local laws, rules, regulations, and permits. The inclusion of any reserved right requiring a permit from a public agency does not imply that the Grantee or the Commonwealth takes any position whether such permit should be issued.

**III. LEGAL REMEDIES OF THE GRANTEE**

**A. Legal and Injunctive Relief.**

The rights hereby granted shall include the right to enforce this Conservation Restriction by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including, without limitation, relief requiring restoration of the Restricted Premises to their condition prior to the time of the injury complained of (it being agreed that the Grantee will have no adequate remedy at law). The rights hereby granted shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantee for the enforcement of this Conservation Restriction. Grantee agrees to cooperate for a reasonable period of time prior to resorting to legal means in resolving issues concerning violations provided Grantor ceases objectionable actions and Grantee determines there is no ongoing diminution of the conservation values of the Conservation Restriction.

Grantor covenants and agrees to reimburse to Grantee all reasonable costs and expenses (including reasonable counsel fees) incurred in enforcing this Conservation Restriction or in



taking reasonable measures to remedy, abate or correct any violation thereof, provided that a violation of this Conservation Restriction is acknowledged by Grantor or determined by a court of competent jurisdiction to have occurred. In the event of a dispute over the boundaries of the Conservation Restriction, Grantor shall pay for a survey and to have the boundaries permanently marked.

**B. Non-Waiver.**

Enforcement of the terms of this Conservation Restriction shall be at the discretion of Grantee. Any election by the Grantee as to the manner and timing of its right to enforce this Conservation Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

**C. Disclaimer of Liability.**

By acceptance of this Conservation Restriction, the Grantee does not undertake any liability or obligation relating to the condition of the Restricted Premises pertaining to compliance with and including, but not limited to, hazardous materials, zoning, environmental laws and regulations, or acts not caused by the Grantee or its agents.

**D. Acts Beyond the Grantor's Control.**

Nothing contained in this Conservation Restriction shall be construed to entitle the Grantee to bring any actions against the Grantor for any injury to or change in the Restricted Premises resulting from causes beyond the Grantor's control, including but not limited to fire, flood, stone and earth movement, or from any prudent action taken by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Restricted Premises resulting from such causes. In the event of any such occurrence, the Grantor and Grantee will cooperate in the restoration of the Restricted Premises, if desirable and feasible.

**IV. ACCESS**

The Grantor hereby grants to the Grantee, or its duly authorized agents or representative, a permanent easement of access to enter the Restricted Premises for the purpose stated in this Conservation Restriction and to permit personnel from MassDEP, a duly constituted agency organized under the laws of the Commonwealth of Massachusetts, with prior notice to the Grantor, to enter the Restricted Premises for the purpose of inspecting the same to determine compliance with Massachusetts Drinking Water Regulations 310 CMR 22.00. The Grantor hereby grants to the Grantee, or its duly authorized agents or representatives, the right to enter the Restricted Premises upon reasonable notice and at reasonable times, for the purpose of inspecting the Restricted Premises to determine compliance with or to enforce this Conservation Restriction. The Grantor also grants to the Grantee, after notice of a violation and failure of the Grantor to cure said violation, the right to enter the Restricted Premises for the purpose of taking any and all actions with respect to the Restricted Premises as may be necessary or appropriate to remedy or abate any violation hereof, including but not limited to the right to perform a survey of boundary lines.

## **V. EXTINGUISHMENT**

A. If circumstances arise in the future such as render the purpose of this Conservation Restriction impossible to accomplish, this restriction can only be terminated or extinguished, whether in whole or in part, by a court of competent jurisdiction under applicable law after review and approval by the Massachusetts Secretary of Energy and Environmental Affairs. If any change in conditions ever gives rise to extinguishment or other release of the Conservation Restriction under applicable law, then Grantee, on a subsequent sale, exchange, or involuntary conversion of the Restricted Premises, shall be entitled to a portion of the proceeds in accordance with Paragraph V(B) below, subject, however, to any applicable law which expressly provides for a different disposition of the proceeds and after complying with the terms of any gift, grant, or funding requirements. Grantee shall use its share of the proceeds in a manner consistent with the conservation purpose set forth herein.

### **B. Proceeds.**

Grantor and Grantee agree that the conveyance of this Conservation Restriction gives rise to a real property right, immediately vested in the Grantee, with a fair market value that is at least equal to the proportionate value that this Conservation Restriction, determined at the time of the conveyance, bears to the value of the unrestricted property. Such proportionate value of the Grantee's property right shall remain constant. Any proceeds will be distributed only after complying with the terms of any gift, grant, or other funding requirements

### **C. Grantor/Grantee Cooperation Regarding Public Action.**

Whenever all or any part of the Restricted Premises or any interest therein is taken by public authority under power of eminent domain or other act of public authority, then the Grantor and the Grantee shall cooperate in recovering the full value of all direct and consequential damages resulting from such action. All related expenses incurred by the Grantor and the Grantee shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed between the Grantor and Grantee in accordance with Paragraph V(B), above, after complying with the terms of any law, gift, grant, or funding requirements. If a less than fee interest is taken, the proceeds shall be equitably allocated according to the nature of the interest taken. The Grantee shall use its share of the proceeds in a manner consistent with the conservation purposes of this grant.

## **VI. ASSIGNABILITY**

### **A. Running of the Burden.**

The burdens of this Conservation Restriction shall run with the Restricted Premises in perpetuity, and shall be enforceable against the Grantor and the successors and assigns of the Grantor holding any interest in the Restricted Premises.

### **B. Execution of Instruments.**



The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction; the Grantor, on behalf of itself and its successors and assigns, appoints the Grantee its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Grantor and its successors and assigns agree themselves to execute any such instruments upon request.

**C. Running of the Benefit.**

The benefits of this Conservation Restriction shall run to the Grantee, shall be in gross and shall not be assignable by the Grantee, except in the following instances:

As a condition of any assignment, the Grantee shall require that the purpose of this Conservation Restriction continues to be carried out; that the Assignee is not an owner of the fee in the Property, and the Assignee, at the time of the assignment, qualifies under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder, and is a donee eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the General Laws of Massachusetts. Any assignment will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

**VII. SUBSEQUENT TRANSFERS**

The Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument which grants any interest in all or a portion of the Restricted Premises, including a leasehold interest and to notify the Grantee not less than twenty (20) days prior to the execution of such transfer. Failure to do any of the above shall not impair the validity or enforceability of this Conservation Restriction. Any transfer will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

The Grantor shall not be liable for violations occurring after its ownership. Liability for any acts or omissions occurring prior to any transfer and liability for any transfer if in violation of this Conservation Restriction shall survive the transfer. Any new owner shall cooperate in the restoration of the Restricted Premises or removal of violations caused by prior owner(s) and may be held responsible for any continuing violations.

**VIII. ESTOPPEL CERTIFICATES**

Upon request by the Grantor, the Grantee shall, within sixty (60) days execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance with any obligation of the Grantor contained in this Conservation Restriction.

**IX. NON MERGER**

The parties intend that any future acquisition of the Restricted Premises shall not result in a merger of the Conservation Restriction into the fee. The Grantor agrees that it will not grant,

and the Grantee agrees that it will not take title, to any part of the Restricted Premises without having first assigned this Conservation Restriction to a non-fee owner that is qualified under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder and is eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the General Laws of Massachusetts in order to ensure that merger does not occur and that this Conservation Restriction continues to be enforceable by a non-fee owner.

#### **X. AMENDMENT**

If circumstances arise under which an amendment to or modification of this Conservation Restriction would be appropriate, Grantor and Grantee may jointly amend this Conservation Restriction; provided that no amendment shall be allowed that will affect the qualification of this Conservation Restriction or the status of Grantee under any applicable laws, including Section 170(h) of the Internal Revenue Code of 1986, as amended, or Sections 31, 32, and 33 of Chapter 184 of the General Laws of Massachusetts. Any amendments to this conservation restriction shall occur only in exceptional circumstances. The Grantee will consider amendments only to correct an error or oversight, to clarify an ambiguity, or where there is a net gain in conservation value. All expenses of all parties in considering and/or implementing an amendment shall be borne by the persons or entity seeking the amendment. Any amendment shall be consistent with the purposes of this Conservation Restriction, shall not affect its perpetual duration, shall be approved by the Secretary of Energy and Environmental Affairs and if applicable, shall comply with the provisions of Art. 97 of the Amendments to the Massachusetts Constitution, and any gifts, grants or funding requirements. Any amendment shall be recorded in the Norfolk County Registry of Deeds.

#### **XI. EFFECTIVE DATE**

This Conservation Restriction shall be effective when the Grantor and the Grantee have executed it, the administrative approvals required by Section 32 of Chapter 184 of the General Laws have been obtained, and it has been recorded in a timely manner in the Norfolk County Registry of Deeds.

#### **XII. NOTICES**

Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage pre-paid, addressed as follows:

To Grantor: Franklin Property Owner, LLC  
133 Pearl Street  
Boston, MA 02110

To Grantee: Town Administrator  
Town of Franklin  
355 East Central Street  
Franklin, MA 02038



or to such other address as any of the above parties shall designate from time to time by written notice to the other or, if notice is returned to sender, to an address that is reasonably ascertainable by the parties.

### **XIII. GENERAL PROVISIONS**

#### **A. Controlling Law.**

The interpretation and performance of this Conservation Restriction shall be governed by the laws of the Commonwealth of Massachusetts.

#### **B. Liberal Construction.**

Any general rule of construction to the contrary notwithstanding, this Conservation Restriction shall be liberally construed in favor of the grant to effect the purpose of this Conservation Restriction and the policy and purposes of Massachusetts General Laws Chapter 184, Sections 31, 32, and 33. If any provision in this instrument is found to be ambiguous, any interpretation consistent with the purpose of this Conservation Restriction that would render the provision valid shall be favored over any interpretation that would render it invalid.

#### **C. Severability.**

If any provision of this Conservation Restriction or the application thereof to any person or circumstance is found to be invalid, the remainder of the provision of this Conservation Restriction shall not be affected thereby.

#### **D. Entire Agreement.**

This instrument sets forth the entire agreement of the parties with respect to this Conservation Restriction and supersedes all prior discussions, negotiations, understandings or agreements relating to the Conservation Restriction, all of which are merged herein.

### **XIV. MISCELLANEOUS**

#### **A. Pre-existing Public Rights.**

Approval of this Conservation Restriction pursuant to M.G.L. Chapter 184, Section 32 by any municipal officials and by the Secretary of Energy and Environmental Affairs is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Restricted Premises, and any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.

#### **B. Subordination.**

The Grantor shall record at the appropriate Registry of Deeds simultaneously with this Conservation Restriction all documents necessary to subordinate any mortgage, promissory note,

loan, lien, equity credit line, refinance assignment of mortgage, lease, financing statement or any other agreement which gives rise to a surety interest affecting the Restricted Premises.

**D.** Attached hereto and incorporated herein by reference are the following:

Signature pages:

Grantor – Franklin Property Owner, LLC

Approval by Town of Franklin Town Administrator

Approval of the Secretary of Energy and Environmental Affairs.

Exhibits:

A: Legal Description of Restricted Premises

B: Conservation Restriction Plan

C: Town Council Resolution

WITNESS my hand and seal this 7<sup>th</sup> day of March, 2020.

Franklin Property Owner, LLC

BY: [Signature]  
Steven E. Goodman, Manager

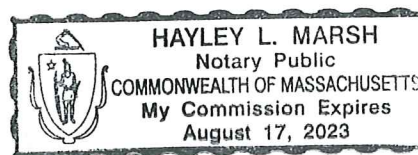
COMMONWEALTH OF MASSACHUSETTS

Suffolk ss. \_\_\_\_\_

On this 2<sup>nd</sup> day of March, 2020, before me, the undersigned notary public, personally Steven E. Goodman, Manager of Franklin Property Owner, LLC, and proved to me through satisfactory evidence of identification which was MA drivers license to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

[Signature]  
Notary Public

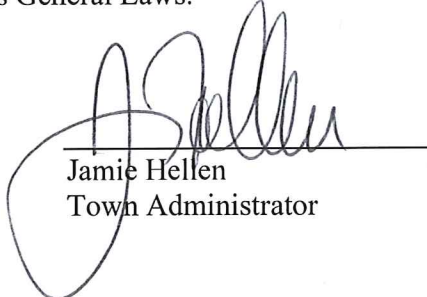
My Commission Expires: August 17, 2023



## APPROVAL OF TOWN ADMINISTRATOR

The undersigned, Jamie Hellen, the Town Administrator of the Town of Franklin, pursuant to a unanimous resolution of the Town of Franklin Town Council dated \_\_\_\_\_, an attested copy of which is attached hereto as Exhibit C (the "Resolution"), hereby certifies that the foregoing Conservation Restriction from Franklin Property Owner, LLC, to the Town of Franklin acting by and through its Town Council acting as the Town's Board of Water Commissioners has been approved in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws, and further certifies that, pursuant to the Resolution, the Town Council has approved of the foregoing Conservation Restriction in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

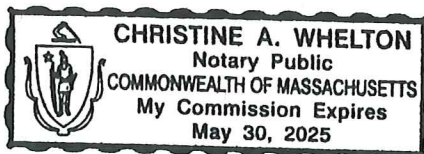
Dated: March 5, 2020


  
\_\_\_\_\_  
Jamie Hellen  
Town Administrator

## COMMONWEALTH OF MASSACHUSETTS

Norfolk County, ss.

On this 5 day of March, 2020, before me, the undersigned notary public, personally appeared Jamie Hellen, and proved to me through satisfactory evidence of identification which was Personally Known, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.



  
\_\_\_\_\_  
Notary Public

My Commission Expires: 5-30-2025

**APPROVAL BY SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS  
COMMONWEALTH OF MASSACHUSETTS**

The undersigned, Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction from Franklin Property Owner, LLC, to the Town of Franklin acting by and through its Town Council acting as the Town's Board of Water Commissioners has been approved in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

Dated: \_\_\_\_\_, 2020

\_\_\_\_\_  
Kathleen A. Theoharides  
Secretary of Energy and Environmental Affairs

**COMMONWEALTH OF MASSACHUSETTS**

SUFFOLK, ss:

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned notary public, personally appeared Kathleen A. Theoharides, and proved to me through satisfactory evidence of identification which was \_\_\_\_\_ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
My Commission Expires

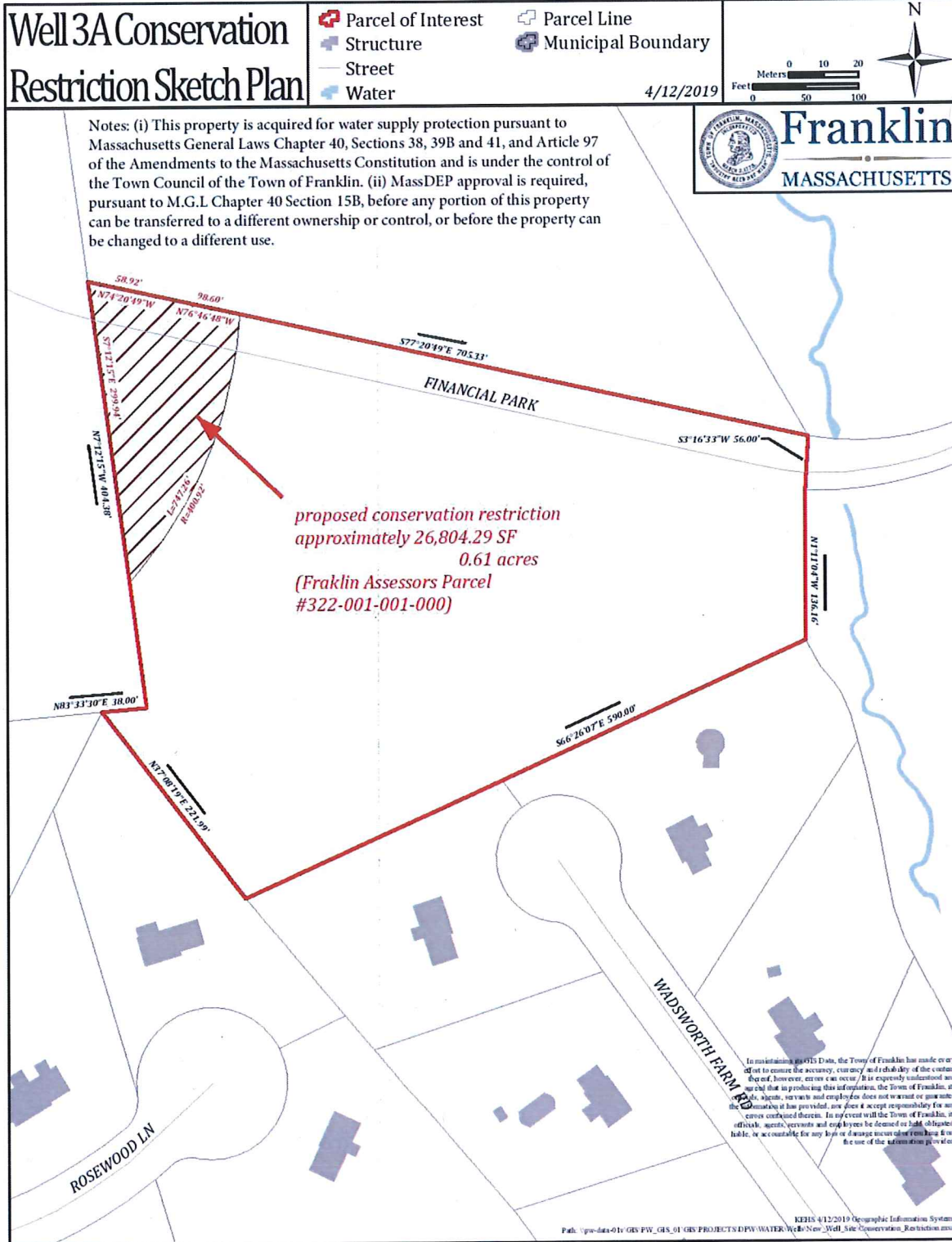
## **EXHIBIT A**

### **Legal Description of Restricted Premises**

The land subject to this Conservation Restriction, referred to herein as the Restricted Premises, is shown as the hatched-marked area on "Exhibit B": Well 3A Conservation Restriction Sketch Plan, dated April 12, 2019, attached hereto, said area described on "Exhibit B" as "Area Subject to Conservation Restriction approximately 26,804.29 SF 0.61 acres" (being a portion of Franklin Assessors Map parcel #322-001-001-000).



## EXHIBIT B - Conservation Restriction Plan



# Town of Franklin

355 East Central Street  
Franklin, Massachusetts 02038-1352



Phone: (508) 520-4949  
www.franklinma.gov

OFFICE OF THE TOWN ADMINISTRATOR

## Memorandum

March 13, 2020

To: Town Council

From: Jamie Hellen, Town Administrator

**Re: Bylaw Amendment 20-855: Chapter 82 Municipal Service Fees - Water Service Fees**

We are requesting a water rate increase of 10% effective July 1, 2020 and 10% for July 1, 2021, respectively. The last increase was in 2018. The purposes for the rate increases are:

1. To fund the increase in debt service required for the new \$13 million dollar Iron and Manganese water treatment plant and the reconstruction of wells 6 & 9 projects on Grove Street. This project has commenced and is on schedule (see attached project schedule sheet).
2. To keep up with the general cost of doing business for the department, including the 5-year water main replacement program. Lincoln Street (from Moore Ave to Brook Street will be a major project focus for 2020).

The proposed rate is as follows:

	Current Rate	Proposed FY21 Rate	Proposed FY22 Rate
0-15 CCF (100 Cubic Feet or 748 Gallons)	\$5.75	\$6.33	\$6.96
16-40 CCF	\$6.05	\$6.66	\$7.33
41+ CCF	\$7.10	\$7.81	\$8.59

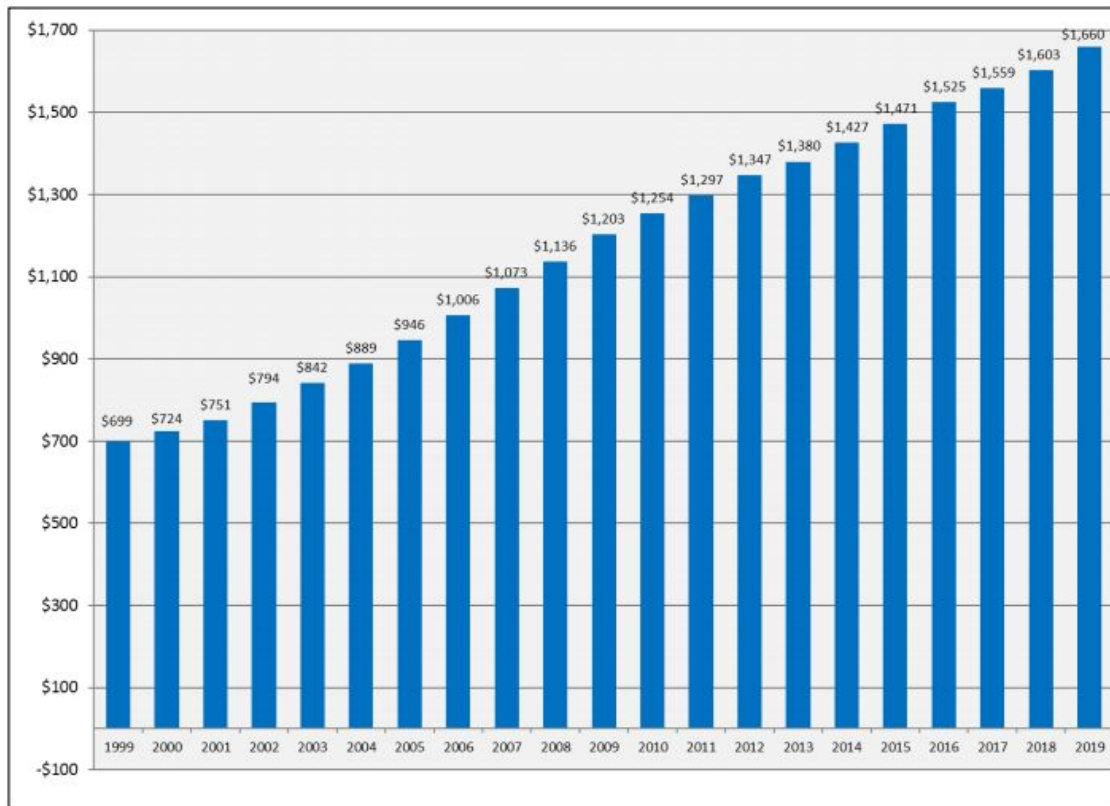
The average residential water bill will increase by approximately \$10.15 per quarter in FY21 and \$11.15 per quarter in FY22. We do have a tiered system so smaller users will pay less and larger users will pay more. Please note that while increases in water and sewer rates are frustrating, our system is much more affordable than what MWRA rate payers pay. See chart below.

I am happy to answer any questions you may have.

# Combined Annual Water & Sewer Charges in MWRA Communities

1999 – 2019

(Consumption at 120 HCF  $\approx$  90 kgal)



# Town of Franklin DPW – Proposed Water Capital Projects

## Replacement Well at Well Station No. 3

- **Purpose:** To have the ability to produce the entire DEP approved yield from this site a new supplemental water supply well (Well No. 3A) is proposed.
- **Project:** Well Construction, Source Approval, and connection into the system
- **Benefit:** To increase supply production into the system and to gain more operational flexibility.

## Treatment Plant at Well Stations No. 3 and No. 6

### 1. Well Station Nos. 3 & 6 Treatment Plant

- **Purpose:** To provide treatment for Well Station Nos. 3 & 6.
- **Project:** New Water Treatment Plant (approx. 5000 sq. ft.) and associated treatment equipment to treat Well Station Nos. 3 & 6 water.
- **Benefit:** To provide manganese and iron filtration at Well Station Nos. 3 & 6 to supply the total approved yield of 1.22 MGD.

### 2. Modifications and Demolition at Well Station No. 6

- **Purpose:** Remove the existing vacuum pumping system and install submersible pumps at each well at Station No. 6.
- **Project:** New Well pumps and modifications for the six Wells that make up Well Station No. 6; Demolition of the existing Well No. 6 pump station; modifications to the existing Well Station No. 6 Chemical Building
- **Benefit:** To increase efficiency and operational flexibility of the existing Well Field to operate with the new Water Treatment Plant.

### 3. Modifications at Well Station No. 3

- **Purpose:** Make recommended structural and architectural repairs to the existing Well Station No. 3 pump station and chemical building.
- **Project:** Concrete repair, roof replacements, and minor process modifications within the Chemical Building
- **Benefit:** To provide resiliency to the existing infrastructure for continued operation now and into the future.



# Town of Franklin DPW – Proposed Water Capital Projects

## Pleasant Street Tank Service Area Energy Efficiency Project & Hillside Tank #1 Improvements

- **Purpose:** Reconfigure the existing low service area (Pleasant Street) system to eliminate the “in series” pumping. Preservation of the historic 1888 420,000-gallon Hillside Tank #1.
- **Project:** Demolition of the old tank and booster station, new prefabricated pressure-reducing valve (PRV) stations at Pleasant Street and Greystone Road and at Miller Street @ Brook Street Ext. Replace the pump at Well No. 4 with a pump capable of supplying the approved yield of Well Station No. 4 (0.921 MGD). The project also includes exterior and interior rehabilitation of Hillside Tank #1.
- **Benefit:** To reduce energy and maintenance costs associated with the existing infrastructure.

## Estimated Project Costs & Schedule

Project Name	Estimated Opinion of Probable Project Costs	Anticipated Completion Date
Replacement Well at Well Station No. 3	\$0.9M	Fall 2018
Treatment Plant at Well Stations No. 3 and No. 6	\$12.6M	Fall 2020
Pleasant Street Tank Service Area Energy Efficiency Project	\$2.0M	Spring 2021
<b>Totals</b>	<b>\$15.5M</b>	



**TOWN OF FRANKLIN  
BYLAW AMENDMENT 20-855**

**CHAPTER 82, MUNICIPAL SERVICE FEES  
BYLAW TO AMEND THE CODE OF THE TOWN OF  
FRANKLIN AT CHAPTER 82**

**BE IT ENACTED BY THE FRANKLIN TOWN COUNCIL THAT:** Chapter 82 of the Code of the Town of Franklin, entitled "fees" is hereby amended at Appendix B, as follows:

**Appendix B  
List of Service Rates**

Effective for bills issued after June 30, 2018 Water Usage rates shall be as follows:

<b>CCF</b>	<b>Water Usage</b>	<b>Water Usage</b>	<b>Water Usage</b>
	<b>Rate 06-30-18</b>	<b>Rate 06-30-21</b>	<b>Rate 06-30-22</b>
0-15	\$5.75	<u>\$6.33</u>	<u>\$6.96</u>
16-40	\$6.05	<u>\$6.66</u>	<u>\$7.33</u>
41+	\$7.10	<u>\$7.81</u>	<u>\$8.59</u>

This bylaw shall become effective according to the provisions outlined in the Franklin Home Rule Charter.

**DATED:** \_\_\_\_\_, 2020

**VOTED:**

**UNANIMOUS:** \_\_\_\_\_

**A True Record Attest:**

**YES:** \_\_\_\_\_ **NO:** \_\_\_\_\_

**ABSTAIN:** \_\_\_\_\_

**ABSENT:** \_\_\_\_\_

**Teresa M. Burr, CMC  
Town Clerk**

\_\_\_\_\_  
**Glenn Jones, Clerk  
Franklin Town Council**



# Town of Franklin

355 East Central Street  
Franklin, Massachusetts 02038-1352



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OFFICE OF THE TOWN ADMINISTRATOR

## Memorandum

March 13, 2020

To: Town Council  
From: Jamie Hellen, Town Administrator

**Re: Bylaw Amendment 20-856: Chapter 82 Municipal Service Fees - Sewer Service Fees**

---

We are requesting a sewer rate increase of 3% for FY21 and 3% in FY22, respectively. The last increase was in 2019. The purpose for the rate increases is because the general cost of doing business is increasing, but most notably the increased assessment of the Charles River Pollution Control District, I have attached a chart to show the assessment increase.

The proposed rates are as follows:

	CURRENT RATES	PROPOSED <u>FY21</u>	PROPOSED <u>FY22</u>
0-15 CCF (100 cubic feet or 748 gallons)	\$6.05	<u>\$6.23</u>	<u>\$6.42</u>
16-40 CCF	\$6.45	<u>\$6.64</u>	<u>\$6.84</u>
41+ CCF	\$7.40	<u>\$7.62</u>	<u>\$7.85</u>
Homes with sewer only	\$183 per quarter	\$189 per quarter	\$195 per quarter

The average residential sewer bill will increase by approximately \$3.60 per quarter in FY21 and \$3.71 per quarter in FY22. We do have a tiered system so smaller users will pay less and larger users will pay more.

Please note that while increases in water and sewer rates are frustrating, our system is much more affordable than what MWRA rate payers pay. See chart below.

If you have any additional questions please feel free to ask.

**CHARLES RIVER POLLUTION CONTROL ASSESSMENT**

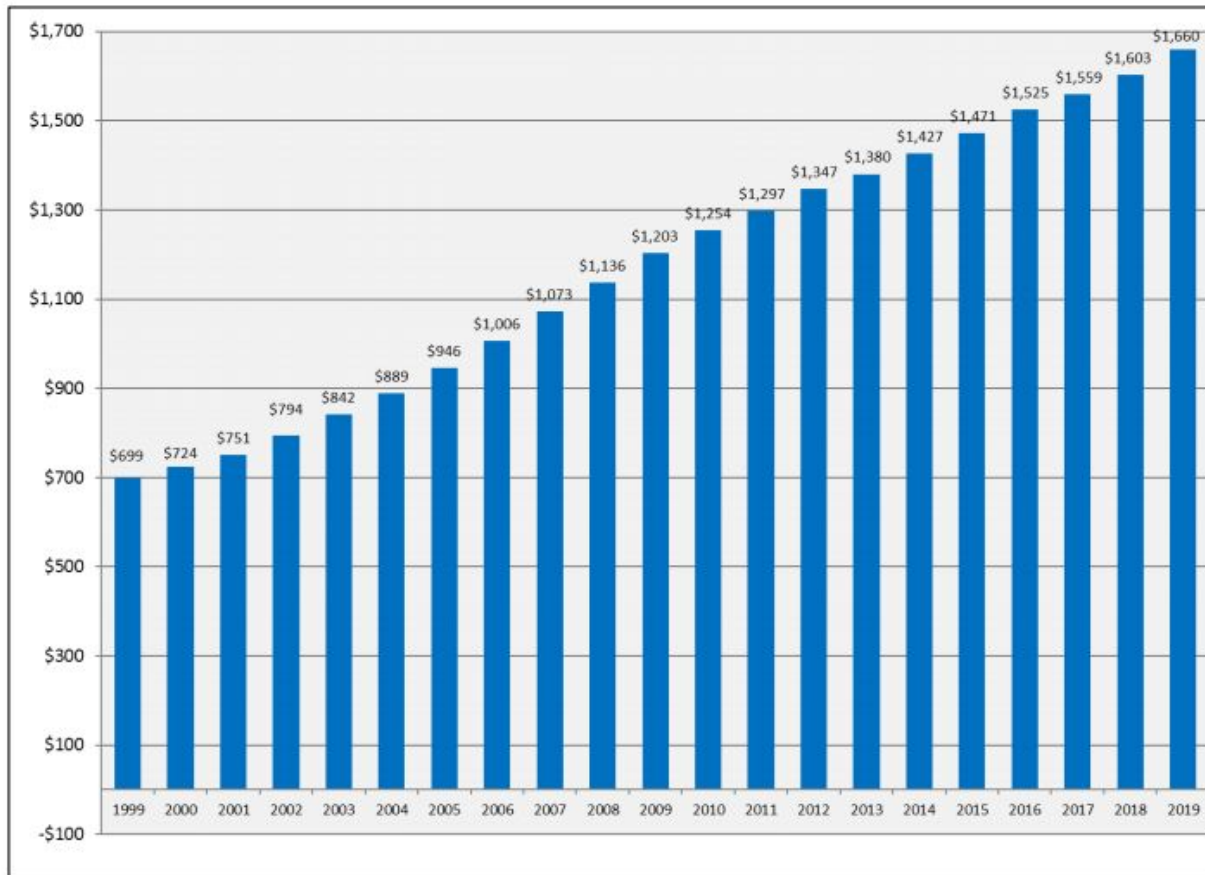
<b>YEAR</b>	<b>AMOUNT</b>	<b>ANNUAL INCREASE</b>
FY14	2,158,040	-
FY15	2,272,730	114,690
FY16	2,943,810	671,080
FY17	3,593,880	650,070
FY18	6,651,680*	57,800
FY19	3,645,250	(6,430)
FY20	3,827,920	182,670

\* This figure includes a separate assessment due to the MS4 compliance facility capital improvements.

# Combined Annual Water & Sewer Charges in MWRA Communities

1999 – 2019

(Consumption at 120 HCF  $\approx$  90 kgal)





**TOWN OF FRANKLIN  
BYLAW AMENDMENT 20-856**

**SEWER RATES**

**A BYLAW TO AMEND** the Code of the Town of Franklin, Chapter 82, entitled Fees, at Appendix B, as follows:

**Appendix B  
List of Services**

Effective for bills issued after June 30, 2019 20 Sewer Usage rates shall be as follows:

CCF	SEWER USAGE	SEWER USAGE	SEWER USAGE
	Rate 06-30-19	Rate 06-30-20	Rate 06-30-21
0-15	\$6.05	<u>\$6.23</u>	<u>\$6.42</u>
16-40	\$6.45	<u>\$6.64</u>	<u>\$6.84</u>
41+	\$7.40	<u>\$7.62</u>	<u>\$7.85</u>

Sewer Usage for Residences without Municipal Water: ~~\$183 per quarter/FY20~~ \$189 per quarter/FY21 and \$195 per quarter/FY22.

This bylaw shall become effective according to the provisions outlined in the Franklin Home Rule Charter.

**DATED:** \_\_\_\_\_, 2020

**VOTED:**

**UNANIMOUS:** \_\_\_\_\_

**A True Record Attest:**

**YES:** \_\_\_\_\_ **NO:** \_\_\_\_\_

**ABSTAIN:** \_\_\_\_\_

**ABSENT:** \_\_\_\_\_

**Teresa M. Burr, CMC  
Town Clerk**

\_\_\_\_\_  
Glenn Jones, Clerk  
Franklin Town Council



# Town of Franklin

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OFFICE OF THE TOWN ADMINISTRATOR

## Memorandum

March 13, 2020

To: Town Council  
From: Jamie Hellen, Town Administrator

**Re: Bylaw Amendment 20-857: Chapter 82 Municipal Service Fees - Trash & Recycling Service Fees**

---

We are requesting an increase in the annual curbside trash & recycling fee from \$248 a year to \$278 per year effective July 1, 2020. This amounts to a \$7.50 per quarter increase.

This increase is a direct result of the changes to the recycling market in China as previously described at Town Council meetings, as well as the Commonwealth's required prevailing wage increase of 18% on our trash and recycling contractor. These are factors of which the Town has little to no control.

It is important to note, the annual fee for a resident is still \$22 a year lower than in 2005.

I have also included a breakdown of cart totals in town for FY20. See below.

### **CURBSIDE TRASH FEES**

FY05	\$300	FY13	\$204	<b>FY21</b>	<b>\$278 Proposed</b>
FY06	\$216	FY14	\$212		
FY07	\$240	FY15	\$216		
FY08	\$232	FY16	\$200		
FY09	\$244	FY17	\$204		
FY10	\$244	FY18	\$200		
FY11	\$220	FY19	\$208		
FY12	\$220	FY20	\$248		

If you have any additional questions please feel free to ask.

Trash & Recycling toter breakdown

Refuse / recycle cart	65 gallon	9,300
Refuse / recycle cart	35 gallon	30
Second Refuse cart	same location	200
Second Recycle cart	same location	80
Business carts		40
Bags (Overflow)		3,000



**TOWN OF FRANKLIN  
BYLAW AMENDMENT 20-857**

**CHAPTER 82, MUNICIPAL SERVICE FEES  
BYLAW TO AMEND THE CODE OF THE TOWN OF  
FRANKLIN AT CHAPTER 82**

**BE IT ENACTED BY THE FRANKLIN TOWN COUNCIL THAT:** Chapter 82 of the Code of the Town of Franklin, section 6 "Schedule of Service Fees" is hereby amended (add underlined text, delete struck).

**§ 82-6. Schedule of Service Fees.**

DEPARTMENT	FEE	FY20 RATE	FY21 RATE
Public Works	<b>Curbside Trash (annual)</b>		
	Fee using 65-gallon trash and recycling carts	\$248	<u>\$278</u>
	Fee using 35-gallon trash and recycling carts	\$212	
	<b>Beaver Street Recycling Center (annual sticker fee)</b>	\$35	

**This bylaw amendment shall become effective July 1, 2020.**

---

**DATED:** \_\_\_\_\_, 2020

**VOTED:**

**UNANIMOUS:** \_\_\_\_\_

**A True Record Attest:**

**YES:** \_\_\_\_\_ **NO:** \_\_\_\_\_

**ABSTAIN:** \_\_\_\_\_

**ABSENT:** \_\_\_\_\_

**Teresa M. Burr, CMC  
Town Clerk**

---

**Glenn Jones, Clerk  
Franklin Town Council**