TOWN OF CONCORD PERSONNEL BOARD
AGENDA

Wednesday, October 11, 2023

5:15 p.m.

Select Board's Room, Town House & Zoom Video Conference

Join Zoom Meeting
https://us02web.zoom.us/j/89603811139?pwd=eFE3c2ZiQ1J1cDc3WG81aFBjZDhMQT09

Meeting ID: 896 0381 1139
Passcode: 447537

1. **Call to Order**

2. **Approval of Minutes**
   - September 13, 2023

3. **Interim Human Resources Director's Report**

4. **Classification Actions**

5. **Update to Stand-by Pay Policy, PPP #10.7-1**

6. **Discussion of Personnel Bylaw**

7. **Discussion of Personnel Board Charge**

8. **Adjournment**

Meeting materials will be available at: www.concordma.gov/PersonnelBoard
- Minutes of September 13, 2023

TOWN OF CONCORD PERSONNEL BOARD

DRAFT MINUTES

Wednesday, September 13, 2023 5:15 p.m.

55 Church St (Human Resources)

Conference Room & Zoom Video Conference Join Zoom Meeting
https://us02web.zoom.us/j/82511981885?pwd=c2oxaGZGNU9WOWcvM3REbDY5TVJXZz09

Meeting ID: 825 1198 1885 Passcode: 446615

Attendees: Kate Ryan, Joe Emeric, Bill Mrachek, Liz Cobbs. Additional Attendees: Kimberly Crum, Mark Howell, Kerry LaFleur

Absent: Pamela Talbot

1. **Call to Order**
   - 5:15pm Bill Mrachek called the meeting to order.

2. **Approval of Minutes**
   - July 12, 2023 Corrected Minutes
   - August 9, 2023

Kate: Move to approve the minutes from August 9 and corrected minutes of July 12, 2023. Liz: I second . Joe: Abstained (he was absent), Kate, Bill and Liz approved.

3. **Interim Human Resources Director's Report**

Kimberly Crum introduced data for the Personnel Board to review. Kimberly discussed the exit interviews that she has conducted, with managers and the Town Manager, to understand the reasons behind why people have left positions in the Town. In general, exit interviews have shown that employees are happy to work here, but are leaving for other reasons. Overtime, consistent exit interviews should provide aggregate data that will help us better understand trends and what the Town leadership can do to alleviate any issues with Town employees. Expectation is that the exit interview questions will become more nuanced as we accumulate material.

Retirements were discussed. We do have older employees and we are trying to make plans for the transfer of institutional knowledge. Town Manager LaFleur noted that in the public works department, we have ongoing discussions about training for successors.

For the Personnel Board, it seems that our role in the exit interviews is to understand after the fact, via the data available to help understand if there are consistent and unnecessary challenges for the Town workforce. *Request: We should continue, as a Personnel Board, to develop higher level discussions about Hiring & retention: what is needed, where are we looking for new employee candidates, etc.*

Note that at present, it appears that the turnover rates are within normative boundaries.

4. **Classification Actions • Review and Approval**

There were 11 positions brought to the Personnel Board for Approval (see list below).

1. Assistant Director of CMLP-Power Supply & Energy Management
2. Assistant Director of CMLP-Engineering & Operations
3. Assistant Town Manager
4. Director of Human Resources
5. Recreation Director
6. Town Engineer
7. Assistant Town Engineer
8. Administrative Specialist-PW Engineering
9. Crew Leader- Water and Sewer Division
10. Sr. Administrative Specialist-Town Clerk's Office
11. Senior Administrative Specialist - Planning

- Light Plant Assistant Director role was in C&C Plan. We are adding one equivalent position in the Light Plant as Assistant Director. The two positions would have equivalent responsibilities (but not overlapping).
- Discussion:in consideration of the positions of Assistant Town Manager and Director of Human Resources: we are concerned re: how the Town Manager, the Assistant Town Manager and Director in HR to work together? Clarity in reporting structure is important and can be a draw for people applying for these roles. In this case, the HR Director would not report directly to the Town Manager, which might be a detraction for people applying.
    - In several of the positions, a Master's Degree or equivalent experience (e.g. 4 years of experience = 2 year Master's degree) is listed. Who does the performance reviews? That would be important aspect for those applying.
- ***Decision:*** We are entertaining a motion to approve the 11 full-time job descriptions that we discussed this evening. Joe: I so motioned to approve; Kate: Seconded, All members agreed.

Miscellaneous Position: JAQ reviewed for the Veteran's Affairs position. Max pay rate is for a grade 3. Recommending changing the min/max to $20-$39.

Decision: Kate made a motion to approve the change in the Miscellaneous Compensation Schedule . Joe: I second, All members agreed.

5. **Discussion of Personnel Bylaw**
    - What should we be concentrating on? If we look at the PSTF Report also, then we should move the "Leave" section into the Personnel Policies & Procedures (PPPS) and not have it in the ByLaw---so that the focus could sit with the responsibility of the Town Manager
    - Language should be less specific and refer to the Personnel Policies and Procedures , noting that they are periodically updated. There is general agreement that we need 1) a one-stop for citizens to understand what the Personnel Board is responsible for in the Town. We need

to coordinate the Bylaw, The Charge, the Policies and Procedures. A Handbook for Employees is also needed.

- Procedurally: a new position comes in, finances are outlined, the HR org and Town Manager's office might take on the responsibility---but keep the Personnel Board on as an "inform" role. PB would serve more as an advisory capacity…. Help to trouble shoot, to understand what the Town is trying to accomplish, how to fill it, what kinds of roles are hard to fill; these are the kinds of discussions that the Board's expertise should support.
- C&C Plan –this role would continue to have decision-making rights.
  The one-off job descriptions and review of roles should be just "inform" to the Personnel Board.
- Mark: Section 5 of the ByLaw- where the 5.3 Allocation of Positions to Classifications -- simplify the role of Town Meeting, Also, to simplify, refer to the holidays etc. these points should get shifted to Personnel Policies and Procedures,
- ByLaw---that does not have to have approval of the SB, it's left to subject-matter experts. ByLaw—specific things may not need to be there—section 9 (hours of work)… not very useful, defines FT work –may not need to be in a ByLaw---maybe point to the PPP or TM proposal….
- Town Meeting—a ratification process; this group is charged to do things through the year, and then wrap it up for Town Meeting. *Should we use the term "ratify" to identify the role of town meeting?*
- The Personnel Board does have meaningful work and it's an opportunity to add value, but there are some areas that are more advisory for the Personnel Board, and also for Town Meeting. There are some more minor things that can be clarified easily, like posting time/place for regular meetings in advance.

6. Discussion of Personnel Board Charge

- Duties and Responsibilities section would be important---and could have subsets with Communication, Human Resources, Governance and Employee Relations.
- Charge---one page if we can do it. It's an agreement between the Personnel Board and the Select Board re: what we are doing. OR, keep it longer to have more details there, but these details could be shifted as needed with Select Board input.
- Liz to work with Mark on the "standard Charge" format---and finalize this.

7. Schedule Report to Select Board

Possible Calendar Plan going forward:

- November Personnel Board meeting: November 15th and then send the ByLaw and Charge for the Select Board (due: November 15th) to get on their agenda for Select Board Meeting December 4th.
- Due date for Draft articles for the Warrant: December 15th
- Warrant closed January 3

8. Adjournment Meeting materials will be available at:

Past Meeting Materials | Concord, MA (concordma.gov)

A Motion held to adjourn the meeting by Liz Cobbs, Second: Joe Emeric, All in agreement.

Facilities Manager

Department:	Facilities Department	Salary Grade:	15
Reports To:	Director of Public Works	FLSA Status:	Non-Exempt
Appointed by:	Town Manager	Date:	October 2023

GENERAL SUMMARY:

Under the general supervision of the Director of Public Works, oversees, plans, organizes and directs all aspects of Town building and facilities maintenance, park and playground risk management activities and preservation and the overall Division operations. Duties include continuous supervision of skilled, licensed and professional workers and availability for emergency response and occasional evening meetings. Responsible for maintaining and improving upon the efficiency and effectiveness of all areas under the direction and control of the position. Performs varied and responsible duties requiring a thorough knowledge of departmental operations and the exercise of judgment and initiative in completing tasks, particularly in situations not clearly defined by precedent or established procedures. Incumbent is called upon to handle a significant amount of details, each varying from the other in substance and content, requiring incumbent to approach workload with flexibility.

ESSENTIAL JOB FUNCTIONS:

External and internal applicants, as well as position incumbents who are or become disabled as defined under the Americans With Disabilities Act, must be able to perform the essential job functions (as listed) either unaided or with the assistance of a reasonable accommodation to be determined by management on a case-by-case basis.

- Develops accurate annual operating and multiyear capital budget requests for municipal facilities. Collaborates with building managers to identify funding needs. Presents budget requests clearly and persuasively in a wide variety of venues including public forums.

- Develops and maintains a multiyear proposed capital improvement plan and oversees the annual execution of the funded plan. Develops maintenance programs for all Town buildings, and for surrounding grounds as assigned. Manages the day to day implementation of that plan including the prioritization of project requests.

- Participates in and provides technical assistance to managers and/or building committees to facilitate the design process for any new or rehabilitation project the Town may undertake. During construction, may perform in a role similar to an owner's representative or clerk of the works. Ensures all required permits are pulled and related inspections are completed. Considers and plans for impact on building occupants when projects are being undertaken, to ensure that adverse effects on operations are minimized and no environmental health hazards are created.

- Oversees and manages a wide variety of independent contractors performing work on Town buildings and surrounding grounds.

- Carries out procurement of goods, services and construction work as needed in accordance with all relevant public bidding laws, rules and regulations; coordinates the joint-purchasing of maintenance and custodial supplies for multiple facilities to obtain cost savings.

- Ensures that standards consistent with all applicable laws are maintained at a minimum; establishes environmental compliance programs for asbestos abatement, radon control, lead paint control, hazardous waste disposal, air quality standards, fuel tank testing and other local, state and federal environmental compliance regulations.

- Regularly communicates with building managers, department heads, and assigned liaisons regarding the care and maintenance of their buildings and grounds. Meets individually and/or in groups with staff to coordinate services and projects. Responds to building-user inquiries, complaints, and requests related to facilities; resolves complaints when possible and advises or refers to the Deputy Town Manager as appropriate.

- Analyzes the scope of work for projects and makes reasoned decisions and recommendations regarding use of in-house personnel and/or outside contractors.

- Develops and oversees Request for Proposal and large-scale jobs related to Capital Improvements as well as routine and emergency repairs.

- Cultivates and supports sustainability policies related to municipal buildings and works closely with Town's Director of Sustainability to measure performance in meeting benchmarks for energy reduction efficiency improvements to municipal buildings. Develops multi-year capital plans in conjunction with Facilities Manager for building improvements which work to meet sustainability benchmarks.

- Participates in various Town-Wide Greenhouse Gas (GHG) inventory studies and evaluations, assists with the production of community-wide reduction plans. Evaluates the divisional effectiveness as it is related to sustainability, and reports on goal progression to the Director of Public Works.

- Forms strategic partnerships across all Town Departments to assist in building a Concord Green Ethos leading to consideration/use of climate-resilient tools and techniques.

- Conducts regular reviews of security and safety needs and makes recommendations as appropriate. Works with vendors of security apparatus and Police Department staff to ensure that Concord buildings are safe and secure. Collaborates with Information Systems and Police staff when selecting equipment or technology related to the physical security of facilities. Collaborates with Fire Department staff to perform regular fire safety inspections of facilities and implement fire and medical safety equipment/procedures.

- In coordination with building managers, develops quality standards for all Town facilities and surrounding grounds, recommends or assigns work for custodial and maintenance personnel to achieve that end, and reviews the results and provides feedback as appropriate.

- Coordinates seasonal and preventive maintenance services and improvement projects as needed for lots and grounds. Ensures activities and work are conducted in compliance with OSHA regulations.

- Communicates with insurance adjusters relative to facilities-related insurance claims. Collaborates with appropriate personnel to ensure that buildings are adequately insured for both liability and property loss.

- Responds to and addresses after-hour emergencies; coordinates response of staff and contractors to ensure the safety of building users and continuity of operations, and to limit damage to property and building systems.

- Responds to public inquiries, requests and complaints related to division activities. Resolves complaints when possible and/or refers matters to the Director of Public Works.

- Inspects buildings and installations on a regular basis to ensure high standards of workmanship, cleanliness, safety, and security are maintained.

- Remains informed of the latest trends, developments, and products in the areas of maintenance and repair; encourages innovation and experimentation as appropriate.

- Incorporates sustainability principles into all aspects of Concord's facilities management program. Works to systematically reduce building energy use in accordance with the Green Communities Act. Oversees Town-wide green energy construction initiatives as needed.

- Performs special projects and related responsibilities as initiated and requested.

- Performs other related duties as required, directed or as the situation dictates.

- Regular attendance and punctuality at the workplace is required.

SUPERVISORY RESPONSIBILITY:

Directly supervises the activities and performance of, and provides functional oversight to facilities, custodial and parks staff. Provides functional oversight to the Director of Sustainability related to large- scale building projects or changes within any facility envelope. Supervises the work of independent contractors including those retained for improvement and renovation projects and cleaning and maintenance services. Carries out supervisory responsibilities in accordance with Concord's policies and applicable laws. Responsibilities include interviewing and training employees; planning, assigning, and directing work; appraising performance and recommending pay increases; implementing succession plans; addressing complaints and resolving problems; and making recommendations concerning employee hiring, rewards or discipline. Participates in the evaluation and work planning for the Director of Sustainability.

EDUCATION & EXPERIENCE:

- Duties require knowledge equivalent to a Bachelor's Degree in construction management, engineering, architecture or related field, and seven (7) or more years of progressively responsible, related experience; or any equivalent combination of education and experience in facilities management.
- Green Building Manager Certification (MA DEM)
- OSHA-Certified Building Manager designation within one year of hire Possession of a valid motor vehicle operator's license required.Possession of valid Construction Supervisor's license; municipal experience helpful.
- LEED Certification preferred
- Certified Playground Safety Inspector preferred
- Certified Pool & Spa Operator License preferred

KNOWLEDGE, SKILLS & ABILITIES:

- Ability to lead, direct, and coordinate the operations, services and activities of a municipal facilities department including oversight of construction projects, maintenance, and cleaning.

- Thorough knowledge of the principles and practices of construction and design services, contract administration procedures, building systems design and operations procedures, materials, building maintenance, and facility safety. Ability to read and interpret blueprints, schematics, and architectural drawings. Knowledge of and ability in program development, administration and evaluation; project management; staff supervision; training and performance management; and municipal budget preparation and administration. Knowledge of commercial building energy efficiency standards and measures preferred.

- Knowledge of pertinent Federal, Massachusetts and local laws, codes and regulations; basic familiarity with general procurement, bidding and prevailing wage laws and policies: ability to obtain certification as a Massachusetts Public Procuring Official; knowledge and ability to implement all applicable ADA and Accessibility laws, regulations and best practices as they pertain to public facilities.

- Excellent interpersonal skills; ability to communicate effectively both verbally and in writing; ability to effectively deal with all members of the public, officials, and other agencies in a courteous and tactful manner; ability to establish and maintain good working relationships.

- Ability to work effectively and independently under time constraints to meet deadlines; ability to work with a high level of detail and apply organizational skills; ability to prioritize multiple tasks and deal effectively with interruptions.

- Ability to prepare and administer budgets, and to prepare clear and concise administrative and financial reports.

- Knowledge of and skill in using facilities management software and Microsoft Office applications, including those used to prepare standard business communications, spreadsheets, databases and reports.

- Ability to identify and analyze complex issues, develop appropriate recommendations, identify alternative solutions, project consequences of proposed actions, apply considerable judgment and implement recommendations in support of goals.

WORKING CONDITIONS & PHYSICAL DEMANDS:

External and internal applicants, as well as position incumbents who are or become disabled as defined under the Americans With Disabilities Act, must be able to perform the physical demands (as listed) either unaided or with the assistance of a reasonable accommodation to be determined by management on a case-by-case basis.

Employee is regularly required to sit, talk and hear. Uses hands to finger, handle, feel or operate objects, tools or controls and reach with hands and arms as in picking up paper, files and other common office objects. Employee must be able to access all levels of a construction site and traverse uneven terrain. Employee may spend a significant portion of shift standing or walking, and may be required to climb, bend, crawl and lift/move objects weighing up to 60 pounds, such as tools, equipment, supplies, etc., while supervising, inspecting or assisting with work. Vision and hearing at or correctable to normal ranges; ability to distinguish colors.

Work is performed in many differ types of settings and various job sites, including: offices, roofs, crawlspaces, exterior areas and construction zones. Administrative work is performed in an office environment, which may be subject to variations of temperature, noise, odors, etc. Work is performed

in a moderately noisy work environment, with constant interruptions. Frequently subjected to the demands of other individuals and the volume and /or rapidity with which tasks must be accomplished.

At job sites, the employee is exposed to weather extremes, construction dust, fumes and strong odors, or moving mechanical parts. The noise level in the field can be moderate to loud.

Operates computer, printer, video display terminal, keyboard, calculator, telephone, copier, facsimile machine and all other standard office equipment requiring eye-hand coordination and finger dexterity. Balancing, crouching, grasping, pulling, reaching and stooping may also be required.

The above statements are intended to describe the general nature and level of work being performed by people assigned to do this job. The above is not intended to be an exhaustive list of all responsibilities and duties required. The omission of specific statements of duties does not exclude them from the position if the work is similar, related, or a logical assignment to the position.

This job description does not constitute an employment agreement between the employer and employee, and is subject to change by the employer, as the needs of the employer and requirements of the job change.

IT Operations Manager

Department:	Information Technology	Salary Grade:	13
Reports To:	Chief Technology Officer	FLSA Status:	Exempt
Appointed by:	Town Manager	Date:	October 2023

GENERAL SUMMARY:

Under the general direction of the Chief Technology Officer, manages the Town's operational infrastructure, including software, security, and the lifecycle of systems. Develops plans and strategies to support long-term improvement goals and adapt to changing technology and requirements. Works on special projects related to software and security. Manages Technical Services division of department, including Information System Technicians. Responsible for maintaining and improving upon the efficiency and effectiveness of all areas under the direction and control of the position. Performs varied and responsible duties requiring a thorough knowledge of departmental operations and the exercise of judgment and initiative in completing tasks, particularly in situations not clearly defined by precedent or established procedures. Incumbent is called upon to handle a significant number of details, each varying from the other in substance and content, requiring flexibility in approach to workload.

ESSENTIAL JOB FUNCTIONS:

External and internal applicants, as well as position incumbents who are or become disabled as defined under the Americans With Disabilities Act, must be able to perform the essential job functions (as listed) either unaided or with the assistance of a reasonable accommodation to be determined by management on a case-by-case basis.

- Oversees operational systems, processes, and infrastructure while looking for opportunities of improvement or revision.
- Anticipates and tracks operational and tactical risks and providing strategic solutions.
- Maintains safe and healthy work environment by establishing, following, and enforcing standards and procedures as well as complying with legal regulations.
- Manages day to day business of the operations department while balancing the responsibilities of various business lines such as business analysis, vendor, and risk management.
- Plays a significant role in long-term planning, project status reporting, and implementing change control processes.
- Works closely with CTO on other special planning and departmental projects.
- Oversees and reports weekly, monthly, quarterly, and annual metrics.
- Identifies trends and assess opportunities to improve processes and execution.
- Raises and tracks issues and conflicts, remove barriers, resolve issues of medium complexity involving stakeholders and escalate to appropriate level when required.
- Establishes and maintains credible, professional relationships with staff and external vendors.

- Stays up to date on industry regulations, trends, and technology.
- Solicits and responds to feedback while gaining commitment and support.
- Supports departmental and town-wide training programs, reinforcing tech and operations infrastructure between departments to ensure consistency and quality standards are met.
- Works closely with management team to ensure all operational, administrative, and compliance functions within the firm are being properly executed in accordance with regulatory-based best practices
- Performs other related duties as required, directed or as the situation dictates.
- Regular attendance and punctuality at the workplace is required.

SUPERVISORY RESPONSIBILITY:

Directly supervises the activities and performance of and provides functional oversight to staff of the IT Operations Division within the Technology Department, including three or more technicians, interns, and consultants as required. Carries out supervisory responsibilities in accordance with Concord's policies and applicable laws. Responsibilities include interviewing and recommending candidates for hire; planning, assigning, and directing work; scheduling; evaluating performance; training, rewarding and disciplining employees; and addressing complaints and resolving problems.

EDUCATION & EXPERIENCE:

- Any combination of education and experience that provides the ability to perform functions is qualifying. A typical example of this is:
    - Bachelor's degree and field-related technical certifications or equivalent; more than 5 years relevant combined experience in Information Technology and applications
- Valid motor vehicle operator's license; must have reliable personal vehicle available for use during working hours. Will be reimbursed for mileage driven.

KNOWLEDGE, SKILLS & ABILITIES:

- Ability to address operational concerns and issues as well as monitor overall end user satisfaction. Ability to ascertain and act on training needs of department and end users. Skill in developing and implementing operational policies and procedures.
- Demonstrated ability to conduct research for special projects, respond timely to inquiries, and present written reports and oral presentations. Ability to work with a high level of detail and prioritize multiple tasks. Ability to change direction and rearrange tasks according to deadlines and circumstance.
- Ability to communicate effectively and tactfully with the public, coworkers, other employees, departments, officials, etc., and to effectively lead and collaborate with diverse groups. Strong public speaking or presenting skills to be used during training of staff, individually or in group settings.

WORKING CONDITIONS & PHYSICAL DEMANDS:

External and internal applicants, as well as position incumbents who are or become disabled as defined under the Americans With Disabilities Act, must be able to perform the physical demands (as listed) either unaided or with the assistance of a reasonable accommodation to be determined by management on a case-by-case basis.

The majority of work is generally performed in a normal office environment, not subject to extreme variations of temperature, noise, odors, etc. Work is performed in a moderately noisy work environment, with constant interruptions. Frequently subjected to the demands of other individuals and the volume and/or rapidity with which tasks must be accomplished.

Operates and maintains IT and other standard office equipment requiring hand-eye coordination and finger dexterity. Balancing, crouching, grasping, pulling, reaching and stooping may also be required.

Occasionally required to go outdoors and may be exposed to variable weather conditions and hazards associated with construction sites and public works projects to consult and support employees.

The above statements are intended to describe the general nature and level of work being performed by people assigned to do this job. The above is not intended to be an exhaustive list of all responsibilities and duties required. The omission of specific statements of duties does not exclude them from the position if the work is similar, related, or a logical assignment to the position.

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Business Systems Analyst

Department:	Human Resources	Salary Grade:	7
Reports To:	Human Resources Director	FLSA Status:	Non-Exempt
Appointed by:	Town Manager	Date:	July 2023

GENERAL SUMMARY:

Under the general supervision of the Human Resources Director, provides administrative and managerial support in evaluating, developing, implementing, and maintaining processes and automation of a wide variety of technical and manual systems; provides technical analysis and support for systems, document management, and workflows. Serves as an expert/liaison on the Town's Human Resources information systems. Guides, coordinates, and trains staff/users of administrative and technical systems to increase efficiency, optimization, and adoption of technology.

The Analyst is responsible for maintaining and improving efficiency and effectiveness of all areas under his/her control. Performs varied duties requiring a thorough knowledge of departmental operations and the exercise of judgment and initiative in completing tasks, particularly in situations not clearly defined by precedent or established procedures. Incumbent is called upon to handle a significant amount of details, each varying from the other in substance and content, requiring incumbent to approach workload with flexibility.

ESSENTIAL JOB FUNCTIONS:

External and internal applicants, as well as position incumbents who are or become disabled as defined under the Americans With Disabilities Act, must be able to perform the essential job functions (as listed) either unaided or with the assistance of a reasonable accommodation to be determined by management on a case-by-case basis.

Developing, Improving and Maintaining Systems

- Develops expert-level knowledge of the Town's administrative processes and procedures that relate to Human Resources operations, particularly those that have Town-wide impact.
- Identifies ways to improve efficiency and functionality of administrative processes and procedures, both manual and automated, in order to meet operational needs.
- Provides technical support to users of the Town's Human Resources information systems. Establishes and maintains relationships with product support to assist users in optimizing use of applications. Assists users in identifying training needs and resources related to applications.
- Serves as system administrator for various applications, performing functions such as security management, establishing and maintaining system preferences and settings, monitoring and resolving data feed issues, and performing mass updates.
- Keeps current with the latest technologies and applications relevant to Human Resources and general administration functions. Researches and recommends products to meet the Department's needs.
- Leads and/or participates in implementation of new administrative systems, including coordinating with vendors and training staff.

- Works with the Information Technology Department to ensure that Human Resources systems are secure and comply with legal and regulatory requirements, have been integrated, where possible, with other Town systems, and include a roadmap and documented lifecycle.

- Performs regular tasks related to administrative system maintenance and data management, such as developing and updating forms, conducting audits and reconciling data.

- Uses a variety of tools, including Microsoft Office applications, web-based solutions, or database integrations, to design better administrative processes.

Project Management

- Plans and communicates with management, end users, vendors and service providers concerning the projects and activities of the Town's centralized administration functions. Assists Human Resources staff with prioritization and scheduling of projects and tasks to meet system needs. Coordinates internal resources and third parties/vendors for the successful execution of projects. Proactively works individually and with teams to deliver projects in a timely manner within scope and within budget.

- Develops project scopes and objectives, involving all relevant stakeholders and ensuring technical feasibility. Helps to identify financial and workforce resources needed for new initiatives. Develops detailed project plans to track progress.

- Plans, budgets, oversees and documents all aspects of assigned projects. Works closely with managers to ensure the scope and direction of each project is on schedule. Manages organization of key projects. Creates and maintains comprehensive project documentation.

Communication, Training and Documentation

- Leads and/or participates in internal administrative staff and user group meetings to ensure continued development of, effectiveness of, and compliance with established systems. Promotes positive attitudes toward change.

- Trains staff on the Town's administrative procedures, both software and manual solutions. Develops and maintains documentation and procedural information and ensures regular dissemination.

General

- Performs other related duties as required, directed or as the situation dictates.

- Regular attendance and punctuality at the workplace is required.

SUPERVISORY RESPONSIBILITY:

May oversee the work of contracted and temporary project staff to coordinate services and ensure project goals are met. Provides functional oversight to staff/users of Human Resources systems. May serve as a Team Leader for project committees and user groups.

EDUCATION & EXPERIENCE:

- Bachelor's Degree in project management, technology, public administration, business management, human resources or related field, plus more than five years of experience supporting administrative processes and technical systems in a collaborative environment; or any equivalent combination of education and experience. Municipal experience with exposure to human resources administrative systems highly preferred.

KNOWLEDGE, SKILLS & ABILITIES:

- Desire for continuous process improvement and optimization of technology. Flexibility and willingness to explore options when faced with barriers. Highly self-motivated and able to work independently, combined with good judgment on when to check in with supervisor.

- Excellent organizational, time management and problem-solving skills. Ability to work with a high level of detail; ability to prioritize multiple tasks and deal effectively with interruptions. Ability to identify and analyze complex issues and to develop appropriate recommendations.

- Excellent communication skills, both verbally and in writing. Ability to document, write procedures, and present information in a meaningful and impactful way. Ability to work as part of a team, as well as to lead and motivate others. Ability to maintain confidentiality and use discretion on how information is shared.

- Solid technical background, with experience administering software systems. Proficiency with a wide variety of software applications including Windows, Microsoft Office, and human resource information systems, with intermediate to advanced skills in Excel and Word. Experience diagnosing and resolving software application problems. Ability to quickly learn and utilize complex software applications.

- Thorough knowledge of office procedures, practices and terminology. Complete knowledge of the use of office and data processing equipment, business arithmetic, American business English and spelling. Basic knowledge/familiarity of bookkeeping, payroll, and accounts payable processes and procedures, with ability to maintain detailed budget accounts, statistics, financial records, and clerical records. Familiarity with rules, laws, procedures, regulations, etc. pertinent to human resources, and general knowledge of local government and its operations, helpful.

WORKING CONDITIONS & PHYSICAL DEMANDS:

External and internal applicants, as well as position incumbents who are or become disabled as defined under the Americans With Disabilities Act, must be able to perform the physical demands (as listed) either unaided or with the assistance of a reasonable accommodation to be determined by management on a case-by-case basis.

Normal office environment, not subject to extreme variations of temperature, noise, odors, etc. Majority of work is performed in a moderately noisy work environment, with constant interruptions. Frequently subjected to the demands of other individuals and the volume and/or rapidity with which tasks must be accomplished.

Operates computer, printer, video display terminal, keyboard, calculator, telephone, copier, facsimile machine and all other standard office equipment requiring eye-hand coordination and finger dexterity. Balancing, crouching, grasping, pulling, reaching and stooping may also be required.

The above statements are intended to describe the general nature and level of work being performed by people assigned to do this job. The above is not intended to be an exhaustive list of all responsibilities and duties required. The omission of specific statements of duties does not exclude them from the position if the work is similar, related, or a logical assignment to the position.

This job description does not constitute an employment agreement between the employer and employee, and is subject to change by the employer, as the needs of the employer and requirements of the job change.

Human Resources Generalist

Department:	Human Resources	Salary Grade:	6
Reports To:	Human Resources Director	FLSA Status:	Non-Exempt
Appointed by:	Town Manager	Date:	July 2023

GENERAL SUMMARY:

Under the supervision of the Assistant Human Resources Director, performs complex administrative support tasks to assist the Human Resources Department in ensuring that the Town's policies and procedures are consistently and lawfully administered, seeking guidance when clarification, interpretation or exception to policy or law is needed. Responsible for maintaining and improving upon the efficiency and effectiveness of all areas under the direction and control of the position. Performs responsible and varied duties requiring a thorough knowledge of departmental operations and the exercise of judgment and initiative in completing tasks, particularly in situations not clearly defined by precedent or established procedures. Incumbent is called upon to handle a significant amount of details, each varying from the other in substance and content, requiring incumbent to approach workload with flexibility.

ESSENTIAL JOB FUNCTIONS:

External and internal applicants, as well as position incumbents who are or become disabled as defined under the Americans With Disabilities Act, must be able to perform the essential job functions (as listed) either unaided or with the assistance of a reasonable accommodation to be determined by management on a case-by-case basis.

- Acts as liaison with other Town departments as well as the general public, consultants, and external agencies regarding department operations and special projects; provides information and instructions; resolves problems; researches questions; communicates official plans, policies, and procedures to staff and members of the public; handles unusual or difficult situations, which may involve assisting distraught, angry, or otherwise upset individuals. Works cooperatively with other Human Resources staff to coordinate work of the Department.

- Performs a wide variety of complex and routine administrative tasks in support of the Human Resources staff and operations; answers and routes phone calls; composes, prepares and distributes correspondence and reports; creates and edits forms, procedures, and documents; develops, coordinates, and takes responsibility for efficiently-run office systems; opens, screens, and distributes incoming mail and electronic system messages; responds appropriately to matters not requiring the personal attention of management staff; updates Department's web page; maintains and orders office supplies; may assist with preparation, distribution, and maintenance of Personnel Board agendas, packets, minutes, and materials, attending meetings as needed.

- Provides support for human resources and time and attendance software applications; performs system administration including set-up of codes, tables, security privileges, and reports; develops and documents processes; trains and provides support to system users; collaborates with technical staff to resolve problems; assists with ongoing maintenance and upgrades to systems.

- Maintains and organizes official employee records and office files; enters information into and updates human resources information systems, databases, spreadsheets, and other systems; tracks actions and follows up as needed. Compiles routine to complex data for reports. Audits and reconciles detailed and complex Department records and databases. Works with highly confidential and sensitive Town-wide information including performance and medical information, disciplinary actions, collective bargaining positions, legal investigations, and contemplated policy actions requiring the application of appropriate judgment, discretion, and professional office protocols.

- Reviews, prepares, and processes salary changes, leave requests, and other personnel actions to ensure they are accurate and in compliance with Town Bylaw, policies, procedures, and collective bargaining agreements, bringing inconsistencies to management's attention; instructs, audits, and communicates errors to Town-wide staff to maintain accuracy.

- Performs complex calculations following procedures with numerous variables. Tracks related forms and actions.

- Provides assistance to all Town employees regarding benefits options and eligibility and acts as a point of contact for information requests. Conducts new employee orientations, describing benefits and policies. Assists with benefits enrollments, terminations, and annual elections involving completion and distribution of numerous forms and notices. Processes life and long-term disability benefit claims. Coordinates complex mailings and tracks and follows-up on responses required of employees.

- Processes workers' compensation and public safety injured-on-duty reports and documents; receives, logs, and reviews injury reports for completeness, communicates with department personnel to obtain information not provided, routes to Human Resources Director for approval, and maintains related files; prepares and forwards reports to the State. Communicates and coordinates with workers' compensation and injured-on-duty administrators, supervisors, and injured employees regarding work status, calculations, payments, and coordination of benefits. Calculates and codes complex workers' compensation and injured-on-duty payments for processing via payroll and wire transfers.

- Maintains records related to Department budget and payroll; monitors expenditures and balances within account; processes purchase orders and invoices; codes expenses; prepares Department payroll; prepares and maintains all associated records; assists in budget development by collecting data from past expenditures to project future spending.

- Assists in the administration of the Town's recruitment and hiring efforts, including creating, reviewing and posting job announcements, placing ads, processing applications, arranging and tracking background checks, medical exams, and other pre-employment requirements; and communicates with candidates; follows up with supervisors and keeps them updated.

- Assists with administration of the Town's drug and alcohol testing program including maintaining database, scheduling appointments with testing agency and supervisors, and preparing related reports.

- Responds to information requests from employees, agencies, towns, and outside organizations including verifications of employment, salary and benefits surveys, and government reports.

- Plans, coordinates, and implements logistics for events such as orientations, trainings, receptions, and annual employee events.

- Performs special projects and related responsibilities as initiated and requested.

- Performs other related duties as required, directed or as the situation dictates.

- Regular attendance and punctuality at the workplace is required.

SUPERVISORY RESPONSIBILITY:

None

EDUCATION & EXPERIENCE:

Two-year college certificate or Associate's degree with training in human resources-related field, plus at least two years of responsible administrative experience in a human resources office, municipal experience preferred; or any equivalent combination of education and experience.

KNOWLEDGE, SKILLS & ABILITIES:

- Strong administrative and office support skills. Thorough knowledge of office procedures, practices, equipment and terminology. Complete knowledge of business arithmetic, American business English and spelling.

- Knowledge of rules, laws, procedures, regulations, etc. pertinent to human resources operations. Basic knowledge of bookkeeping techniques. General knowledge of local government and its operations helpful.

- Excellent interpersonal skills; ability to communicate effectively both verbally and in writing; ability to effectively deal with all members of the public in a courteous and tactful manner; ability to establish and maintain good working relationships with co-workers; ability to communicate detailed instructions to peers; ability to maintain confidentiality and sensitivity in conversations.

- Proficiency using Microsoft Office Suite, human resources, payroll, accounts payable, and other related software applications. Strong technical capabilities with ability to serve as system administrator for software applications.

- Ability to work independently and with a high level of detail, to prioritize multiple tasks, and to deal effectively with frequent interruptions; ability to identify and analyze complex issues, develop appropriate recommendations, and apply considerable judgment. Excellent problem solving, quality control, and organization skills. Ability to adapt to changes in the work environment, systems, and procedures.

- Ability to compose correspondence and prepare, type, and proofread reports as to form and logic flow. Ability to maintain detailed statistics, records, and files and to maintain confidential information.

- Ability to acquire and maintain clearance to obtain Criminal Offender Records Information (CORI).

WORKING CONDITIONS & PHYSICAL DEMANDS:

External and internal applicants, as well as position incumbents who are or become disabled as defined under the Americans With Disabilities Act, must be able to perform the physical demands (as listed) either unaided or with the assistance of a reasonable accommodation to be determined by management on a case-by-case basis.

Normal office environment, not subject to extreme variations of temperature, noise, odors, etc. Majority of work is performed in a moderately noisy work environment, with constant interruptions. Frequently subjected to the demands of other individuals and the volume and/or rapidity with which tasks must be accomplished.

Operates computer, printer, video display terminal, keyboard, calculator, telephone, copier, facsimile machine and all other standard office equipment requiring eye-hand coordination and finger dexterity. Balancing, crouching, grasping, pulling, reaching and stooping may also be required.

The above statements are intended to describe the general nature and level of work being performed by people assigned to do this job. The above is not intended to be an exhaustive list of all responsibilities and duties required. The omission of specific statements of duties does not exclude them from the position if the work is similar, related, or a logical assignment to the position.

This job description does not constitute an employment agreement between the employer and employee, and is subject to change by the employer, as the needs of the employer and requirements of the job change.

Water/Sewer System Maintainer

Department:	Public Works; Water/Sewer	Salary Grade:	5
Reports to:	Public Works Supervisor – Water/Sewer	FLSA Status:	Non-Exempt
Appointed by:	Town Manager	Date:	December 2022

GENERAL SUMMARY:

Under the general supervision of the Water/Sewer Superintendent, ensures customers receive clean and plentiful water to their properties, and associated wastewater is effectively collected and delivered to the treatment plant. Installs, repairs and maintains water and sewer mains, services and related structures. Plows snow during winter storms. Responsible for maintaining and improving upon the efficiency and effectiveness of all areas under the direction and control of the position. Performs varied and responsible duties requiring a thorough knowledge of departmental operations and the exercise of judgment and initiative in completing tasks, particularly in situations not clearly defined by precedent or established procedures. The Water/Sewer System Maintainer is called upon to handle a significant amount of details, each varying from the other in substance and content, requiring the Water/Sewer System Maintainer to approach workload with flexibility.

ESSENTIAL JOB FUNCTIONS:

External and internal applicants, as well as position incumbents who are or become disabled as defined under the Americans With Disabilities Act, must be able to perform the essential job functions (as listed) either unaided or with the assistance of a reasonable accommodation to be determined by management on a case by case basis.

- Works with other field crews and participates in the inspection, maintenance, repair and installation of town water and sewer infrastructure including water mains, sewers and manholes, water and sewer services and all associated appurtenances.
- Performs inspection, maintenance, repair and installation of infrastructure involving the operation of specialized equipment including, but not limited to tapping machines, backhoe, front-end loader, skid-steers, sewer rodding and jetting equipment, snow plowing equipment, and hand operating equipment and power tools.
- Excavates trenches and backfills excavations.
- Assists in inspections of town hired contractors on public works projects, requiring coordination with the police, town engineers and residents.
- Works with town contractors to get public projects accomplished.
- Performs routine water meter inspection, maintenance and installation activities including investigation of readings for possible error, equipment failure or malfunction.
- Aids residents with problems or questions they have concerning water and sewer problems. Responds to routine customer inquiries and requests related to installation and repair activities. Conducts checks for water main leaks for residents in response to their requests.

- Marks locations of underground water/sewer lines in conformance with Dig Safe regulations. Prepares rough sketches of work performed and submits to supervisor.

- Participates in the general upkeep and landscaping of water and sewer facilities including reservoirs, water production sites and sewer stations.

- Restocks trucks with correct fittings and tools. Repairs and replaces hardware.

- Plows snow on town streets and sidewalks and assists in related snow emergency response activities.

- Responds to after-hour water/sewer and storm management emergencies to perform time sensitive system maintenance and repairs, and to operate snow plowing/removal equipment.

- May respond to any departmental or broader municipally declared emergency which requires interdepartmental or intercommunity coordination.

- Performs other related duties as required, directed or as the situation dictates.

- Regular attendance at the workplace is required.

SUPERVISORY RESPONSIBILITY:

None

EDUCATION, EXPERIENCE & SPECIAL REQUIREMENTS:

Education and experience equivalent to:

- High school diploma or GED

- Two to three years related experience in construction or municipal water and sewer system operations; or any equivalent combination of education and experience.

- Position requires the following licenses which must be obtained within the first six (6) months of employment (possession of license upon hire preferred):
  - Class B Commercial Driver's License with air brake endorsement
  - Massachusetts Hoisting Engineer Licenses 1B & 2B
  - Massachusetts Water License, Grade 1D

KNOWLEDGE, SKILLS & ABILITIES:

- General knowledge of the principles, procedures and construction techniques of water and sewer system operations.

- Working knowledge of State regulations affecting water system operations.

- General knowledge of related work assignments in the labor force of a department of public works.

- Ability to work calmly and effectively under emergency conditions.

- Ability to work with schematic maps and maintain service records.

- Proficient in operation of backhoe, front-end loader, skid-steers, and snow plowing equipment, as well as power tools and hand tools is preferred, or the ability to develop operation proficiency within the first six months of employment.

- Proficient in basic operation of electronic and computer technologies.

- Ability to communicate effectively and tactfully with the public, co-workers, other employees, departments, officials and other agencies.

WORKING CONDITIONS & PHYSICAL DEMANDS:

External and internal applicants, as well as position incumbents who are or become disabled as defined under the Americans With Disabilities Act, must be able to perform the physical demands (as listed) either unaided or with the assistance of a reasonable accommodation to be determined by management on a case by case basis.

Work requires constant heavy and strenuous physical effort. The incumbent must have the physical ability to use hand and power tools and to operate heavy construction and maintenance equipment including, but not limited to specialized equipment including but not limited to tapping machines, backhoe, front-end loader, skid-steers, sewer rodding and jetting equipment, snow plowing equipment, and hand operating equipment and power tools for long periods of time during all types of weather conditions. This position requires the physical ability to frequently lift heavy materials in excess of 100 pounds, utilizing proper body mechanics and techniques. Incumbent must have the physical agility to access all areas at a construction site.

Work may involve recurring applications of considerable physical effort, such as lifting, jumping and occasional awkward positions.

Continuous walking, standing, climbing, frequent periods requiring sustained uncomfortable physical positions and work in cramped quarters.

The above statements are intended to describe the general nature and level of work being performed by people assigned to do this job. The above is not intended to be an exhaustive list of all responsibilities and duties required. The omission of specific statements of duties does not exclude them from the position if the work is similar, related, or a logical assignment to the position.

This job description does not constitute an employment agreement between the employer and employee, and is subject to change by the employer, as the needs of the employer and requirements of the job change.

Office Coordinator- Public Health

Department:	Planning & Land Management- Health	Salary Grade:	Grade 5
Reports To:	Public Health Director	FLSA Status:	Non-Exempt
Appointed by:	Town Manager	Date:	October 2023

GENERAL SUMMARY:

Under the general supervision of the Public Health Director, produces professional administrative work products; maintains and/or supervises the maintenance of financial, personnel, and other records; acts as liaison with other departments and outside organizations. Responsible for maintaining and improving upon the efficiency and effectiveness of all areas under the direction and control of the position. Performs varied and responsible duties requiring a thorough knowledge of division operations and the exercise of judgment and initiative in completing tasks, particularly in situations not clearly defined by precedent or established procedures. Incumbent is called upon to handle a significant amount of detail, each varying from the other in substance and content, requiring incumbent to approach workload with flexibility.

ESSENTIAL JOB FUNCTIONS:

External and internal applicants, as well as position incumbents who are or become disabled as defined under the Americans With Disabilities Act, must be able to perform the essential job functions (as listed) either unaided or with the assistance of a reasonable accommodation to be determined by management on a case-by-case basis.

- Acts as liaison with other town departments as well as the general public, consultants, and external agencies (local, regional and state) regarding division operations and special projects; furnishes information and resolves problems; researches questions; schedules appointments and maintains calendar for Health Division staff, including perc-tests and other field work; handles unusual or difficult situations; communicates official plans, policies and procedures to members of the public.

- Provides administrative support to the Town of Concord and the Town of Lincoln Boards of Health. Prepares Concord Board of Health agenda and information packets, composes and/or types correspondence, memorandums, meeting and legal notices, orders, permits, letters and decisions for the Board's consideration, attends meetings, and takes and prepares minutes. Maintains related files and performs related administrative follow-up.

- Calculates and prepares bi-weekly payroll for the division; maintains personnel records related to sick leave, holiday leave and vacations; retirement; calculates special payments and allowances; Prepares payroll detail worksheets and payroll summary authorizations; prepares change of status forms.

- Screens incoming mail and responds appropriately to matters not requiring the personal attention of the Division Manager or Board of Health.

- Greets and assists customers entering the office and answers incoming phone calls. Gathers information and answers customer's health- and permitting-related questions and directs more complicated inquiries to other Health division staff.

- Reviews and processes applications for licenses and permits issued by the Board of Health. Maintains database tracking annual permits; sends out renewal notices; monitors late renewals. Provides support/assistance to residents and contractors submitting permit requests and applications to the Health Division/Board of Health.

- Enforces on time collection of fees and accurate contracting with the Division of Standards.
- Issues all licenses for Body Art Establishments and Practitioner/ Apprentices. Maintains an accurate record of all body art practitioners/ apprentices and schedules a regular follow up on owners of such establishments.
- Administers inter-municipal agreement to provide public health inspection services to other towns.
- Prepares guidance documents with Health Director for Board of Health Meetings.
- Drafts and coordinates contracts with outside vendors such as mosquito control, beach testing, and other public health services for outside vendors.
- Supports Health Director with the Town's septic betterment loan programs. Provides technical support to residents in need of financial support and ensures that the finance department is provided with financial and legal documents necessary to maintain the Loan Betterment Program.
- Works with highly confidential and sensitive information including medical and financial information, legal investigations, and contemplated policy actions requiring the application of appropriate judgment, discretion, and professional office protocols.
- Prepares weekly accounts payable invoices and maintains all associated records; collects fees for permits, copies, renewals, etc. and prepares accurate reports; prepares turnover/record payments of fees; prepares and sends invoices for services provided to other towns; coordinates intake of grant funds, maintains records and prepares final reports to grant providers.
- Performs special projects and related responsibilities as initiated and requested.
- Performs other related duties as required, directed or as the situation dictates.
- Regular attendance and punctuality at the workplace is required.

SUPERVISORY RESPONSIBILITY:

May occasionally instruct or show other employees how to perform the work.

EDUCATION & EXPERIENCE:

- Associate's Degree or two-year college certificate; training in secretarial science or business administration preferred.
- Five years of progressively responsible administrative experience; or an equivalent combination of education and experience; municipal experience preferred.

KNOWLEDGE, SKILLS & ABILITIES:

- Excellent interpersonal skills; Strong proficiency to communicate effectively both verbally and in writing; ability to effectively deal with all members of the public in a courteous and tactful manner; ability to establish and maintain good working relationships with coworkers, ability to maintain confidentiality and sensitivity in conversations. Extensive knowledge of office procedures, practices and terminology. Thorough knowledge of the use of office and data processing equipment, business arithmetic, American business English and spelling. Basic knowledge of bookkeeping techniques.
- Knowledge of State Sanitary Code, local regulations and operating laws for Board of Health
- Technical knowledge and expertise in Title 5 105 CMR

- Ability to compose correspondence and prepare, type and proofread reports as to form and flow. Ability to maintain detailed statistics, records, and files and to maintain confidential information.

- Ability to work with a high level of detail; ability to prioritize multiple tasks and deal effectively with interruptions; ability to work independently and accomplish tasks despite frequent interruptions.

- Strong time management and organizational skills; ability to work accurately and efficiently with a high level of detail; ability to prioritize work, deal effectively with interruptions and effectively perform multiples tasks with deadlines; ability to interpret directions in a fast-paced work environment; ability to identify and analyze complex issues and to develop appropriate recommendations.

WORKING CONDITIONS & PHYSICAL DEMANDS:

External and internal applicants, as well as position incumbents who are or become disabled as defined under the Americans With Disabilities Act, must be able to perform the physical demands (as listed) either unaided or with the assistance of a reasonable accommodation to be determined by management on a case-by-case basis.

Normal office environment, not subject to extreme variations of temperature, noise, odors, etc. Majority of work is performed in a moderately noisy work environment, with constant interruptions. Frequently subjected to the demands of other individuals and the volume and /or rapidity with which tasks must be accomplished.

Operates computer, printer, video display terminal, typewriter, calculator, telephone, copier, facsimile machine and all other standard office equipment requiring eye-hand coordination and finger dexterity. Balancing, crouching, grasping, pulling, reaching and stooping may also be required.

The above statements are intended to describe the general nature and level of work being performed by people assigned to do this job. The above is not intended to be an exhaustive list of all responsibilities and duties required. The omission of specific statements of duties does not exclude them from the position if the work is similar, related, or a logical assignment to the position.

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CLASSIFICATION AND COMPENSATION PLAN

Effective July 1, 2023

Hourly rates control calculations; Annual rates illustrate base compensation at 40 hours per week for 52 weeks.

Grade	Classification Title		Base Pay Rates Minimum	Mid-Point	Maximum
18	Chief Financial Officer	*Annual*	$138,174	$165,807	$193,440
	Chief Technology Officer	*Hourly*	$66.43	$79.72	$93.00
	Deputy Town Manager				
17	Assistant Town Manager	*Annual*	$129,126	$154,950	$180,773
	Director of Public Works	*Hourly*	$62.08	$74.50	$86.91
	Fire Chief				
	Police Chief				
16	Director of Community Development	*Annual*	$120,682	$144,820	$168,958
	Director of Human Resources	*Hourly*	$58.02	$69.63	$81.23
	Director of Library Services				
15	Assistant Fire Chief	*Annual*	$112,778	$135,335	$157,893
	Building Commissioner	*Hourly*	$54.22	$65.07	$75.91
	Facilities ~~Director~~Manager*				
	Highway & Grounds Superintendent				
	Recreation Director				
	Police Captain				
	Town Engineer				
	Water/Sewer Superintendent				
14	Public Health Director	*Annual*	$102,045	$122,450	$142,854
	Special Projects Manager/Systems Manager	*Hourly*	$49.06	$58.87	$68.68
	Town Accountant				
	Town Assessor				
13	Assistant Town Engineer	*Annual*	$97,178	$116,615	$136,053
	Assistant Water/Sewer Superintendent	*Hourly*	$46.72	$56.07	$65.41
	Beede Center General Manager				
	IT Operations Manager				
	Natural Resources Director				
	Police Lieutenant				
	Senior Services Director				
	Town Planner				

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*Added subsequent 2023 Town Meeting

12	Assistant Director of Library Services Assistant Facilities Director Assistant Highway & Grounds Superintendent Customer Service Manager Financial Manager/Accountant Town Clerk	*Annual* *Hourly*	$92,539 $44.49	$111,051 $53.39	$129,563 $62.29
11	Assistant Human Resources Director Assistant Recreation Director Budget & Purchasing Director Business Manager Deputy Treasurer/ Collector GIS Program Manager Operations Manager Sustainability Director	*Annual* *Hourly*	$88,150 $42.38	$105,778 $50.86	$123,406 $59.33
10	Childcare Services Manager HVAC Technician/Master Plumber Media Manager Municipal Archivist/Records Manager Public Health Nurse Public Works Supervisor Senior Public Works Engineer	*Annual* *Hourly*	$85,259 $40.99	$102,305 $49.19	$119,350 $57.38
9	Assistant Natural Resources Director Aquatics Manager Communications Manager Community Services Coordinator Customer Service Supervisor Economic Vitality Manager Energy Efficiency & Electrification Coordinator Environmental Health & Safety Manager Local Inspector Risk & Compliance Programs Manager Senior Environmental & Regulatory Coordinator Senior Public Health Inspector Senior Treatment Systems Operator Social Services Supervisor Tourism Manager	*Annual* *Hourly*	$80,434 $38.67	$96,522 $46.41	$112,611 $54.14

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8	Administrative & Operations Supervisor Assistant Assessor Assistant Town Accountant Assistant Town Clerk Assistant Treasurer Associate Financial Manager/Accountant Crew Leader Crew Leader/Electrician & Carpenter Electrical Inspector* HVAC Technician Land Manager Management Analyst Public Works Engineer Senior Financial Analyst Senior Information Systems Technician Senior Master Mechanic Senior Planner Senior Utility Electrician	*Annual* *Hourly*	$75,899 $36.49	$91,073 $43.79	$106,246 $51.08
7	Business Systems Analyst Aquatics Supervisor Assistant to the Beede Center General Manager Facilities Custodial Supervisor GIS Analyst Production Manager Program Analyst Public Health Inspector Recreation Facilities Coordinator Recreation Supervisor Senior Facilities/Landscape Maintainer Treatment Systems Operator Utility Electrician	*Annual* *Hourly*	$71,573 $34.41	$85,894 $41.30	$100,214 $48.18
6	Energy Efficiency & Electrification Specialist Engineering Technician Executive Assistant to the Select Board Executive Assistant to the Town Manager Facilities Maintainer/Skilled Carpenter Human Resources Generalist Information Systems Technician Membership Coordinator Office Administrator Payroll & Finance Generalist Senior Producer &Education Coordinator*	*Annual* *Hourly*	$67,704 $32.55	$81,245 $39.06	$94,786 $45.57

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*Added subsequent 2023 Town Meeting

5	Environmental & Regulatory Coordinator Equipment/Line Operator Geriatric Health Nurse GIS Technician Maintenance & Warehouse Coordinator Office Accountant Office Coordinator Outreach Coordinator Project & Procurement Coordinator Senior Meter Technician Senior Producer Water/Sewer System Maintainer	*Annual* *Hourly*	$64,459 $30.99	$77,355 $37.19	$90,251 $43.39
4	Accounts Payable Specialist Associate Engineer Customer Services Specialist ~~Education Coordinator~~ Facilities/Landscape Maintainer Meter Technician Senior Administrative Specialist Senior Finance Specialist	*Annual* *Hourly*	$61,402 $29.52	$73,684 $35.43	$85,966 $41.33
3	Administrative Specialist Finance Specialist Fitness Trainer	*Annual* *Hourly*	$58,490 $28.12	$70,190 $33.75	$81,890 $39.37
2	Activity Coordinator Customer Support Specialist Senior Building Custodian Senior Crew Member Senior Van Driver	*Annual* *Hourly*	$55,702 $26.78	$66,841 $32.14	$77,979 $37.49
1	Building Custodian Crew Member Finance Assistant Office Assistant	*Annual* *Hourly*	$53,040 $25.50	$63,648 $30.60	$74,256 $35.70
LP-17	Director of Concord Municipal Light Plant	*Annual* *Hourly*	$170,955 $82.19	$205,140 $98.63	$239,325 $115.06
LP-16	*(No positions in grade)*	*Annual* *Hourly*	$148,637 $71.46	$178,370 $85.76	$208,104 $100.05
LP-15	Assistant Director of Concord Municipal Light Plant	*Annual* *Hourly*	$129,251 $62.14	$155,106 $74.57	$180,960 $87.00
LP-14	Broadband Manager Power Supply & Rates Administrator	*Annual* *Hourly*	$121,763 $58.54	$146,120 $70.25	$170,477 $81.96

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LP-13	Lead Electrical Engineer Line Supervisor	*Annual* *Hourly*	$113,797 $54.71	$136,552 $65.65	$159,307 $76.59
LP-12	Lead Lineworker	*Annual* *Hourly*	$106,371 $51.14	$127,639 $61.37	$148,907 $71.59
LP-11	Electrical Engineer Senior Network Engineer	*Annual* *Hourly*	$99,403 $47.79	$119,278 $57.35	$139,152 $66.90
LP-10	Lineworker, Grade 1	*Annual* *Hourly*	$96,595 $46.44	$115,918 $55.73	$135,242 $65.02
LP-9	Network Engineer	*Annual* *Hourly*	$89,877 $43.21	$107,848 $51.85	$125,819 $60.49
LP-8	Lead Broadband Technician Meter Supervisor Senior Engineering Technician	*Annual* *Hourly*	$83,595 $40.19	$100,318 $48.23	$117,042 $56.27
LP-7	Lineworker, Grade 2 Senior Broadband Technician	*Annual* *Hourly*	$77,771 $37.39	$93,319 $44.87	$108,867 $52.34
LP-6	Broadband Technician	*Annual* *Hourly*	$67,704 $32.55	$81,245 $39.06	$94,786 $45.57
LP-5	Lineworker, Grade 3	*Annual* *Hourly*	$64,459 $30.99	$77,355 $37.19	$90,251 $43.39
LP-4	*(No positions in grade)*	*Annual* *Hourly*	$61,402 $29.52	$73,684 $35.43	$85,966 $41.33
LP-3	*(No positions in grade)*	*Annual* *Hourly*	$58,490 $28.12	$70,190 $33.75	$81,890 $39.37
LP-2	*(No positions in grade)*	*Annual* *Hourly*	$55,702 $26.78	$66,841 $32.14	$77,979 $37.49
LP-1	*(No positions in grade)*	*Annual* *Hourly*	$53,040 $25.50	$63,648 $30.60	$74,256 $35.70

(End of new Classification & Compensation Plan)

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TOWN OF CONCORD
Personnel Policy and Procedure #**10.7-1**

Stand-by Pay

Date Revised: ~~*July 1, 2018*~~
Approved by Town Manager:
~~*8/24/2018*~~

Personnel Bylaw

As authorized under the Personnel Bylaw, Section 10, "Pay Policies" and Subsection 10.7 "Other Special Pays", "the Town Manager may adopt schedules to provide employees with special pays that are consistent with the municipal employment market." The following Personnel Policy outlines one such form of compensation entitled "Stand-by Pay".

Purpose and Scope

The purpose of this document is to establish, the policy for the administration of Section 10 "Pay Policies: and Subsection 10.7, "Other Special Pays" through the establishment of a Personnel Policy entitled, "Stand-by Pay" which shall apply to ~~in accordance with Section 10.7 of the Personnel Bylaw regarding Other Special Pays, a policy and procedures regarding Stand-by Pay for~~ employees who are required to remain on call during off-duty hours. ~~It shall apply only to those employees subject to the provisions of the Personnel Bylaw and~~ as specified in the policy. All provisions of this policy are contingent upon sufficient funding being provided.

Provisions for Stand-by Pay

~~Public Works Department~~
~~All Public Works operational personnel~~ Town employees must be available for scheduled and unscheduled "emergency" duty, as needed. Employees who report for these assignments will receive compensation in accordance with the Town's standard overtime and callback policies. In addition, certain assigned personnel are required to stand by during off-duty hours. While on stand-by status, employees are expected to be available by phone and to remain in physical and mental condition to report to work. Call-in and other related procedures for such assignments shall be determined by the ~~Public Works~~ Department Director.

While on stand-by status, employees are required to:

1) Remain in physical and mental condition to report to work;
2) Have access to a telephone at all times, or carry a department issued cell phone; and
3) Be within a prescribed travel time as follows:
    a. Public Works employees, including Facilities: 1 hour
    b. Concord Municipal Light Plant (CMLP):
        i. Lineworkers and Engineers: 45 minutes
        ii. Broadband employees: 2 hours

Stand-by assignments and related compensation shall be implemented as follows:

Public Works Department

Water/Sewer Division:
One Public Works Supervisor, or eligible designee, shall be assigned to perform Stand-by Duty for Water/Sewer Pumping Treatment Systems and/or Water Distribution/Sewer Collection Systems, respectively. While on Stand-by Duty, s/he shall be responsible for receiving, evaluating, and responding to station alarms or system trouble calls and for coordinating emergency response activities in the event a response under their authority is required. Eligibility for such Stand-by Duty assignment shall be restricted to the following personnel:

a) Water/Sewer Pumping and Treatment Group – Assistant Water/Sewer Superintendent, Public Works Supervisor, Senior Treatment Systems Operator, Treatment System Operator, properly trained and licensed Crew Leaders, and any other qualified personnel as determined by the Director of Public Works ~~Director~~.

b) Water Distribution/Sewer Collection System Group – Assistant Water/ Sewer Superintendent, Public Works Supervisor, properly trained and licensed Crew Leaders or Water/ Sewer System Maintainers, and any other qualified personnel as determined by the Director of Public Works ~~Director~~.

~~An employee who performs Stand-by Duty will receive one hour (1) of stand-by pay for each day of the week assigned. If s/he is required to physically report back into the system or engage in operational duties, s/he will receive overtime pay for the time worked (rounded to the nearest 15 minutes)in addition to stand-by pay for that given day.~~
Eligible Water/Sewer Division employees who are assigned, on a rotating basis, to one-week stand-by periods that begin on Friday at 7:00 a.m. and end the following Friday at 7:00 a.m. shall receive:

a) Sixteen (16) hours of straight time pay for each weekly period of stand-by duty which does not include a regular Town holiday; and

b) Twenty-four (24) hours of straight time pay for each weekly period of stand-by duty which includes a regular Town holiday.

Such pay is granted in addition to any pay earned for actual hours worked on those days and in addition to the employee's regular holiday pay for those days.

In addition, a properly trained and licensed operator will be assigned to ~~stand-by~~ perform ~~for~~ routine station operation and maintenance duties required during weekend and holiday days. Eligibility for Routine Station Duty assignment shall be restricted to the following personnel:

a) Assistant Water/Sewer Superintendent;
~~a)~~b) Public Works Supervisor~~, Treatment and Pumping~~;
c) Senior Treatment System Operator;
~~b)~~d) Treatment Systems Operator;
~~c)~~e) Crew Leader, if properly trained and licensed; and
~~d)~~f) any other qualified personnel as determined by the Director of Public Works ~~Director~~.

An employee who is assigned to ~~stand-by~~perform ~~for~~ Routine Station Duty will receive a minimum pay of six (6) hours at the overtime rate for each holiday or weekend day worked. On Thanksgiving, Christmas, and New Year's Day s/he will receive a minimum pay of 10 hours at the overtime rate.

Storm & Emergency Response Team[1]*:*
Employees who are part of the storm and emergency response operations and sign up (in accordance with departmental procedures) to be on stand-by status for Christmas and New Year's receive eight (8) hours of straight time pay for such stand-by duty. Such pay is granted in addition to any pay earned for actual hours worked on those days and in addition to the employee's regular holiday pay for those days.

The stand-by period for Christmas runs from 4:00 p.m. on December 24 to 4:00 p.m. on December 25. The stand-by period for New Year's runs from 6:00 p.m. on December 31 to 6:00 p.m. on January 1.

Highway and Grounds

Qualified Management Employees, as determined by the Director of Public Works assigned, on a rotating basis, to one week stand-by periods which begin on Friday at 7:00 a.m. and end the following Friday at 7:00 a.m. Employees so assigned will be paid $1,682[2] for each week of stand-by duty performed between November 1st and March 31st and $395[3] for each week worked between April 1st and October 31st. Such pay is granted in addition to the employee's regular pay for the stand-by period. This flat rate amount shall automatically increase on July 1 of each succeeding fiscal year by the same percentage as the Town's general wage and salary increase as applied to non-union personnel.

Concord Municipal Light Plant

The CMLP Director shall determine rotation and other related procedures for stand-by assignments as needed for CMLP operations. ~~While on stand-by status, employees are required to:~~

~~1) remain in physical and mental condition to report to work;~~
~~2) have access to a telephone at all times, or carry a department issued cell phone; and~~
~~3) be within the following travel time to CMLP:~~
~~a. Lineworkers = 30 minutes~~
~~b. Telecommunications staff = 2 hours~~

Stand-by assignments and related compensation shall be implemented as follows:

Lineworkers:
Employees ~~in the Lineworker classifications~~holding the position of Lineworker Grade 1, Lead Lineworker and Line Supervisor who are assigned, on a rotating basis, to one-week stand-by periods that begin on Friday at 7:00 a.m. and end the following Friday at 7:00 a.m. shall receive:

a) twenty-four (24) hours of straight time pay for each weekly period of stand-by duty which does not include a regular Town holiday, and
b) thirty (30) hours of straight time pay for each weekly period of stand-by duty which includes a regular Town holiday.

Such pay is granted in addition to any pay earned for actual hours worked on those days and in addition to the employee's regular holiday pay for those days.

Engineers:

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[1] This policy does not apply to positions included in the Highway & Grounds bargaining unit; employees holding such positions shall only be compensated in accordance with the collective bargaining process.

[2] Calculated based on the midpoint of the salary grades of the Highway & Grounds management employees (grade 13) or $56.07/hour x an estimate of 30 hours/week = $1682.

[3] Calculated based on the midpoint of the salary grades of the Highway & Grounds management positions (grade 13) or $56.07/hour x an estimate of 7 hours/week = $393.

Employees holding the positions of Assistant CMLP Director-Engineering & Operations, Lead Electrical Engineer, Electrical Engineer, or Senior Engineering Technician are assigned, on a rotating basis, to one week stand-by periods which begin on Friday at 7:00 a.m. and end the following Friday at 7:00a.m. Employees so

~~[1] This policy does not apply to positions included in the Highway & Grounds bargaining unit; employees holding such positions shall only be compensated in accordance with the collective bargaining process.~~

assigned will be paid $~~1150~~1472[4] for each week of stand-by duty performed. Such pay is granted in addition to the employee's regular pay for the stand-by period. This flat rate amount shall automatically increase on July 1 of each succeeding fiscal year by the same percentage as the Town's general wage and salary increase as applied to non-union personnel.

~~Telecommunications~~Broadband Technicians:

Employees holding the position of ~~in the Senior Telecommunications~~Broadband Technician, Lead Broadband Technician or Senior ~~Telecommunications~~Broadband Technician~~s~~ classifications who are assigned, on a rotating basis, to one-week stand-by periods that begin on ~~Monday~~Friday at 7:00 a.m. and end the following ~~Monday~~Friday at 7:00 a.m. shall receive:

a) sixteen (16) hours of straight time pay for each weekly period of stand-by duty which does not include a regular Town holiday, and
b) twenty-four (24) hours of straight time pay for each weekly period of stand-by duty which includes a regular Town holiday.

Such pay is granted in addition to any pay earned for actual hours worked on those days and in addition to the employee's regular holiday pay for those days.

~~Telecommunications Management~~Network Engineering:

Employees holding the positions of ~~Network Operations Manager, Telecommunications Coordinator or~~Senior Network Engineer and Network Engineer are assigned, on a rotating basis, to one week stand-by periods which begin on Friday at 7:00 a.m. and end the following Friday at 7:00a.m. Employees so assigned will be paid $~~600~~670[5] for each week of stand-by duty performed. Such pay is granted in addition to the employee's regular pay for the stand-by period. This flat rate amount shall automatically increase on July 1 of each succeeding fiscal year by the same percentage as the Town's general wage and salary increase as applied to non-union personnel.

Public Works Storm & Response Team:

Employees who, at the CMLP Director's and Director of Public Works ~~Director's~~ discretion, are eligible to participate in storm and emergency response operations for the Public Works Department, may be offered the stand-by pay for Christmas and New Year's described in the Public Works Department section above.

Sanctions for Not Meeting Availability Requirements

If an employee is found not to have met the availability and other requirements listed above while he/she was assigned to stand-by duty, he/she will be subject to disciplinary action up to and including termination of employment.

Coordination of Pay Policies

Overtime rates referenced in this policy will be calculated in accordance with the Fair Labor Standards Act (FLSA) and the Town's Personnel Bylaw; stand-by pay will be incorporated into the overtime rate where required by law.

[4] Calculated based on the midpoint of the salary grades of the Light Plant Engineering positions (grade LP-12) or $61.37/hour x an estimate of 24 hours/week = $1472.

[5] Calculated based on the midpoint of the salary grades of the Network Engineering positions (grade LP-10) or $55.73/hour x an estimate of 12 hours/week = $670.

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TOWN OF CONCORD
Personnel Policy and Procedure #**10.7-1**

Stand-by Pay

Date Revised:
Approved by Town Manager:

Personnel Bylaw

As authorized under the Personnel Bylaw, Section 10, "Pay Policies" and Subsection 10.7 "Other Special Pays", "the Town Manager may adopt schedules to provide employees with special pays that are consistent with the municipal employment market." The following Personnel Policy outlines one such form of compensation entitled "Stand-by Pay".

Purpose and Scope

The purpose of this document is to establish, the policy for the administration of Section 10 "Pay Policies: and Subsection 10.7, "Other Special Pays" through the establishment of a Personnel Policy entitled, "Stand-by Pay" which shall apply to employees who are required to remain on call during off-duty hours. as specified in the policy. All provisions of this policy are contingent upon sufficient funding being provided.

Provisions for Stand-by Pay

Town employees must be available for scheduled and unscheduled "emergency" duty, as needed. Employees who report for these assignments will receive compensation in accordance with the Town's standard overtime and callback policies. In addition, certain assigned personnel are required to stand by during off-duty hours. While on stand-by status, employees are expected to be available by phone and to remain in physical and mental condition to report to work. Call-in and other related procedures for such assignments shall be determined by the Department Director.

While on stand-by status, employees are required to:

1) Remain in physical and mental condition to report to work;
2) Have access to a telephone at all times, or carry a department issued cell phone; and
3) Be within a prescribed travel time as follows:
    a. Public Works employees, including Facilities: 1 hour
    b. Concord Municipal Light Plant (CMLP):
        i. Lineworkers and Engineers: 45 minutes
        ii. Broadband employees: 2 hours

Stand-by assignments and related compensation shall be implemented as follows:

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Public Works Department

Water/Sewer Division:
One Public Works Supervisor, or eligible designee, shall be assigned to perform Stand-by Duty for Water/Sewer Pumping Treatment Systems and/or Water Distribution/Sewer Collection Systems, respectively. While on Stand-by Duty, s/he shall be responsible for receiving, evaluating, and responding to station alarms or system trouble calls and for coordinating emergency response activities in the event a response under their authority is required. Eligibility for such Stand-by Duty assignment shall be restricted to the following personnel:

a) Water/Sewer Pumping and Treatment Group – Assistant Water/Sewer Superintendent, Public Works Supervisor, Senior Treatment Systems Operator, Treatment System Operator, properly trained and licensed Crew Leaders, and any other qualified personnel as determined by the Director of Public Works .

b) Water Distribution/Sewer Collection System Group – Assistant Water/ Sewer Superintendent, Public Works Supervisor, properly trained and licensed Crew Leaders or Water/ Sewer System Maintainers, and any other qualified personnel as determined by the Director of Public Works .

Eligible Water/Sewer Division employees who are assigned, on a rotating basis, to one-week stand-by periods that begin on Friday at 7:00 a.m. and end the following Friday at 7:00 a.m. shall receive:

a) Sixteen (16) hours of straight time pay for each weekly period of stand-by duty which does not include a regular Town holiday; and

b) Twenty-four (24) hours of straight time pay for each weekly period of stand-by duty which includes a regular Town holiday.

Such pay is granted in addition to any pay earned for actual hours worked on those days and in addition to the employee's regular holiday pay for those days.

In addition, a properly trained and licensed operator will be assigned to perform routine station operation and maintenance duties required during weekend and holiday days. Eligibility for Routine Station Duty assignment shall be restricted to the following personnel:

a) Assistant Water/Sewer Superintendent;
b) Public Works Supervisor;
c) Senior Treatment System Operator;
d) Treatment Systems Operator;
e) Crew Leader, if properly trained and licensed; and
f) any other qualified personnel as determined by the Director of Public Works .

An employee who is assigned to perform Routine Station Duty will receive a minimum pay of six (6) hours at the overtime rate for each holiday or weekend day worked. On Thanksgiving, Christmas, and New Year's Day s/he will receive a minimum pay of 10 hours at the overtime rate.

Storm & Emergency Response Team[1]:
Employees who are part of the storm and emergency response operations and sign up (in accordance with departmental procedures) to be on stand-by status for Christmas and New Year's receive eight (8) hours of straight time pay for such stand-by duty. Such pay is granted in addition to any pay earned for

[1] This policy does not apply to positions included in the Highway & Grounds bargaining unit; employees holding such positions shall only be compensated in accordance with the collective bargaining process.

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actual hours worked on those days and in addition to the employee's regular holiday pay for those days.

The stand-by period for Christmas runs from 4:00 p.m. on December 24 to 4:00 p.m. on December 25. The stand-by period for New Year's runs from 6:00 p.m. on December 31 to 6:00 p.m. on January 1.

Highway and Grounds

Qualified Management Employees, as determined by the Director of Public Works assigned, on a rotating basis, to one week stand-by periods which begin on Friday at 7:00 a.m. and end the following Friday at 7:00 a.m. Employees so assigned will be paid $1,682[2] for each week of stand-by duty performed between November 1st and March 31st and $395[3] for each week worked between April 1st and October 31st. Such pay is granted in addition to the employee's regular pay for the stand-by period. This flat rate amount shall automatically increase on July 1 of each succeeding fiscal year by the same percentage as the Town's general wage and salary increase as applied to non-union personnel.

Concord Municipal Light Plant

The CMLP Director shall determine rotation and other related procedures for stand-by assignments as needed for CMLP operations.
Stand-by assignments and related compensation shall be implemented as follows:

Lineworkers:
Employees holding the position of Lineworker Grade 1, Lead Lineworker and Line Supervisor who are assigned, on a rotating basis, to one-week stand-by periods that begin on Friday at 7:00 a.m. and end the following Friday at 7:00 a.m. shall receive:

a) twenty-four (24) hours of straight time pay for each weekly period of stand-by duty which does not include a regular Town holiday, and
b) thirty (30) hours of straight time pay for each weekly period of stand-by duty which includes a regular Town holiday.

Such pay is granted in addition to any pay earned for actual hours worked on those days and in addition to the employee's regular holiday pay for those days.

Engineers:
Employees holding the positions of Assistant CMLP Director-Engineering & Operations, Lead Electrical Engineer, Electrical Engineer, or Senior Engineering Technician are assigned, on a rotating basis, to one week stand-by periods which begin on Friday at 7:00 a.m. and end the following Friday at 7:00a.m. Employees so assigned will be paid $1472[4] for each week of stand-by duty performed. Such pay is granted in addition to the employee's regular pay for the stand-by period. This flat rate amount shall automatically increase on July 1 of each succeeding fiscal year by the same percentage as the Town's general wage and salary increase as applied to non-union personnel.

Broadband Technicians:
Employees holding the position of Broadband Technician, Lead Broadband Technician or Senior Broadband Technician classifications who are assigned, on a rotating basis, to one-week stand-by

[2] Calculated based on the midpoint of the salary grades of the Highway & Grounds management employees (grade 13) or $56.07/hour x an estimate of 30 hours/week = $1682.
[3] Calculated based on the midpoint of the salary grades of the Highway & Grounds management positions (grade 13) or $56.07/hour x an estimate of 7 hours/week = $393.
[4] Calculated based on the midpoint of the salary grades of the Light Plant Engineering positions (grade LP-12) or $61.37/hour x an estimate of 24 hours/week = $1472.

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periods that begin on Friday at 7:00 a.m. and end the following Friday at 7:00 a.m. shall receive:

a) sixteen (16) hours of straight time pay for each weekly period of stand-by duty which does not include a regular Town holiday, and
b) twenty-four (24) hours of straight time pay for each weekly period of stand-by duty which includes a regular Town holiday.

Such pay is granted in addition to any pay earned for actual hours worked on those days and in addition to the employee's regular holiday pay for those days.

Network Engineering:

Employees holding the positions of Senior Network Engineer and Network Engineer are assigned, on a rotating basis, to one week stand-by periods which begin on Friday at 7:00 a.m. and end the following Friday at 7:00a.m. Employees so assigned will be paid $670[5] for each week of stand-by duty performed. Such pay is granted in addition to the employee's regular pay for the stand-by period. This flat rate amount shall automatically increase on July 1 of each succeeding fiscal year by the same percentage as the Town's general wage and salary increase as applied to non-union personnel.

Public Works Storm & Response Team:

Employees who, at the CMLP Director's and Director of Public Works discretion, are eligible to participate in storm and emergency response operations for the Public Works Department, may be offered the stand-by pay for Christmas and New Year's described in the Public Works Department section above.

Sanctions for Not Meeting Availability Requirements

If an employee is found not to have met the availability and other requirements listed above while he/she was assigned to stand-by duty, he/she will be subject to disciplinary action up to and including termination of employment.

Coordination of Pay Policies

Overtime rates referenced in this policy will be calculated in accordance with the Fair Labor Standards Act (FLSA) and the Town's Personnel Bylaw; stand-by pay will be incorporated into the overtime rate where required by law.

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[5] Calculated based on the midpoint of the salary grades of the Network Engineering positions (grade LP-10) or $55.73/hour x an estimate of 12 hours/week = $670.

TOWN OF CONCORD
MASSACHUSETTS

PERSONNEL BOARD BYLAW

Section 1. Establishment of the Personnel Board

There is hereby established a Personnel Board consisting of 5 members. Members of the Personnel Board shall be appointed by the Select Board for three (3) year terms. No member shall serve more than 6 years (two terms). Members shall have professional or personal experience and/or expertise in personnel administration. One member shall have professional or personal experience in finance, or a related field to provide expertise on financial impact of personnel related proposals.

Members shall elect a Chair, or Co-chairs from among its members on an annual basis.

No member of the Personnel Board may be an employee of the Town nor hold Town office, whether appointed or elected, but any such member may serve on behalf of the Town on any committee negotiating with Town employees.

Members of the Personnel Board shall serve without compensation.

The Personnel Board shall meet regularly as necessary to consider such business as may be presented by Town officials, Town employees, and others.

At any meeting of the Personnel Board, action by a majority of those Board members present shall be binding. At least three (3) members of the Board shall be present in order to constitute a quorum.

Section 2. Duties and Responsibilities

The Personnel Board shall advise the Town Manager, or their designee(s), and shall make recommendations on establishing and maintaining an equitable and efficient system of personnel administration for Town employees. All Town departments and positions shall be subject to the provisions of this bylaw except elected officers, employees with personal contracts, employees covered by a collective bargaining agreement and employees of the school department.

The Personnel Board shall also provide advice and recommendations to the Town Manager, or their designee(s), for the following areas of personnel administration:

a) The Personnel Board shall propose, review, approve and adopt any changes to personnel policies and procedures, in consultation with the Town Manager, or their designee(s), as needed.

b) The Personnel Board shall provide advice and support for the development of an Employee Handbook. The Personnel Board shall also review the Employee Handbook on regular intervals and provide recommendations for changes to ensure the Handbook is current.

c) The Personnel Board shall review and provide recommendations to the Town Manager, or their designee(s), regarding the Classification Plan ("Plan"), which is defined as listing of all approved

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position classification titles and a summary job description for each classification for all Town employees covered by this Bylaw. The Plan includes, but is not limited to, the following:

a. Classification or Grade, which is defined as a group of positions whose duties and responsibilities are sufficiently similar that the same description title, qualifications and compensation can be applied with equity to all positions in the classification; and

b. Compensation Plan, defined as a listing of the minimum and maximum wage or salary rates for each title in the Classification Plan.

d) The Personnel Board shall review on regular intervals any factors, such as cost of living or comparable municipal wage rates, that may affect the Classification and Compensation Plans, and make recommendations for changes to these Plans to the Town Manager, or their designee(s) for consideration at Town Meeting.

e) The Personnel Board shall provide advice and recommendations for new non-wage provisions, or changes to existing non-wage provisions including, but not limited to, the following:

a. Employment status
b. In-Training Status for new or promoted employees
c. Hours of Work, including standard hours, work weeks, overtime administration and non-contiguous work
d. Sick Leave accrual, use and payout provisions (if applicable)
e. Holiday Leave and Holidays Worked
f. Vacation Leave accrual, use and payoff
g. Bereavement Leave
h. Military Leave
i. Jury Duty Leave
j. Unpaid Leaves of Absences including FMLA, Other Leaves & Absence and Accruals During Leaves
k. Interruption of Employment
l. Leave for Temporary & Limited-Status Employees

f) The Personnel Board shall provide recommendations to the Town Manager, or their designee(s), regarding proposed Warrants for Town Meeting that may affect Town employees covered by this Bylaw.

g) The Personnel Board shall review job descriptions for new and existing Town positions covered by this Bylaw, and provide recommendations to the Town Manager, or their designee(s), for changes to the job description to ensure the Town is able to recruit and retain qualified candidates and employees.

h) The Personnel Board will support the Town Manager, or their designee(s), in identifying internal or external trends in recruitment and retention of Town employees and provide recommendations for to ensure the Town's workforce is diverse, equitable and inclusive.

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SECTION	PERSONNEL BYLAW TABLE OF CONTENTS	Corresponding Town Personnel Policy & Procedure
	Definitions.	n/a
Section 1.	**Purpose and Application of Bylaw**	n/a
Section 2.	**Personnel Board**	n/a
Section 3.	**Personnel Policies and Procedures**	n/a
Section 4.	**Employment Status**	Does not appear to have a PPP or APP for employment status. Bylaw defines Regular, Full time Part-time status, as well as Limited Stauts and Temporary. Recommendation to create PPP for these definitions.
Section 5.	**Classification Plan**	n/a
5.1	Definition and Authority	n/a
5.2	Job Descriptions	n/a
5.3	Allocation of Positions to Classifications	n/a
5.4	Periodic Review of the Classification Plan	n/a
Section 6.	**Compensation Plan**	n/a
6.1	Definition and Authority	n/a
6.2	Amendments to the Compensation Plan	n/a
6.3	Periodic Review of the Compensation Plan	n/a
Section 7.	**Salary Schedules for**	n/a
	Temporary and Limited Status Positions	n/a
Section 8.	**In-Training Status**	Does not appear to have a PPP or APP for employment status, so this would need to remain in Bylaw or PPP should be created.
Section 9.	**Hours of Work**	
9.1	Work Week	Does not appear to have a PPP defining work week/hours of operations but is mentioned in PPP#9.2 OT Admin
9.2	Overtime	PPP # 9.2 - Administration of Overtime - states "The purpose of this document is to establish poicies and procedures for the administration of Section 9/2 of the Personnel Bylaws.."
9.3	Non-contiguous Work	PPP #9.2 - Administration of OT see section on Call-Back Pay
Section 10.	**Pay Policies**	
10.1	Appointment Rates	Doesn't appear to have a corresponding PPP for acting pay
10.2	Increases Within the Salary Ranges	PPP #10.2- references Section 10.2 and 10.3 of Bylaw
10.3	Incentives and Reward	PPP #10.2- references Section 10.2 and 10.3 of Bylaw
10.4	Reclassifications	Doesn't appear to have a corresponding PPP for acting pay
10.5	Acting Pay	Doesn't appear to have a corresponding PPP for acting pay
10.6	Longevity Pay	PPP #10.6 - Longevity Pay references Section 10.6 of bylaw
10.7	Other Special Pays	PPP #10.7-1 - Stand-By Pay references Section 10.7; PPP #10.7-2 - Uniform Pay - Ref Section 10.7, Second Paragraph;
10.8	Workers Compensation	Doesn't appear to have a PPP, but there are injury forms for submitting for Workers' Comp on HR website
Section 11.	**Sick Leave**	PPP #11 - references Section 11 of bylaw for Accrual, Use and Payoff. There is a handwritten note in PPP stating Bylaw was amended to allow sick use for medical appointments, but policy wasn't updated.
11.1	Accrual	PPP #11
11.2	Use	PPP #11 and PPP#11.2-1 provides definition of Immediate Family Member for Sick Leave Use
11.3	Sick Leave Payoff	PPP #11
Section 12.	**Holidays**	PPP #12 for administration of holidays and holidays worked
12.1	Holiday Leave	PPP #12
12.2	Holidays Worked	PPP #12
Section 13.	**Vacation Leave**	PPP #13 references bylaw for Accrual, max accrual and payout
13.1	Accrual	PPP#13
13.2	Maximum Vacation Accrual	PPP#13
13.3	Payoff of Vacation	PPP#13

Section 14. **Bereavement Leave**	PPP #14-1 - Definition of Immediate Family Member; PPP #14-2 - Fourth Day of Bereavement Leave - Town PPPs point toS Section 14 of the Personnel Bylaw to define Bereavement Leave. PPP does not explicitly give up to 5 days of leave, and appears to give only 3 days, and an employee may request a 4th day.
Section 15. **Personal Leave**	PPP #15 refrences bylaw
Section 16. **Military Leave**	APP #53 - Pay for Employees Activated for Military Duty. Also listed on Town HR website under Time off & Leave Laws
Section 17. **Jury Duty**	Does not appear to have a PPP or APP, but is listed on Town HR website under Time Off & Employment Leave Laws
Section 18. **Unpaid Leaves of Absence**	PPP # 18 references Blyaw for Sections 18.1, 18.2 and 18.3
18.1 Family & Medical Leave	FMLA is also on the HR website under Time Off & Employment Leave Laws (link above)
18.2 Other Leaves of Absence	PPP #18
18.3 Accruals During Leaves	PPP #18
Section 19. **Interruption of Employment**	Doesn't appear to have a PPP
Section 20. **Leave for Temporary & Limited-Status Employees**	PPP #20 - Leave Benefits for Childcare Services Employees references Bylaw

TOWN OF CONCORD
MASSACHUSETTS

FINANCE COMMITTEE BYLAW

Section 1.

At the annual Town Meeting to be held in the year 1922 and before the final adjournment thereof, there shall be appointed by the Moderator a Finance committee consisting of fifteen members. Five members of such committee shall be appointed to serve for a term of three years; and five members shall be appointed to serve for a term of two years; and five members shall be appointed to serve for a term of one year. At each annual Town Meeting after the annual meeting of the year 1922, the Moderator shall appoint five members of such committee to serve for a period of three years. Except in case of death, resignation or removal from office, each member of the committee shall hold office until the final adjournment of the annual Town Meeting of the year in which his term of office expires. Said committee shall at all times consist of fifteen members, and vacancies occurring therein, otherwise than by expiration of the term of office, shall be filled by the Town Moderator. No member of such committee shall be an officer of the Town or a member of any board of the Town.

Section 2.

The Finance Committee shall meet and organize as soon as practicable each year after the final adjournment of the annual Town Meeting and at such organization meeting shall elect a chairman and a clerk.

Section 3.

When the warrant for a Town Meeting contains any article or articles under which an appropriation or expenditure of money or the disposition of any property of the Town may be made, the Finance Committee shall consider such article or articles after giving one or more public hearings thereon and shall report in print its recommendations to such Town Meeting. The recommendations of the Finance Committee concerning any articles in the warrant for an annual Town Meeting shall be printed and distributed to the voters of the Town not less than seven days before such meeting. The Finance Committee may consider and report upon any other article in any warrant issued for a Town Meeting whenever in the opinion of a majority of the committee such consideration and report seem advisable for the best interests of the Town. The Finance Committee may carry on its inquiries and investigations through such sub-committees as it may create and the committee shall determine the method by which such sub-committee shall be selected.

Article 8, Town Meeting, March 1921
MGL, Ch. 39, §16
Administrative Code, 5/11/1970
Charter, §2C

TOWN OF CONCORD
MASSACHUSETTS

PLANNING BOARD BYLAWS

1932 PLANNING BOARD BYLAW

Voted: That the following bylaw relating to the duties and conduct of the Planning Board be and hereby is adopted.

Section 1.
The Planning Board shall consist of six members. The terms of the members shall be three years, but at the annual Town Meeting to be held in the year 1933, there shall be elected two members to serve for one year, two members to serve for two years, and two members to serve for three years; and thereafter, there shall be elected at the annual Town Meeting in each year such members as are necessary to fill vacancies.

Section 2.
Vacancies otherwise occurring in the board shall be filled as provided in M.G.L. Chapter 4, §11.

Section 3.
The Planning Board shall have access to public documents and information in the possession of any Town official or department.

Section 4.
All plans for laying out, extending, discontinuing, or changing the limits of any playground or public park, and every purchase of land for the site of any public building, and all plans for the location, erection, or alteration of public buildings, shall be submitted to said board for its opinion at least two weeks in advance of action by the board, department, or committee in charge of such work.

Section 5.
It shall be the duty of the Planning Board to investigate all petitions calling for a variation, modification, change, or extension of use under the Zoning Bylaw and to report its recommendations thereon to the Board of Selectmen, sitting as a Board of Appeals, at the public hearing held relating thereto. The Board of Selectmen shall cause the Planning Board to be notified of all such petitions when filed.

Section 6.
It shall be the duty of the Planning Board to conduct investigations respecting proposed amendments to the Zoning Bylaw appearing in the Warrant for any Town Meeting, and to present its recommendations to the Town for consideration at such Town Meeting. The Board of Selectmen shall cause the Planning Board to be notified of all such proposed amendments.

Article 17, Town Meeting, March 1932

1937 PLANNING BOARD BYLAW

Voted: To adopt the following bylaw.

Section 1.
A Planning Board is hereby established under the provisions of M.G.L. (Ter.Ed.) Chapter 41, §81A, as added by Chapter 211 of the Acts of 1936, to consist of five members to be elected by official ballot at the annual Town Meeting in the year 1938, one for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years and one for a term of five years and thereafter their successors one at the annual Town Meeting in each year for terms of five years each.

Section 2.
In addition to the powers and duties provided for by law, said board shall have all the powers and duties of the present Planning Board under existing bylaws of the Town.

Section 3.
The existing Board of Appeals under the building and zoning bylaws shall be the Board of Appeals required by §81Z of said Chapter 41.

Article 20, Town Meeting, March 1937
See also M.G.L. Chapter 41, §70

1947 PLANNING BOARD BYLAW AMENDMENT

Voted: That the membership of the Planning Board be increased from five to seven members, the two additional members to be elected at the next annual Town Meeting, one for a term of four years and one for a term of five years and thereafter their successors to be elected for terms of five years each.

Article 26, Town Meeting, March 1948
See also M.G.L. Chapter 41, §§71-81Y and M.G.L. Chapter 40A, §6

NOTE:
§2 of the Town Charter (accepted by the Town in 1955 and effective March 12, 1956) changed the Planning Board from elected to appointed by the Board of Selectmen.

TOWN OF CONCORD
MASSACHUSETTS

PUBLIC CEREMONIES & CELEBRATIONS COMMITTEE BYLAW

Section 1.

There is hereby established a Public Ceremonies and Celebrations Committee to be appointed by and responsible to the Board of Selectmen and whose powers, duties and responsibilities are as hereinafter provided.

Section 2.

Immediately following the effective date of this bylaw, the Board of Selectmen shall appoint a Public Ceremonies and Celebrations Committee consisting of seven (7) members. The initial terms of office of the aforedesignated committee members shall be for one, two, three, four and five years respectively as designated by said Board of Selectmen. Upon the expiration of each of the aforesaid terms, appointments to this committee shall each be for a term of five years. Members of this committee shall be registered voters of the Town of Concord and veterans as defined by §21 of Chapter 31 of the Massachusetts General Laws (Ter.Ed.) of the Commonwealth of Massachusetts. The committee shall have the power to fill vacancies in its own membership for the remainder of the calendar year then current at the expiration of which the Board of Selectmen shall fill the unexpired term, if any exists.

Article 39, Town Meeting, March 1952
Article 31, Town Meeting, April 1983

TOWN OF CONCORD
MASSACHUSETTS

RECREATION COMMISSION REVOLVING FUND

Voted: That the Town, acting under the provisions of Article II of the Amendments to the Constitution of the Commonwealth of Massachusetts, commonly called the Home Rule Amendment, adopt the following bylaw regarding a Recreation Commission revolving fund in the Town of Concord.

Section 1.

The Town of Concord hereby establishes in the Town Treasury an individual revolving fund (hereinafter called "Recreation Fund") for its Recreation Commission (hereinafter called "Commission"). All receipts of the commission from wholly or partially self-supporting recreation and park services of the Town shall be credited to the Recreation Fund. The Recreation Fund shall be kept separate from any other monies or funds of the Town, and shall be expended only for those purposes outlined below.

Section 2.

The money in the Recreation Fund will be used solely for the maintenance and support of recreation and park facilities and services of the Town, including purchase of equipment and salaries of employees.

Section 3.

Expenditure of money from the Recreation Fund may be made by the Town Manager without further appropriations. The Town Accountant shall submit annually a report of the Recreation Fund to the Selectmen, the Finance Committee, and the Recreation Commission.

Section 4.

Nothing in this bylaw shall prevent the Town from appropriating funds for purposes of public recreation or entertainment as now or hereafter authorized by law. Nothing in this bylaw shall prevent the Town from accepting gifts or grants of money or property for purposes of public recreation or entertainment.

Section 5.

This bylaw shall take effect upon its acceptance by a majority vote of the qualified voters of the Town present and voting thereon at the annual Town Meeting or any special Town Meeting called for the purpose. The receipts of the department for the year in which this bylaw is accepted will be retained by the department and will constitute the working capital to establish the fund. This bylaw supersedes any bylaw which is in conflict with it.

Article 3, Town Meeting, June 1979

GENERAL BYLAWS

OF THE

TOWN OF ACTON

TOWN OF ACTON, MASSACHUSETTS

CHAPTER K

PERSONNEL BYLAW

Effective July, 1985:

K1.1 Establishment and Duties of Personnel Board

A. Composition ***-*** *The Select Board will appoint a Personnel Board to be comprised of five (5) members and not more than three (3) alternates. Preferably three (3) of the regular members should have substantial experience in professional personnel management and/or industrial relations. Service on the Personnel Board is voluntary and without monetary compensation.*

B. Terms ***-*** *Each regular member shall be appointed for three (3) year over-lapping terms, except that in the first year of appointment, the Select Board shall appoint one member for a term of one (1) year; two members for terms of two (2) years; and two members for terms of three (3) years. Thereafter, each member will be appointed for a full three (3) year term. The alternate members will also be appointed for a three (3) year term. The Select Board shall organize each year after appointment or re-appointment of a regular member, and it shall elect a chairman, vice chairman and clerk for the ensuing year.*

C. Quorum ***-*** *At any regular or special meeting of the Personnel Board, it shall be necessary for three (3) members to be present and voting. Should a regular member not be available for any meeting, an alternate member will participate as a voting member in the proceedings as designated by the Chairman.*

D. Responsibility ***-*** *The Personnel Board shall be responsible to:*

1. *Provide advice and counsel to the Town Manager and the Select Board on personnel administration within the Town of Acton.*
2. *Assist the Town Manager and Select Board in the development and execution of Town personnel policies and procedures.*
3. *Serve as an advisory board to the Select Board on any appeal from the decision of the Town Manager in personnel matters.*
4. *Review the Personnel Administration Plan and recommend revisions to the Town Manager.*
5. *Maintain liaison with School personnel official with the objective of establishing and maintaining compatibility of School and Town personnel policies and procedures.*
6. *Maintain liaison with the Trustees of the Acton Memorial Library to assure compatibility in personnel practices and consistency in salary administration between library employees and other Town of Acton employees.*

K1.2 Procedures

The Personnel Board will establish its internal organization and will establish the procedures which it will follow in carrying out its responsibilities.

1. *Minutes of all Personnel Board meetings will be kept and retained on file in the office of the Town Manager.*
2. *Notice of Personnel Board Meetings will be posted in the Town Hall in accordance with the provisions of the Open Town Meeting Law.*
3. *Logistical support for the Personnel Board will be the responsibility of the Town Manager.*

K2. Duties of the Select Board and Town Manager

K2.1 Statement of Responsibility and Accountability

The Select Board have the overriding responsibility for personnel administration in the Town and are accountable to the Town for their performance on that responsibility. Any changes to the Personnel Administration Plan that have a financial impact on the Town shall be subject to the approval of the Select Board. Day to day personnel management is the responsibility of the Town Manager who is accountable to the Select Board for his/her performance.

A. ***Town Manager's Responsibility*** *- The Town Manager shall be responsible for preparing and adopting a personnel administration plan. The Town Manager is responsible for the impartial and equitable administration of the Personnel Administration Plan. The actual operations involved in administering the plan may be delegated to such staff assistant or staff assistants within the office of the Town Manager as deemed practical, including the wage and salary, and classification schedules.*

B. ***Appointing Authority*** *- The appointing authority for employees in the Town of Acton rests with the Town Manager except as otherwise provided in the Charter of the Town of Acton.*

C ***Personnel Administration Plan*** *- The Town Manager, or designated representative shall review the Personnel Administration Plan at least once each calendar year and may promulgate and publish amendments to the Personnel Administration Plan.*

K2.2 A. Employees Responsibility *- It shall be part of the responsibility of each employee to be thoroughly acquainted with the material contained in the Town of Acton Personnel Administration Plan and any of its subsequent revisions.*

K3. Classification Schedule

K3.1 Preparation and Maintenance of the Classification Schedule

The Town Manager, as part of the Personnel Administration Plan, will prepare and maintain a position classification schedule based on the Factor Evaluation System (FES) developed by the Federal Office of Personnel Management. The plan will include a written definition for each position in the Town service which describes the duties, authority and responsibilities characteristic of positions properly included in the class. All positions judged to be essentially equal although not necessarily involving the same duties, but have the same level of difficulty, responsibilities and overall value, will be grouped together in a class, with a minimum rate of pay, a maximum rate of pay and three (3) intermediate steps in between, with the exception of the cemetery employees and except as otherwise grouped in separate schedules. No employee may be appointed to a position not included in the classification plan approved by the Town Manager.

K4. Wage and Salary Schedule

K4.1

The Town Manager as part of the Personnel Administration Plan will prepare and administer the wage and salary schedule for town employees, subject to the appropriation of necessary funds by the Town. The Town Manager shall review all factors relevant to the maintenance of a sound compensation practices of public and private employers, the cost of living, and the ability of the Town to recruit and retain qualified personnel. The Town Manager will make revisions of the plan which are appropriate not only to accommodate such considerations but which are necessary because of the abolishment, modification or establishment of grades.

K5. Other Personnel Rules and Policies

K5.1

The Town Manager shall adopt and administer rules and policies governing hours of work, holiday and sick leave policies, fringe benefits and other matters relating to conditions of employment, compensation and benefits, and evaluation and conduct of Town employees, not inconsistent with statutes or the provisions of collective bargaining contracts.

K6. Appointments

K6.1 Equal Employment Opportunities

The Town of Acton has and will provide equal employment opportunities for all applicants. Every individual, regardless of race, creed, color, nationality, age, religion or sex, applying for employment in the Town will receive equal treatment. The Town's policy with respect to Equal Employment Opportunity is set forth in the Town of Acton Equal Employment Opportunity Affirmative Action Plan.

K6. Appointments - continued

K6.2 Criteria for Selection

The recruitment, selection, and promotion of employees will be based solely on job-related skills, knowledge, experience, education, as well as prior demonstrated performance, attitude, and adaptability as they relevantly indicate probable success in the job being filled. Factors are weighted as determined by the Town Manager. Town Employees, when fully qualified for a position, will be given preference with respect to any vacancies.

K6.3 Appointment

A. Method of Appointment *- All vacancies shall be filled by permanent appointment, provisional appointment, emergency appointment, temporary appointment, promotion, transfer or demotion. Appointment to a vacancy in the classified service shall be recommended by the department head from the qualified candidates and submitted to the Town Manager or appropriate Library Board of Trustees for final appointment.*

B. Final Approval *- The Town Manager or appropriate Library Board of Trustees will have final approval regarding starting salary, employment, transfer or promotion of any individual taking into consideration the recommendations of the department head, policies of the Town of Acton and applicable state and federal laws. The Town Manager will notify the department head and the individual to be employed, promoted or transferred of the starting salary and starting date. In the case of transfer or promotion, the Town Manager will communicate with all affected departments in an attempt to determine a mutually compatible starting date and prepare the necessary forms.*

K7. Employee Evaluation and Training

K7.1 Need for Evaluation System

The Town of Acton recognized the need for an operating employee evaluation system in order to (1) assure the granting of step increases based on merit, (2) fairly and accurately evaluate an employee's strength, weaknesses, and potential for growth, (3) encourage and guide the employee's development of special skills and work interests, and (4) provide a method for improving operational programs through employee input.

K7.2 Maintenance of the System

The Town Manager is responsible for the establishment of the employee evaluation and development system and for overseeing the program. Employee evaluation is the continuing day-to-day responsibility of the supervisors, who will prepare evaluation forms for their subordinates as scheduled below. The Town Manager's office will provide guidance to supervisors and will make revisions to the system as necessary.

K7. Employee Evaluation and Training - continued

K7.3 Training

It shall be the responsibility of the Town Manager to foster and promote employee training programs for improving the quality of personal services rendered to citizens and aiding employees to equip themselves for advancement in the service.

K8. Disciplinary Action and Appeals

K8.1

The Town Manager shall adopt and administer rules and regulations governing remedial and disciplinary actions for any violation of the provisions of the personnel plan or inefficiency or incompetence in the performance of an employee's duties. Such rules and regulations shall provide for the opportunity to resolve any disputes by agreement or negotiation between the employee and his or her immediate supervisor and shall provide a procedure for orderly appeals of all disciplinary actions or other grievances.

K8.2

Decisions of the Town Manager in regards to major adverse personnel actions, (such as lay off, suspension without pay, failure of promotion, demotion, or dismissal) may be appealed in writing by an employee to the Select Board within 15 days of the Town Manager's action. Upon receipt of any such appeal of an action by the Town Manager, the Select Board will normally refer the appeal to the Personnel Board and may, at the Select Board's discretion, either empower the Personnel Board to hear and finally decide the appeal or direct the Personnel Board to hear and report the facts and make its recommendations to the Select Board for that Board's final decision. In either case the employee's appeal shall be heard within 45 days and a decision rendered within 30 days of the close of the hearing.

GENERAL BYLAWS

OF THE

TOWN OF AMHERST

MASSACHUSETTS

Adopted: February 20, 2020
(Revised: August, 2023)

D. Each day on which any violation exists shall be deemed to be a separate offense.

2.3 – TOWN FEES AND CHARGES

The Town Clerk shall create and maintain a "Schedule of Fees and Charges" in which shall be set forth and published all fees collected by the Town, which schedule shall include (1) fees as are required by statute to be set from time to time by the Town Council or bylaw, and (2) other fees as the Town is otherwise authorized to establish and amend.

2.4 – PERSONNEL BYLAW

A. Name of Bylaw and Authority

This bylaw shall be known and cited as "The Personnel Bylaw", and is adopted pursuant to the provisions of M.G.L. c. 41, § 108-C, as amended, and consistent with the Charter.

B. Coverage

This bylaw shall be applicable to all persons in the service of the Town except officials elected by popular vote, the Town Manager, and persons under the direction and control of the School Committee. All persons covered hereby shall receive the rate of pay and be subject to the provisions set forth by the Town Manager on recommendation of the Personnel Board, subject to budgetary considerations and appropriation of funds. Nothing in this bylaw shall be construed to be in conflict with M.G.L. c. 31, relating to Civil Service, or with Chapter 1078 of the Acts of 1973 relating to Public Employee Collective Bargaining, which shall prevail if there is any conflict.

It shall be the policy of the Town of Amherst to guarantee equal opportunity to all qualified applicants and to all employees with respect to initial appointment, advancement, compensation, and general working conditions without regard to age, race, creed, color, sex, national origin, or physical condition.

C. Personnel Board and Town Manager

There shall be a Personnel Board consisting of 5 members, each member to serve for a 3-year term, expiring on June 30 of the third fiscal year after their appointment. No person in the employ of or holding an official position in the Town government shall be eligible for appointment to the Personnel Board.

Consistent with the authority of the Town Manager to make appointments to multiple member bodies as provided in Section 2.11(b) of the Town Charter, the Town Manager shall appoint the Personnel Board. The Town Manager is encouraged to seek 1 nominee for appointment from the employees covered by this bylaw and 1 nominee for appointment from

the Library Trustees. Members of the Personnel Board shall be residents of the Town of Amherst. The Personnel Board shall elect a Chair.

D. Classification of Positions and Pay Scales

The Town Manager shall, following consultation with the Personnel Board, classify all positions in the service of the Town and establish and periodically update, a compensation plan.

The classification plan shall be based on similarity of duties performed and the responsibilities assumed so that the same qualifications may be reasonably required for, and the same schedule of pay may be equitably applied to, all positions in the same classification.

In addition to changes to the classification plan initiated by the Town Manager or in such other manner as the Town Manager deems appropriate, the Personnel Board shall recommend changes to the classification plan to the Town Manager for the Town Manager's approval.

The compensation plan shall delineate the levels and steps at which employees shall be compensated for their services. With the exception of appointments made for emergencies, no employee may be appointed to a position not included in the classification plan.

E. Hours of Work

Procedures regarding the hours of work, compensatory time, and overtime shall be established by the Town Manager, following consultation with the Personnel Board.

F. Vacations

All employees covered by the bylaw shall be eligible for vacation according to procedures established by the Town Manager following consultation with the Personnel Board.

G. Sick Leave

Sick leave shall be granted to all benefited employees covered by this bylaw according to procedures established by the Town Manager following consultation with the Personnel Board.

H. Holidays

The Town Manager, following consultation with the Personnel Board, shall establish procedures for the granting of holidays to employees covered by this bylaw. The procedures shall delineate the process to compensate those employees required to work on holidays.

I. Other Leave

Procedures for the granting of other leaves shall be established by the Town Manager, following consultation with the Personnel Board in compliance with federal and Commonwealth regulations. Examples of other leaves include leave for jury service, military leave, family and medical issues, injury, religious observance, bereavement, personal, and leave without compensation.

J. Adoption and Amendment of Personnel Policies

The Town Manager shall accept from any member of the Personnel Board, employee, or resident of Amherst, proposals for adoption or amendment of personnel policies or procedures, and shall forward the same to the Personnel Board for its review. The Personnel Board shall, within 60 days of receipt, consider the proposed policies or procedures and make a recommendation to the Town Manager concerning the proposal including the full text, an explanation, and the anticipated implications, financial or otherwise; provided, however, that failure of the Personnel Board to review the policies or procedures during that period, or a negative recommendation, shall not prohibit the Town Manager from acting thereon after the expiration of the 60-day period.

Policies and procedures, and amendments thereto, approved hereunder shall become effective upon the approval of the Town Manager, unless a later date is specified by the Town Manager. Following the approval of any policies or procedures the Town Manager shall act forthwith to make such updated policies or procedures available to Town employees and the public.

K. Annual Report

The Town Manager shall provide an annual, detailed report to the Town Council concerning any action taken under this bylaw. The report shall include any approved changes in any of the plans or policies addressed herein.

Chapter 106

OFFICERS, BOARDS AND COMMITTEES

§ 106-1.	Finance Committee.	§ 106-6.	Revocation of appointment.
§ 106-2.	Personnel Board.	§ 106-7.	Agricultural Commission.
§ 106-3.	Treasurer-Collector.	§ 106-8.	Prohibition of meetings during elections.
§ 106-4.	Contracts.		
§ 106-5.	Agent for suits.		

[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 10-15-1990 by Art. 19. Amendments noted where applicable.]

GENERAL REFERENCES

Code of Ethics — See Ch. 29.

§ 106-1. Finance Committee.

The Town Moderator shall appoint a Finance Committee which shall be composed of seven members, each of whom shall serve for a term of not more than three years from the date of appointment.

§ 106-2. Personnel Board.

A. There shall be a Personnel Board consisting of five members, four of whom shall be known as "public members" and shall be appointed by the Select Board. In the beginning, two of these shall be appointed for a term of one year and two shall be appointed for a term of two years. Thereafter, each public member shall be appointed for a term of two years. Each term shall expire at the end of the appropriate fiscal year. **[Amended 5-3-2007 ATM by Art. 16; 6-17-2021 ATM by Art. 29]**

B. The fifth member, to be known as the "personnel member," shall be elected by town employees who are subject to the personnel system and whose names appear on the town payroll list for the Wednesday prior to the election or who otherwise are identified as eligible voters. Each voter must be 18 years of age or over on the day of the election. The term of office shall be for two years and shall expire on July 1 of each odd-numbered year. The election of the personnel member shall be secret and shall be supervised by a board of three election officers appointed by the Town Manager. The election shall be held in June to be effective in July. Special elections shall be held to fill the unexpired term of a personnel member who resigns before the term has expired. All elections shall be held between the hours of 10:00 a.m. and 3:00 p.m. on a weekday selected by the above-mentioned board of three election officers. Each permanent full-time employee or part-time regular employee with a work schedule of 20 or more hours per week will be granted one vote. All other eligible voters will be granted 1/2 vote each.

C. At the first meeting of each fiscal year at which all Personnel Board members are present,

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a Chairperson of the Personnel Board shall be elected by a majority vote.

D. All members of the Personnel Board shall be registered voters of the Town of Chelmsford.

E. No public member of the Personnel Board shall be an employee of the town or hold office, whether appointed or elected. The personnel member of the Personnel Board shall not be an elected official or appointed department head but may otherwise be an employee who is subject to this section.

F. Members of the Personnel Board shall serve without compensation.

G. The Personnel Board shall meet regularly as necessary to consider such business as may be presented by town officials, town employees or others.

H. At any meeting of the Personnel Board, action by a majority of those Board members shall be binding upon the Personnel Board. At least three members of the Board shall be present in order to constitute a legal meeting.

§ 106-3. Treasurer-Collector. [Amended 10-21-1999 ATM by Art. 31]

The collector of taxes shall be the Town Treasurer-Collector. The Town Treasurer-Collector, within the time limits prescribed by law for the collection of accounts due the town, shall collect all accounts due the town, except those set forth in MGL c. 41, § 38A, as amended. Said Town Treasurer-Collector may settle and adjust any such accounts upon such terms as he or she thinks for the best interests of the town, or he or she may cause legal proceedings to be commenced in his or her name as Town Treasurer-Collector for the collection of any such accounts and may employ counsel for that purpose. The costs of said legal proceedings, including counsel fees, shall be charged to and paid by the Treasurer-Collector from the Treasurer-Collector's expense account. All bills for accounts due the town shall state that all checks, drafts or money orders shall be made payable to or to the order of the Town of Chelmsford.

§ 106-4. Contracts. [Amended 10-17-2005 ATM by Art. 26]

A. No officer or board of the town shall make any contract on behalf of the town in which such officer or any member of such board is directly or indirectly financially interested, except by competitive contracts.

B. Any Town officer or board authorized by the General Laws or the Town Charter or bylaws to enter into contracts for the procurement of goods or services is hereby authorized, pursuant to MGL c. 30B, § 12, to enter into such contracts for terms not to exceed five years, unless a longer term is specifically authorized by a vote of Town Meeting.

§ 106-5. Agent for suits. [Amended 6-17-2021 ATM by Art. 29]

The Select Board is authorized to act as agent of the town in any suit or suits which may arise, with authority to settle and adjust claims or demands for or against the town and to employ counsel whenever in its judgment it is necessary.

§ 106-6. Revocation of appointment.

A. Whenever an appointment to an uncompensated town office is revoked, the appointing authority shall cause a written notice of that action, along with a statement of the specific

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reason or reasons therefor, to be sent within 48 hours by registered mail to the affected individual at his or her last known address.

B. This requirement shall apply to revocation only and not to a decision against reappointment at the expiration of a fixed term.

§ 106-7. Agricultural Commission. [Added 4-27-2009 ATM by Art. 18]

A. There shall be an Agricultural Commission to represent the Chelmsford farming community and related interests. Said Commission shall serve as facilitators for encouraging the pursuit or agriculture in Chelmsford. and shall promote agricultural-based economic opportunities in Town.

B. Said Commission, once appointed, shall develop a work plan to guide its activities. Such activities include, but are not limited to, the following:

(1) Serve as facilitators for encouraging the pursuit of agriculture in Chelmsford;

(2) Promote agricultural-based economic opportunities in Town;

(3) Act as mediators, advocates, educators, and/or negotiators on farming issues;

(4) Work for the preservation of prime agricultural lands; and

(5) Pursue all initiatives appropriate to creating a sustainable agricultural community.

C. The duties and responsibilities of the Commission shall include, but not be limited to:

(1) Advising the Town Manager in matters related to the care and usage of Town-owned agricultural properties.

(2) Advising the Select Board, Planning Board, Zoning Board of Appeals, Conservation Commission, Board of Health, and other local organizations, on projects and activities, including acquisitions and other transactions, involving agricultural lands in Town. **[Amended 6-17-2021 ATM by Art. 29]**

(3) Engaging in projects and activities to promote the business of farming activities and traditions and farmland protection in Town, including programs and community events.

D. The Commission shall consist of five members appointed by the Select Board. In the beginning, two members shall be appointed for a term of three years, two members shall be appointed for a term of two years, and one member shall be appointed for a term of one year. Thereafter, each member shall be appointed for a term of three years. Each term shall expire at the end of the appropriate fiscal year. **[Amended 6-17-2021 ATM by Art. 29]**

§ 106-8. Prohibition of meetings during elections. [Added 10-18-2021 ATM by Art. 21]

No multiple-member body of the Town shall conduct a meeting during the election hours of a municipal or state election that is occurring within the Town. For the purpose of this section, election hours of a municipal or state election shall include only the hours in which live voting is taking place on election day, and shall not count early voting prior to election day.

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{END OF CHAPTER}

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Chapter 70

PERSONNEL, WAGE AND SALARY ADMINISTRATION PLAN

§ 70-1. The Personnel, Wage and Salary Administration Plan.

[HISTORY: Adopted by the Town Meeting of the Town of Dedham as Ch. 14 of the 1996 By-laws; amended 11-18-2013 STM by Art. 16. Subsequent amendments noted where applicable.]

§ 70-1. The Personnel, Wage and Salary Administration Plan. [Amended 11-17-2014 ATM by Art. 18]

The Personnel, Wage and Salary Administration Plan shall be adopted and amended pursuant to the provisions of G.L. c.41, §§ 108A and 108C, as amended, and shall be kept on file in the offices of the Town Manager and Town Clerk.

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TOWN OF HOPKINTON

CHAPTER 33

PERSONNEL

§33-1. Applicability.
§33-2. Purposes.
§33-2. Personnel Board.
§33-4. Employee Handboo .
§33-5. Severability.

[HISTORY: Adopted by the Special Town Meeting of the Town of Hop inton 6-14-1962, Art. 2; Amended in its entirety 4-8-1985 ATM, Art. 2; 5-3-2010 ATM, Art 37 .]

GENERAL REFERENCES: Officers and employees -- See Ch. 28.
§ 33-1. Applicability. [Amended 10-3-2001 STM, Art. 5; 5-6-2002 ATM; Art. 3; 5-5-2003, ATM, Art. 3, 5-5-2008 ATM, Art. 3, 5-3-2010 ATM, Art. 37]

§ 33-1. Applicability. [Amended 05-05-2018 ATM, Art. 42]

This Chapter shall apply to all boards, committees, departments, divisions and offices of the Town of Hopkinton ("the Town") and to all employees in the service of the Town, including full-time, part-time, temporary, seasonal, special, intermittent, or other employees, but excluding: 1) employees of the School Department; 2) employees holding positions filled by popular election; and 3) employees covered by collective bargaining agreements with the Town; provided, however, that the provisions of this chapter shall be applicable to such employees insofar as the relevant collective bargaining agreement so provides.

The Town adheres to a policy of at-will employment, which permits the Town or an employee to terminate the employment relationship at any time, with or without cause**,** for any lawful reason. nless otherwise informed by a written contract, all Town employees are employees-at-will.

§ 33-2. Purposes.

The purposes of this Chapter are:

A. To establish fair and equitable personnel policies;

B. To establish a system of personnel administration based on merit principles that ensure a fair and efficient application of personnel policies;

C. To provide methods for the recruitment and retention of a work force that is skilled and effective in accomplishing the goals and objectives of the Town of Hopkinton; and

D. To ensure that personnel actions are made without regard to gender, race, color, religious creed, national origin, ancestry, sexual orientation, genetic information, age as defined by law, handicap, political affiliation or any other non-employment related factor and are instead based on merit alone.

§ 33-3. Personnel Board.

A. There shall be a Personnel Board consisting of five members appointed by the Board of Select Board.

B. The Personnel Board shall work with the Town Manager and the Human Resources Director to provide guidance, feedback and advice on matters regarding Town employees.

C. No member of the Personnel Board shall be a Town employee or an elected official of the Town. Each member of the Personnel Board shall be a resident of the Town and shall serve without compensation. Each member of the Personnel Board shall serve for a term of three (3) years beginning on the July 1 following the expiration of the previous term. Each member shall hold office until his/her successor is appointed in the manner provided herein.

D. Members of the Personnel Board serving upon the effective date of this Chapter shall serve until the expiration of their respective terms. Upon the expiration of such terms, the Select Board shall appoint members for successive three-year terms.

E. If any member shall resign or otherwise vacate his/her office, a successor shall be appointed forthwith by the Select Board to fill the remainder of the unexpired term.

F. The Personnel Board shall organize annually, as soon as possible after July 1 of each year, at the call of the then Chair or, lacking a Chair, any member of the Board, and shall elect a Chair from among its members. The Chair shall hold office until his/her respective successor has been elected. In the event a vacancy occurs in the office of the Chair, the Personnel Board shall elect a successor Chair to serve until the next organizational meeting of the Personnel Board or until his/her successor has been elected.

G. The Personnel Board may make an annual report to the Town, including recommendations on any matters related to the administration of personnel.

H. The Personnel Board shall endeavor to meet annually with all department heads, the Select Board and the Chair of the Appropriation Committee.

I. The Personnel Board shall meet with the Town Manager, or his/her designee, monthly.

§ 33-4: Employee Handbook.

A. All Town Agencies and employees to which this Chapter applies shall be subject to policies and procedures set forth in an Employee Handbook. The Employee Handbook shall contain all personnel and employment policies and procedures including, but not limited to, a Salary Administration Plan, and provisions covering vacation leave, sick leave, personal leave, holidays, and performance evaluations.

B. The Employee Handbook, including the Salary Administration Plan, shall be written and amended by the Town Manager, or his/her designee. The initial Employee Handbook and any amendments thereto shall not take effect sooner than thirty (30) days after the Town Manager has submitted a proposed Employee Handbook or proposed amendments to the Personnel Board for advice and recommendations. The Town Manager, or his/her designee, shall review the Employee Handbook not less than once every two years.

§ 33-5 Severability.

In the event that any provision of this Chapter, or application thereof, is for any reason held to be invalid or unenforceable by any reviewing agency or court of competent jurisdiction, such invalidity or enforceability shall be construed as narrowly as possible and the balance of this Chapter shall be deemed to be amended to the minimum extent necessary so as to serve the purposes hereof.

TOWN OF LYNNFIELD

Chapter 62

PERSONNEL BYLAWS

October, 2017

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ARTICLE I
Purpose and Policies

§ 62-1. Purpose and intent.

A. It is the purpose of this bylaw to provide to all covered employees the policies and procedures for assuring maintenance of an equitable personnel management system in the Town of Lynnfield. The policies and procedures for personnel administration set forth herein have, as their purpose, to promote the efficiency and economy of government; to ensure that the quality of services offered to the taxpayers is enhanced; to promote the morale and well-being of Town employees; and to promote equal employment opportunity for all employees and candidates for employment, thereby avoiding employment litigation.

B. The personnel policies are based on the following principles:

(1) Recruiting, selecting, and developing employees on the basis of their abilities, knowledge, and skills.

(2) Providing equitable compensation.

(3) Training employees as needed to assure high-quality performance in delivering quality services to the public.

(4) Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose performance does not adequately improve.

(5) Assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, age, sex, sexual preference, creed, handicap, disability, or any other non-merit factor, except where such factor is a bona fide occupational requirement, and with proper regard for their privacy and constitutional rights as citizens; prohibiting discrimination against any person on the basis of such non-merit factors.

(6) Assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for any purpose other than those duties and responsibilities directly associated with their positions in Town government.

ARTICLE II
Equal Employment Opportunity

§ 62-2. Discrimination prohibited.

Discrimination against any person in recruitment, examination, appointment, training, promotion, retention or any other personnel action because of political affiliation, race, creed, color, national origin, age, sex, sexual preference, handicap, disability, or any other non-merit factor will be prohibited except where such factor is a bona fide occupational requirement. Any employee who feels aggrieved may process an appeal in accordance with the grievance procedure at Article XVIII within.

ARTICLE III
Applicability

§ 62-3. Covered positions.

This bylaw applies to all current Town positions (excluding positions in the Lynnfield Public Schools) that are not covered by a collective bargaining agreement as well as all such positions established hereafter. These include Department heads, their manager level and administrative staff, Employees of the Council on Aging as well as the Town's golf course. (See Appendix A, as amended). While positions covered by a collective bargaining agreement are not directly covered by this bylaw, the recruitment and selection of employees (Article XIV) impacts those positions as those articles direct department heads in the hiring and disciplinary processes.

§ 62-4. Authority of Selectmen.

These policies shall serve as a guide to the administration of a personnel system of the Town of Lynnfield in keeping with basic merit principles. The policies are not all-inclusive; notwithstanding anything in this bylaw to the contrary, final discretion as to interpretation and as to the appropriate course of action concerning a particular personnel matter shall vest with the Board of Selectmen. The Board of Selectmen may, where appropriate, vote to provide benefits to an employee or employees that are greater or lesser than those provided in this bylaw. Unless otherwise authorized by vote of the Board of Selectmen, department heads shall adhere to the provisions of this bylaw in the provision of benefits to employees in their departments. Failure to comply with the provisions of the bylaw will be cause for appropriate corrective action.

ARTICLE IV
Definitions

§ 62-5. Terms defined.

As used in this bylaw, the following words and phrases shall have the following meanings unless a different construction is clearly required by the context or by the laws of the commonwealth.

APPOINTMENT — The placement of a person in a position.

CIVIL SERVICE LAW — Chapter 31 of the General Laws of the Commonwealth, as said chapter and said rules and regulations may be amended from time to time.

CLASSIFICATION — A group of positions sufficiently similar in duties and responsibilities such that the same employment standards may be applied to all incumbents or applicants and the same pay grade may be applied.

CLASSIFICATION STUDY — The collection, analysis and evaluation of data by the Town to determine the proper value of a classification and/or the proper classification of an individual position.

COMPENSATION — The salary or wages earned by any employee by reason of service in the position, but does not include allowances for expenses authorized and incurred as incidents to employment.

COMPENSATION PLAN — A schedule of compensation for all pay grades in the classification plan, including any successive pay rate steps established for each grade. All positions allocated to one grade will be paid according to the salary range established for that grade.

CONTINUOUS EMPLOYMENT — Employment uninterrupted except for required military service, or other authorized leave of absence not to exceed one year.

DEPARTMENT — Any department, board, committee, commission, or other agency of the Town subject to this bylaw.

DEPARTMENT HEAD — The officer, board, or other body having immediate supervision and control of a department; in the instance of a department serving under the supervision and control of the Selectmen, the officer, board, or other body immediately responsible to the Board of Selectmen for the administration of the department.

EMERGENCY EMPLOYMENT or EMERGENCY APPOINTMENT — Employment or appointment made for a specified time without requisition to cover an unforeseen emergency; no such employment shall be for a period longer than three consecutive calendar months nor shall any person be employed on an emergency basis more than twice in any calendar year except by specific written permission of the Town Administrator.

EMPLOYMENT DATE — The date on which an employee commences performance of paid duties and is placed on the payroll.

FULL-TIME EMPLOYEE — An employee engaged for full-time employment.

FULL-TIME EMPLOYMENT — Employment for not less than 35 hours per week for 52 weeks per year, minus legal holidays and authorized leaves of absence.

JOB DESCRIPTION — The written description of a position, approved by the Town Administrator, including the title, a statement of the nature of the work, examples of duties

and responsibilities, and the minimum qualification requirements that are necessary for the satisfactory performance of the duties of the position.

LAYOFF — The separation of an employee because of lack of work or funds or other reasons not related to fault, delinquency, or misconduct on the part of the employee.

LEAVE OF ABSENCE WITH PAY — Any authorized leave with pay from scheduled work.

LEAVE OF ABSENCE WITHOUT PAY — Any authorized absence from scheduled work without pay.

ON-CALL — Available to be called back to work outside officially scheduled work hours. PART-TIME EMPLOYEE Any employee who is employed for less than full-time.

PART-TIME EMPLOYMENT — Any employment that is less than full-time employment. PAY GRADE — The pay range for a classification or classifications of positions.

PAY WEEK — Sunday through Saturday.

POSITION — A group of current duties and responsibilities assigned or delegated by appropriate authority to one person.

PROBATIONARY PERIOD — A working test period, following an appointment, during which an employee is required to demonstrate, by conduct and actual performance of the duties, fitness for the position to which appointed.

PROMOTION — The movement of an employee from a position in one pay grade to a position in another pay grade with a higher maximum pay rate.

RECLASSIFICATION — The assignment of a position to a classification different from the one to which it was previously assigned.

REGULAR EMPLOYEE —

A. Any employee retained on a continuing basis in a regular position as defined below; or

B. Any employee holding a permanent appointment under the Civil Service Law to a position deemed permanent within the meaning of said law.

REGULAR POSITION — Any position in the Town service which at the time of employment is intended by the Town to require the services of an employee without interruption, for an indefinite period of time, which shall in no event be less than one year, either on a full-time or part-time basis.

SEASONAL/CASUAL EMPLOYMENT — Employment limited to particular seasons of the year (e.g., summer recreation and Public Works seasonal workers).

SENIORITY — An employee's uninterrupted, continuous length of service as a permanent employee with the Town.

STEP INCREASE — An increase in pay from one step to a higher step in the pay range of a pay grade.

TEMPORARY EMPLOYEE —

A. An employee retained in a temporary position as defined below; or

B. Any employee holding a temporary appointment under the Civil Service Law who does not also have permanent status thereunder or under this bylaw.

TEMPORARY POSITION — Any position in the Town service which at the time of employment is intended by the Town to require the services of an employee for a fixed term of less than one year.

TOWN — The Town of Lynnfield.

TRANSFER — The movement of an employee from one position to another position within the same classification.

ARTICLE V
Personnel Board

§ 62-6. Membership, appointment and terms.

The Personnel Board shall consist of five members who shall be appointed by the Board of Selectmen and shall serve without pay; the original appointees shall be appointed for the following terms of office: two for three years, two for two years and one for one year. No regular employee or elected or appointed official of the Town shall be eligible for appointment to the Board. Except as provided in the next section, the term of each appointee shall commence on the first day of July in each year and as the terms of the respective members expire, the Board of Selectmen shall make appointments to fill the vacancies. Except for the original appointees, all members shall be appointed for a term of three years.

§ 62-7. Vacancies.

If any member of the Personnel Board shall resign or otherwise vacate his/her office before the expiration of his/her term, the vacancy so created shall be filled by the Board of Selectmen in accordance with MGL c. 41, § 11. Each member of the Board shall serve until his/her successor has been appointed and qualified.

§ 62-8. Officers; meeting dates.

At the first meeting of each fiscal year, the Personnel Board shall meet and organize and elect its own Chairman and Vice Chairman and appoint a regular monthly meeting date and shall notify the Board of Selectmen, Town Accountant and Town Clerk of the results of said election.

§ 62-9. Clerk; expenses.

The Board shall be authorized to obtain the services of a Clerk, with the approval of the Town Administrator who shall keep a record of its official proceedings and actions. The Board, subject to the appropriation therefor, may make such expenditures as may be necessary or appropriate for the performance of its duties.

§ 62-10. Regular and special meetings.

The Personnel Board shall meet regularly (once a month in at least 10 months of every year) for the transaction of business under this bylaw, and it shall hold such special meetings as may be called by the Chairman, or directed by vote of the Board.

§ 62-11. Quorum.

A majority of the total membership of the Board shall constitute a quorum for the transaction of the business of the Board, and the vote of a majority of the members attending and voting shall be necessary for any official act of the Board.

§ 62-12. Office space.

The Selectmen shall furnish the Personnel Board with such meeting space as it may require for the performance of its duties. Such meeting space can be comprised of any available meeting room that is available temporarily during PB meeting times.

§ 62-13. Advisory capacity.

The Board may serve in an advisory capacity to the Town Administrator in all matters relating to salary, rate or classification changes for any position subject to this bylaw and other such matters as the Town Administrator may decide.

§ 62-14. Budget.

During the budget cycle of each year, the Personnel Board Chairperson and the Finance Committee shall meet jointly to review the financial effects of the recommendations of the Personnel Board budget, if requested.

§ 62-15. Publication of recommendations.

The recommendations of the Personnel Board shall be provided to the Town Administrator for his/her guidance.

ARTICLE VI
Role of Town Administrator

§ 62-16. Administrator responsibilities.

The Town Charter delegates the day-to-day administration of the Town's personnel operations to the Town Administrator. Among the responsibilities of the Town Administrator under this bylaw are the following:

A. Administration of the Classification and Pay Plan, including a continuing analysis and evaluation of the jobs and positions subject to this bylaw.

B. Maintenance of a salary and rate structure schedule for the Town.

C. Maintenance of formal job descriptions for the positions subject to this bylaw.

D. Coordination of the recruitment, testing, selection, and hiring of all employees.

E. Enforcement of policies and procedures for personnel administration.

F. Maintenance of personnel systems, forms and procedures.

G. Review and approval of appointments, promotions, demotions, discipline, and other actions in accordance with the provisions of Articles XIV and XVII of this bylaw.

H. Responsibility for the orientation, training, supervision, performance review and career development of all directly reporting department heads.

I. Coordination of employee orientation, training, counseling, and career development in conjunction with department managers.

J. In conjunction with the Board of Selectmen and the Personnel Board, administration of these personnel policies.

K. Performance of any other lawful acts which are necessary to carry out the provisions of this bylaw.

ARTICLE VII
Role of Department Heads

§ 62-17. Department head responsibilities.

Department heads shall have responsibility to select, retain, transfer, and promote personnel in accordance with established Town policies. They are expected to effectively supervise their employees, evaluate performance of their subordinates, notify the Town Administrator of changes in duties of their employees in order that the classification plan will be maintained, and recommend salary increases, which will be acted upon by the Town Administrator.

§ 62-18. Pay adjustments for budget purposes.

At the direction of the Town Administrator, each department head shall include in the regular annual department budget a pay adjustment section, setting forth the name of each employee, any recommended change in step or grade, the reasons therefor, and the amounts which he/ she believes will be required for proposed pay adjustments in accordance with the resulting compensation scale during the ensuing year.

ARTICLE VIII
Employment, Promotion and Transfer of Non-Civil Service Personnel

§ 62-19. Procedural requirements.

The following provisions shall apply to the employment, promotion, and transfer of Town personnel not subject to the provisions of the Civil Service Law, who shall be regulated as follows:

A. No employment in or transfer to a paid appointive position in the Town service shall take effect until the same has been presented by the appropriate department head to the Town Administrator for analysis for determination of compliance with the requirements of the Classification Plan, Compensation Plan and other provisions of this bylaw; and if such employment or transfer is in compliance as aforesaid, the Town Administrator shall approve the same in writing and may make such approval retroactive when necessary.

B. No proposed promotion to a position subject to this bylaw or raise in compensation shall be acted upon by the Town Administrator until it shall first have been submitted to the elected or appointed officer or board having the supervision and control of the department in which the employee is employed.

ARTICLE IX
Classification Plan

§ 62-20. New or changed positions.

All positions subject to this bylaw shall be assigned to a classification. Each classification shall, in turn, be allocated to a pay grade. When a new position is proposed, the applicable department head shall file with the Town Administrator a written request for classification of that position. When a position has changed substantially as to the kind and/or level of work, the department head may file with the Town Administrator a request for (or, alternatively, the Town Administrator may initiate the process for) a classification change. In either event, the request shall be accompanied by a proposed job description for the position. The Town Administrator shall evaluate the position and shall make a decision concerning the appropriate classification of the position. The Town Administrator's decision shall be accompanied by documentation substantiating the decision and, with respect to reclassification requests, shall include an analysis of the changes to the position.

ARTICLE X
Compensation Plan

§ 62-21. Maintenance of plan.

The Town Administrator shall maintain a uniform and equitable pay plan which shall consist of minimum and maximum rates of pay for each pay grade as well as such intermediate steps between the minimum and maximum rates as are deemed appropriate. The Town Administrator shall periodically prepare an analysis of prevailing rates of pay for positions comparable to those covered by this bylaw.

§ 62-22. Hiring rates.

An employee hired by the Town will normally be placed at the minimum step of the pay grade to which his/her position is assigned. However, in instances in which it proves difficult to hire a qualified applicant at the minimum rate, the employee may be hired at a higher step of the pay grade, provided that the department head documents the efforts made to hire a candidate at the minimum rate and submits such documentation to the Town Administrator for review and approval.

§ 62-23. Step increases.

A. Step increases within an established pay grade are not automatic but require certification by the employee's department head that the employee is performing at an acceptable level of competence, as demonstrated in the performance evaluation system. More particularly, no employee will receive a step increase unless he/she has received an overall written evaluation of at least "Satisfactory" in his/her annual evaluation. All employees shall receive written evaluations by June of each year. Step increases based on a satisfactory evaluation shall be effective July 1.

B. Employees hired between July 1 and December 31 will be evaluated in May or June of following year and eligible for a step increase July 1; employees hired between January 1 and June 30 will not be eligible for a step increase until July 1 of the next calendar year.

C. Employees promoted will be eligible for consideration for a step increase (based on "Satisfactory" evaluation or better) the following July 1.

D. An employee who is on an unpaid leave of absence (or is otherwise not in pay status) for more than six months during the preceding fiscal year (July 1 through June 30) shall not be eligible for a step increase on July 1 but shall, instead, be required to wait until the following July 1 to receive a step increase.

§ 62-24. Promotions.

Upon promotion to a position with a higher pay grade, the employee shall be placed at the step of that grade that is closest to (but higher than) the rate at which the employee was being paid prior to the promotion.

ARTICLE XI
Probationary Period

§ 62-25. Purpose.

The probationary period provides the department head with an opportunity to observe and evaluate an employee's initial fitness for a position.

§ 62-26. Effect of probationary status on grievance procedure.

While all employees covered by this bylaw are "at will" employees who may terminate their employment or be terminated from their employment at any time and for any legal cause, any employee who has completed his/her probationary period may challenge the employee's termination through the grievance procedure provided at Article XVIII herein. A probationary employee, on the other hand, may, during the probationary period, be removed from his/her position at any time without recourse to the grievance procedure.

§ 62-27. Term for new hires.

The probationary period for a new hire shall extend for six months from his/her first day of employment with the Town.

§ 62-28. Promoted employees.

An employee who is promoted to a new position shall also serve a probationary period. This probationary period shall extend for three months from the first day that he/she is compensated at the higher pay grade. An employee who is removed from his/her promotional position during the probationary period will, if feasible, be returned to the position that he/she occupied prior to taking the promotional position. However, if that previous position has been filled or if the Town has decided not to fill the previous position, the employee will be offered any vacant position within the department for which he/she is qualified or will be placed on a preferential hiring list for any vacancies for which he/she is qualified that occur within 24 months of his/her removal from the promotional position.

§ 62-29. Completion of probationary period.

When an employee completes the applicable probationary period, the department head will be required to provide the Town Administrator with written certification of satisfactory performance by the employee during that period.

ARTICLE XII
Performance Evaluation System

§ 62-30. Annual written evaluations.

All employees covered by this bylaw shall be subject to annual written evaluation. Each employee will be evaluated by his/her department head in May or June of each fiscal year.

§ 62-31. Evaluation forms.

The Town Administrator will be responsible for providing standardized evaluation forms for use by the various department heads. These forms will provide for analysis of employee performance in relevant performance categories as well as an overall performance category. The annual appraisal is the summary of the supervisor's observations of the employee during the past year and a summary of the employee's performance in terms of a variety of job-related factors. The appraisal will also include a plan to develop strengths and identify and improve weak areas.

§ 62-32. Evaluation process.

During the applicable time frame for evaluation, the department head shall meet with the employee to review the written evaluation form that has previously been prepared by the department head. The department head and the employee will discuss areas in which the employee's performance could be improved, and will discuss any concerns with the evaluation that the employee may have. If both the department manager and employee have agreed to changes to the evaluation, the department manager will make the agreed-to changes and again meet with the employee to review the evaluation. Once finalized, the employee shall sign the evaluation form on the appropriate line signifying agreement or disagreement with the final evaluation. The employee may prepare a written rebuttal to any provisions of the evaluation with which the employee disagrees. The written rebuttal should be submitted to the Town Administrator, with a copy to the department head. The Town Administrator shall attach the written rebuttal to the evaluation form and the rebuttal, like the evaluation form, will become part of the employee's permanent personnel record.

ARTICLE XIII
Conditions of Employment

§ 62-33. Hours of work.

The regular workweek for full-time employees covered by this bylaw shall be 40 hours or such lesser number of hours as is set by the employee's department head with the written approval of the Town Administrator. In no event, however, shall the regular workweek for a full-time position be less than 35 hours. The actual hours to be worked by employees shall be scheduled by the applicable department head.

§ 62-34. Overtime.

An employee who is not exempt from the provisions of the Fair Labor Standards Act will be compensated at a rate of 1 1/2 times his/her regular hourly rate for all hours worked in excess of 40 during a payroll week or eight in a day. Hours of paid leave taken during a week other than paid sick leave shall be considered as "hours worked" in determining whether an employee is eligible for overtime compensation for that week. No employee shall be permitted to work beyond his/her regular work hours without the explicit authorization of his/her department head.

§ 62-35. Insurance benefits.

A. Health insurance. Any employee who receives compensation from the Town for his/her services and who regularly works no less than 20 hours per week for the Town may participate in the Town's health insurance program. The Board of Selectmen is responsible for determining the health plans that will be offered as well as the contribution that will be paid by the Town toward the premium expense for such coverage. Details of the program may be obtained from the Treasurer.

B. Life insurance. Employees who are eligible for participation in the Town's health insurance program are also eligible for participation in the Town's life insurance program. Details of the program may be obtained from the Treasurer.

§ 62-36. Longevity.

A. Permanent full-time employees will be entitled to payments based on years of continuous full-time service with the Town, payable at the end of the first full pay period of each fiscal year, per the following schedule:

(1) Employees who have at least five years of employment at the commencement of the fiscal year, but less than 10 years, shall receive a payment of $550.

(2) Employees who have at least 10 years of employment at the commencement of the fiscal year, but less than 15 years, shall receive a payment of $625.

(3) Employees who have at least 15 years of employment at the commencement of the fiscal year, but less than 20 years, shall receive a payment of $675.

(4) Employees who have at least 20 years of employment at the commencement of the fiscal year, but less than 25 years, shall receive a payment of $725.

(5) Employees who have least 25 years of employment at the commencement of the fiscal year shall receive a payment of $775.

B. Permanent part-time employees who, on average, work 20 hours per week or more shall be eligible to receive longevity payments on a proportional basis as their average weekly hours compare to the number of hours in the full-time work week for the employee's position.

§ 62-37. Leave for full-time employees.

A. Vacation leave.

(1) All employees who have been employed for at least one full year of continuous full- time employment as of July 1 of any year, but less than five full years of continuous full-time employment, shall be entitled as of that July 1 to 10 working days of vacation with pay. An employee who has worked less than one year as of July 1 shall accrue 5.83 hours of vacation for each full month of service that he/she has completed as of July 1. Employees who have been employed for at least five full years of continuous full-time employment as of July 1 in any year, but less than 10 full years of continuous full-time employment, shall be entitled as of that July 1 to 15 days of vacation. Employees who have been employed for at least 10 full years of continuous full-time employment as of July 1 in any year, but less than 15 full years of continuous full-time employment, shall be entitled as of that July 1 to 20 days of vacation. Employees who have been employees for at least 15 full years of continuous full-time employment as of July 1 in any year, but less than 20 full years of continuous full-time employment, shall be entitled as of that July 1 to 20 days of vacation plus one additional day of vacation for each year through year 19. Employees with 20 years or more of continuous full-time employment as of July 1 in any year shall be entitled as of that July 1 to 25 days of vacation.

(2) Vacation time accrued as of July 1 of each year shall be taken in the twelve-month period thereafter, and will not be carried beyond June 30 of the following year without the written-approval of the Town Administrator.

(3) The department heads shall schedule all vacations at such time as will best serve the public interest, but the employee shall have the right to take his/her vacation between May 15 and September 15 of each year.

(4) Preference of vacation periods shall be given on the basis of seniority whenever possible, and shall be scheduled within departments as follows:

(a) Employees so entitled may take one day to 10 consecutive days of vacation.

(b) Selection of the 11th to 15th days of vacation shall be deferred until the initial ten-day selection of other employees.

(c) Selection of the 16th to 20th days of vacation shall be deferred until the initial ten-day selection and 11th to 15th day selection of other employees.

(5) Upon the death of an employee, payment shall be made in an amount equal to the vacation allowance earned as of the preceding July 1 and not taken, and a further allowance of one day for each month accrued since July 1, subject to the limitations of Subsection A(1) above. The department head, with the approval of the Town Accountant, will authorize payment in the following order of precedence:

(a) To the surviving beneficiary or beneficiaries, if any, lawfully designated under the Essex County Retirement System.

(b) If there be no such designated beneficiary, to the estate of the deceased.

(6) Persons who resign after giving two weeks' notice, or whose services are terminated by dismissal except for cause, shall be paid for vacation time accrued as of the date of resignation or dismissal. Persons who enter military service for a period of not less than six months shall be paid for accrued vacation.

(7) When a paid holiday occurs during an employee's vacation, he/she shall either receive holiday pay or shall be entitled to a day's vacation at a time approved by the appropriate department head.

(8) The Treasurer shall be notified by the department head of all leave taken on forms provided for such purpose.

B. Sick leave.

(1) Upon completion of 180 calendar days of permanent full-time employment, an employee will be credited with 7.5 days of sick leave. Thereafter, the employee will earn sick leave on the basis of 1 1/4th days of sick leave for each month of full-time service. Sick leave not used in any year may be accumulated, but not to exceed 180 working days in the aggregate.

(2) Accrued sick leave will be determined from attendance records since January 1, 1957. Upon termination of employment, employees shall not be entitled to any direct or indirect payment for unused sick leave.

(3) Sick leave will be granted to employees only under the following conditions:

(a) When incapacitated by sickness or injury.

(b) When, because of exposure to contagious disease, the presence of the person at work would jeopardize the health of others.

(4) With the department head's and Town Administrator's approval, vacation time may be converted to sick leave if no sick leave time is available.

(5) A medical certificate may be required as proof of sickness, injury or exposure to contagious disease. Failure to report absence promptly or to obtain a required certificate within seven calendar days after request will provide the department head with sufficient reason for disapproving a sick leave request.

(6) If any employee is injured while performing his/her duty, and such accident is covered by workers' compensation, he/she shall receive sick leave up to the extent of his/her credits until payment under Workers' Compensation Law begins. In addition, he/she may use accrued sick leave to satisfy the difference between compensation payments and his/her regular salary. Any absence resulting from such injury that is in excess of available sick leave or vacation credits shall be deemed leave of absence without pay.

(7) Traffic supervisors shall be allowed one working day of sick leave for each month of service, not to exceed seven working days per year.

(8) No sick leave will be granted to temporary employees.

(9) Unauthorized absence or abuse of sick leave shall be grounds for disciplinary action by the Town up to discharge of the employee.

(10) A regular full-time employee (other than the Town Administrator) who does not use any sick leave during a particular calendar quarter (January 1 through March 31, April 1 through June 30, July 1 through September 30, or October 1 through December 31) shall be granted one day of personal leave, provided the employee had use no more than six days of sick leave during the twelve-month period that preceded the commencement of the calendar quarter.

(11) Upon retirement of an employee pursuant to M.G.L.c.32, the employee shall be entitled to cash payment for twenty-five percent (25%) of his/her accumulated unused sick leave at his/her then hourly rate. In no event, however, shall an employee be paid more than two hundred fifty (250) hours. Employees hired on/or after July 1, 2017 shall not be eligible for the provisions of this section.

C. Funeral leave. In case of death in the immediate family (husband, wife, children, parents, stepparents, grandparents, brothers, sisters, mothers-in-law, fathers-in-law), employees will be granted up to three calendar days in each instance without loss of pay. Such funeral leave may extend to one day after the funeral.

D. Personal leave.

(1) Regular full-time employees, excluding temporary employees, shall be entitled to be absent from work for three days per fiscal year without loss of their regular straight- time pay to attend to personal business.

(2) Such absence shall be requested of the department head not later than three working days in advance of its occurrence. The scheduling of such absence for personal business shall be at the reasonable discretion of the department head. Such personal day shall not be used to extend vacations.

E. Holidays.

(1) Regular full-time employees shall receive their regular straight-time pay for the following legal holidays falling on a regular day of work.

(a) The holidays are:

January 1	Columbus Day
Martin Luther King, Jr. Day	November 11
Presidents' Day	Thanksgiving Day
Patriots' Day	Day after Thanksgiving
Memorial Day	1/2 day before Christmas
July 4	Christmas Day
Labor Day	

(b) To be eligible for such holiday pay, an employee shall have worked or have satisfactorily presented himself/herself for work on the regularly scheduled work day before the holiday and the first one after it unless absence on either or both days is approved by the department head.

(2) If required to work on a holiday enumerated above, exclusive of the day after Thanksgiving, an employee who is not exempt from the Fair Labor Standards Act shall receive, in addition to regular holiday pay, time and one-half (1 1/2) for hours worked. The day after Thanksgiving is a non-premium holiday and such an employee, if required to work, would receive, in addition to regular holiday pay, straight time for hours worked.

(3) Traffic supervisors will receive regular straight-time pay for school holidays.

(4) When a holiday under Subsection E(1) falls on a Saturday, the Friday immediately preceding shall be observed; and when it falls on a Sunday, the Monday immediately following shall be observed.

F. Discretion to grant greater leave entitlement. Upon hiring an individual into a department head or administrative position, the Board of Selectmen may, in appropriate situations, elect to provide the individual with a greater leave entitlement than would be required under the previous subsections.

§ 62-38. Leave for part-time employees.

A. Eligibility.

(1) Permanent part-time employees (other than call firefighters) who, on the average, work twenty hours per week or more shall be eligible to receive the following benefits, on the basis provided below:

(a) Vacation leave.

(b) Sick leave.

(c) Holidays.

(d) Funeral leave.

(2) The above-listed benefits (and longevity for clerical employees) are the only fringe benefits available to part-time employees, except for any health insurance entitlement pursuant to MGL c. 32B.

(3) Call firefighters are not eligible for any benefits under this bylaw regardless of how many hours they work.

(4) Seasonal employees, and part-time employees who, on the average, work fewer than twenty hours per week, shall not be eligible for any benefits.

B. Vacation leave. Vacation entitlement for part-time employees shall be calculated as of July 1 by dividing the average number of hours worked by the employee on a weekly basis since the previous July 1 (or, if hired after the previous July 1, since the employee's employment date) by the number of hours in the full-time work week for the employee's position and then multiplying that fraction by the number of days of vacation to which a full-time employee who has the same length of continuous service to the Town would be entitled pursuant to § 62-37A above.

C. Sick leave. Upon completion of 180 calendar days of employment with the Town, an eligible part-time employee will thereafter earn sick leave on a proportionate basis as the employee's average weekly hours compared to the number of hours in the full-time workweek for the employee's position. For example, an employee who worked 20 hours per week in a part-time clerical position for which the full-time work week was 35 hours would have his/her monthly sick leave entitlement calculated as follows:

20 / 35 x 8.75 hours = monthly sick leave entitlement

D. Holidays. An eligible part-time employee who is regularly scheduled to work on the day of the week on which any one of the holidays listed at § 62-37E, above, is observed shall be paid for the number of hours that he/she was regularly scheduled to work on such day, provided that he/she has worked his/her shift immediately prior to the holiday and his/her shift immediately after the holiday (unless absence on either or both days is approved by the department head).

E. Funeral leave. In case of death in the immediate family (husband, wife, children, parents, stepparents, grandparents, brothers, sisters, mothers-in-law, fathers-in-law), employees will be granted three calendar days in each instance without loss of pay. Such funeral leave may extend to one day after the funeral.

§ 62-39. Leaves of absence.

Except as otherwise provided in this bylaw, or applicable state or federal statute, all leaves of absence shall be without compensation or other benefits and shall be subject to the approval of the department head. When a leave of absence is occasioned by the medical disability of an employee, as ascertained under § 62-37B of this bylaw, after exhausting all available sick leave and vacation leave, the full-time employee shall be granted one day of additional sick leave for each month of such disability and a part- time employee shall be granted one part-time day for each month of such disability.

A. Leave without pay. Upon approval of the Board of Selectmen, or its designee, an employee may be granted leave without pay for a specified period of time not to exceed one year. At the expiration of a leave without pay, the employee shall return to the position or to a similar position. Failure of the employee to report promptly at the expiration of such leave shall be considered a resignation. Leave without pay shall not constitute a break in service. However, during leave without pay vacation, personal leave, and sick leave shall not accrue.

B. Jury service. Full-time employees shall be allowed leave to fulfill jury duty. If the jury fees, exclusive of travel allowances, received by said employee for such jury duty shall be less than the regular pay received by him/her from the Town, the difference between said fees and regular pay shall be paid to such employee by the Town. However, as a condition to receiving such payment, the employee agrees that if during such jury duty he/she is discharged for the day or major portion thereof during regular work hours, he/she will report to his/her supervisor for such work as may be assigned. An employee performing such jury duty and who desires the benefit of this subsection shall be required to present weekly to his/her department head a certificate by the court or any duly authorized representative as to the time spent by the employee in such jury duty during such week.

C. Regular military service; re-employment. Leaves without pay shall be granted to permanent full-time and part-time employees, excluding temporary employees, who enter military service in accordance with the provisions of the Acts of 1941, Section 708, as amended (Appendix to General Laws Chapter 33), for the duration of a single enlistment which, except for a national emergency as declared by the President of the United States, will not exceed four years.

D. Military training leave. Any member of the Reserve Forces of the United States who, in order to receive military training not exceeding 17 days in any one calendar year, leaves a position of regular full-time employment with any Town department and who first shall give notice to his/her department head of the date of departure and date of return for the purpose of military training, and who shall give evidence to his/her department head of the satisfactory completion of such training immediately thereafter, shall be entitled to treat such time of absence for military training as military leave time and be compensated therefor by the Town in an amount equivalent to the difference between his/her normal rate of pay from the Town and the base pay received by him/her from his/her reserve unit. Such employee shall provide evidence satisfactory to his/her department head of the base pay he/she received from said reserve unit during said period of time. The employee's absence for military training shall not affect the employee's right to receive normal vacation, sick leave, advancement and other advantages of his/her employment normally to be anticipated in the employee's particular position. In lieu of military leave time and compensation therefor as provided above, the employee shall be entitled to treat such time of absence for military training as part or all of the vacation time to which he/she is entitled and be paid in full for said time upon request prior to departure, notice of date of departure and return for the purpose of military training being first given by the employee to his/her department head.

E. Parental Leave for purposes of giving birth or adoption.

(1) Per Massachusetts Medical Leave Act (MMLA), as amended, a full-time male or female employee who has completed his/her probationary period, or, if there is no such probationary period, has been employed for at least three (3) consecutive months, and who is absent from his/her employment with the Employer for a period not exceeding eight (8) weeks for the purpose of giving birth or adoption, shall be granted a parental leave without pay if his/her request for such leave is made to the department head at least two (2) weeks in advance of the anticipated date of departure. If an employee has accrued sick leave or vacation credits at the commencement of his/her parental leave, he/she may use such leave credits for which he/she may be eligible under the sick leave or vacation provisions of this by-law.

(2) At the expiration of the parental leave, the employee will be restored to his/her previous position or similar position with the same status, pay and length or service credit as of the date of his/her leave. If during the period of the leave, employees in the same of similar position in the department have been laid off through no fault of their own, the employee will be extended the same rights and benefits, if any, extended to employees of equal length of service in the same or similar position in the department.

(3) Notwithstanding any other provisions of this Bylaw to the contrary, the parental leave granted under this article shall not affect the employee's right to receive any contractual benefits for which he/she was eligible at the time of his/her leave.

a. If, upon request of an employee, the department head grants a leave beyond eight (8) weeks, such leave shall be considered a regular leave of absence without pay. The period of such unpaid leave shall not be included in any computation of contractual benefits, rights, or advantages.

b. Not later than two (2) weeks prior to the expiration of the eight (8) weeks parental leave, an employee may request a return to work reduced time. If approved by the

department head, said employee will accrue benefits in the same proportion that such part-time service bears to full-time service.

F. Family and Medical Leave. Under the Family and Medical Leave Act of 1993 (FMLA), eligible employees are entitled to take up to 12 weeks of unpaid, job-protected leave during a twelve-month period for specified family and medical reasons.

1. Eligibility.

(a) An employee who has been employed by the Town for at least 12 months and has worked at least 1250 hours in the Town's service over the previous 12 months is eligible for FMLA leave.

(b) Purposes for which FMLA leave may be taken. FMLA leave may be taken for the following purposes:

1. For the birth and care of the newborn child of the employee;

2. For placement with the employee of a son or daughter for adoption or foster care;

3. To care for an immediate family member (spouse, child, or parent) with a serious health condition; or

4. To take medical leave when the employee is unable to work because of a serious health condition.

(c) Leave for birth and care, or placement for adoption or foster care must conclude within 12 months of the birth or placement.

(2) Twelve-month period.

(a) The twelve-month period in which the 12 weeks of FMLA leave may be taken is a "rolling" twelve-month period measured backward from the date an employee uses any FMLA leave. Thus, each time an employee takes FMLA leave, the remaining leave entitlement would be any balance of the 12 weeks that has not been used during the immediately preceding 12 months.

(b) For example, if an employee has taken eight weeks of leave during the past 12 months, an additional four weeks of leave could be taken. If an employee used four weeks beginning February 1, 2017, four weeks beginning June 1, 2017, and four weeks beginning December 1, 2017, the employee would not be entitled to any additional leave until February 1, 2018. However, beginning on February 1, 2018 the employee would be entitled to four weeks of leave, and on June 1 the employee would be entitled to an additional four weeks, etc.

(3) Serious health condition. As used in the FMLA, the term "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves either:

(a) Any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical-care facility, and any period of incapacity or subsequent treatment in connection with such

inpatient care; or,

(b) Continuing treatment by a health care provider which includes any period of incapacity (i.e., inability to work, attend school or perform other regular daily activities) due to:

[1] A health condition (including treatment therefor, or recovery therefrom) lasting more than three consecutive days, and any subsequent treatment or period of incapacity relating to the same condition, that also includes:

[a] Treatment two or more times by or under the supervision of a health care provider; or

[b] One treatment by a health care provider with a continuing regiment of treatment; or

[2] Pregnancy or prenatal care. A visit to the health care provider is not necessary for each absence; or

[3] A chronic serious health condition, which continues over an extended period of time, requires periodic visits to a health care provider, and may involve occasional episodes of incapacity (e.g., asthma, diabetes). A visit to a health care provider is not necessary for each absence; or

[4] A permanent or long-term condition for which treatment may not be effective (e.g., Alzheimer's, a severe stroke, terminal cancer). Only supervision by a health care provider is required, rather than active treatment; or

[5] Any absences to receive multiple treatments for restorative surgery or for a condition which would likely result in a period of incapacity of more than three days if not treated (e.g., chemotherapy or radiation treatments for cancer).

(4) Intermittent leave. Under some circumstances, employees may take FMLA leave intermittently, which means taking leave in blocks of time, or by reducing their normal weekly or daily work schedule.

(a) If FMLA leave is for birth and care or placement for adoption or foster care, use of intermittent leave is permissible only with prior approval of the Board of Selectmen.

(b) FMLA leave may be taken intermittently whenever medically necessary to care for a seriously ill family member, or because the employee is seriously ill and unable to work.

(5) Use of paid leave time. An employee may choose to use accrued vacation leave or personal leave to cover some or all of the FMLA leave. Also, to the extent that the circumstances of the leave meet the Town's usual requirements for the use of sick leave, the employee may elect to use accrued sick leave. For example, an employee whose FMLA leave is due to his/her own "serious health condition" would be able to elect to use accrued sick leave during the FMLA leave. However, an employee whose FMLA leave is for the purpose of caring for his/her sick parent would not be able to use paid sick leave during his/her FMLA leave since under the Town's policies sick leave may not be used for family illness.

(6) Maintenance of health benefits. During the period that an employee is on FMLA leave, the Town will maintain its usual contribution toward the premium expense of the health insurance coverage in which the employee is enrolled. The employee will be required to make arrangements with the Town Treasurer for paying his/her share of the premium expense during such leave.

(7) Notice requirements and certifications.

(a) Employees seeking to use FMLA leave are required to provide to their supervisor or department head 30 days' advance notice of the need to take FMLA leave when the need is foreseeable and such notice is practicable. When the approximate timing of the need to take FMLA leave is not foreseeable, the employee will be expected to provide notice to the Town as soon as practicable under the facts and circumstances of the particular case.

(b) The Town may also require employees to provide:

[1] Medical certification supporting the need for leave due to a serious health condition affecting the employee or an immediate family member;

[2] Second or third medical opinions (at the Town's expense) and periodic recertification; and

[3] Periodic reports during FMLA leave regarding the employee's status and intent to return to work.

(c) When intermittent leave is needed to care for an immediate family member or the employee's own illness, and is for planned medical treatment, the employee must try to schedule treatment so as not to unduly disrupt the Town's operation.

(8) Job restoration.

(a) Upon return from FMLA leave, an employee will be restored to the employee's original job, or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment.

(b) In addition, an employee's use of FMLA leave will not result in the loss of any employment benefit that the employee earned or was entitled to before using FMLA leave, nor be counted against the employee under a "no fault" attendance policy.

(9) Further information. The U.S. Department of Labor's Employment Standards Administration, Wage and Hour Division, has issued detailed regulations that explain the rights of employees and employers under the FMLA. A copy of these regulations is available at the Town Administrator's office.

If any portion of the by-laws contained herein conflict with the provisions of the Massachusetts Maternity Leave Act or the Family Medical Leave Act, the provisions of the applicable statute shall prevail. In addition, MMLA and MCAD's interpretation will apply in all questions related to qualifying circumstances for use of both MMLA and FMLA in same 12-month period.

G. Domestic Violence Leave. Employees who are impacted by domestic violence, if eligible, and in accordance with M.G.L. c. 149, § 52E, may elect to take leave under the Town's Domestic Violence Leave Policy. See Appendix B, as amended.

ARTICLE XIV
Recruitment and Selection of Employees

§ 62-40. Policy.

To assure a high quality of service to the public, selection will be from among the most competent individuals. Selection and appointment to all positions will be based solely upon job-related requirements and the applicant's demonstration that he/she possesses the skills, knowledge, abilities and other characteristics necessary for successful job performance.

§ 62-41. Recruitment procedures.

A. When a vacancy occurs in a department or when the department head anticipates a vacancy in the department, and the Town Administrator determines that the position should be filled, the department head will review the duties and responsibilities of the vacant position, as well as the organizational needs of the department, to determine if the position (or job description therefor) needs to be revised. Any proposed changes to the position or its job description shall be discussed with and approved by the Town Administrator. The TA review will consider both the proposed changes to the job description and whether or not such agreed changes warrant a change to the position's classification.

B. Initial consideration in the selection process for a position shall be given to qualified "in-house" employees, as a method of advancement and upward mobility. "In-house" employee means any permanent full-time or part-time employee. Vacancies will be posted for in-house consideration for three days.

C. If no in-house candidate is selected for the vacant position, the department head will be required to publicize the vacancy. All vacancies in regular positions will be advertised in a newspaper with general circulation within the area or electronic platform, such as job boards, etc. Positions with administrative classifications shall, in addition, be advertised in professional publications and/or a newspaper with broad circulation.

D. To allow sufficient time for qualified candidates to apply for the position, recruitment efforts will be conducted for at least 10 days prior to the selection of a candidate (unless an in-house candidate is selected in accordance with Subsection B above).

E. Interview/Selection.

(1) After the close of the application period, the department head will review the applications and select candidates to be interviewed for the position. Where appropriate, the department head may utilize testing procedures to aid in the selection process.

(2) Once all interviews and other selection procedures have been completed, the department head will make a selection from among the applicants, subject to the review of the Town Administrator. Prior to making that selection, the department head will have contacted the candidate's former employers and references for background checks. CORI check will also be conducted, per State requirements and regulations.

(3) Upon making the selection, the department head will notify the successful candidate that he/she has been selected for the position conditional upon satisfactory completion of a Town-sponsored medical examination.

§ 62-42. Pre-employment medical examination.

Prior to starting work, and after a conditional offer of employment has been extended, the applicant shall undergo a pre-employment medical examination by a physician(s) designated by the Board of Selectmen and at the Town's expense. Following the examination, the physician(s) shall notify the Town Administrator whether the prospective employee, with reasonable accommodation, i.e. American Disabilities Act, is capable of performing the essential functions of the position for which he/she is being considered.

§ 62-43. Notification requirements.

From the date of the adoption of this bylaw forward, all department heads hiring employees are required to notify the Treasurer and Town Accountant of such employment, including whether the employee is regular, temporary, part-time or full-time.

A. Documentation of selection process. The interview and selection process shall be appropriately documented by the department head. Upon the hiring of a candidate, the department head shall provide all such documentation to the Town Administrator for filing. Any records relating to the applicant's pre-employment medical examination shall be placed in the employee's personnel file to be consistent with HIPAA State regulations.

B. Seasonal positions. All seasonal positions shall be filled in compliance with the provisions of this section, except that the advertising requirements for such positions will be satisfied by advertisement in a newspaper or newspapers with circulation limited to the Town or electronic platform, such as Job Boards, etc. An individual who has previously served in a seasonal position will be required to reapply for such position if he/she wishes to be employed for another season.

C. False or misleading statements in the application process. False or misleading statements made on an application or in other aspects of the selection process shall be grounds for rejecting a candidate's application and, if discovered after the candidate has been hired, shall be considered grounds for dismissal.

ARTICLE XV
Personnel Records

§ 62-44. Files for individual employees.

An individual personnel file of all Town employees, both elected and appointed, except employees of the School Department, shall be prepared and kept by the Treasurer in his/her office. It shall be the duty of each Town officer and employee to furnish to the Town Administrator forthwith, upon request, all information needed for the completion of this file. Such files shall be available to the Board of Selectmen and Personnel Board at all reasonable times for referred cases involving disciplinary action only. Such files shall not be public records and shall be kept confidential as per State regulations.

§ 62-45. Records defined.

As used in this article, a personnel record shall include any record that identifies an employee, to the extent that the record is used or has been used, or may affect or be used relative to that employee's qualifications for employment, promotion, transfer, additional compensation or disciplinary action. However, a personnel record shall not include information of a personal nature about a person other than the employee if disclosure of the information would constitute a clearly unwarranted invasion of such other person's privacy. All records kept shall be made consistent with the requirements of the Fair Labor Standards Act.

§ 62-46. Required information.

All of the following written information or documents regarding an employee shall be included in the personnel record for that employee: the name, address, date of birth, job title and description; rate of pay and any other compensation paid to the employee; starting date of employment; the job application of the employee; resumes or other forms of employment inquiry submitted to the Town by the employee; all employee performance evaluations, including, but not limited to, employee evaluation documents; written warnings of substandard performance; lists of probationary periods; waivers signed by the employee; copies of dated termination notices; any other documents relating to disciplinary action regarding the employee.

§ 62-47. Employee review.

The Town Administrator shall provide an employee with an opportunity to review his/her personnel file within five days of the employee's request. A copy of his/her personnel file will be provided to an employee within five days of his/her written request.

§ 62-48. Revised records.

If there is a disagreement with any information contained in a personnel record, removal or correction of such information may be mutually agreed upon by the employer and the employee. If an agreement is not reached, the employee may submit a written statement explaining the employee's position, which shall thereupon be contained therein and shall become a part of such employee's personnel record. The statement shall be included when said information is transmitted to a third party as long as the original information is retained as part of the file. Information contained in a personnel record may be removed from the personnel file upon mutual agreement of the Town Administrator or department head and the employee for any reason.

§ 62-49. Record retention.

Except for any information that is removed by mutual agreement of the Town and the employee, the Town shall retain the complete personnel record of an employee without deletions or expungement of information from the date of employment of such employee to a date three years after the termination of employment by the employee with such employer unless otherwise required by law. In any cause of action brought by an employee against the Town in an administrative or judicial proceeding, the Town shall retain any personnel record required to be kept under this section which is relevant to such action until the final disposition thereof.

ARTICLE XVI
Code of Conduct

§ 62-50. Employee responsibilities.

Town employees are expected to perform their work responsibilities in a thorough and conscientious manner. They are required to comply with:

A. All of the policies and operating procedures of the department in which employed; and

B. All of the directives of their supervisors.

§ 62-51. Ethics.

Each person employed by the Town occupies a position of public trust. As a result, Town employees must always be mindful of their ethical responsibilities. An employee must avoid taking any action that might result in or create the reasonable basis for the impression that he/she was:

A. Using public office for private gain;

B. Giving preferential treatment to any person or entity; or

C. Conducting Town business in other than an impartial manner.

§ 62-52. State law requirements.

Chapter 268A of the Massachusetts General Laws governs the conduct of public officials and employees, and provides a comprehensive set of guidelines for the performance of a municipal employee's duties. In general, those guidelines may be reduced to the following principles:

A. An employee may not ask for or accept anything (regardless of its value) which is offered in exchange for the employee agreeing to perform or not perform an official act.

B. An employee may not ask for anything nor accept anything of more than nominal value from anyone with whom the employee has official dealings.

C. Unless an employee makes a proper public disclosure, including all of the relevant facts, to the appropriate municipal official(s), the employee may not take any action that could create an appearance of impropriety, or could cause an impartial observer to believe that the employee's official actions were tainted with bias or favoritism.

D. An employee may not use his/her official position to obtain unwarranted privileges, or any type of special treatment, for himself/herself or anyone else. For example, an employee may not use public resources (e.g., Town offices, supplies or equipment, staff labor, sick time) for personal purposes.

E. Unless an employee qualifies for an exemption (see MGL c. 268A, § 20), the employee may not have a financial interest in a Town contract or hold more than one position with the Town.

F. An employee may not hire, promote or supervise members of the employee's or his/her spouse's immediate family, or take any other type of official action which would affect such relatives' financial interests.

G. An employee may not take any official action affecting the employee's own financial interest, or the financial interest of a business partner, private employer, or any organization for which the employee serves as an officer, director or trustee.

§ 62-53. Prohibited conduct.

Consistent with the prohibitions contained in Chapter 268A, Town employees are expected to abide by conduct requirements, including but not limited to the following:

A. No employee shall engage in any business other than his/her official Town duties during regular working hours.

B. No employee shall engage in any form of outside employment that interferes with the employee's proper and effective performance of his/her position with the Town, nor shall an employee engage in any form of outside employment that would create the appearance of a conflict of interest with the employee's position with the Town.

C. No employee shall use confidential information obtained in his/her official capacity as a Town employee for his/her own financial advantage, nor shall he/she provide relatives, friends, business associates, or others with such confidential information.

D. No employee shall use, or allow the use of, Town property (of any kind) for other than official Town business.

Also in accordance with the Civil Rights Act of 1964 and M.G.L. Ch 151B, S 4 (16A), the Town has a clearly established policy regarding sexual harassment in the workplace by managers, supervisors, employees, vendors and contractors. See Appendix C, current policy as amended.

The Town is committed to providing a professional environment that is free of violence in any form. The Town's policy regarding workplace violence is detailed in Appendix D, current policy as amended.

The Town has established policy guidelines for the use of social media communication. See Appendix E, current policy as amended.

The Town has established policies regarding both the use of Town Electronic Communication and related Technology. See Appendix F, current policy as amended.

All public employees have Whistleblower protections under M.G.L Ch 149, S 185. Retaliation against employees reporting violations of law or risks to public health, safety or environment are prohibited. See Whistleblower Retaliation Policy, Appendix G, current policy as amended.

ARTICLE XVII
Disciplinary Action

§ 62-54. Employee responsibilities.

It is the responsibility of all employees to adhere to the Town's policies and regulations, as well as to the laws of the commonwealth, and to follow the directives of their supervisors. In those instances where violations of those policies, regulations, laws or directives occur, disciplinary measures must be taken.

§ 62-55. Progressive discipline.

The Town is committed to a system of progressive discipline. The progressive discipline system uses successive levels of increasing sanctions to address most disciplinary violations. Those levels will include oral reprimand, written reprimand, suspension and discharge.

A. Under the Town's system, disciplinary action for the less serious types of disciplinary infractions will normally be initiated by the issuance of an oral reprimand to the offending employee. In such case, the supervisor issuing the oral reprimand will make a notation in the employee's personnel file documenting the issuance of the reprimand. If additional disciplinary infractions occur, a higher level of disciplinary sanction will be imposed. If the second infraction is one that would normally warrant only an oral reprimand for a first offense, the supervisor would impose a written reprimand for that second infraction. A third infraction involving that degree of seriousness might result in an additional written reprimand and/or a suspension.

B. While many disciplinary infractions will be processed through the successive levels of the system, more serious offenses ~~will~~ may warrant the immediate imposition of the more serious levels of discipline. For example, there are certain infractions that ~~would~~ could result in the immediate discharge of the employee, even if the employee had no prior disciplinary infractions. Other offenses might, because of their seriousness, require the imposition of a suspension for a first offense. It shall be within the discretion of the supervisor/department head to decide at what level of the system a particular disciplinary infraction should be processed.

§ 62-56. Written warnings and suspension notices.

Written warnings and suspension notices should include: the specific behavior and the dates of the behavior that support the discipline, and a warning of the disciplinary sanctions that the employee may expect for future disciplinary infractions. A written suspension notice will ordinarily be provided to the employee within one working day of the effective date of the suspension. All written warnings and suspension notices will be placed in the employee's personnel file.

§ 62-57. Discharges.

A. No department head or supervisor will discharge an employee or suspend an employee for more than five working days without prior consultation with the Town Administrator or, in his/her absence, the Chair of the Board of Selectmen.

B. No department head or supervisor will discharge an employee until he/she has provided the employee with:

(1) Written notice of the proposed reasons (charges) for the employee's discharge;

(2) An explanation of the evidence upon which the charges are based; and

(3) An opportunity to present his/her response to the charges and the evidence.

ARTICLE XVIII
Grievance Procedure

§ 62-58. Steps.

It shall be the policy of the Town that there shall be a grievance procedure available for the use of its employees. The purpose of the grievance procedure shall be to settle employee grievances as expeditiously and fairly as possible to insure efficiency and high employee morale. It shall be the responsibility of all parties to come to a quick and amicable solution; grievances shall be taken up at such times as to minimize loss of productive work. Any grievance must be presented in or within five calendar days of the occurrence of the alleged grievance.

A. Step I: Whenever an employee has a grievance relating to his/her employment, he/she shall orally make it known to his/her immediate superior that he/she is presenting a grievance in accordance with this clause. His/her superior shall attempt to resolve the grievance and shall verbally respond to the employee within five working days of being told of the grievance. If the grievance is not satisfactorily resolved, the employee may then take Step II.

B. Step II: The employee shall put his/her grievance in writing on a form to be supplied by the Board of Selectmen (hereinafter referred to as "the grievance form") and present it to his/her department head, who may be the same person as in Step I. The submission of the grievance in writing at this step must be within 12 working days of the occurrence of the alleged grievance. If the grievance is not filed in writing at this step within that period, the grievance shall be considered to be waived. The department head shall attempt to resolve the grievance and shall submit an answer in writing on the grievance form to the employee within five working days of the receipt of the grievance. If the grievance is not satisfactorily resolved hereunder, the employee may then take Step III.

C. Step III: The employee shall file with the Town Administrator a written statement of his/her grievance on the grievance form within five working days of the employee's receipt of the department head's answer at Step II. The Town Administrator shall attempt to resolve the grievance and shall submit an answer in writing on the grievance form to the employee within five working days of the Town Administrator's receipt of the grievance. If the grievance is not resolved to the employee's satisfaction at this step, the employee may then take Step IV.

D. Step IV: The employee shall file a written statement of his/her grievance on the grievance form with the Board of Selectmen and request an informal hearing before the same at its next regular meeting, or at a special meeting if the Board deems this advisable. The Board shall notify the appropriate department head and/or superior to be present at said hearing. All parties, including the Board, shall be entitled to be represented by a duly authorized representative. Within 15 days of the hearing, all parties shall be notified in writing of the decision of the Board, which decision shall be in writing. The decision of the Board of Selectmen shall be final and binding on all parties with regard to all grievances (except as may be otherwise provided in contracts negotiated between the Town and a certified bargaining unit of employees.)

ARTICLE XIX
Miscellaneous Provisions

§ 62-59. Privately owned automobiles.

A. When use of a person's private car is necessary, and has been authorized by the head of the department, the approved mileage rate as established from time to time by the Board of Selectmen will be allowed.

B. Reimbursement for travel by private car will require a voucher showing the purpose of the trip, the point of origin, and the point of destination and the number of miles traveled.

C. Reimbursement for travel in any manner other than as provided above shall require the approval of the Department Head or Town Administrator for travel and/or transportation in lieu of reimbursement on a mileage-basis.

§ 62-60. Meals.

A. Except as otherwise stated by the applicable statute, all full-time employees shall be reimbursed for meals when on full travel status, which is defined as being temporarily absent from their homes on assignment to duty for more than 24 continuous hours.

B. When travel status begins before 6:00 a.m., the person will be entitled to breakfast, mid-day and evening meals. When travel status begins between 6:00 a.m. and 12:00 noon, the person will be entitled to mid-day and evening meals. When travel status begins between 12:00 noon and evening, the person will be entitled to the evening meal. Notwithstanding the above, all employees who attend conferences of municipal officers or employees which pertain to the employees' duties shall be reimbursed any necessary expenses of attending the same.

C. Reimbursement shall be allowed for actual meal expenses incurred, including tips, not to exceed reasonable levels as approved from time to time by the Board of Selectmen.

§ 62-61. Additional compensation for Assessors.

Any Assessor who has completed the necessary courses of study and training and has been awarded a certificate by the Association of Massachusetts Assessors as a Certified Massachusetts Assessor (C.M.A.) shall receive as compensation in addition to any regular compensation received as an Assessor, the amount of $300 per year; provided, however, that such additional compensation shall not be a part of the base upon which any cost-of-living adjustment shall be calculated.

ARTICLE XX
Amendment to Consolidated Personnel Bylaw

§ 62-62. Procedure.

The Consolidated Personnel Bylaw may be amended in the same manner in which the Town bylaws may be amended; provided, however, that no amendment to the bylaw shall be made until it has been presented by signed petition addressed to and submitted to the Personnel Board at least 60 days prior to the commencement of Town Meeting. Upon receipt of such a written petition, the Board, after giving the petitioners, the heads of the departments and employees affected at least three days' written notice, shall hold a hearing of the parties interested to consider the proposed amendment. If the Personnel Board shall fail to act on an amendment so presented within 15 days after the hearing thereon, the Personnel Board shall be deemed to have disapproved the amendment. The petition may then be presented to the Town Meeting for consideration and action, if so desired. The Personnel Board may of its own motion after a similar hearing of or conference with the parties interested propose an amendment to the bylaw.

ARTICLE XXI
Civil Service Law

§ 62-63. Conflicts with state law.

Nothing in this bylaw shall be construed to conflict with Chapter 31 of the General Laws.

ARTICLE XXII
Severability

§ 62-64. Provisions to be severable.

In the event that any provision of this bylaw (or any application of a provision) shall be held to be invalid by a court or administrative tribunal of competent jurisdiction, such action shall not affect the validity of any other provision of this bylaw [or any application of such provision(s)].

Appendix A

TOWN OF LYNNFIELD

Positions Covered by Personnel By-Laws

Selectmen's Office
- Assistant to the Town Administrator

Assessor's Office
- Assessor

Treasurer/Collector's Office
- Treasurer

Town Clerk's Office
- Town Clerk

DPW
- Director
- Engineer
- Facilities Manager/Schools
- Facilities Manager/Town
- Business Manager

Library
- Library Director

COA
- Entire COA Staff

Police
- Police Captain
- Administrative Assistant
- Animal Control Officer

Golf Course
- All Employees

Recreation Department
- Director
- Field Director

BOH
- Health Director

Conservation
- Conservation Administrator

*Employees with individual employment contracts may still be covered by portions of the Personnel By-Laws

Appendix B

TOWN OF LYNNFIELD
DOMESTIC VIOLENCE LEAVE POLICY

ADMINISTRATIVE POLICY

It is the Administrative Policy of the Town of Lynnfield to implement and administer the provisions of "An Act Relative to Domestic Violence". This law is intended to reduce domestic violence, and to provide victims and family members of victims of domestic violence protected work leave for qualifying reasons associated with domestic violence.

The Town is committed to the protection of those eligible individuals that provide service to the Town by giving them the necessary tools to deal with domestic violence issues. This policy, along with the efforts of the Employee Assistance Program (EAP), can be utilized if the need arises for an employee to take time off to deal with a domestic violence issue.

DEFINITIONS

The provisions of this policy apply if the employee or a family member is a victim of domestic violence (unless the employee is the perpetrator of violence against the family member).

"Abuse" is defined as attempting to cause or causing physical harm; placing another in fear of imminent serious physical harm; causing another to engage involuntarily in sexual relations by force, threat or duress or engaging or threatening to engage in sexual activity with a dependent child; engaging in mental abuse, including threats, intimidation or acts designed to induce terror; depriving another of medical care, housing, food or other necessities of life; or restraining the liberty of another.

"Abusive behavior" includes domestic violence, stalking, sexual assault and kidnapping.

"Domestic violence" is defined as abuse against an employee or the employee's family member by:

- a current or former spouse of the employee or the employee's family member;
- a person with whom the employee or employee's family member shares a child in common;
- a person who is cohabitating with or has cohabitated with the employee or employee's family member;
- a person who is related by blood or marriage to the employee;
- a person with whom the employee or employee's family member has or had a dating or engagement relationship.

"Family Member" (under this policy) is defined as:

- persons who are married to one another;
- persons in a substantive dating or engagement relationship and who reside together;
- persons having a child in common regardless of whether they have ever married or resided together;
- a parent, step-parent, child, step-child, sibling, grandparent or grandchild, or persons in a guardian relationship.

TOWN OF LYNNFIELD
DOMESTIC VIOLENCE LEAVE POLICY

EMPLOYEE ELIGIBLITY REQUIREMENTS

All employees of the Town of Lynnfield including all Regular Full-time and Regular Part-time employees, Intermittent/Seasonal/Temporary Employees, Interns, and Volunteers are eligible for Domestic Violence Leave benefits, as indicated in this policy.

LENGTH OF LEAVE & PERMITTED REASONS FOR LEAVE

An eligible employee may take up to 15 days of leave from work in a 12-month period, if the employee or family member of the employee is a victim of abusive behavior and the employee is using leave from work to:

- seek or obtain medical attention, counseling, victim services or legal assistance;
- secure housing;
- obtain a protective order from a court;
- appear in court or before a grand jury;
- meet with a district attorney or other law enforcement official;
- attend child custody proceedings; or
- address other issues directly related to the abusive behavior against the employee or family member of the employee;

provided that the employee is not the perpetrator of the abusive behavior against such employee's family member.

EXHAUSTION OF VACATION, PERSONAL AND SICK LEAVE

Before an employee may submit a request for the use of an unpaid Domestic Violence Leave to Human Resources, he or she must utilize any and all accumulated personal leave, vacation leave and sick leave available.

UNPAID LEAVE

Approved Domestic Violence Leave is an unpaid leave.

NOTICE REQUIREMENT

Employees are generally required to provide an appropriate advance leave notice by submitting the document titled "Notice of Need for Domestic Violence Leave", except in cases of imminent danger. In cases of imminent danger, the employee is required to notify the Town of his/her absence within three (3) workdays that the leave was taken or is being taken. The Town will not take negative actions against an employee for an unscheduled absence, if within thirty (30) days from the unauthorized absence or last unauthorized absence in cases of consecutive absences, the employee provides any of the forms of documentation of the need for domestic violence leave identified below.

REQUIRED DOCUMENTATION

The Town of Lynnfield requires documentation showing that an employee or employee's family member is a victim of abusive behavior. An employee may satisfy the documentation requirement by producing any of the following documents within a reasonable period of time from the request:

- Protective order, order of equitable relief or other documentation issued by a court of competent jurisdiction as a result of abusive behavior against the employee of employee's family member;

TOWN OF LYNNFIELD
DOMESTIC VIOLENCE LEAVE POLICY

REQUIRED DOCUMENTATION (continued)

- A document under the letterhead of the court, provider, or public agency which the employee attended for the purposes of acquiring assistance as it relates to the abusive behavior against the employee or employee's family member;
- A police report or statement of a victim or witness provided to the police, including a police incident report, documenting the abusive behavior complained of by the employee or the employee's family member;
- Documentation that the perpetrator of the abusive behavior against the employee or family member of the employee has admitted to sufficient facts to support a finding of guilt of abusive behavior or has been convicted of, or has been adjudicated a juvenile delinquent by reason of, any offense constituting abusive behavior and which is related to the abusive behavior that necessitated the leave;
- Medical documentation of treatment as a result of the abusive behavior complained of by the employee or employee's family member;
- A sworn statement, signed under the pains and penalties of perjury, provided by a counselor, social worker, health care worker, member of the clergy, shelter worker, legal advocate or professional who has assisted the employee or the employee's family member in addressing the effects of the abusive behavior.
- A sworn statement, signed under the penalties of perjury, from the employee attesting that the employee has been the victim of abusive behavior or is the family member of a victim of abusive behavior.

The Town of Lynnfield shall maintain any received documentation within the employee's personnel file, but only as long as required for the Town to make a determination as to whether the employee is eligible for the requested leave.

CONFIDENTIALITY OF INFORMATION

All information related to the employee's leave shall be kept confidential by the Town and shall not be disclosed, except to the extent that disclosure is;

- requested or consented to, in writing, by the employee;
- ordered to be released by a court of competent jurisdiction;
- otherwise required by applicable federal or state law;
- required in the course of an investigation authorized by law enforcement, including, but not limited to, an investigation by the attorney general; or
- necessary to protect the safety of the employee or others employed at the workplace.

If additional time off is required, the employee should discuss the request with Human Resources. Nothing in this policy limits or impairs an employee's right or ability to seek other types of applicable unpaid time off.

TOWN OF LYNNFIELD
DOMESTIC VIOLENCE LEAVE POLICY

EFFECT ON BENEFITS

An employee granted a leave under this policy will continue to be covered under the employer's group health insurance and basic life insurance plans under the same conditions as coverage would have been provided if he/she had been continuously employed during the leave period.

If the employee fails to return from domestic violence leave, the Town may seek reimbursement from the employee for the portion of the premiums it paid on behalf of that employee (also known as the employer contribution) during the employee's leave.

An employee shall be in an unpaid leave status for the duration of the leave.

JOB PROTECTION

If the employee returns to work within the time permitted, a maximum of fifteen (15) days in a twelve (12) month period, he/she will be reinstated to his/her former position or an equivalent position with equivalent pay, benefits, status and authority.

The employee's restoration rights are the same as they would have been had the employee not been on leave. Thus, the employee will be subject to any pay or benefit reductions or other adverse actions, including layoff, which he/she would have experienced if he or she had not taken leave under this policy.

If the employee fails to return after a qualifying leave under this section, the employee may be terminated, unless reinstated to his/her same or similar position, in accordance with applicable laws, other leave-related policies, and/or appropriate bargaining unit contract language.

PROVISIONS

The Town shall not make any of an employee's rights hereunder contingent on whether the employee maintains contact with the alleged abuser, even if the alleged abuser is another Town employee.

Domestic Violence Leave time shall be taken in increments of not less than 2 hours.

Domestic Violence Leave shall be reported as unpaid leave in the Town's attendance systems.

APPLICABLE LAW STATUTES

M.G.L. c. 149, § 52E.

FORMS

The following form documents associated with and attached to this policy may change to meet the needs of the Town or new requirements of the law. Please consult the Human Resources Department for the most current version:

- Employee Acknowledgement of Receipt of Domestic Violence Leave Policy
- Notice of Need for Domestic Violence Leave

Approved by the Board of Selectmen on February 4, 2015

ACKNOWLEDGEMENT of RECEIPT

_____ hereby acknowledge receipt of the Town of Lynnfield
(print name)

Domestic Violence Leave Policy on the below date.

_____

_____ _____
(signature) (department)

Appendix C
TOWN OF LYNNFIELD

POLICY AND PROCEDURE FOR THE ELIMINATION OF SEXUAL HARASSMENT IN THE WORKPLACE (EXCLUDING SCHOOL DEPARTMENT)

I. PURPOSE

This memorandum establishes the policy of The Town of Lynnfield ("Town") regarding sexual harassment in the workplace by managers, supervisors, employees, vendors and contractors. This memorandum also describes examples of conduct that may constitute sexual harassment and sets forth a complaint procedure to be followed by persons who believe that they are victims of sexual harassment. This Policy does not apply to the School Department, which has its own policy regarding sexual harassment.

II. POLICY

The Town fully supports the right of all persons to hold employment without suffering sexual harassment or discrimination of any kind. It is the policy of the Town to maintain an environment that is free of sexual harassment. Sexual harassment by managers, supervisors, employees, vendors and contractors will not be tolerated.

Please note that while this policy sets forth the Town's goals of promoting a workplace that is free of sexual harassment, the policy is not designed or intended to limit the Town's authority to discipline or take remedial action for workplace conduct which is unacceptable, regardless of whether or not that conduct satisfies the definition of sexual harassment.

III. DEFINITION OF SEXUAL HARASSMENT

A. The legal definition of sexual harassment

Sexual harassment is a form of sex discrimination that is illegal under both Title VII of the Civil Rights Act of 1964 (federal law) and M.G.L. c.1518 § 4(16A) (state law).
These laws provide that unwelcome sexual advances, requests for sexual favors, and other physical or verbal conduct of a sexual nature constitute sexual harassment when:

- submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of an individual's employment or a basis for employment decisions affecting the individual; and/or

- such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, humiliating or sexually offensive work environment.

B. Examples of conduct that can constitute unlawful sexual harassment

Sexual harassment does not refer to behavior or occasional compliments of a socially acceptable nature. It refers to behavior that is not welcome, that is personally offensive and that fails to respect the rights of others. Sexual harassment occurs in a variety of situations which share a common element:

the inappropriate introduction of sexual activities or comments into the work environment.

Sexual harassment often involves relationships of unequal power. Such situations may contain elements of coercion, such as when compliance with requests for sexual favors becomes a criterion for granting privileges or favorable treatment on the job. However, sexual harassment may also involve relationships among "equals", such as when repeated advances or demeaning verbal comments by a coworker towards another coworker have a harmful effect on a person's ability to perform his or her work. Sexual harassment can also involve employee behavior directed at non-employees or non- employee behavior directed at employees.

Examples of sexual harassment include, but are not limited to, the following:

- repeated unwelcome sexual flirtations, advances, or propositions;
- persistent requests for a date;
- continued or repeated verbal abuse or innuendo of a sexual nature;
- uninvited physical contact such as touching, hugging, patting or pinching;
- verbal or written comments of a sexual nature about an individual's body or sexual terms used to describe an individual;
- display of sexually suggestive objects, pictures or letters;
- jokes or remarks of a sexual nature in front of people who find them offensive;
- inquiries into one's sexual experiences;

- discussion of one's sexual activities;
- prolonged staring or leering at a person;
- making obscene gestures or suggestive or insulting sounds;
- the demand for sexual favors accompanied by an implied or overt threat concerning an individual's employment status or promises of preferential treatment; and/or

- indecent exposure.

C. Dispelling common myths about harassers and victims

Contrary to popular belief, sexual harassment is not limited to prohibited behavior by a male employee toward a female employee or by a supervisory employee toward a non-supervisory employee. Sexual harassment can be found in any of the following less "traditional" situations:

- A man as well as a woman may be the victim of sexual harassment, and a woman as well as a man may be the harasser.

- The harasser does not have to be the victim's supervisor. The harasser may be a supervisory employee who does not supervise the victim, a coworker, or, in some circumstances, a non-employee such as a contractor or vendor who uses Town facilities.

- The victim does not have to be the opposite sex from the harasser.

- The victim does not have to be the person at whom the unwelcome sexual conduct is directed. The victim may be someone who is affected by such conduct even though it is directed at another person. For example, the sexual harassment of one employee may create an intimidating, hostile, humiliating, or offensive work environment for a coworker, or may interfere with the coworker's work performance. In addition, consensual sexual behavior in the office between two employees may be offensive to a third employee or result in favoritism that harms the third employee.

- Sexual harassment does not depend upon the victim's suffering an economic injury as a result of the harasser's conduct. As the examples of improper conduct listed above show, sexual harassment can occur whenever unwelcome conduct of a sexual nature creates an intimidating, hostile, humiliating or offensive work environment.

IV. EMPLOYEE, SUPERVISOR AND MANAGER RESPONSIBILITIES

No employee, supervisor or manager of the Town shall sexually harass any person in the workplace. Any conduct which violates this rule will subject the violator to disciplinary action. Any supervisor or manager who is made aware of such conduct shall forthwith commence an investigation as set forth in Section V below. Furthermore, each employee, supervisor and manager shall cooperate in any investigation of alleged sexual harassment if requested to do so by the person conducting the investigation.

V. SEXUAL HARASSMENT COMPLAINT PROCEDURE.

A. The procedure

The following sexual harassment complaint procedure has been developed specifically to ensure that complaints are investigated quickly and in a manner that is fair to all.

In all instances where an individual believes that she or he has been sexually harassed, it is helpful, but not necessary, to start the process of resolution by writing down a description of the offensive conduct, the date or dates on which it took place, and the names of anyone who witnessed the conduct or heard the offensive remarks. If you would like help writing down your thoughts, the person you speak to at Step 2 of this procedure will assist you.

Step I. If an individual believes that she or he is being sexually harassed, the most immediate goal is to stop the offensive conduct. Individuals should:

Firmly confront the person who is doing the harassing.
State that his/her conduct offends, intimidates, and/or embarrasses you.

Describe how the harassment negatively affects your work.

Request that he or she stop the conduct immediately.

If practical, bring a witness with you for this discussion. After the discussion, write a summary of the conversation, including the date and the name of anyone who accompanied you.

In some instances, confronting the harasser directly may be too intimidating or uncomfortable, particularly when the harasser is an immediate supervisor. In such instances, this step need not be taken, and the complaint process can begin at Step 2.

Step 2. An individual who wants to discuss her/his situation or make a complaint should contact her/his supervisor or department head as soon as possible. (In the event you do not know the telephone number of this person, you may call the office of the Town Administrator at (617) 334- 3180 to obtain the telephone number.) The supervisor or department head shall immediately thereafter apprise the Town Administrator of the situation. The Town Administrator will then appoint an Investigator, who may or may not be the Town Administrator, who will have a private meeting with the Complainant, at which time the Complainant can get more information about sexual harassment and the complaint procedure in order to decide whether to make a complaint. The Investigator will describe the complaint investigation procedure more fully.

Step 3. In those instances where an informal resolution is appropriate, the

Investigator will advise and assist the individual in resolving the matter in that fashion.

Step 4. Where a formal complaint is made, the Investigator will record the individual's statement of events.

Specifically, the Investigator will request the following information: a description of the incidents, the name of the alleged harasser, times, locations, specific words/actions, and the name of any witnesses to the incidents. The Investigator's notes will be tor his/her own use during the investigation. Therefore, individuals are advised to make their own written notes containing the same information that they give to the Investigator. An individual making a complaint may bring a friend, relative or colleague to the meeting.

Step 5. The Investigator will meet privately with the alleged harasser. The alleged harasser should respond to the allegations and may submit a written statement. The alleged harasser may also submit the names of witnesses. The alleged harasser may bring a friend, relative or colleague, including a union representative, if applicable, to the meeting.

Step 6. Any witness that the Investigator decides should be contacted will be interviewed privately. Neither the individual making the complaint nor the alleged harasser will be present at witness interviews.

Step 7. Upon completion of the investigation, the Investigator will draft a report stating his/her findings and the report will be forwarded to the Town Administrator.

Upon completion of Steps 1-7:

In the event that the findings of the Investigator indicate that sexual harassment has not occurred, the Investigator will recommend that the matter be closed. The Town Administrator shall review the report and may refer the matter back to the Investigator for further investigation and/or fact-finding. If the Town Administrator accepts the report as submitted or as amended, s/he shall notify the Complainant and the alleged harasser that the matter has been closed. The Complainant may, within ten (10) days of notification of the contents of the report, appeal to the Board of Selectmen for further **review.**

In the event that the findings of the Investigator indicate that sexual harassment has occurred, the Investigator will recommend what disciplinary action should be taken. T-he Town Administrator shall review the report and may refer the matter back to the Investigator for further investigation and/or fact-finding. If the Town Administrator accepts the report as submitted or as amended, s/he shall forward the report to the appropriate supervisor or manager, who shall advise the Town Administrator as to his or her recommendations for disciplinary action. The Town Administrator shall then **make a** decision regarding such action and notify both the Complainant and the alleged harasser of the same. The Complainant and/or the alleged harasser may, within ten

(10) days of notification of the contents of the report, appeal to the Board of Selectmen for furtherreview.

B. Timetable for investigating complaints.

The Town recognizes that the interests of all persons are best served by the prompt investigation and resolution of sexual harassment complaints. However, difficulty in scheduling meetings, especially when the persons involved may be some distance away, makes adherence to strict timetables impossible. Therefore, absent extenuating circumstances, the following timetable will be employed as closely as possible:

- The initial meeting with a sexual harassment investigator should take place within seven days of the day that the individual contacts the Investigator.

- If the individual decides to make a complaint, the investigation should begin immediately. The investigation should be completed, and the sexual harassment investigator's findings and recommendations should be forwarded to the Town Administrator within two weeks of the time that the complaint is made.

- The Town Administrator should review the report of the sexual harassment investigator and either close the matter or refer it to the appropriate supervisor within one week of its receipt thereof.

C. Confidentiality.

All actions taken to investigate and resolve complaints through this procedure shall be conducted with as much confidentiality as possible without compromising the thoroughness of the investigation. The sexual harassment investigator will not discuss the complaint or the investigation with anyone who is not directly involved in the investigation.

D. No retaliation for filing complaint of sexual harassment.

It is unlawful for any person to retaliate or discriminate against any employee for filing a complaint of sexual harassment or for cooperating in an investigation of such a complaint.

VI. DISCIPLINARY PROCEDURE

- If an investigation of a complaint of sexual harassment reveals that an employee, supervisor, manager or department head has engaged in actions or conduct constituting sexual harassment, disciplinary action will be taken up to and including discharge. The disciplinary action taken will depend upon the seriousness of the violation.

- Any person who prevents or attempts to prevent an individual from making a complaint of sexual harassment, or who fails to cooperate with or interferes in any

way with the investigation of such a complaint, will be subject to disciplinary action, up to and includng discharge

- Any person who retaliates or discriminates in any way against an individual who makes a complaint of sexual harassment or assists in the investigation of such a complaint will be subject to disciplinary action, up to and including discharge.

- Supervisors and department heads who become aware of instances of sexual harassment in their departments, even in the absence of a formal complaint, should initiate an investigation

- Any employee aggrieved by this policy and procedure who **is a** member of a bargaining unit may avail him/herself of an appeal procedure, if any, included in his/her union/association contract.

VII. STATE AND FEDERAL ENFORCEMENT AGENCIES

If an individual feels as if she or he has been sexually harassed , the following enforcement agencies may be df assistance and can be utilized either alone or in conjunction with the Sexual Harassment Complaint Procedure set forth above:

- Massachusetts Commission Against Discrimination(MCAb) One Ashburton Place, Room 601
  Boston, MA 02108
  (617) 727-3990

- Equal Employment Opportunity Commission (EEOC) (area office) One Congress Street, 10th Floor
  Boston, MA 02114
  (617) 565-3200

- State Office of Affirmative Action One Ashburton Place, Room 213 Boston, MA 02108
  727-7441

Please note that you should notify these agencies promptly, as there are limitation periods within which a complaint can be filed (EEOC - 180 days; MCAD - 6 months).

"ADOPTEDBY THE LYNNFIELDBOARD OF SELECTMEN NOVEMBER 12, 19. 6"

PERSONNEL BYLAWS

Appendix D

TOWN OF LYNNFIELD

Workplace Violence Policy

1. Purpose

1.1 The Town of Lynnfield is committed to provide a professional environment that is free of violence, threats of violence, harassment, intimidation or other disruptive behavior by establishing preventative measures, providing training and education, providing assistance and support to those who have been exposed to workplace violence, and holding accountable those responsible for workplace violence. It is intended that all management tools be employed to accomplish the goal of avoiding or at the very least reducing the effect of workplace violence on the victim(s) and providing consequences to those who commit workplace violence. Management will utilize available resources such as the Town's Employee Assistance Program (EAP), law enforcement and all applicable personnel policies and procedures to accomplish these goals.

2 Policy

2.1 The Town maintains a zero-tolerance policy toward workplace violence, or the threat of violence, against any of its employees, or elected or appointed officials, volunteers working for the Town, customers, the general public, and/or anyone who conducts business with the Town. It is the intent of the Town to provide a safe, healthy workplace, which is free of violence, threats of violence, harassment, intimidation, or other disruptive behavior.

2.2 The best way to prevent workplace violence is to raise awareness of department heads and employees, and encourage early reporting and resolution of problem behavior before it escalates into violence. All employees are responsible for helping maintain a violence-free workplace. To that end, employees are required to govern themselves accordingly. In addition, any employee experiencing or witnessing an act of violence is strongly encouraged to report it to their immediate supervisor and/or the Town Administrator.

2.3 Each act or threat of violence will be investigated, and appropriate action will be taken. Any such act or threat may lead to discipline, up to and including termination.

3 Definitions

3.1 ***Workplace Violence*** is any act committed by or against an employee or other affected individual within the context of that individual's involvement with the Town, that creates a hostile work environment and negatively affects the individual, either physically or psychologically and includes, but is not limited to harassment, stalking, coercion, intimidation, threats, physical attack or property damage.

3.2 An ***employee or other affected individual*** refers to any individual who serves in the capacity of an elected official, appointed member to a board, commission, or committee, volunteer working for the Town, employee of the Town, consultant or contractor retained by the Town, or visitor who is engaged in some form or business or activity with the Town.

3.3 ***Harassment*** is behavior that intimidates, disturbs, upsets, or threatens a person.

3.4 ***Intimidation*** is an act intended to frighten, coerce, or induce distress or fear.

3.5 A ***threat*** is the expression of an intent to cause physical or mental harm regardless of whether the person communicating the threat has the present ability to carry out the threat and regardless of whether the threat is contingent, conditional or future.

3.6 ***Physical threat*** is intentional, unwanted hostile physical contact with another person such as hitting, fighting, pushing, shoving, sexual assault, assault with a weapon, or other device used as a weapon, or throwing objects.

3.7 ***Verbal threat*** is intentional hostile communication (including recorded messages) with another person such as abusive outbursts, verbal tirades intended to offend, offensive comments, or use of obscene or threatening language.

3.8 ***Written threat*** is the use of printed or electronic media, including notes, letters, drawings, pictures, or computerized mail, to threaten, abuse, ridicule, or harass people or to threaten property.

3.9 ***Visual threat*** is the use of bodily gestures that are threatening, obscene or abusive.

3.10 ***Property damage*** is intentional damage to property, which includes property owned by the Town, elected officials, appointed board, commission, or committee members, employees, volunteers, visitors, vendors, consultants, or contractors.

3.11 ***Weapons*** are defined to include all devices that are intended to threaten, inflict harm, injury or death to an individual, such as, but not limited to, firearms, knives, throwing devices, chemical and inert sprays or agents, stun guns, clubs or other types of devices that are designed to discharge some type of projectile, as well as any other type of device used to inflict injury to another individual, or to threaten to do so.

4 Types of Workplace Violence

4.1 ***Violence by strangers*** involves verbal threats, threatening behavior or physical assaults by an assailant who has no legitimate business relationship with the Town.

4.2 ***Violence by customers*** involves an assailant who is doing business with the Town.

4.3 ***Violence by co-workers*** involves an assailant who has some employment related involvement with the workplace such as a former employee, co-worker or current employee, Administrator or board, committee or commission member.

4.4 ***Violence by a personal relationship*** includes a spouse, partner, former spouse, former partner, friend, acquaintance or family member.

5 Prevention of Workplace Violence

5.1 The Town subscribes to the concept of a safe work environment and supports the prevention of workplace violence. Prevention efforts include, but are not limited to informing employees of this policy, instructing employees regarding the dangers of workplace violence, communicating the sanctions imposed for violating this policy, and providing a reporting hierarchy within to report incidents of violence without fear of reprisal.

6 Procedure for Reporting Threat

6.1 Each incident of violent behavior, whether the incident is committed by another employee or an external individual such as a customer, vendor or citizen, must be reported to the Department Head and/or Town Administrator. The Town Administrator will work with the Department Head, and the Chief of Police to assess and investigate the incident and determine the appropriate action to be taken. The Town Administrator, when appropriate, will inform the victim of his/her right to have the Police notified.

6.2 In critical incidents in which serious threat or injury occurs, emergency responders such as Police, Fire and/or EMS personnel must be promptly notified. As necessitated by the seriousness of the incident, the Town Administrator may assemble a Response Team that consists of staff from the affected Department, Police, Fire/EMS, and Town Counsel and may include the EAP and others as deemed necessary.

6.3 The Response Team is responsible for establishing a protocol in the event of a threat or violent incident that may include but is not limited to:

6.3.1 Evaluating the potential of violence problems;

6.3.2 Assessing an employee's fitness for duty (through physical and/or behavioral health professionals);
6.3.3 Establishing a plan for the protection of co-workers and other potential targets;
6.3.4 Coordinating with affected parties such as victims, families, employees, media or law enforcement personnel;
6.3.5 Referring victims to appropriate assistance and community service programs; and
6.3.6 Assuring the immediate (within 24 hours) and on-going counseling is available to a traumatized victim(s).

6.4 Any employee who acts in good faith by reporting real or implied violent behavior will not be subject to any form of retaliation or harassment. Any action of this type resulting from a report of violence must be reported to the appropriate management staff for investigation and decision regarding proper action.

6.5 Employees who report incidents of workplace violence may request to do so confidentially. Such requests will be honored to the degree reasonable under the circumstances; however, there is no guarantee to complete confidentiality. The Town shall be sensitive to the employee's fear of reprisal. Information will be released only on a need-to-know basis in order to thoroughly investigate and resolve the matter. The identity of the individual making the report will be protected as practical.

6.6 It is a violation of this policy to engage in any act of workplace violence. Any employee who has been determined to be in violation of this policy will be subject to disciplinary action up to and including termination and, depending upon the violent act, may be subject to criminal sanctions.

6.7 If it is determined, after investigation of an incident, that an employee engaged in an act of workplace violence, he/she may be referred to the EAP by the Town Administrator. In these cases, failure of the employee to keep the initial appointment with the EAP and the follow through with the prescribed program may result in disciplinary action, including termination.

6.8 Should an employee become the victim of an incident of workplace violence, the Department Head or Town Administrator may offer additional referral services to assist in coping with any effects of the incident.

7 Violations

7.1 Any violation of this policy will result in disciplinary measures, up to and including termination, and depending upon the violent act, maybe subject to criminal sanctions.

7.2 Employees are strongly encouraged to immediately report any violation of this policy to his or her immediate supervisor or the Town Administrator.

7.3 All reported violations of this policy will be investigated by the Town and/or the appropriate authority.

8 Inspections

8.1 Employees should not have any expectations of privacy in Town property furnished to the employee, including but not limited to desks, telephones, cell phones, computers, lockers and vehicles. As such, these items maybe subject to inspection at any time without a warrant and with or without notice. See the Town's Telecommunications Access and Use Policy. The Town reserves the right to enter or inspect work areas.

9 Roles and Responsibilities

9.1 All Lynnfield Municipal employees are responsible for understanding and adhering to this policy.

9.2 Managers are responsible for ensuring that all employees are advised of and understand the terms of this policy and for ensuring employees' compliance with this policy.

Appendix E
TOWN OF LYNNFIELD

SOCIAL MEDIA USAGE POLICY
PERSONAL ACCOUNTS

When you are participating in social networking, you are representing both yourselves personally and the Town of Lynnfield (the 'Town'). During non-work hours, there is no intention to restrict a staff's ability to have an online presence and/or to mandate what staff can and cannot say. This policy is intended to provide you with a set of guidelines for appropriate online conduct and to avoid the misuse of this communication medium. This policy is not intended to restrict the flow of useful and lawful communications, but to minimize the risk to you, your coworkers and to the Town. This policy should not be interpreted to restrict employee communications that are otherwise authorized and/or protected by law.

Definition of Social Media: Social Media refers to the means of interactions among people to create, share, exchange and comment on content among themselves in virtual communities. Social media includes: Facebook, blogs, YouTube, instant messaging, LinkedIn, Twitter, among others.

Many sites defined above have the ability to blur the lines between work and personal environments. Keep this in mind and make sure to have a balance of information that shows respect, shares only appropriate information, and maintain confidential information about the Town.

Policy Guidelines:

- If you identify yourself as a Town employee, make it clear that you are speaking on your own behalf and not on behalf of the Town.
- Do not post any confidential, sensitive or proprietary information about the Town.
- Do not post **any** information related to the Town, its employees, or any entities with which the Town has a business relationship.
- Do not post or display comments about co-workers, supervisors or the Town that are vulgar, obscene, threatening, intimidating, harassing, knowingly false/defamatory and/or a violation of the Town's policies, including but not limited to its policies against discrimination and/or harassment and its Code of Conduct.
- Do not post statements, photographs, video or audio that reasonably could be viewed as malicious, obscene, threatening or intimidating, or that might constitute harassment or bullying. Examples of such conduct might include offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of race, sex, disability, age, sexual orientation, active military or veteran status, ethnicity, national origin, gender identity and expression, religion or any other status protected by law or Town policy.
- As a Town staff member, be aware that you are responsible for the content you post and that information remains in cyberspace forever.

- Be aware that you are not anonymous when you make online comments. Information on your networking profiles is published in a very public place. Even if you post anonymously or under a pseudonym, your identity can still be revealed.
- On personal sites, no employee may "Friend" any employee to whom the employee reports or who is in a position to supervise or manage the employee's work/performance. Employees participating in professional sites, such as LinkedIn, may designate co-workers as *friends* or *associates*.
- Any Social Media behavior or conduct either on or off-duty that elevates to harassment as defined by the Town's Harassment Policy – or any other Town policy - will be subject to subject to disciplinary action.

Users who violate the policy may be subject to disciplinary action, up to and including termination of employment. If you have any questions about this policy or a specific posting out on the web, please contact your supervisor or department head.

Appendix F
TOWN OF LYNNFIELD

Electronic Communication and Technology Use Policies

A. Electronic Mail Policy

The Town of Lynnfield provides electronic mail services (email) for its employees to use to enhance productivity, communication and efficiency in the work place. To facilitate these objectives, the following guidelines must be adhered to in the use of email.

1. Town email accounts are provided to enhance employees' efficiency in conducting town business. Any use of email that interferes with town business or computer operations is prohibited.
2. Employees must clearly identify themselves by name and title in all email correspondence.
3. Employees are not to perform any of the following acts:
   - take any action that would disguise the origin of email
   - permit another person to transmit email that falsely identifies your account as the origin of email transmission.
4. The transmission through email of offensive material of any kind, is prohibited.
5. To the extent possible, email and attachments from known and trusted sources only, should be opened.
6. The transmission, uploading, reproduction, distribution and/or participation in the transfer or sale, or the exploitation of any content obtained through email, for commercial gain is prohibited.
7. The transmission and/or receipt of responses to chain letters and/or pyramid schemes of any kind is prohibited.
8. Employee email accounts are the property of the Town of Lynnfield. In the event of an employee's termination, access to his/her email account will be assigned to an appropriate supervisor. It is the responsibility of the supervisor to review the account for useful and relevant material. After this occurs the account will be deleted or reassigned.
9. Record retention will be consistent with state law.

The Town of Lynnfield reserves the right to change this policy, at its discretion, at any time. Further, the Town of Lynnfield reserves the right to access or monitor any employee's email at any time for the purpose of investigating possible violations of the terms of this email policy or for other employee relations situations.

B.Computer Use Policies

The purpose of this policy is to manage access to town computers, related equipment, and data (files and transmissions), in order to ensure the availability, integrity, and controlled accessibility of that equipment and data.

The Information Systems (IS) department, part of the Town of Lynnfield, is the organization responsible for providing and maintaining general computing and networking capabilities throughout the town. The IS department provides resources to maintain the security and integrity of town data, and provides for the integration of business information services within the town.

a) All town -owned computers are covered under this policy.

b) Exceptions to this policy and/or special requirements must be fully justified, coordinated, and approved by the town's Information Technology Officer.

c) Administration is the function of the ITO.

d) Computers are a town resource and should not be used for personal activities.

e) Data are town resources, and are not owned by any individual, although some people may act as custodian of some data.

f) This policy applies to all town employees and any non-employees authorized to use town computers and all related equipment.

Communications on Computer Security Issues:

Employees must contact the IS department when they become aware of any issues or problems related to computer security, for example, viruses on computers, computers running and open for use without proper supervision, and accidental access to restricted data.

Back Up:

Town servers are backed up on a daily basis by the IS department.

All documents and data related to town business are stored on one of four town servers, i.e., Police, Asses or, Schools, or Information Systems to facilitate daily backups, according to guidelines established by IS.

Log in/Shut Down:
Employees shall lock, log off or shut down their computers when they leave their work area to prevent unauthorized use.

Virus Prevention:

All town computers shall maintain anti-virus protection.

Monitoring Computer Use:

Town computers and data contained thereon are the property of the Town of Lynnfield. The town reserves the right to monitor use by any available technical means, e.g., logging use or monitoring files on hard drives, in order to ensure the efficiency of town operations. Monitoring is the responsibility of the Information Technology Department and/or the relevant Department Head.

Software Installation:

Employees are prohibited from loading programs on town computers without the permission of the Information Technology Department and/or the relevant Department Head. This prohibition includes but is not limited to games, screen savers, and file sharing programs such as Napster.

C. Social Media Policy (Town Social Media Accounts)

Purpose:

Establish a procedure governing the use of official Town Facebook and Twitter accounts.

General:

- The Town has created several Facebook pages and Twitter accounts as a customer service tool for the dissemination of unbiased, factual information to the Town and public.

- Only Departments and individuals authorized by the Board of Selectmen or Town Administrator may post information to the Town's social media sites.

- The Town's social media sites will be used by the Town and its agencies for communicating information with the sole purpose of informing the public of the work, news and updates of various Town departments. The Town will not comment or reply to any response posts and is not obligated to respond to any comments posted on Facebook or Twitter.

- Town staff is not to engage in any dialogue or private messaging over social media.

- The Town and its agencies are not obligated to follow or friend any organization or individual. The Town and its agencies may follow other public Town, state and quasi-state agencies for the coordination and dissemination of information of interest to the public.

- No comments will be accepted through the Town's social media accounts for *any* public hearing; either adjudicatory public hearings or any other notified public hearing. Residents must attend public hearings and directly communicate with the deliberative public body.

- Content posted to social media is subject to the Massachusetts Public Records Law.

Monitoring:

- The Town Administrator's Office reserves the right to monitor content on all social media sites and to modify or remove any messages, posts or members that it deems, in its sole discretion, to be abusive, defamatory, in violation of copyright, trademark right or other intellectual property right of a third party or otherwise inappropriate for the service.

- The Town expressly reserves the right to remove any post, comment or remark that contains the following content from the social media site:

    - Personal attacks, insults or threatening language
    - Obscene or sexual
    - Profane language
    - Racism or discrimination
    - Potentially libelous statements
    - Support or opposition for political campaigns
    - Plagiarized material
    - Personal and private information
    - Anything that may compromise public safety and security
    - Comments or hyperlinks unrelated to posted information
    - Commercial promotions or spam content:

- The Town's social media sites may be used to communicate the following:
    - Announcements about departmental or community items of interest
    - Emergency notifications
    - Highlighting of Town events and activities

Authorized social media accounts and users as of 3/17

DPW

John Tomasz
Charlie Richter
Michelle/Maureen?

Fire

Mark Tetrault

Police

David Breen
Carl Johnson
SRO?
Det?

Library

Holly Mercer

Town Hall

Jim Boudreau
Robert Curtin

Trudy Reid
Ray Boly
Christine O'Sullivan

Building
Winnie Barasso

BOH
Kristen McRae

Recreation
Julie Mallett

Senior Center
Linda Nacarra

Appendix G

TOWN OF LYNNFIELD

Whistleblower Policy

1 Statute

1.1 Prohibition of Retaliation Against Employees reporting violations of Law or Risks to Public Health, Safety, or Environment (Pursuant to M.G.L. c149, s185).

2 Policy

2.1 The Town of Lynnfield requires employees to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. As Employees and representatives of the Town of Lynnfield, we must practice honesty and integrity in fulfilling our responsibilities and comply with all applicable laws and regulations.

2.2 It is the responsibility of all employees to report violations or suspected fraud, in accordance with this Whistleblower Policy.

2.3 It is illegal for a public employer to retaliate against an employee by taking adverse employment action against an employee because the employee:

2.3.1 Discloses or threatens to disclose to a supervisor or a public body an activity, policy, or practice of the employer or another employer with whom the employee's employer has a business relationship, that the employee reasonably believes is in violation of a law, rule, or regulation promulgated pursuant to law, or which the employee reasonably believes poses a risk to public health, safety or the environment.

2.3.2 Provides information to, or testifies before any public body conducting an investigation, hearing, or inquiry into any violation of law, rule, or regulation promulgated pursuant to law, activity, policy, or practice by the employer or another employer with who the employee's employer has a business relationship, which the employee reasonable believes poses a risk to public health, safety, or the environment; or

2.3.3 Objects to, or refuses to participate in any activity, policy, or practice which the employee reasonably believes is in violation of a law, rule or regulation promulgated pursuant to law, or which the employee reasonably believes poses a risk to public health, safety, or the environment.

2.4 In order to qualify for the protection outlined in the paragraphs above the employee must:

2.4.1 First, bring his/her concerns to the attention of a Supervisor prior to making a public disclosure to a public body, except:

2.4.2 If the employee is reasonably certain that the activity, policy, or practice is known to one or more supervisors of the employee and the situation is emergency in nature;

2.4.3 Or the employee reasonably fears physical harm as a result of the disclosure provided;

2.4.4 Or the employee makes disclosure to a public body for purpose or providing evidence of what the employee reasonably believes to be a crime.

2.5 An employee who believes he/she has been harmed by a violation of this statute may file a civil suit in superior court within two years to seek relief, including but not limited to reinstatement of employment in the same position, lost wages, restoration of benefits, attorney's fees and reasonable costs, and such other relief as the court might allow. Either party is such action is entitled to a trial by jury. Under certain circumstances, more fully

described in the statute itself, if a court finds that such legal action as referred to in this paragraph is without basis in aw or fact, the court may award reasonable court costs and attorney fees to the employer.

3 Reporting

3.1 An employee who wishes to report an activity, policy, or practice of the employer or another employer with whom the employee's employer has a business relationship, that the employee reasonably believes is in violation of a law, rule, or regulation promulgated pursuant to law, or which the employee reasonably believes poses a risk to public health, safety or the environment may do so by reporting it to the Department Head and/or the Town Administrator.

4 Roles and Responsibilities

4.1 All Lynnfield employees are responsible for understanding and adhering to this policy.

4.2 Managers are responsible for ensuring that all employees are advised of and understand the terms of this policy and for ensuring employees' compliance with this policy.

Town of Needham

Massachusetts

GENERAL BY-LAWS

Charter

(Acts of 1971, C. 403 as amended by the
Act of the General Court.)

July 2022 Compilation

(Note: There were no amendments in 2020)

TOWN OF NEEDHAM

GENERAL BY-LAWS

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ARTICLE 1

TO□ N MEETING

SECTION 1.1 DATES OF MEETING

1.1.1 Annual Town Meeting for the election of officers and such other matters as may be voted on the official ballot shall be held on the second Tuesday in April of each year; and the Annual Town Meeting for the transacting of business shall be held on the first Monday in May of each year. If the business is not completed that day, an adjournment shall be taken to the next following Wednesday. If any business shall then remain unfinished, adjournment shall be taken to the next following Monday, with successive adjournments to the next following Wednesdays and Mondays until all business is completed, unless otherwise voted at one of the scheduled meetings.

1.1.2 If for any reason a State Primary or State Election should occur within 30 days before or immediately following the date established for the Annual Town Meeting, the Select Board, after consultation with the Town Clerk, may by proclamation postpone and schedule another day in the month of April for the Annual Town Election.

SECTION 1.2 NOTIFICATION

1.2.1 All Town Meetings shall be notified and warned by posting attested copies of the Warrant calling for the Town Meeting in not less than twenty public places in the Town at least seven days before the time of holding the Annual Town Meeting and at least fourteen days before any Special Town Meeting.

1.2.2 The Town Clerk shall cause to be delivered or mailed to each Town Meeting Member, at least seven days in advance, a copy of the Warrant for the Annual Town Meeting, held for the purpose of the transacting of business.

1.2.3 The Town Clerk shall cause to be delivered or mailed to each Town Meeting Member, at least fourteen days in advance, a copy of the Warrant for each Special Town Meeting.

1.2.5 The Town Clerk shall make available to any resident, upon request, a copy of the Warrant for each Town Meeting, and shall post a copy of each warrant on the official Town of Needham website.

1.2.6 The Town Clerk shall cause the titles and a synopsis of all Town Meeting Articles to be printed in a local newspaper.

SECTION 1.3 □OTES

1.3.1 If two-thirds vote of the Town Meeting is required by statute, a count shall not be taken unless it is deemed necessary by the Moderator in the fulfillment of the duties of the office.

1.3.2 A vote of the Town Meeting shall be taken by a roll call of the yeas and nays: (a) whenever requested by twenty-five of the Town Meeting members present, immediately following a voice vote, standing vote or vote by show of hands; (b) whenever such a roll call on the pending question is ordered by affirmative vote of a majority of the Town Meeting Members present and voting; or (c) whenever such a roll call is deemed necessary by the Moderator in the fulfillment of the duties of his office.

1.3.3 A motion to reconsider a warrant article in the warrant of a Town Meeting convened under such warrant may be adopted by a simple affirmative majority vote of said Town Meeting. A warrant article aforesaid which has once been reconsidered may not again be reconsidered, unless such further reconsideration is moved on behalf of the Select Board or Finance Committee and is adopted by a simple majority of Town Meeting.

SECTION 1.4 SPECIFIC RE□ □ESTS BY MODERATOR

The Moderator may direct to any person in the hall a specific request by a Town Meeting Member for information pertaining to the question under consideration.

SECTION 1.5 MOTIONS BY SPEA□ERS

Any speaker who addresses the merits of a matter shall not be permitted to place on the floor, immediately following the speaker's remarks, a motion to move the previous question or a motion to limit debate.

SECTION 1.6 DI□ISION OF MOTION

If a motion under an article of the Town Warrant is susceptible of division, it shall be divided upon the request of twenty voters; and the questions shall be put separately on each part.

SECTION 1.7 ATTORNEYS AS SPEA□ERS

Any person employed as an attorney by another interested in any matter under discussion at a Town Meeting shall disclose the fact of his employment before speaking.

SECTION 1.8 APPROPRIATIONS - INFORMATION RELATI□E TO BALLOT □□ESTIONS

The Town Meeting may appropriate and authorize the expenditure of town funds for the purpose of providing the voters of the town with factual information relative to measures to be voted upon at elections in the town. Measures, as used in this section, shall both mean measures submitted to the voters for acceptance or rejection under the Town Charter, as amended, or any other law, but shall not include a new or revised charter or charter amendment proposed by a Charter Commission, or a measure requiring discussion in the Information for □oters published by the Secretary of the Commonwealth, or any measure placed upon the ballot by a state general law not relating to the organization, powers, duties, obligations and finances of the Town.

SECTION 1.9 ELECTION OF OFFICERS

1.9.1 The Town, at its annual town election of officers, shall in every year when the term of office of any incumbent expires, and except as otherwise provided by law, choose by ballot from its registered voters the following town officers for the following terms of office:

(a) Five Select Board Members for a term of three years.

(b) Seven members of the School Committee for a term of three years.

(c) A Moderator for a term of three years.

(d) A Town Clerk for a term of three years.

(e) Five members of the Park □ Recreation Commission for a term of three years.

(f) Two Constables for a term of three years.

(g) Three Assessors for a term of three years.

(h) Three Commissioners of Trust Funds for a term of three years.

(i) Seven Trustees of the Needham Public Library for a term of three years.

(j) Five Trustees of Memorial Park for a term of three years.

(k) Five members of the Board of Health for a term of three years.

(l) Five members of the Planning Board for five year terms, so arranged that the term of not more than one member shall expire each year.

(m) Three members of the Needham Housing Authority for five-year terms, so arranged that the term of not more than one member shall expire each year.

1.9.2 In all cases, except for the Planning Board and Housing Authority, where three or more members of a board or commission are to be elected for terms of more than one year, as nearly 1/3 as possible, shall be elected annually.

SECTION 1.10 FINANCE COMMITTEE

1.10.1 There shall be a Finance Committee consisting of nine registered voters, none of whom shall be Town officers, agents or employees (other than Town Meeting Members)**.** The Moderator shall annually appoint three members to serve for three years. Said committee shall choose its own chairman and secretary. acancies on said committee may be filled at any time by the Moderator.

1.10.2 The Committee shall have access to all facts, figures, records and other information relating to all Town departments, boards, committees or officers**;** and when requested by the Committee, such information shall be furnished immediately by whomever it is requested, including the Town Manager and/or any department, board, committee, officer or employee. If not directly requested of the Town Manager, the Committee shall inform the Town Manager or the School Superintendent and/or their designees of such requests. The Town Manager shall report to the Finance Committee whenever the expenditures of any department are exceeding or are likely to exceed its appropriations.

1.10.3 The Finance Committee shall consider all matters of business included within the articles of any warrant for a Town Meeting, and shall, after due consideration, report thereon its recommendations as to each article that it finds to have a financial implication. The Committee shall report in print or otherwise to all Town Meetings. For the information of voters, the report of the Finance Committee to the Annual Town Meeting shall be printed, together with the motion substantially in the form to be proposed in connection with each article, in the warrant of said meeting. The Finance Committee's recommendation on the operating budget shall be the Main Motion to be acted on by Town Meeting. In its motion, or motions, the Finance Committee shall divide the proposed appropriation for each department into a sufficient number of items to separate the major classifications of expenditures. The Finance Committee shall transmit to the Town Manager its initial draft proposed budget on or about the 22nd day of February, and its final proposed budget for publication in the Warrant by no later than the 15th day of March.

SECTION 1.11 PERSONNEL BOARD

1.11.1 The Town Moderator shall appoint the Personnel Board, consisting of five (5) persons for three (3) year overlapping terms. At least two members of the Personnel Board shall be qualified by reason of their experience as human resources executives. Any registered voter of the Town may be appointed to the Personnel Board, provided however, that no Town employee or Town elected official (other than a Town Meeting Member) shall be appointed.

1.11.2 The Personnel Board may retain such clerical and other assistance, and make such expenditures, as it deems necessary to the performance of its duties.

1.11.3 The Personnel Board shall advise the executive branch on strategic human resources and collective bargaining matters. The Personnel Board shall report to the Select Board and/or Town Meeting, as it deems appropriate as to the status of human resource administration in the Town. The Town Manager shall consult with the Personnel Board prior to appointing an assistant town manager/personnel director, or person performing said function regardless of title, in accordance with Section 20(d) of the Town Charter.

1.11.4 If an Article is inserted in the warrant for an Annual or Special Town Meeting with respect to the human resource system of the Town, a copy of such article shall be furnished to the Personnel Board by the Town Manager. The Personnel Board shall report its recommendation to Town Meeting with respect to such article.

1.11.5 The Personnel Board will consult with the Town Manager, the Select Board and the Finance Committee on a motion to propose appropriations to fund the cost items of collective bargaining agreements. The Personnel Board shall review such agreements and report its recommendations to Town Meeting. The Town Manager shall keep the Personnel Board informed as to the status of collective bargaining and the Personnel Board shall make recommendations to the Town Manager and Select Board, as it deems appropriate.

1.11.6 At the request of the Personnel Board, the Town Manager shall provide access to all facts, figures, records and other information pertaining to Town departments and positions to the extent that the release of such records is not inconsistent with privacy and confidentiality laws.

1.11.7 The Town Manager shall provide such advice, assistance and information to the Personnel Board as it may require for the discharge of its functions.

SECTION 1.12 APPRO□AL OF EMPLOYEE CONTRACTS

1.12.1 When a collective bargaining agreement has been signed by the Town Manager and approved by the Select Board with any organization of Town employees under said Chapter 150E, the Town Manager shall provide to the Personnel Board and to the Finance Committee (1) a copy of said agreement, (2) a copy of the motion to be presented to the Town Meeting proposing an appropriation or appropriations to fund the cost items of said agreement (as defined in said Chapter 150E), and (3) any explanatory or other information relevant to said agreement which said Board or Committee may request. Said Board and said Committee shall report their respective recommendations to the Town Meeting as to whether or not the motion to appropriate for the funding of cost items in the collective bargaining agreement ought to be adopted.

1.12.2 The motion to be presented to the Town Meeting shall identify clearly the collective bargaining agreement to be funded and the amount or amounts to be appropriated in such a way that Town Meeting members will know what agreement is to be funded, how it is to be funded, and what is the grand total of the cost items to be funded in relation to said agreement. Prior to consideration by the Town Meeting of any motion to fund the cost items of a collective bargaining agreement, the employer shall provide Town Meeting members with a fair and concise summary of said agreements and information as to the amount of the appropriation or appropriations being requested to fund the same.

1.12.3 A motion to fund the cost items of a collective bargaining agreement, once introduced upon the floor of Town Meeting, shall be amendable only upon a motion to amend offered by or on behalf of the Select Board or the Finance Committee for the purpose of correcting an error. No other motion to amend shall be admissible. The motion to fund, so corrected if necessary, shall be voted or rejected by the Town Meeting. No motion in relation to collective bargaining agreement will be admissible which the Moderator, after consultation with Town Counsel, determines to be in contravention of M.G.L. Chapter 150E.

SECTION 1.13 SPECIAL COMMITTEES

1.13.1 Special committees established or continued by vote at an annual or special town meeting, and instructed to report to a subsequent annual town meeting, shall file their reports in writing with the Select Board not later than the first Monday of February preceding the Annual Town Meeting which they report, and said reports shall be printed and included as appendices to the report of the Finance Committee to the Town at the Annual Town Meeting.

1.13.2 The chairman of each temporary study committee established by the town meeting shall, upon the termination of the existence and the work of his committee, deposit with the Town Librarian the working papers and other material gathered or compiled by the committee in the course of its work. Subject to the approval of the Town Clerk and the requirements of M.G.L. Chapter 66, the Town Librarian may destroy that portion of the working papers and material having no substantial value, with the balance being deposited in the public administration collection.

SECTION 1.14 TO□ N MEETING □ ARRANTS

The last date on which the Select Board shall receive articles, by petition or otherwise, for inclusion in the warrant for the next Annual Town Meeting shall be the first Monday in February. The Select Board are not prohibited from inserting in the warrant for said Annual Town Meeting, after that date, articles which, in the Board's opinion, are of such importance to the welfare of the Town as to make their consideration at such meeting necessary or desirable.

SECTION 1.15 NUMBERING/LETTERING ASSIGNMENT BY TOWN CLERK

The Town Clerk is authorized to assign appropriate numbers or letters to by-law sections, subsections, paragraphs and subparagraphs where none are approved by Town Meeting; and if such numbering or lettering is approved by Town Meeting, to make non-substantive editorial revisions to the same to ensure consistent and appropriate sequencing and numbering; and to make non-substantive editorial revisions to references regarding such numbering or lettering as contained within the by-laws to ensure accuracy and conformity.

ARTICLE 2

TOWN ADMINISTRATION AND ORGANIZATION

SECTION 2.1 GENERAL

2.1.1 Salaries. No elected Town officer shall hold a salaried position under a board of which such officer is a member. No contract for materials or property of any kind shall be made on behalf of the Town by any such board with any of its members.

2.1.2 Payment Over of Fees. On and after January 1, 1946, all Town officers, except constables, shall pay all fees received by them by virtue of their office, into the Town treasury.

2.1.3 Contract Procedures. The Town and all of its departments excluding the Board of Health, shall comply with the procurement procedures of General Laws Chapter 30B, as it may from time to time be amended. The Board of Health shall follow the procurement procedures of General Laws Chapter 30B with respect to the purchase and disposal of supplies and interests in real estate. The term "supplies" as used herein has the same meaning as defined in Section 2 of said Chapter 30B. No contract for an amount over $50,000 entered into by the Town shall be effective until it shall have been approved as to form by the Town Counsel. The Town Manager will notify the Select Board in writing when approving a contract in excess of $1,000,000.

Unless otherwise prohibited by law, the Town is authorized to solicit, award and enter into contracts for periods up to three years, including any renewal, extension or option provision, subject to annual appropriation. The Town is authorized to solicit, award and enter into certain types of contracts for periods exceeding three years but not to exceed the time period specified as follows, including any renewal, extension or option provisions:

	YEARS
Appraisal Services for Revaluation	5
Environmental studies and consultants	10
Hospital Service Agreements	5
Incineration, composting garbage, recycling	20
Lease by the Town of private land or buildings	10
Lease of any equipment	10
Lease of land from a public agency or authority for recreational purposes	
Lease of Public Lands and buildings	10
Lease of Public Lands and/or buildings for the installation of solar photovoltaic facilities for electric generation	30
Lease of Public Lands for historical and educational purposes to a non-profit or charitable organization	30
Lease of Public Lands for recreational purposes to a Non-profit or charitable organization	20

Lease purchase of any equipment	10
Lighting	10
Maintenance agreements for equipment, buildings or grounds	5
Online Subscription Services	10
Physicians Contracts	5
Purchase of oil and fuel	5
Purchase of power (or net metering credits) from solar photovoltaic facilities installed on land leased or licensed from the Town	20
School transportation	5
Sewer and disposal contracts	30
Software License and/or Maintenance Agreements	10
Telecommunication Services	5
Water studies	10
Water supply	20
Water supply construction	20.

2.1.4. □acancies in Certain Appointive Offices.

2.1.4.1 Definitions

For the purposes of this Section 2.1.4 the following words shall have the following meanings:

a) appointive committee: A committee, commission or board of the town composed of members appointed by one or more appointing authorities and created by:

i) town by-law
ii) vote of Town Meeting
iii) vote of a committee, commission or board of the town, or
iv) interdepartmental agreement

b) Excessive absences: The failure to attend three or more consecutive meetings of the appointive committee.

c) Medical incapacity: The determination of a duly licensed medical doctor that the person is incapable of performing the duties of the office because of a lack of physical or mental capacity.

2.1.4.2 The appointing authority may remove and replace any person it has appointed to an appointive committee prior to the end of his or her term for excessive absences from committee meetings or because of medical incapacity, but only upon the written request of a majority of the remaining members of the appointive committee.

2.1.4.3 Before removing and replacing its appointee under Section 2.1.4 of these By-Laws, the appointing authority shall notify in writing the appointee of the appointing authority's intent to remove him or her and its reasons therefor. □pon the written request of the appointee, the appointing authority shall hold a hearing under the provisions of the Open Meeting Law, G.L. Chapter 3□, Section 23B prior to taking final action on the removal.

SECTION 2.2 ADMINISTRATION

2.2.1 Operating Budget. The Town Manager shall issue budget guidelines and instructions for all Town departments to submit their spending requests for the ensuing fiscal year. The Town Manager shall consult with the Finance Committee prior to the issuance of said guidelines and instructions. The Town Manager and/or his/her designee and the Finance Committee shall consult with each other throughout the Budget process. The Town Manager and School Superintendent will provide the Finance Committee with copies of their respective departmental spending requests on or before the 2nd Wednesday of December. Following receipt of these spending requests, the Finance Committee may begin its consideration of same, including the commencement of budget hearings. The Town Manager, after consultation with the Select Board and School Committee, shall not later than the 31st day of January, present to the Finance Committee a balanced budget recommendation in the form of an executive budget, which shall include the spending priorities of all

Town departments for the ensuing fiscal year, including in addition thereto, the voted School Committee budget request if different than that contained in the proposed balanced budget. The Town Manager's executive budget recommendation shall not be binding on the Finance Committee. Said executive budget recommendation shall include the estimates of Town revenues and proposed expenditures of all Town departments, including debt service and other amounts required to be raised for the ensuing fiscal year. The Town Manager may amend or otherwise revise revenue estimates as may be warranted. All such revisions shall be provided in writing to the Select Board, School Committee and Finance Committee.

2.2.2 Capital Improvement Budget

2.2.2.1 All boards, departments, committees, commissions and officers of the town shall annually, at the request of the Town Manager, submit to him or her in writing a detailed estimate of the capital expenditures required for the efficient and proper conduct of their respective departments and offices for the ensuing fiscal year and the four year period following thereafter. The Town Manager, after consultation with the Select Board, shall submit in writing to the Select Board a careful, detailed estimate of the recommended capital expenditures for the aforesaid periods, showing specifically the amount necessary to be provided for each office, department and activity and a statement of the amounts required to meet the debt service requirements or other indebtedness of the Town. The Select Board shall transmit a copy of the capital budget to the Finance Committee along with the Select Board recommendations relative thereto. The Select Board shall transmit the capital budget to the Finance Committee no later than the first Tuesday after the first Monday in January.

2.2.2.2 A capital expenditure is defined as the acquisition, construction, renovation, betterment or improvement involving land, public buildings and facilities; water and sewer system laterals, mains, and appurtenances; and equipment or vehicles; provided the cost is □25,000 or more and the improvement will have a useful life of five years or more; or any planning, feasibility, engineering or design study in preparation for such capital expenditures.

2.2.2.3 The Capital Improvement Plan shall include: (a) a list of all capital improvements proposed to be undertaken during the next five years, together with supporting data; (b) cost estimates, methods of financing, and recommended time schedule; and (c) the estimated annual cost of operating and maintaining any facility to be constructed or acquired. The first year of the Capital Improvements Program shall constitute the proposed capital improvements budget for the coming fiscal year and the ensuing four years of the plan are
included for planning purposes.

2.2.3 Town Counsel

The Select Board shall appoint a Town Counsel, who shall act as attorney and counsel for the Town and the various officers and boards thereof, to institute and prosecute suits in the name of the Town, to defend suits brought against the Town, and to compromise and settle suits and claims, unless otherwise ordered by special vote of the Town. Town Counsel shall have the authority to engage the services of attorneys to assist in carrying out the duties of the office.

2.2.4 Town Treasurer and Ta□Collector

2.2.4.1 Town Treasurer. The Town Treasurer shall prosecute proceedings under the provisions of M.G.L. Chapter 60 for the foreclosure of the right to redeem lands purchased, taken or held by the Town for the nonpayment of taxes.

2.2.4.2 The Town Treasurer shall have the custody, management and sale of all lands held by the Town under a tax collector's deed, or a taking of land for taxes after the title of the Town has become absolute by the foreclosure of the right of redemption according to law, or under a deed to the Town by the owner of the equity of redemption given in lieu of foreclosure proceedings. The Town Treasurer is authorized and empowered with the approval of the Select Board, in the name and on behalf of the Town, to sell such lands at public auction or pursuant to the procedures permitted by M.G.L. Chapter 30B, and to execute, acknowledge and deliver proper deeds for that purpose. Notice of any sale by auction shall be published in a newspaper published in the Town for three consecutive weeks, the first publication to be not less than twenty-one days before the sale.

2.2.4.3 The provisions of the Sub-section 2.2.42 shall not apply to land which the Town has authorized to be used for municipal purposes. Prior to sale of such land, any person legally entitled thereto shall be granted the right to redeem

property acquired by the Town as aforesaid, notwithstanding the foreclosure of the right of redemption, upon the payment of the amount due the Town, including the interest and costs. This right to redeem must be exercised within two years of the date when the title of the town has become absolute, either by the foreclosure of the right of redemption according to law, or by a deed to the Town by the owner of the equity of redemption given in lieu of foreclosure proceedings.

2.2.4.4 Interest Charges - Past Due Bills. The due dates for the payment of all municipal charges and bills shall be 30 days after the charge or bill is issued by the Town, unless otherwise specified by a general law or special act of the Commonwealth. Interest accrues at the same rate as charged on tax bills under the provisions of M.G.L. Chapter 5□, Section 57. The Select Board shall have the authority to abate any such interest charges, in whole or in part.

2.2.4.5 Municipal□Changes Lien. The Town, acting through its Select Board, shall impose a lien on real property located within the Town for any solid waste disposal fee or charge which has not been paid by its due date, in accordance with the provisions of MGL Chapter 40 Section 58.

2.2.4.6 Ta□Collector. The Collector of Taxes shall collect, under the title of Town Collector, all accounts due the Town.

2.2.5 Public □ or□s Department

2.2.5.1 Highways

2.2.5.1.1 Assignment of Street Numbers. All buildings on or near the line of public or private ways shall be assigned a number or numbers by the Select Board, who shall assign odd numbers for one side of a way and even numbers for the opposite side of such way. Said assigned numbers, shall not be less than 4 inches high with □ inch stroke, shall be placed in a conspicuous place on said building or buildings by the owner or occupant within thirty days from the time that notice is given by the Board to the owner or occupant of the number or numbers assigned to said building or buildings. On any building constructed or renovated after July 1, 2002 that is located so that it is more than 100 feet from the line of a public or private way to the building, a post or suitable marker bearing the assigned street number or numbers that conforms to this by-law shall be installed and maintained within ten feet of the line of the way near the entrance to the property thereof. Street numbers in existence as of the effective date of the By-law are not required to be replaced by the owner or occupant unless notified by said Board.

The owner and occupant of each building in the Town to which a number has been thus assigned shall maintain said number on said building at all times in such a manner that the number will be clear and conspicuous and the view of said number is not obstructed. Whoever violates the provisions of this subsection 2.2.5.2.1 shall be subject to a fine of not exceeding twenty dollars (□20.00) for each offense under the non-criminal process authorized by MGL Chapter 40, Section 21D. Each day on which the violation continues shall be considered a separate offense.

2.2.5.1.2 Acceptance of New Streets. In connection with specifications for new streets and ways through private property:

(a) A plan and profile of every such street or way shall be filed in the office of the Director of Public Works, who shall approve or establish the grade thereof.

(b) Every street or way shall be at least forty feet in width and have a road bed not less than twenty feet in width.

(c) All loam shall be removed from the road bed to a depth of twelve inches below finished grade and from the sidewalk to a depth of six inches, or such greater depth as may be required by the Director of Public Works.

(d) The entire area of every new street shall be first cleared of all stumps, brush, roots, and like material and all trees not intended for preservation.

(e) All excavation or embankment work shall be brought accurately to a subgrade of not less than eight inches for the roadway and four inches for the sidewalk below finished grade, or such greater depth as the nature of the subsoil, in the opinion of the Director of Public Works, may require.

(f) All corners of intersecting streets or ways shall be rounded as approved by the Director of Public Works.

(g) The bottom of the excavation and the top of the fill when completed, hereinafter known as the subgrade, shall be true to the lines, grades and cross-sections given by the Director of Public Works. After all drains have been laid and the subgrade has been shaped correctly, it shall be brought to a firm, unyielding surface by rolling the entire area with an approved three (3) wheeled roller, weighing not less than ten (10) tons. Any portion of the subgrade which is not accessible to a roller shall be thoroughly tamped by hand. All soft and yielding material and other portions of the subgrade which will not compact readily when rolled or tamped shall be removed and replaced with suitable material. All rock or boulders found in the excavation shall be taken away or broken off to a depth of not less than six (6) inches below the surface of the subgrade. The bottom of the base course shall be spread with dry, clean 1 1/4-inch to 2 1/2-inch stone over the bottom course, in such a quantity that after being rolled there will be a depth of not less than 2 1/2 inches and not more than 3 inches, and then shall be rolled until the stone does not creep under action of the roller. One and three-fourth gallons of tar or asphalt binder shall then be applied to each square yard of road surface. Dry, clean 3/4-inch stone shall be spread evenly over the surface, rolled thoroughly; and there shall then be applied to this surface 1/2 gallon of asphalt binder per square yard, which shall be covered with dry, clean pea stone and rolled until a smooth, unyielding surface results.

2.2.5.1.3 Petition for Acceptance of New Streets. All streets to be accepted by the Town must be petitioned for not later than six months prior to the start of the Town Meeting at which such petition is to be acted upon. No streets shall be accepted by the Town unless constructed in compliance with the foregoing specifications.

2.2.5.1.4 Street Occupancy Permit. Except as herein provided, a Street Occupancy Permit, issued by the Director of Public Works, in such form and content as said Director may require, must be obtained before undertaking any work, including, without limitation, construction, repair, maintenance or reconstruction work, in, within or affecting a public way. The person responsible for such work or in charge of those performing such work shall review such work with the Director of Public Works and the Police Chief, or their designees, to determine whether or not such work will result in the disruption of the normal flow of traffic or cause a safety hazard to pedestrian or vehicular traffic. If the Director of Public Works and the Police Chief, or their designees, determine that such work will result in the disruption of a normal flow of traffic, or will create a safety hazard to pedestrian or vehicular traffic, the person responsible for such work, or in charge of those performing such work, shall follow the safety precautions ordered by the Director of Public Works and the Police Chief, or their designees, including but not limited to, the hiring of a Needham Police Officer, under the existing regulations governing privately paid police details, to direct traffic and minimize the vehicle safety hazards connected with such work.

No work shall be commenced in, within or affecting a public way until those persons responsible for such work comply with the requirements of Sub-section 2.2.5.1.4. The Town of Needham is exempt from the requirements of this sub-section. Whoever violates the provisions of Sub-section 2.2.5.1.4 shall be subject to a fine not exceeding one hundred dollars (□100.00) each day being a separate offense.

The Chief of Police or Director of Public Works, or their respective designees, are hereby authorized to stop any work on any way conducted in violation of any provision of this sub-section.

2.2.5.1.5 Removal of Snow and Ice. The Director of Public works may, for the purpose of removing or plowing snow, or removing ice from any way, remove, or cause, to be removed to some convenient place, including a public garage, any vehicle interfering with such work, and impose liability for the cost of such removal and of resulting storage charges, if any, upon the owner of such vehicle.

2.2.5.1.6 Street Intersections. At each intersection of public or private streets or ways in the Town, there shall be a clearance area consisting of the triangular area formed by the side lines of the intersecting streets or ways and a line joining each side line at a point twenty-five (25) feet distant from the point of intersection or, in case of rounded corners, from the point at which the side lines would intersect if projected. In case of uncertainty as to the point of intersection of such projected side line, the Town Engineer shall certify the clearance area drawn in accordance with the foregoing provisions. No fence or other structure, shrubbery, foliage, hedge, tree or the like which interferes with sight lines across such clearance area and thereby limits or obstructs the view of vehicular traffic entering such intersection shall be erected, planted, maintained or allow to exist, provided, however, that Sub-section 2.2.5.12.6 shall not apply to buildings in violation of the Town Zoning By-Law.

2.2.5.1.7 Construction and Maintenance of Overhead Poles

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Any person, firm, corporation or partnership, or their agents and employees, granted any license, permission or other authority to construct or maintain poles and overhead wires and associated overhead structures upon, along, under or across any public way or ways, is forbidden from installing or constructing, and shall remove immediately, any poles, overhead wires and associated overhead structures which are located on, along or across Chestnut street between its intersection with School Street and the railroad bridge at Needham Junction.

2.2.5.2 Sewers

2.2.5.2.1 The Department of Public Works may require house connections to sewer mains within five years after the laying of such mains. This provision shall apply only to mains laid after March 18, 1 40.

2.2.5.2.2 Plans and descriptions of all common sewers belonging to the Town, with a true record of the charges of making and repairing said sewers and all assessments therefor, shall be kept in the Department of Public Works.

2.2.5.3 Miscellaneous

2.2.5.3.1 ells, Cisterns and Cesspool Protection. The owner of any premises within the Town on which a well, cistern or cesspool is located, or, if the premises are in the exclusive possession of a person other than the owner, such person having possession of said premises, shall cause each such well, cistern or cesspool to be protected at ground level by masonry and a metal cover, or by such other substantial protective materials as may be approved by the Town's Director of Public Works.

The owner of premises within the Town on which a well, cistern or cesspool is located, or, if the premises are in the exclusive possession of a person other than the owner, such person having possession of said premises, shall cause each such well, cistern or cesspool, the use of which has been discontinued, to be filled in to ground level with material commonly used as fill, or, in the case of a well or cistern, with the approval of the Town's Director of Public Works, covered with masonry in a substantial and safe manner. Such filling or masonry work, as the case may be, shall be performed as to wells, cisterns, and cesspools, the use of which has been discontinued prior to the effective date of Sub-section 2.2.5.3.1, immediately following said effective date, and as to wells, cisterns, and cesspools, the use of which shall be discontinued subsequent to the effective date of Sub-section 2.2.5.3.1, immediately following such discontinuance of use.

2.2.5.4 Trench Safety

2.2.5.4.1 The Town Manager is authorized to designate a local permitting authority for issuing trench permits and/or licenses under the regulations promulgated by the Commonwealth of Massachusetts Department of Public Safety and Division of Occupational Safety in accordance with Chapter 82A of the General Laws relative to excavation and trench safety.

2.2.5.4.2 A trench is defined as a subsurface excavation greater than three feet in depth and is fifteen feet or less between the soil walls as measured from the bottom.

2.2.5.4.3 The Select Board may, from time to time enact fees to cover the costs of processing said permits and for enforcement thereof.

2.2.5.4.4 The Select Board may, from time to time, and after a public hearing, enact local rules and regulations consistent with Chapter 82A relative to the trench permitting process, the standard and special conditions for issued permits, and the enforcement of issued permits.

2.2.5.4.5 The Town may perform temporary repairs to private property if such repairs are determined by the Director of Public Works to be required for public necessity, in accordance with regulations issue by the Select Board in accordance with Section 2.2.5.4.4. Said repairs shall be considered necessary to abate an immediate hazard.

2.2.5.5 Municipal ater Supply

2.2.5.5.1 Applicability

This section pertains to residences and commercial property and industry served by the Town’s water system.

2.2.5.5.2 Implementation of a Mandatory Non-essential Outdoor □ ater □se Restriction The Select Board or its designee shall have authority to implement a mandatory non-essential outdoor water use restriction in an effort to promote water conservation and to ensure compliance with the Water Management Act.

2.2.5.5.3 Bac□flow Prevention on Automatic Irrigation Systems All automatic irrigation systems connected to the municipal water system in the Town shall be protected from backflow events by the installation of a backflow prevention device approved by the Director of Public Works.

2.2.5.6 Private □ ays

2.2.5.6.1 Snow and Ice Removal. The Town may remove snow and ice from such private ways within its limits for emergency vehicle access in accordance with Massachusetts General Laws and in accordance with regulations or policies issued by the Select Board. Such snow and ice removal may be limited to those private ways maintained in an acceptable condition and in accordance with standards determined by the Director of Public Works.

2.2.5.6.2 Barricades. Barricades installed on private ways that serve to deter prompt and appropriate emergency access shall be removed on order of the Fire Chief.

2.2.5.6.3 Temporary Repairs. The Town may perform temporary repairs to private ways if such repairs are determined by the Director of Public Works to be required for public necessity, in accordance with regulations or policies issued by the Select Board.

Said repairs shall be considered necessary to abate the immediate hazard caused by the defect and shall not be considered as maintenance of the private way nor shall the way be considered a public way. Drainage shall not be included as part of any such repairs, and the private way need not have been open to public use prior to the repairs being made.

Abutters to the private way may petition the Town to perform temporary repairs. In such cases, fifty one percent of the abutters to the private way must petition the Director of Public Works for the repairs to be made by the Town. □pon receipt of a petition and a determination of the necessity of such repairs, the Town shall provide the petitioners with a statement of the cost of such repairs. Within seven (7) days of receipt of the statement of cost, the petitioners shall be entitled to withdraw the petition. □nless the petition is withdrawn, the Town shall promptly make the repairs and the petitioners shall thereafter reimburse the Town for the cost of the repairs, if the repairs exceed □300. The reimbursement amount shall be equal to the petitioner's pro rata share of the cost of repairs based on the ratio that each petitioner's frontage bears to the total frontage of the petitioners on the private way. Betterment charges will not be assessed for such repairs.

If the cost of repairs does not exceed □300, no reimbursement will be required.

The Town shall not be liable for any damage to private property caused by such repairs, except as otherwise provided by law.

2.2.6 <u>Information Technology</u>

2.2.6.1 Purpose. It is hereby declared to be the policy of the Town of Needham that there shall be an Information Technology Center (within the Department of Finance) that shall be responsible for providing services and systems to all Town offices and departments. It is further declared that, subject to statutory provisions to the contrary, and insofar as practical, all data processing services and systems shall be centralized in the Information Technology Center.

2.2.6.2 Organi□ation. There is hereby created a department of the Town government to be known as the Information Technology Center which shall be part of the Department of Finance of the Town. In addition, there shall be an advisory board as described below. The Center's operations shall be under the management and control of the Director of Finance. The Advisory Board shall serve in an advisory capacity for all long-range planning and capital acquisition functions.

2.2.6.3 Technology Advisory Board

(a) There shall be a Technology Advisory Board (hereinafter called the Board) consisting of five (5) regular members and four (4) ex officio members. The ex officio members shall be non-voting members.

(b) The regular members of the Board shall be appointed by the Select Board to staggered three-year terms. The regular members of the Board shall be residents of the Town who have knowledge and experience in telecommunications or information technology. No employee of the Town shall be a regular member of the Board. In the event that a vacancy occurs during a regular member's three-year term, the Select Board shall, within ninety (0) days, appoint a successor to fill the balance of the unexpired term.

(c) The ex officio members of the Board shall be:

(i) the Town Manager or his or her designee,
(ii) the Town's Director of Management Information Services,
(iii) the School Department's Director of Financial Services, or a substitute designated by the Superintendent of Schools,
(iv) the School Department's Director of Technology, or a substitute designated by the Superintendent of Schools.

(d) The role of the Board shall be (1) to provide technical assistance to all Town departments and the School Department in the formulation of technology plans and capital requests for voice, data and video systems; (2) to advise the Town Manager in the review of capital requests for voice, data and video systems, taking into consideration the goals of maximizing efficiency and cost effectiveness, minimizing unnecessary redundancy, and insuring, to the extent possible, the compatibility of each request with other existing or proposed systems; (3) to advise the Permanent Public Building Committee on the specifications to be considered for voice, data and video systems when constructing or renovating Town Facilities; (4) advise the Town Manager, Town Select Board, and Town Departments on matters relating to information technology policy, specifically with reference to issues of security, privacy, future technology and possible provision of government services through information technology; and (5) the advice will be delivered through a vote of the regular members and reported to the Town Manager, Town Select Board, and the Town Departments which requested the advice.

(e) The Board shall, annually in June, elect from among its regular members a chairman and vice-chairman, each of whom shall serve until a successor is duly elected. The chairman shall annually appoint a member to serve as secretary.

2.2.6.4 Information Technology Center

(a) The Town Manager may appoint a Director of Management Information Systems who shall supervise the daily operation of the Information Technology Center.

(b) It shall be the responsibility of the Information Technology Center, through the Director of Finance and the Director of Management Information Systems, to provide data processing services for all Town offices and departments to the extent possible and practical. The Information Technology Center will attempt to accommodate all requests from all departments whenever economically feasible and within the limits of the equipment capability and capacity of the Town's resources.

(c) Each office or department of the Town utilizing any service provided by the Information Technology Center covered by Sub-section 2.2.6.4 shall have such control over the data supplied to, and received from, such center as such office or department finds necessary to conduct its own affairs.

(d) Security of data, issuance of reports, extracts from data files, form control, operations, commitments, costs of services (when appropriate or necessary), training and user approvals as they relate to the Information Technology Center shall be considered appropriate subjects covered by rules and regulations promulgated by the Director of Finance with the assistance of the Director of Management Information Systems and the Advisory Board.

2.2.6.5 Confidentiality

(a) Although municipal records are generally of a public nature, it is recognized that certain data to be processed through the Center are of a classified or confidential nature. The Department head of any board, commission or other official tribunal having control of such classified or confidential data shall notify the Director of Finance in writing of the classified or confidential nature of the data; and the Director of Finance shall take the necessary steps to protect such classified or confidential data.

(b) No person shall disclose or make known in any manner the contents or nature of any data while in the custody of the Center for processing, or any data originated by the Center, without the express consent of the Director of Finance or his duly authorized representatives, or without the express consent of the head of the department, board, commission or other official tribunal supplying the basic information; nor shall any person tamper with, change, alter or destroy any data while in the custody of the Center, except in accordance with approved programs for processing the data. Whoever violates any provision of Sub-section 2.2.6.5 shall be subject to appropriate disciplinary action.

Section 2.2.7 Departmental Revolving Funds

2.2.7.1 This By-Law establishes and authorizes revolving funds for use by Town departments, boards, committees, agencies, or officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by Massachusetts General Law Chapter 44, Section 53E□.

2.2.7.2 A department or agency head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this By-Law without appropriation subject to the following limitations:

(a) Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund.

(b) No liability shall be incurred in excess of the available balance of the fund.

(c) The total amount spent during a fiscal year shall not exceed the amount authorized by Town Meeting on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the Select Board and Finance Committee.

2.2.7.3 Interest earned on monies credited to a revolving fund established by this By-Law shall be credited to the general fund.

2.2.7.4 Except as provided in Massachusetts General Law Chapter 44, Section 53E□ and this By-Law, the laws, charter provisions, by-laws, rules, regulations, policies or procedures that govern the receipt and custody of Town monies and the expenditure and payment of Town funds shall apply to the use of a revolving fund established and authorized by this By-Law. The Town shall include a statement on the collections credited to each fund, the encumbrances and expenditures charged to the fund and the balance available for expenditure in the regular report the town accountant provides the department, board, committee, agency or officer on appropriations made for its use.

2.2.7.5 Authorized Revolving Funds

2.2.7.5.1 School Transportation Revolving Fund

Fund Name There shall be a separate fund called the School Transportation Revolving Fund authorized for use by the School Committee.
Revenues The town accountant shall establish the School Transportation Revolving Fund as a separate account and credit to the fund all of the fee-based transportation program receipts charged and received by the School Committee in connection with school transportation programs.

Purposes and Expenditures During each fiscal year, the School Committee may incur liabilities against and spend monies from the School Transportation Revolving Fund for pupil and other districtwide transportation activities in connection with school transportation programs. The costs associated for students bussed and not charged a fee will be funded through a regular budget appropriation or other funding source.

Fiscal □ears The School Transportation Revolving Fund shall operate for fiscal years that begin on or after July 1, 2017.

2.2.7.5.2 Needham Transportation Revolving Fund

Fund Name There shall be a separate fund called the Needham Transportation Revolving Fund authorized for use by the Health and Human Services Department.

Revenues The town accountant shall establish the Needham Transportation Revolving Fund as a separate account and credit to the fund all of the fees the transportation program charged and received by the Health and Human Services Department in connection with the services.

Purposes and Expenditures During each fiscal year, the Health and Human Services Department may incur liabilities against and spend monies from the Needham Transportation Revolving Fund for transportation provided to seniors and other users of the service in connection with Health and Human Services transportation program

Fiscal □ears The Needham Transportation Revolving Fund shall operate for fiscal years that begin on or after July 1, 2017.

2.2.7.5.3 Water Conservation Revolving Fund

Fund Name There shall be a separate fund called the Water Conservation Revolving Fund authorized for use by the Department of Public Works.

Revenues The town accountant shall establish the Water Conservation Revolving Fund as a separate account and credit to the fund all of the receipts from sale of water conservation devices and program fees charged and received by the Department of Public Works in connection with water conservation programs.

Purposes and Expenditures During each fiscal year, the Department of Public Works may incur liabilities against and spend monies from the Water Conservation Revolving Fund for the purchase, resale, and promotion of water conservation devices and outreach programs to encourage water conservation in connection with promotion of water conservation and sale of devices to conserve water.

Fiscal □ears The Water Conservation Revolving Fund shall operate for fiscal years that begin on or after July 1, 2017.

2.2.7.5.4 Home Composting Revolving Fund

Fund Name There shall be a separate fund called the Home Composting Revolving Fund authorized for use by the Department of Public Works.

Revenues The town accountant shall establish the Home Composting Revolving Fund as a separate account and credit to the fund all of the receipts from sale of composting bins charged and received by the Department of Public Works in connection with the promotion of home composting.

Purposes and Expenditures During each fiscal year, Department of Public Works may incur liabilities against and spend monies from the Home Composting Revolving Fund for the purchase, resale, and promotion of home composting bins and related outreach programs.

Fiscal □ears The Home Composting Revolving Fund shall operate for fiscal years that begin on or after July 1, 2017.

2.2.7.5.5 □outh Services Programs Revolving Fund

Fund Name There shall be a separate fund called the □outh Services Programs Revolving Fund authorized for use by the Health and Human Services Department.

Revenues The town accountant shall establish the □outh Services Programs Revolving Fund as a separate account and credit to the fund all of the program receipts charged and received by the Health and Human Services Department in connection with the related fee-based programs.

Purposes and Expenditures During each fiscal year, the Health and Human Services Department may incur liabilities against and spend monies from the □outh Services Programs Revolving Fund for costs related to youth service and community program activities.

Fiscal □ears The □outh Services Programs Revolving Fund shall operate for fiscal years that begin on or after July 1, 2017.

2.2.7.5.6 Traveling Meals Revolving Fund

Fund Name There shall be a separate fund called the Traveling Meals Revolving Fund authorized for use by the Health and Human Services Department.

Revenues The town accountant shall establish the Traveling Meals Revolving Fund as a separate account and credit to the fund all of the program receipts charged and received by the Health and Human Services Department in connection with traveling meals program.

Purposes and Expenditures During each fiscal year, the Health and Human Services Department may incur liabilities against and spend monies from the Traveling Meals Revolving Fund for the costs to provide traveling meals in connection with program.

Fiscal □ears The Traveling Meals Revolving Fund shall operate for fiscal years that begin on or after July 1, 2017.

2.2.7.5.7 Immunization Program Revolving Fund

Fund Name There shall be a separate fund called the Immunization Program Revolving Fund authorized for use by the Health and Human Services Department.

Revenues The town accountant shall establish the Immunization Program Revolving Fund as a separate account and credit to the fund all of the program receipts charged and received by the Health and Human Services Department in connection with the immunization and vaccination programs.

Purposes and Expenditures During each fiscal year, the Health and Human Services Department may incur liabilities against and spend monies from the Immunization Program Revolving Fund for costs associated with immunization, vaccination, and medical countermeasure distribution programs, as well as educational programs and public information efforts in support of those services.

Fiscal □ears The Immunization Program Revolving Fund shall operate for fiscal years that begin on or after July 1, 2017.

2.2.7.5.8 Public Facility □se Revolving Fund

Fund Name There shall be a separate fund called the Public Facility □se Revolving Fund authorized for use by the Department of Public Works.

Revenues The town accountant shall establish the Public Facility □se Revolving Fund as a separate account and credit to the fund all of the facility use receipts charged and received by the Department of Public Works in connection with the use of Town facilities by community groups and organizations.

Purposes and Expenditures During each fiscal year, the Department of Public Works may incur liabilities against and spend monies from the Public Facility □se Revolving Fund for costs to operate and maintain the facility for use for conferences, programs, functions or other events in connection with the use of the facilities.

Fiscal □ears The Public Facility □se Revolving Fund shall operate for fiscal years that begin on or after July 1, 2017.

2.2.7.5.□ Memorial Park Activities Revolving Fund

Fund Name There shall be a separate fund called the Memorial Park Activities Revolving Fund authorized for use by the Memorial Park Trustees.

Revenues The town accountant shall establish the Memorial Park Activities Revolving Fund as a separate account and credit to the fund receipts from food sales and voluntary program activities received by the Memorial Park Trustees.

Purposes and Expenditures During each fiscal year, the Memorial Park Trustees may incur liabilities against and spend monies from the Memorial Park Activities Revolving Fund to provide a food concession and to maintain and improve Memorial Park.

Fiscal □ears The Memorial Park Activities Revolving Fund shall operate for fiscal years that begin on or after July 1, 2017.

2.2.7.5.10 Tree Replacement Revolving Fund

Fund Name There shall be a separate fund called the Tree Replacement Revolving Fund authorized for use by the Department of Public Works.

Revenues The town accountant shall establish the Tree Replacement Revolving Fund as a separate account and credit to the fund all of the receipts accepted by the Needham Select Board for the purpose of tree plantings charged and received by the Department of Public Works in connection with tree removal approvals.

Purposes and Expenditures During each fiscal year, the Department of Public Works may incur liabilities against and spend monies from the Tree Replacement Revolving Fund for purchase, maintenance, distribution, and promotion of shade trees in the Town of Needham in connection with payments received by the Town and accepted by the Select Board for said purpose. Salary or wages of full-time staff shall be paid from the annual budget appropriation of the Department of Public Works and not from the Fund.

Fiscal □ears The Tree Replacement Revolving Fund shall operate for fiscal years that begin on or after July 1, 2017.

2.2.7.5.11 Aging Services Programs Revolving Fund

Fund Name There shall be a separate fund called the Aging Services Programs Revolving Fund authorized for use by the Health and Human Services Department.

Revenues The Town Accountant shall establish the Aging Services Programs Revolving Fund as a separate account and credit to the fund all of the program receipts charged and received by the Health and Human Services Department in connection with the related fee based programs.

Purposes and Expenditures During each fiscal year, the Health and Human Services Department may incur liabilities against and spend monies from the Aging Services Programs Revolving Fund for costs related to educational, entertainment, and programmatic activities offered through the Department.

Fiscal □ears The Aging Services Programs Revolving Fund shall operate for fiscal years that begin on or after July 1, 2018.

[Note: Article 10 of STM 5.14.18 labeled section 2.2.5.11 in error. The section should be labeled 2.2.7.5.11□

2.2.8 Independent Audit

The Select Board shall annually employ a certified public accountant to make audits of the accounts of the Town.

SECTION 2.3 PLANNING BOARD

2.3.1 Installation of □ ater Mains. Every person making or opening subdivision of land in the Town shall, at his own expense, make such provisions for the development of streets therein, including the construction and drainage thereof, and the installation of water mains therein, as may be required by the Planning Board. Such street development and construction shall be in accordance with specifications therefor which the Director of Public Works shall from time to time adopt and water mains shall be installed only in a manner approved by the Director of Public Works. The Planning

Board may require a proper bond with an adequate surety or sureties to secure performance of requirements of Sub-section 2.3.1.

2.3.2 **Drainage**. Every person constructing a street or way to public travel within the Town shall at his own expense make such provisions for the drainage of such street or way, and the territory contiguous thereto, as may be required by the Planning Board. The Planning Board may require a proper bond with an adequate surety or sureties to secure performance of its requirements of Sub-section 2.3.2.

SECTION 2.4 BOARD OF APPEALS

2.4.1 **Appointment By Select Board**. There shall be a Board of Appeals consisting of three regular members and two associate members appointed by the Select Board. The three regular members shall be appointed for three years and in such a manner that the term of one regular member shall expire each year.

2.4.2 **Associate Members**. The associate members shall be appointed by the Select Board for a term of one year. In case of a vacancy or the absence, inability to act, or interest on the part of a regular member of the Board of Appeals, that place may be taken by an associate member designated by the Chairman or acting Chairman.

2.4.3 **Statutory Authority**. Said Board of Appeals shall be the board of appeals, required under the provisions of M.G.L. Chapter 40A, Section 14, and Chapter 41, Section 81Z, and shall have all powers and duties and shall be governed by the procedure prescribed in all provisions of the general laws applicable to boards of appeals and to applications for special permits or for variances, arising under either the Building By-Laws or the Zoning By-Laws, and shall have jurisdiction of all appeals under the Subdivision Control Law.

2.4.4 **Adoption of Rules**. The Board of Appeals may adopt rules consistent with the provisions of M.G.L. Chapter 40A, Section 14 and Chapter 41, Section 81Z, and provisions of the Building or Zoning By-Laws, for conducting its business and otherwise carrying out the purposes of said by-laws, the Subdivision Control Law and all applicable statutes.

SECTION 2.5 BOARD OF HEALTH

2.5.1 **Transportation of Refuse and Garbage**. No person shall carry in or through any of the streets, squares, courts, lanes, avenues, roads, places or alleys within the Town of Needham, any house dirt, ashes or garbage, or other refuse or garbage, or any grease or bones or any refuse substances from any dwelling houses or other buildings or places in the Town, except upon such terms and conditions as the Board of Health may deem in the health and interest of the Town.

2.5.2 **Disposal of Refuse and Garbage**. No person shall litter or, without a license from the Board of Health, dispose of any refuse on or in any public land, way, sidewalk, pond, stream, brook or watercourse or on any private land except at the Recycling Transfer Station with an appropriate permit for entry to that facility and in compliance with the rules and regulations adopted by the Select Board.

Any person who violates any provision of Sub-section 2.5.2 in the presence of a police officer may be arrested by such officer without a warrant, if such person refuses to give his true name and address or to remove any substance unlawfully discarded by such person after having been requested by such officer. Any person who violates any provision of Sub-section 2.5.2 shall be punished by a fine not exceeding two hundred dollars (□200.00) for each offense.

2.5.3 **Sale of Cigarettes by Machine.** All sale of cigarettes by machine is prohibited.

Any person who violates sub-section 2.5.3 Sale of Cigarettes by Machine shall be punished by a fine not exceeding two hundred (□200.00) dollars for each offense. Each sale in violation of sub-section 2.5.3 shall be considered a separate offense.

SECTION 2.6 P□BLIC FACILITIES

2.6.1 Building Design and Construction Department There is hereby established a Building Design and Construction Department under the authority of the Town Manager. The Department shall be responsible for managing the design (including feasibility studies), construction, reconstruction, alteration or enlargement of all buildings owned by the Town or constructed on land owned, leased, licensed or operated by the Town. These projects will be under the jurisdiction of the Permanent Public Building Committee as provided below, for which the Building Design and Construction Department will provide support.

2.6.2 Permanent Public Building Committee There shall be a Permanent Public Building Committee (hereinafter "Committee") responsible for overseeing the design (including feasibility studies), construction, reconstruction, alteration or enlargement of all buildings owned by the Town or constructed on land owned, leased, licensed or operated by the Town.

2.6.2.1 The Committee shall consist of the Town Manager or his or her designee and six additional members appointed by majority vote of an appointing authority. The appointing authority shall consist of the Moderator, the Chairman of the School Committee, the chairman of the Select Board, the Chairman of the Board of Library Trustees, and the Chairman of the Park and Recreation Commission.

2.6.2.2 Each of the members appointed by the Appointing Authority shall be a registered voter of the Town of Needham. No member appointed by the Appointing Authority shall be a paid employee of the Town, or serve as an elected official, or elected member of another standing Town board, committee or commission, except Town Meeting, or serve as an appointed member of another standing Town board, committee, or commission directly involved in the design, permitting, and/or financing of public buildings.

2.6.2.3 Among the members appointed by the Appointing Authority, there shall be a commercial general contractor, an architect, an engineer, and an attorney, if qualified individuals with the necessary expertise are available for appointment, and two other residents. If a commercial general contractor, architect, engineer, or attorney, as the case may be, is not available for appointment, the Appointing Authority shall have the discretion to appoint instead any individual meeting the qualifications set forth in 2.6.2.2 with construction, engineering, or accounting experience to fill that vacancy

2.6.2.4 The Town Manager, if a member, shall serve ex officio. A member serving as the designee of the Town Manager shall serve at the discretion of the Town Manager. Members appointed by the Appointing Authority shall serve for terms of three years.

2.6.2.5 The Appointing Authority shall, following the effective date of this section, appoint members of the Committee as follows: Two members for one year, two members for two years and two members for three years. Upon the expiration of a term, future appointments shall be for terms of three years, except that if a member vacates his or her seat before the expiration of his or her term, the Appointing Authority shall appoint a replacement to complete the unexpired portion of that term. Expiring terms shall end on December 31 of each year. A member may hold his or her seat after his or her term expires until a successor is qualified.

2.6.2.6 Definitions

For the purpose of this Section 2.6.2 the following words shall have the following meanings:

a. architect: a person with educational training and experience in the field of architecture, and a professional registration.

b. building: a structure in a portable or fixed location, with an area of at least one hundred square feet, having a roof or providing shelter, including swimming pools.

c. clerk-of-the-works: an individual responsible for day-to-day inspection of a project. He or she shall prepare and maintain detailed daily records of a project's progress and shall report to the project manager.

d. commercial general contractor: a person with the educational training and experience in general construction of a commercial nature, and a commercial general contractor's license, or at least ten years of experience as a commercial general contractor.

e. designer: an individual, corporation, partnership, sole proprietorship, joint venturer, joint stock company, limited liability partnership or other entity engaged in the practice of architecture, landscape architecture, or engineering. If the designer is an individual, he or she shall be registered as an architect, landscape architect or engineer in the Commonwealth of Massachusetts, and if the designer is one of the other categories listed above, the majority of the partners or owners shall be registered as an architect, landscape architect or engineer in the Commonwealth of Massachusetts.

f. direct construction cost: the direct cost for material, labor and equipment to construct, reconstruct, enlarge or alter a building.

g. engineer: a person with educational training and experience in his or her engineering discipline, and a professional registration.

h. feasibility study: prepared by a designer, and identifies the needs of a building user as well as alternatives for meeting the user's functional requirements. It includes surveys and testing, including environmental impacts, access for the disabled and cost estimates.

i. final design: prepared by a designer, the final design includes a schematic design, design development, final drawings and specifications, bidding documents and contract documents.

j. indirect construction costs: architectural and engineering fees, furnishings and equipment, permit and license fees, project management costs, salaries for the project manager and clerk-of-the-works, financing costs, and project contingencies.

k. project: a project is a proposed construction, reconstruction, alteration or enlargement of any building owned by the Town or constructed on land owned, leased or operated by the Town.

l. Project Committee: a committee consisting of the Permanent Public Building Committee members and the representatives designated by a □ser Agency for a specific building project. A member of the Permanent Public Building Committee shall serve as chairperson for all Project Committee activities.

m. project manager: an individual who acts on behalf of the Committee, and who is responsible for the day-to-day supervision of a project. He or she shall maintain project records, issue emergency directives, and oversee the clerk-of-the-works and other project participants.

n. total project cost: the combination of the direct and indirect construction costs.

o. □ser Agency: an elected or appointed board, committee or commission, including the Select Board, School Committee, Library Trustees, Park and Recreation Commission, Memorial Park Trustees, Conservation Commission, or other board, committee or commission having responsibility for a building.

2.6.2.7 The Committee is responsible for projects having a total project cost of □500,000 or more. The Committee may defer its jurisdiction in the instance where the project includes little or no actual building construction.

2.6.2.8 The Committee shall develop and publish procedures describing its activities. The Committee shall submit a report of all its activities for publication in the Town's annual report.

2.6.2.9 The Committee shall invite to its meetings representatives from the Board of Health, the Commission on Disabilities, and any health and safety committee or other advisory committee for the project appointed by the relevant □ser Agency.

2.6.2.10 The Committee shall, subject to appropriation, conduct feasibility studies and final designs, oversee the construction of projects, procure designer and consultant services as it deems necessary or as required by law. The relevant □ser Agency shall determine the functional need and utility of a project.

2.6.2.11 Before the commencement of a feasibility study and before any hiring for a project, the relevant □ser Agency shall designate two people to serve on the Project Committee as its representatives. The □ser Agency may replace its representatives as it deems necessary. The □ser Agency representatives shall have full voting rights and shall have full participation in all the Project Committee's deliberations and actions.

2.6.2.12 Any □ser Agency seeking to construct, reconstruct, alter or enlarge a building under its jurisdiction shall file a project application with the Committee. The Committee shall meet with the □ser Agency. At the request of the □ser Agency or at the discretion of the Committee, a feasibility study shall be conducted. Prior to the commencement of a feasibility study, the feasibility study funding shall be submitted as part of the capital improvement planning process in accordance with Section 2.2.2 of this by-law and funded by Town Meeting. The Project Committee and the □ser Agency shall review the completed feasibility study. □pon review, the Project Committee and the □ser Agency shall each indicate on a separate, signed copy whether they will accept, amend or reject the feasibility study. These provisions do not preclude the □ser Agency from conducting independent studies relating to its functions.

2.6.2.13 If a feasibility study approved by the Project Committee and the □ser Agency shows that a proposed construction project is necessary, the Project Committee shall conduct a final design. Prior to the commencement of the final design, the final design scope of work and its funding shall be submitted as part of the capital improvement planning process n accordance with Section 2.2.2 of this by-law and funded by Town Meeting. Prior to approval of a final design and contract documents by the Project Committee, a draft version shall be reviewed by the Project Committee and the □ser Agency. The final design and contract documents shall not be considered approved until the Project Committee and the □ser Agency acknowledge their approval in writing.

2.6.2.14 A description of the estimated total project cost shall be prepared for all feasibility studies and final designs.

2.6.2.15 Whenever project funding approval is sought from the town meeting, the Project Committee and the □ser Agency shall provide a detailed report to the town meeting that includes an explanation of the project need, scope of work, schedule and costs.

2.6.2.16 The Committee shall employ project managers and clerk-of-the-works for each project as it deems necessary.

2.6.2.17 The Town Clerk shall maintain a register of Committee members, and of architects, engineers, contractors, accountants, and attorneys that are willing to serve on the Committee. The Town Clerk shall maintain said register in such form as the Town Clerk, in consultation with the Select Board, may determine and such register may be purged from time to time of such information as the Town Clerk determines to be obsolete and of no further value.

2.6.2.18 Except as the laws of the Commonwealth may otherwise require, the Chairperson of the Committee, or his or her designated representative, shall, upon the termination of the Project Committee: (1) provide the □ser Agency and the Department of Public Works – Building Maintenance Division (hereinafter "BMD") with a complete and final set of drawings and specifications of the finished structure, as-built drawings, Operations and Maintenance Manuals, all other contract documents, and attic stock materials used therein, and shall provide to the □ser Agency and BMD all papers guaranteeing the building or any feature thereof ("warrantees") for work done thereon, and (2) post a digital copy of remaining records and reports on the town server for the purpose of maintaining detailed records, including any inventory indicating what papers, materials and records were deposited with the □ser Agency and BMD. Subject to the approval of the Town Clerk and the requirements of M.G.L. Chapter 66, the user Agency and BMD may destroy that portion of the material relinquished to the □ser Agency and BMD determined to have no substantial value, the balance of such materials being deposited in the Public Administration Collection.

SECTION 2.7 SPECIAL COMMITTEES AND COMMISSIONS

2.7.1 Transportation Committee

2.7.1.1 There is hereby established a Transportation Committee, which shall serve under the supervision of the Select Board as Town Agents. The said Committee shall consist of five members appointed as hereinafter provided, a simple majority of whom shall constitute a quorum for the transaction of business, and of the members of the General Court, whose districts include all or part of Needham, serving **e□officiis** as non-voting members. Of the five appointed members aforesaid, two shall be appointed by the Select Board, two shall be appointed by the Planning Board and one shall be appointed by the Moderator, each such appointee to serve for a term of three years; provided, however, that of the members

originally appointed, one shall serve for a term of one year, two for a term of two years and two for a term of three years, as the Select Board shall determine. If any appointed member shall resign or otherwise vacate his office, a successor shall be appointed by the appropriate authority to serve for the balance of the unexpired term.

The Committee shall, annually in April, elect from its membership a Chairman and such other officers it deems necessary and desirable.

2.7.1.2 **Duties of the Committee**. The Transportation Committee shall conduct continuing studies of the mass transportation needs of the Town, with particular emphasis upon commuter transportation. It shall make such special studies relative to transportation problems as the Select Board or Town Meeting may, from time to time, direct.

2.7.2 Future School Needs Committee

2.7.2.1 There shall be a Future School Needs Committee consisting of seven members: two members of the Finance Committee, two members of the School Committee, two members of the Select Board, and one member appointed by the Town Moderator. The chairman shall be designated from time to time by vote of the Committee. The Future School Needs Committee will assist in the identification of the criteria necessary to develop the estimates and projections. It shall be the responsibility of the School Committee to procure professionally-developed estimates of the Town's current and projected student population and to provide this information to the Future School Needs Committee for their review, guidance, and feedback.

SECTION 2.7.3 Community Preservation Committee

2.7.3.1 Establishment

There is hereby established a Community Preservation Committee, consisting of nine (□) voting members pursuant to MGL Chapter 44B. The composition of the committee, the appointment authority and the term of office for the committee members shall be as follows:

One member of the Conservation Commission as designated by said Commission for a term of three years.

One member of the Historical Commission as designated by said Commission for a term of three years.

One member of the Housing Authority as designated by said Authority for a term of three years.

One member of the Park and Recreation Commission as designated by said Commission for an initial term of two years and thereafter for a term of three years.

One member of the Planning Board as designated by said Board for an initial term of one year and thereafter for a term of three years.

Two members to be appointed by the Select Board, one member to be appointed for a term of one year and thereafter for a term of three years and one member to be appointed for a term of two years and thereafter for a term of three years.

Two members to be appointed by the Moderator, one member to be appointed for a term of one year and thereafter for a term of three years and one member to be appointed for a term of two years and thereafter for a term of three years.

No person shall be appointed to the committee for more than two consecutive three year terms.

Should any of the Commissions, Boards, Committees, or individuals who have appointment authority under this by-law be no longer in existence for what ever reason, the appointing authority for that Commission, Board, Committee, or individual shall become the responsibility of the Select Board.

2.7.3.2 Duties

2.7.3.2.1 The Community Preservation Committee shall study the needs, possibilities, and resources of the town regarding community preservation. The committee shall consult with the Finance Committee, the Select Board and other existing municipal boards, including the Conservation Commission, the Historical Commission, the Planning Board, the Park and Recreation Commission and the Housing Authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the committee shall hold one or more public informational hearings on the needs, possibilities and resources of the town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the town.

2.7.3.2.2 The Community Preservation Committee, after consultation with the Finance Committee and the Select Board, shall make recommendations to the Town Meeting for the acquisition, creation and preservation of open space; for the acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition, creation and preservation of land for recreational use; for the creation, preservation and support of community housing; and for the rehabilitation or restoration of open space, land for recreational use and community housing that is acquired or created as provided in this section. With respect to community housing, the community preservation committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

2.7.3.2.3 The Community Preservation Committee may include, in its proposal to the Town Meeting, a recommendation to set aside for later spending funds for purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund. The Community Preservation Committee may recommend the issuance of general obligation bonds or notes in anticipation of revenues to be raised pursuant to Mass. Gen. Laws, Chapter 44B, Section 3, the proceeds of which shall be deposited in the Community Preservation Fund.

2.7.3.2.4 As provided in the Massachusetts Community Preservation Act, no expenditures shall be made from the Community Preservation Fund without the approval of Town Meeting.

2.7.3.2.5 The Community Preservation Committee will submit an annual administrative and operating budget for the Community Preservation Committee, which cannot exceed five percent (5□) of the annual revenues in the Community Preservation Fund, to Town Meeting for approval.

2.7.3.3 Re□uirement for a □uorum and Cost Estimates

The Community Preservation Committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the Community Preservation Committee shall constitute a quorum. The Community Preservation Committee shall approve its actions by majority vote. Proposals to the Town Meeting shall include their anticipated costs.

2.7.3.4 E□emptions

Taxpayers qualifying for the low-income exemption or the low and moderate-income senior exemption as provided for in G.L. c. 44B shall submit an application for the exemption on a form provided by the Board of Assessors within three months after the tax bill or notice is sent.

2.7.3.5 Severability

In case any section, paragraph or part of this chapter be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

2.7.3.6 Effective Date

This by-law shall take effect upon approval by the Attorney General of the Commonwealth, and after all requirements of M.G.L. c.40, S. 32 have been met. Each appointing authority shall have thirty days after approval by the Attorney General to make their initial appointments.

The provisions of this Community Preservation by-law shall be of no force or effect until such time as the Town Meeting and the voters of the Town vote to accept the provisions of Section 3 to 7, inclusive, of Chapter 44B of the General Laws, otherwise known as the Community Preservation Act.

SECTION 2.8 P□BLIC LIBRARY

2.8.1 Public Administration Research Collection at the Public Library

There is hereby established, and there shall hereafter be maintained, a Public Administration Research Collection at the Town's Public Library, under the supervision of the Director of the Public Library, for the use of the town officers and committees, civil organizations and individual citizens of the Town engaged in research in matters pertaining to governmental and social problems, particularly relating to the Town of Needham. To the extent that the facilities permit, library employees shall assist the members of the Town Meeting and any committee thereof in all matters requiring statistical research or fact-finding, in connection with studies ordered by the Town Meeting.

2.8.2 The Town Clerk shall furnish the Director of the Public Library with at least two copies of every publication issued by the Town and distributed through the Town Clerk's office. Any town department, board, commission or committee publishing a report not so distributed shall file at least two copies of such report with the Director of the Public Library.

SECTION 2.9 CO□NCIL ON AGING

2.9.1 There is hereby established a Council On Aging, consisting of a representative nominated by each of the following Town boards and committees: the Board of Health, the School Committee, the Trustees of the Needham Public Library, the Housing Authority, and the Park and Recreation Commission, and not fewer than seven additional members, all of whom shall be appointed by the Select Board and shall hold office for a term of three years.

2.9.2 It is the duty of the Council:

(a) To identify the needs and concerns and strengths of Needham's elderly and retired persons and those approaching retirement age.

(b) To design, promote, coordinate or implement services and programs to meet these needs and concerns.

(c) To inform the community and enlist the support and participation of all citizens in this effort.

(d) To work in coordination with programs of the Executive Office of Elder Affairs of the Commonwealth of Massachusetts.

2.9.3 A simple majority of the members shall constitute a quorum for the transaction of any business of the council. The council shall elect from its membership such officers it deems necessary and desirable.

2.9.4 If any appointed member shall resign, or otherwise vacate his office, his successor shall be appointed in the same manner as described above to serve for the balance of the unexpired term.

SECTION 2.10 YO□TH COMMISSION

2.10.1 There is hereby established a □outh Commission consisting of eight members. A simple majority of the members shall constitute a quorum for the transaction of any business of the Commission. The appointing authorities for said Commission shall be as follows: One by the Select Board, one by the Park and Recreation Commission, one by the Finance Committee, one by the Moderator, one by the Chief of Police, and one by the School Committee. Additionally, two student members to be appointed to the Commission by Superintendent of Schools as follows: In the first year a member of the Needham High School Junior Class shall be appointed for a two year term, and a member of the Senior Class for a one year term. Thereafter, one member of the Junior Class will be appointed for a two year term each year.

On or before the first day of June in each year, the appointing authorities shall appoint to the Commission sufficient members to fill expiring terms, each member so appointed to serve until the first day of June of the third year thereafter, with student members appointed to serve until the first day of June of the second year thereafter.

2.10.2 It shall be the duty of the □outh Commission to study, define, and ascertain the needs and problems of the Needham youth, and take such action necessary to promote the mental, physical and social growth of the youth of Needham through the implementation of appropriate procedures.

SECTION 2.11 HISTORICAL COMMISSION

2.11.1 Commission Members There shall be an Historical Commission of the Town of Needham, consisting of seven (7) members, each of whom shall be a resident of the Town of Needham, appointed by the Select Board. Initially, three (3) members shall be appointed for the term of three (3) years each, three (3) members shall be appointed for the term of two (2) years each, and one (1) member shall be appointed for a term of one (1) year. Thereafter, as the term for which the members were initially appointed expires, their successors shall be appointed for a term of three (3) years each. In the event of a vacancy occurring in the membership other than by the expiration of the term of a member, a successor shall be appointed to serve for the balance of the unexpired term.

2.11.2 □**uorum**. At all meetings of the Historical Commission, four (4) members shall constitute a quorum.

2.11.3 Officers. The members of the Historical Commission shall annually, within thirty (30) days after the annual appointments are made by the Select Board, elect from its membership a chairman, a vice-chairman and a secretary who shall serve during the ensuing year and until the election of their successor. All other meetings of the members shall be held at such designated times and places as the members shall designate.

2.11.4 Powers and Authority of the Historical Commission. The Historical Commission may exercise all the powers, authority and functions authorized by M.G.L. Chapter 40, Section 8D, and may make reasonable rules and regulations to aid in the orderly performance of its powers, authority and functions consistent with said Section 8D and Sub-section 2.11.4.

2.11.5 Demolition of Historical Buildings

2.11.5.1 Purpose. A demolition delay by-law provides a review procedure which results in a delay in the demolition of historically significant buildings. Such a by-law does not sanction or deny a proposed demolition but allows time for consideration of preservation alternatives to destruction. Property owners retain final decision-making authority.

2.11.5.2 Definitions.

Demolition - the act of pulling down, destroying, removing or razing a building or portion of a building or commencing such work with the intent of completing the same.

Historically Significant - property that is listed in the Needham Historical Inventory and is listed or awaiting listing in the National and/or State Registers, this property having been associated with historic person(s) or event(s) or having been designated by the Needham Historical Commission as architecturally significant or unusual.
Preferably preserved - worthy of a delay period to allow consideration of alternatives to demolition.

2.11.5.3 Initial Determination

2.11.5.3.1 When an application for a building demolition permit is filed with the Building Department, the Building Department shall determine if the building is contained in the Needham Historical Commission Inventory.

2.11.5.3.2 If the building is not contained in the inventory, the demolition permit will not be reviewed by the Needham Historical Commission.

2.11.5.3.3 If the building is contained in the inventory, the demolition permit application, if properly completed, will be referred to the Needham Historical Commission for its review. The application need not be accompanied by evidence of workmen's compensation coverage or letters from utility providers that the utilities have been disconnected in order for the application to be referred to the Historical Commission.

2.11.5.4 Procedure For Review

2.11.5.4.1 The Building Department must submit the application within 5 business days to the Historical Commission, and shall not issue the demolition permit until the Needham Historical Commission has returned the application to the Building Department, or upon the failure of the Needham Historical Commission to act in accordance with the time limits set within this Demolition Delay By-Law.

2.11.5.4.2 The Historical Commission must meet to determine whether the building is historically significant. This must be done within 21 days of receipt of the application from the Building Department. The Commission will notify the applicant of the meeting at least seven days in advance of the meeting.

2.11.5.4.3 At this meeting, the owner of the property may make a presentation to the Commission if (s)he chooses.

2.11.5.4.4 If the Commission finds that the building is not historically significant, there will not be a Demolition Plan Review, and the application will be immediately returned to the Building Department.

2.11.5.4.5 If the building is found to be historically significant, there will be a Demolition Plan Review conducted by the Needham Historical Commission.

2.11.5.5 Demolition Plan Review Process

2.11.5.5.1 The applicant must submit 7 copies of a Demolition Plan to the Historical Commission. The Demolition Plan shall contain:

1) A map or plan showing the location of the building or structure to be demolished.

2) A photograph of the street facade elevation.

3) A narrative description of the building or structure, or part thereof, to be demolished.

4) The reason for the proposed demolition and data supporting said reason, including (where applicable) data sufficient to establish any economic justification for the demolition.

5) A certified list of abutters to said property and other neighbors within 300 feet, whose names are ascertained from the Board of Assessor's most recent tax list.

2.11.5.5.2 Within forty-five days of the receipt of this demolition plan, the Commission shall review the application at a public hearing of the Commission to determine if the structure is preferably preserved. Public notice of such hearing shall be published by the Commission at the expense of the applicant in a local newspaper giving the time, place, and purpose of the hearing once in each of two successive weeks, the first publication not less than fourteen days before the day of said hearing. The Commission shall also mail a copy of said notice to the applicant, to abutters and to all owners of all property within 300 feet of the applicant's property as appearing on the most recent tax list, to the Needham Planning Board and such other persons as the Commission shall deem established to be notified.

2.11.5.5.3 If the building is not determined to be preferably preserved, the application for a permit to demolish will be returned to the Building Department immediately.

2.11.5.5.4 If the building is determined to be preferably preserved, the application for a permit to demolish need not be returned to the Building Department for a period of 6 months from the date on which the Historical Commission files its report with the Town Clerk to prevent demolition.

2.11.5.5.5 If the Commission is satisfied that the applicant/owner has sincerely tried to find alternatives to demolition with no success, the application may be returned to the Building Department before the expiration of the 6-month period.

2.11.5.5.6 In any event, at the expiration of the 6-month period the application shall be returned to the Building Department.

2.11.5.6 Failure to Act

If the Historical Commission fails to act within the specified time limits, the Building Inspector may issue a demolition permit without return of the application from the Commission.

2.11.5.7 Building Permits

No permit for the alteration of an existing structure or the erection of a new structure that involves demolition on the site of an existing historically significant building may be issued prior to the issuance of a demolition permit from the Building Department for such an existing building or any portion thereof.

2.11.5.8 Emergency Demolitions

The Building Inspector may issue a demolition permit at any time in the event of imminent and substantial danger to the health or safety of the public due to deteriorating conditions in the historically significant building. The Building Inspector shall inspect the building and document, in writing, the findings and reasons requiring an emergency demolition, a copy of which shall be forwarded immediately to the Historical Commission.

2.11.5.9 Enforcement and Remedies

In the event of a demolition of an historically significant building in violation of this by-law, the person or persons responsible for the demolition including, but not limited to, the owners, tenants, developers, or contractors, shall each be subject to a fine of up to □300 per day for each violation. Each day that the building is not restored to its condition immediately prior to the said demolition, and the demolition permit is not issued, shall be a separate offense, up to a maximum of 183 days.

2.11.5.10 Severability

If any section, paragraph or part of this by-law is for any reason declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force and effect.

2.11.5.11 Rules And Regulations

Pursuant to M.G.L. Chapter 40, Section 8D and Section 2.11.5.4 above, the Historical Commission shall make rules and regulations to implement this section.

2.11.5.12 Appeals

Any person aggrieved by a determination of the Commission may appeal to Superior Court, per M.G.L. 24□, Section 4.

ARTICLE 3

POLICE PO□ ERS, A□THORITY AND REG□LATIONS

SECTION 3.1 GENERAL

3.1.1 Gra□ing of Animals. No owner or persons having the care of any horses, cows, or other grazing animals shall permit or allow them to roam at large or to graze on any street, lane, common square or other public place within this Town, nor permit any such animal to roam or stand upon any sidewalk within the Town.

3.1.2 Obstruction of Sidewal□s. Except as permitted by the Select Board or the Director of Public Works, no person shall place, or cause to be placed, upon any public way or sidewalk, any lumber, wood, box, crate, barrel, can,

package or other thing, or allow the same to remain for more than one hour, or more than ten minutes after being notified to remove the same by a constable or police officer.

3.1.3 Coasting in Streets. No person shall coast in any street or public way except those publicly designated for that purpose by the Select Board.

3.1.4 Use of Sidewalks. No person shall ride, drive, draw or push any motorcycle, automobile, car, wagon or sled, except invalid's or children's hand carriages, over or upon any public footpath or sidewalk.

3.1.5 Bicycles on Sidewalks. No person shall ride a bicycle on any sidewalk within certain marked areas of Needham Square and Needham Heights Square business districts. The pushing or walking of a bicycle is not prohibited in such areas. For this purpose, the Police Chief, with the approval of the Select Board, shall establish the boundary limits of the sidewalks subject to Sub-section 3.15 by appropriate markings on the sidewalks or other signs.

3.1.6 Discharge of Firearms. No person shall fire or discharge any firearm, or other explosive articles, within the limits of any park, playground, public way, public building or other property except with the consent of the Select Board, or hunt, or fire or discharge any firearm or other explosive articles, on any private property except with the written consent of the property's owner or legal occupant. This Sub-section shall not apply to the lawful defense of life and property, or to any lawful enforcement officer acting in the discharge of his duties.

3.1.7 Dealing in Second-Hand Merchandise. No person shall collect, deal in or keep a shop for the purchase, sale or barter of junk, old metals or second hand articles, within the limits of the Town, unless licensed by the Select Board.

3.1.8 Snow and Ice on Sidewalks.

3.1.8.1 Any person who places any snow or ice on a sidewalk or a street, shall forfeit fifty dollars ($50.00) for each offense.

3.1.8.2 Any owner, tenant, occupant, proprietor, manager, agent, board, trust, or other entity having charge of property used wholly or in part for (a) a commercial purpose (including without limitation as a store, restaurant, bank, gym, theater, childcare facility or office); (b) a hospital or medical establishment; (c) a place of worship; (d) multi-family housing containing three (3) or more dwelling units on a lot; or (e) any other use open to the public, or to a particular membership or clientele, that allows snow or ice to remain on a sidewalk abutting, on, or within its property for more than five hours between sunrise and sunset, shall forfeit fifty dollars ($50.00) for each offense. If, by reason of weather conditions the snow and ice is evenly spread over a sidewalk and frozen and therefore difficult to remove, it may remain until it can more easily be removed; provided that while the snow and ice remain, entity in charge shall keep the sidewalk in safe condition by sanding or otherwise.

3.1.9 Consumption of Alcoholic Beverages. No person shall possess or consume an alcoholic beverage as defined by M.G.L. Chapter 138, Section 1, as amended, within the limits of any park, playground, public land or public building owned or under the control of the Town of Needham, except with written permission of the appropriate controlling Town tribunal, nor shall any person consume alcoholic beverage as defined in Section 1, on any public way or any way to which the public has a right of access as invitees or licenses, including any person in a motor vehicle in, on or upon any public way or any way to which the public has said right of access, within the limits of the Town of Needham; and no person shall consume an alcoholic beverage as previously defined, in, on or upon any private land or place without the consent of the owner or persons in control of such private land or place.

Any person who violates Sub-section 3.1.9 of the General By-Laws may be arrested by a police officer without a warrant.

All alcoholic beverages being used in violation of Sub-section 3.1.9 may be seized and held until final adjudication of the charge against any such person or persons has been made by the court.

3.1.10. Use of Marijuana. No person shall consume marijuana (or tetrahydrocannibinol, as defined in G.L. c. 94C, 1, as amended) within the limits of any park, playground, public land or public building owned or under the control of the Town of Needham, nor shall any person consume marijuana, as previously defined, on any public way or any way to which the public has a right of access as invitees or licenses, including any person in a motor vehicle in, on or upon any public way or any way to which the public has said right of access, within the limits of the Town of Needham; and no

person shall consume marijuana, as previously defined, in, on or upon any private land or place without the consent of the owner or persons in control of such private land or place. Nothing in this bylaw shall authorize any possession, cultivation, transport, distribution, sale or use of marijuana otherwise prohibited by law.

3.1.11 Licensed Haw□ers and Peddlers. Except as otherwise specified by regulations issued by the Select Board:

3.1.11.1 No person, under Massachusetts General Law Chapter 101, Section 22, shall sell or offer to sell items specified therein within 1,000 feet of any recreational area in organized use, or within 1,000 feet of any school (public or private) during the hours that school is in session, nor until one hour after the closing of said school or schools.

3.1.11.2 Such hawkers or peddlers shall not remain parked at any one location for a period of time exceeding ten (10) minutes, nor shall a bell, horn or other device to attract customers be used after the hour of 8:00 P.M. of any day.

3.1.12 Household Refuse. No person shall deposit any household refuse or garbage in any receptacle maintained by the Town of Needham on public property.

3.1.13 Discharge of □ ater. No person shall discharge or cause to be discharged ground or surface water collected by mechanical pump within a building or any surface water collected on private property in a manner that would create a hazardous condition or cause damage to a public way or sidewalk. No person shall allow a discharge to continue for more than ten minutes after being notified to cease by constable, police officer or Select Board.

3.1.14 Bow and Arrows. No person shall hunt with or discharge bow and arrow within the limits of any park, playground, public way, public building or other public property except with the consent of the Select Board, or hunt by bow and arrow on any private property except with the written consent of the property's owner or legal occupant.

3.1.15 Fines. Whoever violates the provisions of Sections 3.1 shall be punished by a fine not exceeding fifty dollars (□50.00) for each offense, unless otherwise provided.

SECTION 3.2 SALE OF FOOD

3.2.1 Purpose. Section 3.2 is for the purpose of promoting public health, safety, convenience, welfare and peace, controlling noise and protecting nighttime tranquility.

3.2.2 Hours of Sale - Retail. No store, restaurant, or place of business engaged in the retail sale of food shall be open for the transaction of retail business between the hours of midnight and 6:00 A.M. except during other hours as the Select Board may fix by special permit.

3.2.3 Definition of Food. The term food as used in Section 3.2 shall include any article or commodity, however stored or packaged, intended for human consumption, and shall include alcoholic beverages to be consumed off the premises at which they are sold, unless any other law, permit or license granted to the seller of such beverages shall otherwise provide.

3.2.4 Fines. □iolators of Section 3.2 shall be subject to a fine of two hundred dollars (□200.00) for each violation. For the purposes of Section 3.2, every calendar day on which Section 3.2, or the terms of any special permit, is violated shall be a separate offense; and each separate sale of food shall be deemed a separate offense. In the event of a sale of several items at one time to one customer, only one sale shall be deemed to have taken place. This section may be enforced by the procedures of M.G.L. Chapter 40, Section 21D.

3.2.5 Special Permit. In cases where the purposes of Section 3.2 permit it, the Select Board may issue a special permit allowing a store, restaurant or place of business to open or remain open for the transaction of business at specified hours other than those required by Section 3.2 or to remain open 24 hours a day. Such special permits shall remain in effect for a period of one year, unless revoked sooner after notice to the licensee and an opportunity for a hearing, upon a finding by the Select Board that the special permit no longer furthers the purposes of Section 3.2. Application for such a permit shall be made on a form supplied by the Select Board and shall be accompanied by a non-refundable, reasonable fee determined by the Select Board.

SECTION 3.3 PENALTIES FOR IMPROPER □SE OF B□RGLAR ALARMS

3.3.1 Preamble - It is determined that the number of false alarms being made to the Needham Police Department hinders efficiency and lowers department morale. This situation constitutes a danger to the general public, homeowners, businesses and Needham police officers. The adoption of Section 3.3 will reduce the number of false alarms and promote the responsible use of alarm devices in the Town of Needham.

3.3.2 Definitions

(a) The term Burglar Alarm System means any assembly of equipment and devices or a single device such as a solid-state unit connecting directly to a 110 volt alternating current line arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond. The provisions of Sub-section 3.3.4 shall apply to all users.

(b) The term False Alarm means (i) the activation of an alarm system through mechanical failure, malfunction, improper installation or negligence on the part of the user of an alarm system, or his employees or agents; (ii) any signal or automatic dialing device transmitted to the Police Department requesting, requiring or resulting in a response on the part of the Police Department when there has been no unauthorized intrusion, robbery, burglary or attempted threat. For the purposes of this definition, activation of alarm systems for the purpose of testing with prior approval by the Police Department, or by act of God, including but not limited to power outages, hurricanes, tornadoes, earthquakes and similar weather or atmospheric disturbances shall not be deemed to be a false alarm.

(c) The term Automatic Dialing Device refers to an alarm system which automatically sends via regular telephone lines, by direct connection or otherwise, a prerecorded voice message or coded signal indicating the existence of an emergency situation which the alarm system is designated to detect.

3.3.3 Control and Curtailment of Signals Emitted by Alarm Systems

(a) Every alarm user shall submit to the Police Chief his name, address and telephone number, and the names and telephone numbers of at least two other persons who are authorized to respond, after notification by the Police Department, to an emergency signal transmitted by an alarm system and who can open the premises in which the alarm system is installed. The owner of said premises shall immediately notify the Needham Police Department of any changes in the list of employees or other persons authorized to respond to alarms.

(b) All alarm systems, installed after the effective date of Section 3.3, which use an audible horn or bell, shall be equipped with a device that will shut off such bell or horn within (15) minutes after activation of the alarm system. All existing alarm systems in the Town of Needham must have such a shut-off device installed within six (6) months of passage of Section 3.3.

(c) Any alarm system emitting a continuous and uninterrupted signal for more than fifteen (15) minutes between 7 P.M. and 6 A.M. which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user, or those persons designated by him under paragraph (a) of Sub-section 3.3.3, and which disturbs the peace, comfort or repose of the community, neighborhood or a considerable number of inhabitants of the area where the alarm system is located, shall constitute a public nuisance. □pon receiving complaints regarding such a continuous and uninterrupted signal, the Police Department shall endeavor to contact the alarm user, or members of the alarm user's family, or those persons designated by the alarm user under Sub-section 3.3.3, in an effort to abate the nuisance. The Police Chief shall cause to be recorded the names and addresses of all complaints and the time each complaint was made.

(d) No alarm system which is designated to transmit emergency messages or signals to the Police Department will be tested until the Police Dispatcher has been notified.

(e) The provisions of Section 3.3 shall not apply to alarm devices on premises owned or controlled by the Town, nor to alarm devices installed in a motor vehicle or trailer.

3.3.4 Penalties

(a) The user shall be assessed a false alarm service fine for each false alarm in excess of one (1) occurring within a calendar year according to the following schedule:

1) Second false alarm twenty-five dollars (□25)
2) Third false alarm fifty dollars (□50)
3) Fourth and subsequent false alarms, one-hundred dollars (□100)

The Police Chief shall notify the alarm user by mail or by service in hand by a police officer of such violation and said user shall submit payment to the Town Treasurer for deposit to the General Fund within fifteen (15) days of the notice.

(b) The owner of a system which causes six (6) or more false alarms within a calendar year, or who fails to pay the fee after said notice, may be ordered, by the Select Board, after a public hearing, to disconnect and otherwise discontinue the use of such system.

SECTION 3.4 HANDICAPPED PAR□ING

3.4.1 Re□uirements for Handicapped Par□ing Spaces

No person shall park a motor vehicle, motorcycle or any other means of transportation in a designated parking space reserved for vehicles owned and operated by disabled veterans or by other handicapped persons, unless said vehicle bears the distinctive number plates or a handicap placard furnished by the Registry of Motor □ehicles, authorized by M.G.L. Chapter □0, Section 2, or bears an official handicap plate or placard issued by any other state. Any person or body that has lawful control of a public or private way, or of improved or enclosed property used as off-street parking areas for businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers or residential dwellings, or for any other place where the public has right of access as invitees or licensees, shall reserve parking spaces in said off-street parking areas for vehicles owned and operated by disabled veterans or handicapped persons whose vehicles bear any of the aforementioned means of identification authorized by M.G.L. Chapter □0, Section 2, according the following formulas:

If the number of parking spaces in any such area is more than fifteen but not more than twenty-five, one parking space; more than twenty-five but not more than forty, five percent of such spaces, but not less than two; more than forty but not more than one hundred four percent of such spaces, but not less than three; more than one hundred but not more than two hundred, three percent of such spaces, but not less than four; more than two hundred but not more than five hundred, two percent of such spaces, but not less than six; more than five hundred but not more than one thousand, one and one-half percent of such spaces, but not less than ten; more than one thousand but not more than two thousand, one percent of such spaces, but not less than fifteen; more than two thousand but less than five thousand, three-fourths of one percent of such spaces, but not less than twenty; and more than five thousand, one-half of one percent of such spaces, but not less than thirty.

3.4.2 Sign Re□uirements for Handicapped Par□ing Spaces

Parking spaces designated as reserved under the provision of the sections of this article shall be identified by the use of above grade signs with white lettering against a blue background and shall bear the words "Handicapped Parking : Special Plate Required. □nauthorized □ehicles may be Removed at Owner's Expense". These spaces shall be as near as possible to a building entrance or walkway, shall be adjacent to curb ramps or other unobstructed means permitting sidewalk access to a handicapped person and shall be twelve feet wide or two eight-foot wide areas with four feet of cross hatch between them.

3.4.3 Regulations of □nauthori□ed □ehicles in Handicapped Spaces

□nauthorized vehicles shall be prohibited within parking spaces designated for use by disabled veterans or handicapped persons as authorized by Section 3.4, or in such a manner as to obstruct a curb ramp designated for use by handicapped persons as a means of egress to a street or public way.

3.4.4 Penalty

The penalty for violation of Section 3.4 shall be as follows:

□100.00 each offense

SECTION 3.5 ABANDONED, □ REC□ED, DISMANTLED OR DISCARDED □EHICLES

3.5.1 Definitions. The following definitions shall apply to the interpretation and enforcement of Section 3.5.

(a) Person shall mean any person, firm, partnership, association, corporation, company or organization of any kind.

(b) □ehicle shall mean a machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners or slides and to transport persons or property or to pull machinery and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy and wagon.

(c) Street or highway shall mean the entire width between the boundary lines of every way publicly maintained where any part is open to the use of the public for purposes of vehicular travel.

(d) Property shall mean any real property within the Town which is not a street or highway.

3.5.2 Abandonment of □ehicles

Except as to vehicles for which other provisions are made under the laws of the Commonwealth of Massachusetts, no person shall abandon any vehicle within the Town, and no person shall leave any vehicle at any place within the Town for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned.

3.5.3 Leaving of □ rec□ed, Non-operating □ehicle on Street

Except as to vehicles for which other provisions are made under the laws of the Commonwealth of Massachusetts, no person shall leave any partially dismantled, non-operating, wrecked or junked vehicle on any street or highway within the Town.

3.5.4 Disposition of □ rec□ed, □nregistered or Discarded □ehicles

No person in charge or control of any property within the Town, whether as owner, tenant, lessee or otherwise, shall allow any partially dismantled, non-operating, unregistered, wrecked, junked or discarded vehicle to remain on such property longer than ten (10) days. No person shall leave any such vehicle on any property within the Town for a longer time than ten (10) days, except any such vehicle in an enclosed building, a vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the operation of such business enterprise, or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the Town. This section shall not apply to Class III licenses under M.G.L. Chapter 140, Section 58.

3.5.5 Towing. Any vehicle left unattended, inoperative or in any way impeding the flow of traffic or creating a safety hazard may be ordered removed by a police official, with rank of not less than Sergeant, to some convenient location at the expense of the registered owner of said vehicle.

3.5.6 Impounded. The Fire Chief, Chief of Police, Director of Public Works or any member of their Department designated by such official, is hereby authorized to remove, or have removed, any vehicle left at any place within the Town which reasonably appears to be in violation of Section 3.5, lost, stolen or unclaimed. Such vehicle shall be impounded until lawfully claimed or disposed of in accordance with M.G.L. Chapter 135 relative to unclaimed and abandoned property.

3.5.7 **Penalties**. Any person violating any of the provisions of Section 3.5 shall be deemed to have committed a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding fifty dollars (□50.00). Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

SECTION 3.6 FIRE PRE□ENTION

3.6.1 Fire Lanes, and □ehicles Obstructing the Passage of Fire Apparatus

3.6.1.1 **Fire Lanes**: The Fire Chief shall require public or private fire lanes as deemed necessary for the efficient and effective use of fire apparatus. Such fire lanes shall have a minimum width of 18 feet and shall be designated by pavement markings and/or signs as determined necessary by the Fire Chief. The signs shall say "No Parking - Fire Lane" and the signs and pavement markings shall be maintained in a clean and legible condition at all times by the owner of the property and replaced when necessary to insure adequate visibility. Any person who refuses to post such signs or mark the pavement as ordered by Fire Chief or violates any of the provisions of sub-section 3.6.1 shall be punishable by a fine of not less than ten dollars (□10.00), nor more than fifty dollars (□50.00) for each and every noncompliance or violation.

3.6.1.2 It shall be unlawful to leave an unattended vehicle blocking a private way which furnishes access for fire apparatus to any building.

3.6.1.3 It shall be unlawful to obstruct or park a vehicle in any fire lane established by the Fire Chief under Sub-section 3.6.1. The Police Chief, Fire Chief or a member of their departments designated by them is hereby authorized to remove, or have removed, any vehicle within a fire lane established under this section which may block or obstruct the operations of fire apparatus by the Fire Department in the performance of its duties. Such vehicle may be towed and impounded until the costs of towing, impounding and other fines are paid.

3.6.2 Penalties for Improper □se of Fire Alarms

3.6.2.1 Preamble - It is determined that the number of false alarms being made to the Needham Fire Department hinders efficiency and lowers department morale. This situation constitutes a danger to the general public, homeowners, businesses and Needham firemen. The adoption of Sub-section 3.6.2 will reduce the number of false alarms and promote the responsible use of alarm devices in the Town of Needham.

3.6.2.2 **Definitions**

(a) The term Fire Alarm System means any assembly of equipment and devices or a single device such as a solid-state unit connected directly to a 110 volt alternating current line arranged to signal the presence of a hazard requiring urgent attention and to which the Fire Department is expected to respond. The provisions of Sub-section 3.6.2.4 shall apply to all users.

(b) The term False Alarm means (i) the activation of an alarm system through mechanical failure, malfunction, improper installation or negligence on the part of the user of an alarm system, or his employees or agents; (ii) any signal or automatic dialing device transmitted to the Fire Department requesting, requiring or resulting in a response on the part of the Fire Department when there is no fire. For the purposes of this definition, activation of alarm systems for purposes of testing with prior approval by the Fire Department, or by act of God, including but not limited to power outages, hurricanes, tornadoes, earthquakes and similar weather or atmospheric disturbances shall not be deemed to be a false alarm.

(c) The term Automatic Dialing Device refers to an alarm system which automatically sends over regular telephone lines, by direct connection or other otherwise, a prerecorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designated to detect.

3.6.2.3 **Control and Curtailment of Signals Emitted by Alarm Systems**

(a) Every alarm user shall submit to the Fire Chief his name, address and telephone number, and the names and telephone numbers of at least two other persons who are authorized to respond, after notification by the Fire Department, to an emergency signal transmitted by an alarm system and who can open the premises in which the alarm system is installed. The owner of said premises shall immediately notify the Needham Fire Department of any changes in the list of employees or other persons authorized to respond to alarms.

(b) All alarm systems installed after the effective date of this by-law, which use an audible horn or bell, shall be equipped with a device that will shut off such bell or horn within (15) minutes after activation of the alarm system. All existing alarm systems in the Town of Needham must have a shut-off device installed within six (6) months of passage of Sub-section 3.6.2.

(c) Any alarm system emitting a continuous and uninterrupted signal for more than fifteen (15) minutes between 7 P.M. and 6 A.M. which cannot be shut off or otherwise curtailed when the firemen arrive in response to the alarm, and which disturbs the peace, comfort or repose of the community, neighborhood or a considerable number of inhabitants of the area where the alarm system is located, shall constitute a public nuisance. □pon receiving complaints regarding such a continuous and uninterrupted signal, the Fire Department shall endeavor to contact the alarm user, or members of the alarm user's family, or those persons designated by the alarm user under paragraph (a) of Sub-section 3.6.2.3, in an effort to abate the nuisance. The Fire Chief shall record the names and addresses of all complainants and the time each complaint was made.

(d) No alarm system which is designated to transmit emergency messages or signals to the Fire Department will be tested until the Fire Dispatcher has been notified.

(e) The provisions of Sub-section 3.6.2 shall not apply to alarm devices on premises owned or controlled by the Town, nor to alarm devices installed in a motor vehicle or trailer.

3.6.2.4 Penalties

(a) The user shall be assessed one hundred dollars (□100.00) as a false alarm service fine for each false alarm in excess of three (3) occurring within a calendar year. The Fire Chief shall notify the alarm user by mail or by service in hand by a fire department official of such violation and said user shall submit payment to the Town Treasurer for deposit to the General Fund within fifteen (15) days of the notice.

(b) The owner of a system which causes six (6) or more false alarms within a calendar year, or who fails to pay the fee after said notice, may be ordered by the Select Board, after a public hearing, to disconnect and otherwise discontinue the use of the system.

SECTION 3.7 DOG REG□LATIONS

3.7.1 □se of Leashes. No person shall allow a dog owned or kept by her/him to go beyond the confines of the property of the owner or keeper unless the dog is held firmly on a leash.

3.7.2 Disturbing the Peace. No person shall own or keep within the Town any dog which bites, excessively barks or howls or in any other manner disturbs the peace and quiet of any neighborhood, or endangers the safety of any person, domesticated animal or farm animal.

3.7.3 Complaints. The animal control officer is hereby authorized to seek a complaint against the owner or keeper of a dog who is found to have violated the provisions of sub-sections 3.7.1, 3.7.2, 3.7.4, 3.7.5, 3.7.6, 3.7.7, or 3.7.8 for which the following penalties shall be imposed:

1. First Offense – twenty-five dollars (□25.00)
2. Each Subsequent Offense – fifty dollars (□50.00)

3.7.4 Restraint of Dogs. In addition to the foregoing penalties, the animal control officer is also authorized and empowered to muzzle or restrain a dog, or to order the owner or keeper of a dog to muzzle or restrain a dog, pending a hearing before the Select Board as hereinafter provided, when the animal control officer finds that a dog has bitten or threatened any person or domesticated or farm animal, or has chased any vehicle upon any way open to public travel in the Town, or the owner had violated the provisions of section 3.7 more than three times in any calendar year. The owner or

keeper of any dog that has been ordered to be restrained or muzzled under the provisions of section 3.7 may request in writing to the Select Board that the animal control officer vacate such order.

3.7.5 □ncontrollable Dogs. In addition to any other statutory authority contained in M.G.L. Chapter 140, the animal control officer may, with the approval of the Select Board, enter a complaint before the Select Board to obtain an order to control or dispose of a dog found to be uncontrollable, or whose owner or keeper is unresponsive to any other penalties contained in Section 3.7.

3.7.6 Restricted Areas. No person shall allow a dog, other than a service dog, owned or kept by him or her, whether leashed or unleashed, to trespass on Memorial Park or DeFazio Park.

3.7.7 Removal of Pet □ aste. No person owning or keeping a dog shall suffer, permit, or allow such a dog to leave feces in any public or private property of someone other than that of the dog's owner or keeper within the Town of Needham, without the approval of said property owner. Any person having custody and control of a dog in any such area shall carry with him or her proper equipment for the removal of feces. For purposes of this section, the means of removal shall be any tool, implement, or other device carried for the purpose of picking up and containing such feces. No person shall leave or dispose of said feces in any catch basin, drainage structure, waterway or on any public property or street except in a trash receptacle.

3.7.8 Off-Leash Areas. The Town may authorize an area or areas to be used as off-leash areas for dogs licensed in the Town of Needham for which a separate fee will be assessed and for which the Select Board may, from time to time, establish regulations for use. No person owning or keeping a dog shall suffer, permit or allow such dog to use the off leash area without the proper license or in violation of such regulations.

3.7.9 □accination Re□uirement Whoever is the owner of a pet (dog or cat or ferret) six months of age or older shall cause such pet (dog or cat or ferret) to be vaccinated against rabies by a licensed veterinarian using a vaccine approved by the Department of Public Health. Such owner shall produce a veterinarian's certificate that such pet (dog or cat or ferret) has been so vaccinated setting forth the date of such vaccination and the duration of immunity, or a notarized letter from a veterinarian that a certification was issued. An exemption from such vaccine may be granted by the Board of Health only upon presentation of a licensed Massachusetts veterinarian's certificate stating that because of an infirmity, other physical condition or regimen of therapy, such inoculation is considered inadvisable for a specified period of time for such reasons as provided in MGL Chapter 140 s.145B.

3.7.9.1 □nvaccinated pets (dogs or cats or ferrets) acquired or brought into the Town shall be vaccinated within thirty days after acquisition or entry into the Town or upon reaching the age of six months, whichever comes later.

3.7.9.2 Pets (dogs or cats or ferrets) shall be re-vaccinated in accordance with rules and regulations adopted and promulgated by the Department of Public Health.

3.7.9.3 Whoever violates this section shall be punished by a fine of not more than one hundred dollars per offense."

SECTION 3.8 NOISE REG□LATION

3.8.1 General

Except in an emergency, construction activity conducted pursuant to a building permit, which causes noise that extends beyond the property line, shall be limited to the hours of 7AM to 8PM unless authorized by rules or regulations adopted by the Select Board. The penalty for violation of this regulation shall be a □50 fine.

SECTION 3.9 P□BLIC N□ISANCE REG□LATION

3.9.1 As defined below, no owner or tenant shall keep in the public view, on any lot, in any residential district, any substantial amount of junk or debris for more than a reasonable amount of time.

3.9.2 Definitions

3.□2.1 Junk and Debris includes, but is not limited to, scrap metal, scrap construction materials, rags, plastics, batteries, paper trash, inoperable appliances, mattresses, tires, inoperable machinery, or other item not defined as a structure in accordance with the Massachusetts Building Code and the Town of Needham Zoning By-law, which is not in active use for any purpose authorized in a residential district.

3.□2.2 A substantial Amount shall mean a quantity of material which occupies more than 375 cubic feet in the aggregate on any lot.

3.□2.3 Reasonable Amount of Time shall mean thirty (30) days.

3.□2.4 Public □iew shall refer to junk and debris viewed from either (i) any property line at six (6) feet or less above ground level, or (ii) by any immediately direct abutter from any place within that immediately direct abutter's residence.

3.9.3 Conditions existing as of the date of the enactment of this section which meet the definition of substantial amounts of junk or debris must be brought into compliance within ninety (□0) of the date of the approval of this By-law.

3.9.4 Action under this Section shall not bar any separate action initiated by any other Town Department under other provisions of this By-law or by regulation.

3.9.5 Any Town employee(s) so designated for this work ("enforcement officer") by the Town Manager shall enforce this By-law. The first notice of violation issued by the enforcement officer shall be a written warning. The owner/occupant shall then have thirty (30) days within which to remedy and cure the violation. If within a reasonable period of time after this thirty (30) days have elapsed, the violation has yet to be remedied, the enforcement officer may issue a second written violation notice with a fine of fifty (□50.00) dollars. If within a reasonable period of time after sixty (60) days have elapsed since the issuance of the first notice of violation, the violation has still not been remedied, the enforcement officer may issue a third written violation with a fine of one hundred (□100.00) dollars, plus an additional ten (□10.00) dollars per day beginning on the 76th day following issuance of the first notice of violation and continuing thereafter until the violation is fully remedied/cured.

In the event that the owner/occupier of the involved property is subsequently cited with a second or third offense within that calendar year, the deadlines for remediation and related fines are as stated in the amended Section 8.2.2.4 of the General By-law.

3.9.6 Any citizen against whom a notice of violation is issued under this By-law shall have the right for a hearing before the Town Manager and/or his/her designee, and following said hearing, the Town Manager and/or his/her designee shall within a reasonable period of time thereafter, issue a decision. From the date that such a hearing request is received by the Town Manager until the date that a decision is issued, all of the deadlines stated in sections 3.□6 and 3.□7 shall be temporarily stayed.

SECTION 3.10 MARI□□ANA ESTABLISHMENTS

All types of "marijuana establishments" as defined in G.L. c.94G, §1, including marijuana cultivators, independent testing laboratories, marijuana product manufacturers, marijuana retailers or any other types of licensed marijuana-related businesses, shall be prohibited within the Town of Needham. Exempt from the provisions of this prohibition are medical marijuana treatment centers operated under a medical use marijuana license in accordance with the provisions of G.L. c. □4I.

Section 3.11 STRETCH ENERGY CODE

3.11.1 Definitions

International Energy Conservation Code (IECC) - The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the nited States for the establishment of minimum design and construction requirements for energy efficiency, and is updated on a three-year cycle. The baseline energy conservation requirements of the MA State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.

Stretch Energy Code - Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA of the Massachusetts building code, the Stretch Energy Code is an appendix to the Massachusetts building code, based on further amendments to the International Energy Conservation Code (IECC) to improve the energy efficiency of buildings built to this code.

3.11.2 Purpose The purpose of 780 CMR 115.AA is to provide a more energy efficient alternative to the Base Energy Code applicable to the relevant sections of the building code for new buildings.

3.11.3 Applicability This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 115.AA, as indicated.

3.11.4 Stretch Energy Code The Stretch Energy Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA, including any future editions, amendments or modifications, is herein incorporated by reference into this section.

3.11.5 Enforcement The Stretch Energy Code is enforceable by the Building Commissioner effective January 1, 2020.

Note. ATM Article 4 passed on May 13, 201 added Section 3.10 entitled "Stretch Energy Code". Because there was a previous section 3.10 entitled Marijuana Establishments, the town Clerk reniumbered the Stretchy Energy Code to Section 3.11.

ARTICLE 4

LICENSES AND PERMITS

SECTION 4.1 DOG LICENSES

4.1.1 Licenses. Any owner or keeper of a dog which is six (6) months of age or older and is located in the Town of Needham shall obtain a license from the Town Clerk for that dog commencing on January 1st of each year, as required by M.G.L. Chapter 140.

4.1.2 Application. When applying for a license, the applicant must show proof that the dog has received a veterinarian certificate for rabies vaccination within the last three years, if the dog is six months of age or over, as required by M.G.L. Chapter 140, Section 145B. No fee shall be charged for a license for a dog specifically trained to lead or serve a blind person or a deaf person, provided that the Division of the Blind or Deaf certifies that such dog is so trained and actually in the service of a blind or deaf person.

4.1.3 Refund. No license fee or part thereof shall be refunded because of subsequent death, loss, spaying, neutering or removal from the Town of Needham or the Commonwealth or any other disposal of said dog.

4.1.4 Failure to License. In addition to the requirement that a dog shall be duly licensed as required by law, the owner of a dog not licensed on or before April 30th in any year shall be subject to a fine of fifty dollars (50.00), in addition to the license fee, upon the complaint of the dog officer. The owner of any unspayed and unleashed female dog found by the dog officer roaming in season (heat) off the premises of the owner or keeper shall be subject to a fine of fifty dollars (50.00). Each such occasion shall constitute separate violations.

4.1.5 Fees. The fees for registering and licensing dogs of all types in the Town shall be established from time to time by vote of the Select Board.

SECTION 4.2 PUBLIC CARRIAGES AND TAXIS

4.2.1 **Licenses**. The Select Board may license hackney carriages or motor vehicles for the conveyance of persons for hire from place to place within the Town and may revoke such licenses at their discretion. A record of all licenses so granted or revoked shall be kept by the Select Board.

4.2.2 **Penalties**. No person shall set up, use or drive in the Town any unlicensed hackney carriage or motor vehicle for the conveyance of passengers for hire from place to place within the Town. Any person violating Section 4.2 shall be subject to a penalty not exceeding twenty dollars ($20) for each offense.

4.2.3 **Expiration and Fees**. Licenses shall expire on the thirtieth day of April following the date of issuance, and shall not be transferred without the written consent of the Select Board. For each license the sum of ten dollars ($10.00) shall be paid to the Town Treasurer for use by the Town. A license so granted shall become void if the applicant neglects or refuses to take out and pay for his license within ten days after notice that it has been granted.

4.2.4 **Taxi Stands**. The Select Board may grant to the holder of a license under Section 4.2 a license to use a certain portion of a public way as a taxi stand for the solicitation of passengers for hire and no person shall use any portion of any public way for such purpose without such license. Any person who violates any of the provisions of Sub-section 4.2.4 shall be punished by a fine of not more than twenty dollars ($20.00) for each offense.

SECTION 4.3 FEES, REGISTRATION APPLICABLE TO FLAMMABLES

4.3.1 **Statutory Authority**. Pursuant to the authority of M.G.L. Chapter 148, Sections 10A, 13, 38A and 38A, and the Needham Fire Code, there is hereby established a fee schedule for licenses granted by the Select Board, Annual Certificate of Registration filed with the Town Clerk and Permits granted by the Chief of the Fire Department as follows:

4.3.2 **Licenses for the Storage of Flammables issued by the Select Board**

Class A: (all types)			
166	-	40,000 gallons . . .	$50.00
40,001	-	80,000 gallons . . .	200.00
80,001	-	100,000 gallons . . .	300.00
100,001	-	500,000 gallons . . .	400.00
500,001	-	1,000,000 gallons. . .	500.00
over 1,000,000 gallons		. . . . .	800.00
Class B Fuel: (all types)			
501	-	20,000 gallons . . .	50.00
20,001	-	40,000 gallons . . .	100.00
40,001	-	80,000 gallons . . .	200.00
80,001	-	100,000 gallons . . .	300.00
100,001	-	500,000 gallons . . .	400.00
500,001	-	1,000,000 gallons. . .	500.00
over 1,000,000 gallons		. . . . .	800.00
Class C Fluids (all types)			
1,001	-	20,000 gallons . . .	50.00
20,001	-	40,000 gallons . . .	100.00
40,001	-	80,000 gallons . . .	200.00
80,001	-	100,000 gallons . . .	300.00
100,001	-	500,000 gallons . . .	400.00
500,001	-	1,000,000 gallons. . .	500.00
over 1,000,000 gallons		. . . . .	800.00
Flammable Solids 101 lbs and up		. . . . .	50.00

Flammable Gases (within a building)

3,001 cubic ft, and up	. . . . .		50.00

Flammable Gases (outside a building)

10,001 cubic ft. and up	. . . . .		50.00

Liquid Petroleum Gases

500	-	1,000 gallons	. . .	50.00
over	-	1,001 gallons	. . .	100.00

Automobiles

The parking of four or more vehicles in a structure - two dollars (□2.00) per vehicle, and not less than fifty dollars (□50.00).

Advertising costs for a hearing by the Select Board for the issuance of a license for the storage of flammables shall be paid by the applicant.

The annual fees shall include the cost of the initial registration with the Town Clerk. The fee for each annual renewal registration with the Town Clerk shall be the amount herein specified for the original license as set forth above.

4.3.3 Permit Fees

□nderground Storage Tank Removal	. . . .			□100.00
□nderground Storage Tank Installation	. . . .			100.00
□nderground Gasoline Tank Removal	. . . .			100.00
□nderground Gasoline Tank Installation	. . . .			100.00

SECTION 4.4 GENERAL

4.4.1 Denial, Revocation or Suspension for Failure to Pay Municipal Ta□es.

4.4.1.1 The tax collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the tax collector, shall annually furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

4.4.1.2 The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the tax collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate whose owner has neglected or refused to pay local taxes, fees, assessments, betterments or any other municipal charges provided, however, that written notice is given to the party and the tax collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The tax collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the tax collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges payable to the municipality as the date of issuance of said certificate.

4.4.1.3 Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds

for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

4.4.1.4 The Select Board may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officer, stockholders, if any, or members of his immediate family, as defined in M.G.L. Chapter 268A, Section 1 in the business or activity conducted in or on said property.

This section 4.4.1 shall not apply to the following licenses and permits authorized by the following Massachusetts General Laws: open burning, section thirteen of chapter forty-eight; bicycle permits, section eleven A of chapter eighty-five; sales of articles for charitable purposes, section thirty-three of chapter one hundred and one; children work-permits, section sixty-nine of chapter one hundred and forty-nine; clubs, associations dispensing food or beverage licenses, section twenty-one E of chapter one hundred and forty; dog licenses, section one hundred and thirty-seven of chapter one hundred and forty; fishing, hunting, trapping license, section twelve of chapter one hundred and thirty-one; marriage licenses, section twenty-eight of chapter two hundred and seven and theatrical events, public exhibition permits, section one hundred and eighty-one of chapter one hundred and forty.

ARTICLE 5

SIGN BY-LA□

SECTION 5.1 A□THORITY AND OB□ECTI□ES

This article shall be known as the Sign By-Law, and is adopted under the authority of M.G.L. Chapters □3 and 43B. It is intended that this article will serve the following objectives:

Facilitate efficient communications to ensure that people receive the messages they need or want; promote good relationships between signs and the buildings and environment to which they relate; maintain visual diversity by avoiding a requirement of uniformity; and support business vitality within business and industrial zones by avoiding burdensome procedures and restrictions.

It is hereby determined that if the number of signs in the Town of Needham is excessive and unduly distracting to motorists and pedestrians, it can create a traffic hazard, reduce the effectiveness of signs needed to direct the public and mar the appearance of the Town of Needham.

The regulations contained in this article are the minimum amount of regulation necessary to achieve its purposes.

SECTION 5.2 DEFINITIONS

Sign: Any device designated to inform or attract the attention of persons who are not on the premises on which the device is located. Any exterior building surfaces which are internally illuminated or decorated with gaseous tube or other lights are considered signs. The following, however, shall not be considered signs within the context of this article:

a) flags and insignia of any government except when displayed in connection with commercial promotion;

b) legal notices or informational devices erected or required by public agencies;

c) standard gasoline pumps bearing thereon in usual size and form the name, type, and price of gasoline;

d) integral decorative or architectural features of buildings, except letter, trademarks, moving parts or parts internally illuminated or decorated with gaseous tube or other lights;

e) on-premises signs guiding and directing traffic and parking, not exceeding two square feet in area and bearing no advertising matter;

f) devices hand-carried or mounted on vehicles, unless regularly or recurrently located for fixed display;

g) signs on newspaper vending machines or newspaper racks, which are limited in context to the name and logo of the newspaper sold via such machine or rack and to the means of purchasing a newspaper from such machine or rack.

Sign Area: The area of the smallest horizontally or vertically oriented rectangle which could enclose all the display area of the sign, together with any backing different in color or material from the finish material of the building face, and together with any decorative framing or other element whose judged intent is to extend the effective sign area, exclusive of minimal supporting framework, but without deducting for open space or other irregularities. Only one side of flat, back-to-back signs need be included in calculating sign area. In the event of lettering on an awning, the sign area shall be the area of the smallest horizontally or vertically oriented rectangle which could enclose all the lettering and symbols thereon.

On-Premises Signs: Only signs pertaining exclusively to the premises on which they are located or to the products, accommodations, services or activities on the premises are on-premises signs.

Off-Premises Signs: Signs not pertaining exclusively to the premises on which they are located or to the products, accommodations, services or activities on the premises on which they are located.

Temporary Sign: Any sign constructed of paper, cloth, canvas, fabric, cardboard, wallboard, wood, metal, or plastic or other light material, with or without frames, intended to be displayed for a continuous period of not more than sixty days.

Permanent Attached Signs: Signs, other than temporary signs, which are attached to a building or visible through its window, whether wall or projecting, are permanent attached signs.

Permanent Freestanding Signs: Signs, other than temporary signs, which are not attached to a building, are permanent freestanding signs.

Compound Sign: One sign structure with two or more signs on it.

Street Banner: A sign in the form of a banner spanning a public street, placed within the Town right-of-way, and/or in locations designated pursuant to Section 5.3.1.5 below.

SECTION 5.3 ADMINISTRATION

5.3.1 Design Review Board. Except for street banners governed, reviewed and approved by the Select Board pursuant to Subsection 5.3.1.5, the review of all sign permit applications, and requests for special permits shall be performed by the Design Review Board (herein referred to as the "Board"), as further defined in Section 7.7 of the Needham Zoning By-Law. Three members shall constitute a quorum. All decisions shall require a positive vote of at least three members.

The Board shall meet at least monthly at such time and place to be determined by the members and at such additional times as it determines necessary to carry out the provisions of this article. In the event a member is unable or refuses to sit, the Chairman shall designate an alternate member to sit in the place of that absent member.

5.3.1.5 Select Board. Street Banners, which are placed within the Town right-of-way, spanning public streets and/or in locations authorized by the Select Board providing notice of a community-wide public event open to the general public and/or an activity of general community interest and which are hosted by the Town or its departments, boards, agencies, or commissions or by non-profit groups or organizations, may be specifically approved by the Select Board and displayed in locations authorized by the Select Board for a time period not to exceed fourteen (14) consecutive days before the announced event. Neither commercial advertising nor partisan

political content shall be allowed to appear on the street banner. All street banners will be removed within two business days after the announced event or entertainment. Street Banners shall not be subject to the sign requirements of Subsections 5.3.2, 5.3.3, 5.3.4, 5.3.5, 5.3.6, and 5.3.7, and Sections 5.4 and 5.5. The Select Board may promulgate such regulations regarding street banners as it deems appropriate.

5.3.2 Issuance of Permits. No sign shall be erected, enlarged, redesigned, structurally altered, or used without the review of the Board, at which the applicant shall appear, and a sign permit issued by the Building Inspector, except for signs described in Sub-sections 5.5.1 (a), 5.5.1 (c), and 5.5.3.4. Permits shall be authorized only for signs in conformance with this article.

Applicants shall file a permit application accompanied by a photograph of the facade to which the sign is to be attached, or the area of intended location if unattached, and two prints of scale drawings of the sign and supporting structure showing placement thereon; the applicant shall also file five copies of the permit application, including five copies of all application materials, with the Design Review Board. (See Section 7.7 Design Review, of the Zoning By-Law.) If an applicant requires guidance as to whether any special permits are required or knows that such permit or permits are required, the applicant may file his application with the Building Inspector. If the Building Inspector finds that the proposed sign is in all respects in conformance with this article, he shall within 35 days of filing instruct the applicant to file the application directly to the Design Review Board.

The Design Review Board shall review requests for sign permits submitted and shall, within thirty-five (35) days of the receipt of the application materials, transmit its advisory recommendations regarding the design of the sign to the Building Inspector and the applicant. No sign permit shall be issued by the Building Inspector within this thirty-five (35) day period unless said recommendations are sooner received. If approved by the Design Review Board, the Building Inspector shall issue a sign permit within 45 days of the filing of the application.

If the Building Inspector, upon requested review, finds that the proposed sign is not in conformance with this Article as aforesaid, he shall, within 35 days of the filing of the application notify the applicant in writing of the reasons why a sign permit cannot be granted as of right and give the applicant the option of revising the signage or applying for a special permit. The Building Inspector shall forward a copy of such notice to the Board.

5.3.3 Appeal from Building Inspector's Action or Failure to Act

Any person aggrieved by the Building Inspector's action or failure to act may appeal by filing an appeal with the Board and the Town Clerk within 30 days of the Building Inspector's action or failure to act. The Board shall rule on the appeal within 75 days of the filing of the appeal with the Town Clerk. If the Board denies relief to the applicant, it shall notify him in writing of the reasons for such denial. Failure of the Board to act within said 75 days shall be deemed to be a grant of the relief sought, subject to applicable judicial appeal under state law. If, on appeal, the permit is approved, the Board shall direct the Building Inspector to issue the permit.

5.3.4 Special Permits. If an applicant wishes to obtain a permit for a sign that does not comply with this article, he shall apply to the Board for a Special Permit from the requirements of this article in accordance with the procedure established under Sub-section 5.3.3 of this article. The Board shall set a date for and hold a public hearing. It will be the responsibility of the applicant, at his own expense, to give notice of the public hearing at least seven days in advance by advertisement in a newspaper of general circulation in Needham and by posting such notice in a conspicuous place in the Town Hall for a period of not less than 7 days before the day of the hearing. The applicant for a Special Permit is further required to give notice of the public hearing, sent 10 days before the hearing by certified mail, return receipt requested, postage prepaid to all parties in interest.

Parties in Interest as used in Sub-section 5.3.4 shall mean the abutters, owners of land directly opposite the proposed site of the sign on any public or private street or way and abutters to the abutter within three hundred feet of the property line of the applicant as they appear on the most recent applicable tax list.

Publications and notices of the public hearing required by Sub-section 5.3.4 shall contain the name of the area or premises; street address, if any, or other adequate identification of the location, of the area or premises which is the subject of the petition; the date, time and place of the public hearing; the subject matter of the hearing; and the nature of action or relief requested if any. No such hearing shall be held on any day on which a state or municipal election, caucus or primary is held in Needham.

The Board may in its discretion grant a Special Permit, but only if the proposed sign meets all of the Design Guidelines set forth in Sub-section 5.3.5 of this article and if the Board finds that, owing to physical peculiarities of the specific location, literal enforcement of the terms of this article would result in substantial hardship to the applicant or substantial detriment to the vicinity, and that such a Special Permit will be consistent with the stated objectives of this Article. If the Board denies the Special Permit sought, it shall notify the applicant in writing of the reasons for such denial. Failure of the Board to act within 75 days shall be deemed to be a grant of the permit sought by such applicant. If the permit is approved, the Board shall direct the Building Inspector to issue permit with such terms and conditions it deems appropriate.

Special Permits are not transferable.

5.3.5 Design Guidelines. The following guidelines shall be used by the Board in its review of all sign applications. A Special Permit may be permitted under Sub-section 5.3.4 above only if the Board finds that the proposed sign meets all of the following guidelines:

a) Sign scale is appropriate in relation to development scale, viewer distance and travel speed and sign sizes on nearby structures.

b) Sign size, shape and placement serves to define or enhance such architectural elements of the buildings as columns, sill lines, cornices and roof edges, and not to interrupt, obscure or hide them.

c) Sign design is not wholly discontinuous with other signage on the same or adjacent structures, providing continuity in mounting location and height, proportions, materials or other important qualities.

d) Sign materials, colors, lettering style and form are compatible with building design and use.

e) Sign content does not overcrowd background.

f) Sign legibility is not impaired by excessive complexity, multiple lettering styles or colors or other distracting elements.

5.3.6 Fees - General. Application and hearing fees shall be established and revised from time to time by the Board at a level not exceeding that sufficient to defray the estimated cost of administering this article, and shall be based upon the number, area and illumination of the signs applied for.

5.3.7 Temporary Real Estate Signs. Temporary real estate signs require payment of a uniform fee to be determined by the Board whenever a sign is to be displayed on the premises of property being offered. Real estate brokers or agents shall obtain a one-year permit for displaying such signs and shall be subject to a uniform fee to be assessed annually in an amount to be determined by the Board.

SECTION 5.4 GENERAL REG□LATIONS

5.4.1 Maintenance. All signs shall be maintained in a safe and neat condition to the satisfaction of the Building Inspector and in accordance with requirements of the State Building Code. Structural damage, missing letters or other deterioration obscuring content shall be remedied within sixty days or the sign shall be removed. Signs pertaining to a business that has closed, discontinued, or changed its name shall be removed within sixty days.

5.4.2 Prohibitions

5.4.2.1 Illumination

a) Illuminated signs shall be lighted by a steady stationary light, shielded and directed solely at or internal to the sign.

b) No illumination shall be permitted which casts glare onto any residentially used premises or onto any portion of a way so as to create a traffic hazard, or which results in average face brightness exceeding 60-foot lamberts elsewhere.

c) No sign shall be illuminated after 11 P.M. and before 7 A.M., unless related to a retail establishment during hours it is open to the public. In an emergency declared by the Selectmen, however, hours of permissible illumination may be expanded or curtailed to the extent and for such period as the Select Board may require.

d) Flashing signs, strobe lights, and series or chasing lights, are prohibited from being visible outside a business.

5.4.2.2 Location

a) No sign shall be erected at the intersection of any streets or of a street and driveway in such a manner as to obstruct free and clear vision; or at any location where, by reason of its position, shape or color, it may interfere with, or obstruct the view of, or be confused with any authorized traffic sign, signal or device.

b) No signs shall be attached to motor vehicles, trailers or other movable objects regularly or recurrently located for fixed display.

c) No sign shall be attached to a radio, television, or water tower, or microwave or satellite dish, or any other type of tower or smoke stack.

d) No sign shall extend above or beyond the end of the wall to which it is attached, nor overhang a street or sidewalk by more than the thickness (up to 12") of a flat wall sign: except one perpendicular, blade, or projecting sign (hereinafter "projecting sign") is allowed by right, even if it is a second sign, provided it does not, in the opinion of the Board, materially obstruct neighboring signs or businesses. Projecting signs may not be internally illuminated. If the projecting sign is the only sign requested by an applicant seven (7) square feet are allowed by right. If the projecting sign is in addition to a sign on the fa□ade, three (3) square feet is allowed by right. Projecting signs may have a maximum projection of four (4) feet from the wall and a minimum of eight (8) feet above the sidewalk**.**

e) No portion of any sign shall be located above the roof line of a building. Roof line means the intersection of the exterior wall and the roof.

f) No freestanding sign shall be located within a required side or rear yard or within fifteen feet of a streetline or extend more than twenty feet above adjoining ground level.

5.4.2.3 Type

a) A □-shaped sign consisting of two single-faced signs shall not be permitted.

b) Pennants, streamers, advertising flags, banners, spinners or similar devices shall not be permitted.

c) No animated or revolving sign shall be permitted and only time and temperature indicators shall be allowed to flash.

d) Sandwich boards are also permitted provided they meet the following requirements: one sign per business; 2 feet by 3 feet maximum sign panel in a black or white colored frame; they are comprised of permanent printed sign panels or handwritten sign panels; they are located on the site of the advertised business' street front on private property, or if on public property, do not block or interfere with the 48" width of the pubic sidewalk; they are on display during the business' operating hours only; they may advertise short term sales, daily menus, sign-up periods up to three weeks ahead of end date, and similar special events; they are not internally illuminated; and they do not contain any alcohol or cigarette advertisements.

SECTION 5.5 PERMITTED SIGNS

5.5.1 All □oning Districts. The following signs are allowed in all zoning districts:

a) One on-premise sign, either attached or free-standing, indicating only the name and/or profession of the owner or occupant, the street and/or number, not to exceed two square feet in area. No permit is required.

b) One off-premise directional sign may be erected and maintained within the public right-of-way at any intersection if authorized by the Select Board, or on private property if authorized following an application and hearing by the Board in accordance with Sub-sections 5.3.2 and 5.3.3 of this article. Such signs shall be permitted only upon the Board's determination that the sign will promote the public interest, will not endanger the public safety and will be of such size, location and design as will not be detrimental to the neighborhood. At locations where directions to more than one establishment are to be provided, all such directional information shall be incorporated into a single structure. All such directional signs shall be unlighted and each shall be not over four square feet in area.

c) Signs of not more than a total of twelve square feet in area, erected for charitable, educational, political or religious purposes. No permit is required.

d) (i) A temporary unlighted real estate sign not larger than twelve square feet in area, advertising the sale, rental or lease of the premises or subdivision on which it is erected.

(ii) A temporary unlighted sign not larger than twelve square feet indicating the name, address and telephone number of the parties involved in construction on the premises.

(iii) For a development of six or more lots or dwelling units, one sign not larger than twelve square feet at each visible street entrance to the development from a prior existing way indicating the name, address and telephone number of the parties involved in construction on the premises.

e) One bulletin board not exceeding twelve square feet for and on the premises of a public, charitable, educational, political or religious institution. No permit is required to change the lettering on such a bulletin board.

f) One memorial sign or tablet indicating the name of the building and/or date of erection, if not exceeding 2□ of the area of the wall to which it is attached and if carved into or attached in such a way as to be an integral part of the building, and without separate illumination.

5.5.2 Single Residence, General Residence, Apartment and Institutional □oning Districts

(a) One on-premises sign, either attached or freestanding, oriented to each street on which the premises abut, each such sign not to exceed twelve square feet in area, indicating the nonresidential principal use or uses of the premises.

(b) One on-premises sign, either attached or freestanding, stating the name of the apartment complex if it contains more than six units, such sign not to exceed twelve square feet.

5.5.3 Business, Industrial, and Industrial Par□ □oning Districts

5.5.3.1 Number: In addition to signs allowed under Sub-section 5.5.1 and 5.4.2.2 d) the following are permitted:

a) One permanent sign whether permanently attached or freestanding, as further described in Sub-sections 5.5.3.2 and 5.5.3.3 of this article, for each occupant of separate space per street that the premises abut. However, no permit may be granted for more than one freestanding sign per parcel;

b) One additional sign for each business which has an entrance facing a side or rear parking lot available for use by the public; said sign to be located so as to designate the entrance and to be smaller than the primary sign.

5.5.3.2 Permanent Attached Signs. The total area of all permanent attached signs shall be not more than fifteen percent of the projected area of the elevation to which they are attached. Each sign shall not exceed 2 square feet for every linear foot of the projected area of the elevation to which it is attached, up to a maximum of 32 square feet. If a sign is oriented for visibility from Route 128 (I-□5), and is to exceed 32 square feet, then the Board may approve it only after a finding that the sign complies with the Design Guidelines, and no such sign shall exceed one hundred square feet.

5.5.3.3 Permanent Freestanding Signs

a) Area: If a single sign, the area shall not be more than 32 square feet, and not more than 60 square feet if oriented for visibility from Route 128 (I-□5). If a compound sign, the total area of a freestanding sign structure shall not exceed 60 square feet

b) □isibility: Every freestanding sign placed within thirty feet of the curb line of intersecting streets and driveways shall have an open space of at least seven feet from the ground to the base of the sign, except that monument signs may be no more than 3 feet above street grade.

c) All freestanding signs on the same parcel of land shall be attached to the same support.

5.5.3.4 **Temporary**. Except as provided in Section 5.4.2.3 d), temporary signs, in addition to signs allowed under Sub-section 5.5.3.1, are permitted only if unlighted, inside of windows, occupying not more than 25□ of the area of each window, and advertising sales, special events or changes in the nature of an operation, but shall not otherwise be used to advertise a continuing or regularly recurring business operation and shall be removed promptly when the information they display is out of date or no longer relevant. No permit is required.

5.5.4 **Table of Sign Areas**. The following table of maximum sign sizes is presented for ease of use. For clarification, refer to the appropriate section(s) of the By-law. In some instances the actual size may be less than the maximum area. Signs of less than 2 square feet require no permit.

Type	**Ma□imum Area** (square feet)
Sale, lease, rental subdivision □5.5.1.d (i)□	12
Construction □5.5.1.d.(ii)□	12
Development of 6 or more units or lots □5.5.1.d.(iii)□	12
Real estate signs □5.5.1.d.(i)□	12
Religious, educational, charitable or political institutions □5.5.1.c□	12
On premise signs, all zoning districts □5.5.1.a□	2
Nonresidential principal uses in residential districts □5.5.2.a□	12
Apartment complexes □5.5.2.b□	12
Business, Industrial, or Industrial Park	
Districts Attached □5.5.3.2□2 sq. ft. for each linear ft. of building	32
Attached if visible from Rt. 128 □5.5.3.2□	100
Freestanding □5.5.3.2□	32
Freestanding if visible from Rt. 128 □5.5.3.3□	60
Off-premises directional signs □5.5.1.b□	4
Bulletin boards for institutions □5.5.1.e□	12

SECTION 5.6 □IOLATIONS

5.6.1 Fines. Any person violating any provisions of this Article shall be subject to a penalty up to the maximum amount allowed for each offense under the noncriminal processes authorized by M.G.L. Chapter 40, Section 21D. Each day on which the violation continues shall be considered a separate offense.

5.6.2 Notice and Removal. Existing signs which violate this article shall be removed or brought into conformity with this article within thirty days of notification of violation by the Building Inspector, unless he authorizes a longer period necessitated by unavailability of parts.

5.6.3 Pre-e□isting, Non-Conforming Signs. Signs erected prior to February 24, 1□86, and not enlarged, redesigned, or structurally altered after that date other than pursuant to a permit issued by the Building Inspector shall not have to be removed or brought into conformity with this article until February 24, 1□□6.

ARTICLE 6

GENERAL □ ETLANDS PROTECTION

SECTION 6.1 P□RPOSE

The purpose of this article is to protect the wetlands, related water resources and adjoining land areas in the Town of Needham by prior review and control of activities deemed by the Conservation Commission likely to have a significant effect upon wetland values, including but not limited to the following: pubic or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water pollution prevention, fisheries, wildlife habitat, recreation, agriculture and aquaculture values (collectively, the "wetlands values protected by this article").

SECTION 6.2 □□RISDICTION

Except as permitted by the Conservation Commission (hereinafter referred to as "the Commission") or as provided in this article, no person shall remove, fill, dredge, build upon or alter the following resource areas: (1) within 100 feet of any freshwater wetland, marsh, wet meadow, bog or swamp; (2) within 100 feet of any bank, beach, dune or flat; (3) any lake, river, pond or stream, whether or not intermittent; (4) within 100 feet of any lake, river, pond, stream or estuary; (5) any land under said waters; or (6) any land subject to flooding (collectively, the "resource areas").

SECTION 6.3 E□CEPTIONS

The permit and application required by this article shall not be required for maintaining or repairing, but not changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, sewer, telephone, telegraph or other telecommunications services, provided that written notice has been given to the Commission at least 14 days prior to commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.

The permit and application required by this article shall not be required for work performed for normal maintenance or improvement of land in agricultural use or in aquacultural use, provided that written notice has been given to the Commission at least 14 days prior to the commencement of work.

The permit and application required by this article shall not apply to emergency projects necessary for the protection of the health or safety of the public, as determined by the Commission, in such circumstances and upon such conditions as it deems appropriate, after advance written notice has been received by the Commission prior to commencement of any work, except for emergency response to safeguard life, health and property damage.

Other than stated in this section, the exceptions provided in the Wetlands Protection Act shall not apply under this article.

SECTION 6.4 APPLICATION FOR PERMITS AND RE□□ESTS FOR DETERMINATION

Written application to perform activities regulated by this article, affecting resource areas protected by this article, shall be filed with the Commission. The application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the environment. No activities shall commence without receiving and complying with a permit issued pursuant to this article.

The Commission shall accept as the application and plans under this article the Notice of Intent and plans filed under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, together with such other information as is required by this article and regulations issued hereunder.

Any person desiring to know whether or not a proposed activity or an area is subject to this article may in writing request determination from the Commission. Such a request for determination shall contain data and plans specified by the regulations of the Commission.

At the time of an application or request, the applicant shall pay a filing fee specified in regulations of the Commission. This fee is in addition to that required by the Wetlands Protection Act, M.G.L. Chapter 131, Section 40. The Commission may waive or reduce the filing fee and costs and expenses for an application or request filed by a government agency or otherwise as the Commission may determine by its regulations.

SECTION 6.5 NOTICE OF HEARINGS

The Commission in an appropriate case may combine its hearing under this article with the hearing conducted under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40.

Any person filing an application or a request for determination with the Commission shall give written notice thereof, at the same time, to all abutters at their mailing addresses, shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the applicant, including any in another municipality. The applicant shall notify abutters in writing by hand delivery or certified mail, return receipt requested, or by certificates of mailing. If written notification is made by hand-delivery, the applicant shall obtain signatures at the time of delivery acknowledging receipt of said notification. The notice to abutters shall enclose a copy of the application or request, with plans, or shall state where copies may be examined and obtained by abutters free of charge. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. When a person requesting a determination is other than the owner, the request, the notice of the hearing and the determination itself shall be sent by the Commission to the owner as well as to the person making the request.

The Commission shall conduct a public hearing on any application or request for determination, with written notice given at the expense of the applicant at least five working days prior to the hearing, in a newspaper of general circulation in the Town.

The Commission shall commence the public hearing within 21 days from receipt of a completed application or request for determination unless an extension is authorized in writing by the applicant.

The Commission shall issue its permit or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant.

The Commission shall have the authority to continue the hearing to a date certain announced at the hearing, for reason stated at the hearing, which may include receipt of additional information offered by the applicant or others, information and plans required of the applicant deemed necessary by the Commission in its discretion, or comments and recommendations of boards and officials listed in Section 6.6. In the event the applicant objects to a continuance or postponement, the hearing shall be closed; and the Commission shall take action on such information as is available.

SECTION 6.6 COORDINATION □ ITH OTHER BOARDS

Any person filing a permit application or a request for determination with the Commission shall provide a copy thereof at the same time, by certified mail (return receipt requested) or hand delivery, to the Select Board, Planning Board, Board of Health and Building Inspector. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. The Commission shall not take final action until such boards and officials have had 21 days from receipt of notice to file written comments and recommendations with the Commission. The applicant shall have the right to receive any such comments and recommendations and to respond to them at a hearing of the Commission, prior to final action.

SECTION 6.7 PERMITS, DETERMINATION AND CONDITIONS

If the Commission, after a public hearing, determines that the activities which are the subject of the application are likely to have a significant or cumulative effect upon the wetland values protected by this article, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect those values and all activities shall be done in accordance with those conditions.

The Commission is empowered to deny a permit for failure to meet the requirements of this article; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulative effects upon the wetland values protected by this article; and where conditions are inadequate to protect those values. The Commission may require applicants to retain an independent consultant, acceptable in advance by the Commission, in order to provide the Commission with sufficient information on which to base a decision.

A permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission, in its discretion, may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. The Commission may renew any permit for one period of up to three years, provided that such request is received in writing by the Commission at least 30 days prior to the expiration of the permit.

The Commission may revoke or modify a permit issued under this article for good cause after notice to the holder of the permit, to the public, to abutters and to town boards pursuant to Section 6.5 and a public hearing.

The Commission, in an appropriate case, may combine the permit or other action on an application issued under this article with the Order of Conditions issued under the Wetlands Protection Act.

No work proposed in any application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the Norfolk Registry of Deeds or, if the land affected thereby is registered land, in the registry section of the land court for the Norfolk district, and until the holder of the permit certifies in writing to the Commission that the permit has been so recorded.

SECTION 6.8 REG□LATIONS

After public notice and public hearing, the Commission shall promulgate rules and regulations to effectuate the purposes of this article. Failure by the Commission to promulgate such rules and regulations, or a legal declaration of their invalidity by a court of law, shall not act to suspend or invalidate the effect of this article.

SECTION 6.9 DEFINITIONS

Except as otherwise provided in regulations of the Commission, the definitions of terms in this article are those set forth in the Wetlands Protection Act, M.G.L. Chapter 131, Section 40 or regulations promulgated thereunder.

The following definitions shall apply in the interpretation and implementation of this article:

The term person shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town

by-laws, administrative agency, public or quasi-public corporation or body, this municipality and any other legal entity, its legal representatives, agents or assigns.

The term alter shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this article:

(a) Removal, excavation or dredging of soil, sand, gravel or aggregate materials of any kind;

(b) Changing of pre-existing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns or flood retention characteristics;

(c) Drainage or other disturbance of water level or water table;

(d) Dumping, discharging or filling with any material which may degrade water quality;

(e) Placing of fill, or removal of material, which would alter elevation;

(f) Driving of piles, erection or expansion of buildings or structures of any kind;

(g) Placing of obstructions or objects in water;
(h) Destruction of plant life, including cutting of trees;

(i) Changing water temperature, biochemical oxygen demand or other physical or chemical characteristics of water;

(j) Any activities, changes or work which may cause, or tend to contribute to, pollution of any body of water or groundwater, including but not limited to, application of pesticides or herbicides.

SECTION 6.10 SEC□RITY

As part of any permit issued under this article and in addition to any security required by any other municipal or state board, agency or official, the Commission may require that the performance and observance of any conditions imposed hereunder be secured wholly or in part by one or more of the methods described below:

(a) By a proper bond, deposit of money, negotiable securities or other undertaking of financial responsibility sufficient, in the opinion of the Commission, to be released in whole or in part upon issuance of a Certificate of Compliance for work performed pursuant to the permit;

(b) By a covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality, whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.

□pon written request of the applicant, the Commission shall release the covenant described in (b) above, or partially release said covenant with respect to particular lots, provided that:

1. No violation notice under this Article or enforcement order under M.G.L. Chapter 131, Section 40 has been recorded at the Norfolk County Registry of Deeds as of the date of the applicant's request; and

2. A proper bond or other undertaking of financial responsibility, as provided in (a) above, and sufficient in the opinion of the Commission, has been given to the Commission.

In the event that a bond or other undertaking has already been given, the Commission reserves the right to increase the amount of the bond or other undertaking of financial responsibility sufficient, in the opinion of the Commission, to secure completion of the work to be performed pursuant to the permit.

SECTION 6.11 ENFORCEMENT

The Commission, its agents, officers and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this article and may make, or cause to be made, such examinations, surveys or sampling as the Commission deems necessary.

The Commission shall have authority to enforce this article, its regulations and permits issued thereunder by violation notices, administrative orders and civil and criminal court actions.

Upon request of the Commission, Town Counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police or Town Counsel shall take legal action for enforcement under criminal law.

Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

Any person who violates any provision of this article, regulations thereunder or permits issued thereunder may be punished by a fine of not more than the maximum amount allowed under Chapter 40 of the Massachusetts General Laws. Each day or portion thereof during which a violation continues shall constitute a separate offense; and each provision of the article, regulations or permit violated shall constitute a separate offense.

SECTION 6.12 BURDEN OF PROOF

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application will not have unacceptable significant or cumulative effect upon the wetland values protected by this article. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

SECTION 6.13 APPEALS

A decision of the Commission shall be reviewable in the Superior Court in an action filed within 60 days of the date of the decision in accordance with M.G.L. Chapter 249, Section 4.

SECTION 6.14 RELATION TO THE WETLANDS PROTECTION ACT

This article is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rules statutes, independent of the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, and regulations thereunder.

SECTION 6.15 EFFECTIVE DATE

The effective date of this article shall be September 1, 1988, and shall not be applicable to (a) work presently regulated by Orders of Condition issued by the Commission pursuant to the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, and regulations thereunder, and (b) work that is the subject of Notices of Intent filed with the Commission prior to September 1, 1988, pursuant to the provisions of said Wetlands Protection Act.

ARTICLE 7

STORMWATER

SECTION 7.1 PURPOSE

The purpose of this By-Law is:

(a) To prevent pollution of Needham's wetlands and surface waters from uncontrolled stormwater runoff and illicit discharges.
(b) To prevent pollutants from entering the Town of Needham's Municipal Separate Storm Sewer System (MS4).

(c) To prohibit illicit connections and unauthorized discharges to the MS4 and to require the removal of all such illicit connections.
(d) To comply with state and federal statutes and regulations relating to stormwater discharges, including the NPDES MS4 Permit issued by the □.S. Environmental Protection Agency (EPA), the Massachusetts Stormwater Standards, regardless of the location of the subject property relative to wetlands or other resource areas, and the Memorandum of □nderstanding (MO□) issued to the Town of Needham by the EPA in 1□□6.
(e) To establish the legal authority to ensure compliance with the provisions of this By-Law through permitting, inspection, monitoring, and enforcement.
(f) To control runoff and prevent soil erosion and sedimentation resulting from construction site stormwater runoff.
(g) To promote infiltration and the recharge of groundwater.
(h) To protect, maintain and enhance the public safety, environment, health, and general welfare by establishing minimum requirements and procedures to manage stormwater runoff.
(i) To ensure that soil erosion and sedimentation control measures and stormwater runoff control practices are incorporated into the site planning and design process and are implemented and maintained.

SECTION 7.2 DEFINITIONS

For the purposes of this By-Law, the following definitions shall apply:

Alteration Any activity that will change the ability of a ground surface area to absorb water or will change existing surface drainage patterns. Examples include, but are not limited to, construction of new structures, excavation, earthmoving, or paving.

Best Management Practices (BMPs) Structural, non-structural, and managerial techniques that are recognized to be the most effective and practical means to prevent or minimize increases in stormwater volumes and flows, reduce point source and non-point source pollution, and promote stormwater quality and protection of the environment.

Clean Water Act The Federal *Water Pollution Control Act* (33 *U.S.C.* §§ 1251 *et seq.*) as it may hereafter be amended, and the Massachusetts Clean Water Act and Regulations.
Commercial The term commercial shall include municipal, industrial, and multi-family projects.

Construction Site Any site where activity is proposed or occurs that involves the alteration of land and involves a permit required by the Town.

Development The alteration of land requiring an application for a building permit; or for a permit from the Planning Board, Zoning Board of Appeals (ZBA), or Conservation Commission.

Erosion Control The prevention or reduction of the movement of soil particles or rock fragments due to stormwater runoff. Erosion control is typically achieved through the installation of straw bales, silt fence, silt socks, or by surface coverings such as jute mesh, erosion control blankets, or by the establishment of surface vegetation.

Dry Well A subsurface structure that infiltrates stormwater runoff.

Green Citizen Certificate A certificate issued by the Select Board conferring recognition to environmentally conscious citizens who install infiltration/recharge systems, rain gardens, or similar stormwater quality improvements that are not required by the Stormwater By-Law or these promulgated regulations.

Illicit Connection A surface or subsurface drain or conveyance that allows a discharge into the MS4 that is not entirely composed of stormwater or clean groundwater, including any connection from an indoor drain, sink, toilet, or laundry facility.

Illicit Discharge Any direct or indirect discharge to the MS4 or the Waters of the Commonwealth that is not composed entirely of stormwater or clean groundwater, including, without limitation, any discharge of a pollutant, sewage, process wastewater, or wash water, except as exempted. The term does not include a discharge in compliance with a NPDES Stormwater Discharge Permit or a Surface Water Discharge Permit.

Impervious Surface Any material or structure on, above or below the ground that prevents water from infiltrating through to the underlying soil. Impervious surfaces may include, without limitation: paved surfaces, parking lots, sidewalks, driveways, rooftops and swimming pools.

Large Residential Project A residential project (new construction or reconstruction) of a residential building with larger than 4,000 square feet (s.f.) of ground coverage.

Low Impact Development (LID) Stormwater management systems and practices that mimic natural hydrologic processes resulting in infiltration, evapotranspiration or use of stormwater. LID techniques manage stormwater as close to the source as possible. LID practices frequently use cost-effective landscape features located at the lot level.

Massachusetts Stormwater Handbook (MSH) A document published in 1□□7 and revised and updated in 2008 by MassDEP as guidance on the 1□□6 Stormwater Policy.

MS4 (Municipal Separate Storm Sewer System) The system of conveyances, owned or operated by the Town of Needham, that is designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, swale, culvert, channel, catch basin, outfall, outlet, reservoir, or other drainage structure.

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit
A permit issued by the □nited States Environmental Protection Agency or jointly with the state that authorizes the discharge of stormwater containing pollutants into waters of the □nited States.

New Construction Construction or replacement of a structure, house or building which requires a Building Permit or construction/reconstruction of a parking lot, or construction of a subdivision roadway requiring Planning Board or Board of Appeals approval.

Non-point Source Pollution Rainfall or snowmelt that picks up pollutants as it moves across the ground.

Non-stormwater Discharge A discharge that is not composed entirely of stormwater, such as sanitary waste or process water.

Operation and Maintenance (O□M) Plan A plan setting the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

Person An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth of Massachusetts or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

Plot Plan The plan that accompanies an application for a Building Permit.

Point Source Any discernible, confined and discrete conveyance, including, without limitation, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. The term does not include agricultural stormwater discharges and return flows from irrigated agriculture.

Pollutant Any element or characteristic of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into Needham's MS4 or waters of the Commonwealth. Pollutants shall include, but are not limited to:

(a) Paints, varnishes, and solvents;
(b) Oil and other automotive fluids;
(c) Non-hazardous liquid and solid wastes and yard wastes;
(d) Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, accumulations and floatables;
(e) Excess pesticides, herbicides, and fertilizers;
(f) Hazardous materials and wastes;
(g) Sewage, fecal coliform and pathogens;
(h) Dissolved and particulate metals or nonmetals, including phosphorus;

(i) Animal wastes;
(j) Rock, sand, salt, silt, soils;
(k) Construction wastes and residues; and
(l) Noxious or offensive matter of any kind.

Permitting Authority The municipal board, committee or department with authority for issuing permits for construction. These include the Planning Board, Conservation Commission, Department of Public Works, Building Department, and Zoning Board of Appeals.

Recharge The process by which groundwater and the underlying aquifer is replenished by the absorption of water.
Redevelopment Replacement, rehabilitation, or expansion of existing structures, improvement of existing roads or reuse of degraded or previously developed areas. Redevelopment is defined to include the following projects:

(a) Maintenance and improvement of existing roadways including widening less than a single lane, adding shoulders, correcting substandard intersections, improving existing drainage systems and repaving; and
(b) Development, rehabilitation, expansion and phased projects on previously developed sites provided the redevelopment results in no net increase in impervious area.

Runoff The water from rain, snowmelt or irrigation that flows over the land surface and is not absorbed into the ground, instead flowing into the MS4 or streams or other surface waters or land depressions.

Sanitary Sewer System A separate underground conveyance system specifically for transporting sanitary waste operated separately and independently from the MS4, to which storm, surface, and ground waters are not lawfully admitted.

Small Diameter Drain Program A Town of Needham Program allowing the extension of the Town's drainage system (MS4) by a series of 6-inch, 8-inch and 10-inch drain pipes used to collect roof drains and clean sump pump discharges.

Stormwater Water originating from rainfall and snow/ice melt.

Stormwater Management The use of structural or non-structural practices that are designed to reduce and control stormwater runoff pollutant loads, discharge volumes or peak flow discharge rates. Stormwater Management includes the use of Low-Impact Development (LID) management practices.

□egetation Trees, shrubs, bushes and ground cover, including grass.

Watershed Management Plan The plan developed for the Town of Needham subdividing watershed areas within the Town and depicting drainable soil areas appropriate for infiltration/recharge.

Waters of the Commonwealth All waters within the jurisdiction of the Commonwealth of Massachusetts under the Wetlands Protection Act (M.G.L ch. 131 section 40 and regulations at 310 CMR 10.00) and regulations at 314 CMR □00, Water □uality Certification, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, wetlands, and vernal pools.

Waters of Needham All waters within the jurisdiction of the Town of Needham under the Wetlands Protection Bylaw (Article 6) and implementing regulations, including rivers, streams, lakes, ponds, springs, impoundments, wetlands and vernal pools.

SECTION 7.3 ADMINISTRATION

7.3.1 The Select Board shall adopt, and may periodically amend, Stormwater Regulations to effectuate the purposes of this By-law, after conducting a public hearing to receive Public comment.

7.3.2 The Director of Public Works shall be responsible for the day-to-day administration of this By-Law and its Regulations except as provided in Section 7.3.3 below. The Director may designate a person or persons to carry out any of his/her duties under this Stormwater By-Law.

7.3.3 The issuing authorities for permits (Building Department, Planning Board, Zoning Board of Appeals, and Conservation Commission) are responsible for determining compliance with this By-law for any application to these authorities. The Director of Public Works/designee shall review permit applications and provide an advisory opinion to the issuing authorities.

7.3.4 The Director of Public Works/designee shall have the authority to investigate suspected illicit discharges and to require the elimination of illicit discharges.

SECTION 7.4 APPLICABILITY

7.4.1 Permits and Approvals

All persons required to obtain a Building Permit for new construction and/or additions greater than 25□ of the existing building footprint shall be subject to the requirements of this By-Law.

All persons also required to obtain Planning Board Site Plan approval pursuant to the Zoning By-Law, Planning Board approval for a Subdivision, and/or a Board of Appeals Decision (for new construction and/or additions greater than 25□ of the existing building footprint) are subject to the requirements of this By-Law.

7.4.2 Stormwater Management and Erosion Control

Except as listed below, all applications for new construction or redevelopment subject to the provisions of this By-law, whether or not the issuance of a Building Permit is required, shall include Stormwater Management and Erosion Control provisions.

The relevant permitting authority (Building Department, Planning Board, Zoning Board of Appeals, or Conservation Commission) shall review and approve the Stormwater Management and Erosion Control Plan prior to the issuance of a permit.

The Director of Public Works/designee shall participate in the review process and make recommendations to the permitting authority as needed. Applications involving facade treatments, interior renovations, and/or changes in use are exempt from the requirement for a Stormwater Management and Erosion Control Plan.

The following applications do not require a Stormwater Management and Erosion Control Plan when proposed in an area not subject to jurisdiction of the Conservation Commission:

- Applications for addition to a commercial structure, parking lot, or roadway that is less than 1,500 square feet.

7.4.3 Modification of Building Permits

The applicant, or an agent thereof, shall obtain the approval of the Director of Public Works prior to any change or modification of an activity associated with the Stormwater Management and Erosion Control provisions of the Building Permit. The Director of Public Works shall approve or reject the change or modification in writing on the plot plan submitted within two (2) weeks of the receipt of such change or modification. If no action is taken within the said two-week period, the change or modification shall be deemed to have been approved.

7.4.4 Modification Requiring Planning Board, Zoning Board of Appeals, and/or Conservation Commission Approval

In circumstances where Planning Board, Zoning Board of Appeals, and/or Conservation Commission approval is required prior to the issuance of a Building Permit, approval by the respective board or commission is required prior to any significant change or modification of an activity associated with an approved Stormwater Management and Erosion Control Plan. Additional stormwater runoff and erosion control measures may be required prior to approval of the change or modification.

SECTION 7.5 ILLICIT DISCHARGE, DETECTION □ ELIMINATION □IDDE□

7.5.1 Prohibited Activities

7.5.1.1 **Illicit Discharges** No person shall cause or allow an illicit discharge into the MS4 or into the Waters of the Commonwealth. This By-Law shall not exempt stormwater discharges from regulations under the National Pollutant Discharge Elimination System (NPDES) stormwater program where applicable.

7.5.1.2 **Illicit Connections** No person shall construct, use, allow, maintain or continue any Illicit Connection, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

7.5.1.3 **Obstruction of Municipal Storm Drain System** No person shall obstruct or interfere with the normal flow of stormwater into or out of the MS4 without prior written approval from the Director of Public Works.

7.5.2 Regulated Activities

7.5.2.1 No person shall connect a pipe or other appurtenance to the Town of Needham Sanitary Sewer System or the MS4, or otherwise perform any modification, repair, rehabilitation, or replacement work on either system, without receiving an approved Sewer Connection Permit or Drainage Connection Permit from the Department of Public Works.

7.5.2.2 No person shall allow a pipe, swale or other point source to discharge onto a Public Way.

7.5.3 Exemptions

The following are exempt from the requirements of this By-Law:

(a) Water line flushing;
(b) Landscape irrigation;
(c) Diverted stream flows;
(d) Rising ground waters,
(e) □ncontaminated ground water (groundwater that is free of pollutants);
(f) Discharges from potable water sources;
(g) Air conditioning condensation;
(h) Lawn watering;
(i) Flows from wetland resource areas;
(j) Discharges or flows from firefighting activities; and
(k) Discharges necessary to protect public health, safety, welfare or the environment.
(l)

SECTION 7.6 EMERGENCY S□SPENSION OF STORM DRAIN SYSTEM ACCESS

The Director of Public Works/designee may suspend MS4 access to any person or property without prior written notice when such suspension is determined to be necessary to prevent or terminate a threatened or actual discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event that any person fails to comply with an emergency suspension order issued pursuant to this section, the Director of Public Works/designee may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

SECTION 7.7 STORM□ ATER MANAGEMENT AND EROSION CONTROL

7.7.1 Regulated Activities

A Stormwater Management and Erosion Control plan shall be required for any construction activity as set forth under Section 7.4 of this By-Law.

7.7.2 Exempt Activities

The following activities shall be exempt from this By-Law:

(a) Any work or projects for which all necessary approvals and permits have been issued before the effective date of this By-Law;
(b) □se of land for the primary purpose of agriculture, horticulture, floriculture, or viticulture, or the use, expansion, or reconstruction of existing structures for the primary purpose of agriculture, horticulture, floriculture, or viticulture, to the extent protected under the *Zoning Act, M.G.L.* c. 40A, § 3;
(c) Customary cemetery management;
(d) Normal maintenance of Town-owned public land, ways, public utilities and appurtenances; and
(e) Emergency activities necessary to protect public health or safety.

7.7.3 General Requirements

7.7.3.1 **Pre-Construction**

A Stormwater Management and Erosion Control plan shall be submitted as part of a Building Plot Plan or independently with an application for a Building Permit, Planning Board application, Zoning Board of Appeals application, Conservation Commission application, and/or prior to any development activity.

7.7.3.2 **Construction**

The Stormwater Management and Erosion Control plan shall include construction period measures to prevent the discharge of silt or sediment to the MS4 and/or abutting properties.

7.7.3.3 **Post-Construction**

For both commercial and residential projects, the Stormwater Management and Erosion Control Plan shall include provisions for post-construction measures to provide a minimum combined volumetric capacity to recharge a minimum of one (1) inch of rainfall depth over the total impervious area of the property (buildings and impervious surfaces). For commercial projects, the Stormwater Management and Erosion Control Plan shall include stormwater runoff quality controls and other structural and non-structural Best Management Practices (BMPs) to remove pollutants from stormwater prior to recharge to the groundwater in accordance with the Massachusetts Stormwater Handbook. The purpose of this plan is to prevent or minimize increases in stormwater volumes and flows to the MS4 and to reduce pollutant loading to the MS4 and receiving waters.

7.7.3.4 **Standard Infiltration Method**

As one option to satisfy Sections 7.7.3.1 and 7.7.3.2 and 7.7.3.3, for residential and commercial development subject to this By-Law with 4,000 square feet of impervious surface or less on the property, a Standard Infiltration Method (SIM) may be utilized consisting of the installation of drywells at one or more corners of the main dwelling/building to collect the roof runoff from the structure. Building projects involving additions greater than 25□ of the existing building footprint but less than 50□ of the existing building footprint shall collect the entire runoff from the roof of the addition plus runoff from the roof on the side of the existing structure that contains the addition. Building projects involving additions that are 50□ or greater than the existing building footprint shall capture the stormwater runoff from the entire roof. The as-built (certified) Plot Plan showing the improvements to the property shall be stamped by a Massachusetts Registered Land Surveyor.

7.7.3.5 **Poor Soils**

Properties located within an area of poor soils as identified on the Town's Watershed Management Plan or due to shallow depth to groundwater or other reason as determined by the Director of Public Works/designee, a small diameter drain shall be extended from the Town's stormwater drainage system (MS4) down gradient of the property to the property to collect the roof runoff from the main dwelling. If there is no portion of a drainage system within 100 feet of the property, the property owner shall contribute to a fund for the Town to construct a communal infiltration system on Town property. The

contribution shall be an amount as determined by the Select Board per cubic foot of stormwater required to be recharged as described above.

7.7.3.6 **Operation and Maintenance Plan**

An Operation and Maintenance Plan (O□M Plan) shall be submitted with the application for a Building Permit, Planning Board application, Board of Appeals application, or Conservation Commission application pursuant to this By-Law. The Operation and Maintenance Plan shall be designed to ensure compliance with this By-Law in all seasons and throughout the life of the system. The O□M Plan shall be signed by the property owner. For residential and commercial development with 4,000 square feet of impervious surface or less, the O□M Plan shall consist of an annual inspection of the drywells, and removal of sediment, leaves or debris as needed.

7.7.3.7 **As-Built Drawing**

Except as provided for in Section 7.7.3.4, as-built drawings stamped by a Massachusetts Registered Professional Engineer showing all stormwater management systems shall accompany the as-built Plot Plan at the completion of a project.

7.7.4 Design Criteria

7.7.4.1 Residential development and commercial development with 4,000 square feet or less of impervious surface constructed using the Standard Infiltration Method (SIM) will be deemed compliant with the design criteria of this By-law.

7.7.4.2 All developments subject to this By-Law shall satisfy the following design criteria:

(a) Stormwater Management and Erosion Control measures must, in the opinion of the Building Department, Planning Board, Zoning Board of Appeals, or Conservation Commission, as the case may be, be in compliance with all applicable provisions of the Massachusetts Stormwater Standards issued in 1□□6 as amended, regardless of the proximity of the development to resource areas or their buffer zones, as defined by the *Wetlands Protection Act, M.G.L*. c. 131, § 40 and its implementing regulations.

(b) Erosion and sediment controls must be implemented to prevent adverse impacts caused by the discharge of silt or sediment to municipal and/or abutting properties during and after land disturbance and construction activities.

(c) There shall be no change to the existing conditions of abutting properties from any increase in volume or peak rate of stormwater runoff or from erosion, silting, flooding, sedimentation or impacts to wetlands and other resource areas as defined in the Massachusetts Wetlands Protection Act and/or Needham Wetlands Protection Bylaw.

(d) When any proposed discharge may have an impact upon streams, wetlands and/or the MS4 or its conveyance system (storm sewers), the Director of Public Works/designee may require minimization or elimination of this impact based on site conditions and existing stormwater system capacity.

SECTION 7.8 MAINTENANCE OF STORM□ ATER FACILITIES

□Reserved□

SECTION 7.9 SE□ERABILITY

If any provision of this Article shall be found invalid for any reason in a court of competent jurisdiction, such invalidity shall be construed as narrowly as possible, and the balance of the Article shall be deemed to be amended to the minimum extent necessary, so as to secure the purposes thereof.

SECTION 7.10 ENFORCEMENT

The Director of Public Works/designee shall enforce this By-Law, and any regulations, orders, violation notices, and enforcement orders made pursuant to this By-Law as follows:

7.10.1 The Director of Public Works may issue a written order to enforce the provisions of this By-Law or the regulations thereunder, which may include (but are not limited to) an order to:

(a) eliminate illicit connections or discharges to the MS4;
(b) perform monitoring, analyses, and reporting;
(c) cease and desist unlawful discharges, practices, or operations; and
(d) remediate contamination in connection therewith.

7.10.2 If the Director of Public Works/designee determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, it shall be a violation of this By-Law and the Director of Public Works/designee may, at his or her option, authorize such work.

7.10.3 Any person or entity aggrieved by a decision of the Director of Public Works/designee under this provision of this Stormwater By-Law may submit a letter of appeal to the Select Board who may affirm, amend, or overrule that decision after a public meeting held not more than 45 days after the submission of a letter of appeal.

7.10.4 If a person violates the provisions of this By-Law, or any regulation, permit, notice, or order issued thereunder, the Director of Public Works/designee, with the approval of the Select Board, may seek injunctive relief in a court of competent jurisdiction to restrain such person from activities that would create further violations or to compel the person to perform abatement or remediation of the violation.

7.10.5 The remedies set forth in this Section are not intended to be exclusive of any other remedies available under applicable federal, state, or local law.

SECTION 7.11 □ AI□ER

The permit granting authority may waive strict compliance with any requirement of this By-Law when (a) such action would serve a substantial public interest, (b) such action is required for compliance with the Massachusetts Contingency Plan (MCP), or (c) strict compliance would result in severe economic hardship greater in magnitude than the public interest to be served.

ARTICLE 8

PENALTIES AND ENFORCEMENT OF TO□ N BY-LA□ S,

R□LES AND REG□LATIONS

SECTION 8.1 PENALTIES

8.1.1 Whoever performs an act, or carries on a business or an activity within the Town for which a license or permit is required by the provisions of these General By-Laws, the Building, Plumbing and Electrical Wiring Codes and the Zoning By-Laws, without having a valid outstanding license or permit to perform such an act, or to carry on such business or activity, shall, unless a specific penalty is provided elsewhere in said by-laws or codes, be punished by a fine of not exceeding twenty dollars (□20.00) for each offense.

8.1.2 Except as may be otherwise provided by law, and as the district court may see fit to impose, for any violation of these General By-laws the minimum penalty for each violation shall be fifty dollars (□50). The maximum penalty for each violation or offense brought in such manner shall be three hundred dollars (□300).

SECTION 8.2 ENFORCEMENT

8.2.1 Criminal Complaint. Any person violating any provision of these General By-Laws may be penalized by indictment or on complaint brought in the district court.

8.2.2 Non-criminal Disposition. Any person violating any provision of these General By-Laws, the violation of which is subject to a specific penalty, may be penalized by a non-criminal disposition as provided in M.G.L. Chapter 40, Section 21D. The non-criminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board or department which is subject to a specific penalty.

Without intending to limit the generality of the foregoing, it is the intention of this provision that the following sub-sections are to be included within the scope of this sub-section, that the specific penalties as listed here shall apply in such cases and that in addition to the municipal personnel listed for each section, if any, police officers shall in all cases be considered enforcing persons for the purpose of this provision; and each day on which any violation exists shall be deemed to be a separate offense.

8.2.2.1 □oning By-Law

Enforcement Agent: Building Inspector, Assistant Building Inspector
Fine Schedule:
Warning - First Offense;
□50. - subsequent offenses

8.2.2.2 Sign By-Law □Section 5□

Enforcement Agent: Building Inspector, Assistant Building Inspector
Fine Schedule:
Warning - First offense;
□50. - subsequent offenses

8.2.2.3 Demolition of Historical Buildings □2.11.5.9□

Enforcement Agent: Building Inspector
Fine Schedule: □p to □300 per offense.

8.2.2.4 Police Regulations

A. Gra□ing Of Animals □Sub-section 3.1.1□

Fine Schedule:
□20. per offense

B. Obstructing Public □ ays Or Sidewal□s □Sub-section 3.1.2□

Fine Schedule:
□50. per offense

C. Carrying Refuse Substances □ ithout Board Of Health Approval □Sub-section 2.5.1□

Enforcement Agent: Health Director and Sanitarian
Fine Schedule:
First Offense - □50.
Second Offense - □100.

Third Offense - □200
Fourth and Subsequent Offenses - □300

D. Coasting On A Public □ ay □Sub-section 3.1.3□

Fine Schedule:
□20. per offense

E. Driving On A Public Sidewal□ or Footpath □Sub-section 3.1.4□

Fine Schedule:
□50. per offense

F. Riding Bicycles On Sidewal□s In Needham S□uare and The Heights S□uare Business Districts □Sub-section 3.1.5□

Fine Schedule:
□20. per offense

G. Discharging A Firearm □Sub-section 3.1.6□

Fine Schedule:
First Offense - □50.
Second Offense - □100.
Third Offense - □200
Fourth and Subsequent Offenses - □300

H. Corner Clearance □Sub-section 2.2.5.1.6□

Enforcement Agent: Town Engineer/Building Inspector
Fine Schedule:
□50. per offense

I. Alcoholic Beverages On Public Property □Sub-sections 3.1.9□

Fine Schedule:
□50. per offense

□ Public Consumption of Mari□uana □Sub-section 3.1.10□

Fine Schedule: □50 per offense

□. Licensed Haw□ers And Peddlers □Sub-section 3.1.11□

Fine Schedule:
□50. per offense

L. Household Refuse □Section 3.1.12□

Enforcement Agent: Director of Public Works or Designee
Fine Schedule:
Warning - First Offense
□25 Second Offense
□50 Third Offense
□75 Fourth and Subsequent offenses

M. Nighttime Closing Hours □Sub-sections 3.2.1 through 3.2.5□

Fine Schedule:
□200. per offense

N. Obstructing Fire Lanes □Sub-sections 3.6.1.1 through 3.6.1.3□

Enforcement Agent: Fire Chief/Fire Inspectors
Fine Schedule:
□50. per offense

O. Public Carriages □Ta□is□□Sub-sections 4.2.1 through 4.2.4□

Fine Schedule:
□50. per offense

P. Abandoned Cars □Sub-section 3.5.4 – 3.5.7□

Fine Schedule:
□50.00

□. Discharge of □ ater □Sub-section 3.1.12□

Fine Schedule:
□50.00 per offense

R. Snow and Ice on Sidewal□s □Sub-Section 3.1.8□

Enforcement Agent: Any DPW Supervisor
Fine Schedule: □50.00 per offense

S. Discharge of Bow and Arrow □Section 3.1.13□

Fine Schedule:
First Offense - □50.
Second Offense - □100.
Third Offense - □200
Fourth and Subsequent Offenses - □300

T. Noise Regulation □Section 3.8.1□

Fine Schedule:
□0 First offense
□25. Second offense
□50. For each additional offense

□. Public Nuisance Regulation □Section 3.9□

Fine Schedule:

□0 First offense – written warning
□50. Failure to remedy/cure first offense within thirty (30) days following issuance of the first notice of violation
□100. Failure to remedy/cure first offense within sixty (60) days following issuance of the first notice of violation
□10 Additional per diem fine for failure to remedy/cure first offense within seventy-five (75) days following issuance of the first notice of violation, which additional daily fine shall continue until the first offense is fully remedied/cured

□50. Second offense within the calendar year

□100. Failure to remedy/cure second offense within thirty (30) days following issuance of the first notice of violation
□10. Additional per diem fine for failure to remedy/cure second offense within forty-five (45) days following issuance of the first notice of violation, which additional fine shall continue until the second offense is fully remedied/cured
□100. Third offense within the calendar year
□200. Failure to remedy/cure third offense within thirty (30) days following issuance of the first notice of violation
□10. Additional per diem fine for failure to remedy/cure third offense within forty-five (45) days following issuance of the first notice of violation, which additional fine shall continue until the third offense is fully remedied/cured.

□. **□accination Re□uirements □Section 3.7.9□**

Enforcement Agent: Animal Control Officer
Fine Schedule: □50 per offense

□ . **Street Occupancy Permit□E□cavation in a Public □ ay □Sub-section 2.2.5.1.4□**

Enforcement Agent: Director of Public Works or his or her designee
Fine Schedule:
□300 per offense

8.2.2.5 Conservation Commission Regulations

A. □ etlands Protection By-Law □Sub-sections 6.1 through 6.15□

Enforcement Agent: Conservation Commission Chairman/Conservation Agent
Fine Schedule:
□100. first offense
□200. subsequent offenses

8.2.2.6 Fire Department Licenses And Permits □Sub-sections 4.3.1 through 4.3.3□

A. Removing □nderground Tan□ □ ithout A Permit

Enforcement Agent: Fire Chief/Fire Inspector
Fine Schedule:
□200. per offense

B. Failure To Obtain Re□uired Fire Department License Or Permit

Enforcement Agent: Fire Chief/ Deputy Chiefs/Fire Inspectors
Fine Schedule:
□200. per offense

8.2.2.7 Board Of Health Regulations

Enforcement Agent: Health Director, Environmental Health Agent,
or Public Health Nurse

Fine Schedule:
First Offense - □50
Second Offense - □100
Third Offense - □200
Fourth and Subsequent Offenses - □300

8.2.2.8 Select Board Regulations

A. Regulations Regarding For-Profit Transient □endors□Businesses; Haw□ers and Peddlers; Door to Door Solicitations

□25.00 First offense
□50.00 Each subsequent offense within any twelve month period, each subsequent offense constituting a separate offense. (*Revised Article 70, 2001 A.T.M.)*

B. Regulations Regarding Trench Safety Authori□ed by Section 2.2.5.4.4

Enforcement Agent: Director of Public Works
Fine Schedule: □100 per offense.

C. □ ater Emergencies; □iolations □Sub-Section 2.2.5.5□

Enforcement Agent: Any DPW Supervisor
First violation: Written Warning
Second violation (issued within the same calendar year): □50
Third violation (issued within the same calendar year): □200
Fourth and subsequent violations (issued within the same calendar year): □300
Each day of violation shall constitute a separate offense.

D. Private □ ays □Sub-Section 2.2.5.6□

Enforcement Agent: Fire Chief
□50 per offense.

8.2.2.9 Stormwater Regulation □Article 7□

Enforcement Agent: Director of Public Works, Town Engineer
Fine Schedule
First Offense – Written Warning
Second Offense – failure to cure offense within 15 days' of notice of first offense - □50 - each day being a separate offense.
Subsequent Offenses – failure to cure offense within 15 days' notice of second offense - □100 - each day being a separate offense.

ARTICLE 9

LEGAL CONSTR□CTION OF GENERAL BY-LA□ PRO□ISIONS

SECTION 9.1 DEFINITIONS

As used in these General By-Laws, the following words and phrases shall have the following meanings, unless the context clearly requires a different construction:

Home Rule Amendment - Amendment Article II of the Constitution of the Commonwealth, as revised by Amendment Article L□□□I□ of said Constitution, all as the same from time to time be amended hereafter.

M.G.L. - the General Laws of the Commonwealth of Massachusetts, as most recently amended.

Town - the Town of Needham.

Town Charter - Acts of 1□71, Chapter 403 (the Needham Special Home Rule Charter Act), as from time to time amended.

SECTION 9.2 EFFECT OF GENERAL LA□ AMENDMENTS

If a provision of the General Laws, cited in a Town by-law, shall be renumbered and located elsewhere in the General Laws by the General Court or by an initiative law, the old citation appearing in by-law shall be construed as meaning the new provision, until such by-law is amended to correct the reference. The Town Counsel shall, as necessary, submit to the Town Meeting as soon as may be, proposals to correct any statutory references in the Town by-laws.

SECTION 9.3 CONSTR□CTION OF OTHER □ ORDS AND PHRASES

Words and phrases used in General By-Law provisions enacted under authority of, or in implementation of, general or special laws of the Commonwealth shall have the meaning such words and phrases have in said laws, unless the by-law context clearly requires a different construction.

SECTION 9.4 SE□ERABILITY CLA□SE

These Articles, and their various parts, sections and clauses thereof, are hereby declared to be severable. If any part, section or clause is adjudged invalid by the Attorney General or by a court of competent jurisdiction, the remainder shall remain in full force and effect.

Town of Needham

Massachusetts

CHARTER

(Acts of 1971, C. 403 as amended by the
Act of the General Court.)

2022 Compilation

(Note: Amended by the Annual Town Meeting, Article 38, and signed by the Governor of the Commonwealth of Massachusetts on November 28, 2022)

TOWN OF NEEDHAM

CHARTER

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PART 1.

INCORPORATION, SHORT TITLE, DEFINITIONS

Section 1. Incorporation Continued. All the inhabitants dwelling within the territorial limits of the town of Needham, as presently and hereafter constituted, shall continue to be a body politic and corporate known as the town of Needham which shall be a political subdivision of the commonwealth and, as such, shall have perpetual succession and shall hold and exercise all powers and privileges heretofore exercised by the town and any additional powers and privileges herein conferred and all powers and privileges conferred upon towns under the constitution and laws of the commonwealth.

Section 2. Short Title. This act shall be known and may be cited as the Needham special home rule charter.

Section 3. Definitions. As used in this act, the following words and phrases shall have the following meanings unless the context or the constitution of the commonwealth clearly requires otherwise.

"Charter", this act and any amendments to this act adopted pursuant to chapter 43B of the General Laws.
Civil defense laws", all General Laws, temporary laws and the provisions of this charter relative to: (i) the defense of the commonwealth in anticipation of, during and following enemy attack; (ii) the suppression of domestic disorders; (iii) the protection of order, life and property during and immediately following natural or man made disasters of great magnitude; and (iv) the continuity of government in the commonwealth and in the town during and immediately following any such attack, disorder or disaster.

"Town meeting", a regular or special meeting of the elected representative town meeting members; provided., however, that “town meeting” shall not include a meeting of the registered voters of the town unless the context clearly requires otherwise.

"Vote of the town", a town by law or a vote adopted by the town meeting including, where appropriate to the context, the results of a referendum.

PART 2.

REPRESENTATIVE TOWN MEETING

Section 4. Representative Town Meeting Continued. There shall continue to be in the town the form of representative town government by limited town meetings as set forth herein.

Section 5. Establishment of Town Meeting Precincts. The division of the town into 10 voting precincts shall continue until re-divided pursuant to this section. The select board, in exercising its authority to divide the territory of the town into voting precincts, shall make such division as will provide not more than 10 precincts, each of which shall contain approximately the same number of inhabitants.

The precincts shall be established so as to consist of compact and contiguous territory and bounded, so far as possible, by the center line of known streets and ways or by other well-defined limits. Their boundaries shall be reviewed and, if need be, revised by the select board based on the most recent federal census in the second January following the taking of the census, conformable to the requirements of sections 1 to 10, inclusive, of chapter 54 of the General Laws. In any year when so directed by a vote of a town meeting, the boundaries shall be reviewed and, if necessary, revised by the select board in conformity to said sections 1 to 10, inclusive, of said chapter 54.

Not later than 20 days after the establishment or revision of the precincts, but not later than January 31 of that year, the select board shall file a report of their doings with the town clerk, the registrars of voters and the assessors with maps or descriptions of the precincts and the names and residences of the registered voters therein. The select board shall also cause to be posted at the town hall such maps or descriptions of the precincts as established or revised from time to time, with the names and residences of the registered voters therein. They shall also cause to be posted in at least 1 public place in each precinct a map or description of that precinct, with the names and residences of the registered voters therein

The division of the town into precincts and any revision of such precincts shall take effect on the date that the select board files the report thereof with the town clerk. Whenever the precincts are established or revised, the town clerk shall forthwith give written notice thereof to the state secretary, stating the number and designation of the precincts.

Meetings of the registered voters of the several precincts for elections, for primaries and for voting upon any question to be submitted to all of the registered voters of the town shall be held on the same day and at the same hour and at such places within the town as the select board shall direct in the warrant for such meeting.

Section 6. Representative Town Meeting Membership. Other than the officers designated in section 7 as town meeting members at large, the representative town meeting membership in each precinct shall consist of the largest number divisible by 3 which will admit of a representation thereof in the approximate proportion which the number of inhabitants therein bears to the total number of inhabitants in the town and which will cause the total elected membership to be as nearly but not more than 240 as may be.

In any year in which a revision of the precincts in the town may not be done because of the restrictions imposed by chapter 54 of the General Laws, the select board may reapportion the seats of the town meeting members elected from precincts in proportion to the number of inhabitants residing therein in order to reflect significant population changes as estimated by the town clerk using the annual street listings and the annual school census.

The registered voters in each precinct shall elect by ballot the number of registered voters in the precinct, other than the officers designated in section 7 as town meeting members at large, as provided for in the first paragraph to be town meeting members.

The incumbent town meeting members serving at the time this charter takes effect shall continue to serve the balance of the terms for which they were elected. Their successors shall be elected in the same manner for 3-year terms as may be necessary to provide for each precinct the total number to which it is then entitled. Upon the redivision of the town into a greater or lesser number of precincts in accordance with the procedures set forth in this charter and in the General Laws, the terms of all incumbent town meeting members shall terminate upon the election and qualification of their successors as provided in the following paragraph.

After any redivision of the town into precincts as provided in this charter, the registered voters in each precinct shall elect by ballot the number of registered voters in the precinct, other than the officers designated in section 7 as town meeting members at large, as provided for in the first paragraph to be town meeting members pursuant to the following paragraph.

The first third in order of votes received of members so elected shall serve 3 years, the second third in such order shall serve 2 years and the remaining third in such order shall serve 1 year, beginning on the day of such election. In case of a tie vote affecting the division into thirds, the members elected from the precinct shall determine the same by ballot. Thereafter, except as otherwise provided herein, at each annual town election, the registered voters of each precinct shall, in like manner, elect as town meeting members for terms of 3 years such number of elected town meeting members as are necessary to provide for such precinct the total number of elected town meeting members to which it is then entitled and the registered voters shall at such election fill any vacancies then existing in the number of town meeting members in such precinct and such persons elected shall serve for the remainder of the unexpired terms for which they were elected. The terms of office of all elected town meeting members from each precinct shall cease upon the election of their successors as herein provided. Town meeting members as such shall receive no compensation. After each election of town meeting members, the town clerk shall forthwith notify each member by mail of their election.

Section 7. Town Meeting Members at Large. Any representative town meeting held under this charter, except as otherwise provided herein, shall be limited to the voters elected pursuant to section 6, together with the following elected officers designated as town meeting members at large, each of whom shall have the right to vote in the town meeting: (a) any resident member of the general court from the town whose state legislative district is wholly within the town; (b) the moderator; (c) the town clerk; (d) the members of the select board; (e) the chairperson of each other elected board of the town, except the housing authority and the commissioners of trust funds.

If a voter elected to be a town meeting member under section 6 shall be elected to become 1 of the officers designated as a town meeting member at large in clauses (a) to (d), inclusive, of the first paragraph, such person shall, upon such election, cease to be a town meeting member elected under said section 6 and the resulting vacancy in the representation of that member's precinct shall be filled as provided in section 9. A voter may serve at the same time as a town meeting member upon election as such under said section 6 and as an officer designated as a town meeting member at large under clause (e)

of said first paragraph and such voter may vote in proceedings of the town meeting as a single member and shall not vote a second time by reason of such dual tenure of offices. The designation as a town meeting member at large under said clause (e) of said first paragraph shall apply to the chair of the elected board as of the tenth day following the annual town election.

Section 8. Nomination of Candidates for Town Meeting Members. Nomination of candidates for town meeting members to be elected under this charter shall be made by nomination papers, which shall bear no political designation, but to the name of an incumbent candidate elected by the people, the words "Candidate for Re-election" may be added. Nomination papers shall be signed by not less than 10 voters of the precinct in which the candidate resides and shall be filed with the town clerk not later than the date fixed by law as the last day for filing nomination papers by candidates for town office; provided, however, that any town meeting member may become a candidate for reelection by giving written notice thereof to the town clerk not later than the last date fixed by law for the giving of such notice. No nomination papers shall be valid in respect to any candidate whose written acceptance is not thereon or attached thereto when filed.

Section 9. Resignations and Vacancies in Elected Town Meeting Membership. A town meeting member may resign by filing a written resignation with the town clerk and such resignation shall take effect on the date of such filing. A town meeting member who removes from the town shall cease to be a town meeting member and an elected town meeting member who removes from 1 precinct to another or becomes removed due to a revision of precincts shall not retain membership after the next annual election as an elected member from the precinct from which he is removed.

If a vacancy occurs in the full number of town meeting members from any precinct, whether arising from a failure of the registered voters thereof to elect or from any other cause, the town clerk shall immediately select the person who received the next highest number of votes for the office of town meeting member in the preceding election in that precinct and shall notify such person of such person's appointment as a town meeting member. If that candidate does not accept such appointment, the town clerk shall select the person who received the next highest number of votes for the office of town meeting member in the preceding election in that precinct. If that candidate does not accept such appointment, the town clerk shall call together the town meeting members of the precinct wherein the vacancy occurred and they shall by majority vote of those present, elect any registered voter of that precinct to fill the vacancy. The town clerk shall count the ballots, make a certificate of the election and notify the person so chosen and, upon receipt by the town clerk of a written acceptance by the person so elected, the person shall be deemed elected and qualified as a town meeting member, subject to the right of all town meeting members to judge the election and qualification of its members, as provided in section 10.

A town meeting member appointed or elected to fill a vacancy pursuant to this section shall serve only until the next annual town election.

A tie vote between 2 or more persons for the last place to be filled by elected candidates or between 2 or more persons with the highest number of votes as defeated candidates or between 2 or more persons with the second highest number of votes as defeated candidates shall be resolved by a majority vote of the town meeting members from that precinct attending a meeting called by the town clerk for that purpose. Upon resolution of a tie vote by the town meeting members, any person not so chosen for the last place to be filled by elected candidates shall be deemed to be the person or receiving the highest number of votes as defeated candidates and any person so tied at the election with the highest number of votes as defeated candidates who are not so chosen by the town meeting members of the precinct shall be deemed to be the person or person receiving the second highest vote as defeated candidates.

Section 10. Town Meeting to be Judge of Own Members. The representative town meeting shall be the judge of the election and qualifications of its elected members.

Section 11. Time, Notice, Conduct and Adjournment of Town Meeting. The annual town meeting for the election of town officers and such other matters as may be voted on the official ballot and the annual town meeting for the transaction of business by the representative town meeting shall be held in February, March, April or May of each year as shall be determined by vote of the town.

The town clerk shall notify town meeting members of the time and place at which representative town meetings shall be held and such notices shall be sent by mail at least 7 days before the meeting.

A majority of the town meeting members shall constitute a quorum for the transaction of business but a lesser number may organize temporarily and may adjourn from time to time. Notice of each adjourned representative town meeting shall be posted by the town clerk in at least 5 public places in the town and the town clerk shall also notify the members by mail of

the adjournment at least 24 hours, if the period of adjournment shall permit, before the time of the adjourned representative town meeting. A notice shall state briefly the business to be acted upon at the town meeting and shall include notice of any proposed reconsideration. All town meetings shall be open to the public and the press and, subject to such conditions as may be determined from time to time by the representative town meeting, a voter of the town who is not a town meeting member may speak at any representative town meeting but shall not vote.

Section 12. Warrant Articles and Voting Thereon by Town Meeting. The articles in the warrant for every town meeting that relate to the election of the moderator, town offices, town meeting members, to referenda and to all other matters to be acted upon and determined by ballot shall be acted upon and determined by the registered voters of the town in their respective precincts.

All other articles in the warrant for a town meeting shall be acted upon and determined exclusively by town meeting members at a meeting to be held at such time and place as shall be set forth by the select board in the warrant for the meeting, subject to the referendum procedure provided for in section 13.

Section 12A. Right of Initiative; Initiative Procedures. Registered voters of the town may, by initiative petition prepared and filed in accordance with this section, propose to an annual town meeting the passage of a measure. If the measure fails to pass at the annual town meeting, the registered voters may cause the measure to be submitted to the voters of the town for their approval or disapproval as hereinafter provided; provided, however, that no measure shall be proposed by initiative petition which: (i) makes a specific appropriation of money from the treasury of the town other than an appropriation to pay for the costs of a study or to pay for a capital acquisition or improvement; (ii) amends the zoning map or zoning by laws of the town; or (iii) proposes the submission to the voters of the town of an amendment to the charter.

An initiative petition shall set forth the full text of the measure proposed by the petitioners and shall first be signed by not less than 100 and not more than 250 registered voters of the town, each of whom shall sign their name and record their address on the petition as such person's name and address appear on the list of registered voters. The initiative petition shall be submitted to the town counsel not later than the fifteenth day of January prior to the annual town meeting into which that petition is to be introduced. If the town counsel shall certify that the measure proposed by the initiative petition does not conflict with the constitution or the laws of the commonwealth and that it includes only subjects not excluded from the initiative by this section, the initiative petition shall then be filed by the town counsel with the select board and the select board shall cause the proposed measure to be included in the warrant for the annual town meeting as an initiative article and shall be so designated; provided, however, that if the town counsel fails within 10 days following receipt of an initiative petition, to notify the select board in writing of the counsel's reasons for not certifying the petition, the petition shall be deemed to have been certified by the town counsel and, upon the request of any registered voter who had previously signed that petition, the select board shall cause the proposed measure to be included in the warrant as an initiative article and shall be so designated.

If an initiative article is included in the warrant for an annual town meeting, the moderator shall give to any registered voter of the town who signed the initiative petition the privilege of making the first substantive motion under the initiative article, which shall be in the words of the proposal in the article. The moderator shall allow opportunity for debate on the initiative article and on motions thereunder and shall not accept a motion to put the previous questions as to the first substantive motion or as to any motion in substitution therefor until the petitioners and their opponents have been afforded a reasonable time within which to present their arguments without repetition. The town meeting shall act on the first substantive motion in the form in which it was presented and, if such motion is not passed, the town meeting may take such other action under the initiative article which is within the scope thereof, including the adoption of any alternative measure. Action under an initiative article shall be taken by a majority vote, by a 2/3 vote or by such other vote as may be required by the nature of the action under any applicable state law.

If the annual town meeting shall dissolve without having adopted, enacted or voted on passage of the first substantive motion presented as aforesaid under an initiative article but at least 1/4 of the total number of town meeting members voting upon the first substantive motion have voted in the affirmative, the original petitioners of the initiative article may complete their petition by filing with the select board an additional number of signatures of registered voters of the town which, when combined with the signatures of the original petitioners, shall equal in number not less than 15 per cent of the total number of persons registered to vote in the town. Each additional signatory voter shall sign the voter's name, and set forth the voter's address on the petition as it appears on the list of registered voters and all additional signatures shall be gathered not earlier than the day following the day on which the aforesaid town meeting dissolved and shall be filed with the select board as set forth above not later than 20 days, not including Sundays and legal holidays, following the dissolution.

If the annual town meeting has adopted, enacted or voted passage of any motion as an alternative to or a substitute for the first substantive motion, the original petitioners of the initiative article may in like manner complete their initiative petition by filing with the select board an additional number of signatures as provided in the preceding paragraph.

Within 10 days after the filing of the completed initiative petition, the select board shall issue a call for a special meeting of the voters. The meeting shall be held within 14 days after the call was issued to present to the voters at large the measure proposed in the petition that was acted upon unfavorably by the town meeting and any alternative measures that may have been adopted by the town meeting; provided, however, that the 14-day period shall not include Sundays or legal holidays or any day between the first Wednesday in July and the first Wednesday in September immediately following as no such special meeting shall be held between the first Wednesday in July and the first Wednesday in September. Both of the measures shall appear on the ballot to be voted upon by the voters at large and shall be stated in the same language and form used in the motions acted upon by the town meeting as appearing in the records of the town meeting. The checklist shall be used in the same manner as it is used in the election of town officers.

If a majority of the registered voters of the town voting thereon and at least 20 per cent of all the registered voters, shall vote in the affirmative on either the first substantive motion or upon the alternative motion, the measure voted upon in the affirmative by the number of voters thus required and the measure receiving the largest number of votes if conflicting measures are approved shall take effect immediately or at such later time as may be specified in the measure or, if it be a by law subject to the approval of the attorney general, it shall take effect subject to section 32 of chapter 40 of the General Laws; provided, however, that any measure which, for passage, requires a 2/3 affirmative vote of the town meeting members voting thereon in a town meeting shall, if proposed by an initiative petition or if it is an alternate measure adopted by the town meeting, shall require the affirmative vote of 2/3 of the registered voters voting thereon at a special meeting called by the select board under this section. Any measure proposed by initiative petition or adopted by the town meeting, and approved by the registered voters of the town under this section shall thereafter be subject to amendment, revision or repeal by the town meeting, subject to the right of referendum by petition as provided in section 13.

Nothing in this section shall invalidate or limit the right of 10 or more registered voters to have an article inserted in the annual town meeting warrant at their written request or the right of 100 registered voters or 10 per cent of the total number of registered voters of the town, whichever is lesser, to have an article inserted in a special town meeting warrant at their written request or the right of 200 registered voters or 20 per cent of the total number of registered voters of the town, whichever is lesser, to request in writing the calling of a special town meeting as provided for in section 10 of chapter 39 of the General Laws.

Section 13. Referenda on Representative Town Meeting Action. No final vote of a town meeting passing a measure under any article in the warrant, except a vote to adjourn or dissolve or a vote appropriating money for the payment of notes or bonds of the town and interest thereon becoming due within the current fiscal year or a vote for the temporary borrowing of money in anticipation of revenue or a vote declared by preamble by a 2/3 vote of the town meeting members present and voting thereon to be an emergency measure necessary for the immediate preservation of the peace, health, safety, or convenience of the town shall be operative until after the expiration of 20 days, not including Sundays and legal holidays, from the dissolution of the town meeting.

If within that 20-day period a referendum petition, signed by not less than 15 per cent of the registered voters of the town and containing their names and addresses as the same appear on the list of registered voters, is filed with the select board requesting that the measure passed by any such vote which has not become operative as aforesaid be submitted to the voters of the town at large, then the operation of such vote shall be further suspended pending its determination as hereinafter provided and the select board, within 10 days after the filing of the referendum petition, shall call a special meeting which shall be held within 14 days after issuing the call to present to the voters at large the measure so involved; provided, however, that the 14-day period shall not include Sundays and legal holidays or any day between the first Wednesday in July and the first Wednesday in September immediately following as no such special meetings shall be held between the first Wednesday in July and the first Wednesday in September.

All votes on any measure so submitted shall be taken by ballot and the measure so submitted shall be stated upon the ballot in the same language and form as the motion was adopted by the town meeting, as appearing in the records of the town meeting. The checklist shall be used in the same manner as in the election of town officers. If a majority of the registered voters of the town voting thereon and at least 20 per cent of all the registered voters shall vote in the negative, the action of the town meeting in passing the measure that was the subject of the referendum petition shall be null and void, otherwise it shall take effect immediately upon the declaration by the select board of the vote upon the referendum or at such later date as may be specified by the vote of the town meeting.

If a referendum petition is not filed within the 20-day period, the vote of the town meeting passing the measure shall become effective on the expiration of that period or at such later date as may be specified in the vote passing the measure.

Section 14. Powers of Town and Town Meeting. The town shall continue to have the capacity to act through and be bound by its town meeting members who shall, when convened from time to time as provided by law, constitute a representative town meeting and the representative town meeting shall exercise exclusively, in conformance with this charter, all powers vested in the municipal corporation. Actions in conformance with laws that are now or hereafter applicable to the transaction of town affairs in town meetings shall, when taken by a town meeting in accordance with this charter, have the same force and effect as if such action had been taken in a town meeting open to all the voters of the town as heretofore organized and conducted.

Section 15. Certain Rights of the People not Abridged. Nothing in this charter shall abridge the right of the inhabitants of the town to hold general meetings as that right is secured to them by the constitution of the commonwealth and nothing in this charter shall confer upon any representative town meeting of the town the power finally to commit the town to any measure affecting its municipal existence or changing its government without action taken thereon by the voters of the town at large, using the official ballot and check list therefor.

PART 3.

TOWN OFFICERS

Section 16. Select Board. There shall be a select board for the town which shall consist of 5 members elected at each annual town election for 3-year terms. The select board shall continue to have and exercise all the powers and duties vested in select boards or boards of selectmen by the General Laws or by vote of the town, except as otherwise provided herein. For the purposes of this charter and the by-laws of the town, “selectmen” or “board of selectmen” shall mean select board. Members of the select board may be addressed as select board member, board member, selectwoman or selectman.

The select board shall have general authority to execute the civil defense laws within the town and to make any declaration of emergency as required by law.

Section 17. School Committee. There shall continue to be a school committee for the town which shall consist of 3, 5, 6, 7 or 9 members elected at each annual town election for terms of 3 years as the town may vote. The school committee shall have the powers, duties, responsibilities and functions vested in school committees by the General Laws and as delegated to it by the town which are not inconsistent with the General Laws. The school committee shall execute all laws pertaining to educational responsibilities assigned to the town and such further responsibilities as may be delegated to them by vote of the town.

Section 18. Moderator. A moderator shall be elected by ballot at the annual town election for a term of 3 years and shall serve as moderator of all town meetings, except as otherwise provided by law, and shall serve until a successor is elected and qualified. Nominations for and election of a moderator shall be as in the case of other elective town officers and any vacancy in the office may be filled by the town meeting members at a meeting held for that purpose. If a moderator is absent, a moderator pro tempore may be elected by the town meeting members.

Section 19. Other Elected Officers. The town, at its annual town meeting, shall in each year when the term of office of an incumbent expires and except when other provision is made by law, choose by ballot from its registered voters the following town officers for the following terms of office:

(i) a town clerk for a term of at least 1 year;

(ii) 3 or 5 park and recreation commissioners for 3-year terms as may be established by vote of the town;

(iii) at least 1 constable for a 3-year term unless the town, by vote, provides that constables shall be appointed;

(iv) 1, 3 or 5 assessors, but as nearly 1/3 of their number shall be elected or appointed annually, each to hold office for 3-years terms as provided by vote of the town;

(v) 5 members of the board of health for 3-year terms;

(vi) 5 to 9 planning board members elected pursuant to section 81A of chapter 41 of the General Laws as established by vote of the town;

(vii) 7 trustees of the Needham Public Library, but as nearly one1/3 of their number shall be elected annually, each to hold office for 3-year terms as provided by vote of the town;

(viii) 3 members of the Needham Housing Authority for 5year terms;

(ix) 3 or 5 trustees of Memorial Park for 3-year terms as provided by vote of the town; and

(x) any other officers as may be provided for by the General Laws or by vote of the town.

Section 20. Appointed Officials.

(a) The select board shall appoint and may remove a town manager or an acting town manager in accordance with section 20A.

(b) The select board shall appoint a town counsel, members of the board of appeals, election officers, registrars of voters, except the town clerk, members of the historic commission, conservation commission, commission on disabilities, the tenant member of the housing authority and, except as provided in section 19, all other boards, committees, and commissions for whom no other method of selection is provided in this charter or by-law.

(c) The town manager shall appoint, subject to the approval of the select board, a chief of the police department, a chief of the fire department, a director of public works, an assistant town manager/director of finance or a person performing such functions regardless of title and an assistant town manager/personnel director or a person performing such functions regardless of title. Appointments made by the town manager shall become effective upon the approval of the select board. If the select board shall fail to act, appointments made by the town manager shall become effective on the fifteenth day following the day on which notice of the proposed appointment was filed with the select board; provided, however, that notice of appointment shall be considered filed with the select board when the notice is filed at an open meeting of the select board.

(d) The town manager shall be the appointing authority for the following officials and employees of the town:

(i) the town accountant, a town treasurer/tax collector, a planning director, an administrative assessor, an inspector of buildings, a director of public health, a director of veterans' services, a director of park and recreation, a director of youth services, a director of management information systems, an executive director of the council on aging, a library director, a town engineer, a director of municipal building maintenance and a building construction and renovation manager or any persons performing such functions regardless of title; and

(ii) all other employees and officials of the town for whom no other method of selection is provided in this charter, except for employees of the school department and the executive secretary of the finance committee; provided, however, that the executive secretary of the finance committee shall be appointed by the finance committee.

(e) Any appointment by the town manager in accordance with clause (i) of subsection (d) shall be subject to the approval of the elected or appointed board or committee having jurisdiction over a department, if any. Appointments made by the town manager shall become effective upon the approval of the board or committee. If a board or committee fails to act, appointments made by the town manager shall become effective on the fifteenth day following the day on which notice of the proposed appointment was filed with the board or committee; provided, however, that notice of appointment shall be considered filed with the board or committee when the notice is filed at an open meeting of the board or committee.

(f) A person appointed by the town manager under subsections (c) and (d) who is not subject to chapter 31 of the General Laws may be removed by the town manager; provided, however, that no removal shall be made of any officer in said subsection (c) without the approval of the select board; and provided further, that no removal shall be made of other employees or officers until the town manager consults with the elected or appointed boards or committees having jurisdiction over that employee's department, if any. Removal of officers pursuant to said subsection (c) shall become effective upon the approval of the select board. If the select board fails to act, removals made by the town manager shall become effective on the fifteenth day following the day on which notice of the proposed removal was filed with the select

board; provided, however, that notice of removal shall be considered filed with the select board when the notice is filed at an open meeting of the select board.

Section 20A. Appointment and Removal of Town Manager.

(a) Appointment of Town Manager.

(1) The select board shall appoint a town manager for a term of not more than 3 years. The town manager shall be a professionally qualified person of proven ability who has had substantial involvement with municipal government. The town manager shall be appropriately fitted by education, training and experience to perform the duties of the office; provided, however, that such experience shall have been full-time, paid experience in a responsible administrative position.

(2) Upon the expiration of the term of the town manager or upon the resignation or removal of the town manager or if a vacancy occurs in the office of town manager, the select board shall appoint an acting manager within 7 days after such expiration, resignation, removal or vacancy to perform the duties of the office and the acting manager shall serve until a successor is appointed and qualified in accordance with paragraph (1).

(3) The town manager shall be appointed without regard to party or political designation. The town manager shall be a citizen of the United States of America. No person holding elective public office in the town, except for town meeting member, shall, within 3 years of holding such elective public office, be eligible for appointment as town manager.

(4) The town manager shall not hold an elective public office during the town manager's tenure and shall not engage in any other business or occupation during such tenure, except for part-time consultative or teaching duties, directly related to the profession of municipal management and with the expressed consent of the select board. The town manager may be appointed for successive terms of office.

(5) Before entering upon the duties of the town manager's office, the town manager shall be sworn, in the presence of a majority of the select board, to the faithful and impartial performance of the town manager's duties by the town clerk or a justice of the peace.

(b) Acting Town Manager. The town manager may designate, subject to the approval of the select board, by means of a letter filed with the town clerk, a suitable person to perform the duties of the office during the town manager's temporary absence or disability. If the town manager fails to make the appointment or if the person so appointed fails to serve, the select board may appoint a suitable person to perform such duties. Upon a vacancy in the office of town manager or upon a suspension of the town manager, the select board shall, within 7 days after such vacancy or suspension, appoint an acting town manager to perform the duties of the office.

(c) Removal of the Town Manager. The select board may suspend or remove the town manager by the affirmative vote of a majority of the full membership of the select board.

Section 20B. Powers and Duties of the Town Manager. The town manager shall be the chief executive officer of the town. In addition to other powers and duties provided for in this charter, the town manager:

(i) shall supervise, either directly or through persons appointed by the town manager in accordance with this charter, all department managers, except the school department managers, and shall be responsible for the efficient administration of all departments, except the school department; provided, however, that the town manager shall not exercise any control over the discretionary power vested by law in any board, committee, commission or officer;

(ii) may, consistent with this charter, the General Laws and the town by-laws and with the approval of elected boards having jurisdiction over affected departments, where applicable, and with the approval of the select board after a public hearing held by the select board for such purpose, reorganize, consolidate or abolish departments under the town manager's supervision and establish such new departments as the town manager considers necessary and transfer the duties and powers and, so far as is consistent with the use for which the funds were voted by the town, transfer the appropriation of 1 department to another;

(iii) shall have jurisdiction over the rental and use of all town property, except school property, and shall be responsible for the maintenance and repair of all town buildings, including school buildings and grounds; provided, however, that the town manager shall be responsible for the preparation of plans and the supervision of all work on existing and new buildings,

including the planning and work on school buildings, unless otherwise assigned by the town meeting to a permanent building committee; and provided further that any plans for the construction or improvement of school buildings or property shall be subject to the approval of the school committee;

(iv) shall be the purchasing agent for the town and shall award all contracts for all departments and activities of the town, except for the school department;

(v) shall adopt rules and regulations establishing a personnel system, subject to the approval of the select board and with the oversight of the personnel board as provided herein; provided, however, that such personnel system shall make use of modern concepts of personnel management and shall include, but not be limited to: (a) a method of administration; (b) personnel policies indicating the rights, obligations and benefits of employees; (c) a classification plan; (d) a compensation plan; (e) a method of recruiting and selecting employees based on merit principles; (f) a centralized record keeping system; (g) disciplinary and grievance procedures; (h) a professional development and training program; and (i) such other elements as deemed necessary; provided further, that all town agencies and positions shall be subject to the rules and regulations adopted under this clause, excluding employees of the school department and as otherwise provided in chapter 150E of the General Laws; provided further, that personnel policies referenced in clause (b) or changes to such policies shall not be submitted to the select board without the prior review and approval of the personnel board; provided further, that classification or compensation plans referenced in clauses (c) and (d), or changes to such plans, shall not be submitted to the select board for approval until the town manager has submitted the plan or plan revision to the personnel board for review and comment and, if comments were made within 15 days after submission, the town manager has provided written response to any comments made by the personnel board; and provided further, that in all other aspects of the personnel system, the town manager shall confer with the personnel board.

(vi) shall fix the compensation of all town employees except, those under the jurisdiction of the school committee, within the limits established by appropriation and subject to chapter 150E of the General Laws.

(vii) shall negotiate and administer all collective bargaining agreements with employee organizations representing town employees, other than employees of the school department, pertaining to wages and other terms and conditions of employment in accordance with chapter 150E of the General Laws; provided, however, that such agreements, other than agreements with employee organizations representing school department employees, shall be subject to the approval of the select board; provided further, that subject to the approval of the select board, the town manager may employ special counsel to assist in the performance of the duties under this clause; and provided further, that the town manager or a designee shall participate in the deliberations of the school committee in collective bargaining with employee organizations representing school department employees as provided in said chapter 150E;

(viii) shall keep the records of the office of town manager and shall render, as often as may be required by the select board, a report of all operations during the period reported on;

(ix) shall keep the select board advised as to the needs of the town and shall recommend to the select board for adoption measures requiring action by the select board or by the town as considered necessary or expedient by the town manager;
(x) shall implement town meeting votes and shall report in writing annually to the town meeting on the status of prior town meeting votes on which implementation has not been completed, except matters related to the schools;

(xi) shall administer, either directly or through a person appointed by the town manager in accordance with this charter, all general and special laws applicable to the town, all by-laws and votes of the town and all rules and regulations made by the select board, except matters related to the schools;

(xii) shall report to the select board and the finance committee on the financial condition of the town;

(xiii) shall have access to all town books and papers for information necessary for the proper performance of the town manager's duties and may, without notice, cause the affairs of any department or activity under the town manager's control, or the conduct of any officer or employee thereof, to be examined;

(xiv) shall be accessible and available for consultation to the chairs of town boards, committees and commissions, whether appointed or elected, and shall make accessible and available to them such data and records of the town manager's office as may be requested in connection with their official duties; and

(xv) shall perform such other duties consistent with the town manager's office as may be required by the by-laws, by vote of the town or by vote of the select board.

The town manager shall be the chief fiscal officer of the town. Warrants for the payment of town funds prepared by the town accountant in accordance with section 56 of chapter 41 of the General Laws shall be submitted to the town manager. The approval of the warrant by the town manager or, in the town manager's absence, by the acting town manager shall be sufficient authority to authorize payment by the town treasurer but the select board shall approve all warrants in the event of the absence of the town manager or acting town manager or during a vacancy in the office of town manager.

When a payroll, bill or other claim against the town has been presented to the town manager, the town manager shall, if the matter appears to the town manager to be invalid, excessive in amount or otherwise contrary to the interests of the town, immediately investigate the facts and determine what, if any, payments shall be made. Pending the investigation and determination by the town manager, payment shall be withheld.

Section 20C. Estimate of Capital Expenditures. All boards, departments, committees, commissions and officers of the town shall annually, at the request of the town manager, submit to the town manager in writing a detailed estimate of the capital expenditures, as defined by by-law, required for the efficient and proper conduct of their respective departments and offices for the ensuing fiscal year and the ensuing 4-year period. The town manager, after consultation with the select board, shall submit to the select board in writing a careful, detailed estimate of the recommended capital expenditures for the aforesaid periods, showing specifically the amount necessary to be provided for each office, department and activity and a statement of the amounts required to meet the debt service requirements or other indebtedness of the town. The select board shall transmit a copy of the capital budget to the finance committee along with the select board's recommendations relative thereto. The calendar dates on or before which the capital budget is to be submitted and transmitted shall be specified by by-law.

Section 21. Other Boards, Committees and Commissions. The following boards and committee shall continue to perform the duties and responsibilities assigned to them by the General Laws or by vote of the town:

(i) a finance committee which shall consist of such number as shall be established by vote of the town;

(ii) a personnel board;

(iii) commissioners of trust funds; and

(iv) such other boards, committees and commissions as provided for by the General Laws or by vote of the town.

PART 4.

PUBLIC WORKS

Section 22. Select Board to be Board of Public Works. The select board shall continue to be and shall exercise the functions of a board of public works and, in that capacity, shall exercise under the designation of select board all of the powers and duties vested by law in the following boards and offices: (i) highway surveyors; (ii) water commissioners; (iii) sewer commissioners; and (iv) tree wardens; provided, however, that such boards and commission shall be abolished on the effective date of this act. The select board, acting as the board of public works, shall be the lawful successor of the boards and offices abolished by this section.

Section 23. Director of Public Works. The town manager shall appoint a director of public works who shall administer, under the supervision of the town manager, the departments of the town under the control of the select board as they may designate. The director shall be responsible for the efficient administration of all departments within the scope of the director's duties and shall hold office subject to the will of the town manager, consistent with subsection (c) of section 20. The director shall be especially fitted by education, training and experience to perform the duties of the office and shall not be required to be a resident of the town. During the director's tenure, the director shall not hold elective public office or another appointive public office and the director shall not be engaged in any other business or occupation. The director shall, subject to the approval of the town manager, appoint such assistants, agents and employees as the performance of the duties of the departments under the director's supervision may require and may, with like approval, remove any such

assistant, agent or employee. The director shall keep records of the doings of the office and shall have charge of and shall preserve, arrange and index so as to be readily accessible to the public all plans, surveys, field notes, records, documents and inventories connected with the engineering operations of the town. The director shall deliver to the town manager, as often as the town manager may require, a report of all operations under the director's control during the period reported upon and shall, annually and at such other times as the town manager may request, make a synopsis of all the reports for publication. The director shall keep the town manager fully advised of the needs of the town within the scope of the director's duties and shall furnish to the town manager a carefully prepared and detailed written estimate of the appropriations required during the ensuing fiscal year for the proper conduct of all departments of the town under the director's supervision.

Section 24. Laying Out, and Maintenance of Drains, etc. The town may lay out, construct, maintain and operate a system of main drains and common sewers for all or part of its territory, with such connections and other works as may be required for a system of sewage disposal. For such purpose, the town may construct such sewers or drains over and under land in the town as may be necessary to conduct the sewage to the south metropolitan sewerage system and, for the purpose of providing better surface or other drainage, may make, lay and maintain such drains as it seems best. The town may, within its limits, make and maintain subdrains and, with the approval of the commonwealth's department of public health, discharge the water into any brook, stream or watercourse within the town. The town may make and maintain within its limits in any way where main drains or common sewers are constructed such connecting drains, underdrains and sewers within the limits of such way as may be necessary to connect any estate which abuts upon such way.

Section 25. Particular Sewers. The town, through its select board acting as the board of public works, may upon the application of the owner of any estate abutting on any way where a main drain or common sewer is constructed, lay in such sewered way and in the private land of such owner such particular sewer or connecting drain as may be necessary to connect any building on such estate with that main drain or sewer and the town manager may make all necessary contracts in the name and behalf of the town for such purpose. The expenses thereof shall be paid out of any appropriation that may be made by the town therefor.

Section 26. Exercise of Eminent Domain, etc., for Sewer and Drain Purposes. The select board, as the board of public works acting for and on behalf of the town, may take by eminent domain under chapter 79 of the General Laws or acquire by purchase or otherwise any lands, water rights, rights of way or easements, public or private, in the town, necessary for accomplishing any purposes referenced in sections 24 to 31, inclusive, and may construct such main drains and sewers under or over any bridge, railroad, railway, boulevard or other public way or within the location of any railroad and may enter upon and dig up any private land or public way for the purpose of laying such drains and sewers and for maintaining and repairing the same and may do any other thing proper or necessary for the purposes of said sections 24 to 31, inclusive; provided, however, that the select board shall not take in fee any land of a railroad corporation and shall not enter upon or construct any drain or sewer within the location of any railroad corporation except at such time and in such manner as the select board and the corporation may agree or, in case of a failure to agree, as may be approved by the department of public utilities. Any person injured in their property by an action of the select board under this section may recover damages from the town under said chapter 79.

Section 27. Apportionment of Costs of Sewage Disposal. The town shall, by vote of its town meeting, determine what proportion of the cost of any system of sewerage and sewage disposal the town shall pay; provided, however, that it shall pay not less than ¼ and not more than 2/3 of the whole cost. In providing for the payment of the remaining portion of the cost of a system or for the use of a system, the town may avail itself of any of the methods authorized by the General Laws and any General Laws relative to the assessment, apportionment, division, reassessment, abatement and collection of sewer assessments, to liens therefor and to interest thereon shall apply to assessments made hereunder. At the same meeting at which it determines the proportion of the cost to be borne by the town, the town meeting may by vote determine which methods the remaining portion of the cost shall be provided for. The collector of taxes of the town shall certify the payments of such assessments or apportionments thereof to the select board and the select board shall preserve a record thereof.

Section 28. Assessment of Sewer Betterment. The cost of constructing each particular sewer or connecting drain described in section 25 shall be assessed by the select board upon the estate benefited thereby. Such assessments shall be made by filing with the collector of taxes of the town a certificate, designating the way and the private land on which the particular sewer or connecting drain has been constructed and by giving the names of any owners of the estate for which such connection has been made and the amount of the assessment to be paid by each such owner. A copy or duplicate of the certificate shall, within 10 days after the filing of the same with the collector of taxes, be recorded in the Norfolk county registry of deeds or, in the case of registered land, in the office of the assistant recorder for the Norfolk county registry of

deeds. The collector of taxes shall, upon receipt of such certificate, make a written demand for the payment of such assessment or charge and each owner shall, within 3 months after such demand was served upon the owner or occupant of the estate or sent by mail to the last address of the owner known to the collector of taxes, pay to the collector of taxes the sum so assessed or charged. Except as provided in this paragraph, the provisions of the General Laws relative to the assessment, apportionment, division, reassessment, abatement and collection of sewer assessments, to liens therefor and to interest thereon shall apply to assessments made under this section. In applying such provisions to assessments, the notice referred to in this section shall be deemed to be the demand of the tax collector required thereunder. The lien for any assessment made under this section shall attach upon the recording or filing for registration of the copy of duplicate of the certificate of assessment. In the apportionment of such assessments thereunder, no installment shall be less than $10.

Section 29. Application of Sewer Receipts. The receipts from sewer assessments and from payments made in lieu thereof shall be applied to the payment of charges and expenses incident to the maintenance and operation of the system of sewerage, or to the extension thereof, to the payment of interest upon bonds and notes issued for sewer purposes or to the payment or redemption of such bonds or notes.

Section 30. Sewer Contracts. All contracts made for the purposes of sections 24 to 31, inclusive, shall be made in the name of the town and shall be signed by the town manager. No contract shall be made and no obligation shall be incurred hereunder for the purposes of said sections 24 to 31, inclusive, in excess of the amount appropriated by the town therefor.

Section 31. Sewer Regulations. The select board, as the board of public works, may prescribe rules and regulations for the connection of estates and building with main drains and sewers and for the inspection of materials, construction, alteration and use of all connections and drains entering into any such main drains and sewers. The select board may prescribe penalties, which shall not exceed $50, for each violation of any such rule or regulation. The rules and regulations shall be published at least once a week for 3 consecutive weeks in a newspaper published in the town; provided, however, that if there is no such publication, then the rules and regulations shall be published at least once a week for 3 consecutive weeks in a newspaper published in the county of Norfolk. No rules and regulations shall take effect until such publication has been made.

PART 5.

PARK, RECREATION AND CONSERVATION

Section 32. Park and Recreation Commission. There shall continue to be a park and recreation commission in the town which shall consist of such number of commissioners, who shall be elected for such terms as authorized by vote of the town pursuant to section 19. The park and recreation commission shall have the powers, duties and functions vested: (i) by the General Laws in boards of park commissioners, playground or recreation commissions and town forest committees; and (ii) in the commission by this charter or by vote of the town. The commission shall continue to have the management and care of the town forest, formerly managed by the special town forest committee.

Section 33. Memorial Park. The land known as the Memorial Park in the town of Needham shall continue to be under the jurisdiction of the Trustees of Memorial Park. The trustees shall continue to: (i) receive, hold and manage, with the approval of the town meeting, any devise, bequest or gift for the establishment or equipment of memorials for properly commemorating the service of members of the armed forces of the commonwealth and the armed forces of the United States; and (ii) maintain and operate, upon such portion of Memorial Park as they determine, an athletic field with suitable equipment and, in their discretion, to regulate its use for athletic games and other entertainment of a public nature, to which an admission fee may be charged upon such terms and conditions as the trustees may impose.

Section 34. Conservation Commission. There shall continue to be in the town a conservation commission of not less than 3 and not more than 7 members as determined by vote of the town. The conservation commission members shall be appointed by the select board for 3-year terms and the terms of office of approximately 1/3 of the members shall expire each year. The commission shall have the powers, duties and functions specified by section 8C of chapter 40 of the General Laws and such additional duties as may be assigned to it by vote of the town.

The conservation commission may receive gifts of both real and personal property in the name of the town, subject to the approval of the select board. The conservation commission may acquire by gift, purchase, grant, bequest, devise, lease or otherwise the fee in such land or water rights or any lesser interest, development right, easement, covenant or other

contractual right, including conveyances on conditions or with limitations or reversions, as may be necessary to acquire, maintain, improve, protect, limit the future use of or otherwise conserve and properly utilize open space and other land and water areas within the town and shall manage and control the same. The conservation commission may adopt rules and regulations governing the use of land and waters under its control and may prescribe fines of not more than $100 for any violation thereof.

PART 6.

MUNICIPAL PLANNING

Section 35. Planning Board. There shall continue to be in the town a planning board which shall consist of not less than 5 and not more than 9 members who shall be elected or appointed as may be determined by vote of the town. The planning board members shall be elected or appointed for 5-year terms, so arranged such that the term of at least 1 member shall expire each year and their successors shall be elected or appointed in like manner.

Section 36. Board of Appeals. There shall continue to be a board of appeals established under section 14 of chapter 40A of the General Laws, which shall be the existing board of appeals under the town building by law and shall perform the duties of the board of appeals under section 81AA of chapter 41 of the General Laws. The board of appeals shall consist of 3 members who shall be appointed by the select board for 3 year terms so arranged that the term of 1 appointee shall expire each year. The select board shall, in a like manner, appoint 2 associate members.

The board of appeals shall have and shall exercise all of the powers and duties of boards of appeal under the zoning enabling act, the subdivision control law and the building by laws and such further powers and duties as may be granted to the board by vote of the town.

PART 7.

GENERAL PROVISIONS

Section 37. Construction. The provisions of this charter act shall be construed as if said act had been adopted by the procedure set forth in sections three and four of Article LXXXIX of the Amendments to the Constitution of the Commonwealth. The powers granted to the town of this charter act shall be liberally construed in order to give full effect to the powers specifically granted herein. The provisions of this charter act as originally adopted shall be construed as a continuation of the provisions of the existing law in effect at the time of its adoption unless the contrary is clearly required by the context thereof.

Section 38. Severability. The provisions of this charter act are severable. If any of the provisions of this charter act are held to be unconstitutional, or invalid, the remaining provisions of said act shall not be affected thereby. If the application of this charter act or any of its provisions to any person or circumstances is held to be invalid, the application of said act and its provisions to other persons or circumstances shall not be affected thereby.

Section 39. Repeal of Certain Acts. Chapter seventy-three of the acts of nineteen hundred and twenty-three, chapter four hundred and fifty-four of the acts of nineteen hundred and twenty-four, chapter one hundred and eighty-nine of the acts of nineteen hundred and thirty-two, chapter twenty-nine of the acts of nineteen hundred and thirty-four, chapter sixty-eight of the acts of nineteen hundred and thirty-seven, chapter thirty of the acts of nineteen hundred and fifty, chapter twenty-one of the acts of nineteen hundred and fifty-five, chapter seventy-four of the acts of nineteen hundred and fifty-five, chapter three hundred and fifty-nine of the acts of nineteen hundred and fifty-six, chapter three hundred and sixty-eight of the acts of nineteen hundred and fifty-six, chapter eighty-four of the acts of nineteen hundred and fifty-nine and chapter one hundred and forty of the acts of nineteen hundred and sixty-five are hereby repealed.

Section 40. Existing Law. All general laws, and all special laws, town by-laws, rules and regulations of or pertaining to the town which are in force when this charter act takes full effect, and which are not specifically repealed hereby, shall continue in full force and effect until amended or rescinded by due course of law or expire by their own limitation. Nothing in this charter act shall affect or impair the rights or privileges of persons who are town officials or employees at the time it takes effect or derogate from the protection afforded to them by the civil service law, laws relating

to veterans' tenure, or chapter thirty-two of the General Laws. Nothing contained herein shall impair any existing contractual rights established prior to the adoption of this charter act or any amendment thereto.

Section 41. Effective Date. Sections forty-one and forty-two of this act shall take effect upon the passage of this act. Section one to forty, inclusive, of this act shall become effective on the first day of April immediately following the next town election specified in section forty-two if a majority of the voters of the town voting thereon at such election have voted in favor of its adoption. Any amendment or revision adopted subsequent to said date shall become effective upon the date specified in such amendment or revision.

Section 42. Submission of Act to Voters. This charter act shall be submitted for acceptance to the registered voters of the town of Needham at the town election next held following the passage of this charter act. The vote shall be taken by ballot in accordance with the provisions of the General Laws, so far as the same shall be applicable, in answer to the following question which shall be placed upon the official ballot to be used in said town at said election: -- "Shall an act passed by the General Court in the year nineteen hundred and seventy-one, entitled `An Act recodifying the existing laws establishing the frame of government of the town of Needham into a special home rule charter act', be accepted?".

Upon its acceptance by a majority of the registered voters of said town voting thereon at said town election, as aforesaid, this charter act shall take effect in the town of Needham on the first day of April immediately following said election, as herein provided, but not otherwise.

Approved June 14, 1971.
Amended 1973, 1974, 1975, 1976, 2000.
And further amended by Chapter 176 of the Acts of 2004
(Section 6 and 7 of Chapter 176 of the Acts of 2004 shall take effect upon its passage.
Section 1 to 5, inclusive, shall take effect 185 days following acceptance by a majority
of the registered voters of the town which was so passed on November 2, 2004)
And further amended by Chapter 341 of the Acts of 2018 (signed by the Governor on 1/1/2019).

Town of Needham

Massachusetts

GENERAL BY-LAWS

Charter

(Acts of 1971, C. 403 as amended by the
Act of the General Court.)

July 2022 Compilation

(Note: There were no amendments in 2020)

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GENERAL BY-LAWS

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ARTICLE 1

TO□ N MEETING

SECTION 1.1 DATES OF MEETING

1.1.1 Annual Town Meeting for the election of officers and such other matters as may be voted on the official ballot shall be held on the second Tuesday in April of each year; and the Annual Town Meeting for the transacting of business shall be held on the first Monday in May of each year. If the business is not completed that day, an adjournment shall be taken to the next following Wednesday. If any business shall then remain unfinished, adjournment shall be taken to the next following Monday, with successive adjournments to the next following Wednesdays and Mondays until all business is completed, unless otherwise voted at one of the scheduled meetings.

1.1.2 If for any reason a State Primary or State Election should occur within 30 days before or immediately following the date established for the Annual Town Meeting, the Select Board, after consultation with the Town Clerk, may by proclamation postpone and schedule another day in the month of April for the Annual Town Election.

SECTION 1.2 NOTIFICATION

1.2.1 All Town Meetings shall be notified and warned by posting attested copies of the Warrant calling for the Town Meeting in not less than twenty public places in the Town at least seven days before the time of holding the Annual Town Meeting and at least fourteen days before any Special Town Meeting.

1.2.2 The Town Clerk shall cause to be delivered or mailed to each Town Meeting Member, at least seven days in advance, a copy of the Warrant for the Annual Town Meeting, held for the purpose of the transacting of business.

1.2.3 The Town Clerk shall cause to be delivered or mailed to each Town Meeting Member, at least fourteen days in advance, a copy of the Warrant for each Special Town Meeting.

1.2.5 The Town Clerk shall make available to any resident, upon request, a copy of the Warrant for each Town Meeting, and shall post a copy of each warrant on the official Town of Needham website.

1.2.6 The Town Clerk shall cause the titles and a synopsis of all Town Meeting Articles to be printed in a local newspaper.

SECTION 1.3 □OTES

1.3.1 If two-thirds vote of the Town Meeting is required by statute, a count shall not be taken unless it is deemed necessary by the Moderator in the fulfillment of the duties of the office.

1.3.2 A vote of the Town Meeting shall be taken by a roll call of the yeas and nays: (a) whenever requested by twenty-five of the Town Meeting members present, immediately following a voice vote, standing vote or vote by show of hands; (b) whenever such a roll call on the pending question is ordered by affirmative vote of a majority of the Town Meeting Members present and voting; or (c) whenever such a roll call is deemed necessary by the Moderator in the fulfillment of the duties of his office.

1.3.3 A motion to reconsider a warrant article in the warrant of a Town Meeting convened under such warrant may be adopted by a simple affirmative majority vote of said Town Meeting. A warrant article aforesaid which has once been reconsidered may not again be reconsidered, unless such further reconsideration is moved on behalf of the Select Board or Finance Committee and is adopted by a simple majority of Town Meeting.

SECTION 1.4 SPECIFIC RE□ □ESTS BY MODERATOR

The Moderator may direct to any person in the hall a specific request by a Town Meeting Member for information pertaining to the question under consideration.

SECTION 1.5 MOTIONS BY SPEA□ERS

Any speaker who addresses the merits of a matter shall not be permitted to place on the floor, immediately following the speaker's remarks, a motion to move the previous question or a motion to limit debate.

SECTION 1.6 DI□ISION OF MOTION

If a motion under an article of the Town Warrant is susceptible of division, it shall be divided upon the request of twenty voters; and the questions shall be put separately on each part.

SECTION 1.7 ATTORNEYS AS SPEA□ERS

Any person employed as an attorney by another interested in any matter under discussion at a Town Meeting shall disclose the fact of his employment before speaking.

SECTION 1.8 APPROPRIATIONS - INFORMATION RELATI□E TO BALLOT □□ESTIONS

The Town Meeting may appropriate and authorize the expenditure of town funds for the purpose of providing the voters of the town with factual information relative to measures to be voted upon at elections in the town. Measures, as used in this section, shall both mean measures submitted to the voters for acceptance or rejection under the Town Charter, as amended, or any other law, but shall not include a new or revised charter or charter amendment proposed by a Charter Commission, or a measure requiring discussion in the Information for □oters published by the Secretary of the Commonwealth, or any measure placed upon the ballot by a state general law not relating to the organization, powers, duties, obligations and finances of the Town.

SECTION 1.9 ELECTION OF OFFICERS

1.9.1 The Town, at its annual town election of officers, shall in every year when the term of office of any incumbent expires, and except as otherwise provided by law, choose by ballot from its registered voters the following town officers for the following terms of office:

(a) Five Select Board Members for a term of three years.

(b) Seven members of the School Committee for a term of three years.

(c) A Moderator for a term of three years.

(d) A Town Clerk for a term of three years.

(e) Five members of the Park □ Recreation Commission for a term of three years.

(f) Two Constables for a term of three years.

(g) Three Assessors for a term of three years.

(h) Three Commissioners of Trust Funds for a term of three years.

(i) Seven Trustees of the Needham Public Library for a term of three years.

(j) Five Trustees of Memorial Park for a term of three years.

(k) Five members of the Board of Health for a term of three years.

(l) Five members of the Planning Board for five year terms, so arranged that the term of not more than one member shall expire each year.

(m) Three members of the Needham Housing Authority for five-year terms, so arranged that the term of not more than one member shall expire each year.

1.9.2 In all cases, except for the Planning Board and Housing Authority, where three or more members of a board or commission are to be elected for terms of more than one year, as nearly 1/3 as possible, shall be elected annually.

SECTION 1.10 FINANCE COMMITTEE

1.10.1 There shall be a Finance Committee consisting of nine registered voters, none of whom shall be Town officers, agents or employees (other than Town Meeting Members)**.** The Moderator shall annually appoint three members to serve for three years. Said committee shall choose its own chairman and secretary. acancies on said committee may be filled at any time by the Moderator.

1.10.2 The Committee shall have access to all facts, figures, records and other information relating to all Town departments, boards, committees or officers**;** and when requested by the Committee, such information shall be furnished immediately by whomever it is requested, including the Town Manager and/or any department, board, committee, officer or employee. If not directly requested of the Town Manager, the Committee shall inform the Town Manager or the School Superintendent and/or their designees of such requests. The Town Manager shall report to the Finance Committee whenever the expenditures of any department are exceeding or are likely to exceed its appropriations.

1.10.3 The Finance Committee shall consider all matters of business included within the articles of any warrant for a Town Meeting, and shall, after due consideration, report thereon its recommendations as to each article that it finds to have a financial implication. The Committee shall report in print or otherwise to all Town Meetings. For the information of voters, the report of the Finance Committee to the Annual Town Meeting shall be printed, together with the motion substantially in the form to be proposed in connection with each article, in the warrant of said meeting. The Finance Committee's recommendation on the operating budget shall be the Main Motion to be acted on by Town Meeting. In its motion, or motions, the Finance Committee shall divide the proposed appropriation for each department into a sufficient number of items to separate the major classifications of expenditures. The Finance Committee shall transmit to the Town Manager its initial draft proposed budget on or about the 22nd day of February, and its final proposed budget for publication in the Warrant by no later than the 15th day of March.

SECTION 1.11 PERSONNEL BOARD

1.11.1 The Town Moderator shall appoint the Personnel Board, consisting of five (5) persons for three (3) year overlapping terms. At least two members of the Personnel Board shall be qualified by reason of their experience as human resources executives. Any registered voter of the Town may be appointed to the Personnel Board, provided however, that no Town employee or Town elected official (other than a Town Meeting Member) shall be appointed.

1.11.2 The Personnel Board may retain such clerical and other assistance, and make such expenditures, as it deems necessary to the performance of its duties.

1.11.3 The Personnel Board shall advise the executive branch on strategic human resources and collective bargaining matters. The Personnel Board shall report to the Select Board and/or Town Meeting, as it deems appropriate as to the status of human resource administration in the Town. The Town Manager shall consult with the Personnel Board prior to appointing an assistant town manager/personnel director, or person performing said function regardless of title, in accordance with Section 20(d) of the Town Charter.

1.11.4 If an Article is inserted in the warrant for an Annual or Special Town Meeting with respect to the human resource system of the Town, a copy of such article shall be furnished to the Personnel Board by the Town Manager. The Personnel Board shall report its recommendation to Town Meeting with respect to such article.

1.11.5 The Personnel Board will consult with the Town Manager, the Select Board and the Finance Committee on a motion to propose appropriations to fund the cost items of collective bargaining agreements. The Personnel Board shall review such agreements and report its recommendations to Town Meeting. The Town Manager shall keep the Personnel Board informed as to the status of collective bargaining and the Personnel Board shall make recommendations to the Town Manager and Select Board, as it deems appropriate.

1.11.6 At the request of the Personnel Board, the Town Manager shall provide access to all facts, figures, records and other information pertaining to Town departments and positions to the extent that the release of such records is not inconsistent with privacy and confidentiality laws.

1.11.7 The Town Manager shall provide such advice, assistance and information to the Personnel Board as it may require for the discharge of its functions.

SECTION 1.12 APPRO□AL OF EMPLOYEE CONTRACTS

1.12.1 When a collective bargaining agreement has been signed by the Town Manager and approved by the Select Board with any organization of Town employees under said Chapter 150E, the Town Manager shall provide to the Personnel Board and to the Finance Committee (1) a copy of said agreement, (2) a copy of the motion to be presented to the Town Meeting proposing an appropriation or appropriations to fund the cost items of said agreement (as defined in said Chapter 150E), and (3) any explanatory or other information relevant to said agreement which said Board or Committee may request. Said Board and said Committee shall report their respective recommendations to the Town Meeting as to whether or not the motion to appropriate for the funding of cost items in the collective bargaining agreement ought to be adopted.

1.12.2 The motion to be presented to the Town Meeting shall identify clearly the collective bargaining agreement to be funded and the amount or amounts to be appropriated in such a way that Town Meeting members will know what agreement is to be funded, how it is to be funded, and what is the grand total of the cost items to be funded in relation to said agreement. Prior to consideration by the Town Meeting of any motion to fund the cost items of a collective bargaining agreement, the employer shall provide Town Meeting members with a fair and concise summary of said agreements and information as to the amount of the appropriation or appropriations being requested to fund the same.

1.12.3 A motion to fund the cost items of a collective bargaining agreement, once introduced upon the floor of Town Meeting, shall be amendable only upon a motion to amend offered by or on behalf of the Select Board or the Finance Committee for the purpose of correcting an error. No other motion to amend shall be admissible. The motion to fund, so corrected if necessary, shall be voted or rejected by the Town Meeting. No motion in relation to collective bargaining agreement will be admissible which the Moderator, after consultation with Town Counsel, determines to be in contravention of M.G.L. Chapter 150E.

SECTION 1.13 SPECIAL COMMITTEES

1.13.1 Special committees established or continued by vote at an annual or special town meeting, and instructed to report to a subsequent annual town meeting, shall file their reports in writing with the Select Board not later than the first Monday of February preceding the Annual Town Meeting which they report, and said reports shall be printed and included as appendices to the report of the Finance Committee to the Town at the Annual Town Meeting.

1.13.2 The chairman of each temporary study committee established by the town meeting shall, upon the termination of the existence and the work of his committee, deposit with the Town Librarian the working papers and other material gathered or compiled by the committee in the course of its work. Subject to the approval of the Town Clerk and the requirements of M.G.L. Chapter 66, the Town Librarian may destroy that portion of the working papers and material having no substantial value, with the balance being deposited in the public administration collection.

SECTION 1.14 TO□ N MEETING □ ARRANTS

The last date on which the Select Board shall receive articles, by petition or otherwise, for inclusion in the warrant for the next Annual Town Meeting shall be the first Monday in February. The Select Board are not prohibited from inserting in the warrant for said Annual Town Meeting, after that date, articles which, in the Board's opinion, are of such importance to the welfare of the Town as to make their consideration at such meeting necessary or desirable.

SECTION 1.15 NUMBERING/LETTERING ASSIGNMENT BY TOWN CLERK

The Town Clerk is authorized to assign appropriate numbers or letters to by-law sections, subsections, paragraphs and subparagraphs where none are approved by Town Meeting; and if such numbering or lettering is approved by Town Meeting, to make non-substantive editorial revisions to the same to ensure consistent and appropriate sequencing and numbering; and to make non-substantive editorial revisions to references regarding such numbering or lettering as contained within the by-laws to ensure accuracy and conformity.

ARTICLE 2

TOWN ADMINISTRATION AND ORGANIZATION

SECTION 2.1 GENERAL

2.1.1 Salaries. No elected Town officer shall hold a salaried position under a board of which such officer is a member. No contract for materials or property of any kind shall be made on behalf of the Town by any such board with any of its members.

2.1.2 Payment Over of Fees. On and after January 1, 1946, all Town officers, except constables, shall pay all fees received by them by virtue of their office, into the Town treasury.

2.1.3 Contract Procedures. The Town and all of its departments excluding the Board of Health, shall comply with the procurement procedures of General Laws Chapter 30B, as it may from time to time be amended. The Board of Health shall follow the procurement procedures of General Laws Chapter 30B with respect to the purchase and disposal of supplies and interests in real estate. The term "supplies" as used herein has the same meaning as defined in Section 2 of said Chapter 30B. No contract for an amount over $50,000 entered into by the Town shall be effective until it shall have been approved as to form by the Town Counsel. The Town Manager will notify the Select Board in writing when approving a contract in excess of $1,000,000.

Unless otherwise prohibited by law, the Town is authorized to solicit, award and enter into contracts for periods up to three years, including any renewal, extension or option provision, subject to annual appropriation. The Town is authorized to solicit, award and enter into certain types of contracts for periods exceeding three years but not to exceed the time period specified as follows, including any renewal, extension or option provisions:

	YEARS
Appraisal Services for Revaluation	5
Environmental studies and consultants	10
Hospital Service Agreements	5
Incineration, composting garbage, recycling	20
Lease by the Town of private land or buildings	10
Lease of any equipment	10
Lease of land from a public agency or authority for recreational purposes	
Lease of Public Lands and buildings	10
Lease of Public Lands and/or buildings for the installation of solar photovoltaic facilities for electric generation	30
Lease of Public Lands for historical and educational purposes to a non-profit or charitable organization	30
Lease of Public Lands for recreational purposes to a Non-profit or charitable organization	20

Lease purchase of any equipment	10
Lighting	10
Maintenance agreements for equipment, buildings or grounds	5
Online Subscription Services	10
Physicians Contracts	5
Purchase of oil and fuel	5
Purchase of power (or net metering credits) from solar photovoltaic facilities installed on land leased or licensed from the Town	20
School transportation	5
Sewer and disposal contracts	30
Software License and/or Maintenance Agreements	10
Telecommunication Services	5
Water studies	10
Water supply	20
Water supply construction	20.

2.1.4. □acancies in Certain Appointive Offices.

2.1.4.1 Definitions

For the purposes of this Section 2.1.4 the following words shall have the following meanings:

a) appointive committee: A committee, commission or board of the town composed of members appointed by one or more appointing authorities and created by:

i) town by-law
ii) vote of Town Meeting
iii) vote of a committee, commission or board of the town, or
iv) interdepartmental agreement

b) Excessive absences: The failure to attend three or more consecutive meetings of the appointive committee.

c) Medical incapacity: The determination of a duly licensed medical doctor that the person is incapable of performing the duties of the office because of a lack of physical or mental capacity.

2.1.4.2 The appointing authority may remove and replace any person it has appointed to an appointive committee prior to the end of his or her term for excessive absences from committee meetings or because of medical incapacity, but only upon the written request of a majority of the remaining members of the appointive committee.

2.1.4.3 Before removing and replacing its appointee under Section 2.1.4 of these By-Laws, the appointing authority shall notify in writing the appointee of the appointing authority's intent to remove him or her and its reasons therefor. □pon the written request of the appointee, the appointing authority shall hold a hearing under the provisions of the Open Meeting Law, G.L. Chapter 3□, Section 23B prior to taking final action on the removal.

SECTION 2.2 ADMINISTRATION

2.2.1 Operating Budget. The Town Manager shall issue budget guidelines and instructions for all Town departments to submit their spending requests for the ensuing fiscal year. The Town Manager shall consult with the Finance Committee prior to the issuance of said guidelines and instructions. The Town Manager and/or his/her designee and the Finance Committee shall consult with each other throughout the Budget process. The Town Manager and School Superintendent will provide the Finance Committee with copies of their respective departmental spending requests on or before the 2nd Wednesday of December. Following receipt of these spending requests, the Finance Committee may begin its consideration of same, including the commencement of budget hearings. The Town Manager, after consultation with the Select Board and School Committee, shall not later than the 31st day of January, present to the Finance Committee a balanced budget recommendation in the form of an executive budget, which shall include the spending priorities of all

Town departments for the ensuing fiscal year, including in addition thereto, the voted School Committee budget request if different than that contained in the proposed balanced budget. The Town Manager's executive budget recommendation shall not be binding on the Finance Committee. Said executive budget recommendation shall include the estimates of Town revenues and proposed expenditures of all Town departments, including debt service and other amounts required to be raised for the ensuing fiscal year. The Town Manager may amend or otherwise revise revenue estimates as may be warranted. All such revisions shall be provided in writing to the Select Board, School Committee and Finance Committee.

2.2.2 Capital Improvement Budget

2.2.2.1 All boards, departments, committees, commissions and officers of the town shall annually, at the request of the Town Manager, submit to him or her in writing a detailed estimate of the capital expenditures required for the efficient and proper conduct of their respective departments and offices for the ensuing fiscal year and the four year period following thereafter. The Town Manager, after consultation with the Select Board, shall submit in writing to the Select Board a careful, detailed estimate of the recommended capital expenditures for the aforesaid periods, showing specifically the amount necessary to be provided for each office, department and activity and a statement of the amounts required to meet the debt service requirements or other indebtedness of the Town. The Select Board shall transmit a copy of the capital budget to the Finance Committee along with the Select Board recommendations relative thereto. The Select Board shall transmit the capital budget to the Finance Committee no later than the first Tuesday after the first Monday in January.

2.2.2.2 A capital expenditure is defined as the acquisition, construction, renovation, betterment or improvement involving land, public buildings and facilities; water and sewer system laterals, mains, and appurtenances; and equipment or vehicles; provided the cost is □25,000 or more and the improvement will have a useful life of five years or more; or any planning, feasibility, engineering or design study in preparation for such capital expenditures.

2.2.2.3 The Capital Improvement Plan shall include: (a) a list of all capital improvements proposed to be undertaken during the next five years, together with supporting data; (b) cost estimates, methods of financing, and recommended time schedule; and (c) the estimated annual cost of operating and maintaining any facility to be constructed or acquired. The first year of the Capital Improvements Program shall constitute the proposed capital improvements budget for the coming fiscal year and the ensuing four years of the plan are
included for planning purposes.

2.2.3 Town Counsel

The Select Board shall appoint a Town Counsel, who shall act as attorney and counsel for the Town and the various officers and boards thereof, to institute and prosecute suits in the name of the Town, to defend suits brought against the Town, and to compromise and settle suits and claims, unless otherwise ordered by special vote of the Town. Town Counsel shall have the authority to engage the services of attorneys to assist in carrying out the duties of the office.

2.2.4 Town Treasurer and Ta□Collector

2.2.4.1 Town Treasurer. The Town Treasurer shall prosecute proceedings under the provisions of M.G.L. Chapter 60 for the foreclosure of the right to redeem lands purchased, taken or held by the Town for the nonpayment of taxes.

2.2.4.2 The Town Treasurer shall have the custody, management and sale of all lands held by the Town under a tax collector's deed, or a taking of land for taxes after the title of the Town has become absolute by the foreclosure of the right of redemption according to law, or under a deed to the Town by the owner of the equity of redemption given in lieu of foreclosure proceedings. The Town Treasurer is authorized and empowered with the approval of the Select Board, in the name and on behalf of the Town, to sell such lands at public auction or pursuant to the procedures permitted by M.G.L. Chapter 30B, and to execute, acknowledge and deliver proper deeds for that purpose. Notice of any sale by auction shall be published in a newspaper published in the Town for three consecutive weeks, the first publication to be not less than twenty-one days before the sale.

2.2.4.3 The provisions of the Sub-section 2.2.42 shall not apply to land which the Town has authorized to be used for municipal purposes. Prior to sale of such land, any person legally entitled thereto shall be granted the right to redeem

property acquired by the Town as aforesaid, notwithstanding the foreclosure of the right of redemption, upon the payment of the amount due the Town, including the interest and costs. This right to redeem must be exercised within two years of the date when the title of the town has become absolute, either by the foreclosure of the right of redemption according to law, or by a deed to the Town by the owner of the equity of redemption given in lieu of foreclosure proceedings.

2.2.4.4 Interest Charges - Past Due Bills. The due dates for the payment of all municipal charges and bills shall be 30 days after the charge or bill is issued by the Town, unless otherwise specified by a general law or special act of the Commonwealth. Interest accrues at the same rate as charged on tax bills under the provisions of M.G.L. Chapter 5□, Section 57. The Select Board shall have the authority to abate any such interest charges, in whole or in part.

2.2.4.5 Municipal□Changes Lien. The Town, acting through its Select Board, shall impose a lien on real property located within the Town for any solid waste disposal fee or charge which has not been paid by its due date, in accordance with the provisions of MGL Chapter 40 Section 58.

2.2.4.6 Ta□Collector. The Collector of Taxes shall collect, under the title of Town Collector, all accounts due the Town.

2.2.5 Public □ or□s Department

2.2.5.1 Highways

2.2.5.1.1 Assignment of Street Numbers. All buildings on or near the line of public or private ways shall be assigned a number or numbers by the Select Board, who shall assign odd numbers for one side of a way and even numbers for the opposite side of such way. Said assigned numbers, shall not be less than 4 inches high with □ inch stroke, shall be placed in a conspicuous place on said building or buildings by the owner or occupant within thirty days from the time that notice is given by the Board to the owner or occupant of the number or numbers assigned to said building or buildings. On any building constructed or renovated after July 1, 2002 that is located so that it is more than 100 feet from the line of a public or private way to the building, a post or suitable marker bearing the assigned street number or numbers that conforms to this by-law shall be installed and maintained within ten feet of the line of the way near the entrance to the property thereof. Street numbers in existence as of the effective date of the By-law are not required to be replaced by the owner or occupant unless notified by said Board.

The owner and occupant of each building in the Town to which a number has been thus assigned shall maintain said number on said building at all times in such a manner that the number will be clear and conspicuous and the view of said number is not obstructed. Whoever violates the provisions of this subsection 2.2.5.2.1 shall be subject to a fine of not exceeding twenty dollars (□20.00) for each offense under the non-criminal process authorized by MGL Chapter 40, Section 21D. Each day on which the violation continues shall be considered a separate offense.

2.2.5.1.2 Acceptance of New Streets. In connection with specifications for new streets and ways through private property:

(a) A plan and profile of every such street or way shall be filed in the office of the Director of Public Works, who shall approve or establish the grade thereof.

(b) Every street or way shall be at least forty feet in width and have a road bed not less than twenty feet in width.

(c) All loam shall be removed from the road bed to a depth of twelve inches below finished grade and from the sidewalk to a depth of six inches, or such greater depth as may be required by the Director of Public Works.

(d) The entire area of every new street shall be first cleared of all stumps, brush, roots, and like material and all trees not intended for preservation.

(e) All excavation or embankment work shall be brought accurately to a subgrade of not less than eight inches for the roadway and four inches for the sidewalk below finished grade, or such greater depth as the nature of the subsoil, in the opinion of the Director of Public Works, may require.

(f) All corners of intersecting streets or ways shall be rounded as approved by the Director of Public Works.

(g) The bottom of the excavation and the top of the fill when completed, hereinafter known as the subgrade, shall be true to the lines, grades and cross-sections given by the Director of Public Works. After all drains have been laid and the subgrade has been shaped correctly, it shall be brought to a firm, unyielding surface by rolling the entire area with an approved three (3) wheeled roller, weighing not less than ten (10) tons. Any portion of the subgrade which is not accessible to a roller shall be thoroughly tamped by hand. All soft and yielding material and other portions of the subgrade which will not compact readily when rolled or tamped shall be removed and replaced with suitable material. All rock or boulders found in the excavation shall be taken away or broken off to a depth of not less than six (6) inches below the surface of the subgrade. The bottom of the base course shall be spread with dry, clean 1 1/4-inch to 2 1/2-inch stone over the bottom course, in such a quantity that after being rolled there will be a depth of not less than 2 1/2 inches and not more than 3 inches, and then shall be rolled until the stone does not creep under action of the roller. One and three-fourth gallons of tar or asphalt binder shall then be applied to each square yard of road surface. Dry, clean 3/4-inch stone shall be spread evenly over the surface, rolled thoroughly; and there shall then be applied to this surface 1/2 gallon of asphalt binder per square yard, which shall be covered with dry, clean pea stone and rolled until a smooth, unyielding surface results.

2.2.5.1.3 Petition for Acceptance of New Streets. All streets to be accepted by the Town must be petitioned for not later than six months prior to the start of the Town Meeting at which such petition is to be acted upon. No streets shall be accepted by the Town unless constructed in compliance with the foregoing specifications.

2.2.5.1.4 Street Occupancy Permit. Except as herein provided, a Street Occupancy Permit, issued by the Director of Public Works, in such form and content as said Director may require, must be obtained before undertaking any work, including, without limitation, construction, repair, maintenance or reconstruction work, in, within or affecting a public way. The person responsible for such work or in charge of those performing such work shall review such work with the Director of Public Works and the Police Chief, or their designees, to determine whether or not such work will result in the disruption of the normal flow of traffic or cause a safety hazard to pedestrian or vehicular traffic. If the Director of Public Works and the Police Chief, or their designees, determine that such work will result in the disruption of a normal flow of traffic, or will create a safety hazard to pedestrian or vehicular traffic, the person responsible for such work, or in charge of those performing such work, shall follow the safety precautions ordered by the Director of Public Works and the Police Chief, or their designees, including but not limited to, the hiring of a Needham Police Officer, under the existing regulations governing privately paid police details, to direct traffic and minimize the vehicle safety hazards connected with such work.

No work shall be commenced in, within or affecting a public way until those persons responsible for such work comply with the requirements of Sub-section 2.2.5.1.4. The Town of Needham is exempt from the requirements of this sub-section. Whoever violates the provisions of Sub-section 2.2.5.1.4 shall be subject to a fine not exceeding one hundred dollars (□100.00) each day being a separate offense.

The Chief of Police or Director of Public Works, or their respective designees, are hereby authorized to stop any work on any way conducted in violation of any provision of this sub-section.

2.2.5.1.5 Removal of Snow and Ice. The Director of Public works may, for the purpose of removing or plowing snow, or removing ice from any way, remove, or cause, to be removed to some convenient place, including a public garage, any vehicle interfering with such work, and impose liability for the cost of such removal and of resulting storage charges, if any, upon the owner of such vehicle.

2.2.5.1.6 Street Intersections. At each intersection of public or private streets or ways in the Town, there shall be a clearance area consisting of the triangular area formed by the side lines of the intersecting streets or ways and a line joining each side line at a point twenty-five (25) feet distant from the point of intersection or, in case of rounded corners, from the point at which the side lines would intersect if projected. In case of uncertainty as to the point of intersection of such projected side line, the Town Engineer shall certify the clearance area drawn in accordance with the foregoing provisions. No fence or other structure, shrubbery, foliage, hedge, tree or the like which interferes with sight lines across such clearance area and thereby limits or obstructs the view of vehicular traffic entering such intersection shall be erected, planted, maintained or allow to exist, provided, however, that Sub-section 2.2.5.12.6 shall not apply to buildings in violation of the Town Zoning By-Law.

2.2.5.1.7 Construction and Maintenance of Overhead Poles

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Any person, firm, corporation or partnership, or their agents and employees, granted any license, permission or other authority to construct or maintain poles and overhead wires and associated overhead structures upon, along, under or across any public way or ways, is forbidden from installing or constructing, and shall remove immediately, any poles, overhead wires and associated overhead structures which are located on, along or across Chestnut street between its intersection with School Street and the railroad bridge at Needham Junction.

2.2.5.2 Sewers

2.2.5.2.1 The Department of Public Works may require house connections to sewer mains within five years after the laying of such mains. This provision shall apply only to mains laid after March 18, 1 40.

2.2.5.2.2 Plans and descriptions of all common sewers belonging to the Town, with a true record of the charges of making and repairing said sewers and all assessments therefor, shall be kept in the Department of Public Works.

2.2.5.3 Miscellaneous

2.2.5.3.1 ells, Cisterns and Cesspool Protection. The owner of any premises within the Town on which a well, cistern or cesspool is located, or, if the premises are in the exclusive possession of a person other than the owner, such person having possession of said premises, shall cause each such well, cistern or cesspool to be protected at ground level by masonry and a metal cover, or by such other substantial protective materials as may be approved by the Town's Director of Public Works.

The owner of premises within the Town on which a well, cistern or cesspool is located, or, if the premises are in the exclusive possession of a person other than the owner, such person having possession of said premises, shall cause each such well, cistern or cesspool, the use of which has been discontinued, to be filled in to ground level with material commonly used as fill, or, in the case of a well or cistern, with the approval of the Town's Director of Public Works, covered with masonry in a substantial and safe manner. Such filling or masonry work, as the case may be, shall be performed as to wells, cisterns, and cesspools, the use of which has been discontinued prior to the effective date of Sub-section 2.2.5.3.1, immediately following said effective date, and as to wells, cisterns, and cesspools, the use of which shall be discontinued subsequent to the effective date of Sub-section 2.2.5.3.1, immediately following such discontinuance of use.

2.2.5.4 Trench Safety

2.2.5.4.1 The Town Manager is authorized to designate a local permitting authority for issuing trench permits and/or licenses under the regulations promulgated by the Commonwealth of Massachusetts Department of Public Safety and Division of Occupational Safety in accordance with Chapter 82A of the General Laws relative to excavation and trench safety.

2.2.5.4.2 A trench is defined as a subsurface excavation greater than three feet in depth and is fifteen feet or less between the soil walls as measured from the bottom.

2.2.5.4.3 The Select Board may, from time to time enact fees to cover the costs of processing said permits and for enforcement thereof.

2.2.5.4.4 The Select Board may, from time to time, and after a public hearing, enact local rules and regulations consistent with Chapter 82A relative to the trench permitting process, the standard and special conditions for issued permits, and the enforcement of issued permits.

2.2.5.4.5 The Town may perform temporary repairs to private property if such repairs are determined by the Director of Public Works to be required for public necessity, in accordance with regulations issue by the Select Board in accordance with Section 2.2.5.4.4. Said repairs shall be considered necessary to abate an immediate hazard.

2.2.5.5 Municipal ater Supply

2.2.5.5.1 Applicability

This section pertains to residences and commercial property and industry served by the Town’s water system.

2.2.5.5.2 Implementation of a Mandatory Non-essential Outdoor □ ater □se Restriction The Select Board or its designee shall have authority to implement a mandatory non-essential outdoor water use restriction in an effort to promote water conservation and to ensure compliance with the Water Management Act.

2.2.5.5.3 Bac□flow Prevention on Automatic Irrigation Systems All automatic irrigation systems connected to the municipal water system in the Town shall be protected from backflow events by the installation of a backflow prevention device approved by the Director of Public Works.

2.2.5.6 Private □ ays

2.2.5.6.1 Snow and Ice Removal. The Town may remove snow and ice from such private ways within its limits for emergency vehicle access in accordance with Massachusetts General Laws and in accordance with regulations or policies issued by the Select Board. Such snow and ice removal may be limited to those private ways maintained in an acceptable condition and in accordance with standards determined by the Director of Public Works.

2.2.5.6.2 Barricades. Barricades installed on private ways that serve to deter prompt and appropriate emergency access shall be removed on order of the Fire Chief.

2.2.5.6.3 Temporary Repairs. The Town may perform temporary repairs to private ways if such repairs are determined by the Director of Public Works to be required for public necessity, in accordance with regulations or policies issued by the Select Board.

Said repairs shall be considered necessary to abate the immediate hazard caused by the defect and shall not be considered as maintenance of the private way nor shall the way be considered a public way. Drainage shall not be included as part of any such repairs, and the private way need not have been open to public use prior to the repairs being made.

Abutters to the private way may petition the Town to perform temporary repairs. In such cases, fifty one percent of the abutters to the private way must petition the Director of Public Works for the repairs to be made by the Town. □pon receipt of a petition and a determination of the necessity of such repairs, the Town shall provide the petitioners with a statement of the cost of such repairs. Within seven (7) days of receipt of the statement of cost, the petitioners shall be entitled to withdraw the petition. □nless the petition is withdrawn, the Town shall promptly make the repairs and the petitioners shall thereafter reimburse the Town for the cost of the repairs, if the repairs exceed □300. The reimbursement amount shall be equal to the petitioner's pro rata share of the cost of repairs based on the ratio that each petitioner's frontage bears to the total frontage of the petitioners on the private way. Betterment charges will not be assessed for such repairs.

If the cost of repairs does not exceed □300, no reimbursement will be required.

The Town shall not be liable for any damage to private property caused by such repairs, except as otherwise provided by law.

2.2.6 <u>Information Technology</u>

2.2.6.1 Purpose. It is hereby declared to be the policy of the Town of Needham that there shall be an Information Technology Center (within the Department of Finance) that shall be responsible for providing services and systems to all Town offices and departments. It is further declared that, subject to statutory provisions to the contrary, and insofar as practical, all data processing services and systems shall be centralized in the Information Technology Center.

2.2.6.2 Organi□ation. There is hereby created a department of the Town government to be known as the Information Technology Center which shall be part of the Department of Finance of the Town. In addition, there shall be an advisory board as described below. The Center's operations shall be under the management and control of the Director of Finance. The Advisory Board shall serve in an advisory capacity for all long-range planning and capital acquisition functions.

2.2.6.3 Technology Advisory Board

(a) There shall be a Technology Advisory Board (hereinafter called the Board) consisting of five (5) regular members and four (4) ex officio members. The ex officio members shall be non-voting members.

(b) The regular members of the Board shall be appointed by the Select Board to staggered three-year terms. The regular members of the Board shall be residents of the Town who have knowledge and experience in telecommunications or information technology. No employee of the Town shall be a regular member of the Board. In the event that a vacancy occurs during a regular member's three-year term, the Select Board shall, within ninety (0) days, appoint a successor to fill the balance of the unexpired term.

(c) The ex officio members of the Board shall be:

(i) the Town Manager or his or her designee,
(ii) the Town's Director of Management Information Services,
(iii) the School Department's Director of Financial Services, or a substitute designated by the Superintendent of Schools,
(iv) the School Department's Director of Technology, or a substitute designated by the Superintendent of Schools.

(d) The role of the Board shall be (1) to provide technical assistance to all Town departments and the School Department in the formulation of technology plans and capital requests for voice, data and video systems; (2) to advise the Town Manager in the review of capital requests for voice, data and video systems, taking into consideration the goals of maximizing efficiency and cost effectiveness, minimizing unnecessary redundancy, and insuring, to the extent possible, the compatibility of each request with other existing or proposed systems; (3) to advise the Permanent Public Building Committee on the specifications to be considered for voice, data and video systems when constructing or renovating Town Facilities; (4) advise the Town Manager, Town Select Board, and Town Departments on matters relating to information technology policy, specifically with reference to issues of security, privacy, future technology and possible provision of government services through information technology; and (5) the advice will be delivered through a vote of the regular members and reported to the Town Manager, Town Select Board, and the Town Departments which requested the advice.

(e) The Board shall, annually in June, elect from among its regular members a chairman and vice-chairman, each of whom shall serve until a successor is duly elected. The chairman shall annually appoint a member to serve as secretary.

2.2.6.4 Information Technology Center

(a) The Town Manager may appoint a Director of Management Information Systems who shall supervise the daily operation of the Information Technology Center.

(b) It shall be the responsibility of the Information Technology Center, through the Director of Finance and the Director of Management Information Systems, to provide data processing services for all Town offices and departments to the extent possible and practical. The Information Technology Center will attempt to accommodate all requests from all departments whenever economically feasible and within the limits of the equipment capability and capacity of the Town's resources.

(c) Each office or department of the Town utilizing any service provided by the Information Technology Center covered by Sub-section 2.2.6.4 shall have such control over the data supplied to, and received from, such center as such office or department finds necessary to conduct its own affairs.

(d) Security of data, issuance of reports, extracts from data files, form control, operations, commitments, costs of services (when appropriate or necessary), training and user approvals as they relate to the Information Technology Center shall be considered appropriate subjects covered by rules and regulations promulgated by the Director of Finance with the assistance of the Director of Management Information Systems and the Advisory Board.

2.2.6.5 Confidentiality

(a) Although municipal records are generally of a public nature, it is recognized that certain data to be processed through the Center are of a classified or confidential nature. The Department head of any board, commission or other official tribunal having control of such classified or confidential data shall notify the Director of Finance in writing of the classified or confidential nature of the data; and the Director of Finance shall take the necessary steps to protect such classified or confidential data.

(b) No person shall disclose or make known in any manner the contents or nature of any data while in the custody of the Center for processing, or any data originated by the Center, without the express consent of the Director of Finance or his duly authorized representatives, or without the express consent of the head of the department, board, commission or other official tribunal supplying the basic information; nor shall any person tamper with, change, alter or destroy any data while in the custody of the Center, except in accordance with approved programs for processing the data. Whoever violates any provision of Sub-section 2.2.6.5 shall be subject to appropriate disciplinary action.

Section 2.2.7 Departmental Revolving Funds

2.2.7.1 This By-Law establishes and authorizes revolving funds for use by Town departments, boards, committees, agencies, or officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by Massachusetts General Law Chapter 44, Section 53E□.

2.2.7.2 A department or agency head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this By-Law without appropriation subject to the following limitations:

(a) Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund.

(b) No liability shall be incurred in excess of the available balance of the fund.

(c) The total amount spent during a fiscal year shall not exceed the amount authorized by Town Meeting on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the Select Board and Finance Committee.

2.2.7.3 Interest earned on monies credited to a revolving fund established by this By-Law shall be credited to the general fund.

2.2.7.4 Except as provided in Massachusetts General Law Chapter 44, Section 53E□ and this By-Law, the laws, charter provisions, by-laws, rules, regulations, policies or procedures that govern the receipt and custody of Town monies and the expenditure and payment of Town funds shall apply to the use of a revolving fund established and authorized by this By-Law. The Town shall include a statement on the collections credited to each fund, the encumbrances and expenditures charged to the fund and the balance available for expenditure in the regular report the town accountant provides the department, board, committee, agency or officer on appropriations made for its use.

2.2.7.5 Authorized Revolving Funds

2.2.7.5.1 School Transportation Revolving Fund

Fund Name There shall be a separate fund called the School Transportation Revolving Fund authorized for use by the School Committee.
Revenues The town accountant shall establish the School Transportation Revolving Fund as a separate account and credit to the fund all of the fee-based transportation program receipts charged and received by the School Committee in connection with school transportation programs.

Purposes and Expenditures During each fiscal year, the School Committee may incur liabilities against and spend monies from the School Transportation Revolving Fund for pupil and other districtwide transportation activities in connection with school transportation programs. The costs associated for students bussed and not charged a fee will be funded through a regular budget appropriation or other funding source.

Fiscal □ears The School Transportation Revolving Fund shall operate for fiscal years that begin on or after July 1, 2017.

2.2.7.5.2 Needham Transportation Revolving Fund

Fund Name There shall be a separate fund called the Needham Transportation Revolving Fund authorized for use by the Health and Human Services Department.

Revenues The town accountant shall establish the Needham Transportation Revolving Fund as a separate account and credit to the fund all of the fees the transportation program charged and received by the Health and Human Services Department in connection with the services.

Purposes and Expenditures During each fiscal year, the Health and Human Services Department may incur liabilities against and spend monies from the Needham Transportation Revolving Fund for transportation provided to seniors and other users of the service in connection with Health and Human Services transportation program

Fiscal □ears The Needham Transportation Revolving Fund shall operate for fiscal years that begin on or after July 1, 2017.

2.2.7.5.3 Water Conservation Revolving Fund

Fund Name There shall be a separate fund called the Water Conservation Revolving Fund authorized for use by the Department of Public Works.

Revenues The town accountant shall establish the Water Conservation Revolving Fund as a separate account and credit to the fund all of the receipts from sale of water conservation devices and program fees charged and received by the Department of Public Works in connection with water conservation programs.

Purposes and Expenditures During each fiscal year, the Department of Public Works may incur liabilities against and spend monies from the Water Conservation Revolving Fund for the purchase, resale, and promotion of water conservation devices and outreach programs to encourage water conservation in connection with promotion of water conservation and sale of devices to conserve water.

Fiscal □ears The Water Conservation Revolving Fund shall operate for fiscal years that begin on or after July 1, 2017.

2.2.7.5.4 Home Composting Revolving Fund

Fund Name There shall be a separate fund called the Home Composting Revolving Fund authorized for use by the Department of Public Works.

Revenues The town accountant shall establish the Home Composting Revolving Fund as a separate account and credit to the fund all of the receipts from sale of composting bins charged and received by the Department of Public Works in connection with the promotion of home composting.

Purposes and Expenditures During each fiscal year, Department of Public Works may incur liabilities against and spend monies from the Home Composting Revolving Fund for the purchase, resale, and promotion of home composting bins and related outreach programs.

Fiscal □ears The Home Composting Revolving Fund shall operate for fiscal years that begin on or after July 1, 2017.

2.2.7.5.5 □outh Services Programs Revolving Fund

Fund Name There shall be a separate fund called the □outh Services Programs Revolving Fund authorized for use by the Health and Human Services Department.

Revenues The town accountant shall establish the □outh Services Programs Revolving Fund as a separate account and credit to the fund all of the program receipts charged and received by the Health and Human Services Department in connection with the related fee-based programs.

Purposes and Expenditures During each fiscal year, the Health and Human Services Department may incur liabilities against and spend monies from the □outh Services Programs Revolving Fund for costs related to youth service and community program activities.

Fiscal □ears The □outh Services Programs Revolving Fund shall operate for fiscal years that begin on or after July 1, 2017.

2.2.7.5.6 Traveling Meals Revolving Fund

Fund Name There shall be a separate fund called the Traveling Meals Revolving Fund authorized for use by the Health and Human Services Department.

Revenues The town accountant shall establish the Traveling Meals Revolving Fund as a separate account and credit to the fund all of the program receipts charged and received by the Health and Human Services Department in connection with traveling meals program.

Purposes and Expenditures During each fiscal year, the Health and Human Services Department may incur liabilities against and spend monies from the Traveling Meals Revolving Fund for the costs to provide traveling meals in connection with program.

Fiscal □ears The Traveling Meals Revolving Fund shall operate for fiscal years that begin on or after July 1, 2017.

2.2.7.5.7 Immunization Program Revolving Fund

Fund Name There shall be a separate fund called the Immunization Program Revolving Fund authorized for use by the Health and Human Services Department.

Revenues The town accountant shall establish the Immunization Program Revolving Fund as a separate account and credit to the fund all of the program receipts charged and received by the Health and Human Services Department in connection with the immunization and vaccination programs.

Purposes and Expenditures During each fiscal year, the Health and Human Services Department may incur liabilities against and spend monies from the Immunization Program Revolving Fund for costs associated with immunization, vaccination, and medical countermeasure distribution programs, as well as educational programs and public information efforts in support of those services.

Fiscal □ears The Immunization Program Revolving Fund shall operate for fiscal years that begin on or after July 1, 2017.

2.2.7.5.8 Public Facility □se Revolving Fund

Fund Name There shall be a separate fund called the Public Facility □se Revolving Fund authorized for use by the Department of Public Works.

Revenues The town accountant shall establish the Public Facility □se Revolving Fund as a separate account and credit to the fund all of the facility use receipts charged and received by the Department of Public Works in connection with the use of Town facilities by community groups and organizations.

Purposes and Expenditures During each fiscal year, the Department of Public Works may incur liabilities against and spend monies from the Public Facility □se Revolving Fund for costs to operate and maintain the facility for use for conferences, programs, functions or other events in connection with the use of the facilities.

Fiscal □ears The Public Facility □se Revolving Fund shall operate for fiscal years that begin on or after July 1, 2017.

2.2.7.5.□ Memorial Park Activities Revolving Fund

Fund Name There shall be a separate fund called the Memorial Park Activities Revolving Fund authorized for use by the Memorial Park Trustees.

Revenues The town accountant shall establish the Memorial Park Activities Revolving Fund as a separate account and credit to the fund receipts from food sales and voluntary program activities received by the Memorial Park Trustees.

Purposes and Expenditures During each fiscal year, the Memorial Park Trustees may incur liabilities against and spend monies from the Memorial Park Activities Revolving Fund to provide a food concession and to maintain and improve Memorial Park.

Fiscal □ears The Memorial Park Activities Revolving Fund shall operate for fiscal years that begin on or after July 1, 2017.

2.2.7.5.10 Tree Replacement Revolving Fund

Fund Name There shall be a separate fund called the Tree Replacement Revolving Fund authorized for use by the Department of Public Works.

Revenues The town accountant shall establish the Tree Replacement Revolving Fund as a separate account and credit to the fund all of the receipts accepted by the Needham Select Board for the purpose of tree plantings charged and received by the Department of Public Works in connection with tree removal approvals.

Purposes and Expenditures During each fiscal year, the Department of Public Works may incur liabilities against and spend monies from the Tree Replacement Revolving Fund for purchase, maintenance, distribution, and promotion of shade trees in the Town of Needham in connection with payments received by the Town and accepted by the Select Board for said purpose. Salary or wages of full-time staff shall be paid from the annual budget appropriation of the Department of Public Works and not from the Fund.

Fiscal □ears The Tree Replacement Revolving Fund shall operate for fiscal years that begin on or after July 1, 2017.

2.2.7.5.11 Aging Services Programs Revolving Fund

Fund Name There shall be a separate fund called the Aging Services Programs Revolving Fund authorized for use by the Health and Human Services Department.

Revenues The Town Accountant shall establish the Aging Services Programs Revolving Fund as a separate account and credit to the fund all of the program receipts charged and received by the Health and Human Services Department in connection with the related fee based programs.

Purposes and Expenditures During each fiscal year, the Health and Human Services Department may incur liabilities against and spend monies from the Aging Services Programs Revolving Fund for costs related to educational, entertainment, and programmatic activities offered through the Department.

Fiscal □ears The Aging Services Programs Revolving Fund shall operate for fiscal years that begin on or after July 1, 2018.

[Note: Article 10 of STM 5.14.18 labeled section 2.2.5.11 in error. The section should be labeled 2.2.7.5.11□

2.2.8 Independent Audit

The Select Board shall annually employ a certified public accountant to make audits of the accounts of the Town.

SECTION 2.3 PLANNING BOARD

2.3.1 Installation of □ ater Mains. Every person making or opening subdivision of land in the Town shall, at his own expense, make such provisions for the development of streets therein, including the construction and drainage thereof, and the installation of water mains therein, as may be required by the Planning Board. Such street development and construction shall be in accordance with specifications therefor which the Director of Public Works shall from time to time adopt and water mains shall be installed only in a manner approved by the Director of Public Works. The Planning

Board may require a proper bond with an adequate surety or sureties to secure performance of requirements of Sub-section 2.3.1.

2.3.2 **Drainage**. Every person constructing a street or way to public travel within the Town shall at his own expense make such provisions for the drainage of such street or way, and the territory contiguous thereto, as may be required by the Planning Board. The Planning Board may require a proper bond with an adequate surety or sureties to secure performance of its requirements of Sub-section 2.3.2.

SECTION 2.4 BOARD OF APPEALS

2.4.1 **Appointment By Select Board**. There shall be a Board of Appeals consisting of three regular members and two associate members appointed by the Select Board. The three regular members shall be appointed for three years and in such a manner that the term of one regular member shall expire each year.

2.4.2 **Associate Members**. The associate members shall be appointed by the Select Board for a term of one year. In case of a vacancy or the absence, inability to act, or interest on the part of a regular member of the Board of Appeals, that place may be taken by an associate member designated by the Chairman or acting Chairman.

2.4.3 **Statutory Authority**. Said Board of Appeals shall be the board of appeals, required under the provisions of M.G.L. Chapter 40A, Section 14, and Chapter 41, Section 81Z, and shall have all powers and duties and shall be governed by the procedure prescribed in all provisions of the general laws applicable to boards of appeals and to applications for special permits or for variances, arising under either the Building By-Laws or the Zoning By-Laws, and shall have jurisdiction of all appeals under the Subdivision Control Law.

2.4.4 **Adoption of Rules**. The Board of Appeals may adopt rules consistent with the provisions of M.G.L. Chapter 40A, Section 14 and Chapter 41, Section 81Z, and provisions of the Building or Zoning By-Laws, for conducting its business and otherwise carrying out the purposes of said by-laws, the Subdivision Control Law and all applicable statutes.

SECTION 2.5 BOARD OF HEALTH

2.5.1 **Transportation of Refuse and Garbage**. No person shall carry in or through any of the streets, squares, courts, lanes, avenues, roads, places or alleys within the Town of Needham, any house dirt, ashes or garbage, or other refuse or garbage, or any grease or bones or any refuse substances from any dwelling houses or other buildings or places in the Town, except upon such terms and conditions as the Board of Health may deem in the health and interest of the Town.

2.5.2 **Disposal of Refuse and Garbage**. No person shall litter or, without a license from the Board of Health, dispose of any refuse on or in any public land, way, sidewalk, pond, stream, brook or watercourse or on any private land except at the Recycling Transfer Station with an appropriate permit for entry to that facility and in compliance with the rules and regulations adopted by the Select Board.

Any person who violates any provision of Sub-section 2.5.2 in the presence of a police officer may be arrested by such officer without a warrant, if such person refuses to give his true name and address or to remove any substance unlawfully discarded by such person after having been requested by such officer. Any person who violates any provision of Sub-section 2.5.2 shall be punished by a fine not exceeding two hundred dollars (□200.00) for each offense.

2.5.3 **Sale of Cigarettes by Machine.** All sale of cigarettes by machine is prohibited.

Any person who violates sub-section 2.5.3 Sale of Cigarettes by Machine shall be punished by a fine not exceeding two hundred (□200.00) dollars for each offense. Each sale in violation of sub-section 2.5.3 shall be considered a separate offense.

SECTION 2.6 P□BLIC FACILITIES

2.6.1 Building Design and Construction Department There is hereby established a Building Design and Construction Department under the authority of the Town Manager. The Department shall be responsible for managing the design (including feasibility studies), construction, reconstruction, alteration or enlargement of all buildings owned by the Town or constructed on land owned, leased, licensed or operated by the Town. These projects will be under the jurisdiction of the Permanent Public Building Committee as provided below, for which the Building Design and Construction Department will provide support.

2.6.2 Permanent Public Building Committee There shall be a Permanent Public Building Committee (hereinafter "Committee") responsible for overseeing the design (including feasibility studies), construction, reconstruction, alteration or enlargement of all buildings owned by the Town or constructed on land owned, leased, licensed or operated by the Town.

2.6.2.1 The Committee shall consist of the Town Manager or his or her designee and six additional members appointed by majority vote of an appointing authority. The appointing authority shall consist of the Moderator, the Chairman of the School Committee, the chairman of the Select Board, the Chairman of the Board of Library Trustees, and the Chairman of the Park and Recreation Commission.

2.6.2.2 Each of the members appointed by the Appointing Authority shall be a registered voter of the Town of Needham. No member appointed by the Appointing Authority shall be a paid employee of the Town, or serve as an elected official, or elected member of another standing Town board, committee or commission, except Town Meeting, or serve as an appointed member of another standing Town board, committee, or commission directly involved in the design, permitting, and/or financing of public buildings.

2.6.2.3 Among the members appointed by the Appointing Authority, there shall be a commercial general contractor, an architect, an engineer, and an attorney, if qualified individuals with the necessary expertise are available for appointment, and two other residents. If a commercial general contractor, architect, engineer, or attorney, as the case may be, is not available for appointment, the Appointing Authority shall have the discretion to appoint instead any individual meeting the qualifications set forth in 2.6.2.2 with construction, engineering, or accounting experience to fill that vacancy

2.6.2.4 The Town Manager, if a member, shall serve ex officio. A member serving as the designee of the Town Manager shall serve at the discretion of the Town Manager. Members appointed by the Appointing Authority shall serve for terms of three years.

2.6.2.5 The Appointing Authority shall, following the effective date of this section, appoint members of the Committee as follows: Two members for one year, two members for two years and two members for three years. Upon the expiration of a term, future appointments shall be for terms of three years, except that if a member vacates his or her seat before the expiration of his or her term, the Appointing Authority shall appoint a replacement to complete the unexpired portion of that term. Expiring terms shall end on December 31 of each year. A member may hold his or her seat after his or her term expires until a successor is qualified.

2.6.2.6 Definitions

For the purpose of this Section 2.6.2 the following words shall have the following meanings:

a. architect: a person with educational training and experience in the field of architecture, and a professional registration.

b. building: a structure in a portable or fixed location, with an area of at least one hundred square feet, having a roof or providing shelter, including swimming pools.

c. clerk-of-the-works: an individual responsible for day-to-day inspection of a project. He or she shall prepare and maintain detailed daily records of a project's progress and shall report to the project manager.

d. commercial general contractor: a person with the educational training and experience in general construction of a commercial nature, and a commercial general contractor's license, or at least ten years of experience as a commercial general contractor.

e. designer: an individual, corporation, partnership, sole proprietorship, joint venturer, joint stock company, limited liability partnership or other entity engaged in the practice of architecture, landscape architecture, or engineering. If the designer is an individual, he or she shall be registered as an architect, landscape architect or engineer in the Commonwealth of Massachusetts, and if the designer is one of the other categories listed above, the majority of the partners or owners shall be registered as an architect, landscape architect or engineer in the Commonwealth of Massachusetts.

f. direct construction cost: the direct cost for material, labor and equipment to construct, reconstruct, enlarge or alter a building.

g. engineer: a person with educational training and experience in his or her engineering discipline, and a professional registration.

h. feasibility study: prepared by a designer, and identifies the needs of a building user as well as alternatives for meeting the user's functional requirements. It includes surveys and testing, including environmental impacts, access for the disabled and cost estimates.

i. final design: prepared by a designer, the final design includes a schematic design, design development, final drawings and specifications, bidding documents and contract documents.

j. indirect construction costs: architectural and engineering fees, furnishings and equipment, permit and license fees, project management costs, salaries for the project manager and clerk-of-the-works, financing costs, and project contingencies.

k. project: a project is a proposed construction, reconstruction, alteration or enlargement of any building owned by the Town or constructed on land owned, leased or operated by the Town.

l. Project Committee: a committee consisting of the Permanent Public Building Committee members and the representatives designated by a □ser Agency for a specific building project. A member of the Permanent Public Building Committee shall serve as chairperson for all Project Committee activities.

m. project manager: an individual who acts on behalf of the Committee, and who is responsible for the day-to-day supervision of a project. He or she shall maintain project records, issue emergency directives, and oversee the clerk-of-the-works and other project participants.

n. total project cost: the combination of the direct and indirect construction costs.

o. □ser Agency: an elected or appointed board, committee or commission, including the Select Board, School Committee, Library Trustees, Park and Recreation Commission, Memorial Park Trustees, Conservation Commission, or other board, committee or commission having responsibility for a building.

2.6.2.7 The Committee is responsible for projects having a total project cost of □500,000 or more. The Committee may defer its jurisdiction in the instance where the project includes little or no actual building construction.

2.6.2.8 The Committee shall develop and publish procedures describing its activities. The Committee shall submit a report of all its activities for publication in the Town's annual report.

2.6.2.9 The Committee shall invite to its meetings representatives from the Board of Health, the Commission on Disabilities, and any health and safety committee or other advisory committee for the project appointed by the relevant □ser Agency.

2.6.2.10 The Committee shall, subject to appropriation, conduct feasibility studies and final designs, oversee the construction of projects, procure designer and consultant services as it deems necessary or as required by law. The relevant □ser Agency shall determine the functional need and utility of a project.

2.6.2.11 Before the commencement of a feasibility study and before any hiring for a project, the relevant □ser Agency shall designate two people to serve on the Project Committee as its representatives. The □ser Agency may replace its representatives as it deems necessary. The □ser Agency representatives shall have full voting rights and shall have full participation in all the Project Committee's deliberations and actions.

2.6.2.12 Any □ser Agency seeking to construct, reconstruct, alter or enlarge a building under its jurisdiction shall file a project application with the Committee. The Committee shall meet with the □ser Agency. At the request of the □ser Agency or at the discretion of the Committee, a feasibility study shall be conducted. Prior to the commencement of a feasibility study, the feasibility study funding shall be submitted as part of the capital improvement planning process in accordance with Section 2.2.2 of this by-law and funded by Town Meeting. The Project Committee and the □ser Agency shall review the completed feasibility study. □pon review, the Project Committee and the □ser Agency shall each indicate on a separate, signed copy whether they will accept, amend or reject the feasibility study. These provisions do not preclude the □ser Agency from conducting independent studies relating to its functions.

2.6.2.13 If a feasibility study approved by the Project Committee and the □ser Agency shows that a proposed construction project is necessary, the Project Committee shall conduct a final design. Prior to the commencement of the final design, the final design scope of work and its funding shall be submitted as part of the capital improvement planning process n accordance with Section 2.2.2 of this by-law and funded by Town Meeting. Prior to approval of a final design and contract documents by the Project Committee, a draft version shall be reviewed by the Project Committee and the □ser Agency. The final design and contract documents shall not be considered approved until the Project Committee and the □ser Agency acknowledge their approval in writing.

2.6.2.14 A description of the estimated total project cost shall be prepared for all feasibility studies and final designs.

2.6.2.15 Whenever project funding approval is sought from the town meeting, the Project Committee and the □ser Agency shall provide a detailed report to the town meeting that includes an explanation of the project need, scope of work, schedule and costs.

2.6.2.16 The Committee shall employ project managers and clerk-of-the-works for each project as it deems necessary.

2.6.2.17 The Town Clerk shall maintain a register of Committee members, and of architects, engineers, contractors, accountants, and attorneys that are willing to serve on the Committee. The Town Clerk shall maintain said register in such form as the Town Clerk, in consultation with the Select Board, may determine and such register may be purged from time to time of such information as the Town Clerk determines to be obsolete and of no further value.

2.6.2.18 Except as the laws of the Commonwealth may otherwise require, the Chairperson of the Committee, or his or her designated representative, shall, upon the termination of the Project Committee: (1) provide the □ser Agency and the Department of Public Works – Building Maintenance Division (hereinafter "BMD") with a complete and final set of drawings and specifications of the finished structure, as-built drawings, Operations and Maintenance Manuals, all other contract documents, and attic stock materials used therein, and shall provide to the □ser Agency and BMD all papers guaranteeing the building or any feature thereof ("warrantees") for work done thereon, and (2) post a digital copy of remaining records and reports on the town server for the purpose of maintaining detailed records, including any inventory indicating what papers, materials and records were deposited with the □ser Agency and BMD. Subject to the approval of the Town Clerk and the requirements of M.G.L. Chapter 66, the user Agency and BMD may destroy that portion of the material relinquished to the □ser Agency and BMD determined to have no substantial value, the balance of such materials being deposited in the Public Administration Collection.

SECTION 2.7 SPECIAL COMMITTEES AND COMMISSIONS

2.7.1 Transportation Committee

2.7.1.1 There is hereby established a Transportation Committee, which shall serve under the supervision of the Select Board as Town Agents. The said Committee shall consist of five members appointed as hereinafter provided, a simple majority of whom shall constitute a quorum for the transaction of business, and of the members of the General Court, whose districts include all or part of Needham, serving **e□officiis** as non-voting members. Of the five appointed members aforesaid, two shall be appointed by the Select Board, two shall be appointed by the Planning Board and one shall be appointed by the Moderator, each such appointee to serve for a term of three years; provided, however, that of the members

originally appointed, one shall serve for a term of one year, two for a term of two years and two for a term of three years, as the Select Board shall determine. If any appointed member shall resign or otherwise vacate his office, a successor shall be appointed by the appropriate authority to serve for the balance of the unexpired term.

The Committee shall, annually in April, elect from its membership a Chairman and such other officers it deems necessary and desirable.

2.7.1.2 **Duties of the Committee**. The Transportation Committee shall conduct continuing studies of the mass transportation needs of the Town, with particular emphasis upon commuter transportation. It shall make such special studies relative to transportation problems as the Select Board or Town Meeting may, from time to time, direct.

2.7.2 Future School Needs Committee

2.7.2.1 There shall be a Future School Needs Committee consisting of seven members: two members of the Finance Committee, two members of the School Committee, two members of the Select Board, and one member appointed by the Town Moderator. The chairman shall be designated from time to time by vote of the Committee. The Future School Needs Committee will assist in the identification of the criteria necessary to develop the estimates and projections. It shall be the responsibility of the School Committee to procure professionally-developed estimates of the Town's current and projected student population and to provide this information to the Future School Needs Committee for their review, guidance, and feedback.

SECTION 2.7.3 Community Preservation Committee

2.7.3.1 Establishment

There is hereby established a Community Preservation Committee, consisting of nine (□) voting members pursuant to MGL Chapter 44B. The composition of the committee, the appointment authority and the term of office for the committee members shall be as follows:

One member of the Conservation Commission as designated by said Commission for a term of three years.

One member of the Historical Commission as designated by said Commission for a term of three years.

One member of the Housing Authority as designated by said Authority for a term of three years.

One member of the Park and Recreation Commission as designated by said Commission for an initial term of two years and thereafter for a term of three years.

One member of the Planning Board as designated by said Board for an initial term of one year and thereafter for a term of three years.

Two members to be appointed by the Select Board, one member to be appointed for a term of one year and thereafter for a term of three years and one member to be appointed for a term of two years and thereafter for a term of three years.

Two members to be appointed by the Moderator, one member to be appointed for a term of one year and thereafter for a term of three years and one member to be appointed for a term of two years and thereafter for a term of three years.

No person shall be appointed to the committee for more than two consecutive three year terms.

Should any of the Commissions, Boards, Committees, or individuals who have appointment authority under this by-law be no longer in existence for what ever reason, the appointing authority for that Commission, Board, Committee, or individual shall become the responsibility of the Select Board.

2.7.3.2 Duties

2.7.3.2.1 The Community Preservation Committee shall study the needs, possibilities, and resources of the town regarding community preservation. The committee shall consult with the Finance Committee, the Select Board and other existing municipal boards, including the Conservation Commission, the Historical Commission, the Planning Board, the Park and Recreation Commission and the Housing Authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the committee shall hold one or more public informational hearings on the needs, possibilities and resources of the town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the town.

2.7.3.2.2 The Community Preservation Committee, after consultation with the Finance Committee and the Select Board, shall make recommendations to the Town Meeting for the acquisition, creation and preservation of open space; for the acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition, creation and preservation of land for recreational use; for the creation, preservation and support of community housing; and for the rehabilitation or restoration of open space, land for recreational use and community housing that is acquired or created as provided in this section. With respect to community housing, the community preservation committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

2.7.3.2.3 The Community Preservation Committee may include, in its proposal to the Town Meeting, a recommendation to set aside for later spending funds for purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund. The Community Preservation Committee may recommend the issuance of general obligation bonds or notes in anticipation of revenues to be raised pursuant to Mass. Gen. Laws, Chapter 44B, Section 3, the proceeds of which shall be deposited in the Community Preservation Fund.

2.7.3.2.4 As provided in the Massachusetts Community Preservation Act, no expenditures shall be made from the Community Preservation Fund without the approval of Town Meeting.

2.7.3.2.5 The Community Preservation Committee will submit an annual administrative and operating budget for the Community Preservation Committee, which cannot exceed five percent (5□) of the annual revenues in the Community Preservation Fund, to Town Meeting for approval.

2.7.3.3 Re□uirement for a □uorum and Cost Estimates

The Community Preservation Committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the Community Preservation Committee shall constitute a quorum. The Community Preservation Committee shall approve its actions by majority vote. Proposals to the Town Meeting shall include their anticipated costs.

2.7.3.4 E□emptions

Taxpayers qualifying for the low-income exemption or the low and moderate-income senior exemption as provided for in G.L. c. 44B shall submit an application for the exemption on a form provided by the Board of Assessors within three months after the tax bill or notice is sent.

2.7.3.5 Severability

In case any section, paragraph or part of this chapter be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

2.7.3.6 Effective Date

This by-law shall take effect upon approval by the Attorney General of the Commonwealth, and after all requirements of M.G.L. c.40, S. 32 have been met. Each appointing authority shall have thirty days after approval by the Attorney General to make their initial appointments.

The provisions of this Community Preservation by-law shall be of no force or effect until such time as the Town Meeting and the voters of the Town vote to accept the provisions of Section 3 to 7, inclusive, of Chapter 44B of the General Laws, otherwise known as the Community Preservation Act.

SECTION 2.8 P□BLIC LIBRARY

2.8.1 Public Administration Research Collection at the Public Library

There is hereby established, and there shall hereafter be maintained, a Public Administration Research Collection at the Town's Public Library, under the supervision of the Director of the Public Library, for the use of the town officers and committees, civil organizations and individual citizens of the Town engaged in research in matters pertaining to governmental and social problems, particularly relating to the Town of Needham. To the extent that the facilities permit, library employees shall assist the members of the Town Meeting and any committee thereof in all matters requiring statistical research or fact-finding, in connection with studies ordered by the Town Meeting.

2.8.2 The Town Clerk shall furnish the Director of the Public Library with at least two copies of every publication issued by the Town and distributed through the Town Clerk's office. Any town department, board, commission or committee publishing a report not so distributed shall file at least two copies of such report with the Director of the Public Library.

SECTION 2.9 CO□NCIL ON AGING

2.9.1 There is hereby established a Council On Aging, consisting of a representative nominated by each of the following Town boards and committees: the Board of Health, the School Committee, the Trustees of the Needham Public Library, the Housing Authority, and the Park and Recreation Commission, and not fewer than seven additional members, all of whom shall be appointed by the Select Board and shall hold office for a term of three years.

2.9.2 It is the duty of the Council:

(a) To identify the needs and concerns and strengths of Needham's elderly and retired persons and those approaching retirement age.

(b) To design, promote, coordinate or implement services and programs to meet these needs and concerns.

(c) To inform the community and enlist the support and participation of all citizens in this effort.

(d) To work in coordination with programs of the Executive Office of Elder Affairs of the Commonwealth of Massachusetts.

2.9.3 A simple majority of the members shall constitute a quorum for the transaction of any business of the council. The council shall elect from its membership such officers it deems necessary and desirable.

2.9.4 If any appointed member shall resign, or otherwise vacate his office, his successor shall be appointed in the same manner as described above to serve for the balance of the unexpired term.

SECTION 2.10 YO□TH COMMISSION

2.10.1 There is hereby established a □outh Commission consisting of eight members. A simple majority of the members shall constitute a quorum for the transaction of any business of the Commission. The appointing authorities for said Commission shall be as follows: One by the Select Board, one by the Park and Recreation Commission, one by the Finance Committee, one by the Moderator, one by the Chief of Police, and one by the School Committee. Additionally, two student members to be appointed to the Commission by Superintendent of Schools as follows: In the first year a member of the Needham High School Junior Class shall be appointed for a two year term, and a member of the Senior Class for a one year term. Thereafter, one member of the Junior Class will be appointed for a two year term each year.

On or before the first day of June in each year, the appointing authorities shall appoint to the Commission sufficient members to fill expiring terms, each member so appointed to serve until the first day of June of the third year thereafter, with student members appointed to serve until the first day of June of the second year thereafter.

2.10.2 It shall be the duty of the □outh Commission to study, define, and ascertain the needs and problems of the Needham youth, and take such action necessary to promote the mental, physical and social growth of the youth of Needham through the implementation of appropriate procedures.

SECTION 2.11 HISTORICAL COMMISSION

2.11.1 Commission Members There shall be an Historical Commission of the Town of Needham, consisting of seven (7) members, each of whom shall be a resident of the Town of Needham, appointed by the Select Board. Initially, three (3) members shall be appointed for the term of three (3) years each, three (3) members shall be appointed for the term of two (2) years each, and one (1) member shall be appointed for a term of one (1) year. Thereafter, as the term for which the members were initially appointed expires, their successors shall be appointed for a term of three (3) years each. In the event of a vacancy occurring in the membership other than by the expiration of the term of a member, a successor shall be appointed to serve for the balance of the unexpired term.

2.11.2 □**uorum**. At all meetings of the Historical Commission, four (4) members shall constitute a quorum.

2.11.3 Officers. The members of the Historical Commission shall annually, within thirty (30) days after the annual appointments are made by the Select Board, elect from its membership a chairman, a vice-chairman and a secretary who shall serve during the ensuing year and until the election of their successor. All other meetings of the members shall be held at such designated times and places as the members shall designate.

2.11.4 Powers and Authority of the Historical Commission. The Historical Commission may exercise all the powers, authority and functions authorized by M.G.L. Chapter 40, Section 8D, and may make reasonable rules and regulations to aid in the orderly performance of its powers, authority and functions consistent with said Section 8D and Sub-section 2.11.4.

2.11.5 Demolition of Historical Buildings

2.11.5.1 Purpose. A demolition delay by-law provides a review procedure which results in a delay in the demolition of historically significant buildings. Such a by-law does not sanction or deny a proposed demolition but allows time for consideration of preservation alternatives to destruction. Property owners retain final decision-making authority.

2.11.5.2 Definitions.

Demolition - the act of pulling down, destroying, removing or razing a building or portion of a building or commencing such work with the intent of completing the same.

Historically Significant - property that is listed in the Needham Historical Inventory and is listed or awaiting listing in the National and/or State Registers, this property having been associated with historic person(s) or event(s) or having been designated by the Needham Historical Commission as architecturally significant or unusual.
Preferably preserved - worthy of a delay period to allow consideration of alternatives to demolition.

2.11.5.3 Initial Determination

2.11.5.3.1 When an application for a building demolition permit is filed with the Building Department, the Building Department shall determine if the building is contained in the Needham Historical Commission Inventory.

2.11.5.3.2 If the building is not contained in the inventory, the demolition permit will not be reviewed by the Needham Historical Commission.

2.11.5.3.3 If the building is contained in the inventory, the demolition permit application, if properly completed, will be referred to the Needham Historical Commission for its review. The application need not be accompanied by evidence of workmen's compensation coverage or letters from utility providers that the utilities have been disconnected in order for the application to be referred to the Historical Commission.

2.11.5.4 Procedure For Review

2.11.5.4.1 The Building Department must submit the application within 5 business days to the Historical Commission, and shall not issue the demolition permit until the Needham Historical Commission has returned the application to the Building Department, or upon the failure of the Needham Historical Commission to act in accordance with the time limits set within this Demolition Delay By-Law.

2.11.5.4.2 The Historical Commission must meet to determine whether the building is historically significant. This must be done within 21 days of receipt of the application from the Building Department. The Commission will notify the applicant of the meeting at least seven days in advance of the meeting.

2.11.5.4.3 At this meeting, the owner of the property may make a presentation to the Commission if (s)he chooses.

2.11.5.4.4 If the Commission finds that the building is not historically significant, there will not be a Demolition Plan Review, and the application will be immediately returned to the Building Department.

2.11.5.4.5 If the building is found to be historically significant, there will be a Demolition Plan Review conducted by the Needham Historical Commission.

2.11.5.5 Demolition Plan Review Process

2.11.5.5.1 The applicant must submit 7 copies of a Demolition Plan to the Historical Commission. The Demolition Plan shall contain:

1) A map or plan showing the location of the building or structure to be demolished.

2) A photograph of the street facade elevation.

3) A narrative description of the building or structure, or part thereof, to be demolished.

4) The reason for the proposed demolition and data supporting said reason, including (where applicable) data sufficient to establish any economic justification for the demolition.

5) A certified list of abutters to said property and other neighbors within 300 feet, whose names are ascertained from the Board of Assessor's most recent tax list.

2.11.5.5.2 Within forty-five days of the receipt of this demolition plan, the Commission shall review the application at a public hearing of the Commission to determine if the structure is preferably preserved. Public notice of such hearing shall be published by the Commission at the expense of the applicant in a local newspaper giving the time, place, and purpose of the hearing once in each of two successive weeks, the first publication not less than fourteen days before the day of said hearing. The Commission shall also mail a copy of said notice to the applicant, to abutters and to all owners of all property within 300 feet of the applicant's property as appearing on the most recent tax list, to the Needham Planning Board and such other persons as the Commission shall deem established to be notified.

2.11.5.5.3 If the building is not determined to be preferably preserved, the application for a permit to demolish will be returned to the Building Department immediately.

2.11.5.5.4 If the building is determined to be preferably preserved, the application for a permit to demolish need not be returned to the Building Department for a period of 6 months from the date on which the Historical Commission files its report with the Town Clerk to prevent demolition.

2.11.5.5.5 If the Commission is satisfied that the applicant/owner has sincerely tried to find alternatives to demolition with no success, the application may be returned to the Building Department before the expiration of the 6-month period.

2.11.5.5.6 In any event, at the expiration of the 6-month period the application shall be returned to the Building Department.

2.11.5.6 Failure to Act

If the Historical Commission fails to act within the specified time limits, the Building Inspector may issue a demolition permit without return of the application from the Commission.

2.11.5.7 Building Permits

No permit for the alteration of an existing structure or the erection of a new structure that involves demolition on the site of an existing historically significant building may be issued prior to the issuance of a demolition permit from the Building Department for such an existing building or any portion thereof.

2.11.5.8 Emergency Demolitions

The Building Inspector may issue a demolition permit at any time in the event of imminent and substantial danger to the health or safety of the public due to deteriorating conditions in the historically significant building. The Building Inspector shall inspect the building and document, in writing, the findings and reasons requiring an emergency demolition, a copy of which shall be forwarded immediately to the Historical Commission.

2.11.5.9 Enforcement and Remedies

In the event of a demolition of an historically significant building in violation of this by-law, the person or persons responsible for the demolition including, but not limited to, the owners, tenants, developers, or contractors, shall each be subject to a fine of up to □300 per day for each violation. Each day that the building is not restored to its condition immediately prior to the said demolition, and the demolition permit is not issued, shall be a separate offense, up to a maximum of 183 days.

2.11.5.10 Severability

If any section, paragraph or part of this by-law is for any reason declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force and effect.

2.11.5.11 Rules And Regulations

Pursuant to M.G.L. Chapter 40, Section 8D and Section 2.11.5.4 above, the Historical Commission shall make rules and regulations to implement this section.

2.11.5.12 Appeals

Any person aggrieved by a determination of the Commission may appeal to Superior Court, per M.G.L. 24□, Section 4.

ARTICLE 3

POLICE PO□ ERS, A□THORITY AND REG□LATIONS

SECTION 3.1 GENERAL

3.1.1 Gra□ing of Animals. No owner or persons having the care of any horses, cows, or other grazing animals shall permit or allow them to roam at large or to graze on any street, lane, common square or other public place within this Town, nor permit any such animal to roam or stand upon any sidewalk within the Town.

3.1.2 Obstruction of Sidewal□s. Except as permitted by the Select Board or the Director of Public Works, no person shall place, or cause to be placed, upon any public way or sidewalk, any lumber, wood, box, crate, barrel, can,

package or other thing, or allow the same to remain for more than one hour, or more than ten minutes after being notified to remove the same by a constable or police officer.

3.1.3 Coasting in Streets. No person shall coast in any street or public way except those publicly designated for that purpose by the Select Board.

3.1.4 Use of Sidewalks. No person shall ride, drive, draw or push any motorcycle, automobile, car, wagon or sled, except invalid's or children's hand carriages, over or upon any public footpath or sidewalk.

3.1.5 Bicycles on Sidewalks. No person shall ride a bicycle on any sidewalk within certain marked areas of Needham Square and Needham Heights Square business districts. The pushing or walking of a bicycle is not prohibited in such areas. For this purpose, the Police Chief, with the approval of the Select Board, shall establish the boundary limits of the sidewalks subject to Sub-section 3.15 by appropriate markings on the sidewalks or other signs.

3.1.6 Discharge of Firearms. No person shall fire or discharge any firearm, or other explosive articles, within the limits of any park, playground, public way, public building or other property except with the consent of the Select Board, or hunt, or fire or discharge any firearm or other explosive articles, on any private property except with the written consent of the property's owner or legal occupant. This Sub-section shall not apply to the lawful defense of life and property, or to any lawful enforcement officer acting in the discharge of his duties.

3.1.7 Dealing in Second-Hand Merchandise. No person shall collect, deal in or keep a shop for the purchase, sale or barter of junk, old metals or second hand articles, within the limits of the Town, unless licensed by the Select Board.

3.1.8 Snow and Ice on Sidewalks.

3.1.8.1 Any person who places any snow or ice on a sidewalk or a street, shall forfeit fifty dollars ($50.00) for each offense.

3.1.8.2 Any owner, tenant, occupant, proprietor, manager, agent, board, trust, or other entity having charge of property used wholly or in part for (a) a commercial purpose (including without limitation as a store, restaurant, bank, gym, theater, childcare facility or office); (b) a hospital or medical establishment; (c) a place of worship; (d) multi-family housing containing three (3) or more dwelling units on a lot; or (e) any other use open to the public, or to a particular membership or clientele, that allows snow or ice to remain on a sidewalk abutting, on, or within its property for more than five hours between sunrise and sunset, shall forfeit fifty dollars ($50.00) for each offense. If, by reason of weather conditions the snow and ice is evenly spread over a sidewalk and frozen and therefore difficult to remove, it may remain until it can more easily be removed; provided that while the snow and ice remain, entity in charge shall keep the sidewalk in safe condition by sanding or otherwise.

3.1.9 Consumption of Alcoholic Beverages. No person shall possess or consume an alcoholic beverage as defined by M.G.L. Chapter 138, Section 1, as amended, within the limits of any park, playground, public land or public building owned or under the control of the Town of Needham, except with written permission of the appropriate controlling Town tribunal, nor shall any person consume alcoholic beverage as defined in Section 1, on any public way or any way to which the public has a right of access as invitees or licenses, including any person in a motor vehicle in, on or upon any public way or any way to which the public has said right of access, within the limits of the Town of Needham; and no person shall consume an alcoholic beverage as previously defined, in, on or upon any private land or place without the consent of the owner or persons in control of such private land or place.

Any person who violates Sub-section 3.1.9 of the General By-Laws may be arrested by a police officer without a warrant.

All alcoholic beverages being used in violation of Sub-section 3.1.9 may be seized and held until final adjudication of the charge against any such person or persons has been made by the court.

3.1.10. Use of Marijuana. No person shall consume marijuana (or tetrahydrocannibinol, as defined in G.L. c. 94C, 1, as amended) within the limits of any park, playground, public land or public building owned or under the control of the Town of Needham, nor shall any person consume marijuana, as previously defined, on any public way or any way to which the public has a right of access as invitees or licenses, including any person in a motor vehicle in, on or upon any public way or any way to which the public has said right of access, within the limits of the Town of Needham; and no

person shall consume marijuana, as previously defined, in, on or upon any private land or place without the consent of the owner or persons in control of such private land or place. Nothing in this bylaw shall authorize any possession, cultivation, transport, distribution, sale or use of marijuana otherwise prohibited by law.

3.1.11 Licensed Haw□ers and Peddlers. Except as otherwise specified by regulations issued by the Select Board:

3.1.11.1 No person, under Massachusetts General Law Chapter 101, Section 22, shall sell or offer to sell items specified therein within 1,000 feet of any recreational area in organized use, or within 1,000 feet of any school (public or private) during the hours that school is in session, nor until one hour after the closing of said school or schools.

3.1.11.2 Such hawkers or peddlers shall not remain parked at any one location for a period of time exceeding ten (10) minutes, nor shall a bell, horn or other device to attract customers be used after the hour of 8:00 P.M. of any day.

3.1.12 Household Refuse. No person shall deposit any household refuse or garbage in any receptacle maintained by the Town of Needham on public property.

3.1.13 Discharge of □ ater. No person shall discharge or cause to be discharged ground or surface water collected by mechanical pump within a building or any surface water collected on private property in a manner that would create a hazardous condition or cause damage to a public way or sidewalk. No person shall allow a discharge to continue for more than ten minutes after being notified to cease by constable, police officer or Select Board.

3.1.14 Bow and Arrows. No person shall hunt with or discharge bow and arrow within the limits of any park, playground, public way, public building or other public property except with the consent of the Select Board, or hunt by bow and arrow on any private property except with the written consent of the property's owner or legal occupant.

3.1.15 Fines. Whoever violates the provisions of Sections 3.1 shall be punished by a fine not exceeding fifty dollars (□50.00) for each offense, unless otherwise provided.

SECTION 3.2 SALE OF FOOD

3.2.1 Purpose. Section 3.2 is for the purpose of promoting public health, safety, convenience, welfare and peace, controlling noise and protecting nighttime tranquility.

3.2.2 Hours of Sale - Retail. No store, restaurant, or place of business engaged in the retail sale of food shall be open for the transaction of retail business between the hours of midnight and 6:00 A.M. except during other hours as the Select Board may fix by special permit.

3.2.3 Definition of Food. The term food as used in Section 3.2 shall include any article or commodity, however stored or packaged, intended for human consumption, and shall include alcoholic beverages to be consumed off the premises at which they are sold, unless any other law, permit or license granted to the seller of such beverages shall otherwise provide.

3.2.4 Fines. □iolators of Section 3.2 shall be subject to a fine of two hundred dollars (□200.00) for each violation. For the purposes of Section 3.2, every calendar day on which Section 3.2, or the terms of any special permit, is violated shall be a separate offense; and each separate sale of food shall be deemed a separate offense. In the event of a sale of several items at one time to one customer, only one sale shall be deemed to have taken place. This section may be enforced by the procedures of M.G.L. Chapter 40, Section 21D.

3.2.5 Special Permit. In cases where the purposes of Section 3.2 permit it, the Select Board may issue a special permit allowing a store, restaurant or place of business to open or remain open for the transaction of business at specified hours other than those required by Section 3.2 or to remain open 24 hours a day. Such special permits shall remain in effect for a period of one year, unless revoked sooner after notice to the licensee and an opportunity for a hearing, upon a finding by the Select Board that the special permit no longer furthers the purposes of Section 3.2. Application for such a permit shall be made on a form supplied by the Select Board and shall be accompanied by a non-refundable, reasonable fee determined by the Select Board.

SECTION 3.3 PENALTIES FOR IMPROPER □SE OF B□RGLAR ALARMS

3.3.1 Preamble - It is determined that the number of false alarms being made to the Needham Police Department hinders efficiency and lowers department morale. This situation constitutes a danger to the general public, homeowners, businesses and Needham police officers. The adoption of Section 3.3 will reduce the number of false alarms and promote the responsible use of alarm devices in the Town of Needham.

3.3.2 Definitions

(a) The term Burglar Alarm System means any assembly of equipment and devices or a single device such as a solid-state unit connecting directly to a 110 volt alternating current line arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond. The provisions of Sub-section 3.3.4 shall apply to all users.

(b) The term False Alarm means (i) the activation of an alarm system through mechanical failure, malfunction, improper installation or negligence on the part of the user of an alarm system, or his employees or agents; (ii) any signal or automatic dialing device transmitted to the Police Department requesting, requiring or resulting in a response on the part of the Police Department when there has been no unauthorized intrusion, robbery, burglary or attempted threat. For the purposes of this definition, activation of alarm systems for the purpose of testing with prior approval by the Police Department, or by act of God, including but not limited to power outages, hurricanes, tornadoes, earthquakes and similar weather or atmospheric disturbances shall not be deemed to be a false alarm.

(c) The term Automatic Dialing Device refers to an alarm system which automatically sends via regular telephone lines, by direct connection or otherwise, a prerecorded voice message or coded signal indicating the existence of an emergency situation which the alarm system is designated to detect.

3.3.3 Control and Curtailment of Signals Emitted by Alarm Systems

(a) Every alarm user shall submit to the Police Chief his name, address and telephone number, and the names and telephone numbers of at least two other persons who are authorized to respond, after notification by the Police Department, to an emergency signal transmitted by an alarm system and who can open the premises in which the alarm system is installed. The owner of said premises shall immediately notify the Needham Police Department of any changes in the list of employees or other persons authorized to respond to alarms.

(b) All alarm systems, installed after the effective date of Section 3.3, which use an audible horn or bell, shall be equipped with a device that will shut off such bell or horn within (15) minutes after activation of the alarm system. All existing alarm systems in the Town of Needham must have such a shut-off device installed within six (6) months of passage of Section 3.3.

(c) Any alarm system emitting a continuous and uninterrupted signal for more than fifteen (15) minutes between 7 P.M. and 6 A.M. which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user, or those persons designated by him under paragraph (a) of Sub-section 3.3.3, and which disturbs the peace, comfort or repose of the community, neighborhood or a considerable number of inhabitants of the area where the alarm system is located, shall constitute a public nuisance. □pon receiving complaints regarding such a continuous and uninterrupted signal, the Police Department shall endeavor to contact the alarm user, or members of the alarm user's family, or those persons designated by the alarm user under Sub-section 3.3.3, in an effort to abate the nuisance. The Police Chief shall cause to be recorded the names and addresses of all complaints and the time each complaint was made.

(d) No alarm system which is designated to transmit emergency messages or signals to the Police Department will be tested until the Police Dispatcher has been notified.

(e) The provisions of Section 3.3 shall not apply to alarm devices on premises owned or controlled by the Town, nor to alarm devices installed in a motor vehicle or trailer.

3.3.4 Penalties

(a) The user shall be assessed a false alarm service fine for each false alarm in excess of one (1) occurring within a calendar year according to the following schedule:

1) Second false alarm twenty-five dollars (□25)
2) Third false alarm fifty dollars (□50)
3) Fourth and subsequent false alarms, one-hundred dollars (□100)

The Police Chief shall notify the alarm user by mail or by service in hand by a police officer of such violation and said user shall submit payment to the Town Treasurer for deposit to the General Fund within fifteen (15) days of the notice.

(b) The owner of a system which causes six (6) or more false alarms within a calendar year, or who fails to pay the fee after said notice, may be ordered, by the Select Board, after a public hearing, to disconnect and otherwise discontinue the use of such system.

SECTION 3.4 HANDICAPPED PAR□ING

3.4.1 Re□uirements for Handicapped Par□ing Spaces

No person shall park a motor vehicle, motorcycle or any other means of transportation in a designated parking space reserved for vehicles owned and operated by disabled veterans or by other handicapped persons, unless said vehicle bears the distinctive number plates or a handicap placard furnished by the Registry of Motor □ehicles, authorized by M.G.L. Chapter □0, Section 2, or bears an official handicap plate or placard issued by any other state. Any person or body that has lawful control of a public or private way, or of improved or enclosed property used as off-street parking areas for businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers or residential dwellings, or for any other place where the public has right of access as invitees or licensees, shall reserve parking spaces in said off-street parking areas for vehicles owned and operated by disabled veterans or handicapped persons whose vehicles bear any of the aforementioned means of identification authorized by M.G.L. Chapter □0, Section 2, according the following formulas:

If the number of parking spaces in any such area is more than fifteen but not more than twenty-five, one parking space; more than twenty-five but not more than forty, five percent of such spaces, but not less than two; more than forty but not more than one hundred four percent of such spaces, but not less than three; more than one hundred but not more than two hundred, three percent of such spaces, but not less than four; more than two hundred but not more than five hundred, two percent of such spaces, but not less than six; more than five hundred but not more than one thousand, one and one-half percent of such spaces, but not less than ten; more than one thousand but not more than two thousand, one percent of such spaces, but not less than fifteen; more than two thousand but less than five thousand, three-fourths of one percent of such spaces, but not less than twenty; and more than five thousand, one-half of one percent of such spaces, but not less than thirty.

3.4.2 Sign Re□uirements for Handicapped Par□ing Spaces

Parking spaces designated as reserved under the provision of the sections of this article shall be identified by the use of above grade signs with white lettering against a blue background and shall bear the words "Handicapped Parking : Special Plate Required. □nauthorized □ehicles may be Removed at Owner's Expense". These spaces shall be as near as possible to a building entrance or walkway, shall be adjacent to curb ramps or other unobstructed means permitting sidewalk access to a handicapped person and shall be twelve feet wide or two eight-foot wide areas with four feet of cross hatch between them.

3.4.3 Regulations of □nauthori□ed □ehicles in Handicapped Spaces

□nauthorized vehicles shall be prohibited within parking spaces designated for use by disabled veterans or handicapped persons as authorized by Section 3.4, or in such a manner as to obstruct a curb ramp designated for use by handicapped persons as a means of egress to a street or public way.

3.4.4 Penalty

The penalty for violation of Section 3.4 shall be as follows:

□100.00 each offense

SECTION 3.5 ABANDONED, □ REC□ED, DISMANTLED OR DISCARDED □EHICLES

3.5.1 Definitions. The following definitions shall apply to the interpretation and enforcement of Section 3.5.

(a) Person shall mean any person, firm, partnership, association, corporation, company or organization of any kind.

(b) □ehicle shall mean a machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners or slides and to transport persons or property or to pull machinery and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy and wagon.

(c) Street or highway shall mean the entire width between the boundary lines of every way publicly maintained where any part is open to the use of the public for purposes of vehicular travel.

(d) Property shall mean any real property within the Town which is not a street or highway.

3.5.2 Abandonment of □ehicles

Except as to vehicles for which other provisions are made under the laws of the Commonwealth of Massachusetts, no person shall abandon any vehicle within the Town, and no person shall leave any vehicle at any place within the Town for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned.

3.5.3 Leaving of □ rec□ed, Non-operating □ehicle on Street

Except as to vehicles for which other provisions are made under the laws of the Commonwealth of Massachusetts, no person shall leave any partially dismantled, non-operating, wrecked or junked vehicle on any street or highway within the Town.

3.5.4 Disposition of □ rec□ed, □nregistered or Discarded □ehicles

No person in charge or control of any property within the Town, whether as owner, tenant, lessee or otherwise, shall allow any partially dismantled, non-operating, unregistered, wrecked, junked or discarded vehicle to remain on such property longer than ten (10) days. No person shall leave any such vehicle on any property within the Town for a longer time than ten (10) days, except any such vehicle in an enclosed building, a vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the operation of such business enterprise, or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the Town. This section shall not apply to Class III licenses under M.G.L. Chapter 140, Section 58.

3.5.5 Towing. Any vehicle left unattended, inoperative or in any way impeding the flow of traffic or creating a safety hazard may be ordered removed by a police official, with rank of not less than Sergeant, to some convenient location at the expense of the registered owner of said vehicle.

3.5.6 Impounded. The Fire Chief, Chief of Police, Director of Public Works or any member of their Department designated by such official, is hereby authorized to remove, or have removed, any vehicle left at any place within the Town which reasonably appears to be in violation of Section 3.5, lost, stolen or unclaimed. Such vehicle shall be impounded until lawfully claimed or disposed of in accordance with M.G.L. Chapter 135 relative to unclaimed and abandoned property.

3.5.7 **Penalties**. Any person violating any of the provisions of Section 3.5 shall be deemed to have committed a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding fifty dollars (□50.00). Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

SECTION 3.6 FIRE PRE□ENTION

3.6.1 Fire Lanes, and □ehicles Obstructing the Passage of Fire Apparatus

3.6.1.1 **Fire Lanes**: The Fire Chief shall require public or private fire lanes as deemed necessary for the efficient and effective use of fire apparatus. Such fire lanes shall have a minimum width of 18 feet and shall be designated by pavement markings and/or signs as determined necessary by the Fire Chief. The signs shall say "No Parking - Fire Lane" and the signs and pavement markings shall be maintained in a clean and legible condition at all times by the owner of the property and replaced when necessary to insure adequate visibility. Any person who refuses to post such signs or mark the pavement as ordered by Fire Chief or violates any of the provisions of sub-section 3.6.1 shall be punishable by a fine of not less than ten dollars (□10.00), nor more than fifty dollars (□50.00) for each and every noncompliance or violation.

3.6.1.2 It shall be unlawful to leave an unattended vehicle blocking a private way which furnishes access for fire apparatus to any building.

3.6.1.3 It shall be unlawful to obstruct or park a vehicle in any fire lane established by the Fire Chief under Sub-section 3.6.1. The Police Chief, Fire Chief or a member of their departments designated by them is hereby authorized to remove, or have removed, any vehicle within a fire lane established under this section which may block or obstruct the operations of fire apparatus by the Fire Department in the performance of its duties. Such vehicle may be towed and impounded until the costs of towing, impounding and other fines are paid.

3.6.2 Penalties for Improper □se of Fire Alarms

3.6.2.1 Preamble - It is determined that the number of false alarms being made to the Needham Fire Department hinders efficiency and lowers department morale. This situation constitutes a danger to the general public, homeowners, businesses and Needham firemen. The adoption of Sub-section 3.6.2 will reduce the number of false alarms and promote the responsible use of alarm devices in the Town of Needham.

3.6.2.2 **Definitions**

(a) The term Fire Alarm System means any assembly of equipment and devices or a single device such as a solid-state unit connected directly to a 110 volt alternating current line arranged to signal the presence of a hazard requiring urgent attention and to which the Fire Department is expected to respond. The provisions of Sub-section 3.6.2.4 shall apply to all users.

(b) The term False Alarm means (i) the activation of an alarm system through mechanical failure, malfunction, improper installation or negligence on the part of the user of an alarm system, or his employees or agents; (ii) any signal or automatic dialing device transmitted to the Fire Department requesting, requiring or resulting in a response on the part of the Fire Department when there is no fire. For the purposes of this definition, activation of alarm systems for purposes of testing with prior approval by the Fire Department, or by act of God, including but not limited to power outages, hurricanes, tornadoes, earthquakes and similar weather or atmospheric disturbances shall not be deemed to be a false alarm.

(c) The term Automatic Dialing Device refers to an alarm system which automatically sends over regular telephone lines, by direct connection or other otherwise, a prerecorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designated to detect.

3.6.2.3 **Control and Curtailment of Signals Emitted by Alarm Systems**

(a) Every alarm user shall submit to the Fire Chief his name, address and telephone number, and the names and telephone numbers of at least two other persons who are authorized to respond, after notification by the Fire Department, to an emergency signal transmitted by an alarm system and who can open the premises in which the alarm system is installed. The owner of said premises shall immediately notify the Needham Fire Department of any changes in the list of employees or other persons authorized to respond to alarms.

(b) All alarm systems installed after the effective date of this by-law, which use an audible horn or bell, shall be equipped with a device that will shut off such bell or horn within (15) minutes after activation of the alarm system. All existing alarm systems in the Town of Needham must have a shut-off device installed within six (6) months of passage of Sub-section 3.6.2.

(c) Any alarm system emitting a continuous and uninterrupted signal for more than fifteen (15) minutes between 7 P.M. and 6 A.M. which cannot be shut off or otherwise curtailed when the firemen arrive in response to the alarm, and which disturbs the peace, comfort or repose of the community, neighborhood or a considerable number of inhabitants of the area where the alarm system is located, shall constitute a public nuisance. □pon receiving complaints regarding such a continuous and uninterrupted signal, the Fire Department shall endeavor to contact the alarm user, or members of the alarm user's family, or those persons designated by the alarm user under paragraph (a) of Sub-section 3.6.2.3, in an effort to abate the nuisance. The Fire Chief shall record the names and addresses of all complainants and the time each complaint was made.

(d) No alarm system which is designated to transmit emergency messages or signals to the Fire Department will be tested until the Fire Dispatcher has been notified.

(e) The provisions of Sub-section 3.6.2 shall not apply to alarm devices on premises owned or controlled by the Town, nor to alarm devices installed in a motor vehicle or trailer.

3.6.2.4 Penalties

(a) The user shall be assessed one hundred dollars (□100.00) as a false alarm service fine for each false alarm in excess of three (3) occurring within a calendar year. The Fire Chief shall notify the alarm user by mail or by service in hand by a fire department official of such violation and said user shall submit payment to the Town Treasurer for deposit to the General Fund within fifteen (15) days of the notice.

(b) The owner of a system which causes six (6) or more false alarms within a calendar year, or who fails to pay the fee after said notice, may be ordered by the Select Board, after a public hearing, to disconnect and otherwise discontinue the use of the system.

SECTION 3.7 DOG REG□LATIONS

3.7.1 □se of Leashes. No person shall allow a dog owned or kept by her/him to go beyond the confines of the property of the owner or keeper unless the dog is held firmly on a leash.

3.7.2 Disturbing the Peace. No person shall own or keep within the Town any dog which bites, excessively barks or howls or in any other manner disturbs the peace and quiet of any neighborhood, or endangers the safety of any person, domesticated animal or farm animal.

3.7.3 Complaints. The animal control officer is hereby authorized to seek a complaint against the owner or keeper of a dog who is found to have violated the provisions of sub-sections 3.7.1, 3.7.2, 3.7.4, 3.7.5, 3.7.6, 3.7.7, or 3.7.8 for which the following penalties shall be imposed:

1. First Offense – twenty-five dollars (□25.00)
2. Each Subsequent Offense – fifty dollars (□50.00)

3.7.4 Restraint of Dogs. In addition to the foregoing penalties, the animal control officer is also authorized and empowered to muzzle or restrain a dog, or to order the owner or keeper of a dog to muzzle or restrain a dog, pending a hearing before the Select Board as hereinafter provided, when the animal control officer finds that a dog has bitten or threatened any person or domesticated or farm animal, or has chased any vehicle upon any way open to public travel in the Town, or the owner had violated the provisions of section 3.7 more than three times in any calendar year. The owner or

keeper of any dog that has been ordered to be restrained or muzzled under the provisions of section 3.7 may request in writing to the Select Board that the animal control officer vacate such order.

3.7.5 □ncontrollable Dogs. In addition to any other statutory authority contained in M.G.L. Chapter 140, the animal control officer may, with the approval of the Select Board, enter a complaint before the Select Board to obtain an order to control or dispose of a dog found to be uncontrollable, or whose owner or keeper is unresponsive to any other penalties contained in Section 3.7.

3.7.6 Restricted Areas. No person shall allow a dog, other than a service dog, owned or kept by him or her, whether leashed or unleashed, to trespass on Memorial Park or DeFazio Park.

3.7.7 Removal of Pet □ aste. No person owning or keeping a dog shall suffer, permit, or allow such a dog to leave feces in any public or private property of someone other than that of the dog's owner or keeper within the Town of Needham, without the approval of said property owner. Any person having custody and control of a dog in any such area shall carry with him or her proper equipment for the removal of feces. For purposes of this section, the means of removal shall be any tool, implement, or other device carried for the purpose of picking up and containing such feces. No person shall leave or dispose of said feces in any catch basin, drainage structure, waterway or on any public property or street except in a trash receptacle.

3.7.8 Off-Leash Areas. The Town may authorize an area or areas to be used as off-leash areas for dogs licensed in the Town of Needham for which a separate fee will be assessed and for which the Select Board may, from time to time, establish regulations for use. No person owning or keeping a dog shall suffer, permit or allow such dog to use the off leash area without the proper license or in violation of such regulations.

3.7.9 □accination Re□uirement Whoever is the owner of a pet (dog or cat or ferret) six months of age or older shall cause such pet (dog or cat or ferret) to be vaccinated against rabies by a licensed veterinarian using a vaccine approved by the Department of Public Health. Such owner shall produce a veterinarian's certificate that such pet (dog or cat or ferret) has been so vaccinated setting forth the date of such vaccination and the duration of immunity, or a notarized letter from a veterinarian that a certification was issued. An exemption from such vaccine may be granted by the Board of Health only upon presentation of a licensed Massachusetts veterinarian's certificate stating that because of an infirmity, other physical condition or regimen of therapy, such inoculation is considered inadvisable for a specified period of time for such reasons as provided in MGL Chapter 140 s.145B.

3.7.9.1 □nvaccinated pets (dogs or cats or ferrets) acquired or brought into the Town shall be vaccinated within thirty days after acquisition or entry into the Town or upon reaching the age of six months, whichever comes later.

3.7.9.2 Pets (dogs or cats or ferrets) shall be re-vaccinated in accordance with rules and regulations adopted and promulgated by the Department of Public Health.

3.7.9.3 Whoever violates this section shall be punished by a fine of not more than one hundred dollars per offense."

SECTION 3.8 NOISE REG□LATION

3.8.1 General

Except in an emergency, construction activity conducted pursuant to a building permit, which causes noise that extends beyond the property line, shall be limited to the hours of 7AM to 8PM unless authorized by rules or regulations adopted by the Select Board. The penalty for violation of this regulation shall be a □50 fine.

SECTION 3.9 P□BLIC N□ISANCE REG□LATION

3.9.1 As defined below, no owner or tenant shall keep in the public view, on any lot, in any residential district, any substantial amount of junk or debris for more than a reasonable amount of time.

3.9.2 Definitions

3.□2.1 Junk and Debris includes, but is not limited to, scrap metal, scrap construction materials, rags, plastics, batteries, paper trash, inoperable appliances, mattresses, tires, inoperable machinery, or other item not defined as a structure in accordance with the Massachusetts Building Code and the Town of Needham Zoning By-law, which is not in active use for any purpose authorized in a residential district.

3.□2.2 A substantial Amount shall mean a quantity of material which occupies more than 375 cubic feet in the aggregate on any lot.

3.□2.3 Reasonable Amount of Time shall mean thirty (30) days.

3.□2.4 Public □iew shall refer to junk and debris viewed from either (i) any property line at six (6) feet or less above ground level, or (ii) by any immediately direct abutter from any place within that immediately direct abutter's residence.

3.9.3 Conditions existing as of the date of the enactment of this section which meet the definition of substantial amounts of junk or debris must be brought into compliance within ninety (□0) of the date of the approval of this By-law.

3.9.4 Action under this Section shall not bar any separate action initiated by any other Town Department under other provisions of this By-law or by regulation.

3.9.5 Any Town employee(s) so designated for this work ("enforcement officer") by the Town Manager shall enforce this By-law. The first notice of violation issued by the enforcement officer shall be a written warning. The owner/occupant shall then have thirty (30) days within which to remedy and cure the violation. If within a reasonable period of time after this thirty (30) days have elapsed, the violation has yet to be remedied, the enforcement officer may issue a second written violation notice with a fine of fifty (□50.00) dollars. If within a reasonable period of time after sixty (60) days have elapsed since the issuance of the first notice of violation, the violation has still not been remedied, the enforcement officer may issue a third written violation with a fine of one hundred (□100.00) dollars, plus an additional ten (□10.00) dollars per day beginning on the 76th day following issuance of the first notice of violation and continuing thereafter until the violation is fully remedied/cured.

In the event that the owner/occupier of the involved property is subsequently cited with a second or third offense within that calendar year, the deadlines for remediation and related fines are as stated in the amended Section 8.2.2.4 of the General By-law.

3.9.6 Any citizen against whom a notice of violation is issued under this By-law shall have the right for a hearing before the Town Manager and/or his/her designee, and following said hearing, the Town Manager and/or his/her designee shall within a reasonable period of time thereafter, issue a decision. From the date that such a hearing request is received by the Town Manager until the date that a decision is issued, all of the deadlines stated in sections 3.□6 and 3.□7 shall be temporarily stayed.

SECTION 3.10 MARI□□ANA ESTABLISHMENTS

All types of "marijuana establishments" as defined in G.L. c.94G, §1, including marijuana cultivators, independent testing laboratories, marijuana product manufacturers, marijuana retailers or any other types of licensed marijuana-related businesses, shall be prohibited within the Town of Needham. Exempt from the provisions of this prohibition are medical marijuana treatment centers operated under a medical use marijuana license in accordance with the provisions of G.L. c. □4I.

Section 3.11 STRETCH ENERGY CODE

3.11.1 Definitions

International Energy Conservation Code (IECC) - The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the nited States for the establishment of minimum design and construction requirements for energy efficiency, and is updated on a three-year cycle. The baseline energy conservation requirements of the MA State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.

Stretch Energy Code - Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA of the Massachusetts building code, the Stretch Energy Code is an appendix to the Massachusetts building code, based on further amendments to the International Energy Conservation Code (IECC) to improve the energy efficiency of buildings built to this code.

3.11.2 Purpose The purpose of 780 CMR 115.AA is to provide a more energy efficient alternative to the Base Energy Code applicable to the relevant sections of the building code for new buildings.

3.11.3 Applicability This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 115.AA, as indicated.

3.11.4 Stretch Energy Code The Stretch Energy Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA, including any future editions, amendments or modifications, is herein incorporated by reference into this section.

3.11.5 Enforcement The Stretch Energy Code is enforceable by the Building Commissioner effective January 1, 2020.

Note. ATM Article 4 passed on May 13, 201 added Section 3.10 entitled "Stretch Energy Code". Because there was a previous section 3.10 entitled Marijuana Establishments, the town Clerk reniumbered the Stretchy Energy Code to Section 3.11.

ARTICLE 4

LICENSES AND PERMITS

SECTION 4.1 DOG LICENSES

4.1.1 Licenses. Any owner or keeper of a dog which is six (6) months of age or older and is located in the Town of Needham shall obtain a license from the Town Clerk for that dog commencing on January 1st of each year, as required by M.G.L. Chapter 140.

4.1.2 Application. When applying for a license, the applicant must show proof that the dog has received a veterinarian certificate for rabies vaccination within the last three years, if the dog is six months of age or over, as required by M.G.L. Chapter 140, Section 145B. No fee shall be charged for a license for a dog specifically trained to lead or serve a blind person or a deaf person, provided that the Division of the Blind or Deaf certifies that such dog is so trained and actually in the service of a blind or deaf person.

4.1.3 Refund. No license fee or part thereof shall be refunded because of subsequent death, loss, spaying, neutering or removal from the Town of Needham or the Commonwealth or any other disposal of said dog.

4.1.4 Failure to License. In addition to the requirement that a dog shall be duly licensed as required by law, the owner of a dog not licensed on or before April 30th in any year shall be subject to a fine of fifty dollars (50.00), in addition to the license fee, upon the complaint of the dog officer. The owner of any unspayed and unleashed female dog found by the dog officer roaming in season (heat) off the premises of the owner or keeper shall be subject to a fine of fifty dollars (50.00). Each such occasion shall constitute separate violations.

4.1.5 Fees. The fees for registering and licensing dogs of all types in the Town shall be established from time to time by vote of the Select Board.

SECTION 4.2 PUBLIC CARRIAGES AND TAXIS

4.2.1 **Licenses**. The Select Board may license hackney carriages or motor vehicles for the conveyance of persons for hire from place to place within the Town and may revoke such licenses at their discretion. A record of all licenses so granted or revoked shall be kept by the Select Board.

4.2.2 **Penalties**. No person shall set up, use or drive in the Town any unlicensed hackney carriage or motor vehicle for the conveyance of passengers for hire from place to place within the Town. Any person violating Section 4.2 shall be subject to a penalty not exceeding twenty dollars ($20) for each offense.

4.2.3 **Expiration and Fees**. Licenses shall expire on the thirtieth day of April following the date of issuance, and shall not be transferred without the written consent of the Select Board. For each license the sum of ten dollars ($10.00) shall be paid to the Town Treasurer for use by the Town. A license so granted shall become void if the applicant neglects or refuses to take out and pay for his license within ten days after notice that it has been granted.

4.2.4 **Taxi Stands**. The Select Board may grant to the holder of a license under Section 4.2 a license to use a certain portion of a public way as a taxi stand for the solicitation of passengers for hire and no person shall use any portion of any public way for such purpose without such license. Any person who violates any of the provisions of Sub-section 4.2.4 shall be punished by a fine of not more than twenty dollars ($20.00) for each offense.

SECTION 4.3 FEES, REGISTRATION APPLICABLE TO FLAMMABLES

4.3.1 **Statutory Authority**. Pursuant to the authority of M.G.L. Chapter 148, Sections 10A, 13, 38A and 38A, and the Needham Fire Code, there is hereby established a fee schedule for licenses granted by the Select Board, Annual Certificate of Registration filed with the Town Clerk and Permits granted by the Chief of the Fire Department as follows:

4.3.2 **Licenses for the Storage of Flammables issued by the Select Board**

Class A: (all types)			
166	-	40,000 gallons . . .	$50.00
40,001	-	80,000 gallons . . .	200.00
80,001	-	100,000 gallons . . .	300.00
100,001	-	500,000 gallons . . .	400.00
500,001	-	1,000,000 gallons. . .	500.00
over 1,000,000 gallons		. . . . .	800.00
Class B Fuel: (all types)			
501	-	20,000 gallons . . .	50.00
20,001	-	40,000 gallons . . .	100.00
40,001	-	80,000 gallons . . .	200.00
80,001	-	100,000 gallons . . .	300.00
100,001	-	500,000 gallons . . .	400.00
500,001	-	1,000,000 gallons. . .	500.00
over 1,000,000 gallons		. . . . .	800.00
Class C Fluids (all types)			
1,001	-	20,000 gallons . . .	50.00
20,001	-	40,000 gallons . . .	100.00
40,001	-	80,000 gallons . . .	200.00
80,001	-	100,000 gallons . . .	300.00
100,001	-	500,000 gallons . . .	400.00
500,001	-	1,000,000 gallons. . .	500.00
over 1,000,000 gallons		. . . . .	800.00
Flammable Solids 101 lbs and up		. . . . .	50.00

Flammable Gases (within a building)

3,001 cubic ft, and up	. . . . .		50.00

Flammable Gases (outside a building)

10,001 cubic ft. and up	. . . . .		50.00

Liquid Petroleum Gases

500	-	1,000 gallons	. . .	50.00
over	-	1,001 gallons	. . .	100.00

Automobiles

The parking of four or more vehicles in a structure - two dollars (□2.00) per vehicle, and not less than fifty dollars (□50.00).

Advertising costs for a hearing by the Select Board for the issuance of a license for the storage of flammables shall be paid by the applicant.

The annual fees shall include the cost of the initial registration with the Town Clerk. The fee for each annual renewal registration with the Town Clerk shall be the amount herein specified for the original license as set forth above.

4.3.3 Permit Fees

□nderground Storage Tank Removal	. . . .			□100.00
□nderground Storage Tank Installation	. . . .			100.00
□nderground Gasoline Tank Removal	. . . .			100.00
□nderground Gasoline Tank Installation	. . . .			100.00

SECTION 4.4 GENERAL

4.4.1 Denial, Revocation or Suspension for Failure to Pay Municipal Ta□es.

4.4.1.1 The tax collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the tax collector, shall annually furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

4.4.1.2 The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the tax collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate whose owner has neglected or refused to pay local taxes, fees, assessments, betterments or any other municipal charges provided, however, that written notice is given to the party and the tax collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The tax collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the tax collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges payable to the municipality as the date of issuance of said certificate.

4.4.1.3 Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds

for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

4.4.1.4 The Select Board may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officer, stockholders, if any, or members of his immediate family, as defined in M.G.L. Chapter 268A, Section 1 in the business or activity conducted in or on said property.

This section 4.4.1 shall not apply to the following licenses and permits authorized by the following Massachusetts General Laws: open burning, section thirteen of chapter forty-eight; bicycle permits, section eleven A of chapter eighty-five; sales of articles for charitable purposes, section thirty-three of chapter one hundred and one; children work-permits, section sixty-nine of chapter one hundred and forty-nine; clubs, associations dispensing food or beverage licenses, section twenty-one E of chapter one hundred and forty; dog licenses, section one hundred and thirty-seven of chapter one hundred and forty; fishing, hunting, trapping license, section twelve of chapter one hundred and thirty-one; marriage licenses, section twenty-eight of chapter two hundred and seven and theatrical events, public exhibition permits, section one hundred and eighty-one of chapter one hundred and forty.

ARTICLE 5

SIGN BY-LA□

SECTION 5.1 A□THORITY AND OB□ECTI□ES

This article shall be known as the Sign By-Law, and is adopted under the authority of M.G.L. Chapters □3 and 43B. It is intended that this article will serve the following objectives:

Facilitate efficient communications to ensure that people receive the messages they need or want; promote good relationships between signs and the buildings and environment to which they relate; maintain visual diversity by avoiding a requirement of uniformity; and support business vitality within business and industrial zones by avoiding burdensome procedures and restrictions.

It is hereby determined that if the number of signs in the Town of Needham is excessive and unduly distracting to motorists and pedestrians, it can create a traffic hazard, reduce the effectiveness of signs needed to direct the public and mar the appearance of the Town of Needham.

The regulations contained in this article are the minimum amount of regulation necessary to achieve its purposes.

SECTION 5.2 DEFINITIONS

Sign: Any device designated to inform or attract the attention of persons who are not on the premises on which the device is located. Any exterior building surfaces which are internally illuminated or decorated with gaseous tube or other lights are considered signs. The following, however, shall not be considered signs within the context of this article:

a) flags and insignia of any government except when displayed in connection with commercial promotion;

b) legal notices or informational devices erected or required by public agencies;

c) standard gasoline pumps bearing thereon in usual size and form the name, type, and price of gasoline;

d) integral decorative or architectural features of buildings, except letter, trademarks, moving parts or parts internally illuminated or decorated with gaseous tube or other lights;

e) on-premises signs guiding and directing traffic and parking, not exceeding two square feet in area and bearing no advertising matter;

f) devices hand-carried or mounted on vehicles, unless regularly or recurrently located for fixed display;

g) signs on newspaper vending machines or newspaper racks, which are limited in context to the name and logo of the newspaper sold via such machine or rack and to the means of purchasing a newspaper from such machine or rack.

Sign Area: The area of the smallest horizontally or vertically oriented rectangle which could enclose all the display area of the sign, together with any backing different in color or material from the finish material of the building face, and together with any decorative framing or other element whose judged intent is to extend the effective sign area, exclusive of minimal supporting framework, but without deducting for open space or other irregularities. Only one side of flat, back-to-back signs need be included in calculating sign area. In the event of lettering on an awning, the sign area shall be the area of the smallest horizontally or vertically oriented rectangle which could enclose all the lettering and symbols thereon.

On-Premises Signs: Only signs pertaining exclusively to the premises on which they are located or to the products, accommodations, services or activities on the premises are on-premises signs.

Off-Premises Signs: Signs not pertaining exclusively to the premises on which they are located or to the products, accommodations, services or activities on the premises on which they are located.

Temporary Sign: Any sign constructed of paper, cloth, canvas, fabric, cardboard, wallboard, wood, metal, or plastic or other light material, with or without frames, intended to be displayed for a continuous period of not more than sixty days.

Permanent Attached Signs: Signs, other than temporary signs, which are attached to a building or visible through its window, whether wall or projecting, are permanent attached signs.

Permanent Freestanding Signs: Signs, other than temporary signs, which are not attached to a building, are permanent freestanding signs.

Compound Sign: One sign structure with two or more signs on it.

Street Banner: A sign in the form of a banner spanning a public street, placed within the Town right-of-way, and/or in locations designated pursuant to Section 5.3.1.5 below.

SECTION 5.3 ADMINISTRATION

5.3.1 Design Review Board. Except for street banners governed, reviewed and approved by the Select Board pursuant to Subsection 5.3.1.5, the review of all sign permit applications, and requests for special permits shall be performed by the Design Review Board (herein referred to as the "Board"), as further defined in Section 7.7 of the Needham Zoning By-Law. Three members shall constitute a quorum. All decisions shall require a positive vote of at least three members.

The Board shall meet at least monthly at such time and place to be determined by the members and at such additional times as it determines necessary to carry out the provisions of this article. In the event a member is unable or refuses to sit, the Chairman shall designate an alternate member to sit in the place of that absent member.

5.3.1.5 Select Board. Street Banners, which are placed within the Town right-of-way, spanning public streets and/or in locations authorized by the Select Board providing notice of a community-wide public event open to the general public and/or an activity of general community interest and which are hosted by the Town or its departments, boards, agencies, or commissions or by non-profit groups or organizations, may be specifically approved by the Select Board and displayed in locations authorized by the Select Board for a time period not to exceed fourteen (14) consecutive days before the announced event. Neither commercial advertising nor partisan

political content shall be allowed to appear on the street banner. All street banners will be removed within two business days after the announced event or entertainment. Street Banners shall not be subject to the sign requirements of Subsections 5.3.2, 5.3.3, 5.3.4, 5.3.5, 5.3.6, and 5.3.7, and Sections 5.4 and 5.5. The Select Board may promulgate such regulations regarding street banners as it deems appropriate.

5.3.2 Issuance of Permits. No sign shall be erected, enlarged, redesigned, structurally altered, or used without the review of the Board, at which the applicant shall appear, and a sign permit issued by the Building Inspector, except for signs described in Sub-sections 5.5.1 (a), 5.5.1 (c), and 5.5.3.4. Permits shall be authorized only for signs in conformance with this article.

Applicants shall file a permit application accompanied by a photograph of the facade to which the sign is to be attached, or the area of intended location if unattached, and two prints of scale drawings of the sign and supporting structure showing placement thereon; the applicant shall also file five copies of the permit application, including five copies of all application materials, with the Design Review Board. (See Section 7.7 Design Review, of the Zoning By-Law.) If an applicant requires guidance as to whether any special permits are required or knows that such permit or permits are required, the applicant may file his application with the Building Inspector. If the Building Inspector finds that the proposed sign is in all respects in conformance with this article, he shall within 35 days of filing instruct the applicant to file the application directly to the Design Review Board.

The Design Review Board shall review requests for sign permits submitted and shall, within thirty-five (35) days of the receipt of the application materials, transmit its advisory recommendations regarding the design of the sign to the Building Inspector and the applicant. No sign permit shall be issued by the Building Inspector within this thirty-five (35) day period unless said recommendations are sooner received. If approved by the Design Review Board, the Building Inspector shall issue a sign permit within 45 days of the filing of the application.

If the Building Inspector, upon requested review, finds that the proposed sign is not in conformance with this Article as aforesaid, he shall, within 35 days of the filing of the application notify the applicant in writing of the reasons why a sign permit cannot be granted as of right and give the applicant the option of revising the signage or applying for a special permit. The Building Inspector shall forward a copy of such notice to the Board.

5.3.3 Appeal from Building Inspector's Action or Failure to Act

Any person aggrieved by the Building Inspector's action or failure to act may appeal by filing an appeal with the Board and the Town Clerk within 30 days of the Building Inspector's action or failure to act. The Board shall rule on the appeal within 75 days of the filing of the appeal with the Town Clerk. If the Board denies relief to the applicant, it shall notify him in writing of the reasons for such denial. Failure of the Board to act within said 75 days shall be deemed to be a grant of the relief sought, subject to applicable judicial appeal under state law. If, on appeal, the permit is approved, the Board shall direct the Building Inspector to issue the permit.

5.3.4 Special Permits. If an applicant wishes to obtain a permit for a sign that does not comply with this article, he shall apply to the Board for a Special Permit from the requirements of this article in accordance with the procedure established under Sub-section 5.3.3 of this article. The Board shall set a date for and hold a public hearing. It will be the responsibility of the applicant, at his own expense, to give notice of the public hearing at least seven days in advance by advertisement in a newspaper of general circulation in Needham and by posting such notice in a conspicuous place in the Town Hall for a period of not less than 7 days before the day of the hearing. The applicant for a Special Permit is further required to give notice of the public hearing, sent 10 days before the hearing by certified mail, return receipt requested, postage prepaid to all parties in interest.

Parties in Interest as used in Sub-section 5.3.4 shall mean the abutters, owners of land directly opposite the proposed site of the sign on any public or private street or way and abutters to the abutter within three hundred feet of the property line of the applicant as they appear on the most recent applicable tax list.

Publications and notices of the public hearing required by Sub-section 5.3.4 shall contain the name of the area or premises; street address, if any, or other adequate identification of the location, of the area or premises which is the subject of the petition; the date, time and place of the public hearing; the subject matter of the hearing; and the nature of action or relief requested if any. No such hearing shall be held on any day on which a state or municipal election, caucus or primary is held in Needham.

The Board may in its discretion grant a Special Permit, but only if the proposed sign meets all of the Design Guidelines set forth in Sub-section 5.3.5 of this article and if the Board finds that, owing to physical peculiarities of the specific location, literal enforcement of the terms of this article would result in substantial hardship to the applicant or substantial detriment to the vicinity, and that such a Special Permit will be consistent with the stated objectives of this Article. If the Board denies the Special Permit sought, it shall notify the applicant in writing of the reasons for such denial. Failure of the Board to act within 75 days shall be deemed to be a grant of the permit sought by such applicant. If the permit is approved, the Board shall direct the Building Inspector to issue permit with such terms and conditions it deems appropriate.

Special Permits are not transferable.

5.3.5 Design Guidelines. The following guidelines shall be used by the Board in its review of all sign applications. A Special Permit may be permitted under Sub-section 5.3.4 above only if the Board finds that the proposed sign meets all of the following guidelines:

a) Sign scale is appropriate in relation to development scale, viewer distance and travel speed and sign sizes on nearby structures.

b) Sign size, shape and placement serves to define or enhance such architectural elements of the buildings as columns, sill lines, cornices and roof edges, and not to interrupt, obscure or hide them.

c) Sign design is not wholly discontinuous with other signage on the same or adjacent structures, providing continuity in mounting location and height, proportions, materials or other important qualities.

d) Sign materials, colors, lettering style and form are compatible with building design and use.

e) Sign content does not overcrowd background.

f) Sign legibility is not impaired by excessive complexity, multiple lettering styles or colors or other distracting elements.

5.3.6 Fees - General. Application and hearing fees shall be established and revised from time to time by the Board at a level not exceeding that sufficient to defray the estimated cost of administering this article, and shall be based upon the number, area and illumination of the signs applied for.

5.3.7 Temporary Real Estate Signs. Temporary real estate signs require payment of a uniform fee to be determined by the Board whenever a sign is to be displayed on the premises of property being offered. Real estate brokers or agents shall obtain a one-year permit for displaying such signs and shall be subject to a uniform fee to be assessed annually in an amount to be determined by the Board.

SECTION 5.4 GENERAL REG□LATIONS

5.4.1 Maintenance. All signs shall be maintained in a safe and neat condition to the satisfaction of the Building Inspector and in accordance with requirements of the State Building Code. Structural damage, missing letters or other deterioration obscuring content shall be remedied within sixty days or the sign shall be removed. Signs pertaining to a business that has closed, discontinued, or changed its name shall be removed within sixty days.

5.4.2 Prohibitions

5.4.2.1 Illumination

a) Illuminated signs shall be lighted by a steady stationary light, shielded and directed solely at or internal to the sign.

b) No illumination shall be permitted which casts glare onto any residentially used premises or onto any portion of a way so as to create a traffic hazard, or which results in average face brightness exceeding 60-foot lamberts elsewhere.

c) No sign shall be illuminated after 11 P.M. and before 7 A.M., unless related to a retail establishment during hours it is open to the public. In an emergency declared by the Selectmen, however, hours of permissible illumination may be expanded or curtailed to the extent and for such period as the Select Board may require.

d) Flashing signs, strobe lights, and series or chasing lights, are prohibited from being visible outside a business.

5.4.2.2 Location

a) No sign shall be erected at the intersection of any streets or of a street and driveway in such a manner as to obstruct free and clear vision; or at any location where, by reason of its position, shape or color, it may interfere with, or obstruct the view of, or be confused with any authorized traffic sign, signal or device.

b) No signs shall be attached to motor vehicles, trailers or other movable objects regularly or recurrently located for fixed display.

c) No sign shall be attached to a radio, television, or water tower, or microwave or satellite dish, or any other type of tower or smoke stack.

d) No sign shall extend above or beyond the end of the wall to which it is attached, nor overhang a street or sidewalk by more than the thickness (up to 12") of a flat wall sign: except one perpendicular, blade, or projecting sign (hereinafter "projecting sign") is allowed by right, even if it is a second sign, provided it does not, in the opinion of the Board, materially obstruct neighboring signs or businesses. Projecting signs may not be internally illuminated. If the projecting sign is the only sign requested by an applicant seven (7) square feet are allowed by right. If the projecting sign is in addition to a sign on the fa□ade, three (3) square feet is allowed by right. Projecting signs may have a maximum projection of four (4) feet from the wall and a minimum of eight (8) feet above the sidewalk**.**

e) No portion of any sign shall be located above the roof line of a building. Roof line means the intersection of the exterior wall and the roof.

f) No freestanding sign shall be located within a required side or rear yard or within fifteen feet of a streetline or extend more than twenty feet above adjoining ground level.

5.4.2.3 Type

a) A □-shaped sign consisting of two single-faced signs shall not be permitted.

b) Pennants, streamers, advertising flags, banners, spinners or similar devices shall not be permitted.

c) No animated or revolving sign shall be permitted and only time and temperature indicators shall be allowed to flash.

d) Sandwich boards are also permitted provided they meet the following requirements: one sign per business; 2 feet by 3 feet maximum sign panel in a black or white colored frame; they are comprised of permanent printed sign panels or handwritten sign panels; they are located on the site of the advertised business' street front on private property, or if on public property, do not block or interfere with the 48" width of the pubic sidewalk; they are on display during the business' operating hours only; they may advertise short term sales, daily menus, sign-up periods up to three weeks ahead of end date, and similar special events; they are not internally illuminated; and they do not contain any alcohol or cigarette advertisements.

SECTION 5.5 PERMITTED SIGNS

5.5.1 All □oning Districts. The following signs are allowed in all zoning districts:

a) One on-premise sign, either attached or free-standing, indicating only the name and/or profession of the owner or occupant, the street and/or number, not to exceed two square feet in area. No permit is required.

b) One off-premise directional sign may be erected and maintained within the public right-of-way at any intersection if authorized by the Select Board, or on private property if authorized following an application and hearing by the Board in accordance with Sub-sections 5.3.2 and 5.3.3 of this article. Such signs shall be permitted only upon the Board's determination that the sign will promote the public interest, will not endanger the public safety and will be of such size, location and design as will not be detrimental to the neighborhood. At locations where directions to more than one establishment are to be provided, all such directional information shall be incorporated into a single structure. All such directional signs shall be unlighted and each shall be not over four square feet in area.

c) Signs of not more than a total of twelve square feet in area, erected for charitable, educational, political or religious purposes. No permit is required.

d) (i) A temporary unlighted real estate sign not larger than twelve square feet in area, advertising the sale, rental or lease of the premises or subdivision on which it is erected.

(ii) A temporary unlighted sign not larger than twelve square feet indicating the name, address and telephone number of the parties involved in construction on the premises.

(iii) For a development of six or more lots or dwelling units, one sign not larger than twelve square feet at each visible street entrance to the development from a prior existing way indicating the name, address and telephone number of the parties involved in construction on the premises.

e) One bulletin board not exceeding twelve square feet for and on the premises of a public, charitable, educational, political or religious institution. No permit is required to change the lettering on such a bulletin board.

f) One memorial sign or tablet indicating the name of the building and/or date of erection, if not exceeding 2□ of the area of the wall to which it is attached and if carved into or attached in such a way as to be an integral part of the building, and without separate illumination.

5.5.2 Single Residence, General Residence, Apartment and Institutional □oning Districts

(a) One on-premises sign, either attached or freestanding, oriented to each street on which the premises abut, each such sign not to exceed twelve square feet in area, indicating the nonresidential principal use or uses of the premises.

(b) One on-premises sign, either attached or freestanding, stating the name of the apartment complex if it contains more than six units, such sign not to exceed twelve square feet.

5.5.3 Business, Industrial, and Industrial Par□ □oning Districts

5.5.3.1 Number: In addition to signs allowed under Sub-section 5.5.1 and 5.4.2.2 d) the following are permitted:

a) One permanent sign whether permanently attached or freestanding, as further described in Sub-sections 5.5.3.2 and 5.5.3.3 of this article, for each occupant of separate space per street that the premises abut. However, no permit may be granted for more than one freestanding sign per parcel;

b) One additional sign for each business which has an entrance facing a side or rear parking lot available for use by the public; said sign to be located so as to designate the entrance and to be smaller than the primary sign.

5.5.3.2 Permanent Attached Signs. The total area of all permanent attached signs shall be not more than fifteen percent of the projected area of the elevation to which they are attached. Each sign shall not exceed 2 square feet for every linear foot of the projected area of the elevation to which it is attached, up to a maximum of 32 square feet. If a sign is oriented for visibility from Route 128 (I-□5), and is to exceed 32 square feet, then the Board may approve it only after a finding that the sign complies with the Design Guidelines, and no such sign shall exceed one hundred square feet.

5.5.3.3 Permanent Freestanding Signs

a) Area: If a single sign, the area shall not be more than 32 square feet, and not more than 60 square feet if oriented for visibility from Route 128 (I-□5). If a compound sign, the total area of a freestanding sign structure shall not exceed 60 square feet

b) □isibility: Every freestanding sign placed within thirty feet of the curb line of intersecting streets and driveways shall have an open space of at least seven feet from the ground to the base of the sign, except that monument signs may be no more than 3 feet above street grade.

c) All freestanding signs on the same parcel of land shall be attached to the same support.

5.5.3.4 **Temporary**. Except as provided in Section 5.4.2.3 d), temporary signs, in addition to signs allowed under Sub-section 5.5.3.1, are permitted only if unlighted, inside of windows, occupying not more than 25□ of the area of each window, and advertising sales, special events or changes in the nature of an operation, but shall not otherwise be used to advertise a continuing or regularly recurring business operation and shall be removed promptly when the information they display is out of date or no longer relevant. No permit is required.

5.5.4 **Table of Sign Areas**. The following table of maximum sign sizes is presented for ease of use. For clarification, refer to the appropriate section(s) of the By-law. In some instances the actual size may be less than the maximum area. Signs of less than 2 square feet require no permit.

Type	**Ma□imum Area** (square feet)
Sale, lease, rental subdivision □5.5.1.d (i)□	12
Construction □5.5.1.d.(ii)□	12
Development of 6 or more units or lots □5.5.1.d.(iii)□	12
Real estate signs □5.5.1.d.(i)□	12
Religious, educational, charitable or political institutions □5.5.1.c□	12
On premise signs, all zoning districts □5.5.1.a□	2
Nonresidential principal uses in residential districts □5.5.2.a□	12
Apartment complexes □5.5.2.b□	12
Business, Industrial, or Industrial Park	
Districts Attached □5.5.3.2□2 sq. ft. for each linear ft. of building	32
Attached if visible from Rt. 128 □5.5.3.2□	100
Freestanding □5.5.3.2□	32
Freestanding if visible from Rt. 128 □5.5.3.3□	60
Off-premises directional signs □5.5.1.b□	4
Bulletin boards for institutions □5.5.1.e□	12

SECTION 5.6 □IOLATIONS

5.6.1 Fines. Any person violating any provisions of this Article shall be subject to a penalty up to the maximum amount allowed for each offense under the noncriminal processes authorized by M.G.L. Chapter 40, Section 21D. Each day on which the violation continues shall be considered a separate offense.

5.6.2 Notice and Removal. Existing signs which violate this article shall be removed or brought into conformity with this article within thirty days of notification of violation by the Building Inspector, unless he authorizes a longer period necessitated by unavailability of parts.

5.6.3 Pre-e□isting, Non-Conforming Signs. Signs erected prior to February 24, 1□86, and not enlarged, redesigned, or structurally altered after that date other than pursuant to a permit issued by the Building Inspector shall not have to be removed or brought into conformity with this article until February 24, 1□□6.

ARTICLE 6

GENERAL □ ETLANDS PROTECTION

SECTION 6.1 P□RPOSE

The purpose of this article is to protect the wetlands, related water resources and adjoining land areas in the Town of Needham by prior review and control of activities deemed by the Conservation Commission likely to have a significant effect upon wetland values, including but not limited to the following: pubic or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water pollution prevention, fisheries, wildlife habitat, recreation, agriculture and aquaculture values (collectively, the "wetlands values protected by this article").

SECTION 6.2 □□RISDICTION

Except as permitted by the Conservation Commission (hereinafter referred to as "the Commission") or as provided in this article, no person shall remove, fill, dredge, build upon or alter the following resource areas: (1) within 100 feet of any freshwater wetland, marsh, wet meadow, bog or swamp; (2) within 100 feet of any bank, beach, dune or flat; (3) any lake, river, pond or stream, whether or not intermittent; (4) within 100 feet of any lake, river, pond, stream or estuary; (5) any land under said waters; or (6) any land subject to flooding (collectively, the "resource areas").

SECTION 6.3 E□CEPTIONS

The permit and application required by this article shall not be required for maintaining or repairing, but not changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, sewer, telephone, telegraph or other telecommunications services, provided that written notice has been given to the Commission at least 14 days prior to commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.

The permit and application required by this article shall not be required for work performed for normal maintenance or improvement of land in agricultural use or in aquacultural use, provided that written notice has been given to the Commission at least 14 days prior to the commencement of work.

The permit and application required by this article shall not apply to emergency projects necessary for the protection of the health or safety of the public, as determined by the Commission, in such circumstances and upon such conditions as it deems appropriate, after advance written notice has been received by the Commission prior to commencement of any work, except for emergency response to safeguard life, health and property damage.

Other than stated in this section, the exceptions provided in the Wetlands Protection Act shall not apply under this article.

SECTION 6.4 APPLICATION FOR PERMITS AND RE□□ESTS FOR DETERMINATION

Written application to perform activities regulated by this article, affecting resource areas protected by this article, shall be filed with the Commission. The application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the environment. No activities shall commence without receiving and complying with a permit issued pursuant to this article.

The Commission shall accept as the application and plans under this article the Notice of Intent and plans filed under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, together with such other information as is required by this article and regulations issued hereunder.

Any person desiring to know whether or not a proposed activity or an area is subject to this article may in writing request determination from the Commission. Such a request for determination shall contain data and plans specified by the regulations of the Commission.

At the time of an application or request, the applicant shall pay a filing fee specified in regulations of the Commission. This fee is in addition to that required by the Wetlands Protection Act, M.G.L. Chapter 131, Section 40. The Commission may waive or reduce the filing fee and costs and expenses for an application or request filed by a government agency or otherwise as the Commission may determine by its regulations.

SECTION 6.5 NOTICE OF HEARINGS

The Commission in an appropriate case may combine its hearing under this article with the hearing conducted under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40.

Any person filing an application or a request for determination with the Commission shall give written notice thereof, at the same time, to all abutters at their mailing addresses, shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the applicant, including any in another municipality. The applicant shall notify abutters in writing by hand delivery or certified mail, return receipt requested, or by certificates of mailing. If written notification is made by hand-delivery, the applicant shall obtain signatures at the time of delivery acknowledging receipt of said notification. The notice to abutters shall enclose a copy of the application or request, with plans, or shall state where copies may be examined and obtained by abutters free of charge. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. When a person requesting a determination is other than the owner, the request, the notice of the hearing and the determination itself shall be sent by the Commission to the owner as well as to the person making the request.

The Commission shall conduct a public hearing on any application or request for determination, with written notice given at the expense of the applicant at least five working days prior to the hearing, in a newspaper of general circulation in the Town.

The Commission shall commence the public hearing within 21 days from receipt of a completed application or request for determination unless an extension is authorized in writing by the applicant.

The Commission shall issue its permit or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant.

The Commission shall have the authority to continue the hearing to a date certain announced at the hearing, for reason stated at the hearing, which may include receipt of additional information offered by the applicant or others, information and plans required of the applicant deemed necessary by the Commission in its discretion, or comments and recommendations of boards and officials listed in Section 6.6. In the event the applicant objects to a continuance or postponement, the hearing shall be closed; and the Commission shall take action on such information as is available.

SECTION 6.6 COORDINATION □ ITH OTHER BOARDS

Any person filing a permit application or a request for determination with the Commission shall provide a copy thereof at the same time, by certified mail (return receipt requested) or hand delivery, to the Select Board, Planning Board, Board of Health and Building Inspector. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. The Commission shall not take final action until such boards and officials have had 21 days from receipt of notice to file written comments and recommendations with the Commission. The applicant shall have the right to receive any such comments and recommendations and to respond to them at a hearing of the Commission, prior to final action.

SECTION 6.7 PERMITS, DETERMINATION AND CONDITIONS

If the Commission, after a public hearing, determines that the activities which are the subject of the application are likely to have a significant or cumulative effect upon the wetland values protected by this article, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect those values and all activities shall be done in accordance with those conditions.

The Commission is empowered to deny a permit for failure to meet the requirements of this article; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulative effects upon the wetland values protected by this article; and where conditions are inadequate to protect those values. The Commission may require applicants to retain an independent consultant, acceptable in advance by the Commission, in order to provide the Commission with sufficient information on which to base a decision.

A permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission, in its discretion, may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. The Commission may renew any permit for one period of up to three years, provided that such request is received in writing by the Commission at least 30 days prior to the expiration of the permit.

The Commission may revoke or modify a permit issued under this article for good cause after notice to the holder of the permit, to the public, to abutters and to town boards pursuant to Section 6.5 and a public hearing.

The Commission, in an appropriate case, may combine the permit or other action on an application issued under this article with the Order of Conditions issued under the Wetlands Protection Act.

No work proposed in any application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the Norfolk Registry of Deeds or, if the land affected thereby is registered land, in the registry section of the land court for the Norfolk district, and until the holder of the permit certifies in writing to the Commission that the permit has been so recorded.

SECTION 6.8 REG□LATIONS

After public notice and public hearing, the Commission shall promulgate rules and regulations to effectuate the purposes of this article. Failure by the Commission to promulgate such rules and regulations, or a legal declaration of their invalidity by a court of law, shall not act to suspend or invalidate the effect of this article.

SECTION 6.9 DEFINITIONS

Except as otherwise provided in regulations of the Commission, the definitions of terms in this article are those set forth in the Wetlands Protection Act, M.G.L. Chapter 131, Section 40 or regulations promulgated thereunder.

The following definitions shall apply in the interpretation and implementation of this article:

The term person shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town

by-laws, administrative agency, public or quasi-public corporation or body, this municipality and any other legal entity, its legal representatives, agents or assigns.

The term alter shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this article:

(a) Removal, excavation or dredging of soil, sand, gravel or aggregate materials of any kind;

(b) Changing of pre-existing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns or flood retention characteristics;

(c) Drainage or other disturbance of water level or water table;

(d) Dumping, discharging or filling with any material which may degrade water quality;

(e) Placing of fill, or removal of material, which would alter elevation;

(f) Driving of piles, erection or expansion of buildings or structures of any kind;

(g) Placing of obstructions or objects in water;
(h) Destruction of plant life, including cutting of trees;

(i) Changing water temperature, biochemical oxygen demand or other physical or chemical characteristics of water;

(j) Any activities, changes or work which may cause, or tend to contribute to, pollution of any body of water or groundwater, including but not limited to, application of pesticides or herbicides.

SECTION 6.10 SEC□RITY

As part of any permit issued under this article and in addition to any security required by any other municipal or state board, agency or official, the Commission may require that the performance and observance of any conditions imposed hereunder be secured wholly or in part by one or more of the methods described below:

(a) By a proper bond, deposit of money, negotiable securities or other undertaking of financial responsibility sufficient, in the opinion of the Commission, to be released in whole or in part upon issuance of a Certificate of Compliance for work performed pursuant to the permit;

(b) By a covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality, whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.

□pon written request of the applicant, the Commission shall release the covenant described in (b) above, or partially release said covenant with respect to particular lots, provided that:

1. No violation notice under this Article or enforcement order under M.G.L. Chapter 131, Section 40 has been recorded at the Norfolk County Registry of Deeds as of the date of the applicant's request; and

2. A proper bond or other undertaking of financial responsibility, as provided in (a) above, and sufficient in the opinion of the Commission, has been given to the Commission.

In the event that a bond or other undertaking has already been given, the Commission reserves the right to increase the amount of the bond or other undertaking of financial responsibility sufficient, in the opinion of the Commission, to secure completion of the work to be performed pursuant to the permit.

SECTION 6.11 ENFORCEMENT

The Commission, its agents, officers and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this article and may make, or cause to be made, such examinations, surveys or sampling as the Commission deems necessary.

The Commission shall have authority to enforce this article, its regulations and permits issued thereunder by violation notices, administrative orders and civil and criminal court actions.

Upon request of the Commission, Town Counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police or Town Counsel shall take legal action for enforcement under criminal law.

Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

Any person who violates any provision of this article, regulations thereunder or permits issued thereunder may be punished by a fine of not more than the maximum amount allowed under Chapter 40 of the Massachusetts General Laws. Each day or portion thereof during which a violation continues shall constitute a separate offense; and each provision of the article, regulations or permit violated shall constitute a separate offense.

SECTION 6.12 BURDEN OF PROOF

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application will not have unacceptable significant or cumulative effect upon the wetland values protected by this article. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

SECTION 6.13 APPEALS

A decision of the Commission shall be reviewable in the Superior Court in an action filed within 60 days of the date of the decision in accordance with M.G.L. Chapter 249, Section 4.

SECTION 6.14 RELATION TO THE WETLANDS PROTECTION ACT

This article is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rules statutes, independent of the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, and regulations thereunder.

SECTION 6.15 EFFECTIVE DATE

The effective date of this article shall be September 1, 1988, and shall not be applicable to (a) work presently regulated by Orders of Condition issued by the Commission pursuant to the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, and regulations thereunder, and (b) work that is the subject of Notices of Intent filed with the Commission prior to September 1, 1988, pursuant to the provisions of said Wetlands Protection Act.

ARTICLE 7

STORMWATER

SECTION 7.1 PURPOSE

The purpose of this By-Law is:

(a) To prevent pollution of Needham's wetlands and surface waters from uncontrolled stormwater runoff and illicit discharges.
(b) To prevent pollutants from entering the Town of Needham's Municipal Separate Storm Sewer System (MS4).

(c) To prohibit illicit connections and unauthorized discharges to the MS4 and to require the removal of all such illicit connections.
(d) To comply with state and federal statutes and regulations relating to stormwater discharges, including the NPDES MS4 Permit issued by the □.S. Environmental Protection Agency (EPA), the Massachusetts Stormwater Standards, regardless of the location of the subject property relative to wetlands or other resource areas, and the Memorandum of □nderstanding (MO□) issued to the Town of Needham by the EPA in 1□□6.
(e) To establish the legal authority to ensure compliance with the provisions of this By-Law through permitting, inspection, monitoring, and enforcement.
(f) To control runoff and prevent soil erosion and sedimentation resulting from construction site stormwater runoff.
(g) To promote infiltration and the recharge of groundwater.
(h) To protect, maintain and enhance the public safety, environment, health, and general welfare by establishing minimum requirements and procedures to manage stormwater runoff.
(i) To ensure that soil erosion and sedimentation control measures and stormwater runoff control practices are incorporated into the site planning and design process and are implemented and maintained.

SECTION 7.2 DEFINITIONS

For the purposes of this By-Law, the following definitions shall apply:

Alteration Any activity that will change the ability of a ground surface area to absorb water or will change existing surface drainage patterns. Examples include, but are not limited to, construction of new structures, excavation, earthmoving, or paving.

Best Management Practices (BMPs) Structural, non-structural, and managerial techniques that are recognized to be the most effective and practical means to prevent or minimize increases in stormwater volumes and flows, reduce point source and non-point source pollution, and promote stormwater quality and protection of the environment.

Clean Water Act The Federal *Water Pollution Control Act* (33 *U.S.C.* §§ 1251 *et seq.*) as it may hereafter be amended, and the Massachusetts Clean Water Act and Regulations.
Commercial The term commercial shall include municipal, industrial, and multi-family projects.

Construction Site Any site where activity is proposed or occurs that involves the alteration of land and involves a permit required by the Town.

Development The alteration of land requiring an application for a building permit; or for a permit from the Planning Board, Zoning Board of Appeals (ZBA), or Conservation Commission.

Erosion Control The prevention or reduction of the movement of soil particles or rock fragments due to stormwater runoff. Erosion control is typically achieved through the installation of straw bales, silt fence, silt socks, or by surface coverings such as jute mesh, erosion control blankets, or by the establishment of surface vegetation.

Dry Well A subsurface structure that infiltrates stormwater runoff.

Green Citizen Certificate A certificate issued by the Select Board conferring recognition to environmentally conscious citizens who install infiltration/recharge systems, rain gardens, or similar stormwater quality improvements that are not required by the Stormwater By-Law or these promulgated regulations.

Illicit Connection A surface or subsurface drain or conveyance that allows a discharge into the MS4 that is not entirely composed of stormwater or clean groundwater, including any connection from an indoor drain, sink, toilet, or laundry facility.

Illicit Discharge Any direct or indirect discharge to the MS4 or the Waters of the Commonwealth that is not composed entirely of stormwater or clean groundwater, including, without limitation, any discharge of a pollutant, sewage, process wastewater, or wash water, except as exempted. The term does not include a discharge in compliance with a NPDES Stormwater Discharge Permit or a Surface Water Discharge Permit.

Impervious Surface Any material or structure on, above or below the ground that prevents water from infiltrating through to the underlying soil. Impervious surfaces may include, without limitation: paved surfaces, parking lots, sidewalks, driveways, rooftops and swimming pools.

Large Residential Project A residential project (new construction or reconstruction) of a residential building with larger than 4,000 square feet (s.f.) of ground coverage.

Low Impact Development (LID) Stormwater management systems and practices that mimic natural hydrologic processes resulting in infiltration, evapotranspiration or use of stormwater. LID techniques manage stormwater as close to the source as possible. LID practices frequently use cost-effective landscape features located at the lot level.

Massachusetts Stormwater Handbook (MSH) A document published in 1□□7 and revised and updated in 2008 by MassDEP as guidance on the 1□□6 Stormwater Policy.

MS4 (Municipal Separate Storm Sewer System) The system of conveyances, owned or operated by the Town of Needham, that is designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, swale, culvert, channel, catch basin, outfall, outlet, reservoir, or other drainage structure.

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit
A permit issued by the □nited States Environmental Protection Agency or jointly with the state that authorizes the discharge of stormwater containing pollutants into waters of the □nited States.

New Construction Construction or replacement of a structure, house or building which requires a Building Permit or construction/reconstruction of a parking lot, or construction of a subdivision roadway requiring Planning Board or Board of Appeals approval.

Non-point Source Pollution Rainfall or snowmelt that picks up pollutants as it moves across the ground.

Non-stormwater Discharge A discharge that is not composed entirely of stormwater, such as sanitary waste or process water.

Operation and Maintenance (O□M) Plan A plan setting the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

Person An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth of Massachusetts or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

Plot Plan The plan that accompanies an application for a Building Permit.

Point Source Any discernible, confined and discrete conveyance, including, without limitation, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. The term does not include agricultural stormwater discharges and return flows from irrigated agriculture.

Pollutant Any element or characteristic of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into Needham's MS4 or waters of the Commonwealth. Pollutants shall include, but are not limited to:

(a) Paints, varnishes, and solvents;
(b) Oil and other automotive fluids;
(c) Non-hazardous liquid and solid wastes and yard wastes;
(d) Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, accumulations and floatables;
(e) Excess pesticides, herbicides, and fertilizers;
(f) Hazardous materials and wastes;
(g) Sewage, fecal coliform and pathogens;
(h) Dissolved and particulate metals or nonmetals, including phosphorus;

(i) Animal wastes;
(j) Rock, sand, salt, silt, soils;
(k) Construction wastes and residues; and
(l) Noxious or offensive matter of any kind.

Permitting Authority The municipal board, committee or department with authority for issuing permits for construction. These include the Planning Board, Conservation Commission, Department of Public Works, Building Department, and Zoning Board of Appeals.

Recharge The process by which groundwater and the underlying aquifer is replenished by the absorption of water.
Redevelopment Replacement, rehabilitation, or expansion of existing structures, improvement of existing roads or reuse of degraded or previously developed areas. Redevelopment is defined to include the following projects:

(a) Maintenance and improvement of existing roadways including widening less than a single lane, adding shoulders, correcting substandard intersections, improving existing drainage systems and repaving; and
(b) Development, rehabilitation, expansion and phased projects on previously developed sites provided the redevelopment results in no net increase in impervious area.

Runoff The water from rain, snowmelt or irrigation that flows over the land surface and is not absorbed into the ground, instead flowing into the MS4 or streams or other surface waters or land depressions.

Sanitary Sewer System A separate underground conveyance system specifically for transporting sanitary waste operated separately and independently from the MS4, to which storm, surface, and ground waters are not lawfully admitted.

Small Diameter Drain Program A Town of Needham Program allowing the extension of the Town's drainage system (MS4) by a series of 6-inch, 8-inch and 10-inch drain pipes used to collect roof drains and clean sump pump discharges.

Stormwater Water originating from rainfall and snow/ice melt.

Stormwater Management The use of structural or non-structural practices that are designed to reduce and control stormwater runoff pollutant loads, discharge volumes or peak flow discharge rates. Stormwater Management includes the use of Low-Impact Development (LID) management practices.

□egetation Trees, shrubs, bushes and ground cover, including grass.

Watershed Management Plan The plan developed for the Town of Needham subdividing watershed areas within the Town and depicting drainable soil areas appropriate for infiltration/recharge.

Waters of the Commonwealth All waters within the jurisdiction of the Commonwealth of Massachusetts under the Wetlands Protection Act (M.G.L ch. 131 section 40 and regulations at 310 CMR 10.00) and regulations at 314 CMR □00, Water □uality Certification, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, wetlands, and vernal pools.

Waters of Needham All waters within the jurisdiction of the Town of Needham under the Wetlands Protection Bylaw (Article 6) and implementing regulations, including rivers, streams, lakes, ponds, springs, impoundments, wetlands and vernal pools.

SECTION 7.3 ADMINISTRATION

7.3.1 The Select Board shall adopt, and may periodically amend, Stormwater Regulations to effectuate the purposes of this By-law, after conducting a public hearing to receive Public comment.

7.3.2 The Director of Public Works shall be responsible for the day-to-day administration of this By-Law and its Regulations except as provided in Section 7.3.3 below. The Director may designate a person or persons to carry out any of his/her duties under this Stormwater By-Law.

7.3.3 The issuing authorities for permits (Building Department, Planning Board, Zoning Board of Appeals, and Conservation Commission) are responsible for determining compliance with this By-law for any application to these authorities. The Director of Public Works/designee shall review permit applications and provide an advisory opinion to the issuing authorities.

7.3.4 The Director of Public Works/designee shall have the authority to investigate suspected illicit discharges and to require the elimination of illicit discharges.

SECTION 7.4 APPLICABILITY

7.4.1 Permits and Approvals

All persons required to obtain a Building Permit for new construction and/or additions greater than 25□ of the existing building footprint shall be subject to the requirements of this By-Law.

All persons also required to obtain Planning Board Site Plan approval pursuant to the Zoning By-Law, Planning Board approval for a Subdivision, and/or a Board of Appeals Decision (for new construction and/or additions greater than 25□ of the existing building footprint) are subject to the requirements of this By-Law.

7.4.2 Stormwater Management and Erosion Control

Except as listed below, all applications for new construction or redevelopment subject to the provisions of this By-law, whether or not the issuance of a Building Permit is required, shall include Stormwater Management and Erosion Control provisions.

The relevant permitting authority (Building Department, Planning Board, Zoning Board of Appeals, or Conservation Commission) shall review and approve the Stormwater Management and Erosion Control Plan prior to the issuance of a permit.

The Director of Public Works/designee shall participate in the review process and make recommendations to the permitting authority as needed. Applications involving facade treatments, interior renovations, and/or changes in use are exempt from the requirement for a Stormwater Management and Erosion Control Plan.

The following applications do not require a Stormwater Management and Erosion Control Plan when proposed in an area not subject to jurisdiction of the Conservation Commission:

- Applications for addition to a commercial structure, parking lot, or roadway that is less than 1,500 square feet.

7.4.3 Modification of Building Permits

The applicant, or an agent thereof, shall obtain the approval of the Director of Public Works prior to any change or modification of an activity associated with the Stormwater Management and Erosion Control provisions of the Building Permit. The Director of Public Works shall approve or reject the change or modification in writing on the plot plan submitted within two (2) weeks of the receipt of such change or modification. If no action is taken within the said two-week period, the change or modification shall be deemed to have been approved.

7.4.4 Modification Requiring Planning Board, Zoning Board of Appeals, and/or Conservation Commission Approval

In circumstances where Planning Board, Zoning Board of Appeals, and/or Conservation Commission approval is required prior to the issuance of a Building Permit, approval by the respective board or commission is required prior to any significant change or modification of an activity associated with an approved Stormwater Management and Erosion Control Plan. Additional stormwater runoff and erosion control measures may be required prior to approval of the change or modification.

SECTION 7.5 ILLICIT DISCHARGE, DETECTION □ ELIMINATION □IDDE□

7.5.1 Prohibited Activities

7.5.1.1 **Illicit Discharges** No person shall cause or allow an illicit discharge into the MS4 or into the Waters of the Commonwealth. This By-Law shall not exempt stormwater discharges from regulations under the National Pollutant Discharge Elimination System (NPDES) stormwater program where applicable.

7.5.1.2 **Illicit Connections** No person shall construct, use, allow, maintain or continue any Illicit Connection, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

7.5.1.3 **Obstruction of Municipal Storm Drain System** No person shall obstruct or interfere with the normal flow of stormwater into or out of the MS4 without prior written approval from the Director of Public Works.

7.5.2 Regulated Activities

7.5.2.1 No person shall connect a pipe or other appurtenance to the Town of Needham Sanitary Sewer System or the MS4, or otherwise perform any modification, repair, rehabilitation, or replacement work on either system, without receiving an approved Sewer Connection Permit or Drainage Connection Permit from the Department of Public Works.

7.5.2.2 No person shall allow a pipe, swale or other point source to discharge onto a Public Way.

7.5.3 Exemptions

The following are exempt from the requirements of this By-Law:

(a) Water line flushing;
(b) Landscape irrigation;
(c) Diverted stream flows;
(d) Rising ground waters,
(e) □ncontaminated ground water (groundwater that is free of pollutants);
(f) Discharges from potable water sources;
(g) Air conditioning condensation;
(h) Lawn watering;
(i) Flows from wetland resource areas;
(j) Discharges or flows from firefighting activities; and
(k) Discharges necessary to protect public health, safety, welfare or the environment.
(l)

SECTION 7.6 EMERGENCY S□SPENSION OF STORM DRAIN SYSTEM ACCESS

The Director of Public Works/designee may suspend MS4 access to any person or property without prior written notice when such suspension is determined to be necessary to prevent or terminate a threatened or actual discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event that any person fails to comply with an emergency suspension order issued pursuant to this section, the Director of Public Works/designee may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

SECTION 7.7 STORM□ ATER MANAGEMENT AND EROSION CONTROL

7.7.1 Regulated Activities

A Stormwater Management and Erosion Control plan shall be required for any construction activity as set forth under Section 7.4 of this By-Law.

7.7.2 Exempt Activities

The following activities shall be exempt from this By-Law:

(a) Any work or projects for which all necessary approvals and permits have been issued before the effective date of this By-Law;
(b) □se of land for the primary purpose of agriculture, horticulture, floriculture, or viticulture, or the use, expansion, or reconstruction of existing structures for the primary purpose of agriculture, horticulture, floriculture, or viticulture, to the extent protected under the *Zoning Act, M.G.L.* c. 40A, § 3;
(c) Customary cemetery management;
(d) Normal maintenance of Town-owned public land, ways, public utilities and appurtenances; and
(e) Emergency activities necessary to protect public health or safety.

7.7.3 General Requirements

7.7.3.1 **Pre-Construction**

A Stormwater Management and Erosion Control plan shall be submitted as part of a Building Plot Plan or independently with an application for a Building Permit, Planning Board application, Zoning Board of Appeals application, Conservation Commission application, and/or prior to any development activity.

7.7.3.2 **Construction**

The Stormwater Management and Erosion Control plan shall include construction period measures to prevent the discharge of silt or sediment to the MS4 and/or abutting properties.

7.7.3.3 **Post-Construction**

For both commercial and residential projects, the Stormwater Management and Erosion Control Plan shall include provisions for post-construction measures to provide a minimum combined volumetric capacity to recharge a minimum of one (1) inch of rainfall depth over the total impervious area of the property (buildings and impervious surfaces). For commercial projects, the Stormwater Management and Erosion Control Plan shall include stormwater runoff quality controls and other structural and non-structural Best Management Practices (BMPs) to remove pollutants from stormwater prior to recharge to the groundwater in accordance with the Massachusetts Stormwater Handbook. The purpose of this plan is to prevent or minimize increases in stormwater volumes and flows to the MS4 and to reduce pollutant loading to the MS4 and receiving waters.

7.7.3.4 **Standard Infiltration Method**

As one option to satisfy Sections 7.7.3.1 and 7.7.3.2 and 7.7.3.3, for residential and commercial development subject to this By-Law with 4,000 square feet of impervious surface or less on the property, a Standard Infiltration Method (SIM) may be utilized consisting of the installation of drywells at one or more corners of the main dwelling/building to collect the roof runoff from the structure. Building projects involving additions greater than 25□ of the existing building footprint but less than 50□ of the existing building footprint shall collect the entire runoff from the roof of the addition plus runoff from the roof on the side of the existing structure that contains the addition. Building projects involving additions that are 50□ or greater than the existing building footprint shall capture the stormwater runoff from the entire roof. The as-built (certified) Plot Plan showing the improvements to the property shall be stamped by a Massachusetts Registered Land Surveyor.

7.7.3.5 **Poor Soils**

Properties located within an area of poor soils as identified on the Town's Watershed Management Plan or due to shallow depth to groundwater or other reason as determined by the Director of Public Works/designee, a small diameter drain shall be extended from the Town's stormwater drainage system (MS4) down gradient of the property to the property to collect the roof runoff from the main dwelling. If there is no portion of a drainage system within 100 feet of the property, the property owner shall contribute to a fund for the Town to construct a communal infiltration system on Town property. The

contribution shall be an amount as determined by the Select Board per cubic foot of stormwater required to be recharged as described above.

7.7.3.6 **Operation and Maintenance Plan**

An Operation and Maintenance Plan (O□M Plan) shall be submitted with the application for a Building Permit, Planning Board application, Board of Appeals application, or Conservation Commission application pursuant to this By-Law. The Operation and Maintenance Plan shall be designed to ensure compliance with this By-Law in all seasons and throughout the life of the system. The O□M Plan shall be signed by the property owner. For residential and commercial development with 4,000 square feet of impervious surface or less, the O□M Plan shall consist of an annual inspection of the drywells, and removal of sediment, leaves or debris as needed.

7.7.3.7 **As-Built Drawing**

Except as provided for in Section 7.7.3.4, as-built drawings stamped by a Massachusetts Registered Professional Engineer showing all stormwater management systems shall accompany the as-built Plot Plan at the completion of a project.

7.7.4 Design Criteria

7.7.4.1 Residential development and commercial development with 4,000 square feet or less of impervious surface constructed using the Standard Infiltration Method (SIM) will be deemed compliant with the design criteria of this By-law.

7.7.4.2 All developments subject to this By-Law shall satisfy the following design criteria:

(a) Stormwater Management and Erosion Control measures must, in the opinion of the Building Department, Planning Board, Zoning Board of Appeals, or Conservation Commission, as the case may be, be in compliance with all applicable provisions of the Massachusetts Stormwater Standards issued in 1□□6 as amended, regardless of the proximity of the development to resource areas or their buffer zones, as defined by the *Wetlands Protection Act, M.G.L*. c. 131, § 40 and its implementing regulations.

(b) Erosion and sediment controls must be implemented to prevent adverse impacts caused by the discharge of silt or sediment to municipal and/or abutting properties during and after land disturbance and construction activities.

(c) There shall be no change to the existing conditions of abutting properties from any increase in volume or peak rate of stormwater runoff or from erosion, silting, flooding, sedimentation or impacts to wetlands and other resource areas as defined in the Massachusetts Wetlands Protection Act and/or Needham Wetlands Protection Bylaw.

(d) When any proposed discharge may have an impact upon streams, wetlands and/or the MS4 or its conveyance system (storm sewers), the Director of Public Works/designee may require minimization or elimination of this impact based on site conditions and existing stormwater system capacity.

SECTION 7.8 MAINTENANCE OF STORM□ ATER FACILITIES

□Reserved□

SECTION 7.9 SE□ERABILITY

If any provision of this Article shall be found invalid for any reason in a court of competent jurisdiction, such invalidity shall be construed as narrowly as possible, and the balance of the Article shall be deemed to be amended to the minimum extent necessary, so as to secure the purposes thereof.

SECTION 7.10 ENFORCEMENT

The Director of Public Works/designee shall enforce this By-Law, and any regulations, orders, violation notices, and enforcement orders made pursuant to this By-Law as follows:

7.10.1 The Director of Public Works may issue a written order to enforce the provisions of this By-Law or the regulations thereunder, which may include (but are not limited to) an order to:

(a) eliminate illicit connections or discharges to the MS4;
(b) perform monitoring, analyses, and reporting;
(c) cease and desist unlawful discharges, practices, or operations; and
(d) remediate contamination in connection therewith.

7.10.2 If the Director of Public Works/designee determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, it shall be a violation of this By-Law and the Director of Public Works/designee may, at his or her option, authorize such work.

7.10.3 Any person or entity aggrieved by a decision of the Director of Public Works/designee under this provision of this Stormwater By-Law may submit a letter of appeal to the Select Board who may affirm, amend, or overrule that decision after a public meeting held not more than 45 days after the submission of a letter of appeal.

7.10.4 If a person violates the provisions of this By-Law, or any regulation, permit, notice, or order issued thereunder, the Director of Public Works/designee, with the approval of the Select Board, may seek injunctive relief in a court of competent jurisdiction to restrain such person from activities that would create further violations or to compel the person to perform abatement or remediation of the violation.

7.10.5 The remedies set forth in this Section are not intended to be exclusive of any other remedies available under applicable federal, state, or local law.

SECTION 7.11 □ AI□ER

The permit granting authority may waive strict compliance with any requirement of this By-Law when (a) such action would serve a substantial public interest, (b) such action is required for compliance with the Massachusetts Contingency Plan (MCP), or (c) strict compliance would result in severe economic hardship greater in magnitude than the public interest to be served.

ARTICLE 8

PENALTIES AND ENFORCEMENT OF TO□ N BY-LA□ S,

R□LES AND REG□LATIONS

SECTION 8.1 PENALTIES

8.1.1 Whoever performs an act, or carries on a business or an activity within the Town for which a license or permit is required by the provisions of these General By-Laws, the Building, Plumbing and Electrical Wiring Codes and the Zoning By-Laws, without having a valid outstanding license or permit to perform such an act, or to carry on such business or activity, shall, unless a specific penalty is provided elsewhere in said by-laws or codes, be punished by a fine of not exceeding twenty dollars (□20.00) for each offense.

8.1.2 Except as may be otherwise provided by law, and as the district court may see fit to impose, for any violation of these General By-laws the minimum penalty for each violation shall be fifty dollars (□50). The maximum penalty for each violation or offense brought in such manner shall be three hundred dollars (□300).

SECTION 8.2 ENFORCEMENT

8.2.1 Criminal Complaint. Any person violating any provision of these General By-Laws may be penalized by indictment or on complaint brought in the district court.

8.2.2 Non-criminal Disposition. Any person violating any provision of these General By-Laws, the violation of which is subject to a specific penalty, may be penalized by a non-criminal disposition as provided in M.G.L. Chapter 40, Section 21D. The non-criminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board or department which is subject to a specific penalty.

Without intending to limit the generality of the foregoing, it is the intention of this provision that the following sub-sections are to be included within the scope of this sub-section, that the specific penalties as listed here shall apply in such cases and that in addition to the municipal personnel listed for each section, if any, police officers shall in all cases be considered enforcing persons for the purpose of this provision; and each day on which any violation exists shall be deemed to be a separate offense.

8.2.2.1 □oning By-Law

Enforcement Agent: Building Inspector, Assistant Building Inspector
Fine Schedule:
Warning - First Offense;
□50. - subsequent offenses

8.2.2.2 Sign By-Law □Section 5□

Enforcement Agent: Building Inspector, Assistant Building Inspector
Fine Schedule:
Warning - First offense;
□50. - subsequent offenses

8.2.2.3 Demolition of Historical Buildings □2.11.5.9□

Enforcement Agent: Building Inspector
Fine Schedule: □p to □300 per offense.

8.2.2.4 Police Regulations

A. Gra□ing Of Animals □Sub-section 3.1.1□

Fine Schedule:
□20. per offense

B. Obstructing Public □ ays Or Sidewal□s □Sub-section 3.1.2□

Fine Schedule:
□50. per offense

C. Carrying Refuse Substances □ ithout Board Of Health Approval □Sub-section 2.5.1□

Enforcement Agent: Health Director and Sanitarian
Fine Schedule:
First Offense - □50.
Second Offense - □100.

Third Offense - □200
Fourth and Subsequent Offenses - □300

D. Coasting On A Public □ ay □Sub-section 3.1.3□

Fine Schedule:
□20. per offense

E. Driving On A Public Sidewal□ or Footpath □Sub-section 3.1.4□

Fine Schedule:
□50. per offense

F. Riding Bicycles On Sidewal□s In Needham S□uare and The Heights S□uare Business Districts □Sub-section 3.1.5□

Fine Schedule:
□20. per offense

G. Discharging A Firearm □Sub-section 3.1.6□

Fine Schedule:
First Offense - □50.
Second Offense - □100.
Third Offense - □200
Fourth and Subsequent Offenses - □300

H. Corner Clearance □Sub-section 2.2.5.1.6□

Enforcement Agent: Town Engineer/Building Inspector
Fine Schedule:
□50. per offense

I. Alcoholic Beverages On Public Property □Sub-sections 3.1.9□

Fine Schedule:
□50. per offense

□ Public Consumption of Mari□uana □Sub-section 3.1.10□

Fine Schedule: □50 per offense

□. Licensed Haw□ers And Peddlers □Sub-section 3.1.11□

Fine Schedule:
□50. per offense

L. Household Refuse □Section 3.1.12□

Enforcement Agent: Director of Public Works or Designee
Fine Schedule:
Warning - First Offense
□25 Second Offense
□50 Third Offense
□75 Fourth and Subsequent offenses

M. Nighttime Closing Hours □Sub-sections 3.2.1 through 3.2.5□

Fine Schedule:
□200. per offense

N. Obstructing Fire Lanes □Sub-sections 3.6.1.1 through 3.6.1.3□

Enforcement Agent: Fire Chief/Fire Inspectors
Fine Schedule:
□50. per offense

O. Public Carriages □Ta□is□□Sub-sections 4.2.1 through 4.2.4□

Fine Schedule:
□50. per offense

P. Abandoned Cars □Sub-section 3.5.4 – 3.5.7□

Fine Schedule:
□50.00

□. Discharge of □ ater □Sub-section 3.1.12□

Fine Schedule:
□50.00 per offense

R. Snow and Ice on Sidewal□s □Sub-Section 3.1.8□

Enforcement Agent: Any DPW Supervisor
Fine Schedule: □50.00 per offense

S. Discharge of Bow and Arrow □Section 3.1.13□

Fine Schedule:
First Offense - □50.
Second Offense - □100.
Third Offense - □200
Fourth and Subsequent Offenses - □300

T. Noise Regulation □Section 3.8.1□

Fine Schedule:
□0 First offense
□25. Second offense
□50. For each additional offense

□. Public Nuisance Regulation □Section 3.9□

Fine Schedule:

□0 First offense – written warning
□50. Failure to remedy/cure first offense within thirty (30) days following issuance of the first notice of violation
□100. Failure to remedy/cure first offense within sixty (60) days following issuance of the first notice of violation
□10 Additional per diem fine for failure to remedy/cure first offense within seventy-five (75) days following issuance of the first notice of violation, which additional daily fine shall continue until the first offense is fully remedied/cured

□50. Second offense within the calendar year

□100. Failure to remedy/cure second offense within thirty (30) days following issuance of the first notice of violation
□10. Additional per diem fine for failure to remedy/cure second offense within forty-five (45) days following issuance of the first notice of violation, which additional fine shall continue until the second offense is fully remedied/cured
□100. Third offense within the calendar year
□200. Failure to remedy/cure third offense within thirty (30) days following issuance of the first notice of violation
□10. Additional per diem fine for failure to remedy/cure third offense within forty-five (45) days following issuance of the first notice of violation, which additional fine shall continue until the third offense is fully remedied/cured.

□. **□accination Re□uirements □Section 3.7.9□**

Enforcement Agent: Animal Control Officer
Fine Schedule: □50 per offense

□ . **Street Occupancy Permit□E□cavation in a Public □ ay □Sub-section 2.2.5.1.4□**

Enforcement Agent: Director of Public Works or his or her designee
Fine Schedule:
□300 per offense

8.2.2.5 Conservation Commission Regulations

A. □ etlands Protection By-Law □Sub-sections 6.1 through 6.15□

Enforcement Agent: Conservation Commission Chairman/Conservation Agent
Fine Schedule:
□100. first offense
□200. subsequent offenses

8.2.2.6 Fire Department Licenses And Permits □Sub-sections 4.3.1 through 4.3.3□

A. Removing □nderground Tan□ □ ithout A Permit

Enforcement Agent: Fire Chief/Fire Inspector
Fine Schedule:
□200. per offense

B. Failure To Obtain Re□uired Fire Department License Or Permit

Enforcement Agent: Fire Chief/ Deputy Chiefs/Fire Inspectors
Fine Schedule:
□200. per offense

8.2.2.7 Board Of Health Regulations

Enforcement Agent: Health Director, Environmental Health Agent,
or Public Health Nurse

Fine Schedule:
First Offense - □50
Second Offense - □100
Third Offense - □200
Fourth and Subsequent Offenses - □300

8.2.2.8 Select Board Regulations

A. Regulations Regarding For-Profit Transient □endors□Businesses; Haw□ers and Peddlers; Door to Door Solicitations

□25.00 First offense
□50.00 Each subsequent offense within any twelve month period, each subsequent offense constituting a separate offense. (*Revised Article 70, 2001 A.T.M.)*

B. Regulations Regarding Trench Safety Authori□ed by Section 2.2.5.4.4

Enforcement Agent: Director of Public Works
Fine Schedule: □100 per offense.

C. □ ater Emergencies; □iolations □Sub-Section 2.2.5.5□

Enforcement Agent: Any DPW Supervisor
First violation: Written Warning
Second violation (issued within the same calendar year): □50
Third violation (issued within the same calendar year): □200
Fourth and subsequent violations (issued within the same calendar year): □300
Each day of violation shall constitute a separate offense.

D. Private □ ays □Sub-Section 2.2.5.6□

Enforcement Agent: Fire Chief
□50 per offense.

8.2.2.9 Stormwater Regulation □Article 7□

Enforcement Agent: Director of Public Works, Town Engineer
Fine Schedule
First Offense – Written Warning
Second Offense – failure to cure offense within 15 days' of notice of first offense - □50 - each day being a separate offense.
Subsequent Offenses – failure to cure offense within 15 days' notice of second offense - □100 - each day being a separate offense.

ARTICLE 9

LEGAL CONSTR□CTION OF GENERAL BY-LA□ PRO□ISIONS

SECTION 9.1 DEFINITIONS

As used in these General By-Laws, the following words and phrases shall have the following meanings, unless the context clearly requires a different construction:

Home Rule Amendment - Amendment Article II of the Constitution of the Commonwealth, as revised by Amendment Article L□□□I□ of said Constitution, all as the same from time to time be amended hereafter.

M.G.L. - the General Laws of the Commonwealth of Massachusetts, as most recently amended.

Town - the Town of Needham.

Town Charter - Acts of 1□71, Chapter 403 (the Needham Special Home Rule Charter Act), as from time to time amended.

SECTION 9.2 EFFECT OF GENERAL LA□ AMENDMENTS

If a provision of the General Laws, cited in a Town by-law, shall be renumbered and located elsewhere in the General Laws by the General Court or by an initiative law, the old citation appearing in by-law shall be construed as meaning the new provision, until such by-law is amended to correct the reference. The Town Counsel shall, as necessary, submit to the Town Meeting as soon as may be, proposals to correct any statutory references in the Town by-laws.

SECTION 9.3 CONSTR□CTION OF OTHER □ ORDS AND PHRASES

Words and phrases used in General By-Law provisions enacted under authority of, or in implementation of, general or special laws of the Commonwealth shall have the meaning such words and phrases have in said laws, unless the by-law context clearly requires a different construction.

SECTION 9.4 SE□ERABILITY CLA□SE

These Articles, and their various parts, sections and clauses thereof, are hereby declared to be severable. If any part, section or clause is adjudged invalid by the Attorney General or by a court of competent jurisdiction, the remainder shall remain in full force and effect.

Town of Needham

Massachusetts

CHARTER

(Acts of 1971, C. 403 as amended by the
Act of the General Court.)

2022 Compilation

(Note: Amended by the Annual Town Meeting, Article 38, and signed by the Governor of the Commonwealth of Massachusetts on November 28, 2022)

TOWN OF NEEDHAM

CHARTER

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PART 1.

INCORPORATION, SHORT TITLE, DEFINITIONS

Section 1. Incorporation Continued. All the inhabitants dwelling within the territorial limits of the town of Needham, as presently and hereafter constituted, shall continue to be a body politic and corporate known as the town of Needham which shall be a political subdivision of the commonwealth and, as such, shall have perpetual succession and shall hold and exercise all powers and privileges heretofore exercised by the town and any additional powers and privileges herein conferred and all powers and privileges conferred upon towns under the constitution and laws of the commonwealth.

Section 2. Short Title. This act shall be known and may be cited as the Needham special home rule charter.

Section 3. Definitions. As used in this act, the following words and phrases shall have the following meanings unless the context or the constitution of the commonwealth clearly requires otherwise.

"Charter", this act and any amendments to this act adopted pursuant to chapter 43B of the General Laws.
Civil defense laws", all General Laws, temporary laws and the provisions of this charter relative to: (i) the defense of the commonwealth in anticipation of, during and following enemy attack; (ii) the suppression of domestic disorders; (iii) the protection of order, life and property during and immediately following natural or man made disasters of great magnitude; and (iv) the continuity of government in the commonwealth and in the town during and immediately following any such attack, disorder or disaster.

"Town meeting", a regular or special meeting of the elected representative town meeting members; provided., however, that “town meeting” shall not include a meeting of the registered voters of the town unless the context clearly requires otherwise.

"Vote of the town", a town by law or a vote adopted by the town meeting including, where appropriate to the context, the results of a referendum.

PART 2.

REPRESENTATIVE TOWN MEETING

Section 4. Representative Town Meeting Continued. There shall continue to be in the town the form of representative town government by limited town meetings as set forth herein.

Section 5. Establishment of Town Meeting Precincts. The division of the town into 10 voting precincts shall continue until re-divided pursuant to this section. The select board, in exercising its authority to divide the territory of the town into voting precincts, shall make such division as will provide not more than 10 precincts, each of which shall contain approximately the same number of inhabitants.

The precincts shall be established so as to consist of compact and contiguous territory and bounded, so far as possible, by the center line of known streets and ways or by other well-defined limits. Their boundaries shall be reviewed and, if need be, revised by the select board based on the most recent federal census in the second January following the taking of the census, conformable to the requirements of sections 1 to 10, inclusive, of chapter 54 of the General Laws. In any year when so directed by a vote of a town meeting, the boundaries shall be reviewed and, if necessary, revised by the select board in conformity to said sections 1 to 10, inclusive, of said chapter 54.

Not later than 20 days after the establishment or revision of the precincts, but not later than January 31 of that year, the select board shall file a report of their doings with the town clerk, the registrars of voters and the assessors with maps or descriptions of the precincts and the names and residences of the registered voters therein. The select board shall also cause to be posted at the town hall such maps or descriptions of the precincts as established or revised from time to time, with the names and residences of the registered voters therein. They shall also cause to be posted in at least 1 public place in each precinct a map or description of that precinct, with the names and residences of the registered voters therein

The division of the town into precincts and any revision of such precincts shall take effect on the date that the select board files the report thereof with the town clerk. Whenever the precincts are established or revised, the town clerk shall forthwith give written notice thereof to the state secretary, stating the number and designation of the precincts.

Meetings of the registered voters of the several precincts for elections, for primaries and for voting upon any question to be submitted to all of the registered voters of the town shall be held on the same day and at the same hour and at such places within the town as the select board shall direct in the warrant for such meeting.

Section 6. Representative Town Meeting Membership. Other than the officers designated in section 7 as town meeting members at large, the representative town meeting membership in each precinct shall consist of the largest number divisible by 3 which will admit of a representation thereof in the approximate proportion which the number of inhabitants therein bears to the total number of inhabitants in the town and which will cause the total elected membership to be as nearly but not more than 240 as may be.

In any year in which a revision of the precincts in the town may not be done because of the restrictions imposed by chapter 54 of the General Laws, the select board may reapportion the seats of the town meeting members elected from precincts in proportion to the number of inhabitants residing therein in order to reflect significant population changes as estimated by the town clerk using the annual street listings and the annual school census.

The registered voters in each precinct shall elect by ballot the number of registered voters in the precinct, other than the officers designated in section 7 as town meeting members at large, as provided for in the first paragraph to be town meeting members.

The incumbent town meeting members serving at the time this charter takes effect shall continue to serve the balance of the terms for which they were elected. Their successors shall be elected in the same manner for 3-year terms as may be necessary to provide for each precinct the total number to which it is then entitled. Upon the redivision of the town into a greater or lesser number of precincts in accordance with the procedures set forth in this charter and in the General Laws, the terms of all incumbent town meeting members shall terminate upon the election and qualification of their successors as provided in the following paragraph.

After any redivision of the town into precincts as provided in this charter, the registered voters in each precinct shall elect by ballot the number of registered voters in the precinct, other than the officers designated in section 7 as town meeting members at large, as provided for in the first paragraph to be town meeting members pursuant to the following paragraph.

The first third in order of votes received of members so elected shall serve 3 years, the second third in such order shall serve 2 years and the remaining third in such order shall serve 1 year, beginning on the day of such election. In case of a tie vote affecting the division into thirds, the members elected from the precinct shall determine the same by ballot. Thereafter, except as otherwise provided herein, at each annual town election, the registered voters of each precinct shall, in like manner, elect as town meeting members for terms of 3 years such number of elected town meeting members as are necessary to provide for such precinct the total number of elected town meeting members to which it is then entitled and the registered voters shall at such election fill any vacancies then existing in the number of town meeting members in such precinct and such persons elected shall serve for the remainder of the unexpired terms for which they were elected. The terms of office of all elected town meeting members from each precinct shall cease upon the election of their successors as herein provided. Town meeting members as such shall receive no compensation. After each election of town meeting members, the town clerk shall forthwith notify each member by mail of their election.

Section 7. Town Meeting Members at Large. Any representative town meeting held under this charter, except as otherwise provided herein, shall be limited to the voters elected pursuant to section 6, together with the following elected officers designated as town meeting members at large, each of whom shall have the right to vote in the town meeting: (a) any resident member of the general court from the town whose state legislative district is wholly within the town; (b) the moderator; (c) the town clerk; (d) the members of the select board; (e) the chairperson of each other elected board of the town, except the housing authority and the commissioners of trust funds.

If a voter elected to be a town meeting member under section 6 shall be elected to become 1 of the officers designated as a town meeting member at large in clauses (a) to (d), inclusive, of the first paragraph, such person shall, upon such election, cease to be a town meeting member elected under said section 6 and the resulting vacancy in the representation of that member's precinct shall be filled as provided in section 9. A voter may serve at the same time as a town meeting member upon election as such under said section 6 and as an officer designated as a town meeting member at large under clause (e)

of said first paragraph and such voter may vote in proceedings of the town meeting as a single member and shall not vote a second time by reason of such dual tenure of offices. The designation as a town meeting member at large under said clause (e) of said first paragraph shall apply to the chair of the elected board as of the tenth day following the annual town election.

Section 8. Nomination of Candidates for Town Meeting Members. Nomination of candidates for town meeting members to be elected under this charter shall be made by nomination papers, which shall bear no political designation, but to the name of an incumbent candidate elected by the people, the words "Candidate for Re-election" may be added. Nomination papers shall be signed by not less than 10 voters of the precinct in which the candidate resides and shall be filed with the town clerk not later than the date fixed by law as the last day for filing nomination papers by candidates for town office; provided, however, that any town meeting member may become a candidate for reelection by giving written notice thereof to the town clerk not later than the last date fixed by law for the giving of such notice. No nomination papers shall be valid in respect to any candidate whose written acceptance is not thereon or attached thereto when filed.

Section 9. Resignations and Vacancies in Elected Town Meeting Membership. A town meeting member may resign by filing a written resignation with the town clerk and such resignation shall take effect on the date of such filing. A town meeting member who removes from the town shall cease to be a town meeting member and an elected town meeting member who removes from 1 precinct to another or becomes removed due to a revision of precincts shall not retain membership after the next annual election as an elected member from the precinct from which he is removed.

If a vacancy occurs in the full number of town meeting members from any precinct, whether arising from a failure of the registered voters thereof to elect or from any other cause, the town clerk shall immediately select the person who received the next highest number of votes for the office of town meeting member in the preceding election in that precinct and shall notify such person of such person's appointment as a town meeting member. If that candidate does not accept such appointment, the town clerk shall select the person who received the next highest number of votes for the office of town meeting member in the preceding election in that precinct. If that candidate does not accept such appointment, the town clerk shall call together the town meeting members of the precinct wherein the vacancy occurred and they shall by majority vote of those present, elect any registered voter of that precinct to fill the vacancy. The town clerk shall count the ballots, make a certificate of the election and notify the person so chosen and, upon receipt by the town clerk of a written acceptance by the person so elected, the person shall be deemed elected and qualified as a town meeting member, subject to the right of all town meeting members to judge the election and qualification of its members, as provided in section 10.

A town meeting member appointed or elected to fill a vacancy pursuant to this section shall serve only until the next annual town election.

A tie vote between 2 or more persons for the last place to be filled by elected candidates or between 2 or more persons with the highest number of votes as defeated candidates or between 2 or more persons with the second highest number of votes as defeated candidates shall be resolved by a majority vote of the town meeting members from that precinct attending a meeting called by the town clerk for that purpose. Upon resolution of a tie vote by the town meeting members, any person not so chosen for the last place to be filled by elected candidates shall be deemed to be the person or receiving the highest number of votes as defeated candidates and any person so tied at the election with the highest number of votes as defeated candidates who are not so chosen by the town meeting members of the precinct shall be deemed to be the person or person receiving the second highest vote as defeated candidates.

Section 10. Town Meeting to be Judge of Own Members. The representative town meeting shall be the judge of the election and qualifications of its elected members.

Section 11. Time, Notice, Conduct and Adjournment of Town Meeting. The annual town meeting for the election of town officers and such other matters as may be voted on the official ballot and the annual town meeting for the transaction of business by the representative town meeting shall be held in February, March, April or May of each year as shall be determined by vote of the town.

The town clerk shall notify town meeting members of the time and place at which representative town meetings shall be held and such notices shall be sent by mail at least 7 days before the meeting.

A majority of the town meeting members shall constitute a quorum for the transaction of business but a lesser number may organize temporarily and may adjourn from time to time. Notice of each adjourned representative town meeting shall be posted by the town clerk in at least 5 public places in the town and the town clerk shall also notify the members by mail of

the adjournment at least 24 hours, if the period of adjournment shall permit, before the time of the adjourned representative town meeting. A notice shall state briefly the business to be acted upon at the town meeting and shall include notice of any proposed reconsideration. All town meetings shall be open to the public and the press and, subject to such conditions as may be determined from time to time by the representative town meeting, a voter of the town who is not a town meeting member may speak at any representative town meeting but shall not vote.

Section 12. Warrant Articles and Voting Thereon by Town Meeting. The articles in the warrant for every town meeting that relate to the election of the moderator, town offices, town meeting members, to referenda and to all other matters to be acted upon and determined by ballot shall be acted upon and determined by the registered voters of the town in their respective precincts.

All other articles in the warrant for a town meeting shall be acted upon and determined exclusively by town meeting members at a meeting to be held at such time and place as shall be set forth by the select board in the warrant for the meeting, subject to the referendum procedure provided for in section 13.

Section 12A. Right of Initiative; Initiative Procedures. Registered voters of the town may, by initiative petition prepared and filed in accordance with this section, propose to an annual town meeting the passage of a measure. If the measure fails to pass at the annual town meeting, the registered voters may cause the measure to be submitted to the voters of the town for their approval or disapproval as hereinafter provided; provided, however, that no measure shall be proposed by initiative petition which: (i) makes a specific appropriation of money from the treasury of the town other than an appropriation to pay for the costs of a study or to pay for a capital acquisition or improvement; (ii) amends the zoning map or zoning by laws of the town; or (iii) proposes the submission to the voters of the town of an amendment to the charter.

An initiative petition shall set forth the full text of the measure proposed by the petitioners and shall first be signed by not less than 100 and not more than 250 registered voters of the town, each of whom shall sign their name and record their address on the petition as such person's name and address appear on the list of registered voters. The initiative petition shall be submitted to the town counsel not later than the fifteenth day of January prior to the annual town meeting into which that petition is to be introduced. If the town counsel shall certify that the measure proposed by the initiative petition does not conflict with the constitution or the laws of the commonwealth and that it includes only subjects not excluded from the initiative by this section, the initiative petition shall then be filed by the town counsel with the select board and the select board shall cause the proposed measure to be included in the warrant for the annual town meeting as an initiative article and shall be so designated; provided, however, that if the town counsel fails within 10 days following receipt of an initiative petition, to notify the select board in writing of the counsel's reasons for not certifying the petition, the petition shall be deemed to have been certified by the town counsel and, upon the request of any registered voter who had previously signed that petition, the select board shall cause the proposed measure to be included in the warrant as an initiative article and shall be so designated.

If an initiative article is included in the warrant for an annual town meeting, the moderator shall give to any registered voter of the town who signed the initiative petition the privilege of making the first substantive motion under the initiative article, which shall be in the words of the proposal in the article. The moderator shall allow opportunity for debate on the initiative article and on motions thereunder and shall not accept a motion to put the previous questions as to the first substantive motion or as to any motion in substitution therefor until the petitioners and their opponents have been afforded a reasonable time within which to present their arguments without repetition. The town meeting shall act on the first substantive motion in the form in which it was presented and, if such motion is not passed, the town meeting may take such other action under the initiative article which is within the scope thereof, including the adoption of any alternative measure. Action under an initiative article shall be taken by a majority vote, by a 2/3 vote or by such other vote as may be required by the nature of the action under any applicable state law.

If the annual town meeting shall dissolve without having adopted, enacted or voted on passage of the first substantive motion presented as aforesaid under an initiative article but at least 1/4 of the total number of town meeting members voting upon the first substantive motion have voted in the affirmative, the original petitioners of the initiative article may complete their petition by filing with the select board an additional number of signatures of registered voters of the town which, when combined with the signatures of the original petitioners, shall equal in number not less than 15 per cent of the total number of persons registered to vote in the town. Each additional signatory voter shall sign the voter's name, and set forth the voter's address on the petition as it appears on the list of registered voters and all additional signatures shall be gathered not earlier than the day following the day on which the aforesaid town meeting dissolved and shall be filed with the select board as set forth above not later than 20 days, not including Sundays and legal holidays, following the dissolution.

If the annual town meeting has adopted, enacted or voted passage of any motion as an alternative to or a substitute for the first substantive motion, the original petitioners of the initiative article may in like manner complete their initiative petition by filing with the select board an additional number of signatures as provided in the preceding paragraph.

Within 10 days after the filing of the completed initiative petition, the select board shall issue a call for a special meeting of the voters. The meeting shall be held within 14 days after the call was issued to present to the voters at large the measure proposed in the petition that was acted upon unfavorably by the town meeting and any alternative measures that may have been adopted by the town meeting; provided, however, that the 14-day period shall not include Sundays or legal holidays or any day between the first Wednesday in July and the first Wednesday in September immediately following as no such special meeting shall be held between the first Wednesday in July and the first Wednesday in September. Both of the measures shall appear on the ballot to be voted upon by the voters at large and shall be stated in the same language and form used in the motions acted upon by the town meeting as appearing in the records of the town meeting. The checklist shall be used in the same manner as it is used in the election of town officers.

If a majority of the registered voters of the town voting thereon and at least 20 per cent of all the registered voters, shall vote in the affirmative on either the first substantive motion or upon the alternative motion, the measure voted upon in the affirmative by the number of voters thus required and the measure receiving the largest number of votes if conflicting measures are approved shall take effect immediately or at such later time as may be specified in the measure or, if it be a by law subject to the approval of the attorney general, it shall take effect subject to section 32 of chapter 40 of the General Laws; provided, however, that any measure which, for passage, requires a 2/3 affirmative vote of the town meeting members voting thereon in a town meeting shall, if proposed by an initiative petition or if it is an alternate measure adopted by the town meeting, shall require the affirmative vote of 2/3 of the registered voters voting thereon at a special meeting called by the select board under this section. Any measure proposed by initiative petition or adopted by the town meeting, and approved by the registered voters of the town under this section shall thereafter be subject to amendment, revision or repeal by the town meeting, subject to the right of referendum by petition as provided in section 13.

Nothing in this section shall invalidate or limit the right of 10 or more registered voters to have an article inserted in the annual town meeting warrant at their written request or the right of 100 registered voters or 10 per cent of the total number of registered voters of the town, whichever is lesser, to have an article inserted in a special town meeting warrant at their written request or the right of 200 registered voters or 20 per cent of the total number of registered voters of the town, whichever is lesser, to request in writing the calling of a special town meeting as provided for in section 10 of chapter 39 of the General Laws.

Section 13. Referenda on Representative Town Meeting Action. No final vote of a town meeting passing a measure under any article in the warrant, except a vote to adjourn or dissolve or a vote appropriating money for the payment of notes or bonds of the town and interest thereon becoming due within the current fiscal year or a vote for the temporary borrowing of money in anticipation of revenue or a vote declared by preamble by a 2/3 vote of the town meeting members present and voting thereon to be an emergency measure necessary for the immediate preservation of the peace, health, safety, or convenience of the town shall be operative until after the expiration of 20 days, not including Sundays and legal holidays, from the dissolution of the town meeting.

If within that 20-day period a referendum petition, signed by not less than 15 per cent of the registered voters of the town and containing their names and addresses as the same appear on the list of registered voters, is filed with the select board requesting that the measure passed by any such vote which has not become operative as aforesaid be submitted to the voters of the town at large, then the operation of such vote shall be further suspended pending its determination as hereinafter provided and the select board, within 10 days after the filing of the referendum petition, shall call a special meeting which shall be held within 14 days after issuing the call to present to the voters at large the measure so involved; provided, however, that the 14-day period shall not include Sundays and legal holidays or any day between the first Wednesday in July and the first Wednesday in September immediately following as no such special meetings shall be held between the first Wednesday in July and the first Wednesday in September.

All votes on any measure so submitted shall be taken by ballot and the measure so submitted shall be stated upon the ballot in the same language and form as the motion was adopted by the town meeting, as appearing in the records of the town meeting. The checklist shall be used in the same manner as in the election of town officers. If a majority of the registered voters of the town voting thereon and at least 20 per cent of all the registered voters shall vote in the negative, the action of the town meeting in passing the measure that was the subject of the referendum petition shall be null and void, otherwise it shall take effect immediately upon the declaration by the select board of the vote upon the referendum or at such later date as may be specified by the vote of the town meeting.

If a referendum petition is not filed within the 20-day period, the vote of the town meeting passing the measure shall become effective on the expiration of that period or at such later date as may be specified in the vote passing the measure.

Section 14. Powers of Town and Town Meeting. The town shall continue to have the capacity to act through and be bound by its town meeting members who shall, when convened from time to time as provided by law, constitute a representative town meeting and the representative town meeting shall exercise exclusively, in conformance with this charter, all powers vested in the municipal corporation. Actions in conformance with laws that are now or hereafter applicable to the transaction of town affairs in town meetings shall, when taken by a town meeting in accordance with this charter, have the same force and effect as if such action had been taken in a town meeting open to all the voters of the town as heretofore organized and conducted.

Section 15. Certain Rights of the People not Abridged. Nothing in this charter shall abridge the right of the inhabitants of the town to hold general meetings as that right is secured to them by the constitution of the commonwealth and nothing in this charter shall confer upon any representative town meeting of the town the power finally to commit the town to any measure affecting its municipal existence or changing its government without action taken thereon by the voters of the town at large, using the official ballot and check list therefor.

PART 3.

TOWN OFFICERS

Section 16. Select Board. There shall be a select board for the town which shall consist of 5 members elected at each annual town election for 3-year terms. The select board shall continue to have and exercise all the powers and duties vested in select boards or boards of selectmen by the General Laws or by vote of the town, except as otherwise provided herein. For the purposes of this charter and the by-laws of the town, “selectmen” or “board of selectmen” shall mean select board. Members of the select board may be addressed as select board member, board member, selectwoman or selectman.

The select board shall have general authority to execute the civil defense laws within the town and to make any declaration of emergency as required by law.

Section 17. School Committee. There shall continue to be a school committee for the town which shall consist of 3, 5, 6, 7 or 9 members elected at each annual town election for terms of 3 years as the town may vote. The school committee shall have the powers, duties, responsibilities and functions vested in school committees by the General Laws and as delegated to it by the town which are not inconsistent with the General Laws. The school committee shall execute all laws pertaining to educational responsibilities assigned to the town and such further responsibilities as may be delegated to them by vote of the town.

Section 18. Moderator. A moderator shall be elected by ballot at the annual town election for a term of 3 years and shall serve as moderator of all town meetings, except as otherwise provided by law, and shall serve until a successor is elected and qualified. Nominations for and election of a moderator shall be as in the case of other elective town officers and any vacancy in the office may be filled by the town meeting members at a meeting held for that purpose. If a moderator is absent, a moderator pro tempore may be elected by the town meeting members.

Section 19. Other Elected Officers. The town, at its annual town meeting, shall in each year when the term of office of an incumbent expires and except when other provision is made by law, choose by ballot from its registered voters the following town officers for the following terms of office:

(i) a town clerk for a term of at least 1 year;

(ii) 3 or 5 park and recreation commissioners for 3-year terms as may be established by vote of the town;

(iii) at least 1 constable for a 3-year term unless the town, by vote, provides that constables shall be appointed;

(iv) 1, 3 or 5 assessors, but as nearly 1/3 of their number shall be elected or appointed annually, each to hold office for 3-years terms as provided by vote of the town;

(v) 5 members of the board of health for 3-year terms;

(vi) 5 to 9 planning board members elected pursuant to section 81A of chapter 41 of the General Laws as established by vote of the town;

(vii) 7 trustees of the Needham Public Library, but as nearly one1/3 of their number shall be elected annually, each to hold office for 3-year terms as provided by vote of the town;

(viii) 3 members of the Needham Housing Authority for 5year terms;

(ix) 3 or 5 trustees of Memorial Park for 3-year terms as provided by vote of the town; and

(x) any other officers as may be provided for by the General Laws or by vote of the town.

Section 20. Appointed Officials.

(a) The select board shall appoint and may remove a town manager or an acting town manager in accordance with section 20A.

(b) The select board shall appoint a town counsel, members of the board of appeals, election officers, registrars of voters, except the town clerk, members of the historic commission, conservation commission, commission on disabilities, the tenant member of the housing authority and, except as provided in section 19, all other boards, committees, and commissions for whom no other method of selection is provided in this charter or by-law.

(c) The town manager shall appoint, subject to the approval of the select board, a chief of the police department, a chief of the fire department, a director of public works, an assistant town manager/director of finance or a person performing such functions regardless of title and an assistant town manager/personnel director or a person performing such functions regardless of title. Appointments made by the town manager shall become effective upon the approval of the select board. If the select board shall fail to act, appointments made by the town manager shall become effective on the fifteenth day following the day on which notice of the proposed appointment was filed with the select board; provided, however, that notice of appointment shall be considered filed with the select board when the notice is filed at an open meeting of the select board.

(d) The town manager shall be the appointing authority for the following officials and employees of the town:

(i) the town accountant, a town treasurer/tax collector, a planning director, an administrative assessor, an inspector of buildings, a director of public health, a director of veterans' services, a director of park and recreation, a director of youth services, a director of management information systems, an executive director of the council on aging, a library director, a town engineer, a director of municipal building maintenance and a building construction and renovation manager or any persons performing such functions regardless of title; and

(ii) all other employees and officials of the town for whom no other method of selection is provided in this charter, except for employees of the school department and the executive secretary of the finance committee; provided, however, that the executive secretary of the finance committee shall be appointed by the finance committee.

(e) Any appointment by the town manager in accordance with clause (i) of subsection (d) shall be subject to the approval of the elected or appointed board or committee having jurisdiction over a department, if any. Appointments made by the town manager shall become effective upon the approval of the board or committee. If a board or committee fails to act, appointments made by the town manager shall become effective on the fifteenth day following the day on which notice of the proposed appointment was filed with the board or committee; provided, however, that notice of appointment shall be considered filed with the board or committee when the notice is filed at an open meeting of the board or committee.

(f) A person appointed by the town manager under subsections (c) and (d) who is not subject to chapter 31 of the General Laws may be removed by the town manager; provided, however, that no removal shall be made of any officer in said subsection (c) without the approval of the select board; and provided further, that no removal shall be made of other employees or officers until the town manager consults with the elected or appointed boards or committees having jurisdiction over that employee's department, if any. Removal of officers pursuant to said subsection (c) shall become effective upon the approval of the select board. If the select board fails to act, removals made by the town manager shall become effective on the fifteenth day following the day on which notice of the proposed removal was filed with the select

board; provided, however, that notice of removal shall be considered filed with the select board when the notice is filed at an open meeting of the select board.

Section 20A. Appointment and Removal of Town Manager.

(a) Appointment of Town Manager.

(1) The select board shall appoint a town manager for a term of not more than 3 years. The town manager shall be a professionally qualified person of proven ability who has had substantial involvement with municipal government. The town manager shall be appropriately fitted by education, training and experience to perform the duties of the office; provided, however, that such experience shall have been full-time, paid experience in a responsible administrative position.

(2) Upon the expiration of the term of the town manager or upon the resignation or removal of the town manager or if a vacancy occurs in the office of town manager, the select board shall appoint an acting manager within 7 days after such expiration, resignation, removal or vacancy to perform the duties of the office and the acting manager shall serve until a successor is appointed and qualified in accordance with paragraph (1).

(3) The town manager shall be appointed without regard to party or political designation. The town manager shall be a citizen of the United States of America. No person holding elective public office in the town, except for town meeting member, shall, within 3 years of holding such elective public office, be eligible for appointment as town manager.

(4) The town manager shall not hold an elective public office during the town manager's tenure and shall not engage in any other business or occupation during such tenure, except for part-time consultative or teaching duties, directly related to the profession of municipal management and with the expressed consent of the select board. The town manager may be appointed for successive terms of office.

(5) Before entering upon the duties of the town manager's office, the town manager shall be sworn, in the presence of a majority of the select board, to the faithful and impartial performance of the town manager's duties by the town clerk or a justice of the peace.

(b) Acting Town Manager. The town manager may designate, subject to the approval of the select board, by means of a letter filed with the town clerk, a suitable person to perform the duties of the office during the town manager's temporary absence or disability. If the town manager fails to make the appointment or if the person so appointed fails to serve, the select board may appoint a suitable person to perform such duties. Upon a vacancy in the office of town manager or upon a suspension of the town manager, the select board shall, within 7 days after such vacancy or suspension, appoint an acting town manager to perform the duties of the office.

(c) Removal of the Town Manager. The select board may suspend or remove the town manager by the affirmative vote of a majority of the full membership of the select board.

Section 20B. Powers and Duties of the Town Manager. The town manager shall be the chief executive officer of the town. In addition to other powers and duties provided for in this charter, the town manager:

(i) shall supervise, either directly or through persons appointed by the town manager in accordance with this charter, all department managers, except the school department managers, and shall be responsible for the efficient administration of all departments, except the school department; provided, however, that the town manager shall not exercise any control over the discretionary power vested by law in any board, committee, commission or officer;

(ii) may, consistent with this charter, the General Laws and the town by-laws and with the approval of elected boards having jurisdiction over affected departments, where applicable, and with the approval of the select board after a public hearing held by the select board for such purpose, reorganize, consolidate or abolish departments under the town manager's supervision and establish such new departments as the town manager considers necessary and transfer the duties and powers and, so far as is consistent with the use for which the funds were voted by the town, transfer the appropriation of 1 department to another;

(iii) shall have jurisdiction over the rental and use of all town property, except school property, and shall be responsible for the maintenance and repair of all town buildings, including school buildings and grounds; provided, however, that the town manager shall be responsible for the preparation of plans and the supervision of all work on existing and new buildings,

including the planning and work on school buildings, unless otherwise assigned by the town meeting to a permanent building committee; and provided further that any plans for the construction or improvement of school buildings or property shall be subject to the approval of the school committee;

(iv) shall be the purchasing agent for the town and shall award all contracts for all departments and activities of the town, except for the school department;

(v) shall adopt rules and regulations establishing a personnel system, subject to the approval of the select board and with the oversight of the personnel board as provided herein; provided, however, that such personnel system shall make use of modern concepts of personnel management and shall include, but not be limited to: (a) a method of administration; (b) personnel policies indicating the rights, obligations and benefits of employees; (c) a classification plan; (d) a compensation plan; (e) a method of recruiting and selecting employees based on merit principles; (f) a centralized record keeping system; (g) disciplinary and grievance procedures; (h) a professional development and training program; and (i) such other elements as deemed necessary; provided further, that all town agencies and positions shall be subject to the rules and regulations adopted under this clause, excluding employees of the school department and as otherwise provided in chapter 150E of the General Laws; provided further, that personnel policies referenced in clause (b) or changes to such policies shall not be submitted to the select board without the prior review and approval of the personnel board; provided further, that classification or compensation plans referenced in clauses (c) and (d), or changes to such plans, shall not be submitted to the select board for approval until the town manager has submitted the plan or plan revision to the personnel board for review and comment and, if comments were made within 15 days after submission, the town manager has provided written response to any comments made by the personnel board; and provided further, that in all other aspects of the personnel system, the town manager shall confer with the personnel board.

(vi) shall fix the compensation of all town employees except, those under the jurisdiction of the school committee, within the limits established by appropriation and subject to chapter 150E of the General Laws.

(vii) shall negotiate and administer all collective bargaining agreements with employee organizations representing town employees, other than employees of the school department, pertaining to wages and other terms and conditions of employment in accordance with chapter 150E of the General Laws; provided, however, that such agreements, other than agreements with employee organizations representing school department employees, shall be subject to the approval of the select board; provided further, that subject to the approval of the select board, the town manager may employ special counsel to assist in the performance of the duties under this clause; and provided further, that the town manager or a designee shall participate in the deliberations of the school committee in collective bargaining with employee organizations representing school department employees as provided in said chapter 150E;

(viii) shall keep the records of the office of town manager and shall render, as often as may be required by the select board, a report of all operations during the period reported on;

(ix) shall keep the select board advised as to the needs of the town and shall recommend to the select board for adoption measures requiring action by the select board or by the town as considered necessary or expedient by the town manager;
(x) shall implement town meeting votes and shall report in writing annually to the town meeting on the status of prior town meeting votes on which implementation has not been completed, except matters related to the schools;

(xi) shall administer, either directly or through a person appointed by the town manager in accordance with this charter, all general and special laws applicable to the town, all by-laws and votes of the town and all rules and regulations made by the select board, except matters related to the schools;

(xii) shall report to the select board and the finance committee on the financial condition of the town;

(xiii) shall have access to all town books and papers for information necessary for the proper performance of the town manager's duties and may, without notice, cause the affairs of any department or activity under the town manager's control, or the conduct of any officer or employee thereof, to be examined;

(xiv) shall be accessible and available for consultation to the chairs of town boards, committees and commissions, whether appointed or elected, and shall make accessible and available to them such data and records of the town manager's office as may be requested in connection with their official duties; and

(xv) shall perform such other duties consistent with the town manager's office as may be required by the by-laws, by vote of the town or by vote of the select board.

The town manager shall be the chief fiscal officer of the town. Warrants for the payment of town funds prepared by the town accountant in accordance with section 56 of chapter 41 of the General Laws shall be submitted to the town manager. The approval of the warrant by the town manager or, in the town manager's absence, by the acting town manager shall be sufficient authority to authorize payment by the town treasurer but the select board shall approve all warrants in the event of the absence of the town manager or acting town manager or during a vacancy in the office of town manager.

When a payroll, bill or other claim against the town has been presented to the town manager, the town manager shall, if the matter appears to the town manager to be invalid, excessive in amount or otherwise contrary to the interests of the town, immediately investigate the facts and determine what, if any, payments shall be made. Pending the investigation and determination by the town manager, payment shall be withheld.

Section 20C. Estimate of Capital Expenditures. All boards, departments, committees, commissions and officers of the town shall annually, at the request of the town manager, submit to the town manager in writing a detailed estimate of the capital expenditures, as defined by by-law, required for the efficient and proper conduct of their respective departments and offices for the ensuing fiscal year and the ensuing 4-year period. The town manager, after consultation with the select board, shall submit to the select board in writing a careful, detailed estimate of the recommended capital expenditures for the aforesaid periods, showing specifically the amount necessary to be provided for each office, department and activity and a statement of the amounts required to meet the debt service requirements or other indebtedness of the town. The select board shall transmit a copy of the capital budget to the finance committee along with the select board's recommendations relative thereto. The calendar dates on or before which the capital budget is to be submitted and transmitted shall be specified by by-law.

Section 21. Other Boards, Committees and Commissions. The following boards and committee shall continue to perform the duties and responsibilities assigned to them by the General Laws or by vote of the town:

(i) a finance committee which shall consist of such number as shall be established by vote of the town;

(ii) a personnel board;

(iii) commissioners of trust funds; and

(iv) such other boards, committees and commissions as provided for by the General Laws or by vote of the town.

PART 4.

PUBLIC WORKS

Section 22. Select Board to be Board of Public Works. The select board shall continue to be and shall exercise the functions of a board of public works and, in that capacity, shall exercise under the designation of select board all of the powers and duties vested by law in the following boards and offices: (i) highway surveyors; (ii) water commissioners; (iii) sewer commissioners; and (iv) tree wardens; provided, however, that such boards and commission shall be abolished on the effective date of this act. The select board, acting as the board of public works, shall be the lawful successor of the boards and offices abolished by this section.

Section 23. Director of Public Works. The town manager shall appoint a director of public works who shall administer, under the supervision of the town manager, the departments of the town under the control of the select board as they may designate. The director shall be responsible for the efficient administration of all departments within the scope of the director's duties and shall hold office subject to the will of the town manager, consistent with subsection (c) of section 20. The director shall be especially fitted by education, training and experience to perform the duties of the office and shall not be required to be a resident of the town. During the director's tenure, the director shall not hold elective public office or another appointive public office and the director shall not be engaged in any other business or occupation. The director shall, subject to the approval of the town manager, appoint such assistants, agents and employees as the performance of the duties of the departments under the director's supervision may require and may, with like approval, remove any such

assistant, agent or employee. The director shall keep records of the doings of the office and shall have charge of and shall preserve, arrange and index so as to be readily accessible to the public all plans, surveys, field notes, records, documents and inventories connected with the engineering operations of the town. The director shall deliver to the town manager, as often as the town manager may require, a report of all operations under the director's control during the period reported upon and shall, annually and at such other times as the town manager may request, make a synopsis of all the reports for publication. The director shall keep the town manager fully advised of the needs of the town within the scope of the director's duties and shall furnish to the town manager a carefully prepared and detailed written estimate of the appropriations required during the ensuing fiscal year for the proper conduct of all departments of the town under the director's supervision.

Section 24. Laying Out, and Maintenance of Drains, etc. The town may lay out, construct, maintain and operate a system of main drains and common sewers for all or part of its territory, with such connections and other works as may be required for a system of sewage disposal. For such purpose, the town may construct such sewers or drains over and under land in the town as may be necessary to conduct the sewage to the south metropolitan sewerage system and, for the purpose of providing better surface or other drainage, may make, lay and maintain such drains as it seems best. The town may, within its limits, make and maintain subdrains and, with the approval of the commonwealth's department of public health, discharge the water into any brook, stream or watercourse within the town. The town may make and maintain within its limits in any way where main drains or common sewers are constructed such connecting drains, underdrains and sewers within the limits of such way as may be necessary to connect any estate which abuts upon such way.

Section 25. Particular Sewers. The town, through its select board acting as the board of public works, may upon the application of the owner of any estate abutting on any way where a main drain or common sewer is constructed, lay in such sewered way and in the private land of such owner such particular sewer or connecting drain as may be necessary to connect any building on such estate with that main drain or sewer and the town manager may make all necessary contracts in the name and behalf of the town for such purpose. The expenses thereof shall be paid out of any appropriation that may be made by the town therefor.

Section 26. Exercise of Eminent Domain, etc., for Sewer and Drain Purposes. The select board, as the board of public works acting for and on behalf of the town, may take by eminent domain under chapter 79 of the General Laws or acquire by purchase or otherwise any lands, water rights, rights of way or easements, public or private, in the town, necessary for accomplishing any purposes referenced in sections 24 to 31, inclusive, and may construct such main drains and sewers under or over any bridge, railroad, railway, boulevard or other public way or within the location of any railroad and may enter upon and dig up any private land or public way for the purpose of laying such drains and sewers and for maintaining and repairing the same and may do any other thing proper or necessary for the purposes of said sections 24 to 31, inclusive; provided, however, that the select board shall not take in fee any land of a railroad corporation and shall not enter upon or construct any drain or sewer within the location of any railroad corporation except at such time and in such manner as the select board and the corporation may agree or, in case of a failure to agree, as may be approved by the department of public utilities. Any person injured in their property by an action of the select board under this section may recover damages from the town under said chapter 79.

Section 27. Apportionment of Costs of Sewage Disposal. The town shall, by vote of its town meeting, determine what proportion of the cost of any system of sewerage and sewage disposal the town shall pay; provided, however, that it shall pay not less than ¼ and not more than 2/3 of the whole cost. In providing for the payment of the remaining portion of the cost of a system or for the use of a system, the town may avail itself of any of the methods authorized by the General Laws and any General Laws relative to the assessment, apportionment, division, reassessment, abatement and collection of sewer assessments, to liens therefor and to interest thereon shall apply to assessments made hereunder. At the same meeting at which it determines the proportion of the cost to be borne by the town, the town meeting may by vote determine which methods the remaining portion of the cost shall be provided for. The collector of taxes of the town shall certify the payments of such assessments or apportionments thereof to the select board and the select board shall preserve a record thereof.

Section 28. Assessment of Sewer Betterment. The cost of constructing each particular sewer or connecting drain described in section 25 shall be assessed by the select board upon the estate benefited thereby. Such assessments shall be made by filing with the collector of taxes of the town a certificate, designating the way and the private land on which the particular sewer or connecting drain has been constructed and by giving the names of any owners of the estate for which such connection has been made and the amount of the assessment to be paid by each such owner. A copy or duplicate of the certificate shall, within 10 days after the filing of the same with the collector of taxes, be recorded in the Norfolk county registry of deeds or, in the case of registered land, in the office of the assistant recorder for the Norfolk county registry of

deeds. The collector of taxes shall, upon receipt of such certificate, make a written demand for the payment of such assessment or charge and each owner shall, within 3 months after such demand was served upon the owner or occupant of the estate or sent by mail to the last address of the owner known to the collector of taxes, pay to the collector of taxes the sum so assessed or charged. Except as provided in this paragraph, the provisions of the General Laws relative to the assessment, apportionment, division, reassessment, abatement and collection of sewer assessments, to liens therefor and to interest thereon shall apply to assessments made under this section. In applying such provisions to assessments, the notice referred to in this section shall be deemed to be the demand of the tax collector required thereunder. The lien for any assessment made under this section shall attach upon the recording or filing for registration of the copy of duplicate of the certificate of assessment. In the apportionment of such assessments thereunder, no installment shall be less than $10.

Section 29. Application of Sewer Receipts. The receipts from sewer assessments and from payments made in lieu thereof shall be applied to the payment of charges and expenses incident to the maintenance and operation of the system of sewerage, or to the extension thereof, to the payment of interest upon bonds and notes issued for sewer purposes or to the payment or redemption of such bonds or notes.

Section 30. Sewer Contracts. All contracts made for the purposes of sections 24 to 31, inclusive, shall be made in the name of the town and shall be signed by the town manager. No contract shall be made and no obligation shall be incurred hereunder for the purposes of said sections 24 to 31, inclusive, in excess of the amount appropriated by the town therefor.

Section 31. Sewer Regulations. The select board, as the board of public works, may prescribe rules and regulations for the connection of estates and building with main drains and sewers and for the inspection of materials, construction, alteration and use of all connections and drains entering into any such main drains and sewers. The select board may prescribe penalties, which shall not exceed $50, for each violation of any such rule or regulation. The rules and regulations shall be published at least once a week for 3 consecutive weeks in a newspaper published in the town; provided, however, that if there is no such publication, then the rules and regulations shall be published at least once a week for 3 consecutive weeks in a newspaper published in the county of Norfolk. No rules and regulations shall take effect until such publication has been made.

PART 5.

PARK, RECREATION AND CONSERVATION

Section 32. Park and Recreation Commission. There shall continue to be a park and recreation commission in the town which shall consist of such number of commissioners, who shall be elected for such terms as authorized by vote of the town pursuant to section 19. The park and recreation commission shall have the powers, duties and functions vested: (i) by the General Laws in boards of park commissioners, playground or recreation commissions and town forest committees; and (ii) in the commission by this charter or by vote of the town. The commission shall continue to have the management and care of the town forest, formerly managed by the special town forest committee.

Section 33. Memorial Park. The land known as the Memorial Park in the town of Needham shall continue to be under the jurisdiction of the Trustees of Memorial Park. The trustees shall continue to: (i) receive, hold and manage, with the approval of the town meeting, any devise, bequest or gift for the establishment or equipment of memorials for properly commemorating the service of members of the armed forces of the commonwealth and the armed forces of the United States; and (ii) maintain and operate, upon such portion of Memorial Park as they determine, an athletic field with suitable equipment and, in their discretion, to regulate its use for athletic games and other entertainment of a public nature, to which an admission fee may be charged upon such terms and conditions as the trustees may impose.

Section 34. Conservation Commission. There shall continue to be in the town a conservation commission of not less than 3 and not more than 7 members as determined by vote of the town. The conservation commission members shall be appointed by the select board for 3-year terms and the terms of office of approximately 1/3 of the members shall expire each year. The commission shall have the powers, duties and functions specified by section 8C of chapter 40 of the General Laws and such additional duties as may be assigned to it by vote of the town.

The conservation commission may receive gifts of both real and personal property in the name of the town, subject to the approval of the select board. The conservation commission may acquire by gift, purchase, grant, bequest, devise, lease or otherwise the fee in such land or water rights or any lesser interest, development right, easement, covenant or other

contractual right, including conveyances on conditions or with limitations or reversions, as may be necessary to acquire, maintain, improve, protect, limit the future use of or otherwise conserve and properly utilize open space and other land and water areas within the town and shall manage and control the same. The conservation commission may adopt rules and regulations governing the use of land and waters under its control and may prescribe fines of not more than $100 for any violation thereof.

PART 6.

MUNICIPAL PLANNING

Section 35. Planning Board. There shall continue to be in the town a planning board which shall consist of not less than 5 and not more than 9 members who shall be elected or appointed as may be determined by vote of the town. The planning board members shall be elected or appointed for 5-year terms, so arranged such that the term of at least 1 member shall expire each year and their successors shall be elected or appointed in like manner.

Section 36. Board of Appeals. There shall continue to be a board of appeals established under section 14 of chapter 40A of the General Laws, which shall be the existing board of appeals under the town building by law and shall perform the duties of the board of appeals under section 81AA of chapter 41 of the General Laws. The board of appeals shall consist of 3 members who shall be appointed by the select board for 3 year terms so arranged that the term of 1 appointee shall expire each year. The select board shall, in a like manner, appoint 2 associate members.

The board of appeals shall have and shall exercise all of the powers and duties of boards of appeal under the zoning enabling act, the subdivision control law and the building by laws and such further powers and duties as may be granted to the board by vote of the town.

PART 7.

GENERAL PROVISIONS

Section 37. Construction. The provisions of this charter act shall be construed as if said act had been adopted by the procedure set forth in sections three and four of Article LXXXIX of the Amendments to the Constitution of the Commonwealth. The powers granted to the town of this charter act shall be liberally construed in order to give full effect to the powers specifically granted herein. The provisions of this charter act as originally adopted shall be construed as a continuation of the provisions of the existing law in effect at the time of its adoption unless the contrary is clearly required by the context thereof.

Section 38. Severability. The provisions of this charter act are severable. If any of the provisions of this charter act are held to be unconstitutional, or invalid, the remaining provisions of said act shall not be affected thereby. If the application of this charter act or any of its provisions to any person or circumstances is held to be invalid, the application of said act and its provisions to other persons or circumstances shall not be affected thereby.

Section 39. Repeal of Certain Acts. Chapter seventy-three of the acts of nineteen hundred and twenty-three, chapter four hundred and fifty-four of the acts of nineteen hundred and twenty-four, chapter one hundred and eighty-nine of the acts of nineteen hundred and thirty-two, chapter twenty-nine of the acts of nineteen hundred and thirty-four, chapter sixty-eight of the acts of nineteen hundred and thirty-seven, chapter thirty of the acts of nineteen hundred and fifty, chapter twenty-one of the acts of nineteen hundred and fifty-five, chapter seventy-four of the acts of nineteen hundred and fifty-five, chapter three hundred and fifty-nine of the acts of nineteen hundred and fifty-six, chapter three hundred and sixty-eight of the acts of nineteen hundred and fifty-six, chapter eighty-four of the acts of nineteen hundred and fifty-nine and chapter one hundred and forty of the acts of nineteen hundred and sixty-five are hereby repealed.

Section 40. Existing Law. All general laws, and all special laws, town by-laws, rules and regulations of or pertaining to the town which are in force when this charter act takes full effect, and which are not specifically repealed hereby, shall continue in full force and effect until amended or rescinded by due course of law or expire by their own limitation. Nothing in this charter act shall affect or impair the rights or privileges of persons who are town officials or employees at the time it takes effect or derogate from the protection afforded to them by the civil service law, laws relating

to veterans' tenure, or chapter thirty-two of the General Laws. Nothing contained herein shall impair any existing contractual rights established prior to the adoption of this charter act or any amendment thereto.

Section 41. Effective Date. Sections forty-one and forty-two of this act shall take effect upon the passage of this act. Section one to forty, inclusive, of this act shall become effective on the first day of April immediately following the next town election specified in section forty-two if a majority of the voters of the town voting thereon at such election have voted in favor of its adoption. Any amendment or revision adopted subsequent to said date shall become effective upon the date specified in such amendment or revision.

Section 42. Submission of Act to Voters. This charter act shall be submitted for acceptance to the registered voters of the town of Needham at the town election next held following the passage of this charter act. The vote shall be taken by ballot in accordance with the provisions of the General Laws, so far as the same shall be applicable, in answer to the following question which shall be placed upon the official ballot to be used in said town at said election: -- "Shall an act passed by the General Court in the year nineteen hundred and seventy-one, entitled `An Act recodifying the existing laws establishing the frame of government of the town of Needham into a special home rule charter act', be accepted?".

Upon its acceptance by a majority of the registered voters of said town voting thereon at said town election, as aforesaid, this charter act shall take effect in the town of Needham on the first day of April immediately following said election, as herein provided, but not otherwise.

Approved June 14, 1971.
Amended 1973, 1974, 1975, 1976, 2000.
And further amended by Chapter 176 of the Acts of 2004
(Section 6 and 7 of Chapter 176 of the Acts of 2004 shall take effect upon its passage.
Section 1 to 5, inclusive, shall take effect 185 days following acceptance by a majority
of the registered voters of the town which was so passed on November 2, 2004)
And further amended by Chapter 341 of the Acts of 2018 (signed by the Governor on 1/1/2019).

Town of Reading Massachusetts

General Bylaw

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Not a part of the General Bylaw document. For information purposes only.

ARTICLE 1 GENERAL PROVISIONS

1.1 Purpose

The purpose of this bylaw is to implement the provisions of the Reading Home Rule Charter, and establish rules conducive to the welfare of the Town and the convenience of its inhabitants, the orderly direction and management of its affairs, and the preserving of peace and good order within its limits.

1.2 Construction of Bylaw

This bylaw shall be construed so as to give it effect consistent with the ordinary and reasonable meaning of its provisions and with the provisions of any general or special laws then in effect adopted by the Commonwealth of Massachusetts. No provisions of this bylaw shall be construed to limit the powers and duties of officers, boards, committees and commissions imposed upon them by applicable provisions of the general or special laws of Massachusetts or the Reading Home Rule Charter. The provisions of any bylaw so far as they are the same as the provisions of a bylaw heretofore in force, shall be construed as a continuation thereof and not as new enactments.

1.3 Amendment

This bylaw may be amended at any Annual or Special Town Meeting by a majority vote of Town Meeting Members present and voting at said meeting, provided that an article or articles for that purpose shall have been inserted in the warrant for said meeting.

1.4 Non-Substantive Alphanumeric Changes

With the concurrence of the Bylaw Committee, the Town Clerk shall be authorized to make non-substantive alphanumeric changes to the component provisions of this bylaw; provided, however, that each such change shall be identified by a footnote or other convention.

1.5 Repeal

The repeal of any section of this bylaw shall not affect any act done nor any right accrued or established nor any action or suit or proceeding commenced or had in a civil case, nor affect any punishment or penalty or forfeiture incurred under such bylaw.

1.6 Violations

1.6.1 Duty of Police to Enforce

It shall be the duty of the police to enforce the provisions of this bylaw, and to make complaint against any person violating the same. Prosecutions for offenses under this bylaw may be made by any police officer of the town, and all fines shall be paid into the Town treasury.

1.6.2 Fines

Except as otherwise provided specifically in any article of this bylaw, any person violating any of the provisions of this bylaw shall be punished by a fine of not more than Three Hundred ($300) Dollars for each offense.

1.7 Enforcement

Any person violating any of the provisions of this bylaw shall be punished by a fine of not more than Three Hundred ($300) Dollars for each offense, and in the case of continuing violation, every calendar day upon which such violation shall remain shall be considered a separate offense.

1.8 Non-Criminal Civil Disposition of Certain Violations of the Bylaw and any Rule or Regulation of a Town Officer, Board or Department

In addition to any other means of enforcement, the provisions of the following sections of the bylaw and any rule or regulation of any town officer, board or department may be enforced by non-criminal disposition in accordance with the provisions of MGL Chapter 40 Section 21D. For the purposes of such non-criminal disposition, the following table establishes the "enforcing person" and the penalties. Each day upon which the violation occurs is considered to be a separate offense.

Bylaw Section	Bylaw Title	Enforcing Person	Penalty – First Offense	Penalty – Second Offense	Penalty – Additional Offences
7.1	Wetlands Protection	Conservation Commission Conservation Administrator			
Regulation Section 2H	**a** Failure to file a Notice of Intent or Request for Determination of Applicability and to receive a valid Order of Conditions or Determination of applicability prior to activity.		$300		
	b Failure to promptly comply with an Enforcement Order		$300		
	c Failure to record Order of Conditions at the Registry of Deeds prior to activity.		$25		
	d Failure to notify the Commission prior to activity where a Condition of an Order of Conditions or a Request for Determination or a Minor Project permit requires such notice.		$25		
	e Failure to install and/or properly maintain erosion controls (per project).		Warning	$25	$100
	f Failure to comply with any Condition of an Order of Conditions or Determination of applicability or Minor Project permit		$25		
	g Failure to apply for a Certificate of Compliance in a timely manner.		Warning	$50	
	h Conducting an activity subject to the Bylaw and Regulations after the expiration of a valid Order of Conditions or Determination of Applicability.		$50		
7.3	Local Historic District	Historic District Commission Building Inspector	$100	$200	$300
7.4	Regulation of Certain Motor Vehicles	Police Department Building Inspector	$25	$50	$100
7.5	Wells	Health Director	$200	$300	$300
7.6	Licenses	Select Board Town Manager Police Department	$25	$50	$100
7.7	Retail Sales	Police Department Building Inspector	$100	$200	$300
7.9	Stormwater Management and Erosion Control	Planning Division Building Inspector	$100	$300	$300
8.1	Streets, Highways and Public Property	Director of Public Works Police Department	$25	$50	$100
8.3	Emergency Vehicle Access and Fire Lane	Police Department Fire Department	$100	$200	$300
8.4	Handicapped Spaces	Police Department	$100	$150	$200
8.5	Public Works	Select Board Town Manager Police Department Director of Public Works Health Director	$100	$200	$300
8.6	Anti-Litter	Health Director Police Department	Warning	$100	$300
8.8	Animal Control	Animal Control Officer	$50	$100	$300

Bylaw Section	Bylaw Title	Enforcing Person	Penalty – First Offense	Penalty – Second Offense	Penalty – Additional Offences
8.9.1 8.9.2 8.9.3 8.9.4 8.9.5 8.9.6	Public Conduct	Police Department	$50	$100	$300
8.9.7	Public Consumption of Marijuana or Tetrahydrocannabinol	Police Department	$100	$100	$100
8.9.8	Construction Hours	Police Department Zoning Officer Town Manager	$300	$300	$300
8.9.9	Door-To-Door Solicitors and Canvassers	Police Department	$100	$200	$300
8.10	Maintenance of Vacant Building and Land	Health Director Fire Department Police Department	$100 Each Day		
8.11	Trash Collection	Board of Health and Health Division Agents	$50	$100	$150
	Board of Health Regulations	Board of Health and Health Division Agents	$50	$100	$150
8.12	Illicit Connections and Discharges into Municipal Storm Drain System	Department of Public Works Select Board	$100	$300	$300
8.13	Regulation of Retail Checkout Bags	Director of Public Works	Warning	$50	$200
8.14	Regulation of Polystyrene & Disposable Food Service Containers	Public Health Director	Warning	$50	$2000

1.9 Severability

If any provision of this bylaw shall be found invalid for any reason in a court of competent jurisdiction, such invalidity shall be construed as narrowly as possible, and the balance of this bylaw shall be deemed to be amended to the minimum extent necessary, so as to secure the purposes thereof, as set forth in Section 1.1 hereof.

1.10 Definitions

1.10.1 Bylaw

Any articles, sections, subsections or paragraphs of the general and zoning bylaw of the Town, and any amendments thereto.

1.10.2 Charter

Reading Home Rule Charter adopted March 24, 1986 and any amendments thereto made through any of the methods provided under Article LXXXIX of the amendments to the State Constitution.

1.10.3 Select Board

The Board of Selectmen established by Section 3.2 of the Reading Home Rule Charter. The Select Board shall have all of the powers and duties granted to Boards of Selectmen by the Constitution and General Laws of the Commonwealth of Massachusetts, and such additional powers and duties as may be provided by the Charter, by this bylaw, by the Zoning Bylaw or by Town Meeting vote.

1.10.4 Inhabitant

A person who has established permanent residence in the Town.

1.10.5 Local News Medium
A newspaper or other means or channel of information communication to which the general public has access within the Town.

1.10.6 MGL
Massachusetts General Laws.

1.10.7 Motion
A formal proposal by a member in a meeting that the body take certain action.

1.10.8 Official Body
Any Town officer, board, committee, commission, council, trusteeship or authority authorized by the Charter or bylaw with the exception of Town Meeting.

1.10.9 Person
Any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate or any other legal entity or its legal representatives, agents or assigns.

1.10.10 Precinct
Each of the areas into which the Town is divided for the purpose of conducting elections.

1.10.11 Private
When applied to any area, way or property shall mean that which is owned or leased by other than a governmental entity.

1.10.12 Public
When applied to any area, way or property shall mean that which is owned or leased by the Town or other governmental entity.

1.10.13 Public Street
The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for the purposes of vehicular and/or pedestrian travel and it includes any alley or other public property in the Town.

1.10.14 Roadway
That portion of a public street improved, designed or ordinarily used for vehicular travel including the curb or shoulder.

1.10.15 Sidewalk
That portion of a public street between the curb lines or lateral lines of a roadway and the adjacent property lines intended for use by pedestrians.

1.10.16 Town Officer
An elected or appointed person except for a Town Meeting Member who, in the performance of that person’s duties of office, exercises some portion of the sovereign power of the Town whether great or small.

1.10.17 Warrant
A list of articles to be presented for Town Meeting consideration, with each article describing and establishing the scope of business to be considered under such article.

1.11 Number and Gender

Words contained in this bylaw that import the singular number may extend and be applied to several persons or things; words that import the plural number may include the singular; and words that import the masculine or feminine gender shall be interpreted as gender neutral.

1.12 Computation of Time

In computing time under this bylaw, if seven (7) days or less is specified, only days that Town Hall is open to the general public shall be counted; if more than seven (7) days is specified, every calendar day shall be counted.

ARTICLE 2 TOWN MEETING

2.1 General

2.1.1 Date of Annual Town Election

The Annual Town Meeting shall be held on the third Tuesday preceding the fourth Monday in April of each year for the election of Town Officers and for such other matters as required by law to be determined by ballot. Notwithstanding the foregoing, the Select Board may schedule the commencement of the Annual Town Meeting for the same date designated as the date to hold any Federal or State election.

2.1.2 Hours of Election

The polls for the Annual Town Meeting shall be opened at 7:00 AM and shall remain open until 8:00 PM.

2.1.3 Annual Town Meeting Business Sessions

All business of the Annual Town Meeting, except the election of such Town officers and the determination of such matters are required by law to be elected or determined by ballot, shall be considered at an adjournment of such meeting to be held at 7:30 PM on the fourth Monday in April, except if this day shall fall on a legal holiday, in which case the meeting shall be held on the following day or at a further adjournment thereof.

2.1.4 Subsequent Town Meeting

A Special Town Meeting called the Subsequent Town Meeting shall be held on the second Monday in November, except if this day shall fall on a legal holiday, in which case the meeting shall be held on the following day. The Subsequent Town Meeting shall consider and act on all business as may properly come before it except the adoption of the annual operating budget.

2.1.5 Adjourned Town Meeting Sessions

Adjourned sessions of every Annual Town Meeting after the first such adjourned session provided for in Section 2.1.3 of this Article and all sessions of every Subsequent Town Meeting, shall be held on the following Thursday at 7:30 PM and then on the following Monday at 7:30 PM, and on consecutive Mondays and Thursdays unless a resolution to adjourn to another time is adopted by a majority vote of Town Meeting Members present and voting.

2.1.6 Posting of the Warrant

The Select Board shall give notice of the Annual, Subsequent or any Special Town Meeting at least fourteen (14) days prior to the time of holding said meeting by causing an attested copy of the warrant calling the same to be posted in one (1) or more public places in each precinct of the Town, and either causing such attested copy to be published in a Local News Medium or providing in a manner such as electronic submission, holding for pickup, or mailing, an attested copy of said warrant to each Town Meeting Member.

2.1.7 Closing of the Warrant

All Articles for the Annual Town Meeting shall be submitted to the Select Board not later than 8:00 PM on the fifth (5^{th}) Tuesday preceding the date of election of Town officers, unless this day is a holiday in which case the following day shall be substituted. All articles for the Subsequent Town Meeting shall be submitted to the Select Board not later than 8:00 PM on the seventh (7th) Tuesday preceding the

Subsequent Town Meeting in which action is to be taken, unless this day is a holiday in which case the following day shall be substituted.

2.1.8 Delivery of the Warrant

The Select Board, after drawing a Warrant for a Town Meeting, shall immediately deliver a copy of such Warrant to each member of the Finance Committee, the Community Planning and Development Commission, the Bylaw Committee and the Moderator.

2.2 Conduct of Town Meeting

2.2.1 In the conduct of all Town Meetings, the following rules shall be observed

Rule 1 A majority of Town Meeting Members shall constitute a quorum for doing business.

Rule 2 All articles on the warrant shall be taken up in the order of their arrangement in the warrant unless otherwise decided by a majority vote of the members present and voting.

Rule 3 Prior to debate on each article in a warrant involving the expenditure of money, the Finance Committee shall advise Town Meeting as to its recommendations and the reasons therefore.

Rule 4 Prior to a debate on each article in a warrant involving changes in this bylaw or the Charter, petitions for a special act, or local acceptance by Town Meeting of a State statute, the Bylaw Committee shall advise Town Meeting as to its recommendations and reasons therefor.

Rule 5 Every person shall: stand when speaking as able; respectfully address the Moderator; refrain from speaking until recognized by the Moderator; state that person's name and precinct; speak only to the question under debate and shall avoid all personalities.

Rule 6 No person shall be privileged to speak or make a motion until after being recognized by the Moderator.

Rule 7 No Town Meeting Member or other person shall speak on any question more than ten (10) minutes without first obtaining the permission of the meeting.

Rule 8 Non-Town Meeting Members may speak at a Town Meeting having first identified themselves to the Moderator. Proponents of an article may speak on such article only after first identifying themselves to the Moderator and obtaining permission of Town Meeting to speak. No non-Town Meeting Member shall speak on any question more than five (5) minutes without first obtaining the permission of the Meeting. Non-Town Meeting Members shall be given the privilege of speaking at Town Meeting only after all Town Meeting Members who desire to speak upon the question under consideration have first been given an opportunity to do so.

Rule 9 Members of official bodies and Town officials who are not Town Meeting Members shall have the same right to speak, but not to vote, as Town Meeting Members on all matters relating to their official bodies.

Rule 10 No speaker at a Town Meeting shall be interrupted except by a Member making a point of order or privileged motion or by the Moderator.

Rule 11 Any person having a monetary or equitable interest in any matter under discussion at a Town Meeting, and any person employed by another having such an interest, shall disclose any such interest before speaking thereon.

Rule 12 The Moderator shall decide all questions of order subject to appeal to the meeting, the question on which appeal shall be taken before any other.

Rule 13 When a question is put, the vote on all matters shall be taken by a show of hands, and the Moderator shall declare the vote as it visually appears. If the Moderator is unable to decide the vote by the show of hands, or if the decision about the vote is immediately questioned by seven (7) or more Members, or if the Moderator determines that a counted vote is required such as for a debt issue or Home Rule Petition, the Moderator shall determine the question by ordering a standing vote, and shall appoint tellers to make and return the count. On request of not less than twenty (20) members, a vote shall be taken by roll call.

Rule 14 All original main motions having to do with the expenditure of funds shall be presented in writing, and all other motions shall be in writing if so directed by the Moderator.

Rule 15 No motion shall be received and put until it is seconded. No motion made and seconded shall be withdrawn if any Member objects. No amendment not relevant to the subject of the original motion shall be entertained.

Rule 16 When a question is under debate, no motion shall be in order except:

- to adjourn,
- to lay on the table or pass over,
- to postpone for a certain time,
- to commit,
- to amend,
- to postpone indefinitely, or
- to fix a time for terminating debate and putting the question, and the aforesaid several motions shall have precedence in the order in which they stand arranged in this rule.

Rule 17 Motions to adjourn (except when balloting for offices and when votes are being taken) shall always be first in order. Motions to adjourn, to move the question, to lay on the table and to take from the table shall be decided without debate.

Rule 18 The previous question shall be put in the following form or in some other form having the same meaning: "Shall the main question now be put" and until this question is decided all debate on the main question shall be suspended. If the previous question is adopted, the sense of the meeting shall immediately be taken upon any pending amendments in the order inverse to that in which they were moved, except that the largest sum or the longest time shall be put first and finally upon the main question.

Rule 19 The duties of the Moderator and the conduct and method of proceeding at all Town Meetings, not prescribed by law or by rules set forth in this article, shall

be determined by rules of practice set forth in "Town Meeting Time, Third Edition" except that to lay on the table shall require a majority vote.

2.2.2 Attendance by Officials

It shall be the duty of every official body, by a member thereof, to be in attendance at all Town Meetings for the information thereof while any subject matter is under consideration affecting such official body.

2.2.3 Appointment of Committees

All committees authorized by Town Meeting shall be appointed by the Moderator unless otherwise ordered by a vote of the Members present and voting. All committees shall report as directed by Town Meeting. If no report is made within a year after the appointment, the committee shall be discharged unless, in the meantime, Town Meeting grants an extension of time. When the final report of a committee is placed in the hands of the Moderator, it shall be deemed to be received, and a vote to accept the same shall discharge the committee but shall not be equivalent to a vote to adopt it.

2.2.4 Motion to Reconsider

2.2.4.1 Notice to Reconsider

A motion to reconsider any vote must be made before the final adjournment of the meeting at which the vote was passed but such motion to reconsider shall not be made at an adjourned meeting unless notice of the movant's intention to make such a motion is given, either at the session of the meeting at which the vote was passed or by written notice to the Town Clerk within twenty-four (24) hours after the adjournment of such session. When such motion is made at the session of the meeting at which the vote was passed, said motion shall be accepted by the Moderator but consideration thereof shall be postponed to become the first item to be considered at the next session, unless all remaining articles have been disposed of, in which case reconsideration shall be considered before final adjournment. There can be no reconsideration of a vote once reconsidered or after a vote not to reconsider. Reconsideration may be ordered by a vote of two-thirds (2/3) of the members present. Arguments for or against reconsideration may include discussion of the motion being reconsidered providing such discussion consists only of relevant facts or arguments not previously presented by any speaker.

2.2.4.2 Federal or State Law Affecting Reconsideration

The foregoing provisions relating to motions to reconsider shall not apply to any such motion made by the Select Board and authorized by the Moderator as necessary for the reconsideration of actions previously taken by Town Meeting by reason of State or Federal action or inaction or other circumstances not within the control of the Town or Town Meeting. In the event such a motion to reconsider is made and authorized, said motion may be made at any time before the final adjournment of the meeting at which the vote was passed, said motion may be made even if the vote was already reconsidered or was the subject of a vote not to reconsider, and reconsideration may be ordered by a vote of two-thirds (2/3) of the Members present.

2.2.4.3 Posting and Advertising

Notice of every vote to be reconsidered at an adjourned Town Meeting shall be posted by the Town Clerk in one (1) or more public places in each precinct

of the Town as soon as possible after adjournment, and the Town Clerk shall, if practicable, at least one day before the time of the next following session of said adjourned meeting, publish such notice in Local News Medium published in the Town. Said notice shall include the vote to be reconsidered and the place and time of the next following session of said adjourned meeting. The foregoing notice provisions shall not apply when a motion to reconsider any Town Meeting action is made publicly at Town Meeting before the adjournment of any session of any adjourned Town Meeting.

2.2.5 State of the Town

The Selectmen shall, at each Annual Town Meeting, give to the Members information on the "State of the Town."

2.2.6 Annual Precinct Meeting

Town Meeting Members and Town Meeting Members-elect from each precinct shall hold an annual precinct meeting after the annual Town election but before the convening of the business sessions of the Annual Town Meeting. The purpose of the meeting shall be the election of a Chair and a Clerk and to conduct whatever business may be appropriate. Chairs shall serve no more than six (6) consecutive years in that position. Additional precinct meetings may be called by the Chair or by a petition of six (6) Town Meeting Members of the precinct.

2.2.7 Removal of Town Meeting Members

2.2.7.1 Notice of Attendance

The Town Clerk shall mail, within thirty (30) days after the adjournment *sine die* of the Annual Town Meeting, to every Town Meeting Member who has attended less than one-half of Town Meeting sessions since the most recent Annual Town Election, a record of that Member's attendance and a copy of Section 2.6 of the Charter.

2.2.7.2 Precinct Recommendation

At a Precinct meeting held prior to consideration by Town Meeting of any warrant article submitted pursuant to Section 2.6 of the Charter, Town Meeting Members from each precinct shall adopt a recommendation to Town Meeting on whether each member from the precinct listed in such article should be removed from Town Meeting. The Chair of each precinct or his designee shall make such recommendations along with supporting evidence and rationale to Town Meeting.

2.2.7.3 Grouped by Precinct

The names of the Members subject to removal in accordance with Section 2-6 of the Charter shall be grouped by precinct in the warrant article required by said section.

2.2.8 Meetings During Town Meeting

No appointed or elected board, committee, commission or other entity of Town government shall schedule or conduct any hearing, meeting or other function during any hours in which an Annual, Subsequent or Special Town Meeting is in session or is scheduled to be in session. Any such board, committee or commission which schedules or holds a meeting or hearing on the same calendar day, but at a time prior to a session of Town Meeting, shall adjourn or recess not less than five (5) minutes prior to the scheduled session of Town Meeting.

Any board, committee or commission may, at the opening of any session of Town Meeting, present to that Town Meeting an instructional motion requesting an exemption from this bylaw and asking that Town Meeting permit it to meet at a date and hour at which a future session of Town Meeting is scheduled, and may present reasons for Town Meeting to give such permission. Notwithstanding the foregoing, any board, committee or commission which meets the requirements of MGL Chapter 39 Section 23B concerning emergency meetings may, upon meeting such requirements, conduct such a meeting or hearing at a time scheduled for a Town Meeting.

2.2.9 Rules Committee

The members of the Rules Committee, established under Section 2.12 of the Charter, shall meet no less than once every two (2) years. Additional Rules Committee meetings may be called by the Chair.

In the absence of a Chair, the Moderator shall convene a meeting of the Rules Committee within sixty (60) days after a vacancy for the purpose of electing a new Chair.

ARTICLE 3 TOWN OFFICES AND TOWN OFFICERS

3.1 Elected Town Officers

3.1.1 Select Board

The Select Board is hereby authorized and empowered to aid any city or town bordering upon Reading in repairing and maintaining the physical properties of water supply systems of said cities or towns under the authority of MGL Chapter 40 Section 39H and may extend such aid subject to such terms and conditions as said Board may impose.

3.2 Appointed Town Officers

3.2.1 Town Collector

3.2.1.1 Duties

The Town Collector shall be responsible for the collection and receipt of all sums and accounts due, owing or paid to the Town, including taxes and fees.

3.2.1.2 Collection and Abatement

Any account committed by the Town Accountant, which the Town Treasurer-Collector is unable to collect by ordinary efforts, may be referred by the Town Treasurer-Collector to the Town Accountant or Town Counsel for instruction as to procedure. So far as permitted by law, any account or portion thereof may be abated by the department in which such account originated subject to the approval of the Town Manager. The Town Accountant shall be notified in writing of the abatement of any such committed account or portion thereof.

3.2.2 Town Accountant

Every department of the Town shall deliver to the Town Accountant at least once in every month a separate statement of each account due the Town arising through any transaction with such Department. Upon receipt of such statements of accounts, the Town Accountant shall commit such accounts to the Town Treasurer-Collector for collection. This section shall not apply to

- taxes and special assessments, licenses and permits issued or granted by the various departments of the Town,
- costs and fees charged by said departments,
- interest on investments of sinking or trust funds or
- accounts due the Municipal Light Department.

3.2.3 Town Clerk

3.2.3.1 Duties

The Town Clerk shall keep a record which contains a true copy of all deeds and conveyances executed by the Select Board, or by any other authorized board or person.

3.2.3.2 Filing at Registry of Deeds

The Town Clerk shall see that every conveyance to the Town of any interest in land and any plan thereof are properly recorded in the Registry of Deeds.

3.2.3.3 Town Meeting Votes

The Town Clerk shall furnish all official bodies with a copy of all Town Meeting votes affecting them.

3.2.3.4 Reports to Town Meeting

Whenever any report of any official body or any minority report thereof is presented to a Town Meeting, the Town Clerk shall cause the report to be entered in full upon the regular record of the meeting.

3.2.3.5 Certification of Elections

As soon after election or appointment as practical the Town Clerk shall issue a written notice stating the office to which each person has been elected or appointed to serve. This written notice shall reference the requirement that they are required to take an oath of office.

3.2.3.6 Annual Report

The Town Clerk shall cause to be permanently bound one or more copies of each Annual Town Report, which shall be kept in the Town Hall.

3.2.4 Town Treasurer

3.2.4.1 Duties

In addition to the powers and duties conferred and imposed upon Town Treasurers by the Massachusetts General Laws, the Town Treasurer shall:

- Supervise and be responsible for the prompt deposit, safekeeping and management of all monies collected or received by the Town;
- Be the custodian of all funds, monies, securities or other things of value that are or have been given, bequeathed or deposited in trust with the Town for any purpose, including the preservation, care, improvement or embellishment of any of the Town's cemeteries or burial lots therein;
- Invest all sums held in trust as the Treasurer determines to be appropriate after consultation with the Board of Commissioners of Trust Funds; and
- Distribute the income therefrom on the order of said Board.

3.2.4.2 Receipts

The Town Treasurer shall, at least once in each week, pay over to the Treasurer's accounts all money received by the Treasurer during the preceding week or lesser period, including any sum received as interest on moneys received by the Treasurer on all accounts committed to the Treasurer and deposited in any bank. The Treasurer shall give bond to the Town for the faithful performance of the Treasurer's duties in a form approved by the Commissioner of Revenue and in such sum, not less than the amount that may be established by said Commissioner, as shall be fixed by the Selectmen.

3.3 Appointed Boards, Committees and Commissions

3.3.1 General

3.3.1.1 Recording Secretary

If resources permit, the Town Manager may appoint Recording Secretaries, as needed, to the various boards, committees and commissions. A Recording Secretary shall not be a member of the board, committee or commission.

3.3.1.2 Election of Officers

Each board, committee or commission shall meet at the call of the Chair no earlier than June 1 and no later than July 31 of each year and shall then elect its Chairman and Vice Chairman for the new fiscal year.

3.3.1.3 Residency Required

Any member of any board, committee or commission, who shall cease to be an inhabitant of the Town, shall immediately cease to be a member of the board, committee or commission.

3.3.1.4 Removal for Absence

If any member of any board, committee or commission is absent from three (3) or more successive meetings of the board, committee or commission, the other members of said board, committee or commission may by an affirmative vote of its majority request the appointing authority to remove such absenting member from membership in accordance with the provisions of Section 8.12 of the Reading Home Rule Charter.

3.3.1.5 Term of Office

The term of office of each member of boards, committees and commissions shall commence on July 1 in the year of appointment, and shall expire on June 30 in the third following calendar year, except the terms of the members of the Reading Housing Authority are for five (5) years.

3.3.1.6 Appointment of Associate Members

All boards and committees appointed by the Select Board may have Associate Members. The provisions of this section shall be applicable to all Associate Members of such bodies except as otherwise provided.

The number of Associate Members on a board or committee shall not exceed two-thirds (2/3) of the number of regular members on that board or committee. Associate Members shall serve for a two (2) years term, so arranged that as nearly an equal number of terms as possible shall expire each year. Associate Members shall be appointed by the Select Board.

If any regular member is absent from a meeting, disqualified from acting, or otherwise unable to deliberate on a particular matter that comes before a board or committee, the chair of such board or committee may designate one or more Associate Members to deliberate and vote on any matter before the board or committee. If more than one Associate Member is available to fill a temporary vacancy, the chair shall designate the Associate Member having the greatest tenure on the board or committee; provided, however, that any Associate Member so designated shall be entitled to continue to participate in the matter as necessary and to remain qualified to vote thereon.

3.3.2 Finance Committee

3.3.2.1 Duties

The Finance Committee shall consider all matters of business included within the Articles of any warrant which involve the expenditure, appropriation and raising or borrowing of money.

3.3.2.2 Recommendation to Town Meeting

Unless otherwise stipulated in the Charter, the Finance Committee shall make a written recommendation on all Articles that it has considered, and the Town Clerk shall make said written recommendations available to each Town Meeting Member at least seven (7) days prior to the first business session of the Annual or Subsequent Town Meeting, seven (7) days prior to the second Monday in November and four (4) days prior to any Special Town Meeting.

The said recommendations should be those of a majority of the entire Committee but recommendations may also be made by a minority of said Committee. The Committee's report shall also state the total amount of appropriations recommended by it on the entire warrant.

3.3.2.3 Investigation

The Finance Committee, or its duly authorized agents, at any time may, and promptly upon the petition of one hundred (100) voters of the Town or a vote of Town Meeting, shall investigate the books, accounts, records or management of any Town Board, Committee, Commission or Department. The Finance Committee may call upon the assistance of any Town official or employee and may to employ such expert or other assistance as it may deem advisable for that purpose. The books, records and accounts of any Town Board, Committee, Commission or Department shall be open to the inspection of the Finance Committee, its agents, assistants or employees upon request. The Committee shall have no power to incur any expenses payable by the Town without authorization by a majority vote taken at a public meeting of the Moderator, Chair of the Finance Committee, and Town Accountant, and such expenses shall be paid from the Finance Committee Reserve Fund.

The Finance Committee shall make a report on every such investigation, setting forth its findings and recommendations, and shall transmit each such report to Town Meeting and to the Chair of the relevant Board, Committee or Commission.

3.3.2.4 Cannot Hold another Office

Any member of the Finance Committee, who shall be appointed or elected to any official body, shall forthwith upon that member's qualification in such office, cease to be a member of the Finance Committee. This provision shall not apply to the appointment of a Finance Committee member to serve as a member of any ad hoc board, commission or committee in the Town of Reading or to any board, commission or committee upon which a member of the Finance Committee shall serve in an ex officio capacity.

3.3.3 Bylaw Committee

The Bylaw Committee shall report to Town Meeting on all proposed changes to the Charter, this bylaw, Special Acts or local acceptance of State statutes which are included on the warrant for Town Meeting and may also report on proposed changes to the Zoning Bylaw. Such report shall be prepared in writing and made available in the same manner as specified in Section 3.3.2.2 of this bylaw. The Bylaw Committee may request proposals for bylaw amendments from official bodies and inhabitants. The Bylaw Committee may submit Articles to amend the bylaw on the Warrant for Town Meeting action.

3.3.4 Council on Aging

At least two (2) of its ten (10) members shall be over sixty-five (65) years of age.

3.3.5 Audit Committee

3.3.5.1 Membership

There shall be an Audit Committee consisting of seven (7) members. Members appointed by each appointing authority shall have terms that expire in different years. No member of the Audit Committee shall be a compensated Town employee. Notwithstanding the provisions of Section 3.3.2.4 of this

bylaw to the contrary, a Finance Committee member may be a member of the Audit Committee. Two (2) members shall be appointed by the Select Board, two (2) members shall be appointed by the School Committee, one (1) member shall be appointed by the Reading Municipal Light Board, and two (2) members shall be appointed by the Finance Committee.

3.3.5.2 Duties

The Audit Committee shall determine the firm or firms of independent auditor(s) that is to audit and report on the financial statements issued by the Town, including the Reading Municipal Light Department. The Audit Committee shall review the audit plan with the independent auditor(s) and, upon completion of the audit, meet with the independent auditor(s) to discuss the results of the audit and the annual financial reports. The Audit Committee shall transmit a copy of the completed annual audit and report to the Select Board, the Finance Committee, the School Committee and the Reading Municipal Light Board by the end of the calendar year within which the Fiscal Year covered by the audit occurs.

3.3.6 Permanent Building Committee

There shall be a Permanent Building Committee consisting of five (5) Permanent Members and, notwithstanding any provision of Section 3.3.1.6 to the contrary, up to two (2) Temporary Members for each Project that the Permanent Building Committee undertakes. Permanent and Temporary Members of the Permanent Building Committee shall be appointed by an Appointment Committee consisting of the Chair of the Select Board, the Chair of the School Committee and the Town Moderator. In addition, the Appointment Committee may appoint not more than three (3) Associate Members whose service on the Permanent Building Committee shall be governed by the third paragraph of Section 3.3.1.6.

Permanent and Associate Members shall be volunteers having practical experience and skills in professions that concentrate on the design, construction, management or financing of buildings, including architects; civil engineers; structural engineers; mechanical, electrical and plumbing engineers; building contractors, project managers; property managers; attorneys and building tradespersons. Their terms shall be so arranged that as nearly an equal number of terms as possible shall expire each year.

The Permanent Building Committee shall work with the Director of Facilities to compile an assessment of the physical condition of, and an inventory of anticipated repairs and renovations to, all existing Town buildings and shall summarize its findings in an annual report to Town Meeting.

The Permanent Building Committee shall adopt a formal building project application process to be followed in order for any proposed project to be considered for evaluation and possible administration. The Permanent Building Committee shall evaluate only Project Applications forwarded by the School Committee, the Select Board or the Library Trustees (the "Sponsoring Agency"). All Sponsoring Agencies shall be notified of this application process and any revisions to it in a timely manner after their adoption.

The Permanent Building Committee shall review and administer major Town building design studies and construction projects having expected aggregate costs of $1,500,000 or more, but may decline administration of Projects with little or no actual construction. The Permanent Building Committee's jurisdiction shall not

extend to projects of the Reading Municipal Light Department. The Permanent Building Committee shall present their project evaluations to Town Meeting at the request of the Sponsoring Agency for consideration and approval.

Once Town Meeting has authorized funds for a Project, the Appointment Committee shall add Temporary Members to the Permanent Building Committee for such Project. Temporary Members shall have the same participation and voting rights as Permanent Members on matters affecting the particular Project for which they were appointed. Temporary Members shall be registered voters of the Town, nominated by the Sponsoring Agency, and shall serve only for the time during which the Permanent Building Committee is exercising its functions with respect to such Project. In the event that a particular project is subject to participant requirements of a state funding authority, the Appointment Committee may appoint additional Temporary members to the Permanent Building Committee for that project; provided, however, that, in no event, shall the aggregate number of Permanent and Temporary Members for a particular project exceed nine (9). Quorum requirements for the Permanent Building Committee shall be the majority of the Permanent and Temporary Members for a particular project.

ARTICLE 4 PERSONNEL

4.1 Personnel

4.1.1 Purpose and Authorization

The purpose of the Personnel bylaw is to establish fair and equitable personnel policies and to establish a system of personnel administration based on merit principles to ensure the uniform, fair and efficient application of personnel policies. This bylaw is adopted pursuant to the authority granted by Article LXXXIX of the Constitution of the Commonwealth and MGL Chapter 41 Sections 108A and 108C.

4.1.2 Application

All Town personnel shall be subject to the provisions of this Section 4.1 except for elected officers and except for employees of the School Department and Municipal Light Department.

4.1.3 Administrative

The Select Board shall be responsible for the establishment and maintenance of a personnel system based on merit principles, the classification and reclassification of positions, an annual compensation plan, and the development and promulgation of personnel policies pursuant to Section 4.1.5 of this bylaw.

4.1.4 Personnel System

A personnel system shall be established by promulgation of policies pursuant to Section 4.1.5. The Town Manager shall administer the personnel system. No employee may be appointed to a position that is not included in the classification plan. The personnel system shall make use of current concepts of personnel management and shall include but not be limited to the following elements:

4.1.4.1 Administration

The maintenance of personnel records, the implementation of effective recruitment and selection processes, the maintenance of the classification and compensation plans, the monitoring of the application of personnel policies and periodic review and evaluation of the personnel system.

4.1.4.2 Classification Plan

A position classification plan for all employees subject to this bylaw based on similarity of duties performed and the responsibilities assigned, so that the same qualifications may be reasonably required for, and the same schedule of pay may be equitably applied to, all positions in the same class.

4.1.4.3 Compensation Plan

A compensation plan for all positions subject to this bylaw consisting of:

- A schedule of pay grades including minimum, maximum and intermediate rates for each grade; and
- An official list indicating the assignment of each position to specific pay grades.

4.1.4.4 Recruitment and Selection Policy

A recruitment, employment, promotion and transfer policy to ensure that reasonable effort is made to attract qualified persons and that selection criteria are job related.

4.1.4.5 Personnel Records

A centralized recordkeeping system maintaining essential personnel records.

4.1.4.6 Personnel Policies

The policies establishing the rights and benefits to which personnel employed by the Town are entitled and the obligations of said employees to the Town.

4.1.5 Adoption and Amendment of Personnel Policies

The personnel policies defining the rights, benefits and obligations of employees subject to this bylaw shall be adopted or amended as follows:

4.1.5.1 Preparation of Policies

Any member of the Select Board, the Town Manager, or any three (3) employees may propose a new policy or a policy amendment for the Select Board's consideration. The Select Board need not consider any proposal that has already been considered in the preceding twelve (12) months. Any person proposing a new policy or policy amendment shall provide the substance of the proposal and the reason therefor to the Board in writing.

The Select Board shall hold a public hearing on any proposed policy or policy amendment(s). Any proposed policy or policy amendment(s) shall be posted at least five (5) days prior to the public hearing in prominent work locations, and copies of all proposals shall be provided to representatives of each employee collective bargaining unit.

4.1.5.2 Public Hearing

At the public hearing the proponent(s) shall present the proposed policy or policy amendment(s), the purpose of the proposal, and the implication of any proposed change. Any person may attend the public hearing, speak and present information. Within twenty (20) days after such public hearing, the Select Board shall consider the proposed policy or policy amendment(s) and may vote to adopt the policy or policy amendment(s), with or without modifications, to reject the policy or policy amendment(s) or indicate that further study is necessary.

4.2 Physical Qualifications for all Compensated Town Employees (including School Department and Municipal Light Department)

4.2.1 Establishment of Job Requirements and Testing

Subject to any other provisions or requirements of federal or state law, executive order or regulation, every official body having the authority to employ may establish the essential functions for all employment positions, and may establish job-related employment tests or other selection criteria for the positions in question; provided that the job-related employment tests or other selection criteria do not screen out, or have the effect of screening out handicapped persons or any class of handicapped persons, unless alternative job-related tests or criteria that do not screen out or have the effect of screening out as many handicapped persons are not available.

4.2.2 Requirement of Medical Examination

The requirement for a medical examination prior to an employee's entrance on duty shall be governed by the applicable personnel policy, employment contract, or state or federal law.

4.2.3 Town Pays for Medical Exam

The cost of all examinations under this bylaw shall be paid in full by the town department which has made the conditional offer of employment.

4.2.4 Designation of Approved Physician

The regularly appointed School Physician is approved for examination of School Department employees. The Town Manager shall designate the physician for all other employees.

4.2.5 Confidentiality of Records

All information obtained in accordance with this bylaw regarding the medical condition or history of an employee or conditional employee shall be collected and maintained on separate forms as confidential medical records, except that:

- supervisors and managers may be informed regarding restrictions on the work or duties of handicapped persons and any necessary accommodations;
- first aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment; and
- government officials investigating compliance with the provisions of applicable federal laws shall be provided relevant information upon request.

4.2.6 Applies upon Change of Employment

The provisions of this bylaw shall apply to all employees of the Town who seek a change of employment with the Town.

4.2.7 Aggrieved Employee Right of Appeal

In the event any employee or conditional employee is aggrieved by any action taken pursuant to this bylaw, an appeal may be made in writing as follows:

- to the Select Board if the employee or conditional employee is a municipal government employee or Library employee, or
- to the School Committee if the employee or conditional employee is an employee of the School Department, or
- to the Reading Municipal Light Board if the employee or conditional employee is an employee of the Reading Municipal Light Department.

Said appeal must be made within ten (10) days of the action complained of; and, after notice to all parties affected there will be an opportunity for a hearing which will afford all necessary due process rights to the parties in question, the Select Board or, School Committee, or the Reading Municipal Light Board shall within thirty (30) days of the completion of a hearing determine whether the bylaw was violated, or if the action taken was otherwise improper and shall provide a prompt and equitable resolution of the complaint.

In the event of such an appeal, the aggrieved party shall authorize the disclosure of information obtained regarding their medical condition or history to representatives of the Select Board, the School Department or the Reading Municipal Light Department, as applicable.

4.2.8 Authorizing or Requiring

Nothing contained herein shall be construed as authorizing or requiring the employment of an individual who cannot perform the essential functions of the job in question even with reasonable accommodations, or who is not otherwise qualified for the job in question.

ARTICLE 5 CONDUCT OF TOWN BUSINESS

5.1 Annual Town Reports and Records

5.1.1 Annual Town Report

All official bodies, and Town Counsel shall file an Annual Town Report of their activities with the Select Board on or before the fifth Monday preceding the first business session of the Annual Town Meeting of each year, and the Select Board shall cause such reports to be included in the Annual Town Report.

5.1.2 Printing the Annual Town Report

The Select Board shall have the Annual Town Report completed not later than the first Monday preceding the first business session of the Annual Town Meeting of each year.

5.1.3 Requirement to Keep Records

Each official body shall maintain detailed records of its proceedings and such records, excepting as otherwise provided by law, shall be public records.

5.1.4 Board of Assessors' Records Part of the Annual Report

There shall be included as an integral part of the Annual Town Report the Board of Assessors' records of abatements on real estate taxes, other than statutory exemptions as defined by MGL Chapter 59 Section 5, such records to include the name and address of the taxpayer, the location of the property, and the total sum of money abated.

5.1.5 Roll Call Town Meeting Votes

The vote of each Town Meeting Member on all roll call votes recorded at a Town Meeting shall be included in the Annual Town Report.

5.2 Resolution of Legal Matters

Town Counsel, or any other Special Counsel employed by the Select Board pursuant to Section 6.4 of the Charter, shall not make any final settlement of any litigation to which the Town is a party unless that settlement has been duly authorized by a vote of the Select Board, or by a vote of Town Meeting. The Select Board shall have the authority to compromise and settle all suits involving the payment by the Town of Twenty-Five Thousand ($25,000) Dollars or less, and they shall further have the authority to compromise or settle all claims, actions, proceedings and suits arising under Worker's Compensation or related disability insurance statutes involving payment by the Town of Fifty Thousand ($50,000) Dollars or less. Town Meeting must approve the compromise or settlement of all suits involving payment by the Town of more than Twenty-Five Thousand ($25,000) Dollars, except claims, actions, proceedings and suits arising under Worker's Compensation or related disability insurance statutes in which case Town Meeting must approve or compromise the settlement of all such matters involving the payment by the Town of more than Fifty Thousand ($50,000) Dollars.

5.3 Rules and Regulations

5.3.1 Procedure for Adoption

All Town Agencies or Town Officers, as defined in Section 8.7 of the Charter, shall comply with the following procedures in the adoption or amendment of such rules or regulations which they are empowered to adopt or amend pursuant to this bylaw, the Charter, the General Laws of the Commonwealth or any other enabling act.

The provisions of this bylaw shall be in addition to the filing requirements of Section 8.8 of the Charter. The provisions of this bylaw shall not apply to the adoption, modification or amendment of any rules or regulations for which a procedure is otherwise provided by general or special law or to rules and regulations which relate primarily to the internal operations or procedure of a Town Agency or Town Officer.

5.3.2 Requirement for Public Hearing

No Town Agency or Town Officer shall adopt or amend any rule or regulation until after a public hearing, notice of the time and place of which, and of the subject matter sufficient for identification, shall be posted in a conspicuous place in the Town Hall for a period of not less than seven (7) days before the date of such hearing and published in a newspaper of general circulation in the Town not less than seven (7) days before the day of the hearing if such
newspaper exists.

Copies of the legal notice of any proposed rule or regulation or amendment thereto by any Town Agency or Town Officer shall be supplied to the Select Board, the Finance Committee, the Bylaw Committee and Town Counsel not less than seven (7) days prior to said hearing, and the Select Board, Finance Committee, Bylaw Committee, or Town Counsel shall be supplied with the full text of the proposed rule or regulation or amendment thereto upon request. The full text of any proposed rule or regulation or amendment thereto shall be available to the public at the office of the Town Clerk and at said hearing. Prior to the adoption or amendment of any such rule or regulation, Town Counsel may render an opinion to the Town Agency or Town Officer proposing such adoption or amendment.

5.3.3 Filing of Approved Rules and Regulations

Within ten (10) days of adoption a copy of every rule or regulation adopted or amended shall be posted in a conspicuous place in the Town Hall for at least thirty (30) days and a copy of all such rules or regulations so adopted or amended shall be filed in the Office of the Town Clerk. As provided in Section 8.8 of the Charter, any such rules or regulations or amendments to rules or regulations shall not become effective until ten (10) days following the date they are so filed.

5.3.4 Inhabitant Proposal of a Rule or Regulation

Any inhabitant of the Town may propose a rule or regulation or amendment to the same by notifying the appropriate Town Agency or Town Officer in writing with a copy of the proposed rule or regulation or amendment. Within ninety (90) days of the receipt thereof, the Town Agency or Town Officer shall afford such inhabitant the opportunity to appear before said Town Agency or Town Officer to present the rationale for the proposed rule or regulation or amendment. If the Town Agency or Town Officer determines to adopt such rule, regulation or amendment, it shall thereafter follow the provisions of this bylaw.

5.3.5 Notification to Inhabitant of Non-Adoption

If the Town Agency or Town Officer determines that it will not adopt such rule, regulation or amendment, it shall give written notification of the same to the proposing inhabitant within thirty (30) days of the meeting on the proposal.

5.4 Criminal History Check Authorization

5.4.1 Fingerprint Based Criminal History Checks

The Police Department shall as authorized by MGL Chapter 6 Section 172 B 1/2 conduct State and Federal Fingerprint Based Criminal History checks for individuals applying for the following licenses:

- Hawking and Peddling or other Door-to-Door Salespeople - Police Chief
- Manager of Alcoholic Beverage License - Select Board
- Owner or Operator of Public Conveyance - Select Board
- Dealer of Second-hand Articles - Select Board
- Hackney Drivers - Select Board
- Ice Cream Truck Vendors - Board of Health

5.4.1.1 Notification

At the time of fingerprinting the Police Department shall notify the individual fingerprinted that the fingerprints will be used to check the individual's criminal history records. The Police Chief shall periodically check with the Executive Office of Public Safety and Security ("EOPSS") which has issued an Informational Bulletin which explains the requirements for town bylaw and the procedures for obtaining criminal history information to see if there have been any updates to be sure the Town remains in compliance.

5.4.1.2 State and National Criminal Records Background Checks

Upon receipt of the fingerprints and the appropriate fee, the Police Department shall transmit the fingerprints it has obtained pursuant to this bylaw to the Identification Section of the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Services (DCJIS), and/or the Federal Bureau of Investigation (FBI) or the successors of such agencies as may be necessary for the purpose of conducting fingerprint-based state and national criminal records background checks of license applicants specified in this bylaw.

5.4.1.3 Authorization to Conduct Fingerprint-Based State and National Criminal Record Background Checks

The Town authorizes the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Systems (DCJIS), and the Federal Bureau of Investigation (FBI), and their successors, as may be applicable, to conduct fingerprint-based state and national criminal record background checks, including of FBI records, consistent with this bylaw. The Town authorizes the Police Department to receive and utilize State and FBI records in connection with such background checks, consistent with this bylaw. The State and FBI criminal history will not be disseminated to unauthorized entities. Upon receipt of a report from the FBI or other appropriate criminal justice agency, a record subject may request and receive a copy of that record from the Police Department. Should the record subject seek to amend or correct that record, appropriate action may include contacting the Massachusetts Department of Criminal Justice Information Services (DCJIS) for a state record or the FBI for records from other jurisdictions maintained in its file. An applicant that wants to challenge the accuracy or completeness of the record shall be advised that the procedures to change, correct, or update the record are set forth in Title 28 CFR 16.34. The Police Department shall not utilize and/or transmit the results of the fingerprint-based criminal record background check to any licensing authority pursuant to this bylaw until it has taken the steps detailed in this paragraph.

5.4.1.4 Municipal Officials

Municipal officials should not deny an applicant the license based on information in the record until the applicant has been afforded a reasonable time to correct or complete the information, or has declined to do so. The Police Department shall communicate the results of fingerprint-based criminal record background checks to the appropriate governmental licensing authority within the Town as listed. The Police Department shall indicate whether the applicant has been convicted of, or is awaiting final adjudication for, a crime that bears upon the applicant's suitability or any felony or misdemeanor that involved force or threat of force, controlled substances or a sex-related offense.

5.4.1.5 Regulations

The Select Board, is authorized to promulgate regulations for the implementation of the proposed bylaw, but in doing so it is recommended that they consult with the Chief of Police, Town Counsel and the Massachusetts Executive Office of Public Safety and Security (or its successor agency) to ensure that such regulations are consistent with the statute the FBI's requirements for access to the national database and other applicable state laws.

5.4.2 Use of Criminal Record by Licensing Authorities

Licensing authorities of the Town shall utilize the results of fingerprint-based criminal record background checks for the sole purpose of determining the suitability of the subjects of the checks in connection with the license applications specified in this bylaw. A Town licensing authority may deny an application for a license on the basis of the results of a fingerprint-based criminal record background check if it determines that the results of the check render the subject unsuitable for the proposed occupational activity. The licensing authority shall consider all applicable laws, regulations and Town policies bearing on an applicant's suitability in making this determination.

The Town or any of its officers, departments, boards, committees or other licensing authorities is hereby authorized to deny any application for, including renewals and transfers thereof, for any person who is determined unfit for the license, as determined by the licensing authority, due to information obtained pursuant to this bylaw.

5.4.3 Fees

The fee charged by the Police Department for the purpose of conducting fingerprint-based criminal record background checks shall be determined by the Select Board and shall not exceed one hundred dollars ($100). The Town Treasurer shall periodically consult with Town Counsel and the Department of Revenue, Division of Local Services regarding the proper municipal accounting of those fees. A portion of the fee, as specified in MGL Chapter 6 Section 172B 1/2 shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund, and the remainder of the fee may be retained by the Town for costs associated with the administration of the fingerprinting system.

ARTICLE 6 FINANCIAL PROCEDURES

6.1 Capital Improvements Program

6.1.1 Submission of Project Requests

All official bodies shall submit their proposed capital outlays to the Town Manager as required by the Town Manager.

6.1.2 Presentation to Town Meeting

After submission of the Capital Improvements Program to the Select Board and the Finance Committee, the Town Manager shall present to each Annual Town Meeting such Program to be adopted by Town Meeting with or without amendment. The Capital Improvements Program may be amended by action of any regular or special Town Meeting.

6.1.3 Adoption of Capital Improvements Program is not Authorization to Spend Funds

Adoption of the Capital Improvements Program shall not constitute authorization of the expenditure of any funds. No funds may be appropriated for any capital item unless such item is included in the Capital Improvements Program, and is scheduled for funding in the Fiscal Year in which the appropriation is to be made.

6.2 Delinquent Taxes; Denial, Revocation and Suspension of Permits and Licenses

6.2.1 Notice of Delinquencies to Departments

Pursuant to MGL Chapter 40 Section 57 the Town Treasurer-Collector shall annually furnish to each department, board, commission or division of the Town, that issues licenses or permits including renewals and transfers, a list of any person, corporation or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve (12) month period, and that such party has not filed in good faith a pending application for abatement of such tax or a pending petition before the Appellate Tax Board.

6.2.2 Denial, Revocation, Suspension for Delinquencies

Each department, board, commission or division of the Town, that issues licenses or permits including renewals and transfers may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished by the Town Treasurer-Collector; provided, however, that written notice is given to the party and the Town Treasurer-Collector as required by Section 6.3.6 hereof, and the party is given a hearing to be held not earlier than fourteen (14) days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Town Treasurer-Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the department, board, commission or division of the Town, that issues licenses or permits including renewals and transfers with respect to such license denial revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension.

Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the department, board, commission or division of the Town, that issues licenses or permits including renewals and transfers receives a

certificate issued by the Town Treasurer-Collector that the party is in good standing with respect to the payment of all local taxes, fees, assessments, betterments or other municipal charges as of the date of issuance of said certificate.

6.2.3 Payment Agreement

Any party shall be given the opportunity to enter into a payment agreement, thereby allowing the department, board, commission or division of the Town, that issues licenses or permits including renewals and transfers to issue a certificate indicating that validity of the license or permit shall be conditioned upon the satisfactory compliance with the payment agreement. Failure to comply with the payment agreement shall be grounds for the suspension or revocation of a license or permit; provided, however, that the holder shall be given notice and a hearing as required by Section 6.3.6 hereof prior to the suspension or revocation.

6.2.4 Waiver

The Select Board may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the party, its officers or shareholders, if any, or members of the party's immediate family, as defined by MGL Chapter 268A Section 1 in the business or activity conducted in or on said property.

6.2.5 Non-Applicability

This section shall not apply to the following licenses and permits (as referenced to MGL): open burning, Chapter 48 Section 13; bicycle permits, Chapter 85 Section 11A; sales of articles for charitable purposes, Chapter 101 Section 33; children work permits, Chapter 149 Section 69; clubs, associations dispensing food or beverage licenses, Chapter 140 Section 21E; dog licenses, Chapter 140 Section 137; fishing, hunting, trapping license, Chapter 131 Section 12; marriage licenses, Chapter 207 Section 28, and theatrical events, public exhibition permits, Chapter 140 Section 181.

6.2.6 Written Notice

Written notice as required by this bylaw shall be hand-delivered and a signed receipt obtained therefore, or sent by registered or certified mail, return receipt requested, postage prepaid.

6.3 Surcharge on Details

Pursuant to MGL Chapter 44 Section 53C, a fee of ten (10%) percent of the cost of the services authorized by said section for work performed by one of the Town's employees on an off-duty work detail or for special detail work shall, except in the case of a city, town, district or the Commonwealth of Massachusetts, be added to the cost of said services and paid by the persons requesting such private detail.

6.4 Grant Fund Applications

Written notification of all grant fund applications to be submitted by any official body to any government agency, qualified tax-exempt entity or private organization shall be promptly forwarded to the Town Accountant, Town Manager and the Select Board.

6.5 Establishment of Revolving Funds

Pursuant to MGL Chapter 44 Section 53E1/2, the following individual revolving funds shall be authorized:

6.5.1 Conservation Commission Consulting Fee Revolving Fund

Funds held in the Conservation Commission Consulting Fee Revolving Fund shall be used for consulting and engineering services for the review of designs and

engineering work for the protection of wetlands and shall be expended by the Conservation Commission. Receipts credited to this fund shall include fees collected pursuant to Section 7.1.14 of this Bylaw.

6.5.2 Inspection Revolving Fund

Funds held in the Inspection Revolving Fund shall be used for legal costs, oversight and inspection, plan review, property appraisals and appeals, public services general management, pedestrian safety improvements, records archiving, and other costs related to building, plumbing, wiring, gas and other permits required for large construction projects and shall be expended by the Town Manager. Receipts credited to this fund shall include building, plumbing, wiring, gas and other permit fees for Johnson Woods, Eaton Lakeview (23-25 Lakeview Avenue and 128 Eaton Street), 258 Main Street, 531 Main Street, 25 Haven Street (Rite Aid), and 18-20 Woburn Street, 6-16 Chute Street (Green Tomato), and 459 Main Street (128 Tire) developments.

6.5.3 Public Health Clinics and Services Revolving Fund

Funds held in the Public Health Clinics and Services Revolving Fund shall be used for materials and costs associated with clinics and public health programs and shall be expended by the Board of Health. Receipts credited to this fund shall include clinic fees, charges and third party reimbursements received from the operation of such public health clinics and services.

6.5.4 Library Fines and Fees Revolving Fund

Funds held in the Library Fines and Fees Revolving Fund shall be used for the acquisition of library materials to replace lost and damaged materials, or for the maintenance, upkeep and supplies for supplementary fee-based services. Funds shall be expended by the Library Director under the supervision of the Library Trustees. Receipts credited to this fund shall include charges for lost and damaged library materials, and fees from printing, faxing or similar supplementary fee-based services.

6.5.5 Mattera Cabin Revolving Fund

Funds held in the Matera Cabin Revolving Fund shall be used for utilities, maintenance and operate expenses for the Mattera Cabin and shall be expended by the Public Services department head. Receipts credited to this fund shall include rental fees received from the operation of the Mattera Cabin.

6.5.6 Town Forest Revolving Fund

Funds held in the Town Forest Revolving Fund shall be used for planning and improvements to the Town Forest and shall be expended by the Director of Public Works upon the recommendation of the Town Forest Committee. Receipts credited to this fund shall include fees for use of the Town Forest and income from the sale of timber.

6.5.7 Mattera Cabin Community Garden Revolving Fund

Funds held in the Mattera Cabin Community Gardens Revolving Funds shall be used for utilities and all other maintenance and operating expenses, and project supplies and equipment, and shall be expended by the Conservation Administrator. Receipts credited to this fund shall include rental and user fees received from the operation of the community gardens.

ARTICLE 7 REGULATIONS ON THE USE OF PRIVATE LAND

7.1 Wetlands Protection

7.1.1 Purpose

The purpose of this bylaw is to protect the floodplains and wetlands of the Town by controlling activities deemed to have a significant effect upon wetland values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion control, storm damage prevention, water pollution prevention, fisheries, wildlife habitat and wildlife.

7.1.2 Determination of Applicability

Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may request a determination from the Conservation Commission in writing. The Conservation Commission shall issue its determination, in writing, within twenty-one (21) days from the receipt of such request.

7.1.3 Notice to the Conservation Commission

No person shall remove, fill, dredge or alter the following resource areas: bank; fresh water wetland; marsh; meadow; bog; swamp; creek; river; stream; pond; lake; lands under water bodies; land within one hundred feet of any of the preceding resource areas; land subject to flooding; and riverfront area, other than in the course of maintaining, repairing or replacing, but not substantially changing or enlarging an existing and lawfully located structure or facility used in the service of the public and used to provide electric, gas, water, sanitary sewer, storm drainage, public roadway, telephone, telegraph and other telecommunication services, without filing written notice of that person’s intention to so remove, fill, dredge or alter and without receiving and complying with an Order of Conditions, and provided all appeal periods have elapsed. Said resource areas shall be protected whether or not they border surface waters. Such notice shall be sent by certified mail or hand delivered to the Reading Conservation Commission, including such plans as may be necessary to describe such proposed activity and its effect on the environment.

7.1.4 Concurrent Notice and Hearings to Meet State Law Requirements

The same Notice of Intent, plans and specifications required to be filed by an applicant under MGL Chapter 131 Section 40 will be accepted as fulfilling the applicable requirements of this bylaw. The Conservation Commission may adopt and impose project review changes in accordance with regulations adopted pursuant hereto. Town projects are exempt from review fees under Section 7.1.14.

All hearings and public meetings held under MGL Chapter 131 Section 40 when it applies, and under this bylaw shall be held simultaneously, whenever possible. Definitions, time frames and procedures, not inconsistent with this bylaw or the regulations adopted pursuant hereto, set forth in said Section 40, and in the regulations promulgated by the Department of Environmental Protection, as the same may from time to time be amended, are hereby made a part of this bylaw. The critical wetland-related terms used in this bylaw and regulations adopted pursuant hereto shall be defined in regulations promulgated under this bylaw

7.1.5 Definition of “Person”

The term "person", as used in this bylaw, shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth whenever subject to Town bylaw, or any political

subdivision of the Commonwealth whenever subject to Town bylaw, administrative agency, public or quasi-public corporation or body, or any other legal entity or its legal representative, agents or assigns.

7.1.6 Authority to Enter upon Lands

The Conservation Commission, its agent, officers and employees, may enter upon the land upon which the proposed work is to be done in response to a request for a determination, or for the purpose of carrying out its duties under this bylaw, and may make or cause to be made such examination or survey as deemed necessary.

7.1.7 Authority to Deny Application

The Conservation Commission is empowered to deny permission for any activity that is likely to remove, dredge, fill or alter subject lands within the Town if, in its judgment, such denial is necessary for the protection of public or private water supply, groundwater, flood control, erosion control, storm damage prevention, or the prevention of pollution or the protection of fisheries or wildlife.

7.1.8 Authority to Impose Conditions

The Conservation Commission may, as an alternative to a denial, impose such conditions as it deems necessary to contribute to the protection and preservation of the subject lands in accordance with the purposes of this bylaw.

7.1.9 Authority to Require Posting of Bonds

The Conservation Commission may require the posting of a bond with surety, running to the municipality, and sufficient as to form and surety in the opinion of the Commission's Counsel, to secure faithful and satisfactory performance of work required by any Order of Conditions, in such sum and upon such conditions as the Conservation Commission may require. Other evidence of financial responsibility which is satisfactory to the Conservation Commission may be accepted in lieu of bonding.

Notwithstanding the above, the amount of such bond shall not exceed the estimated cost of the work required or the restoration of affected lands and properties if the work is not performed as required, whichever is greater. Forfeiture of any such bond or other security shall be recoverable at the suit of the municipality in Superior Court. Such bond or other security shall be released upon issuance of a Certificate of Compliance.

7.1.10 Emergency Projects

The notice required by Section 7.1.3 of this Bylaw shall not apply to emergency projects necessary for the protection of the health and safety of the citizens of Reading, and to be performed or ordered to be performed by an administrative agency of the Commonwealth or by the Town. Emergency projects shall mean any projects certified to be an emergency by the Conservation Commission. In no case shall any removal, filling, dredging or altering authorized by such certification extend beyond the time necessary to abate the emergency.

7.1.11 Mosquito Control Exempt

The provisions of this bylaw shall not apply to any mosquito control work done under the provisions of MGL Chapter 40 Section 5 Clause (36) or MGL Chapter 252.

7.1.12 Agricultural Work Exempt

The provisions of this bylaw shall not apply to work performed for normal maintenance or improvement of lands in agricultural use as of the effective date of this bylaw.

7.1.13 Appeal of Decisions

A decision of the Conservation Commission shall be reviewable in the Massachusetts Superior Court in accordance with MGL Chapter 249 Section 4.

7.1.14 Authority to Charge Fees to Hire Consultants

The Conservation Commission is authorized to require an applicant to pay a fee for the reasonable costs and expenses borne by the Conservation Commission for specific expert engineering, and other consultant services deemed necessary by the Conservation Commission to come to a final decision on an application for Determination of Applicability, Notice of Intent or other application or filing made pursuant to this bylaw. This fee is called the consultant fee and shall be in the maximum amount of Twenty-Five Thousand ($25,000) Dollars. The specific consultant services may include but are not limited to, resource area and wetlands survey and delineation, analysis of resource area and wetlands values, including wildlife habitat evaluations, hydrogeologic and drainage analysis, and environmental or land use law.

The Conservation Commission may require the payment of the consultant fee at any point in its deliberations prior to a final decision. If a revolving fund for the consultant expense fee is authorized by Town Meeting, or by any general or special law, the consultant fee shall be put into such revolving fund. The Commission may draw upon that fund for specific consultant services approved by the Commission at one of its public meetings. Any unused portion of the consultant fee shall be returned to the applicant unless the Conservation Commission decides at a public meeting that other action is necessary. Any applicant aggrieved by the imposition of, or size of, the consultant fee, or any act related thereto, may appeal according to the provisions of Massachusetts General Laws.

The minimum qualifications of any consultant selected by the Conservation Commission shall consist either of an education degree in or related to the field at issue or three or more years of practice in the field at issue or a related field.

7.1.15 Authority to Issue Enforcement Orders

The Conservation Commission may issue enforcement orders directing compliance with the provisions of this bylaw and the regulations adopted pursuant thereto, and may undertake any other enforcement action authorized by law. Any person who violates the provisions of this bylaw or the regulations adopted pursuant thereto may be ordered to restore the property to its original condition and take other actions deemed necessary to remedy such violations.

7.1.16 Violations

No person shall remove, fill, dredge or alter any area subject to protection under the provisions of this bylaw without the required authorization, or cause, suffer or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with an enforcement order issued pursuant to the provisions of this bylaw. Each day such violation continues shall constitute a separate offense except that any person who fails to remove unauthorized fill or otherwise fails to restore illegally altered land to its original condition after given written notification of said violation by the Conservation

Commission shall not be subject to additional penalties under this bylaw, unless said person thereafter fails to comply with an enforcement order or order of conditions.

7.1.17 Authority to Promulgate Rules

After due notice and public hearing, the Conservation Commission may promulgate rules and regulations to effectuate the administration of this bylaw. However, failure to promulgate rules and regulations as herein provided, or a legal declaration by a court of law of the invalidity of any section or provision of this bylaw, shall not invalidate any other section or provision thereof.

7.1.18 Enforcement

In addition to any other means of enforcement, the provisions of this bylaw and the regulations adopted pursuant thereto may be enforced by non-criminal disposition in accordance with the provisions of Section 1.8 of this bylaw, and MGL Chapter 40 Section 21D.

7.2 Historic Demolition Delay

7.2.1 Purpose

The purpose of this bylaw is to provide the Reading Historical Commission with a tool to assist the Commission in its efforts to preserve the Town's heritage and to protect historically significant structures within the Town, which reflect or constitute distinctive features of the architectural, cultural, economic, political or social history of the Town.

The purpose of this bylaw, even if it ultimately cannot prevent demolition, is to find a reasonable option to prevent complete demolition, and to provide owners of such structures with time to consider alternatives, by encouraging owners to seek out ways to preserve, rehabilitate, or restore such structures

To achieve these purposes, the Reading Historical Commission is empowered to create a List of Historic Structures, and to provide a copy of that List, as it may be updated from time to time, to the Building Inspector. With the Building Inspector, the Reading Historical Commission will implement the provisions of this bylaw with respect to the issuance of permits for demolition of structures that are included on the List of Historic Structures

7.2.2 Definitions

The following terms when used in this bylaw shall have the meanings set forth below.

7.2.2.1 Commission

Reading Historical Commission.

7.2.2.2 Demolition

Any act of pulling down, destroying, removing or razing a structure or commencing the work of total destruction with the intent of completing the same which work would require a Demolition Permit.

7.2.2.3 Demolition Application

An official application form provided by the Building Inspector for an application for a Demolition Permit.

7.2.2.4 Hearing
A public hearing conducted by the Commission after due public notice as provided in this bylaw.

7.2.2.5 Legal Representative
A person or persons legally authorized to represent the owner of a structure that is or is proposed to be subject to this bylaw.

7.2.2.6 List
The List of Historic Structures as it is constituted pursuant to this bylaw.

7.2.2.7 Owner
Current owner of record of a structure that is included in or proposed to be included in the List of Historic Structures.

7.2.2.8 Premises
The parcel of land upon which a demolished structure that appears on the List as defined in 7.2.2.6 was located and all adjoining parcels of land under common ownership or control.

7.2.2.9 Structure
Materials assembled at a fixed location to give support or shelter, such as a building.

7.2.3 Commission to Establish a List of Historic Structures
The Commission will provide a List of Historic Structures to the Building Inspector. This List shall be updated by the Commission from time to time as needed. The List shall also be provided on the Town's web site or other electronic means of publishing information to the community.

This List shall be made up of:
- all structures listed on, or located within an area listed on, the National Register of Historic Places, or the Massachusetts Historical Register of Historic Places ; and
- all structures included in the Town of Reading Historical and Architectural Inventory, as of September 1, 1995, maintained by the Commission; and
- all structures that were added in 2010 pursuant to the processes in existence at that time; and
- following the procedures included in Section 7.2.3.1 of this bylaw, all structures that have been determined from time to time by the Commission to be historically or architecturally significant.

7.2.3.1 Procedures for expanding the List
In considering additional structures to be included on the List, pursuant to section 7.2.3, the following process shall be followed:
- The Commission shall prepare, or cause to be prepared, an inventory form for each structure considered for addition to the List. The inventory form for each property shall be prepared using a standard form provided by the Massachusetts Historical Commission. The criteria to be used for consideration for inclusion on the List will include:
  - The structure is determined to be importantly associated with one or more historic persons or events, or
  - The structure is determined to be associated with the broad architectural, cultural, economic or social history of the Town or Commonwealth, or

- The structure is believed to be historically or architecturally significant in terms of:
  - Period,
  - Style,
  - Method of building construction,
  - Association with a significant architect, builder or resident either by itself or as part of a group of buildings;
- The Commission will inform by regular US mail each property owner whose structure is being considered for preparation of an inventory form
- The owner of each structure for which an inventory form has been prepared shall be sent a notice of a public hearing at least 30 days in advance of the hearing. The notice shall be sent by Certified Mail – return receipt requested – or by service by a Constable. The notice shall include the following information:
  - that the structure that they own is being considered for inclusion on the List,
  - a copy of the inventory form for the structure,
  - a statement as to the criteria considered in including additional structures on the List, and
  - a copy of this bylaw.

In addition to the notice of the hearing delivered to each owner, legal notice of the hearing including the street address of all structures proposed to be added to the List shall be published at the Commission's expense at least 14 days in advance of the hearing in a newspaper of general circulation in the community. Additionally, at least 7 days prior to the hearing a copy of the newspaper notice will be mailed by regular U.S. mail to all property owners within 300 feet of each property containing a structure to be considered for inclusion on the List.

At the hearing, the Commission will hear comment from all owners and abutters who wish to be heard, and following the close of the hearing the Commission will make a determination as to which of the structures proposed for inclusion on the List of Historic Structures shall be voted onto that List. The decision as to what properties to include shall be made by the Commission, with the inclusion of a property on the List requiring the affirmative vote of at least 4 members of the Commission. The vote shall be taken at a public meeting, and the vote may be made either the same day as the close of the hearing, or at a later meeting of the Commission. If at a later meeting, the Commission shall inform each owner either upon closing the hearing or by regular US mail at least 3 days in advance of a public meeting, of the date of the meeting at which the matter is to be further discussed. Nothing shall preclude the Commission from voting to add structures onto the List at different meetings.

7.2.3.2 Owner's Appeal of addition of a structure to the List

An owner, at the public hearing at which additions to the List are to be considered, may object to inclusion of their structure onto the List. At the hearing or such later date as agreed by the Commission, the owner shall submit information or documentation in support of their objection. The Commission may consider their objection at the hearing and/or subsequent public meetings, and the Commission shall not vote to include the structure in question onto the List until all information supplied by the owner can be fully

considered by the Commission. In considering whether to finally vote to include a structure on the List the Commission will consider the information provided by the owner, and particularly how the structure meets the criteria established in 7.2.3.1. In addition to those criteria, the Commission will consider the uniqueness of the structure, quality of the materials remaining on the outside of the structure, and financial or other hardship that might be created to the owner by inclusion of the structure onto the List. A structure whose owner objects may only be included on the List if a minimum of four (4) members of the Commission vote to do so.

7.2.4 Referral of Demolition Applications of structures on the List by the Building Inspector to the Commission

Upon the receipt of a completed Demolition Application for a structure on the List, the Building Inspector shall

- As soon as possible but not later than 30 days from the submission of a complete Demolition Application, notify the owner that the structure they want to demolish is on the List, and therefore subject to this bylaw.
- Provide the owner with a packet to apply to the Commission for demolition approval, along with a copy of the inventory of their structure, a copy of this bylaw, and a copy of any guidelines that the Commission has adopted regarding the demolition delay process.
- Inform the Chair of the Commission of a pending application under this bylaw.
- Obtain an abutters list, at the expense of the owner, of all properties within 300 feet.
- Upon receipt of a completed application for Commission demolition approval, determine the completeness of the application.
- Notify the Chair of the Commission who will provide the Building Inspector with alternative dates for a public hearing not sooner than 7 days nor more than 21 days from the determination that the application to the Commission is complete.
- Arrange for the publication of a legal notice of the hearing, at the owner's expense, in a newspaper of general circulation in the community including the street address of all structures proposed to be demolished. The notice shall be published not later than 14 days prior to the hearing.
- Arrange for a mailing not later than 7 days prior to the hearing, at the owner's expense, of a copy of the newspaper notice to all property owners within 300 feet of the property containing a structure to be considered for demolition.
- Immediately forward a copy of the application to each of the members of the Commission.

7.2.4.1 Completed Application

The Owner shall be responsible for submitting seven sets of the following information as a completed application prior to the scheduling of the public hearing:

- Completed application form (if any)
- Description of the structure to be demolished (the inventory is an acceptable document for this purpose);
- A demolition plan;
- Assessor's map or plot plan showing the location of the structure to be demolished on its property with reference to the neighboring properties;
- Photographs of all facade elevations;
- Statement of reasons for the proposed demolition and data supporting said reasons;

- Description of the proposed reuse of the premises on which the structure to be demolished is located;
- If applicable, the name and contact information of the Legal Representative.

7.2.5 Public Hearing

The Commission will hold a hearing to allow all interested parties to voice their opinions and to present pertinent information concerning the structure, as well as its value and importance to the neighborhood and the Town. The Owner or the Legal Representative will present the requested demolition plan and supporting documentation. The public may present their opinions and additional relevant information. After the presentation and the public comments, the Commission will make one of two decisions:

- The presented information is insufficient for the Commission to make a final determination on requested demolition of the Structure. Therefore, the Commission may continue the hearing. A continued hearing shall be not later than 21 days from the initial hearing and the hearing shall be closed within 30 days of the initial hearing.
- The presented information is sufficient to make a final determination on the requested demolition of the Structure. Therefore, the Commission shall close the hearing.

7.2.6 Determination of whether the Demolition Delay is imposed

Once the Hearing is closed, a motion shall be made to determine if the loss of the structure would be detrimental to the Town when considering the purpose of this bylaw as detailed in section 7.2.1:

- An affirmative vote by 4 members of the Commission will declare that the structure is protected by this Bylaw, and therefore, a demolition delay of up to six (6) months is imposed beginning the date of the vote.
- A negative vote by the Commission (affirmative vote of less than 4 members of the Commission) will declare that the structure is not protected by this Bylaw, and the Building Inspector may issue a permit to demolish the structure.

The Commission will notify the Building Inspector within seven (7) days of the Commission's decision. If the notice is not received within the expiration of seven (7) days of the close of the hearing, the Building Inspector may act on the Demolition Permit Application with no further restrictions of this bylaw.

7.2.6.1 Demolition Delay imposed

The Commission shall advise the Owner and the Building Inspector of the determination that the Demolition Permit will be delayed up to six (6) months. During this time, alternatives to demolition shall be considered. The Commission shall offer to the Owner information about options other than demolition, including but not limited to resources in the preservation field, the Massachusetts Historical Commission, the Town Planner, and other interested parties that might provide assistance in preservation or adaptive reuse.

7.2.6.2 Responsibilities of Owner if Demolition Delay is imposed

The Owner shall be responsible for participating in the investigation of options to demolition by:

- Actively pursuing alternatives with the Commission and any interested parties;
- Providing any necessary information;
- Allowing reasonable access to the property; and
- Securing the premises.

7.2.6.3 Release of Delay

Notwithstanding the preceding section of this bylaw, the Building Inspector may issue a Demolition Permit at any time after receipt of written notice from the Commission to the effect that the Commission is satisfied that one of the following conditions has been met:

- There is no reasonable likelihood that either the Owner or some other person or group is willing to purchase, preserve, rehabilitate or restore the structure;
- The Owner, during the delay period, has made continuing, bona fide and reasonable efforts to locate a purchaser to preserve, rehabilitate or restore the structure, and that such efforts have been unsuccessful;
- The Owner has agreed in writing to accept a demolition permit on specified conditions, including mitigation measures approved by the Commission. Such mitigation could include a demolition of only a portion of the structure; or
- A period of six (6) months has elapsed since the conclusion of the Hearing referenced in section 7.2.5.

7.2.6.4 Appeal of the imposition of Demolition Delay

The owner of a structure for which the Commission has imposed a demolition delay may appeal from the imposition of the delay, and/or conditions of the imposition of the delay, by filing the Select Board a written notice of appeal within fourteen (14) days of the date of the decision of the Commission to impose the Demolition Delay. The filing of an appeal will stay the start of the 6 months imposed under Section 7.2.6.1 of this bylaw until the day following the final rendering of a decision by the Select Board on the adjudication of the appeal.

Within twenty-one (21) days of receipt of the notice of appeal, the Select Board shall convene an appeal hearing. Notice of the hearing shall be sent to the Chair of the Historical Commission and to the owner or the owner's Legal Representative, for the purpose of adjudicating the appeal. The Select Board at the hearing shall review the record of the proceedings before the Commission and input provided by the owner and by Commission representatives.

Notice of the hearing shall be given to the owner, to the Commission, and to abutters within 300 feet of the property.

Within fourteen (14) days of the conclusion of the hearing, the Select Board will render a decision on the appeal. The decision shall be based on the record of the Commission's hearing at which the Demolitions Delay was imposed; information provided by the owner or the Commission at the Select Board hearing; consideration of the purpose of the bylaw as stated in section 7.2.1; how the structure meets the criteria established in 7.2.3.1.; the uniqueness of the structure; quality of the materials remaining on the outside of the structure; and financial or other hardship that might be created to the owner.

7.2.7 Emergency Demolition

Nothing in this Section shall be construed to prevent the Building Inspector from ordering pursuant to MGL Chapter 143 the emergency demolition of a structure included in the List of Historic Structures. Before issuing an order for an emergency

demolition of such a structure, the Building Inspector shall make reasonable efforts to inform the Chair of the Commission that such order will issue.

7.2.8 Enforcement and Remedies

In the event a structure on the List of Historic Structures is demolished in violation of this bylaw, then no building permit shall be issued for the premises for a period of two (2) years after the date of such demolition.

7.3 Local Historic District

The Town of Reading hereby establishes a Local Historic District, to be administered by a Historic District Commission as provided for under MGL Chapter 40C Section1, et sequens, as amended.

7.3.1 Purpose

The purpose of this bylaw is to promote the economic, educational, cultural and general welfare of the inhabitants of the Town of Reading through:

- the preservation and protection of the distinctive characteristics and architecture of Buildings and places significant in the history of the Town of Reading;
- maintaining and improving of the settings of these Buildings and places; and
- the encouragement of building design compatible with the Buildings existing in the area, so as to maintain the historic character of residences or commercial enterprises which distinguish the town as a desirable community.

7.3.2 Definitions

The terms defined in this section shall be capitalized throughout this bylaw. Where a defined term has not been capitalized, it is intended that the meaning of the term be the same as the meaning ascribed to it in this section unless another meaning is clearly intended by its context. As used in this bylaw, the following terms shall have the following meaning:

7.3.2.1 Alteration, to Alter

The act or the fact of rebuilding, reconstruction, restoration, replication, removal, demolition, and other similar activities.

7.3.2.2 Building

A combination of materials forming a shelter for persons, animals or property.

7.3.2.3 Certificate

A Certificate of Appropriateness, a Certificate of Non-Applicability, or a Certificate of Hardship as set forth in this bylaw.

7.3.2.4 Commission

The Historic District Commission as established in this bylaw.

7.3.2.5 Construction, to Construct

The act or the fact of building, erecting, installing, enlarging, moving and other similar activities.

7.3.2.6 Display Area

The total surface area of a sign, including all lettering, wording, designs, symbols, background and frame, but not including any support Structure or bracing incidental to the sign. The Display Area of an individual letter sign or irregular shaped sign shall be the area of the smallest rectangle into which the letters or shape will fit. Where sign faces are placed back to back and face

in opposite directions, the Display Area shall be defined as the area of one face of the sign.

7.3.2.7 District
The Local Historic District as established in this bylaw consisting of one or more District areas.

7.3.2.8 Exterior Architectural Feature
Such portion of the exterior of a Building or structure as is open to view from a Public Way or ways, including but not limited to architectural style and general arrangement and setting thereof, the kind and texture of exterior building materials, and the type and style of windows, doors, lights, signs and other appurtenant exterior fixtures.

7.3.2.9 Person Aggrieved
The applicant; an owner of adjoining property; an owner of property within the same District area; an owner of property within one hundred (100) feet of said District area; and any legal entity in which one of its purposes is the preservation of Historic Places, Structures, Buildings or Districts.

7.3.2.10 Public Way
This term shall include Public Ways, public streets, public parks, and public bodies of water. The term "Public Way", however, shall not include a footpath, cart path or any easement or right of way that does not constitute a Public Way or public street.

7.3.2.11 Structure
A combination of materials other than a Building.

7.3.2.12 Temporary Structure or Building
A Building not to be in existence for a period of more than two years. A Structure not to be in existence for a period of more than one year. The Commission may further limit the time periods set forth herein as it deems appropriate.

7.3.3 District
The District shall consist of two areas as shown in Appendix A-1 and Appendix A-2.

7.3.4 Commission Composition and Appointments

7.3.4.1 Size and Terms
The District shall be overseen by a Commission consisting of five (5) members, to be appointed by the Select Board, one member initially to be appointed for one year, two for two years, and two for three years, and each successive appointment to be made for three years.

7.3.4.2 Commission Make-up
The Commission shall include, if possible, one member from one or more nominees solicited from the Reading Antiquarian Society, one member from one or more nominees solicited from the chapter of the American Institute of Architects covering Reading; one member from one or more nominees from the Board of Realtors covering Reading; one or two owners of property located within a District area; one member nominated by the Reading Historical Commission. If, within thirty (30) days after submission of a written request for nominees to any of the organizations herein named, insufficient

nominations have been made, the Select Board may proceed to make appointments as it desires.

7.3.4.3 Alternates

The Select Board may appoint up to four alternate members to the Commission. In the case of the absence, inability to act or unwillingness to act because of self-interest on the part of a regular member of the Commission, that member's place shall be taken by an alternate member designated by the Chair Said alternate members shall initially be appointed for terms of one or two years, and for three year terms thereafter.

7.3.4.4 Continuation of Terms

Each member and alternate member shall continue to serve in office after the expiration date of his or her term until a successor is duly appointed.

7.3.4.5 Meetings

Meetings of the Commission shall be held at the call of the Chair, at the request of two members and in such other manner as the Commission shall determine in its Rules and Regulations.

7.3.4.6 Quorum

Three members of the Commission shall constitute a quorum.

7.3.5 Commission Powers and Duties

7.3.5.1 Exercise of Powers

The Commission shall exercise its powers in administering and regulating the Construction and Alteration of any Structures or Buildings within the District as set forth under the procedures and criteria established in this bylaw. In exercising its powers and duties hereunder, the Commission shall pay due regard to the distinctive characteristics of each Building, Structure, and District area.

7.3.5.2 Adoption of Rules and Regulations

The Commission may adopt, and from time to time amend, reasonable Rules and Regulations not inconsistent with the provisions of this bylaw or MGL Chapter 40C setting forth such forms and procedures as it deems desirable and necessary for the regulation of its affairs and conduct of its business, including requirements for the contents and forms of applications for Certificates, fees, hearing procedures and other matters. The Commission shall file a copy of any rules and regulations with the office of the Town Clerk.

7.3.5.3 Adoption of Guidelines

The Commission, after a public hearing duly posted and advertised at least fourteen (14) days in advance in a conspicuous place in Town Hall and in a newspaper of general circulation in Reading, shall adopt and from time to time amend guidelines which set forth the designs and descriptions for certain exterior architectural features which are, in general, suitable for the issuance of a Certificate. No such design guidelines shall limit the right of an applicant for a Certificate to present other designs to the Commission for approval.

7.3.5.4 Election of Officers

The Commission shall at the beginning of each fiscal year hold an organizational meeting and elect a Chair, a Vice Chair and Secretary, and file notice of such election with the office of the Town Clerk.

7.3.5.5 Record Keeping

The Commission shall follow Town operating procedures for keeping its resolutions, transactions, decisions and determinations.

7.3.5.6 Community Education

The Commission shall undertake educational efforts to explain to the public and property owners the merits and functions of a District, to the extent that time and appropriations allow.

7.3.6 Alterations and Construction Prohibited Without a Certificate

7.3.6.1 Certificate Required for Improvements

Except as this bylaw provides, no Building or Structure or part thereof within a District shall be Constructed or Altered in any way that affects the Exterior Architectural Features as visible from a Public Way, unless the Commission shall first have issued a Certificate with respect to such Construction or Alteration.

7.3.6.2 No Alteration or Demolition without Certificate

No building permit for Construction of a Building or Structure or for Alteration of an Exterior Architectural Feature within a District and no demolition permit for removal of a Building or Structure within a District shall be issued by the Town or any department thereof until a Certificate as required under this bylaw has been issued by the Commission.

7.3.7 Procedures for Review of Applications

7.3.7.1 Application to Obtain a Certificate

Any person who desires to obtain a Certificate from the Commission shall file with the Commission an application for a Certificate of Appropriateness, or Non-Applicability or of Hardship, as the case may be. The application shall be accompanied by such plans, elevations, specifications, material and other information, including in the case of demolition or removal, a statement of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the Commission to enable it to make a determination on the application. The Commission shall determine whether said application involves any Exterior Architectural Features which are within the jurisdiction of the Commission.

7.3.7.2 Time to Determine if Certificate Required

The Commission shall determine within fourteen (14) days of receiving an application for a Certificate whether said application involves any Exterior Architectural Features which are within the jurisdiction of the Commission.

7.3.7.3 Certificate of Non-applicability

If the Commission determines that an application for a Certificate does not involve any Exterior Architectural Features, or involves an Exterior Architectural Feature that is not subject to review by the Commission under the provisions of this bylaw, the Commission shall forthwith issue a Certificate of Non-Applicability.

7.3.7.4 Public Hearing on Application

If the Commission determines that such application involves any Exterior Architectural Feature subject to review under this bylaw, it shall hold a public

hearing on the application, except as may otherwise be provided in the bylaw. The Commission shall hold such a public hearing within forty-five (45) days from the date of receiving the application. At least fourteen (14) days before said hearing, notice shall be given by posting in a conspicuous place in Town Hall and in a newspaper of general circulation in Reading. Concurrently, a copy of said public notice shall be mailed to the applicant; to the owners of all properties within three hundred 300 feet, and of other properties deemed by the Commission to be materially affected thereby, all as they appear on the most recent applicable tax list; to the Community Planning and Development Commission; to the Historical Commission; to any person filing a written request for notice of hearings, such request to be renewed yearly in December; and to such other persons as the Commission shall deem entitled to notice. The applicant is responsible for the costs of the mailing and advertising.

7.3.7.5 Waiver of Hearing

A public hearing on an application for a Certificate may be waived if the Commission determines that the Exterior Architectural Feature involved, or its category, is so insubstantial in its effect on the District that it may be reviewed by the Commission without a public hearing. If the Commission dispenses with a public hearing on application for a Certificate notice of such application shall be given to the owners of all property within three hundred 300 feet and of other property deemed by the Commission to be materially affected thereby as above provided, and ten (10) days shall elapse after the mailing of such notice before the Commission may act upon such application and after considering any responses.

7.3.7.6 Time to Act on Application for Certificate

Within sixty (60) days after the filing of an application for a Certificate, or within such further time as the applicant may allow in writing, the Commission shall issue a Certificate or disapproval. In the case of a disapproval of an application for a Certificate, the Commission shall set forth in writing the reasons for such disapproval. The Commission may include in its disapproval specific recommendations for changes in the applicant's proposal with respect to the appropriateness of design, arrangement, texture, material and similar features which, if made and filed with the Commission in a subsequent application would make the application acceptable to the Commission.

7.3.7.7 Conditions on Certificates

In issuing Certificates, the Commission may, as it deems appropriate, impose certain conditions and limitations, and may require architectural or plan modifications consistent with the intent and purpose of this bylaw and the Commission's Guidelines.

7.3.7.8 Issuance of Certificate of Appropriateness

If the Commission determines that the Construction or Alteration for which an application for a Certificate of Appropriateness has been filed will be appropriate for or compatible with the preservation or protection of the District, the Commission shall issue a Certificate of Appropriateness.

7.3.7.9 Certificate of Hardship

If the Construction or Alteration for which an application for a Certificate of Appropriateness has been filed shall be determined to be inappropriate and

therefore disapproved, or in the event of an application for a Certificate of Hardship, the Commission shall determine whether, owing to the conditions especially affecting the Building or Structure involved, but not affecting the District generally, failure to approve an application will involve a substantial hardship, financial or otherwise, to the applicant and whether such application may be approved without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of this bylaw. If the Commission determines that owing to such conditions failure to approve an application will involve substantial hardship to the applicant and approval thereof may be made without such substantial detriment or derogation, the Commission shall issue a Certificate of Hardship.

7.3.7.10 Filing of Decisions

The Commission shall send a copy of its disapprovals and Certificates, including any conditions or limitations, to the applicant and shall file a copy of its disapprovals and Certificates, including any conditions or limitations, with the office of the Town Clerk and the Building Inspector. The date of issuance of a Certificate or disapproval shall be the date of the filing of a copy of such Certificate or disapproval with the office of the Town Clerk.

7.3.7.11 Failure to Act

If the Commission should fail to issue a Certificate or a disapproval within sixty (60) days of the filing of the application for a Certificate, or within such further time as the applicant may allow in writing, the Commission shall thereupon issue a Certificate of Hardship due to failure to act.

7.3.7.12 Signing of Certificates

Each Certificate issued by the Commission shall be dated and signed by its Chair or such other person designated by the Commission to sign such Certificates on its behalf.

7.3.7.13 Appeal for Review of Decisions

A Person Aggrieved by a determination of the Commission may, within twenty (20) days of the issuance of a Certificate or disapproval, file a written request with the Commission for a review by a person or persons of competence and experience in such matters, acting as arbitrator and designated by the Metropolitan Area Planning Commission (MAPC). The finding of the person or persons making such review shall be filed with the Town Clerk within forty-five (45) days after the request, and shall be binding on the applicant and the Commission, unless a further appeal is sought in the Superior Court as provided in MGL Chapter 40C Section 12A. The filing of such further appeal shall occur within twenty (20) days after the finding of the arbitrator has been filed with the office of the Town Clerk.

7.3.8 Criteria for Determinations

7.3.8.1 Criteria

In deliberating on applications for Certificates, the Commission shall consider, among other things, the historic and architectural value and significance of the site, Building or Structure; the general design, proportions, detailing, mass, arrangement, texture, and material of the Exterior Architectural Features involved; and the relation of such Exterior Architectural Features to similar features of Buildings and Structure in the surrounding area.

7.3.8.2 Appropriateness of New Construction and Additions

In the case of new Construction or additions to existing Buildings or Structures, the Commission shall consider the appropriateness of the scale, shape, sitting and proportions of the Building or Structure both in relation to the land area upon which the Building or Structure is situated and in relation to Buildings and Structures in the vicinity. The Commission may in appropriate cases impose dimensional and setback requirements in addition to those required by applicable statute or bylaw.

7.3.8.3 Interior Arrangements Exempt

The Commission shall not consider interior arrangement or architectural features not subject to view from a Public Way.

7.3.8.4 Uses Exempt

The Commission shall not consider uses for the Building or Structure.

7.3.8.5 Solar Energy Encouraged

When ruling on applications for Certificates on solar energy systems as defined in MGL Chapter 40A Section 1A, the Commission shall consider the policy of the Commonwealth of Massachusetts to encourage the use of solar energy systems and to protect solar access.

7.3.9 Exclusions

7.3.9.1 Exclusions

The Commission shall exclude from its purview the following:

- Temporary Buildings, Structures, or signs, subject, however, to conditions pertaining to the duration of existence and use, location, lighting, removal and similar matters as the Commission may reasonably specify.
- Terraces, walks, driveways, sidewalks and similar Structures, provided that any such Structure is substantially at grade level.
- Storm windows and doors, screen windows and doors, shutters, and window and wall air conditioners.
- The color of exterior paint or the color of materials used on roofs.
- Flagpoles, sculpture, mailboxes (freestanding or attached), window boxes, gutters and leaders, house numbers, and garden furniture.
- Buildings that are less than seventy (70) years old are exempt from review of Alterations and additions, unless the Alterations affect more than twenty-five (25%) percent of any façade visible from a Public Way or unless any addition visible from a Public Way increase such Buildings by more than twenty-five (25%) percent.
- The reconstruction, substantially similar in exterior design, of a Building, Structure, or Exterior Architectural Feature damaged or destroyed by fire, storm or other disaster, provided such reconstruction is begun within two (2) years thereafter and carried forward with due diligence.

7.3.9.2 Not Subject to Review

Upon request, the Commission shall issue a Certificate of Non-Applicability with respect to Construction or Alteration in any category not subject to review by the Commission in accordance with the above provisions.

7.3.9.3 Maintenance

Nothing in this bylaw shall be construed to prevent the ordinary maintenance, repair or replacement of any Exterior Architectural Feature within a District

which does not involve a change in design, material or the outward appearance thereof, nor to prevent landscaping with plants, trees or shrubs, nor construed to prevent the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition, nor construed to prevent any Construction or Alteration under a permit duly issued prior to the effective date of this bylaw.

7.3.10 Categorical Approval

Additional Exclusions: Certain categories of Exterior Architectural Features may be Constructed or Altered without review by the Commission, provided such Construction or Alteration do not substantially derogate the intent and purposes of the District and of MGL Chapter 40C. The Commission may, upon conducting a public hearing, exclude from its purview Exterior Architectural Features, in addition to those listed in Section 7.3.9.1, which it determines do not significantly impact the purpose of the District.

7.3.11 Enforcement

7.3.11.1 Enforcement

In addition to any other means of enforcement, the provisions of this bylaw and the regulations adopted pursuant thereto may be enforced by non-criminal disposition in accordance with the provisions of Section 1.8 of this bylaw, and MGL Chapter 40 Section 21D.

7.3.11.2 Building Inspector Authorized to Enforce

The Commission may designate the Building Inspector to pursue non-criminal disposition under MGL Chapter. 40 Section 21D, under the direction of the Commission.

7.3.11.3 Investigation of Complaints

The Commission, upon a written complaint of any resident of Reading, or owner of property within Reading, or upon its own initiative, shall institute any appropriate action or proceedings in the name of the Town of Reading to prevent, correct, restrain or abate a violation of this bylaw. In the case where the Commission is requested in writing to enforce this bylaw against any person allegedly in violation of same and the Commission declines to act, the Commission shall notify, in writing, the party requesting such enforcement of any action or refusal to act and the reasons therefore, within twenty-one (21) days of receipt of such request.

7.4 Regulation of Certain Motor Vehicles

7.4.1 Unregistered, Uninspected, Disassembled Motor Vehicles Prohibited

No unregistered, uninspected or disassembled motor vehicle may be kept on any property within view from any public way, private way or abutting property, unless one of the following exceptions applies and such use or exception is otherwise in compliance with the General and Zoning Bylaw of the Town.

7.4.1.1 Exceptions - Farm Vehicles

The vehicle is regularly operated on the premises as a farm or other utility vehicle.

7.4.1.2 Exceptions - Dealers

The owner is licensed as a dealer of new cars, used cars or used parts under MGL Chapter 140 Section 58, and is licensed to operate such a business at that location.

7.4.1.3 Exceptions - Auto Body Repair

The owner is in the business of auto body repair at that location.

7.4.1.4 Exceptions - Personal Property

The vehicle is insured personal property regularly used in show or operating competitions or displayed as a collectible. Only one such vehicle shall be allowed per property.

7.4.1.5 Exceptions - Qualifies for Inspection and Registration

The vehicle is a fully assembled operable vehicle which would qualify for inspection and registration.

7.4.2 Enforcement

7.4.2.1 Violation Notice

Any vehicle(s) maintained on property in violation of this bylaw thirty (30) days after issuance of notice of such violation from the Building Inspector or Police Department shall be in violation of this bylaw.

7.4.2.2 Non-Criminal Disposition

In addition to any other means of enforcement, the provisions of this bylaw and the regulations adopted pursuant thereto may be enforced by non-criminal disposition in accordance with the provisions of Section 1.8 of this bylaw, and MGL Chapter 40 Section 21D.

7.5 Wells

7.5.1 Well Safety

The owner or owners of land whereon is located a well in use shall either fill the well under a permit received from the Board of Health, or provide a covering for such well capable of sustaining weight of three hundred (300) pounds. Whoever violates this section shall pay for each offense a penalty of not less than One Hundred ($100) Dollars nor more than Five Hundred ($500) Dollars.

7.5.2 Enforcement

In addition to any other means of enforcement, the provisions of this bylaw and the regulations adopted pursuant thereto may be enforced by non-criminal disposition in accordance with the provisions of Section 1.8 of this bylaw, and MGL Chapter 40 Section 21D.

7.6 Licenses

7.6.1 General Provisions

Any license issued subject to this bylaw shall issue on January 1 (or thereafter) of each year and shall expire on the next succeeding December 31 and may be revoked or suspended at any time by the Select Board for any violation of this bylaw or any rules, orders or regulation from time to time adopted by the Select Board.

7.6.2 Transport

7.6.2.1 License Required

No person shall engage in the business of transporting for hire, goods, wares, furniture or rubbish as specified in Section 7.6.2.2 of this bylaw without first obtaining a license or licenses therefore as set forth below.

7.6.2.2 All Vehicles to be Licensed

The Select Board may license suitable persons to use vehicles for the transporting for hire of goods, wares, furniture or rubbish within the Town. All persons engaging in such transportation for hire within the Town shall take out such number of licenses as will equal the greatest number of such vehicles to be used at any one time by said person during the year for which the license is issued. Such license shall expire on December 31 of each year and may be revoked at the pleasure of the Selectmen.

7.6.2.3 Information to be Placed on Vehicles

All persons licensed under the provisions of this bylaw shall print their name and license number in plain legible words and figures in a conspicuous place on the outside of each vehicle used in exercising said license.

7.6.3 Junk

7.6.3.1 License Required

No person shall use any building, enclosure or other structure for the storage, sale or keeping of rags, waste paper stock or other inflammable material without a license therefore from the Select Board.

7.6.3.2 Dealers in Junk, Old Metals, Second Hand Articles

The Select Board may license suitable persons, upon such terms and conditions as the Board shall determine, to be dealers in and keepers of shops for the purchase, sale or barter of junk, old metals and second-hand articles, and no person shall be such a dealer or keeper without such a license.

7.6.3.3 Junk Collectors

The Select Board may also license suitable persons as junk collectors, to collect by purchase or otherwise, junk, old metals and second-hand articles from place to place within the Town, and no person shall engage in such business without such a license.

7.6.3.4 Enforcement

In addition to any other means of enforcement, the provisions of this bylaw and the regulations adopted pursuant thereto may be enforced by non-criminal disposition in accordance with the provisions of Section 1.8 of this bylaw, and MGL Chapter 40 Section 21D.

7.7 Retail Sales

7.7.1 Hours of Operation

No retail, commercial operation or place of business shall be open for the transaction of retail business between the hours of 12:01 AM and 6:00 AM.

7.7.2 Exceptions

This bylaw shall not apply to the retail or commercial operation of facilities operated by innholders and/or common victualers and/or taverns where a license has been

duly issued for the operation of the same which otherwise restricts or describes the hours of operation of such facilities. This bylaw shall not prevent a cinema from concluding the showing of a movie that has commenced prior to 12:01 AM.

7.7.3 Innholders

For the purposes of this bylaw, facilities operated by innholders shall include, but not be limited to: an inn, hotel, motel, lodging house and public lodging house or any other similar establishment for which a license is required under MGL Chapter 140; the term facilities operated by a common victualer shall include a restaurant and any other similar establishment which provides food at retail for strangers and travelers for which a common victualer's license is required under said Chapter; and the term "tavern" shall include an establishment where alcoholic beverages may be sold with or without food in accordance with the provisions of MGL Chapter 138.

7.7.4 License to Permit Operation between Midnight and 6:00 AM

If the Select Board determine that it is in the interest of public health, safety and welfare, or that public necessity or convenience would be served, the Select Board may grant, upon such terms and conditions as it deems appropriate, a license under this bylaw to permit the operation of a retail or commercial establishment between the hours of 12:01 AM and 6:00 AM or any portion thereof. However, a license shall not be issued unless the Select Board has made the following specific findings with respect to each license application:

7.7.4.1 Reasons for Night-time Operation

That the operation of the retail or commercial establishment during the night-time hours will not cause unreasonable disruption or disturbance to, or otherwise adversely affect, the customary character of any adjacent or nearby residential neighborhood;

7.7.4.2 Findings for Approval of Night-time Operation

That operation of the retail or commercial establishment during the night-time hours is reasonably necessary to serve the public health, safety and welfare; or serve a public need or provide a public convenience which outweighs any increase in any of the following impacts on the adjacent or nearby residential neighborhood (or the character thereof): noise, lighting, vibration, traffic congestion or volume of pedestrian or vehicular retail customer traffic that might create a risk to pedestrian or vehicular safety, or other adverse public safety impact.

The Select Board may adopt rules and regulations to govern the administration of the licensing process and in so doing may impose such terms and conditions upon such license as it may consider appropriate.

7.7.5 Hearing for Initial Approval

The Select Board shall give public notice of the initial request whereby a retail or commercial operation or place of business seeks to be open for the transaction of retail business between the hours of 12:01 AM and 6:00 AM or any portion thereof and shall hold a public hearing on the initial request within thirty (30) days of receipt of any such request. The Board may determine annually whether a public hearing will be required on an application to renew the annual approval of a business to be open between the hours of 12:01 AM and 6:00 AM.

7.7.6 Enforcement

In addition to any other means of enforcement, the provisions of this bylaw and the regulations adopted pursuant thereto may be enforced by non-criminal disposition in accordance with the provisions of Section 1.8 of this bylaw, and MGL Chapter 40 Section 21D.

7.8 Outdoor Loudspeakers and Public Address Systems

No commercial establishment shall install or operate any outdoor loudspeaker or public address system on its premises except for the sole purpose of direct communication with a customer to assist that customer or to conduct a specific business transaction at the commercial establishment, as for example at a drive-up window of a fast food or banking establishment, or at self-service gasoline pumps. Any such loudspeaker or public address system shall be operated only during the regular business hours of the establishment. The owner of the establishment shall at all times ensure that the volume of sound produced outdoors by such loudspeaker or public address system shall be such as not to be audible from any portion of a public way or residential property.

7.9 Stormwater Management and Erosion Control

7.9.1 Purpose

The harmful impacts of soil erosion and sedimentation include impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and overloading or clogging of municipal catch basins and storm drainage systems. Stormwater runoff from developed land uses can have these harmful impacts; it can also increase flooding and decrease groundwater recharge. The purpose of Section 7.9 is to provide for the health, safety and welfare of the citizens of the Town of Reading through the regulation of stormwater runoff from land disturbance and developed and redeveloped land uses.

The provisions of Section 7.9 shall be administered so as to:

- Require practices that reduce soil erosion and sedimentation, and control the volume and rate of stormwater runoff, resulting from land disturbance activities and developed land uses;
- Promote infiltration and the recharge of groundwater;
- Ensure that adequate soil erosion and sedimentation control measures and stormwater runoff control practices are incorporated into the site planning and design process and are implemented and maintained;
- Require practices to control waste associated with construction activities, such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary wastes;
- Ensure adequate long-term operation and maintenance of stormwater management structures;
- Comply with the requirements of the Town of Reading's National Pollutant Discharge Elimination System (NPDES) permit for discharges from the municipal storm drain system; and
- Ensure compliance through inspection, monitoring, and enforcement.

7.9.2 Definitions

Unless the context clearly indicates otherwise, the following words and terms, as used in Section 7.9, shall have the following meanings:

7.9.2.1 Applicant

Any person requesting a Stormwater Permit.

7.9.2.2 Best Management Practice (BMP)
An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

7.9.2.3 Common Plan of Development or Sale
Any plan reflected in an announcement, documentation or physical demarcation indicating that multiple distinct construction activities are or may be undertaken on a Site or on contiguous Sites, either simultaneously or at different times or on different schedules, that are shown under one (1) plan. For example, if a developer buys a 20-acre lot and builds roads, installs pipes, and runs electricity with the intention of constructing homes or other structures sometimes in the future, this would be considered a larger common plan of development or sale. If the land is parceled off or sold, and construction occurs on plots that are less than one acre by separate, independent builders, this activity still would be subject to stormwater permitting requirements if the smaller plots were included on the original site plan.

7.9.2.4 Construction and Waste Materials
Excess or discarded building or site materials at a construction site, including concrete truck washout, chemicals, litter and sanitary waste, that may adversely impact water quality.

7.9.2.5 Critical Area
Any of the following: An Outstanding Resource Water or Special Resource Water as designated in 314 CMR 4.00, a recharge area for a public water supply as defined in 310 CMR 22.02 (a Zone I, Zone II, or Interim Wellhead Protection Area for a groundwater source or a Zone A for a surface water source), a bathing beach as defined in 105 CMR 445.000, or a cold-water fishery as defined in 310 CMR 10.04.

7.9.2.6 Erosion
The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

7.9.2.7 Erosion and Sedimentation Control Plan
A document prepared by a qualified professional engineer or a Certified Professional in Erosion and Sedimentation Control, that specifies best management practices designed to control surface runoff, erosion and sedimentation during land-disturbing activities prior to or during construction.

7.9.2.8 Grading
Changing the level or shape of the ground surface.

7.9.2.9 Impervious Surface
Any artificial material or structure on or above the ground that prevents water from infiltrating the underlying soil. Impervious Surfaces may include roads, paved parking lots, sidewalks, and rooftops.

7.9.2.10 Impaired Water
A water is impaired if it does not meet one or more of its designated use(s). For purposes of this Bylaw, Impaired Waters are those classified as categories 4 and 5 of the five-part categorization approach used for classifying the water

quality standards attainment status for water segments under the U.S. EPA Total Maximum Daily Load (TMDL) program. This classification is done by the Massachusetts Department of Environmental Protection in its "Integrated List of Waters," pursuant to Clean Water Act Section 303(d) (33 USC Section 1313(d)) and 40 CFR Section 130.7(b)(4).

7.9.2.11 Land-Disturbing Activity (or Disturbance of Land)
Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.

7.9.2.12 Low Impact Development (LID)
Systems and practices that use or mimic natural processes resulting in the infiltration, evapotranspiration or use of stormwater. LID includes, but is not limited to, the following:

Site Design: Environmentally sensitive site design approaches such as minimizing impervious surfaces, fitting the development to the terrain, preserving and capitalizing on natural drainage systems, and reproducing pre-development hydrologic conditions; and

Systems: Stormwater management systems modeled after natural hydrologic features to manage rainfall at the source using decentralized micro-scale controls, such as bioretention facilities, rain gardens, vegetated rooftops, rain barrels, and permeable pavements.

7.9.2.13 Massachusetts Stormwater Management Standards
The Stormwater Management Standards issued by the Massachusetts Department of Environmental Protection, aimed at encouraging recharge and preventing stormwater discharges from causing or contributing to the pollution of the surface waters or groundwater of the Commonwealth.

7.9.2.14 Municipal Storm Drain System (or Storm Drain System)
The system of conveyances owned by the Town (including roads, catch basins, curbs, gutters, ditches, constructed channels, pipes, and outfalls) by which stormwater is collected or conveyed.

7.9.2.15 New Development
Any construction activities or land alteration that disturbs one or more acres of land, on an area that does not contain Impervious Surfaces.

7.9.2.16 Operation and Maintenance Plan (O&M Plan)
A plan establishing the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system.

7.9.2.17 Owner
A Person with a legal or equitable interest in property.

7.9.2.18 Pollutant
Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, and agricultural waste, and any other material that may cause or contribute to exceedance of

water quality standards in the waters to which the Storm Drain System discharges.

7.9.2.19 Redevelopment
Any construction, land alteration or improvement of Impervious Surfaces that disturbs one or more acres of land, on an area that already contains Impervious Surfaces.

7.9.2.20 Runoff
Rainfall, snowmelt, or irrigation water flowing over the ground surface.

7.9.2.21 Sediment
Mineral or organic soil material that is transported, by wind or water, from its origin to another location.

7.9.2.22 Sedimentation
The process or act of deposition of sediment.

7.9.2.23 Site
Any parcel of land or area of property where land-disturbing activities are, were, or will be performed.

7.9.2.24 Soil
Any earth, sand, loam, clay, rock, gravel, or similar material.

7.9.2.25 Stabilization
The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent, reduce or slow erosion.

7.9.2.26 Stormwater
Any surface flow, runoff or drainage resulting entirely from any form of natural precipitation.

7.9.2.27 Stormwater Management Plan
A document containing sufficient information for the Community Planning and Development Commission (CPDC) to evaluate the environmental impact, effectiveness and acceptability of the measures proposed by the applicant for reducing adverse post-construction impacts from stormwater, including controlling stormwater runoff and promoting infiltration.

7.9.3 Responsibility for Administration
The CPDC shall administer, implement and enforce Section 7.9, with assistance from the Building Inspector, except as provided in Section 7.9.3.3 for projects within the jurisdiction of the Conservation Commission. Any powers granted to or duties imposed upon the CPDC, except the power to hear appeals, may be delegated in writing by the CPDC to other employees or agents of the Town.

7.9.3.1 Rules and Regulations
The CPDC may adopt, and periodically amend, rules and regulations to effectuate the purposes of Section 7.9 or to implement any post-construction design requirements of the Town's NPDES stormwater discharge permit. The rules and regulations may specify the precipitation estimates to be used when calculating stormwater runoff for drainage system design. Failure by the CPDC to promulgate such rules and regulations shall not have the effect of suspending or invalidating the requirements of Section 7.9.

7.9.3.2 Waiver

The CPDC may waive strict compliance with any requirement of Section 7.9 or the rules and regulations promulgated hereunder, where such action is in the public interest and is not inconsistent with the purpose and intent of Section 7.9. In making this determination, the CPDC shall consider whether:

- The public health, safety, and the environment will be protected;
- Strict application of the requirement to be waived would undermine the public interest;
- Specific substitute requirements can be adopted that will result in the substantial protection of the Municipal Storm Drain System, and the rights of persons affected by the waiver; and
- The action made possible by the waiver will not violate the provisions of federal or state law, other applicable provisions of local bylaws or regulations, or the Town's NPDES stormwater discharge permit.

7.9.3.3 Projects Within Conservation Commission Jurisdiction

In order to avoid duplicative permitting proceedings, for activities regulated under Section 7.9 that will be undertaken wholly or partly within the jurisdiction of the Reading Conservation Commission and require stormwater review under 310 CMR 10.00 or the Reading Wetlands Bylaw, the Conservation Commission shall serve as the permitting authority for the stormwater permit required by Section 7.9.4.1. For those projects, the Conservation Commission shall have the role, powers and duties assigned to the CPDC in this Section 7.9, except the power to adopt regulations. The CPDC's Stormwater Regulations shall apply to those projects, with the Conservation Commission substituting for the CPDC in carrying out the permitting as specified in this Section 7.9 and the CPDC's Stormwater Regulations. The Conservation Commission may adopt its own Stormwater Management and Erosion Control Procedures to govern the mechanics of submission and review of permit applications.

7.9.4 Applicability

7.9.4.1 Regulated Activities

Any activity that results in disturbance of one (1) or more acres of land and any land-disturbing activity that is part of a Common Plan of Development or Sale that will ultimately result in the disturbance of one (1) or more acres of land, shall be subject to the requirements of Section 7.9. No person shall undertake any such activity unless it is authorized by a stormwater permit issued by the CPDC, or exempt pursuant to Section 7.9.4.2.

7.9.4.2 Exempt Activities

The following activities are exempt from the requirements of Section 7.9:

- Normal maintenance and improvement of land in agricultural or aquacultural use, as defined by MGL Chapter 131 Section 40 and 310 CMR 10.04;
- Normal maintenance of lawns and landscaping.

7.9.5 Permits and Procedure

7.9.5.1 Stormwater Permit Application

Prior to the commencement of any activity regulated by Section 7.9, a stormwater permit application shall be filed with the CPDC, including:

- A completed stormwater permit application Form with original signatures of all owners;

- A narrative describing the incorporation of LID strategies as defined in Section 7.9.2.12;
- An Erosion and Sediment Control Plan satisfying the requirements of Section 7.9.6;
- A Stormwater Management Plan satisfying the requirements of Section 7.9.7;
- An Operation and Maintenance Plan satisfying the requirements of Section 7.9.8; and
- Payment of any application fee established by the CPDC pursuant to Section 7.9.5.6.

7.9.5.2 Entry

Filing a stormwater permit application shall be deemed to grant the CPDC or its agent permission to enter the site to verify the information contained in the application.

7.9.5.3 Public Hearing

The CPDC shall hold a public hearing on each stormwater permit application that satisfies the requirements of Section 7.9.5.1. The hearing may be combined with the hearing for any other permit or approval for the same project that is within the jurisdiction of the CPDC. The CPDC shall accept comments on the application submitted by any person in writing or at the public hearing.

7.9.5.4 Information Requests

At any time after submission of the stormwater permit application, the CPDC or its designee may request additional information from the Applicant on the proposed activity. The CPDC shall not be required to act on the stormwater permit application until the requested information has been provided.

7.9.5.5 Action by the CPDC

After the close of the public hearing on the application, the CPDC may:

- Approve the stormwater permit application and issue a permit if it finds that the proposed activity will protect water resources and meet the objectives and requirements of Section 7.9;
- Approve the stormwater permit application and issue a permit with conditions, modifications or restrictions that the CPDC determines are required to ensure that the proposed activity will protect water resources and meet the objectives and requirements of Section 7.9; or
- Disapprove the stormwater permit application and deny the permit if it finds that the proposed activity will not protect water resources or will fail to meet the objectives and requirements of Section 7.9.
- Require the permittee to post, before the start of land disturbance activity, a surety bond, irrevocable letter of credit, cash, or other acceptable form of security. The bond shall be in a form acceptable to Town Counsel, and shall be in an amount deemed sufficient by the CPDC to ensure that the work will be completed in accordance with the permit.

7.9.5.6 Fee Structure

Each stormwater permit application shall be accompanied by the appropriate application fee established by the CPDC. In addition, the CPDC may retain a Registered Professional Engineer or other professional consultant to advise it on any aspects of the stormwater permit application. The CPDC may require the applicant to pay the reasonable costs of such engineer or consultant

pursuant to rules promulgated by the CPDC pursuant to Section 7.9.3.1 and MGL Chapter 44 Section 53G. The CPDC shall not be required to act on the stormwater permit application until the costs of such engineer or consultant have been paid.

7.9.5.7 Project Changes

The permittee, or the permittee's agent, shall notify the CPDC in writing prior to any change or alteration of an activity authorized in a stormwater permit. If the CPDC determines that the change or alteration is significant, the permittee shall obtain an amended stormwater permit prior to implementation of the change or alteration.

7.9.6 Erosion and Sediment Control Plan

The Erosion and Sediment Control Plan shall contain sufficient information to describe the nature and purpose of the proposed activity, pertinent conditions of the site and adjacent areas, proposed erosion and sedimentation controls, and any other proposed pollution prevention measures.

7.9.6.1 Design Standards

The erosion and sediment control and pollution prevention measures set forth in the Erosion and Sediment Control Plan shall be designed to meet Standard 8 of the Massachusetts Stormwater Management Standards, minimize the total area of disturbance, and properly manage construction and waste materials.

7.9.6.2 Site Plan

The Erosion and Sediment Control Plan shall include a site plan, stamped and certified by a qualified Professional Engineer registered in Massachusetts or a Certified Professional in Erosion and Sediment Control, containing the following information:

- The names, addresses, and telephone numbers of the owner, the applicant, and the persons or firms who prepared the plan;
- Title, date, north arrow, scale, legend, and locus map;
- Locations of watercourses and water bodies;
- Lines of existing abutting streets showing drainage (including catch basins), driveway locations and curb cuts;
- Property lines showing the size of the entire site, and a delineation and number of square feet of the land area to be disturbed;
- Drainage patterns and approximate slopes anticipated after major grading activities (construction phase grading plans);
- The location and details of erosion and sediment control measures, including both structural and non-structural measures, interim grading, and material stockpiling areas;
- The location and description of and implementation schedule for temporary and permanent seeding, vegetative controls, and other stabilization measures; and
- Such other information as is required by the CPDC.

7.9.7 Stormwater Management Plan

The Stormwater Management Plan shall contain sufficient information for the CPDC to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the applicant for reducing adverse post-construction impacts from stormwater. The Stormwater Management Plan shall fully describe the proposed activity in drawings and narrative.

7.9.7.1 Design Standards

The stormwater management measures set forth in the Stormwater Management Plan shall be designed to meet Standards 1-6 (for New Development) or Standard 7 (for Redevelopment) of the Massachusetts Stormwater Management Standards, as well as any post-construction design requirements adopted under Section 7.9.3.1. In addition, LID site planning and design strategies shall be incorporated unless infeasible in order to reduce the discharge of stormwater.

7.9.7.2 Site Plan

The Stormwater Management Plan shall include a site plan, stamped and certified by a qualified Professional Engineer registered in Massachusetts, containing the following information:

- The names, addresses, and telephone numbers of the owner, the applicant, and the persons or firms who prepared the plan;
- Title, date, north arrow, scale, legend, and locus map;
- The site's existing and proposed topography with contours at 2-foot intervals;
- Existing site hydrology, including any existing stormwater conveyances or impoundments;
- Estimated seasonal high groundwater elevation (November to April) in areas to be used for stormwater retention, detention, or infiltration;
- The existing and proposed vegetation and ground surfaces with runoff coefficient for each;
- A drainage area map showing pre- and post-construction watershed boundaries, drainage area and stormwater flow paths;
- Identification of all critical areas and tributaries to critical areas within the geographic area shown on the plan;
- Identification of all impaired waters to which stormwater from the site will discharge directly or indirectly;
- Drawings of all components of the proposed drainage system; and
- Such other information as is required by the CPDC.

7.9.8 Operation and Maintenance Plan

Each parcel shall have its own O&M Plan, setting forth operation and maintenance measures designed to ensure that all aspects of the stormwater management system operate as designed throughout the life of the system. The O&M Plan shall remain on file with the CPDC and shall be an ongoing requirement, enforceable against the owner of the parcel to which it applies, pursuant to the provisions of Section 7.9.11.

7.9.8.1 Contents

The O&M Plan shall include:

- The name of each owner of the parcel for which the O&M Plan is being submitted;
- Maintenance specifications, including a schedule, for all drainage structures, including swales and ponds, and any other component of the stormwater system that requires maintenance; and
- The signature of each owner.

7.9.8.2 BMPs Serving More Than One Lot

In the case of stormwater BMPs that are serving more than one parcel, the applicant shall include a mechanism to ensure that those BMPs are properly

operated and maintained. The applicant shall identify the lots or units that will be serviced by the proposed stormwater BMPs. The applicant shall also provide a copy of the legal instrument (deed, declaration of trust, articles of incorporation, etc.) that establishes the terms of and legal responsibility for the operation and maintenance of stormwater BMPs. In the event that the stormwater BMPs will be operated and maintained by an entity or person other than the sole owner of the lot upon which the BMPs are placed, the applicant shall provide a plan and easement deed that provides a right of access for the entity or person to be able to perform said operation and maintenance functions.

7.9.8.3 Recording

The CPDC shall, as a condition of any Stormwater Permit, require that notice of the associated O&M Plan be recorded with the Registry of Deeds (for recorded land) or filed with the Registry District of the Land Court (for registered land).

7.9.8.4 Annual Report

The CPDC may, as a condition of any Stormwater Permit, require that the property owner submit an annual report documenting maintenance activities.

7.9.8.5 Changes to Operation and Maintenance Plans

7.9.8.5.1 The owner of a parcel to which an O&M Plan applies shall notify the CPDC prior to any proposed change in ownership of the parcel.

7.9.8.5.2 In the case of a stormwater BMP that serves more than one lot, the owners of the parcels served by the BMP must obtain CPDC approval for any change to the entity or person operating or maintaining the BMP or the legal instrument that establishes terms and legal responsibility for the operation and maintenance of the BMP.

7.9.8.5.3 The O&M Plan may be amended to achieve the purposes of Section 7.9 by mutual agreement of the CPDC and the parcel owners; provided, however, that all such amendments shall be in writing and signed by all owners and the CPDC.

7.9.9 Inspections, As-Built Plan and Access

7.9.9.1 CPDC Inspection

The CPDC or its designated agent may make inspections to assess compliance with the Stormwater Permit. The CPDC may require the applicant to notify the CPDC before significant site milestones, such as installation of erosion and sediment control measures or completion of site clearing.

7.9.9.2 Permittee Inspections

The CPDC may require the permittee or an agent thereof to conduct and document periodic inspections of all control measures before, during or after construction and to submit reports of the results of such inspections to the CPDC.

7.9.9.3 As-Built Plan

After the stormwater management system has been constructed and before the surety has been released, the applicant must submit to the CPDC a record plan detailing the actual stormwater management system as installed.

7.9.10 Surety

Upon receipt of an As-Built Plan demonstrating compliance with the terms and conditions of the stormwater permit, the CPDC may release any surety required pursuant to Section 7.9.5.5. If the project is phased, the CPDC may release part of such surety as each phase is completed in compliance with the stormwater permit.

7.9.11 Enforcement

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of Section 7.9. The CPDC and its authorized agents shall enforce Section 7.9 and may pursue all civil and criminal remedies for violations.

7.9.11.1 Enforcement Orders

If any person violates or fails to comply with any of the requirements of Section 7.9, the CPDC may order compliance by written notice to the responsible person via certified mail or hand delivery. The order shall include the name and address of the alleged violator, the address at which the violation is occurring or has occurred, a statement specifying the nature of the violation, a description of the actions needed to resolve the violation and come into compliance, the deadline within which such actions must be completed, and a statement that, if the violator fails to come into compliance by the specified deadline, the Town may do the work necessary to resolve the violation at the expense of the violator. In addition, said order may require:

- Cessation of regulated activity until compliance is achieved;
- Maintenance, installation or performance of additional erosion and sediment control measures;
- Repair, maintenance or replacement of the stormwater management system or portions thereof in accordance with the stormwater permit and/or the O&M Plan;
- Monitoring, analyses, and reporting; and
- Remediation of erosion, sedimentation, or any other adverse impact resulting directly or indirectly from failure to comply with the Erosion and Sediment Control Plan, the Stormwater Management Plan, the O&M Plan, or any other terms or conditions of a stormwater permit or Section 7.9.

7.9.11.2 Appeals

Any person aggrieved by an enforcement order issued pursuant to Section 7.9.11.1 may request a hearing before the CPDC by submitting to the CPDC, within 30 days of such order, a letter explaining why the order was not justified. The CPDC shall thereupon schedule and hold a hearing regarding such request and, upon the close of such hearing, may uphold, modify or rescind the order as the facts and applicable law may require. The CPDC's decision shall be deemed its final action with respect to the matters determined, and any further appeal shall be to a court of competent jurisdiction.

7.9.11.3 Action by the Town to Remedy a Violation

If a violator fails to come into compliance by the deadline specified in an enforcement order, the CPDC may undertake the work necessary to resolve the violation at the joint and several expense of the violator and property owner. For situations involving an immediate threat, the CPDC may immediately take such action as is necessary to protect public health, safety or the environment, without first issuing an enforcement order. Written notice of any remediation action undertaken by the CPDC shall be provided to the property owner within 24 hours of the commencement thereof.

7.9.11.4 Recovery of Costs

If the CPDC undertakes remediation work pursuant to Section 7.9.11.3, it shall, within 30 days after completing the work, notify the violator and the property owner in writing of the costs incurred by the Town, including administrative costs, associated with that work. The violator and the property owner shall be jointly and severally liable to repay the Town for those costs within 30 days of receipt of that notice; provided, however, that the violator or the property owner may file a written protest objecting to the amount or basis of costs with the CPDC within such 30 days. The CPDC shall schedule and hold a hearing regarding such protests and, upon the close of such hearing, may uphold, modify or rescind the costs required to be repaid, as the facts and applicable law may require.

If the amount due is not received by the Town by the expiration of the time in which to file such a protest, or within 60 after the final decision of the CPDC or, if appealed to court, a court of competent jurisdiction resolving that protest, the amount of the Town's costs shall constitute a lien on the property pursuant to MGL Chapter 40 Section 58. Interest shall accrue on any unpaid costs at the statutory rate, as provided in MGL Chapter 59 Section 57.

7.9.11.5 Civil Relief

If a person violates any provision of Section 7.9 or an order issued thereunder, the Select Board may seek injunctive relief in a court of competent jurisdiction restraining the person from activities that would create further violations or compelling the person to abate or remedy the violation.

7.9.11.6 Criminal Penalty

Any person who violates any provision of Section 7.9 or any order issued thereunder may be punished by a fine of not more than $300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense. A criminal complaint may be filed by the CPDC, with the authorization of the Select Board.

7.9.11.7 Non-Criminal Disposition (Ticketing)

As an alternative to criminal prosecution, the employees of the Planning Division or the Building Inspector may elect to utilize the non-criminal disposition procedure set forth in Section 1.8. The penalty for the first violation shall be $100.00. The penalty for each subsequent violation shall be $300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

7.9.11.8 Entry to Perform Duties Under this Bylaw

To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Town and its agents, officers and employees may enter privately owned property for the purpose of performing their duties under this Bylaw and may make or cause to be made such examinations, surveys, sampling, or remedial activities as the Town deems reasonably necessary.

7.9.11.9 Remedies Not Exclusive

The remedies listed in Section 7.9 are not exclusive of any other remedies available under any applicable federal, state or local law.

7.10 Stretch Energy Code

7.10.1 Definitions

Unless the context clearly indicates otherwise, the following words and terms, as used in Section 7.10, shall have the following meanings:

7.10.1.1 International Energy Conservation Code (IECC)

The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency, and is updated on a three-year cycle. The baseline energy conservation requirements of the Massachusetts State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.

7.10.1.2 Stretch Energy Code

Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA of the Massachusetts building code, the Stretch Energy Code is an appendix to the Massachusetts building code, based on further amendments to the International Energy Conservation Code (IECC) to improve the energy efficiency of buildings built to this code.

7.10.2 Purpose

The purpose of the Stretch Energy Code bylaw is to provide a more energy efficient alternative to the base energy code applicable to the relevant sections of the building code for both new construction and existing buildings.

7.10.3 Stretch Energy Code

The Stretch Energy Code, as codified by the Massachusetts Board of Building Regulations and Standards at 780 CMR Appendix 115.AA, including any future editions, amendments or modifications, is hereby adopted and shall be applicable to the construction or modification of all residential and commercial buildings. The requirements of the Stretch Code shall be enforceable by the Building Inspector upon approval by the state, or take any other action with respect thereto.

ARTICLE 8 PUBLIC ORDER

8.1 Streets, Highways and Public Property

8.1.1 Obstructions Prohibited

No person shall place or cause to be placed any obstruction in any street, public place or private way in the Town without the permission of the Select Board or its designee. The provisions of this section shall not apply to news racks as defined in Section 8.7.2.3 of this bylaw.

8.1.2 Approval Required for Parade

No person shall form or conduct any parade in any street, sidewalk or public way within the Town or form or conduct for the purpose of display or demonstration any procession or assembly of people, except a military or funeral parade or procession within such street, sidewalk or way, without first obtaining a written permit from the Select Board or its designee; and no person shall take part in any such parade, procession or assembly which is not authorized by such a permit. The application for such a permit shall identify

- the person or organization seeking to conduct the parade and the parade chair who will be responsible for its conduct,
- the proposed date, starting and termination time and route of the parade,
- the approximate number of persons, animals and vehicles and the type of animals and vehicles to be in the parade,
- the location of any assembly areas and the time units will begin to assemble at such areas, and
- the intervals of space to be maintained between the parade's units.

The applicant shall provide such further information as the Select Board or its designee shall find reasonably necessary for a fair determination as to whether a permit should be issued. The Select Board or its designee shall issue a permit unless it finds that the conduct of the parade is reasonably likely to

- cause injury to persons or property, provoke disorderly conduct or create a disturbance,
- interfere unduly with proper fire and police protection for, and ambulance service to, areas contiguous to the proposed line of march or other areas in the Town, or
- substantially interrupt the safe and orderly movement of other traffic contiguous to the parade route.

The Select Board or its designee shall promptly notify the applicant of its decision, including the terms of the permit issued or the reasons for any denial or revocation of such a permit. Immediately upon the issuance of a parade permit, the Select Board or its designee shall send a copy thereof to the Police Chief, Fire Chief and Director of Public Works.

8.1.3 Silly String Prohibition

No person, during any parade, festival, concert, sporting event or other public event, shall sell or distribute or use on any street, sidewalk or public way of the Town or upon any property owned by the Town, a product known as "Silly String" or any similar product sold or used for amusement that ejects a soft rubbery substance; any aerosol can that ejects paint, shaving cream, foam or makes loud noises or an explosive device.

8.1.4 Removal of Vehicles - Snow Removal

The Director of Public Works, for the purpose of removing or plowing snow or removing ice from any way within the limits of the Town and from the Town parking areas and from any other land owned or used by the Town, may remove or cause to be removed to some public garage or other convenient place any vehicle parked upon such highway, parking area or land and interfering with such work, and the storage charges and other cost of such removal shall be borne and paid by the owner of the vehicle.

8.1.5 Prohibiting Placing Snow on Public Property

No person shall move or remove snow or ice from private lands upon any public street, sidewalk or common land of the Town in such a manner as to obstruct or impede the free passage of vehicular or pedestrian traffic upon the street, sidewalk or common land of the Town, unless he has first obtained a permit therefor issued by the Director of Public Works.

8.1.6 Prohibiting Putting Water on Public Way

No person shall, during the period from November 15 to April 15 inclusive, discharge or pipe, or cause to be discharged or piped, any ground water onto a public way or sidewalk within the limits of the Town unless he has first obtained a permit therefor issued by the Director of Public Works.

8.1.7 Driveway Permits Required

No person shall make or construct or reconstruct or modify a driveway or other means of access or exit for motor vehicles onto a public way or across a sidewalk, unless he has first obtained a permit therefor issued by the Director of Public Works.

8.1.8 Permit for Rubbish and other Material Hauling

No person, except the duly authorized agents and employees of the Town, shall carry in or through any of the public streets or ways of this Town any rubbish, garbage, offal, contents of cesspools or other offensive substances, unless the person so carrying the same shall have secured a permit therefore from the Board of Health or its designee, which permit may be issued upon such terms and conditions as the Board or its designee may determine.

8.1.9 Permit for the Use of Public Property

Any person who intends to erect, repair or take down any building abutting on any way, sidewalk, parking lot, or other Town property which the Town is obliged to keep in repair and desires to make use of any portion of said way, sidewalk, parking lot, or other Town property for the purpose of placing thereon building materials or rubbish, shall give notice thereof to the Director of Public Works, and thereupon, the Director of Public Works may grant a permit to occupy such portion of said way to be used for such purpose as in its judgment the necessity of the case demands and the security of the public allows. Such permit shall in no case be in force longer than ninety (90) days (subject to renewal), and shall be issued on such conditions as the Director of Public Works may require.

8.1.10 Enforcement

In addition to any other means of enforcement, the provisions of this bylaw and the regulations adopted pursuant thereto may be enforced by non-criminal disposition in accordance with the provisions of Section 1.8 of this bylaw, and MGL Chapter 40 Section 21D.

8.2 Scenic Roads

8.2.1 Designation

Upon recommendation of the Community Planning and Development Commission, Conservation Commission or Historical Commission, Town Meeting may vote to designate any road, other than a numbered route or state highway, as a scenic road.

8.2.2 Limitations on Work on a Public Way

After a road has been designated as a scenic road, any repair, maintenance, reconstruction or paving work done with respect thereto shall not involve or include the cutting or removal of trees or the tearing down or destruction of stone walls or portions thereof, except with the prior written consent of the Community Planning and Development Commission after a public hearing duly advertised twice in a newspaper of general circulation in the area as to time, date, place and purpose, the last publication to occur at least seven (7) days prior to such hearing.

8.2.3 Regulations

The Community Planning and Development Commission shall establish and adopt regulations for exercising its responsibilities under this bylaw, taking into consideration sound planning principles and preservation of aesthetic and natural resources of the Town.

8.3 Emergency Vehicle Access and Fire Lanes

8.3.1 Purpose

It is the purpose of this bylaw to regulate the parking of motor vehicles so that such vehicles will not impede access to properties by emergency vehicles or obstruct fire lanes.

8.3.2 Definition

As used in this section, "fire lane" shall mean a fire lane designated by the Select Board upon the recommendation of the Chief of the Reading Fire Department. Fire lanes shall be a distance of twelve (12) feet from the curbing of a sidewalk; however, where no sidewalk with curbing exists, the distance shall be twenty (20) feet from the front wall of the nearest building. These distances may be modified by the Select Board to any distance that the Chief of the Fire Department determines is necessary for public safety.

8.3.3 Blocking Access Prohibited

No person shall park a motor vehicle or otherwise obstruct or block, the entrance to any roadway, highway, street, private way or driveway so as to prevent access by emergency vehicles to any single or multi-family dwelling, business, commercial establishment, shopping center, school, sports or recreational facility, other place of public assembly or public or private parking area.

Vehicles making a delivery to a building abutting a driveway may obstruct or block the entrance to the driveway for the reasonable length of time necessary to actually make such delivery, if the nature of the delivery or use in the building prohibits or unreasonably restricts the use of any other access to such building.

8.3.4 Blocking Fire Lane Prohibited

No person shall park a motor vehicle or otherwise obstruct or block a fire lane, provided that such fire lane has been identified pursuant to Section 8.3.6.

8.3.5 Exemptions

Emergency vehicles may park in fire lanes while responding to calls for emergency service. Vehicles making a delivery to a building abutting a fire lane may park in the fire lane for the reasonable length of time necessary to actually make such delivery, if the nature of the delivery or business in the building prohibits or unreasonably restricts the use of any other access to such building.

8.3.6 Signs for Fire Lane

The Select Board shall place and maintain signs relating to fire lanes where applicable to public buildings, public ways and public parking areas. The owner(s) of record of all other properties or private ways containing fire lanes shall place and maintain signs so identifying the fire lanes. All such signs shall be no less than twelve (12) inches by eighteen (18) inches and shall read: "FIRE LANE - NO PARKING - TOW ZONE".

8.3.7 Enforcement

Any motor vehicle found violating the provisions of this section may be issued a parking violation by the Reading Police Department and/or towed under the direction of the Reading Police Department, and all towing and storage charges shall be as authorized by MGL Chapter 266 Section 120D.

In addition to any other means of enforcement, the provisions of this bylaw and the regulations adopted pursuant thereto may be enforced by non-criminal disposition in accordance with the provisions of Section 1.8 of this bylaw, and MGL Chapter 40 Section 21D.

8.4 Designated Parking Spaces and Curb Ramps for Disabled Veterans or Handicapped Persons

8.4.1 Parking for Disabled Veteran or Handicapped Persons Required

Any person or body having lawful control of a public or private way or of improved or enclosed property used as off-street parking areas for businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings, or for any other place where the public has a right of access as invitees or licensees shall reserve the number of parking spaces required by Section 8.4.2 in said off-street parking areas for any vehicle owned and operated by a disabled veteran or handicapped person whose vehicle bears the distinguishing license plate authorized by MGL Chapter 90 Section 2 or for any vehicle transporting a handicapped person and displaying the special identification plate authorized by MGL Chapter 90 Section 2 or for any vehicle bearing the official identification of a handicapped person issued by any other state or any Canadian Province.

8.4.2 Parking Spaces Required

If the number of parking spaces in any area designated in Section 8.4.1 is:

- more than fifteen (15) but not more than twenty-five (25), one (1) parking space shall be provided;
- more than twenty-five (25) but not more than forty (40), five (5%) percent of such spaces but not less than two (2) shall be provided;
- more than forty (40) but not more than one hundred (100), four (4%) percent of such spaces but not less than three (3) shall be provided;
- more than one hundred (100) but not more than two hundred (200), three (3%) percent of such spaces but not less than four (4) shall be provided;
- more than two hundred (200) but not more than five hundred (500), two (2%) percent of such spaces but not less than six (6) shall be provided;

- more than five hundred (500) but not more than one thousand (1,000), one and one-half (1 1/2%) percent of such spaces but not less than ten (10) shall be provided;
- more than one thousand (1,000) but not more than two thousand (2,000), one (1%) percent of such spaces but not less than fifteen (15) shall be provided;
- more than two thousand (2,000) but less than five thousand (5,000), three-fourths of one (3/4%) percent of such spaces but not less than twenty (20) shall be provided; and
- more than five thousand (5,000), one-half of one (1/2%) percent of such spaces but not less than thirty (30) shall be provided.

8.4.3 Identification of Spaces

Parking spaces designated as reserved under the provisions of Section 8.4.1 shall be:

- Identified by the use of above grade signs with white lettering against a blue background and shall bear the words "Handicapped Parking: Special Plate Required. Unauthorized Vehicles May Be Removed At Owner's Expense";
- Located as near as possible to a building entrance or walkway and adjacent to curb ramps or other unobstructed methods permitting sidewalk access to a handicapped person; and
- Twelve (12) feet wide or consist of two (2) eight (8) foot wide areas with four (4) feet of cross hatch between them.

8.4.4 Signs Placed and Maintained

The Select Board shall place and maintain signs relating to reserved spaces for use by disabled veterans and handicapped persons where applicable to public buildings, public ways and public parking areas. The owner(s) of record of all other properties or private ways shall place and maintain signs so identifying the reserved parking spaces in accordance with Section 8.4.3.

8.4.5 Parking Only with Distinguishing Disabled Veterans or Handicapped Person's Identification Permitted

No person shall park, or leave unattended, a motor vehicle that does not bear the distinguishing disabled veterans or handicapped license plates or other identifications referenced in Section 8.4 of this bylaw in a space designated for use by disabled veterans or handicapped persons, or otherwise obstruct or block curb ramps designated for use by handicapped persons as a means of egress to a street or public way.

8.4.6 Enforcement

Any motor vehicle found violating the provisions of this Section 8.4 may be issued a parking violation by the Reading Police Department and/or towed under the direction of the Reading Police Department, and all towing and storage charges shall be as authorized by MGL Chapter 266, Section 120D.

In addition to any other means of enforcement, the provisions of this bylaw and the regulations adopted pursuant thereto may be enforced by non-criminal disposition in accordance with the provisions of Section 1.8 of this bylaw, and MGL Chapter 40 Section 21D.

8.5 Public Works

8.5.1 Department of Public Works

There shall be a Department of Public Works responsible for the performance of all public works activities of the Town placed under its control by statute, bylaw, or otherwise, including the protection of natural resources, water supply and distribution, sanitary sewers and sewerage systems, stormwater drains and sewers, streets and roads, public off-street parking facilities as well as parking lots for municipal buildings, parks and playgrounds, refuse collection and disposal, forestry services, and cemetery services.

8.5.1.1 Director of Public Works

The Department of Public Works shall be under the direct control of a Director of Public Works, who shall be appointed by, and directly responsible to the Town Manager. The Director of Public Works shall serve at the pleasure of the Town Manager and shall be a professionally qualified person of proven ability, especially fitted by education, training, and previous experience to perform the duties of the office. The Director of Public Works shall be responsible for the supervision and coordination of all divisions within the Department of Public Works.

8.5.1.2 Policy Formation

The Select Board, acting through the Town Manager, shall be responsible for the establishment of policies and priorities to govern the operation of the Department of Public Works. The Select Board may adopt rules and regulations setting fees and establishing procedures for the performance of public works activities, as it deems necessary or appropriate.

8.5.2 Street Numbering

8.5.2.1 Establishment of Numbering System

The Select Board shall establish a system for the numbering of any building on or near the line of public or private ways and shall prescribe by suitable rules and regulations the method in which such numbering shall be done.

8.5.2.2 Street Numbers Required to be Affixed to Buildings

No person shall neglect or refuse to affix to any building owned by that person the street number designated for such building by the Director of Public Works or by the Building Inspector acting in accordance with the numbering system and the Rules and Regulations established by the Select Board, nor shall any person affix to or suffer to remain on any building owned or occupied by that person, a street number other than the one designated for such building by the Director of Public Works or by the Building Inspector. Owners shall be allowed ten (10) days after written notice to comply with the provisions of this section.

8.5.3 Temporary Repairs on Private Ways

The Town may make temporary repairs to private ways that have been open to the public for at least the previous ten years, as required for the public health or safety, the protection of the environment, or the public convenience and necessity. As used in Section 8.5.3, the term "private way" shall not include driveways, common driveways, parking lots, and ways to which the public does not have access.

8.5.3.1 Type and Extent of Repair

Temporary repairs made pursuant to Section 8.5.3 may include

- Filling or patching of potholes or cracks;
- Grading and leveling of surfaces;
- Oiling and tarring of road surfaces and the covering of the oil or tar with sand or gravel;
- Installation of guardrails or other infrastructure;
- Installation of stormwater drainage infrastructure;
- Cleaning of catch basins and drainage structures;
- Skimcoating or armor coating of road surfaces;
- Reconstructing a way, including the removal of roadway surface and the regrading and installation of fill and roadway surface materials, including asphalt and concrete; and
- Any other temporary repair or work deemed necessary to protect public safety.

8.5.3.2 Minor Repairs

The Department of Public Works may make minor temporary repairs to eligible private ways; provided, however, that all minor repairs made to a single private way shall be subject to prior approval of the Town Manager.

8.5.3.3 Petition

Except as provided in Section 8.5.3.2, the Town may make temporary repairs to eligible private ways only if:

- CPDC or the Director of Public Works petitions the Select Board to make repairs, and the record owners of at least two-thirds of the lots abutting the portion of the private way to be repaired have assented in writing to the repairs; or
- The record owners of at least two-thirds of the lots abutting the portion of the private way to be repaired petition the Select Board to make repairs.

Upon receipt of a petition submitted pursuant to Section 8.5.3.3, the Select Board shall request that the Director of Public Works make an investigation of the condition of the private way and report the results of that investigation to the Select Board.

8.5.3.4 Hearing

Upon receipt of the report of the Director of Public Works pursuant to Section 8.5.3.3, the Select Board shall hold a public hearing on the petition. The record owners of all lots abutting the portion of the private way to be repaired shall be given written notice of the hearing not less than seven days prior thereto.

8.5.3.5 Public Convenience and Necessity

Following the public hearing held pursuant to Section 8.5.3.4, the Select Board may authorize temporary repairs to an eligible private way upon a finding that the requested repairs are required for the public health or safety, the protection of the environment, or the public convenience and necessity. In making this determination the Board shall consider:

- The accessibility of the properties abutting the private way to emergency vehicles such as police, fire, ambulance, or other rescue vehicles;
- The volume of traffic that utilizes the private way;
- Any other factors deemed appropriate by the Board.

8.5.3.6 Repair Costs

The Select Board may authorize repairs pursuant to Section 8.5.3.5 only if the necessary funds therefore have been appropriated or otherwise made available to the Town. If a Town Meeting has made an appropriation specifically for temporary repairs of a specified private way, the Town shall assess betterments pursuant to MGL Chapter 80 to recover the entire direct and indirect costs of such repairs from the record owners of all lots abutting the portion of the private way to be repaired, with all such owners sharing equally. Payment of said betterment may be made in not more than 20 equal annual installments.

8.5.3.7 Easements

If any easement is necessary for the completion of temporary repairs authorized pursuant to Section 8.5.3.6, the record owners of all lots abutting the portion of the private way to be repaired and the owners of any land or interest in land upon which such easement would be required, shall be jointly and severally responsible for the cost of the preparation and the grant of such easement to the Town.

8.5.3.8 Standard of Work and Maintenance

All temporary repairs to private ways made pursuant to Section 8.5.3 shall be performed in accordance with standards established by the Department of Public Works. No such temporary repair shall be deemed to impose a duty or obligation on the Town to maintain or further repair the private way thereafter.

8.5.3.9 Acceptance of Private Ways

No temporary repair to a private way made pursuant to Section 8.5.3 shall be deemed to constitute an acceptance by the Town of the way as a public way.

8.5.3.10 Liability of Town

There shall be a $500 limitation per occurrence on the Town's liability for any damages arising from any negligent repair of a private way pursuant to Section 8.5.3.

8.5.4 Dumping of Waste Regulated

No person shall deposit in any area any liquid or solid waste materials, including garbage and rubbish, except in a dumping ground or area designated for such deposits by the Board of Health.

No person shall make any such deposit in a dumping ground or area so designated unless that person has first obtained a permit from the Select Board and complies with the rules and regulations for such dumping ground or area as the Select Board may from time to time establish. The Select Board shall from time to time establish the fees for the issuance of permits.

8.5.5 Public Water Service

8.5.5.1 Tampering Prohibited

No person shall turn on or off the water at any water main, service pipe, hydrant, water post, drinking fountain or other fixture or appurtenance connected with the Reading water system or make any opening into or connection therewith without authority from the Director of Public Works,

except that hydrants may be used by Firefighters or Police Officers in the discharge of their duty.

8.5.5.2 Entry Required

After receipt of a written request from the Select Board or its designee, no person shall refuse entry into any building owned by that person, to any authorized representatives or employees of the Department of Public Works bearing proper credentials and identification for the purposes of inspection, observation, measurement, sampling, installation and testing of water meters used for the measurement of water supplied by the Department of Public Works. If such entry cannot be obtained during normal working hours then, after adequate notice and reasonable attempts to schedule said entry, the building owner may be billed an amount established by the Select Board for additional costs incurred by the Town.

8.5.6 Water Supply Protection

8.5.6.1 Purpose

The purpose of this section of the bylaw is to protect, preserve and maintain the public health safety and welfare whenever there is in force a state of water supply emergency.

8.5.6.2 Water Emergency

Whenever a state of water supply emergency has been declared by the Massachusetts Department of Environmental Protection pursuant to MGL Chapter 21G or Chapter 111, or any other enabling authority or by the Governor, no user of water supplied by the Town shall violate any provision, condition, requirement or restriction included in a plan adopted by the Select Board and approved by the Department of Environmental Protection which plan has as its purpose the abatement of a water supply emergency, provided that notice of any such provision, condition, requirement or restriction has previously been given to such users by publication in a newspaper of general circulation within the Town, or by such other notice as is reasonably calculated to reach and inform all such users.

8.5.7 Creating a Hazard Prohibited

No person shall, except as authorized or required by law, remove, alter the position of, deface or disturb in any manner, any barrier, sign, utility access hole cover or grating placed or installed for the purpose of eliminating or mitigating a public safety hazard or potential hazard in or on any street, sidewalk or public place within the Town.

8.5.8 Violation and Enforcement

In addition to any other means of enforcement, the provisions of this bylaw and the regulations adopted pursuant thereto may be enforced by non-criminal disposition in accordance with the provisions of Section 1.8 of this bylaw, and MGL Chapter 40 Section 21D. Further, any enforcing person or designee or agent thereof, may enter onto any property and in any building thereon for the purpose of inspecting or investigating any violation of this bylaw or enforcing the same, except that no dwelling unit shall be entered without the consent of the resident.

8.5.9 Stormwater Utility

Pursuant to MGL Chapter 83 Section 16, the Select Board shall establish annual stormwater utility fees for the use of main drains and related stormwater facilities.

8.5.9.1 Establishing the Stormwater Utility Fee

The Select Board shall, from time to time, establish procedures for the calculation of the stormwater utility fee, which shall be calculated to supplement other available funds as may be necessary to plan, construct, operate and maintain stormwater facilities and to conduct stormwater programs. The Select Board may also establish a grant credit program for those property owners who maintain on-site functioning retention and detention basins or other filtration structures. Any stormwater utility fee shall be assessed in a fair and equitable manner.

8.5.9.2 Stormwater Enterprise Fund

All stormwater utility fees received shall be deposited into a Stormwater Enterprise Fund, and may be applied to the payment of the cost of maintenance and repairs of such main drains and related stormwater facilities or of any debt contracted for such facilities.

8.6 Anti-Litter

8.6.1 Definitions

For the purpose of this bylaw, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

8.6.1.1 Private Receptacle

A litter storage and collection receptacle as required or authorized in the Town.

8.6.1.2 Garbage

Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food.

8.6.1.3 Litter

Garbage, refuse and rubbish as defined herein and all other waste materials which, if thrown or deposited as prohibited in this article, tends to create a danger to public health, safety, and welfare.

8.6.1.4 Park

A park, reservation, playground, recreation center, Conservation land, Town Forest, school ground or any other public area in the Town, owned or used by the Town and devoted to active or passive recreation.

8.6.1.5 Person

An individual, firm, partnership, association, corporation, company or organization of any kind.

8.6.1.6 Private Premises

Any dwelling, house, building, or other structure designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant and shall include any yard, grounds, walks, driveway, porch, steps, vestibule or mailbox appurtenant to any such dwelling, house, building, or other structure.

8.6.1.7 Public Place
Any and all streets, sidewalks, boulevards, alleys, or other public ways and any and all public parks, squares, spaces, grounds, and buildings.

8.6.1.8 Refuse
All putrescible and nonputrescible solid wastes (except bodily wastes) including garbage, rubbish, ashes, street cleanings, dead animals, and solid and industrial wastes.

8.6.1.9 Rubbish
Nonputrescible solid waste consisting of both combustible and non-combustible wastes such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery, and similar materials.

8.6.1.10 Vehicle
Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

8.6.2 Littering Streets and Other Public Places

8.6.2.1 Littering Prohibited
No person shall throw or deposit litter in or upon any park or other public place or upon any private premises within the Town except in public receptacles, in authorized private receptacles for collection.

8.6.2.2 Proper Use of Receptacles, Where Provided
Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent the litter from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property. Where public receptacles are not provided, all such litter shall be carried away from the park or other public place by the person responsible for its presence and disposed of elsewhere as provided herein.

8.6.2.3 Sweeping Litter onto Public Property Prohibited
No person shall sweep into or deposit in any gutter, street, or other public place within the Town the accumulation of litter from any building or lot or any litter from any public or private sidewalk or driveway.

8.6.2.4 Prevention of Blowing Litter
All loose material which normally fits into containers but which are excess as a result of special circumstances such as holidays, shall be bundled and tied securely to prevent them from blowing or scattering and shall be placed by the containers.

8.6.3 Throwing Litter from Vehicles
No person, being the driver or a passenger in a vehicle, shall throw or deposit litter upon the street or public place within the Town, or upon any private property.

8.6.4 Vehicles Transporting Loose Materials
No person shall drive or move a vehicle within the Town nor shall the owner of any vehicle require or permit the same to be driven or moved within the Town, unless such vehicle is constructed or loaded so as to prevent any of its load from dropping, sifting, leaking, blowing, or otherwise escaping therefrom and being deposited upon any street or other public or private place. Vehicles loaded with any material which

may be blown about by wind shall be suitably covered to prevent the contents from being blown upon the streets or highways. This section shall not prohibit the dropping of sand or salt or similar product for the purpose of securing traction or the sprinkling of water or other substance on such land in cleaning or maintaining the same.

8.6.5 Distribution of Handbills and Leaflets

It shall be the duty of every person distributing handbills, leaflets, flyers or any other advertising and informational material to place or deposit such material in a manner so as to secure or prevent such material from littering public or private property.

8.6.6 Litter in Bodies of Water

No person shall throw or deposit litter in any fountain, pond, stream, river or any other body of water in the Town.

8.6.7 Placing Commercial and Non-Commercial Handbills on Vehicles

No person shall throw or deposit any commercial or non-commercial handbill in or upon any vehicle. Provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof, a non-commercial handbill to any occupant of a vehicle who is willing to accept it.

8.6.8 Duty to Maintain Private Property Free of Litter

The owner or person in control of any private property shall at all times maintain the property free of litter so that the same does not constitute a danger to the public health, safety, and welfare. This section shall not prohibit the storage of litter in authorized private receptacles for collection.

8.6.9 Deposit of Litter on Open or Vacant Property

No person shall throw or deposit litter on any open or vacant private property within the Town, whether owned by such person or not, so that the same shall create danger to the public health, safety, and welfare.

8.6.10 Clearing of Litter From Open or Vacant Private Property

The Board of Health is hereby authorized and empowered to direct the owner of any private property within the Town, or the agent of such owner, to properly dispose of litter located on such owner's property which is dangerous to the public health, safety, and welfare. Such request shall be by registered or certified mail, addressed to the owner at their last known address. Alternatively, the Board of Health may proceed to abate a nuisance as defined and provided by MGL Chapter 111, as amended.

8.6.11 Enforcement

In addition to any other means of enforcement, the provisions of this bylaw and the regulations adopted pursuant thereto may be enforced by non-criminal disposition in accordance with the provisions of Section 1.8 of this bylaw, and MGL Chapter 40 Section 21D.

8.7 News Racks

8.7.1 Findings and Purpose

Whereas, the proliferation of scattered news racks in the Town of Reading often block crosswalks and handicap ramps, unreasonably impedes access for the use and maintenance of poles, posts, traffic signs or signals, hydrants and mailboxes, unreasonably obstructs the flow of pedestrian and vehicular traffic, unreasonably obstructs access to bus stops, taxi cab stands, valet parking areas, loading zones

and fire lanes, impede emergency snow removal operations, creates undue nuisances and hazards to passersby in bad weather and storms and otherwise unreasonably restricts public access and creates undue perils and public safety hazards; and

Whereas, news racks often create a visual blight due to their varying shapes and colors and disarray, and are often not properly maintained and are allowed to deteriorate, and fall into states of disrepair in which news racks collect trash and other debris, become covered with graffiti, are tipped over, moved, cause damage to curbs, sidewalks, streets, poles; traffic signals and signs, and or remain empty and abandoned; and

Whereas, reasonable standards for the appearance, placement and maintenance of news racks in the public way will allow for unrestricted access to crosswalks and handicapped ramps and further provide for pedestrian and driving safety and convenience by alleviating unreasonable interference with the flow of pedestrian and vehicular traffic, allow for reasonable access and use of poles, posts, traffic signs and signals, hydrants and mailboxes, bus stops, taxi stands, valet parking areas, loading zones and fire lanes, provide for the safety of the public and protection of property during times of snow emergencies and other bad weather conditions, and reduce the potential for creating perils in the way of passersby, safety hazards and visual blight that often are associated with unregulated news racks.

8.7.2 Definitions

When used in this bylaw, unless the context otherwise requires, the following terms shall have these meanings:

8.7.2.1 Certificate of Compliance

Shall mean the Certificate of Compliance issued by the Select Board or its designee to the Certificate Holder in accordance with the provisions of this bylaw.

8.7.2.2 Certificate Holder

Shall mean the holder of a Certificate of Compliance issued by the Select Board or its designee in accordance with the provisions of this bylaw. A certificate holder is responsible for the installation and maintenance of news racks encompassed by any Certificate of Compliance issued pursuant to the provisions of this bylaw and for compliance with all provisions contained herein.

8.7.2.3 News Rack

Shall mean any type of self-service device for the vending or free distribution of newspapers or periodicals.

8.7.2.4 Operator

Shall mean any natural person or other legal entity including, but not limited to, corporations, partnerships, joint ventures and the like who either own, operate or are otherwise in control of a news rack.

8.7.2.5 Select Board

Shall mean the Select Board of the Town of Reading or its designee.

8.7.3 Certificate of Compliance

8.7.3.1 Requirement

No person shall place, affix, erect, constitute or maintain a news rack in or on any part of a public way without first obtaining a Certificate of Compliance from the Select Board in accordance with the provisions of this bylaw.

The Certificate of Compliance must be renewed annually by application to the Select Board.

8.7.3.2 Issuing Authority

The Select Board shall be the issuing authority and coordinator of the application process and administration of this bylaw.

8.7.3.3 Approving Authority

The approving authority shall be the Select Board. The Select Board or its designee shall review and approve for compliance with Section 8.7.2, entitled Certificate of Compliance, Section 8.7.5, entitled Standards, and Section 8.7.9, entitled Installation and Maintenance.

8.7.3.4 Application Process

Applicants must complete an application on a form provided by the Select Board.

8.7.3.5 Application

The application shall describe in sufficient detail, the number, location and type of news racks for which the Certificate of Compliance is sought and shall contain the following information:

- The name, address and telephone number of the applicant who is the owner operator or other person who is the principal responsible person in charge of the news rack(s);
- The name, address and telephone number of a natural person (if different from the applicant) whom the Town may notify and/or contact at any time concerning the applicant's news racks. This person would be responsible for receiving complaints and notices of violations when a certificate of compliance is issued and for providing information relating to the application during the application process; and
- The number of news racks and a written description specifying the proposed approximate location of each; and
- A certificate of insurance naming the Town of Reading as an additional insured in an amount sufficient to indemnify the Town and hold it harmless from any and all claims or judgments for personal and bodily injury, including death, or property damage and from costs and expenses to which the Town may be subjected or which it may suffer or incur by reason of the design, placement, installation, operation or maintenance of any of the applicant's news racks. Reasonable evidence of self-insurance coverage may be substituted by the applicant for the certificate of insurance. Insurance under this section shall run continuously with the presence of the applicant's news rack in Town of Reading public ways and any termination or lapse of such insurance shall be a violation of this bylaw, subject to appropriate remedy under section 8.7.10 of this bylaw; and
- A certification from the applicant stating that the proposed location for all of the news racks listed in the application are in compliance with the provisions of this bylaw.

8.7.3.6 Issuance of a Certificate of Compliance

Upon a finding by the Select Board that the applicant is in compliance with the provisions of this bylaw, the Select Board shall issue a Certificate of Compliance for installation by the applicant. The Select Board shall issue a partial Certificate of Compliance upon a finding that some of the proposed news rack locations are in compliance with the provisions of this bylaw. Issuance of a Certificate of Compliance or a partial Certificate of Compliance shall designate the applicant to be the Certificate Holder. The Select Board shall issue a Certificate of Compliance within ten (10) days of the Select Board's receipt of the completed application. Proposed locations shall be approved on a first come, first serve basis by the Select Board. No preference shall be given to applicants who might have had news racks in a particular location prior to the effective date of this ordinance.

8.7.3.7 Denial of Certificate of Compliance

If an application for a news rack location is denied, the Select Board shall notify the applicant within ten (10) days of the Select Board's receipt of the completed application. The Select Board shall state, the specific reasons for denial. The applicant may reapply for a substitute alternative location without having to pay an additional application fee. An applicant who has been denied a Certificate of Compliance pursuant to this bylaw may appeal within thirty (30) days of such denial by requesting in writing to the Select Board an appearance before the Select Board to review said denial. The appeal shall be heard within twenty (20) days of receipt of the appeal. The decision on the appeal shall be sent to the applicant within five (5) days after the hearing. Any such appeal shall be subject to the Massachusetts Administrative Procedures Act, MGL Chapter 30A.

The Select Board reserves the right to order by written notice to the Certificate Holder that news racks be removed from an approved location, either temporarily or permanently, in the interests of public safety.

8.7.4 Fees

There shall be a Certificate of Compliance fee in the amount of Two Hundred ($200) Dollars paid to the Town. This fee shall be due upon initial application and upon each annual renewal.

8.7.4.1 Additional Certificate of Compliance

If at any time after the Select Board has issued a Certificate of Compliance a Certificate Holder proposes to install additional news racks, then the provisions of 8.7.3 are to be repeated. Additional Certificate of Compliance fees shall be in accordance with Section 8.7.4, except that the Certificate of Compliance fee is waived if previously paid.

In addition to the Certificate of Compliance fee, an annual fee of Ten ($10) Dollars per news rack authorized shall be paid to the Town to offset the Town's cost of monitoring compliance with this ordinance.

Where the Select Board has required news racks to be set in corrals, or at hitching posts pursuant to 8.7.5.1 below, additional fees shall be imposed by the Select Board on Certificate Holders to offset the Town's costs for each such corral or hitching post used by such Certificate Holder.

Upon a showing of significant financial hardship, whereby the payment of the full Certificate of Compliance fee will impair the ability of the publisher to distribute a publication through news racks to members of the public, the Select Board may reduce the fee due upon initial application or upon an annual renewal by an amount it determines, in its sole discretion, as appropriate.

8.7.5 Standards

8.7.5.1 Placement

Subject to the prohibitions contained in this section news racks shall be placed parallel to and not less than eighteen inches (18") nor more than twenty-four inches (24") from the edge of the curb. News racks so placed shall face the sidewalk, not the street. News racks placed near the wall of a building or other structure must be placed parallel to and not more than six inches (6") away from the wall.

No news rack(s) shall be affixed, erected, installed, placed, used or maintained:

- at any location in excess of eight (8) feet in width (plus the width of a news rack) whereby the clear space for the passage of pedestrians is reduced to less than eight (8) feet in width; or, if the sidewalk location is less than eight (8) feet in width (plus the width of a news rack), then the clear space for the passage of pedestrians shall not be reduced to less than five (5) feet in width; however, a width of four (4) to five (5) feet may be approved by the Select Board if requested, only after the Select Board consults with the Town Engineer as to whether the particular location at issue necessitates the 4-5 foot width, and whether the pedestrian passage there could safely and reasonably be reduced to a width of 4-5 feet; and
- within five (5) feet of crosswalk or handicapped ramp; and
- within five (5) feet of any fire hydrant, fire lane, fire call box, police call box or other emergency facility, mail box, telephone booth or stand; and
- within five (5) feet of any part of a curb return of a curb ramp or driveway, or in the case of a curb ramp or driveway without a curb return, within five (5) feet of the point where the curb edgestone or edging begins a change in grade toward the driveway or ramp on each side thereof, or in the case of a termination of the curb, edgestone or edging without a change in grade or a turn, within five (5) feet of the point where of the same terminates on each side of the ramp or driveway; and
- within five (5) feet of any traffic control signal or traffic sign; and
- within five (5) feet of a bicycle rack; and
- within five (5) feet ahead or fifteen (15) feet to the rear of any designated bus stop, taxi stand, valet parking area, loading zone or fire lane, or any disabled parking space, unless such news rack is placed parallel against a wall that is within four (4) feet of a designated bus stop, taxi stand, valet parking area, loading zone or fire lane and the news rack so placed does not project into or otherwise interfere with the unobstructed flow of pedestrian and vehicular traffic;
- which in any way protrudes onto a street; or
- on any sidewalk immediately abutting a public school.

The Select Board may require that news racks at locations in which more than three (3) are adjacent shall be set within an open-ended corral installed by

the Town; and the Select Board may require that news racks at a particular location be chained to each other and/or to a permanent hitching post installed by the Town. The Select Board may choose the locations for corrals and hitching posts based on the history of misaligned or knocked over news racks at the location, the high volume of pedestrian traffic at the location, or the relatively high concentration of news racks at the location. However, nothing in this paragraph shall be construed to limit the locations at which corrals and hitching posts may be required.

8.7.6 Attachment to Property

Attachment to trees and other objects is prohibited. Except to the extent permitted by regulations promulgated by the Select Board, no Operator shall place or cause to be placed and no operator shall suffer to remain, any news rack chained or otherwise attached to any tree, street light post, traffic signal or sign.

8.7.7 Attachment to Other News Racks

News racks, when placed side by side, may be chained or otherwise attached to one another, provided that no group of news racks shall extend for a distance of more than eight (8) feet along a curb, and a space of not less than five (5) feet shall separate each group of news racks.

8.7.8 Advertising Prohibited

It shall be unlawful for any Operator to use a news rack for advertising or publicity purposes other than that dealing with the display, sale or purchase of the publications dispensed therein.

8.7.9 Installation, Maintenance, and Delivery Time

News racks shall be of a sturdy material and installed or otherwise placed and maintained by the Certificate Holder in accordance with the following provisions:

- Each news rack shall prominently display the name, address and phone number of a person or entity responsible for that news rack.
- Each news rack shall be:
  - Installed and placed on the pavement in an upright, sufficiently weighted and secured position;
  - Of a type that is completely enclosed, with a self-closing door that is either self-latching or otherwise requires manual or mechanical release at each use;
  - Maintained in a state of good repair and in a neat and clean condition;
  - Maintained in a condition that is free of accumulations of outdated printed materials, trash, rubbish, or debris; and
  - Handicapped accessible, as defined by the state Architectural Access Board at 521 Code of Massachusetts Regulations.
- Each news rack shall be regularly serviced so that:
  - It is kept reasonably free of graffiti;
  - It is kept reasonably free of chipped, faded, peeling and cracked paint in the visible painted areas thereof;
  - It is kept reasonably free of rust and corrosion in the visible unpainted metal areas thereof;
  - The clear glass or plastic parts thereof, if any, through which the printed material is being dispensed are not broken and are kept reasonably free of tears, peeling or fading; and
  - The structural parts of the news rack are not broken or unduly misshapen.
- Anyone disturbed by noise from the delivery of papers to any news rack may complain to the Select Board. The Select Board shall forthwith notify the

Certificate of Holder of the complaint and attempt to resolve the complaint. If the complaint is not resolved to the complainant's satisfaction within ten (10) days, the complainant may request a meeting before the Select Board, or its designee, and the Certificate Holder. After such meeting, the Select Board shall have the authority to impose a reasonable resolution to the complaint, including ordering the relocation of the news rack causing the noise problem.

8.7.10 Enforcement Procedures

8.7.10.1 Non-Conforming News Racks

Any news racks found not to be in compliance with this bylaw shall be subject to the enforcement provisions contained herein.

8.7.10.2 Abandonment

In the event that any news rack installed pursuant to the provisions of this bylaw does not contain the printed material being dispensed therein for a period of seventy-two (72) hours after the release of the current issue, the Select Board may deem the news rack abandoned and take appropriate action under this bylaw. A news rack shall otherwise be deemed abandoned if no printed material is found in the news rack for a period of more than fifteen (15) consecutive days. In the event that a Certificate Holder voluntarily abandons a news rack location, the Certificate Holder shall so notify the Select Board, completely remove the news rack and restore the public way to a safe condition.

8.7.10.3 Enforcement

- Enforcement of the provisions of this bylaw shall be carried out by the Select Board. Upon a determination that a violation of any provision of this bylaw exists the Select Board shall notify the Certificate Holder of the violation in writing by first class mail. The notice shall include:
  - the location of the news rack;
  - the date of the incident or other cause giving rise to the violation; and
  - a brief and concise statement of the facts causing the violation.
- The notice shall inform the certificate holder that at the expiration of ten (10) days from the receipt of the violation notice, the news rack will be removed by the Select Board, unless the violation is corrected.
- Upon removal of a news rack, the Select Board shall send, by first-class mail, written notice of such removal to the Certificate Holder.
- Notwithstanding the provisions of the foregoing paragraphs of this section, the Select Board may order the immediate removal of any news rack(s) that the Select Board determines presents an imminent threat or peril to public safety, provided that the certificate holder, shall be notified of such removal as soon as practicable thereafter, and further provided that any news rack so removed shall be stored a period of thirty (30) days in order to allow the Certificate Holder to retrieve the news rack. If the Select Board removes a news rack under this section which does not have a certificate of compliance, the Select Board shall dispose of the news rack at the end of the thirty (30) day period.

8.7.11 Fees For Removal And Storage

A news rack removed pursuant to this bylaw may be retrieved by the Certificate Holder at any time within thirty (30) days of its removal upon payment of a removal fee of Twenty-Five ($25) Dollars plus a storage fee of Five ($5) Dollars per day, to a maximum combined removal and storage fee of One Hundred ($100) Dollars.

After thirty (30) days, any news racks removed by the Select Board pursuant to 8.7.10 of this bylaw shall be deemed "abandoned property" and become the property of the Town of Reading.

Failure of a Certificate Holder to retrieve a news rack within the specified thirty (30) day period shall not operate to dismiss any fees owed to the Town for removal and storage of such news rack. Unpaid fees accrued pursuant to this 8.7.11 shall be considered a debt payable to the Town.

8.7.12 Regulations

The Select Board may promulgate such rules and regulations consistent with the provisions of this bylaw and the laws of the Commonwealth of Massachusetts as shall carry out the purposes of this bylaw.

8.7.13 Effect On Other Laws

Nothing in this bylaw shall affect the adoption of regulations concerning news racks by other government bodies, such as historic district commissions, to the extent such bodies are authorized to adopt such regulations.

8.8 Animal Control

Pursuant to the authority set forth in MGL Chapter 140 Sections 136A–174E, inclusive, and any other relevant statutes and regulations issued pursuant thereto, the following requirements are adopted for the regulation of dogs in the Town of Reading.

8.8.1 Definitions

The definitions of words and terms set forth in MGL Chapter 140 Section 136A are incorporated into Section 8.8 and shall be applicable to the interpretation thereof. In addition, unless the context clearly indicates otherwise, the following words and terms, as used in Section 8.8, shall have the following meanings:

8.8.1.1 Animal Control Appeals Committee (ACAC)

The "Hearing Authority," as that term is defined in MGL Chapter 140 Section 136A, charged with the responsibility of handling dog complaints for the Town of Reading, pursuant to MGL Chapter 140 Section 157.

8.8.1.2 Animal Control Officer (ACO)

A person appointed by the Town Manager who is authorized to enforce this Bylaw and MGL Chapter 140 Sections 136A–174E.

8.8.1.3 Effective Voice Control

An animal shall be deemed to be "under effective voice control" if it is within the owner's or keeper's sight, the owner or keeper is carrying a leash, and the animal refrains from illegal activities.

8.8.1.4 Running at Large

A dog is running at large if it is not on the private property of its owner or keeper, or on private property with the express permission of that property's owner, or on a leash, or under effective voice control.

8.8.2 Licensing and Fees

8.8.2.1 License and Vaccination Requirements

In accordance with MGL Chapter 140 Section 137, the owner or keeper of a dog(s) six months of age or older, while residing in the Town of Reading, shall

obtain a license for the dog from the Town Clerk, which shall be affixed to the dog's collar. To obtain or renew a license, each dog owner or keeper shall annually present proof of a current rabies vaccination or a certification of exemption from the vaccination requirement, pursuant to MGL Chapter 140 Sections 137(b) and 145B.

8.8.2.1.1 New Dogs and Puppies

Within thirty (30) days of either (a) acquiring a dog six (6) months of age or older or (b) a puppy's six-month birthday, each dog owner or keeper in Reading shall present proof of that dog's current rabies vaccination and obtain a license and dog tag from the Town Clerk.

8.8.2.1.2 Lost Tags and Replacement Tags

Dog owners and keepers shall replace a lost tag within three (3) business days of the loss, by obtaining a replacement tag from the Town Clerk.

8.8.2.1.3 Tag Exemptions for Dog Events

While actually participating in an official dog sporting or dog fancy event, a dog may, if the event sponsors do not allow participants to wear tags, be exempt from the requirement of section 8.8.2.1 that its license tag be affixed to its collar; provided, however, that the dog owner or keeper shall have the tag at the event and available for inspection by the ACO.

8.8.2.1.4 Tag Exemptions for Medical Reasons

During any period when a veterinarian has determined that a dog cannot wear a collar for medical reasons, the dog shall be exempt from the requirement of section 8.8.2.1 that its license tag be affixed to its collar; provided, however, that the dog's owner or keeper shall possess such a tag and make it available for inspection upon request by the ACO.

8.8.2.1.5 Annual Renewal

Dog owners and keepers shall renew each dog license annually. The annual licensing period runs from January 1 through December 31.

8.8.2.1.6 License due Date and Late Fee

Application forms for obtaining, renewing or transferring a license shall be made available annually no later than December 31 each year. Dog owners and keepers shall return forms and fees to the Town Clerk by March 31 or, if such date is not a business day, by the first business day thereafter. Any license renewed after this date shall be deemed overdue, and the owner or keeper shall be required to pay a late fee as determined by the Town Meeting in addition to the license renewal fee. The license fee and the late fee may be secured through the imposition of a municipal charges lien on any property standing in the name of the dog owner or keeper, pursuant to MGL Chapter 40 Section 58.

8.8.2.1.7 License Fees

Fees for licensing each dog shall be determined by the Town Meeting; provided, however, that the fee for neutered or spayed dogs shall be less than the fee for non-neutered or non-spayed dogs. No dog license

fee shall be charged for any service dog as defined by the Americans with Disabilities Act or regulations issued thereunder; or for a license for a dog owned by a person 70 years of age or older.

8.8.2.2 Kennel Licenses

No person may own or board four or more dogs within the Town of Reading without first obtaining a Kennel License from the Town Clerk, in accordance with MGL Chapter 140 Section 137A; provided, however, that this requirement shall not apply to medical boarding by any licensed veterinarian practicing in the Town of Reading. To obtain or renew such kennel license, the owner or keeper of the dogs shall:

a Present proof of current rabies vaccinations for each dog older than six months in the kennel or a certification of exemption from the vaccination requirement, pursuant to MGL Chapter 140 Sections 137(b) and 145B; and

b Pass an inspection by the Animal Control Officer pursuant to MGL Chapter 140 Sections 137A and 137C.

8.8.2.2.1 New Dogs and New Puppies

A kennel licensee who is also the owner or keeper of dogs shall report to the Town Clerk each new dog in the kennel within thirty (30) days of its acquisition; shall show proof of current vaccination; and shall obtain a kennel tag for that dog. The kennel licensee shall show proof of current vaccination and obtain a tag for each puppy when it reaches six months old.

8.8.2.2.2 Periodic Inspections

The Town may perform an inspection of any kennel at any time pursuant to MGL Chapter 140 Section 137C.

8.8.2.2.3 Annual Renewal

Each kennel licensee shall renew the kennel license annually. The annual licensing period runs from January 1 to December 31.

8.8.2.2.4 License Due Date

Application forms for obtaining, renewing or transferring a kennel license shall be made available annually no later than December 1 each year. Kennel licensees shall return forms and fees to the Town Clerk by January 15 or, if such date is not a business day, by the first business day thereafter. Any kennel license renewed after this date shall be deemed overdue, and the owner or keeper shall be required to pay a late fee as determined by the Town Meeting in addition to the license fee. The overdue license fee and the late fee may be secured through the imposition of a municipal charges lien on any property standing in the name of the kennel licensee, pursuant to MGL Chapter 40 Section 58.

8.8.2.2.5 Fees

The fees for licensing each kennel shall be established by the Select Board.

8.8.2.2.6 Penalties

Any person maintaining a kennel after the kennel license therefor has been denied, revoked or suspended shall be subject to the penalties set forth in Section 8.8.6.

8.8.3 Conduct of Dogs

8.8.3.1 Nuisance and Dangerous Behavior

No dog owner or keeper shall permit the dog to become or remain a nuisance dog or a dangerous dog, as those terms are defined and used in MGL Chapter 140 Sections 136A and 157.

8.8.3.2 Leash Law

When not on the private property of its owner or keeper, or on private property with the express permission of that property's owner, a dog shall be on a leash; provided, however, that it may be under effective voice control when within the Town Forest or on conservation lands if allowed by Conservation Commission rules.

8.8.3.2.1 Public Gatherings - Leash Control Only

Except as otherwise specified in Section 8.8, a dog may be at any public gathering only if it is on a six-foot or shorter leash and refrains from illegal activities.

8.8.3.2.2 School Grounds

Unless the School Principal gives permission in advance, no dog may be on school grounds from thirty (30) minutes before classes begin until thirty (30) minutes after classes end. At all other times, the dog may be on school grounds only if it is on a six-foot or shorter leash or remains within a vehicle.

8.8.3.2.3 Cemetery Grounds

Except with the permission of the Board of Cemetery Trustees or its designee, no dog may be on the grounds of Charles Lawn, Forest Glen, Laurel Hill, or Wood End cemeteries.

8.8.3.2.4 Exception for Assistance Animals (service animals)

The provisions of this Section 8.8.3.2 shall not apply to any properly trained assistance animal or service animal while performing its duties.

8.8.3.3 Dog Litter

Every dog owner or keeper shall be responsible for expeditiously removing any feces that the dog deposits anywhere except on its owner's or keeper's private property, or on other private property with the property owner's permission

8.8.4 Animal Control Officer

8.8.4.1 Appointment

The Town Manager shall appoint an ACO pursuant to MGL Chapter 140 Sections 151 and 151A to carry out the provisions of Section 8.8 and to perform such other duties and responsibilities as the Town Manager or its designee may determine.

8.8.4.2 Duties

The ACO's duties shall include the enforcement of the provisions of Section 8.8 and of MGL Chapter 140 Sections 136A-174E and any relevant state or local regulations.

8.8.4.3 Issuance of Temporary Restraint Orders

The ACO may issue a Temporary Restraint Order to the owner or keeper of any dog that is alleged to be a nuisance dog or a dangerous dog and is awaiting a decision under Section 8.8.5.2. A Temporary Restraint Order shall be in force for no more than thirty (30) days unless the ACO renews it in writing for subsequent thirty (30) day periods. The ACO may rescind or stop renewing the order when, in the ACO's judgment, restraint is no longer required. The ACO's order shall expire upon receipt of a decision from the ACAC on the nuisance dog or dangerous dog hearing.

8.8.4.4 Issuance of a Temporary Confinement Order

The ACO may make arrangements for the temporary housing of any dog that requires such temporary housing, and may issue an Order of Temporary Confinement authorizing such temporary housing. The housing may be at local veterinary clinics, or at dog kennels within the Town or neighboring towns, and shall be at the dog owner's or keeper's expense.

8.8.4.5 Complaint Investigation

The ACO shall make a written record of and shall investigate all complaints arising within the Town pertaining to violations of Section 8.8 or MGL Chapter 140 Sections 136A-174E and report its findings to the ACAC.

8.8.4.6 Recordkeeping

The ACO shall keep accurate, detailed records of the confinement and disposition of all dogs held in custody, all bite cases reported, and the results of investigations. The ACO shall maintain a telephone log of all calls received regarding dogs and submit a monthly report summarizing the log to the ACAC.

8.8.5 Animal Control Appeals Committee

8.8.5.1 Composition of the ACAC

The Animal Control Appeals Committee shall be composed of three Reading residents, none of whom shall otherwise be employees of the Town, appointed to three-year overlapping terms by the Select Board. The ACAC shall annually select a member to serve as the Chair. At least one of the three members must be a dog owner.

8.8.5.2 Nuisance or Dangerous Dog Hearings

Any person may file a complaint in writing to the ACAC that a dog owned or kept in the Town is a nuisance dog or a dangerous dog. All such complaints shall be investigated and addressed in accordance with MGL Chapter 140 Section 157.

8.8.6 Penalties

8.8.6.1 Fines

Any dog owner or keeper who maintains a kennel after the kennel license has been denied, revoked or suspended, or who fails to obtain a kennel license; and any dog owner or keeper who fails to comply with Section 8.8.3 shall be

subject to penalties as determined by the ACAC, not exceeding Three Hundred ($300) Dollars per day for every day of the violation.

8.8.6.2 Reimbursement of Costs

If the ACO confines a dog and the dog owner or keeper does not pay all fees directly to the kennel or veterinary clinic, then the dog's owner or keeper shall be required to reimburse the Town for any expenses incurred in boarding that dog. If the dog has not been licensed, the owner or keeper shall obtain a license and pay any applicable late fee before the dog can be released.

8.8.6.3 Penalties for Violating Temporary Restraint Orders

The ACAC shall determine a schedule of penalties not exceeding Three Hundred ($300) Dollars per day for each and every violation of Temporary Restraint Orders.

8.8.6.4 Penalties for Non-Compliance with and Order of the ACAC

An owner or keeper of a dog who fails to comply with an order of the ACAC shall be punished in accordance with MGL Chapter 140 Section 157A.

8.8.6.5 Enforcement

In addition to any other means of enforcement, the provisions of Section 8.8 and the regulations adopted pursuant thereto may also be enforced by non-criminal disposition in accordance with the provisions of Section 1.8, and MGL Chapter 40 Section 21D. The penalty for such violation shall be $300 for each offense. Each day or part thereof shall constitute a separate offense.

8.9 Public Conduct

8.9.1 Firearms

8.9.1.1 Definitions

As used in Section 8.9.1, the following terms shall have the following definitions:

- **Firearm:** shall mean a pistol, revolver, rifle, shotgun or other weapon of any description, from which a bullet or shot can be discharged using a propellant powder.

8.9.1.2 Discharges Prohibited

Except as provided in Section 8.9.1.3, no person shall fire or discharge any Firearm of any kind:

- On, over or onto any street, highway, park or other public property; or
- Within 1,000 feet from a dwelling or other building in use, or 300 feet from a public way; or
- On, over or onto any private property except by the owner or legal occupant thereof, or a person carrying the written consent of such owner, which shall be valid for no more than one year from its issuance, and which shall be available for review upon the request of any law enforcement officer.

8.9.1.3 Authorized Discharges

The prohibition set forth in Section 8.9.1.2 shall not apply to

- The use of such weapons in the lawful defense of any person, family or property; or

- Any law enforcement officer or member of the armed forces acting within the scope of lawfully authorized duties; or
- The use of such weapons on any lawfully permitted target, trap or skeet range.

8.9.2 Peeping

No person, except an officer of the law in the performance of official duties, shall enter upon the premises of another or upon public lands with the intention of peering into the windows or doors of a house or of spying upon, in any manner, any person or persons therein.

8.9.3 Burning Leaves

No person shall burn or cause to be burned in the open, fallen leaves within the Town.

8.9.4 Public Buildings, Public Property and Public Ways

8.9.4.1 Gambling Prohibited

No person shall gamble in any building or room owned or occupied by the Town, or upon any public property or public ways, except as otherwise authorized by the Select Board, special Statute or general laws.

8.9.4.2 Liquor Prohibited

No person shall keep, use or possess any spirituous or intoxicating liquor in any building or room owned or occupied by the Town, or upon any public property or public ways, except as otherwise authorized by the Select Board, special Statute or general laws.

8.9.4.3 Tobacco Regulated

No person shall smoke or possess any lighted cigar, cigarette, or other tobacco product in any building or room owned or occupied by the Town.

8.9.5 Loitering

No person, after being otherwise directed by a Police Officer, shall loiter, sit or stand in any street, common place or public building so as to obstruct or impede the free passage of any other person.

8.9.6 Consumption of Alcoholic Beverages

No person shall consume any alcoholic beverages as defined in MGL Chapter 138 Section 1, while on, in or upon any public way, public parking lot or upon any vehicle on such way, lot or place except as otherwise authorized by the Select Board, special Statute or general laws.

All alcoholic beverages being used in violation of this bylaw shall be seized and safely held until final adjudication of the charges against the person or persons arrested or summoned before the Court, at which time they shall be returned to the person entitled to lawful possession.

8.9.7 Public Consumption of Marijuana or Tetrahydrocannabinol

No person shall smoke, ingest or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in MGL Chapter 94C Section 1, as amended) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, school house, school grounds, cemetery, parking lot or any area owned by or under the control of

the Town; or in or upon any bus or other passenger conveyance operated by a common carrier, or in any place accessible to the public.

The Police Department may enforce the provisions of this section through any lawful means in law or in equity including enforcement by noncriminal disposition pursuant to MGL Chapter 40 Section 21D. The fine for violation of this section shall be One Hundred ($100) Dollars for each offense pursuant to MGL Chapter 94G Sections 13(c) and (g) and MGL Chapter 94C Section 32N.

8.9.8 Construction Hours

8.9.8.1 Purpose

The intent of this bylaw is to regulate the hours during which construction and demolition activities may take place within the Town and otherwise to limit the impact of such activities on nearby residents and business.

8.9.8.2 Definition

"Construction" shall mean and include the construction, reconstruction, alteration, repair, demolition and/or removal of any building, structure or substantial part thereof if such work requires a building permit, razing permit, electrical permit, plumbing permit, gas permit, or mechanical permit. "Construction" shall also include excavation that involves the use of blasting jackhammers, pile drivers, back hoes and/or other heavy equipment. "Construction" shall also include the starting of any machinery related to the above; deliveries; fueling of equipment; and any other preparation or mobilization for construction which creates noise or disturbance on abutting properties.

For purposes of this section a "small contractor" shall mean a licensed person hired to perform less substantial construction work which shall mean work performed entirely on the interior of a building, with no evidence of such activity visible or audible at the property line of the property where construction is taking place.

8.9.8.3 Hours

No person shall perform any construction within the Town except between the following hours, except that set-up and delivery may take place as early as 6:30 AM:

- 7:00 AM and 8:00 PM, Monday through Friday;
- 7:00 AM to 5:00 PM on Saturdays;
- None on Sundays and legal holidays.

8.9.8.4 Exemptions

The restrictions set forth in this bylaw shall not apply to any work performed as follows:

- By any federal or state department, Reading Department of Public Works, the Reading Municipal Light Department and/or any contractors working directly for these agencies, when working within a public way or within easements;
- By a resident on or in connection with that person's residence, without the aid of hired contractors, whether or not such residence is a detached single family home;
- Less substantial construction performed by a small contractor as defined above;

- Work occasioned by a genuine and imminent emergency, and then only to the extent necessary to prevent loss or injury to persons or property.

8.9.8.5 Permits

The Chief of Police or a designee thereof (the Chief), may in the Chief's reasonable discretion, issue permits in response to written applications authorizing applicants to perform construction during hours other than those permitted by this bylaw. Such permits may be issued upon a determination by the Chief, in consultation with the Building Inspector, the Town Engineer or other Town staff, that literal compliance with the terms of this bylaw would create an unreasonable hardship and that the work proposed to be done (with or without any proposed mitigative measures) will have no adverse effects of the kind which this bylaw seeks to reduce. Each such permit shall specify the person authorized to act, the dates on which or within which the permit will be effective, the specific hours and days when construction otherwise prohibited may take place, and any conditions required by the Chief to mitigate the effect thereof on the community. The Chief may promulgate a form of application and charge a reasonable fee for each permit. No permit may cover a period of more than thirty (30) days. Mitigative measures shall include notice to residents in the surrounding area, and other mitigation as determined by the Chief. Objections by such residents shall be noted by the Chief and shall be taken into account when considering issuance of such permit.

8.9.8.6 Unreasonable Noise

Regardless of the hour or day of the week, no construction shall be performed within the Town in such a way as to create unreasonable noise. Noise shall be deemed unreasonable if it interferes with the normal and usual activities of residents and businesses in the affected area and could be reduced or eliminated through reasonable mitigative measures.

8.9.8.7 Copy of Bylaw

The Building Inspector shall deliver a copy of this bylaw to each person to whom it issues a building permit, razing permit, electrical permit, plumbing permit, gas permit or mechanical permit at the time that the said permit is issued.

8.9.8.8 Enforcement

In addition to any other means of enforcement, the provisions of this bylaw and the regulations adopted pursuant thereto may be enforced by non-criminal disposition in accordance with the provisions of Section 1.8 of this bylaw, and MGL Chapter 40 Section 21D.

8.9.9 Door-To-Door Solicitors and Canvassers

8.9.9.1 Definitions

- As used in this section, the terms "solicit" and "canvas" shall mean and include any one or more of the following activities conducted at residences without the previous consent of the owner:
  - Seeking to obtain the purchase, or orders for the purchase of goods, wares, merchandise, foodstuffs or services of any kind, character or description whatever for any kind of consideration whatsoever; or
  - Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication.

8.9.9.2 Applicability

- The provisions of this section shall not apply to officers or employees of the Town, State or Federal government, or any subdivision thereof when on official business, or to neighborhood youth and students who solicit for the shoveling of snow or cutting of lawns or similar services to residents, nor shall it be construed to prevent route salespersons or other persons having established customers to whom they make periodic deliveries from calling upon such customers.
- If any solicitor or canvasser is under the age of eighteen (18) years and is selling goods or periodicals for a commercial purpose, the provisions of MGL Chapter 101 Section 34 shall apply.
- The provisions of this section shall not apply to any person soliciting solely for religious, charitable or political purposes.

8.9.9.3 Registration Required

It shall be unlawful for any person to solicit or canvas or engage in or conduct business as a canvasser or solicitor without first having obtained a Certificate of Registration from the Chief of Police as provided in this section.

8.9.9.4 Application for Certificate of Registration

- Application for a Certificate of Registration shall be made upon a form provided by the Police Department along with a nonrefundable application fee. Said fee to be determined by the Select Board.
- An authorized representative of the sponsoring organization shall apply to the Chief of Police or a designee thereof either in person or by mail. All statements on the application or in connection therewith shall be under oath. The applicant shall provide all information requested on the application, including:
  - Name, address and telephone number of the sponsoring organization, along with a listing of all officers and directors;
  - State and/or Federal Tax Identification Number of the sponsoring organization;
  - Name, residential and business address, length of residence at such residential address, telephone number, social security number and date of birth of each representative of the sponsoring organization who will be soliciting or canvassing in the Town;
  - Description sufficient for identification of the subject matter of the soliciting or canvassing in which the organization will engage;
  - Period of time for which the Certificate is applied (every Certificate shall expire within one year of date of issue);
  - The date of the most recent previous application for a Certificate under this section;
  - Any previous revocation of a Certificate of Registration issued to the organization or to any officer, director or representative of the organization by any city or town and the reasons therefore;
  - Any convictions or imprisonment for a felony, either state or federal, within five (5) years of the application, by the sponsoring organization, any of its officers or directors, or any representative who will be soliciting or canvassing in the Town;
  - Names of the three (3) communities where the organization has solicited or canvassed most recently;
  - Proposed dates, hours and method of operation in the Town;

- Signature of an authorized representative of the sponsoring organization.

- A photograph or an acceptable photocopy of a photograph of each representative of the sponsoring organization who will be soliciting or canvassing in the Town shall be attached to the application.
- No Certificate of Registration shall be issued to any person, or to any organization having an officer or director, who was convicted of commission of a felony, either state or federal, within five (5) years of the date of the application, nor to any organization or person whose Certificate of Registration has previously been revoked as provided below.
- Fully completed applications for Certificates shall be acted upon within five (5) business days of receipt. Accurate records shall be kept in the Chief of Police's Office of every application received together with all other information and data pertinent thereto and of all Certificates of Registration issued under this section and of all denials.
- Upon approval of an application, each solicitor or canvasser shall be issued a Certificate of Registration with a photo identification badge to carry upon that person at all times while soliciting or canvassing in the Town and to display the certificate whenever asked by any police officer or any person solicited.

8.9.9.5 Revocation of Certificate

- Any Certificate of Registration issued hereunder may be revoked by the Chief of Police for good cause, including conviction of the holder of the Certificate of a Violation of any of the provisions of this section or a false material statement in the application. Immediately upon such revocation, the Chief of Police shall give written notice to the holder of the Certificate in person or by certified mail addressed to the residence address set forth in the Certificate holder's application.
- Immediately upon the giving of such notice, the Certificate of Registration shall become null and void. In any event, every Certificate of Registration shall state its expiration date, which shall be no later than one year from date of issue.

8.9.9.6 Deceptive Practices

No solicitor or canvasser registered or exempt from registering may use any plan, scheme, or ruse which misrepresents the true status or mission of any person conducting the solicitation or canvas in order to gain admission to the home, office or other establishment of any person in the Town.

8.9.9.7 Duties of Solicitors and Canvassers

It shall be the duty of every solicitor and canvasser going onto any premises in the Town to:

- Display a Town-issued photo identification badge on the outside of their person; and
- First examine whether there is a notice posted stating that no solicitors are welcome. If such notice is present, then the solicitor or canvasser shall immediately and peacefully depart from the premises; and
- Any solicitor or canvasser who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

8.9.9.8 Enforcement

In addition to any other means of enforcement, the provisions of this bylaw and the regulations adopted pursuant thereto may be enforced by non-criminal disposition in accordance with the provisions of Section 1.8 of this bylaw, and MGL Chapter 40 Section 21D.

8.10 Maintenance of Vacant Buildings and Land

All vacant structures and vacant land within the Town of Reading shall be maintained in a safe, secure and clean condition so as not to compromise the health, safety and general welfare of the community.

8.10.1 Definitions

For purposes of this bylaw the following definitions shall apply:

8.10.1.1 Building

A structure enclosed within exterior walls or firewalls, built, erected, or framed of any materials, and fixed to the ground, having a roof, to form a structure for the shelter of persons, animals or property, or the storage of commercial or industrial personal property.

8.10.1.2 Owner

A person, entity, service company, property manager or real estate broker, who alone or severally with others:

- has legal or equitable title to any building, structure or parcel of land, vacant or otherwise; or
- has care, charge or control of any building or structure, parcel of land, vacant or otherwise, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or
- is a mortgagee in possession of any such property; or
- is an agent trustee or other person appointed by the courts and vested with possession or control; or
- is an officer or trustee of the association of unit owners of a condominium; each such person being bound to comply with the provisions of these minimum standards as if that person were the owner; or
- is a trustee who holds, owns or controls mortgage loans for mortgage backed securities transactions and has initiated a foreclosure process.

8.10.1.3 Vacant

Buildings or property that are unoccupied for a period greater than one hundred eighty (180) days by a person or persons with legal right to occupancy thereof.

8.10.2 Minimum Maintenance Requirements

Owners of vacant properties must fulfill the following minimum adequate maintenance requirements for any such property they own:

- Maintain vacant properties in accordance with all applicable local and state Sanitary Codes, Building Codes and Fire Codes.
- Secure vacant properties to prevent unauthorized entry and exposure to the elements.
- Maintain vacant properties in a manner that ensures their external/visible maintenance, including but not limited to the maintenance of major systems, the removal of trash and debris, and the upkeep of lawns, shrubbery, and other landscape features.

- Remove graffiti, carvings or markings from all structures, signs, walls and fences.
- Repair or replace broken windows or doors within thirty (30) days. Boarding up any doors or windows is prohibited except as a temporary measure for no longer than thirty (30) days, unless an extension is approved by the Building Inspector.
- For properties vacant for six months or more, the utilities for which have been shut off, remove or cut and cap such utilities to prevent accidents.
- Maintain free from the storage of any junked, wrecked, or abandoned vehicles.

Compliance with this section shall not relieve the owner of any applicable obligations set forth in any other codes, regulations, covenant conditions or restrictions, and/or homeowner or condominium association rules and regulations.

8.10.3 Notice of Failure to Maintain Property

Upon identifying a property as failing to meet the minimum maintenance requirements set out in section 8.10.2, the Building Inspector may notify the owner in writing at the owner's last known address of maintenance deficiencies. If any maintenance deficiency is not corrected within 30 days of said notice, or if a maintenance plan is not approved by the Building Department within 30 days of said notice, the Town may impose a penalty in accordance with the provisions of this bylaw.

8.10.4 Inspections

The Building Department, the Board of Health, the Chief of the Police Department and the Chief of the Fire Department, or their designees, shall have the authority to periodically inspect any property reasonably understood to be a vacant property for compliance. The Building Department shall have the discretion to determine when and how such inspections are to be made, provided that the time and manner of such inspections are reasonably calculated to ensure that this bylaw is enforced.

8.10.5 Penalties

Violations of this bylaw, including violations of any regulation promulgated hereunder, or failure to comply with a maintenance plan approved by the Building Department, shall be punishable by a fine of one hundred dollars ($100.00) for each day during which the violation continues. In addition to any other means of enforcement, the provisions of this bylaw may be enforced by non-criminal disposition in accordance with the provisions of Section 1.8 of this bylaw, and MGL Chapter 40 Section 21D. For the purposes of such non-criminal disposition, the "enforcing person" shall mean the Building Inspector, the Health Director, the Police Department, the Fire Department, or their designee.

8.10.6 Enforcement

The Building Department or its designee, the Board of Health, Fire Department and/or the Police Department or their designees(s) shall enforce all provisions of this bylaw; including any regulation promulgated hereunder, and shall institute all necessary administrative or legal action to assure compliance.

8.10.7 Unsafe Buildings

Upon determining that a building is unsafe, the Building Inspector may act immediately in accordance with the State Building Code to protect public safety. Furthermore, nothing in this bylaw shall abrogate the powers and/or duties of municipal officials to act pursuant to any general statutory authority including, without limitation, MGL Chapter 139 Section 1 et sequens and MGL Chapter 143 Section 6 et sequens.

8.11 Trash Collection

No person shall collect, or cause others to collect trash, rubbish, garbage, recycling, offal or other offensive substances (whether from dumpsters, barrels, or otherwise, and whether on the public way, a private way or any lot) after 9:00 PM and before 6:30 AM in any residential district of the Town or within 100 yards of such a district as shown on the then current Zoning Map.

8.12 Illicit Connections and Discharges into Municipal Storm Drain System

8.12.1 Purpose

Non-stormwater discharges into the Municipal Storm Drain System can harm water quality and create public health hazards. The purpose of Section 8.12 is to provide for the health, safety, and welfare of the citizens of the Town of Reading through the regulation of non-stormwater discharges into the Municipal Storm Drain System.

The provisions of Section 8.12 shall be administered so as to:

- Prevent pollutants from entering the Municipal Storm Drain System;
- Prohibit illicit connections and illicit discharges into the storm drain system;
- Comply with the requirements of the Town's National Pollutant Discharge Elimination System (NPDES) permit for discharges from the municipal storm drain system; and
- Ensure compliance through inspection, monitoring, and enforcement.

8.12.2 Definitions

Unless the context clearly indicates otherwise, the following words and terms, as used in Section 8.12, shall have the following meanings:

8.12.2.1 Hazardous Material

Any solid or liquid substance or combination of substances, including any liquid petroleum products that, because of quantity, concentration or physical, chemical or infectious characteristics, poses a significant present or potential hazard to water supplies or to human health if disposed of into or on any land or water. Any substance deemed to be a "hazardous waste" pursuant to MGL Chapter 21C, or deemed to be a toxic or hazardous substance pursuant to MGL Chapter 94B shall be deemed to be a hazardous material.

8.12.2.2 Illicit Connection

Any drain or conveyance, whether on the surface or subsurface, that allows an Illicit Discharge into enter the Municipal Storm Drain System, regardless of whether the drain or connection was previously allowed, permitted or approved before the effective date of Section 8.12. An Illicit Connection shall include:

- Any conveyance that allows sewage, process wastewater, wash water or other non-stormwater discharge into the Storm Drain System; and
- Any connection to the Storm Drain System from indoor drains and sinks.

8.12.2.3 Illicit Discharge

Any direct or indirect non-stormwater discharge, including dumping, into the Municipal Storm Drain System. The following non-stormwater discharges shall not be considered Illicit Discharges:

- Water line flushing; landscape irrigation; diverted stream flows; rising ground waters; uncontaminated groundwater infiltration (as defined by 40 CFR 35.2005(20)); uncontaminated pumped groundwater; discharges from potable water sources; foundation drains; air conditioning

condensation; irrigation water; springs; water from crawl space pumps; footing drains; lawn watering; individual resident car washing; flows from riparian habitats and wetlands; dechlorinated swimming pool discharges; street wash water; residential building wash waters without detergents; and discharges or flow from firefighting; unless the DPW or the Select Board determines that the discharge is a significant contributor of pollutants to the Municipal Storm Drain System;

- Discharges associated with dye testing, provided, however, that the discharger shall notify the DPW before any such test; and
- Discharges permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger under the authority of the U.S. Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and that written approval has been granted by the DPW for any discharge to the Municipal Storm Drain System.

8.12.2.4 Municipal Storm Drain System (or Storm Drain System)

The system of conveyances owned by the Town (including roads, catch basins, curbs, gutters, ditches, constructed channels, pipes, and outfalls) by which stormwater is collected or conveyed.

8.12.2.6 Pollutant

Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. §§2011 et seq.), heat, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, and agricultural waste, and any other material that may cause or contribute to exceedance of water quality standards in the waters to which the Storm Drain System discharges.

8.12.2.7 Stormwater

Any surface flow, runoff or drainage resulting entirely from any form of natural precipitation.

8.12.3 Responsibility for Administration

The Department of Public Works (DPW) and Select Board shall administer, implement, and enforce the provisions of Section 8.12. Any powers granted to the DPW or the Select Board, except the power to hear appeals, may be delegated in writing in writing by (respectively) the DPW Director or the Select Board to other employees or agents of the Town.

8.12.4 Prohibitions

8.12.4.1 Prohibition of Illicit Discharges

No person shall commence, allow, conduct or continue any Illicit Discharge.

8.12.4.2 Prohibition of Illicit Connections

No person shall construct, use, allow, maintain or continue any Illicit Connection, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

8.12.4.3 Prohibition of Obstruction of Municipal Storm Drain System

No person shall obstruct or interfere with the normal flow of stormwater into or out of the Municipal Storm Drain System without prior written approval from the DPW.

8.12.5 Notification of Releases

Any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, who has information of any known or suspected release of materials at that facility or operation that are resulting or may result in Illicit Discharges shall take all necessary steps to ensure the discovery, containment and cleanup of such release. In the event of a release of Hazardous Material, that person shall immediately notify the Reading Fire Department and shall notify the DPW within two hours. In the event of a release not involving Hazardous Material, that person shall notify the DPW no later than the next business day. For all releases, the initial notification shall be confirmed by written notice addressed and mailed to the DPW within two business days.

8.12.6 Enforcement

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of Section 8.12. The DPW, the Select Board, and their authorized agents, shall enforce Section 8.12 and may pursue all civil and criminal remedies for violations.

8.12.6.1 Enforcement Orders

If any person violates or fails to comply with any of the requirements of Section 8.12, the DPW may order compliance by written notice to the responsible person via certified mail or hand delivery. The order shall include the name and address of the alleged violator, the address at which the violation is occurring or has occurred, a statement specifying the nature of the violation, a description of the actions needed to resolve the violation and come into compliance, the deadline within which such actions must be completed, and a statement that, if the violator fails to come into compliance by the specified deadline, the Town may do the work necessary to resolve the violation at the expense of the violator. In addition, said order may require:

- Elimination of Illicit Connections or Illicit Discharges;
- Performance of monitoring, analyses and reporting;
- Remediation of contamination caused by the Illicit Connection or Illicit Discharge; and
- The implementation of source control or treatment measures.

8.12.6.2 Appeals

Any person aggrieved by an enforcement order issued pursuant to Section 8.12.6.1 may request a hearing before the Select Board by submitting to the DPW and Select Board, within 30 days of such order, a letter explaining why the order was not justified. The Select Board shall thereupon schedule and hold a hearing regarding such request and, upon the close of such hearing, may uphold, modify or rescind the order as the facts and applicable law may require. The Select Board's decision shall be deemed its final action with respect to the matters determined, and any further appeal shall be to a court of competent jurisdiction.

8.12.6.3 Action by the Town to Remedy a Violation

If a violator fails to come into compliance by the deadline specified in an enforcement order, the DPW may do the work necessary to resolve the violation at the joint and several expense of the violator and property owner.

For situations involving an immediate threat, the DPW may remove an Illicit Connection immediately and take such other action as is necessary to protect public health, safety or the environment. Written notice of any remediation action undertaken by the DPW shall be provided to the property owner by hand within 48 hours of the commencement thereof or by certified mail postmarked no later than the next business day.

8.12.6.4 Recovery of Costs

If the DPW undertakes remediation work pursuant to Section 8.12.6.3, it shall, within 30 days after completing the work, notify the violator and the property owner in writing of the costs incurred by the Town, including administrative costs, associated with that work. The violator and the property owner shall be jointly and severally liable to repay the Town for those costs within 30 days of receipt of that notice; provided, however, that the violator or the property owner may file a written protest objecting to the amount or basis of costs with the DPW and Select Board within such 30 days. The Select Board shall schedule and hold a hearing regarding such protests and, upon the close of such hearing, may uphold, modify or rescind the costs required to be repaid, as the facts and applicable law may require.

If the amount due is not received by the Town by the expiration of the time in which to file such a protest, or within 60 after the final decision of the Select Board or, if appealed to court, a court of competent jurisdiction resolving that protest, the amount of the Town's costs shall constitute a lien on the property pursuant to MGL Chapter 40 Section 58. Interest shall accrue on any unpaid costs at the statutory rate, as provided in MGL Chapter 59 Section 57.

8.12.6.5 Civil Relief

If a person violates any provision of Section 8.12 or an order issued thereunder, the Select Board may seek injunctive relief in a court of competent jurisdiction restraining the person from activities that would create further violations or compelling the person to abate or remedy the violation.

8.12.6.6 Criminal Penalty

Any person who violates any provision of Section 8.12 or any order issued thereunder may be punished by a fine of not more than $300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense. A criminal complaint may be filed by the DPW or Select Board, with the authorization of the Select Board.

8.12.6.7 Non-Criminal Disposition (Ticketing)

As an alternative to criminal prosecution, the DPW or Select Board may elect to utilize the non-criminal disposition procedure set forth in Section 1.8. The penalty for the first violation shall be $100.00. The penalty for each subsequent violation shall be $300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

8.12.6.8 Entry to Perform Duties Under this Bylaw

To the extent permitted by law, or if authorized by the owner or other party in control of the property, the Town and its agents, officers and employees may enter privately owned property for the purpose of performing their duties under Section 8.12 and may make or cause to be made such examinations, surveys, sampling, or remedial activities as the Town deems reasonably necessary.

8.12.6.9 Remedies Not Exclusive

The remedies listed in Section 8.12 are not exclusive of any other remedies available under any applicable federal, state or local law.

8.13 Regulation of Retail Checkout Bags

8.13.1 Purpose

The purpose of this Section is to regulate the retail use of plastic bags and adopt the use of reusable, recyclable and/or biodegradable bags for use at checkout.

8.13.2 Definitions

The following words shall, unless the context clearly requires otherwise, have the following meanings:

8.13.2.1 Checkout Bag

a carryout bag provided by a store to a customer at the point of sale. Checkout bags shall not include bags, whether plastic or not, in which loose produce or products are placed by the consumer to deliver such items to the point of sale or check out area of the store.

8.13.2.2 Compostable Plastic Bag

a plastic bag that: (1) conforms to the current ASTM D6400, the ASTM International "Standard Specification for Labeling of Plastics Designed to be Aerobically Composted in Municipal or Industrial Facilities" for compostability; (2) is certified and labeled as meeting the ASTM D6400 standard specification by a recognized verification entity; and (3) conforms to any other standards deemed acceptable by the Director.

8.13.2.3 Director

DPW Director or the DPW Director's designee.

8.13.2.4 Recyclable Paper Bag

a paper bag that is: (1) 100 percent recyclable; and (2) contains at least 40% post-consumer recycled paper content and is clearly labeled as such.

8.13.2.5 Reusable Checkout Bag

a bag with handles that: (1) can carry twenty-five (25) pounds over a distance of three hundred (300) feet; and (2) is either (a) made of cloth or other machine washable fabric, or (b) made of plastic that is durable, non-toxic, and generally considered a food-grade material other than polyvinyl chloride, and that is at least three (3) mils thick.

8.13.2.6 Retail Establishment

any commercial enterprise including, but not limited to the following: restaurants, pharmacies, convenience and grocery stores, liquor stores, seasonal and temporary businesses, jewelry stores, household goods stores and any other business that offers the sale and display of merchandise.

8.13.2.7 Single-Use Plastic Checkout Bags

any plastic Checkout bag less than 3 mils thick.

8.13.3 Regulation

8.13.3.1 If a Retail Establishment provides Checkout bags, the Checkout bags shall be Reusable checkout bags or Recyclable paper bags. Retail Establishments are encouraged to make Reusable bags available for free or for sale to customers at a reasonable price.

8.13.3.2 Except as otherwise provided herein, Single-use plastic checkout bags shall not be distributed, used or sold for checkout or other purposes by any Retail Establishment within the Town of Reading. Existing stocks of Single-use checkout bags shall be phased out within six (6) months following the effective date of Section 8.13.

8.13.3.3 The following are exempt and not subject to the provisions of Section 8.13:

- Bags used by customers to:
  - package bulk items, such as fruit, vegetables, nuts, grains, candy or small hardware items;
  - contain or wrap frozen foods, meat, or fish;
  - contain or wrap flowers, potted plants, or other items where dampness may be a problem; and
- Laundry or dry-cleaning bags or bags sold in packages containing multiple bags intended to be used for home food storage, garbage, waste, pet waste or yard waste.

8.13.4 Administration and Enforcement

8.13.4.1 The Director shall have the authority to administer Section 8.13 and enforce against violations thereof by a Retail Establishment. In addition to any other means of enforcement, the provision of Section 8.13 and any regulations adopted pursuant thereto may be enforced by non-criminal disposition in accordance with the provisions of Section 1.8 and MGL Chapter 40 Section 21D.

8.13.4.2 Retail Establishments shall have fifteen (15) calendar days, after the date that a notice of violation is issued, to pay the penalty or request a hearing in writing to the Director. No more than one (1) penalty shall be imposed upon a Retail Establishment within a fifteen (15) calendar-day period.

8.13.4.3 In the event that compliance with Section 8.13 is not feasible for a Retail Establishment because of either unavailability of suitable Checkout bags or economic hardship, the Director may grant a waiver of not more than six (6) months upon application of the owner or owner's representative. The Director may provide one (1) additional six-month waiver upon showing of continued infeasibility or hardship, as set forth above.

8.13.4.4 The Director may promulgate rules and regulations to implement Section 8.13.

8.14 Regulation of Polystyrene and Disposable Food Service Containers

8.14.1 Purpose

The purpose of this bylaw is to limit the distribution of polystyrene food service containers and utensils by food establishments in the Town and to encourage establishments to switch to similar items made of healthier and more

environmentally friendly materials, or to switch to reusable food service items, or to adopt other approaches that do not require such containers or utensils.

8.14.2 Definitions

The following words shall, unless the context clearly requires otherwise, have the following meanings:

8.14.2.1 "Director" shall mean the Public Health Director or the Public Health Director's designee.

8.14.2.2 "Disposable Food Service Containers" shall mean single-use disposable products used for serving, consuming or transporting food or beverages, including, but not limited to take-out foods or leftovers from partially consumed meals prepared by a restaurant or other food establishment. This includes, but is not limited to, plates, cups, bowls, trays, hinged or lidded containers, straws, cup lids, and cutlery. It shall also include single-use disposable packaging for uncooked foods prepared on the premises, as well as disposable catering trays.

8.14.2.3 "Food Establishments" shall mean operations that store, prepare, package, serve, vend or otherwise provide food for human consumption as further defined in 105 CMR 590.002, including, but not limited to, restaurants, mobile food vendors, caterers, public and private schools, farmers markets, civic or religious centers or facilities, any building owned by the Town of Reading, and any establishment requiring a permit to operate in accordance with the State Food Code.

8.14.2.4 "Polystyrene" shall mean and includes:

- Blown polystyrene and expanded and extruded foams (sometimes called "Styrofoam," a Dow Chemical Co. trademarked form of insulation) also referred to as expanded polystyrene (EPS), which is herein referenced in this bylaw as "Foam Polystyrene." Foam Polystyrene is generally used to make opaque cups, bowls, plates, trays, clamshell containers, meat trays, and egg cartons; and
- Clear or solid polystyrene which is also known as "oriented," which is herein referenced in this bylaw as "Rigid Polystyrene." Rigid Polystyrene is generally used to make clear clamshell containers, and clear or colored cups, plates, straws, lids, and utensils.
- Polystyrene may be labeled with the recycling number "6" or "PS 6".

8.14.3 Regulation

8.14.3.1 Food establishments within the Town shall be prohibited from using or distributing disposable food service containers made from foam polystyrene or rigid polystyrene, or polystyrene cutlery or other polystyrene single-use disposable products.

8.14.3.2 The following are exempt and not subject to the provisions of this bylaw:

- Prepackaged meat and produce trays, egg cartons, and other food or beverage products bought from or packaged by a supplier other than the Food Establishment.
- Any Polystyrene Disposable Food Service Containers or other food service items, such as picnic supplies, purchased by an individual for private use or for use at a private function held on property owned by the individual or any Polystyrene items unrelated to food service such as packaging peanuts or freezer chests.

8.14.4 Administration and Enforcement

8.14.4.1 The Director shall have the authority to administer and enforce this bylaw. In addition to any other means of enforcement, the provision of this bylaw and any regulations adopted pursuant thereto may be enforced by non-criminal disposition in accordance with the provisions of Section 1.8 of the Town's General Bylaw and MGL Chapter 40 Section 21D.

8.14.4.2 Food Establishments shall have fifteen (15) calendar days, after the date that a notice of violation is issued, to pay the penalty or request a hearing in writing to the Director. No more than one (1) penalty shall be imposed upon a Food Establishment within a fifteen (15) calendar-day period.

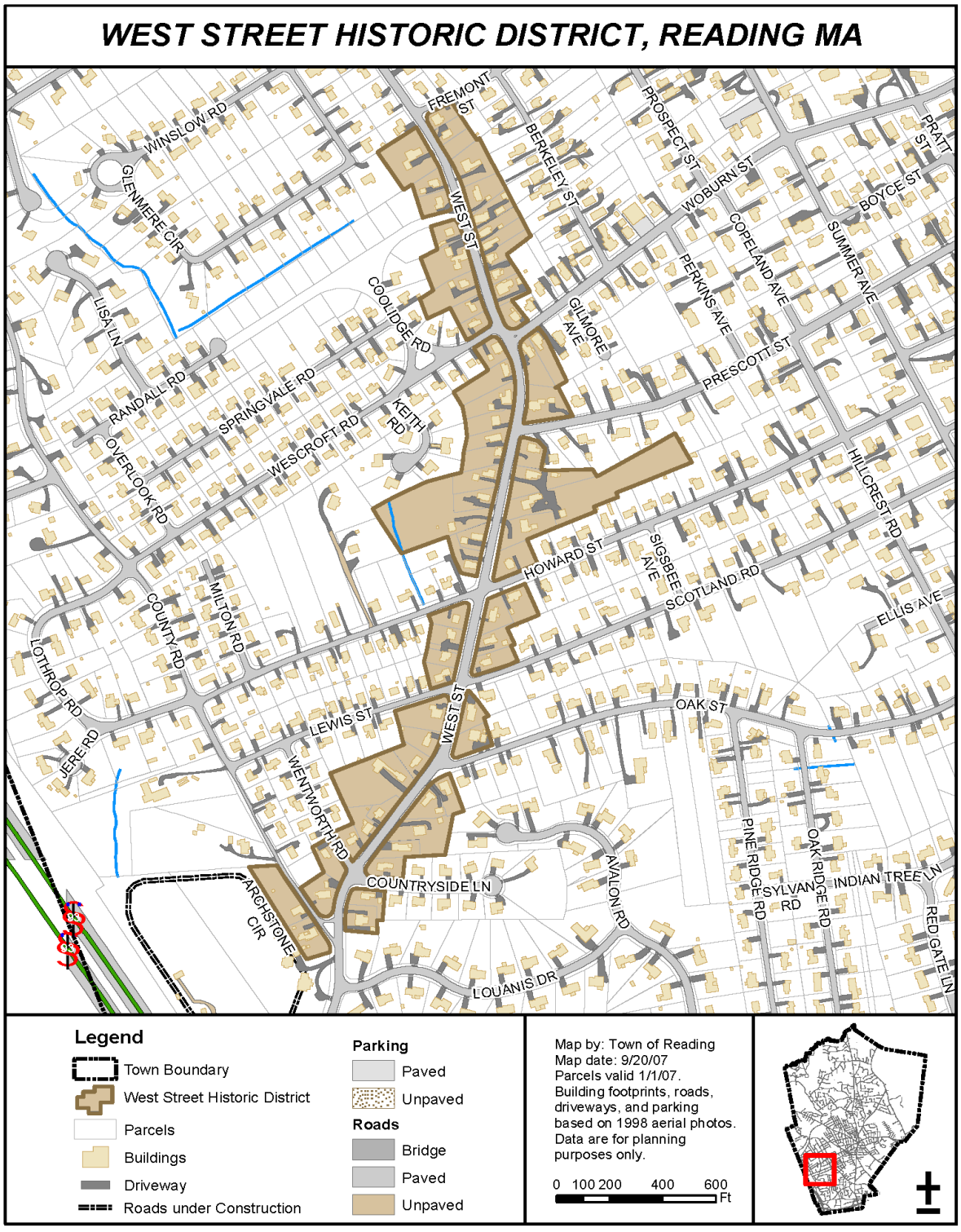
8.14.4.3 In the event that compliance with this bylaw is not feasible for a Food Establishment because of either unavailability of suitable alternative containers or economic hardship, the Director may grant a waiver of not more than six (6) months upon application of the owner or owner's representative. The Director may provide one (1) additional six-month waiver upon showing of continued infeasibility or hardship, as set forth above.

8.14.4.4 The Director may promulgate rules and regulations to implement this bylaw.

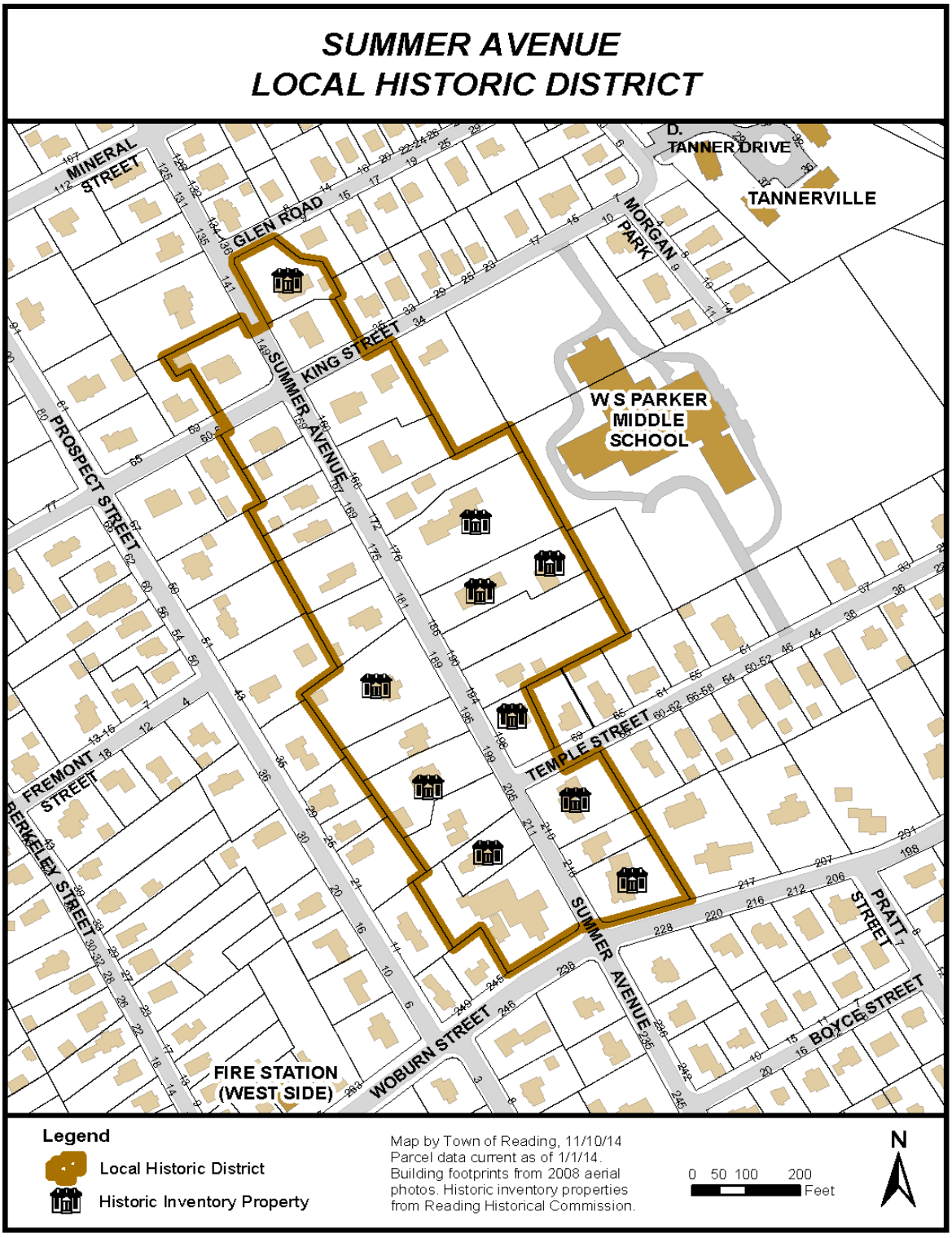
8.14.4.5 This bylaw shall take effect twelve months after it is posted by the Town Clerk in accordance with G.L. c.40, §32.

APPENDICES

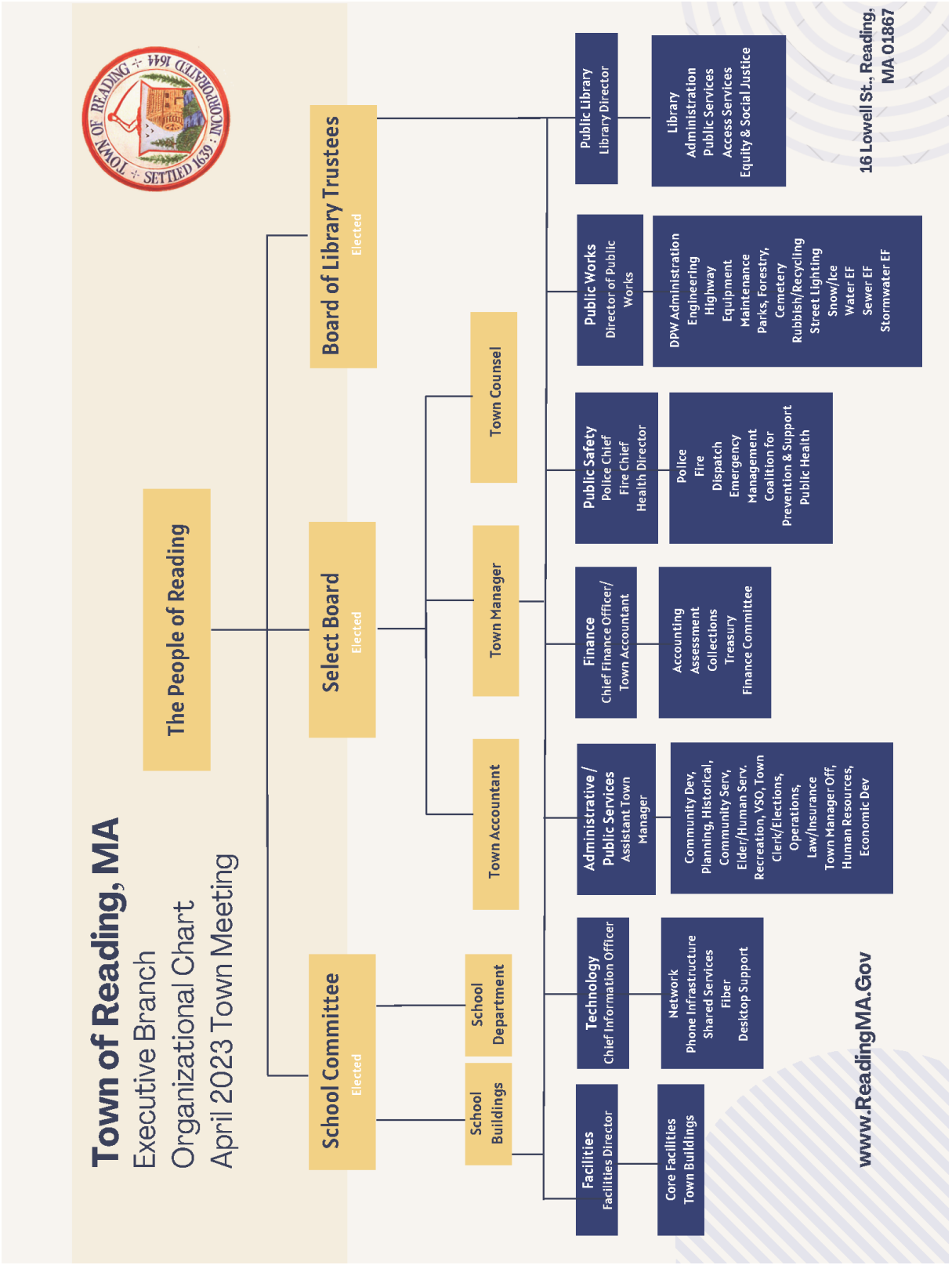
Appendix A1: Map - West Street Historic District Area



Appendix A2: Map - Summer Avenue Historic District Area



Appendix B: Table of Organization



CHRONOLOGY

Article	Bylaw	Date Adopted by Town Meeting	Warrant Article	Amendments
1.1	Purpose of Bylaw	November 13, 1989	4	
1.2	Construction	November 13, 1989	4	
1.3	Amendment	March 27, 1958	63	1988
1.4	Repeal	June 5, 1916	13	1972
1.4	Amendments	November 14, 2016	17	
1.5	Enforcement	March 2, 1896	52	1916, 1972
1.6	Severability	November 13, 1989	4	
1.7	Definitions	November 30, 1990		2018
1.8	Non-Criminal Civil Disposition of Certain Violations of the Bylaw and any Rule or Regulation of a Town Officer, Board or Department	November 15, 2012	14	2013
2.1	General Town Meeting [1]	March 2, 1896	52	1917, 1992, 1994, 1995, 1996, 1999, 2005
2.2	Conduct of Town Meeting	March 2, 1896	52	1916, 1994, 1998, 2003, 2005
3.1	Board of Selectmen [1]	June 15, 1916	13	1972
3.2	Town Treasurer Collector -Accountant	March 2, 1896	52	1947, 1958, 1972
3.3	Town Clerk[1]	June 15, 1916	13	1972
3.3	Permanent Building Committee	January 5, 2015	6	2017
3.3	Appointment of Associate Members	April 27, 2015	12	
3.3	Removal for Absence	November 9, 2015	11	2015
3.4	Finance Committee [1]	June 15, 1916 March 1, 2007 September 29, 2014	13 11 15	1958, 1991, 2007, 2014
3.5	Bylaw Committee	November 17, 1977	14	1990
3.6	Council on Aging	March 21, 1957	31	1977
3.6	Permanent Building Committee	April 24, 2017	18	2017
3.7	Gas Inspector	May 24, 1961	2	
3.8	Audit Committee	November 12, 1992	35	2003

Article	Bylaw	Date Adopted by Town Meeting	Warrant Article	Amendments
4.1	Capital Improvements Program	April 17, 1977	15	
4.2	Resolution of Legal Matters	November 13, 1986	16	Various
4.3	Town Reports and Records	March 20, 1972 April 23, 2007	5 12	 2007
4.4	Conflict of Interest (Contracts)	March 2, 1896	52	1916, 1958, 1990, 1996, 1998
4.5	Licenses	April 23, 1981 April 22, 2002	23 18	2001 2002
4.6	Disposal of Surplus Property	November 16, 1970 November 10, 2003	11 15	1991 2003
4.7	Personnel	January 17, 1949	2	1975, 1987
4.8	Physical Qualifications for Town Employees	March 24, 1960	24	1982
4.9	User Fees	April 23, 1981 April 22, 2002	21 18	1990 2002
4.10	Municipal Data Processing Center	June 10, 1982	6	
4.11	Rules and Regulations	November 14, 1988	30	
5.1	Public Works	March 2, 1896	52	Various, 1991
5.2	Streets, Highways and Public Property	March 2, 1896	52	1916, 1958, 1994, 1996
5.3	Anti-Litter	March 20, 1972	5	
5.4	Excavation and Wells	October 5, 1953	2	1990
5.4	Criminal History Check Authorization	April 30, 2012	20	
5.4.4	Effective Date	April 22, 2019	25	
5.5	Public Conduct	Various as Per:		
5.5.1	Firearms	April 16, 1956	49	
5.5.2	Peeping	March 21, 1968	36	
5.5.3	Burning Leaves	March 30, 1970	57	
5.5.4	Public Buildings	March 20, 1972 April 25, 2002 November 10, 2003 November 9, 2009	5 24 16 12	1987, 1993 2002
5.5.5	Loitering	March 3, 1896	9	1972
5.5.6	Consumption of Alcoholic Beverages	September 24, 1973	3	

Article	Bylaw	Date Adopted by Town Meeting	Warrant Article	Amendments
5.5.7	Creating a Hazard	November 12, 1985	13	
5.5.8	Construction Hours and Noise Limits	November 16, 2006	15	
5.5.9	Door- to-Door Solicitors and Canvassers	May 1, 2006	23	
5.5.10	Public Consumption of Marijuana or Tetrahyudrocannabinol	May 4, 2009	17	
5.6	Animal Control Bylaw	March 30, 1970 April 22, 2002 May 1, 2006 April 30, 2007	59 18 21 26	1972, 1998, 2000 2002, 2006, 2007
5.7	Wetlands Protection	November 15, 1979 November 19, 2001	14 23	1990, 1991, 1992 2001
5.8	Scenic Roads	April 14, 1983	10	
5.9	News Racks	November 28, 1983	18	
5.10	Retail Sales	April 14, 1988 March 1, 2007	4 12	2000 2007
5.11	Non-Criminal Disposition of Certain Violations of Bylaws and Rules and Regulations	November 14, 1988	21	1991, 1994
5.12	Regulation of Certain Motor Vehicles	November 12, 1992	37	
5.13	Demolition of Structures of Potential Historical Significance	November 16, 1995 May 4, 2006 April 28, 2011	13 24 19	2006, 2011
5.14	Emergency Vehicle Access and Fire Lanes	April, 1997	29	
5.15	Designated Parking Spaces and Curb Ramps for Disabled Veterans or Handicapped Persons	May 5, 1997	30	
5.16	Outdoor Loudspeakers and Public Address Systems	April 30, 1998	23	
5.17	Storing and Handling of Crude Petroleum or any Crude Petroleum Products	April 26, 2004 April 25, 2011	11 18	2011
5.18	Local Historic District	November 18, 2004 May 5, 2005 November 10, 2014	17 27 9	
6.0	Building Code	March 4, 1902	42	Various

Article	Bylaw	Date Adopted by Town Meeting	Warrant Article	Amendments
6.0	Building Code	March 4, 1902	42	Various
6.2	Disposal of Surplus Property	April 22, 2019	8	Removed
6.6	Establishment of Revolving Funds	November 14, 2016	18	
6.6	Inspection Revolving Fund	April 23, 2018	9	
6.6	Library Fines and Fees Revolving Fund	April 23, 2018	10	
6.6	Inspection Revolving Fund	April 22, 2019	11	
7.2	Historic Demolition Delay	November 15, 2012	13	
7.9	Stormwater Management and Erosion Control	November 16, 2016 April 26, 2021	19 18	
7.10	Stretch Energy Code	November 9, 2020	12	
8.5	Department of Public Works	November 16, 2016	20	
8.5	Temporary Repairs on Private Ways	November 16, 2016	21	
8.5	Stormwater Utility	November 16, 2016	22	
8.8	Animal Control	April 22, 2013 April 25, 2016 November 17, 2022	22 7 12	2015 2016
8.9	Firearms	November 9, 2015	14	2015
8.9	Public Consumption of Marijuana or Tetrahydrocannabinol	November 13, 2017	8	2017
8.11	Trash Collection	November 15, 2012	12	2013
8.12	Illicit Connections and Discharges into Municipal Storm Drain System	November 14, 2016	23	
8.13	Regulation of Retail Checkout Bags	November 16, 2017	10	
8.14	Regulation of Polystyrene and Disposable Food Service Containers	November 21, 2022	20	

[1] Function was not initiated by a bylaw but mandated by State statute.

Major Revisions of bylaw were conducted in 1916, 1949, 1958, 1972, 1989, 2011 and 2017.

Revisions of bylaw were made in 2019 to comply with a gender neutral bylaw

Not a part of the General Bylaw document. For information purposes only.

PART V
ADMINISTRATIVE ORGANIZATION

Sec. 5-1. Powers of Organization

The Town Administrator subject to the approval of the Town Council, or the Town Meeting by by-law, may reorganize, create, consolidate or abolish, in whole or in part, committees, commissions, offices, departments and agencies under the supervision of the Town Administrator; may establish new committees, commissions, offices, departments and agencies as deemed necessary; and may for such purposes transfer the duties and powers, and, so far as is consistent with the use for which the funds were voted by the Town, transfer the appropriation of one committee, commission, office, department or agency to another.

Sec. 5-2. Department of Public Works

(a) Powers and Duties. Until such time as otherwise provided in accordance with Section 5-1, there shall be established a Department of Public Works under the direction of a Director of Public Works. The Department shall assume all of the powers and duties and perform all of the functions related to public works, including, but not limited to, those functions which, prior to the adoption of this charter, were performed by the tree warden, highway department, cemetery department, engineering department, water department, sewer department, and the refuse and collection and disposal function under the Board of Health, or now vested in or exercised by any of the following departments and offices, which are hereby renamed divisions and included within the Department of Public Works: Highway, Engineering, Public Buildings, Cemeteries, Parks, and Tree Warden. **[Amended 11-5-2018 RTM by Art. 36]**

(b) Operations. Operations under the Department of Public works may include, but need not be limited to, the following:

(1) refuse collection and disposal;

(2) storm sewers and drains;

(3) protection of natural resources;

(4) forestry services;

(5) streets, roads, and sidewalks;

(6) cemeteries;

(7) engineering services;

(8) water and sewer service;

(9) parks: and,

(10) maintenance of all other Town-owned buildings grounds and facilities

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(excluding libraries and the facilities of the Municipal Gas and Light Department), including, but not limited to, maintenance of school buildings and grounds with the exception of school janitorial duties which shall be a function of the School Department.

Other activities and functions that are related to a department of public works may, from time to time, be assigned to the Department in accordance with the Town's by-laws or other vote of Town Meeting.

(c) Director of Public Works. The Town Administrator shall appoint, subject to the approval of the Town Council, a Director of Public Works, who shall be a person especially suited by education, training and previous experience to perform the duties of the office. The Director shall be responsible for the supervision and coordination of all public works operations of the Town that are placed under control of the Director by this charter, by by-law, or by other vote of Town Meeting.

(d) Advisory Board of Public Works. The Town Council shall appoint a three (3) member Advisory Board of Public Works, who are suitably qualified, for terms of three (3) years each, so arranged that the term of one member shall expire each year. The Advisory Board of Public Works shall from time to time consult with the Town Administrator for the purpose of providing advice and assistance in the development of policy guidelines for the operation of the Department of Public Works, and perform other advisory functions related to the Department of Public Works as the Town Council may direct.

Sec. 5-3. Personnel System

The Town Administrator shall adopt rules and regulations establishing a personnel system. The personnel system shall make use of modern concepts of personnel management and may include, but not be limited to, the following elements: a method of administration; personnel policies indicating the rights, obligations and benefits of employees; a classification plan; a compensation plan; a method of recruiting and selecting employees based upon merit principles; a centralized record keeping system; disciplinary procedures; and other elements that are deemed necessary. All Town agencies and positions shall be subject to the rules and regulations adopted under this section excluding employees of the School Department.

Sec. 5-4. Town Counsel [Amended 11-5-2018 RTM by Art. 38]

The Town Council shall appoint a Town Counsel, to a term not to exceed three (3) years, and fix his compensation within the amount annually appropriated for that purpose. The person appointed and employed by the Town Council as Town Counsel shall be a member in good standing of the bar of the Supreme Judicial Court of Massachusetts and of all other courts before which he has been admitted to practice. Any special counsel employed by the Town Council shall be a member in good standing of the bar of all courts before which he has been admitted to practice.

In addition to those duties which the Town Council may request or authorize the Town

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Counsel to perform, he shall have the following powers and duties:

(a) The Town Counsel shall examine and report to the Town Administrator upon the title to any land to be acquired by the Town or any agency;

(b) The Town Counsel shall, when requested, counsel with respect to all contracts, bonds, deeds and other legal instruments to which the Town is a party or in which any right or interest of the Town is involved;

(c) The Town Counsel shall advise all Town agencies and officers regarding legal questions relating to their powers and duties;

(d) The Town Counsel, when requested by the Town Council, shall appear and conduct, or assist in the conduct of the prosecution, defense or compromise of any claims, actions and proceedings by, on behalf of, or against the Town or any Town agency; and,

(e) The Town Counsel shall provide any and all other such legal services as may be required in the conduct of the Town's business.

Sec. 5-5. Town Accountant

There shall be a Town Accountant, appointed by the Town Administrator. The Town Accountant shall be qualified in accordance with the laws of the Commonwealth and shall have at least three (3) years prior full-time accounting experience. The Town Accountant shall devote his entire time to the performance of his duties and the supervision of the employees of his department. The Town Accountant shall be appointed in March of every year for a three (3) year term and shall serve until the qualification of his successor. The Town Accountant may be removed by the Town Administrator for cause, and the vacancy filled in the same manner as an original appointment for the remainder of the unexpired term.

The Town Accountant shall be subject to the supervision of the Town Administrator. He shall have, in addition to the powers and duties conferred and imposed upon Town Accountants by the laws of the Commonwealth, the following powers and duties:

(a) He shall prescribe the methods of installation and exercise supervision of all accounting records of the several Town officers and agencies. However, any change in the system of accounts shall first be discussed with the Town Administrator and the Town agencies affected.

(b) He shall establish standard practices relating to all accounting matters and procedures and the coordination of systems throughout the Town, including clerical and office methods, records, reports and procedures as they relate to accounting matters. He shall prepare and issue rules, regulations and instructions relating thereto that, when approved by the Town Administrator, shall be binding upon all Town agencies and employees.

(c) He shall draw all warrants upon the Town Treasurer for the payment of bills, drafts and orders chargeable to the several appropriations and other accounts.

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(d) Prior to submitting any warrant to the Town Administrator, he shall examine and approve as not being fraudulent, unlawful or excessive, all bills, drafts and orders covered thereby. In connection with any such examinations, he may make inspection as to quality, quantity and condition of any materials, supplies or equipment delivered to or received by any Town officer or agency. If, upon examination, it appears to the Town Accountant that any such bill, draft or order is fraudulent, unlawful or excessive, he shall immediately file a written report of his findings with the Town Administrator, the Town Treasurer, and the Town Council.

(e) He shall be responsible for a continuous audit of all accounts and records of the Town wherever located.

(f) The Town Accountant shall perform any and all duties incumbent upon him under the provisions of M.G.L. Chapter 41, Sec. 55-61. et seq. **[Amended 11-5-2018 RTM by Art. 38]**

(g) The Town Accountant shall provide for an Annual Report which shall contain a statement of appropriations, expenditures and balances in conformance with M.G.L. Chapter 41, Sec. 61 and the provisions of this charter.

If the Town Accountant is unable to perform his duties because of disability or absence, or if the office is vacant because of resignation, dismissal or death, the Town Administrator may appoint a temporary Town Accountant to hold such office and exercise the powers and perform the duties until the Town Accountant who was disabled or absent resumes his duties, or until another Town Accountant is duly appointed. Said temporary appointment shall be in writing and filed in the office of the Town Clerk.

Sec. 5-6. Conservation Commission [Amended 11-17-2008 RTM by Art. 14; 11-5-2018 RTM by Art. 38]

There shall be a Conservation Commission, consisting of seven (7) members appointed by the Town Council for three (3) year terms, so arranged that the terms of as nearly an equal number of members as is possible expire each year.

The Conservation Commission shall have all the powers and duties given to Conservation Commissions by the laws of the Commonwealth, this charter, by by-law, or by other vote of Town Meeting.

Sec. 5-7. Council on Aging [Amended 11-17-2008 RTM by Art. 14]

There shall be a Council on Aging, consisting of seven (7) members appointed by the Town Council for terms not to exceed three (3) years, so arranged that not more than three (3) appointments shall be made in any one (1) calendar year.

The Council on Aging shall have all the powers and duties given to Councils on Aging by the laws of the Commonwealth, this charter, by by-law, or by other vote of Town Meeting. The duties of the Council shall include:

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(a) identify the total needs of the community's elderly population;

(b) educate the community and enlist the support and participation of all citizens concerning these needs;

(c) design, promote, or implement services to fill these needs or coordinate present existing services in the community;

(d) promote and support any other programs which are designed to assist elderly persons in the community;

(e) cooperate, so far as practicable, with the Executive Office of Elder Affairs; and,

(f) submit a copy of its annual report on its activities to the Town Council and to the Executive Office of Elder Affairs. **[Amended 11-5-2018 RTM by Art. 38]**

Sec. 5-8. Recreation Commission [Amended 11-17-2008 RTM by Art. 14]

There shall be a Recreation Commission, consisting of nine (9) members, eight (8) appointed by the Town Council and one (1) appointed by the School Committee, for three (3) year terms, so arranged that three (3) terms expire each year.

The Recreation Commission shall be responsible for the evaluation of program activities, formulation of overall plans for the program development, and for the scheduling of Town parks and fields.

The Recreation Commission shall also have all the powers and duties given to it by this charter, by by-law, or by other vote of Town Meeting.

Sec. 5-9. through Sec. 5-10. (Reserved)

Sec. 5-11. Term of Office [Amended 11-17-2008 RTM by Art. 19; 11-6-2017 RTM by Art. 5]

Wherever a term of office is set forth in this Part V as being for a period of one or more years, such term shall commence upon appointment by the Town Council at the said Council's first meeting following the Town election and shall expire upon the first meeting of the Town Council after the last Town election held within such term. Prior to making any such appointment, the Town Council shall seek candidates by publishing notice of such appointment in a newspaper of general circulation within the Town a reasonable period of time in advance thereof.

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Chapter 43

PERSONNEL

§ 43-1.	Definitions.	§ 43-12.	Leave of absence.
§ 43-2.	Personnel Board.	§ 43-13.	Bereavement leave.
§ 43-3.	Wage and Salary Classification Plan.	§ 43-14.	Jury duty.
		§ 43-15.	Military leave.
§ 43-4.	Wages and classification.	§ 43-16.	Maternity leave.
§ 43-5.	Hours of work.	§ 43-17.	Physical examinations.
§ 43-6.	Rates of pay for new employees.	§ 43-18.	Grievance procedure.
		§ 43-19.	Equal employment opportunity.
§ 43-7.	Reclassification.		
§ 43-8.	Increases within established rate ranges.	§ 43-20.	Americans with Disabilities Act.
§ 43-9.	Annual leave.	§ 43-21.	Family Medical Leave Act.
§ 43-10.	Holidays with pay.	§ 43-22.	Small Necessities Leave Act.
§ 43-11.	Sick leave.		

[HISTORY: Adopted by the Annual Town Meeting of the Town of Wayland 3-3-1954 by Art. 3, as amended through the Annual Town Meeting 4-17-1997 by Art. 5. Subsequent amendments noted where applicable.]

§ 43-1. Definitions.

As used in this chapter, the following words and phrases shall have the following meanings, unless a different construction is clearly required by the context or by the laws of the commonwealth:

ACTING — Performing the duties and having the responsibilities of another position on a temporary basis without having been appointed to the position on a temporary basis.

APPOINTING AUTHORITY or EMPLOYING AGENCY — The official, board, committee, commission, council or other authority empowered by statute, special act or bylaw to make appointments.

BOARD — The Personnel Board as defined in § 43-2.

CIVIL SERVICE LAW — Chapter 31 of the Massachusetts General Laws, as amended, and all rules and regulations made thereunder and any special law enacted by the General Court regulating the classification, compensation and conditions of employment of officers and employees of the Town under MGL c. 31.

CLASS — A group of positions in the Town service sufficiently similar in respect to duties and responsibilities so that:

A. The same descriptive title may be used to designate each position allocated to the class;

B. The same qualifications shall be required of the applicants and incumbents;

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C. The same tests of fitness may be used to choose qualified employees; and

D. The same scale of compensation can be made to apply with equity.

COMPENSATION GRADE — An alphanumeric designation for a salary or wage range.

CONTINUOUS EMPLOYMENT — Employment uninterrupted except for required military service and for authorized vacation leave, sick leave, bereavement leave, court leave or other leave of absence.

DEPARTMENT — Any department, board, committee, commission or other agency of the Town subject to this chapter and the Wage and Salary Classification Plan.

DEPARTMENT HEAD — The officer or employee having immediate supervision and control of a department.**[Amended 5-5-2005 ATM by Art. 32]**

EMPLOYEES IN BENEFIT STATUS — Employees working at least 20 hours per week.

EMPLOYMENT ANNIVERSARY DATE — The official employment start date of an employee's regular service to the Town.

FLAT RATE — A rate of compensation for personal services that does not appear in a range.

FULL-TIME EMPLOYEE — An employee retained in full-time employment.

FULL-TIME EMPLOYMENT — Employment for not less than 7 hours per diem for 5 days a week for 52 weeks per annum, less legal holidays and authorized military leave, vacation leave, sick leave, bereavement leave, court leave and leaves of absence.**[Amended 5-5-2005 ATM by Art. 32]**

HOLIDAY PAY — Extra pay authorized pursuant to § 43-10.

HUMAN RESOURCES DIRECTOR — The Assistant Town Manager or other comparable position as determined by the Select Board.**[Amended 5-5-2004 ATM by Art. 13]**

INCREMENT — The dollar difference between step rates.

INTERIM — Performing the duties and having the responsibilities of a vacant position on a temporary basis after having been appointed to the vacant position until the position is filled.

INTERMITTENT SERVICE — Personal service rendered by an employee in a position calling for part-time employment, which service, although constituting continuous employment, is not rendered during prescribed working hours, daily, weekly or annually, but is rendered as required, according to the demands for such service as determined by the appropriate supervisory authority.

JOB SHARING — The holding of one position by more than one incumbent who do not perform the duties and responsibilities of the position.**[Amended 5-5-2005 ATM by Art. 32]**

LEAVE OF ABSENCE — A form of leave authorized pursuant to § 43-12.

MAXIMUM RATE — The highest rate in a range which an employee normally is entitled to attain.

MIDPOINT RATE — The rate which is midway between the minimum rate and the maximum rate.

MINIMUM RATE — The lowest rate in a range which is paid to an employee.

OVERTIME — Time in excess of the normal number of hours or days of working time in the

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work week of the department.

PART-TIME EMPLOYMENT — Employment for less than full-time employment, as further defined above.

POSITION — An office or post of employment in the Town service with duties and responsibilities calling for the full-time or part-time employment of one person in the performance and exercise thereof.

PROBATIONARY EMPLOYEE — Any newly hired employee whose tenure of service in the Town has not exceeded 6 months. Such employees have limited rights during this stage of their employment and may be discharged at any point.**[Amended 5-3-1999 ATM by Art. 9; 5-5-2005 ATM by Art. 32]**

PROMOTION — A change from a position of lower class and compensation grade to a position with greater responsibilities in a higher class and compensation grade.

RANGE — The dollar difference between minimum and maximum rate.

RATE — A sum of money designated as compensation for hourly, weekly or annual personal services.

REGULAR EMPLOYEE or REGULAR APPOINTEE — **[Amended 5-1-2000 ATM by Art. 15]:**

A. Any employee retained on a continuing basis in a regular position, as defined below.

B. Any employee holding an appointment under the Civil Service Law to a position deemed permanent within the meaning of said law.

REGULAR PART-TIME POSITION — Any regular position in the Town service in which the incumbent works at least 20 hours per week but less than 35 hours per week.**[Amended 5-1-2000 ATM by Art. 15]**

REGULAR POSITION — Any position in the Town service which has required or which is likely to require the services of an incumbent without interruption for a period of more than 6 calendar months, either on a full-time or part-time employment basis.**[Amended 5-1-2000 ATM by Art. 15; 5-5-2005 ATM by Art. 32]**

STEP RATE — A preestablished, incremental rate in a range between the minimum and maximum rates.

SUPERVISORY AUTHORITY — The official, board, agency, committee, council, commission or other authority empowered by law to supervise, direct and control the activities of employee(s).

TEMPORARY EMPLOYEE —

A. Any employee retained in a temporary position as defined below.

B. Any employee holding a temporary appointment under the Civil Service Law who does not also have permanent status thereunder.

C. Any employee retained in a position in a class the title of which contains the adjective "temporary."

D. Any employee hired on a temporary basis in a regular position. **[Amended 5-5-2005 ATM by Art. 32]**

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TEMPORARY POSITION — Any position in the Town service which is not regular but which requires the services of one incumbent for a period not exceeding 1 of the 4 seasons of the year.**[Amended 5-5-2005 ATM by Art. 32]**

TOWN — The Town of Wayland.

WAGE AND SALARY CLASSIFICATION PLAN — The schedule of hourly, weekly, annual and flat rates appearing in the Town's annual Town meeting warrant or special Town meeting warrant, pursuant to § 43-3A.

§ 43-2. Personnel Board.

A. There shall be a Personnel Board of 5 members appointed by the Selectmen. The Selectmen shall also have the power to fill Personnel Board vacancies. The term of appointment shall be for 5 years, except where the appointment is to fill a vacancy, and then it shall be to fill the unexpired term. No member of the Personnel Board shall be an employee of the Town or hold Town office. Members of the Personnel Board shall serve without compensation. **[Amended 5-5-2005 ATM by Art. 32]**

B. The Personnel Board shall have the following powers and duties:

(1) To develop and administer this chapter and the Wage and Salary Classification Plan (hereinafter called "this chapter" and "the plan") and personnel policies and procedures in cooperation with the Town boards and departments affected.

(2) To approve all pay or classification changes of Town employees, including all hiring rates and classifications.

(3) To negotiate collective bargaining agreements for the Town, after having met in advance with the Select Board and the Finance Committee to discuss the forthcoming negotiations.

(4) To establish such central personnel files for all employees as it deems useful in the administration of this chapter and the plan.

(5) To review the operation of the plan annually, including minimum and maximum wage and salary brackets, and to recommend to the Town any appropriate changes.

C. In the case of any dispute concerning the interpretation or administration of this chapter and the plan, the decision of the Personnel Board shall be final, subject to an appeal to the Town at the next Town meeting.

D. The Personnel Board shall meet as necessary to consider such business as may be presented by Town officials, Town employees or other interested persons, but not less often than quarterly. Three members of the Board shall constitute a quorum, and all action shall be taken by a majority of the members present at the Board meeting, provided that the Board may delegate to the Chairman power to act at any time on routine matters, subject to appeal to the full Board.

§ 43-3. Wage and Salary Classification Plan.

A. The positions of all nonelected Town employees are classified under the following job titles with the wage and salary rates set forth. (Refer to § 43-4.)

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B. The Personnel Board may prepare such additional job descriptions to supplement the foregoing job titles as it deems necessary. Upon classification of said job description, the employing agency shall submit a funding request to the Finance Committee for subsequent budget action by Town meeting and shall comply with policies and procedures established from time to time by the Personnel Board.

C. If it becomes necessary during any year for any Town board, commission, committee, department or official (hereinafter referred to as an "employing agency") to hire a regular employee to do work not covered by an existing classification, the Personnel Board may establish a temporary new classification, but the same shall be submitted to the Town as a proposed amendment to the plan in the next warrant for a regular Town meeting.

D. Upon request of an employing agency, the Personnel Board is authorized, for cause shown, to convert an hourly rate shown in the foregoing schedule into a salary, or a salary into an hourly rate, provided that no change shall be made which will increase or reduce the average earnings of any employee.

E. The wages and salaries of Town employees shall be fixed in strict accordance with this plan. No employing agency shall pay or employ any person at a salary or wage not fixed in accordance with this plan and approved by the Personnel Board hereunder, nor shall the Personnel Board approve a salary or wage that was not previously proposed by or reviewed with the employing agency. In administering this section, the Personnel Board shall take into consideration any and all employee fringe benefits.

F. Longevity pay.

(1) Each full-time regular employee of the Town shall be awarded longevity pay in accordance with the following table:

Years of Service	Longevity Pay
After 5	$100 per year
After 10	An additional $50 ($150 total)
After 15	An additional $50 ($200 total)
After 20	An additional $50 ($250 total)
After 25	An additional $50 ($300 total)
After 30	An additional $50 ($350 total)

(2) Payments will be made twice a year, on May 31 and November 30, and each payment will consist of 1/2 of the yearly amount. To qualify for the additional payments under this section, the employees must have completed the required years of service before the payment date. Part-time employees will be given consideration under this section.

(3) The Personnel Board will be responsible for determining the equivalency of longevity in each case.

(4) Administrative and professional employees hired after January 1, 1979, shall not be awarded longevity pay.

G. The Personnel Board shall establish a system/method of nonmonetary recognition for

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exceptional performance or contribution by one or more employees.

§ 43-4. Wages and classification. [Amended 5-5-2005 ATM by Art. 32]

Non-union employees whose positions are classified on the G, SG, S, Nurse and Non-union Police wage scales will be transferred to a newly established Non-union N wage scale during Fiscal Year 2006, effective upon each non-union employee's employment or reclassification anniversary date.

§ 43-5. Hours of work. [Amended 5-1-2000 ATM by Art. 15]

A. The regular work week for office and clerical employees shall be 35 hours. For Fire Department personnel, it shall be 42 hours. For Police Department personnel, it shall be 37.5 hours. The regular work week for all other Town employees shall be 40 hours, unless otherwise provided by union contract.

B. Nonexempt employees, other than members of collective bargaining units, required to work more than 8 hours in any day or 40 hours in any week shall be compensated for such overtime at a rate based on 1 1/2 times their regular hourly rates of pay or may with permission of the supervisor take time off equal to 1 1/2 times the amount of overtime. Employees, other than members of collective bargaining units, whose regular work week is less than 40 hours shall receive straight-time pay up to 40 hours per week and time and 1/2 for all hours worked in excess of 40 hours per week or may with permission of the supervisor take time off equal to 1 1/2 times the amount of overtime. **[Amended 5-5-2005 ATM by Art. 32]**

C. Nothing in this section shall apply to exempt employees under the Fair Labor Standards Act. **[Amended 5-5-2005 ATM by Art. 32]**

§ 43-6. Rates of pay for new employees. [Amended 5-5-2004 ATM by Art. 13]

A. An individual newly hired, promoted, reclassified or permanently transferred from one job to another shall be paid the minimum salary or wage rate for his classification, except as hereinafter provided. The employing agency shall report all transfers and, so far as practicable, all proposed hirings to the Personnel Board in advance of appointment for approval of the employee's classification and salary or wage rate. When prior consultation is impractical, the appointing agency may hire an individual, with the approval of the Human Resources Director, but subject to ratification of the employee's classification and salary or wage rate by the Personnel Board.

B. The starting pay rate for all positions will normally be the minimum step of an assigned classification. Exceptions to this rule may be considered by the Personnel Board and/or the Human Resources Department. All starting pay rates must be approved by the Human Resources Department, and any proposed starting rate above the fourth step of a classification must receive Personnel Board approval.

§ 43-7. Reclassification.

A. The duties of any position may be reviewed by an employing agency upon request of the employee, on its own initiative or on the initiative of the Personnel Board. If it appears to the employing agency that such position belongs in a different job classification because of

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changes in the nature of duties and/or responsibilities, the employing agency may recommend reclassification and shall submit a revised job description to the Personnel Board, which shall then review the facts and approve or deny the proposed reclassification. If approved, the employing agency shall submit a reclassification funding request for approval by the Finance Committee. A reclassified employee shall be paid in accordance with the provisions of § 43-6.

B. Where, in the judgment of the Personnel Board and the employing agency, unfairness would otherwise result, a Town employee temporarily assigned to work in a higher classification for at least 1 week shall be paid the minimum rate for that classification for as long as he/she does such work, provided that he/she is paid at a rate at least one step higher than his present rate. **[Amended 5-5-2005 ATM by Art. 32]**

C. Any employee who is promoted to a higher job classification will receive at least the equivalent of one periodic step increase under the previously assigned classification at the time of promotion. **[Amended 5-5-2005 ATM by Art. 32]**

§ 43-8. Increases within established rate ranges.

A. Upon satisfactory completion of probationary employee status, as determined by the supervisory authority, an employee may be eligible to receive a 1-step increase within the assigned classification. Increases will be granted only upon the written recommendation of the supervisory authority with the approval of the Personnel Board. Employees may continue to be eligible for step increases upon completion of each employment year, as determined by the employment anniversary date and as prescribed by Subsection B of this section. Step increases will not be granted beyond the maximum step of the assigned classification. **[Amended 5-5-2005 ATM by Art. 32]**

B. The intent of this section is to enable the Town to reward good and faithful service. It is intended that step increases will be granted for merit, and such increases will be withheld in any case where the employee has not performed satisfactorily enough to earn an increase that may be allowable within the assigned wage and classification schedule.

§ 43-9. Annual leave.

A. Paid annual leave. **[Amended 4-30-1998 ATM by Art. 4; 5-5-2005 ATM by Art. 32; 4-7-2016 ATM by Art. 12]**

(1) Paid annual leave for all full-time nonunion nonprofessional or nonadministrative employees in benefit status hired before April 7, 2016, shall be as follows:

(a) 0 but less than five years employment: 13 working days.

(b) 5 but less than 15 years employment: 19 working days.

(c) 15 years to severance: 25 working days.

(2) Paid annual leave for all full-time nonunion, nonprofessional or nonadministrative employees in benefit status hired after April 7, 2016, shall be as follows:

(a) 0 but less than five years employment: 10 working days.

(b) 5 but less than 15 years employment: 15 working days.

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(c) 15 years to severance: 20 working days.

(3) Leave days will start accruing at the conclusion of the probationary period and be retroactive to the date of hire.

B. Schedule for earning leave days. **[Amended 5-3-1999 ATM by Art. 9; 5-1-2000 ATM by Art. 15; 5-5-2005 ATM by Art. 32; 4-29-2007 ATM by Art. 15; 4-10-2008 ATM by Art. 20; 4-7-2016 ATM by Art. 12]**

(1) The schedule for earning leave days for all full-time nonunion, nonprofessional or nonadministrative employees in benefit status hired before April 7, 2016, is as follows:

(a) For 13 leave days per year: 7.5833 hours/month.

(b) For 19 leave days per year: 11.0834 hours/month.

(c) For 25 leave days per year: 14.5834 hours/month.

(2) The schedule for earning leave days for all full-time nonunion, nonprofessional or nonadministrative employees in benefit status hired after April 7, 2016, is as follows:

(a) For 10 leave days per year: 5.8333 hours/month.

(b) For 15 leave days per year: 8.7500 hours/month.

(c) For 20 leave days per year: 11.6666 hours/month.

(3) This full-time earning schedule is based on 260 working days per year and a 5-day week.

(4) Regular part-time employees will earn days at the same rate, i.e., calculated on the number of hours worked divided by the full-time schedule, provided that they work at least 20 hours per week.

(5) While out of work on leave for more than 20 days due to, but not limited to, on-the-job injury for which the employee is collecting workers' compensation, long-term disability, sick leave, family medical leave or leave of absence, employees shall not be eligible to earn annual leave.

C. Use of annual leave. **[Amended 5-1-2000 ATM by Art. 15; 5-5-2004 ATM by Art. 13; 5-5-2005 ATM by Art. 32]**

(1) Annual leave may be taken as follows: Leave may be taken 1/2 day at a time, with permission of the supervisory authority, and may be used for personal business and family emergencies.

(2) For purposes of this section, a leave year is defined as January 1 to December 31. Up to 10 accumulated leave days may be carried forward to the next leave year. Such leave days must be used within the next leave year. Any accumulated leave time over 10 days not taken by December 31 of each leave year will be forfeited. However, the Personnel Board may grant an additional carryover of 5 leave days, for a maximum of 15 leave days, to the next leave year by considering a written appeal by an employee who is contemplating an extended leave prior to April 1 of the next

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following leave year. In all cases, any carryover leave days which exceed 10 and which are not utilized by April 1 of the next following leave year will be forfeited. Appeals must be filed by December 1 of each leave year with the Personnel Board/ Human Resources.[1] **[Amended 5-5-2004 ATM by Art. 13]**

D. Any employee whose service is severed with the Town during the leave year shall be compensated for any earned and unused annual leave.

E. Full-time employees on the N schedule shall receive 2 personal days each January 1st. Unused days will be forfeited each December 31st. Days may be used in one-half-day increments. Part-time employees in the above schedules shall earn personal days on a pro-rated basis. **[Amended 5-5-2005 ATM by Art. 32; 4-10-2008 ATM by Art. 20]**

§ 43-10. Holidays with pay. [Amended 5-1-2000 ATM by Art. 15; 4-10-2008 ATM by Art. 20]

All regular employees in benefit status shall be allowed the following 12 holidays with pay: New Year's Day, Martin Luther King Day, Presidents Day, Patriots Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Day after Thanksgiving and Christmas Day. When one of the foregoing holidays falls on a Sunday, the holiday will be observed on the following Monday. When one of the foregoing holidays falls on a Saturday, the holiday will be observed on the preceding Friday. If a holiday falls on a regularly scheduled day off, or when a regular Town employee is scheduled to work on a holiday, he/ she shall be given an additional day off with pay or shall receive straight-time pay for the hours actually worked in addition to his regular pay.

§ 43-11. Sick leave. [Amended 4-30-1998 ATM by Art. 4; 5-3-1999 ATM by Art. 9; 5-1-2002 ATM by Art. 11; 5-5-2005 ATM by Art. 32]

A. Each regular employee in benefit status shall accumulate sick leave for personal illness at the rate of 7.5840 hours per month for a total of 13 days per year, unless otherwise provided in a collective bargaining agreement. Sick leave will not be accumulated by an employee when absent due to illness, injury or leave of absence for more than 20 consecutive working days. Sick leave is for the protection of employees against loss of pay because of illness and shall not be taken into account in figuring termination pay. Probationary employees are allowed to accrue sick leave from the first day of employment but are not permitted to utilize these leave days until the probationary employee status has been completed. Sick leave may be used in hourly increments with a minimum of 2 hours. **[Amended 4-29-2007 ATM by Art. 15; 4-10-2008 ATM by Art. 20]**

B. If on sick pay, an employee may be compensated at his regular rate of pay for absences of not more than 5 consecutive working days, provided that the supervisory authority is satisfied that the absence was caused by the employee's illness. Sick leave with pay will be allowed for more than five consecutive working days only upon submission of a doctor's certificate satisfactory to the supervisory authority. Such certificate will also be filed with the employing agency. Such payment for sick leave may not exceed the employee's accrued sick leave benefit.

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1. **Editor's Note: Former Subsection C(3), regarding use of leave for regular part-time employees, as amended, which immediately followed this subsection, was repealed 4-29-2007 ATM by Art. 15.**

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C. Up to the limit of the dollar amount accrued, an employee may request that his/her sick leave and accrued annual leave be used to supplement worker's compensation payments in each pay period, as long as said payments do not exceed his/her regular after-tax income.

D. When an employee is on sick leave and his accrued leave expires or he/she is receiving benefits under workers' compensation and his accrued leave expires, he/she will fall under the provisions of § 43-12, Leave of absence; that is, no provision of this plan will apply, and seniority, sick leave and annual leave will not accrue during this absence.

E. When a regular employee retires, or dies, he/she or his beneficiary shall receive pay equal to the employee's most recent daily straight-time rate multiplied by 60% of his unused accumulated sick leave days in effect as of his retirement or death. Such severance pay shall not exceed an amount as follows: **[Amended 4-10-2008 ATM by Art. 20; 4-7-2016 ATM by Art. 12]**

(1) Less than 20 years of service: not to exceed $7,500.

(2) 20 years or more of service: not to exceed $10,000.

F. Employees hired after April 7, 2016, shall have accrued sick leave capped at a maximum of 125 days. Employees hired prior to April 7, 2016, shall continue to accrue sick leave and shall not be subject to the cap. **[Added 4-7-2016 ATM by Art. 12]**

§ 43-12. Leave of absence.

Any employee may apply for a leave of absence without pay. The application must be approved by both the employing agency and the Personnel Board and will be granted only under unusual conditions. If a leave of absence is granted, no provision of this plan will apply, and seniority, sick leave and annual leave will not accrue during this absence. An employee may remain covered by the Town's group insurance plan if he/she pays 100% of the monthly premium. This section does not apply to short-term military leave.

§ 43-13. Bereavement leave. [Amended 5-5-2005 ATM by Art. 32]

A. Each regular employee in benefit status may be eligible to receive an absence with pay not to exceed 3 days which may be granted at the discretion of the supervisory authority in case of death of a member of an employee's immediate family. For purposes of this section, the term "immediate family" shall mean an employee's spouse, child, father, mother, sister, brother, grandparents, father-in-law, mother-in-law, brother-in-law or sister-in-law.

B. Employees may be granted up to 2 additional days absence with pay, at the discretion of the supervisory authority, in the event of the death of a spouse, child or parent.

§ 43-14. Jury duty.

If an employee is called to serve on jury duty, he/she shall be paid the difference between compensation for serving on jury duty and his regular (base) pay. Employees serving on jury duty should make every reasonable attempt to report for work on the days on which they serve. Reasonable documentary proof of actual service of jury duty must be presented to the supervisory authority in order for this compensation to be paid.

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§ 43-15. Military leave. [Amended 5-1-2000 ATM by Art. 15; 5-5-2005 ATM by Art. 32]

An employee called to Reserve or National Guard duty will be compensated for the difference between his military pay and his/her regular (base) pay for the training period, not to exceed 17 days in any year, upon satisfactory evidence of completion of the training period. Military pay shall be considered to be all pay received for the entire 17-day period, including Saturdays and Sundays. Military leave shall not be charged to vacation time.

§ 43-16. Maternity leave.

A. A regular full-time female employee, after having successfully completed her probationary period, shall be granted an 8-week maternity leave without pay, for the purpose of giving birth to a child, adopting a child who is under 18 years of age or adopting a person under the age of 23 who is mentally or physically disabled. The employee must give at least 2 weeks' notice of her anticipated departure date and intention to return to her job. **[Amended 4-30-1998 ATM by Art. 4; 5-1-2000 ATM by Art. 15; 5-5-2005 ATM by Art. 32]**

B. Such employee, provided that she has complied with Subsection A above, shall be entitled, at the conclusion of her maternity leave, to return to work at her previous or similar position with the same status she held as of the date her maternity leave commenced, unless other employees with equal length of service and status in the same or similar positions have been laid off due to changes in economic or operating conditions during the period of her maternity leave. **[Amended 5-1-2000 ATM by Art. 15]**

C. An employee on maternity leave may use her earned sick leave or annual leave. If she has no accrued leave available or her accrued leave expires, she will fall under the provisions of § 43-12, Leave of absence; that is, no provision of this plan will apply, and seniority, sick leave and annual leave will not accrue during this absence.

§ 43-17. Physical examinations. [Amended 5-1-2000 ATM by Art. 15; 5-5-2005 ATM by Art. 32]

All new employees are required to have a physical examination completed after an employment offer has been made and prior to beginning work to ensure that they are capable of performing the essential functions of the job with or without a reasonable accommodation. Physical examinations shall be done by a physician designated by the town, at town expense. The town physician is responsible for making recommendations to the Human Resources Department and for maintaining confidential medical records on the individuals.

§ 43-18. Grievance procedure.

A. Any employee who feels aggrieved by the administration of any provision of this plan may take the matter up with his immediate supervisor.

B. If the matter is not cleared up following a discussion with the immediate supervisor, the employee may submit a complaint to the employing agency in writing, which shall then give the employee an informal hearing and attempt to reach a mutually satisfactory adjustment.

C. If the matter is not satisfactorily settled within 2 weeks after a written complaint is made, either party may submit the question to the Personnel Board. The Personnel Board shall take the matter under advisement, may hold a public or private hearing and shall render a

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final and binding decision within 30 days. **[Amended 5-5-2005 ATM by Art. 32]**

§ 43-19. Equal employment opportunity. [Amended 11-17-1999 STM, Art. 2; 5-5-2005 ATM by Art. 32]

The Town of Wayland is an equal opportunity employer. This means that it pledges that all candidates for positions and all officials and employees of the town's agencies will be treated equally in all actions affecting them. It also means that the town has a policy of nondiscrimination which guarantees that all applicants for employment and all employees are not to be discriminated against because of race, color, age, sex, religion, ethnicity, national origin, sexual orientation, veteran status, political affiliation or disability.

§ 43-20. Americans with Disabilities Act. [Amended 5-1-2000 ATM by Art. 15]

As of July 1992, all provisions of this chapter must conform to the requirements of the Americans with Disabilities Act (ADA). In keeping with the recommendation of the Report of the House Committee on Education and Labor (Report No. 101-485), the Town shall take all action necessary to comply with the Act.

§ 43-21. Family Medical Leave Act.

The Personnel Board shall establish a policy consistent with the Family Medical Leave Act of 1993.

§ 43-22. Small Necessities Leave Act. [Added 5-1-2000 ATM by Art. 15]

The Personnel Board shall establish a policy consistent with the Small Necessities Leave Act of 1998.

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ARTICLE 30. HUMAN RESOURCES BOARD

(Renamed ATM 2000.)

30.1. Membership. The Town shall have a Human Resources Board (for purposes of this Article 30, the "Board") consisting of five residents appointed by the Moderator. No member shall be a member of another Board, or an Officer, Official or paid employee of the Town, except that a Town Meeting Member may be a member of the Board. At least two members shall have either education or experience in personnel management or labor relations.

30.2. Term. The term of office shall be three years commencing on July 1.

30.3. Administer Plans. The Board shall administer the Classification and Salary Plans, and shall establish policies and procedures, consistent with those Plans, as it deems necessary for the administration thereof.

30.4. Human Resources Director. The Board shall appoint a Human Resources Director and such staff as it deems necessary.

30.5. Review Work. The Board shall, as necessary and appropriate and consistent with good human resources practices, review the work of all positions subject to the Classification Plan. Such reviews shall be so scheduled as to respond to requests by department heads or upon the Board's initiative when it becomes aware of circumstances that indicate that a review is appropriate. As a result of such review, the Board may tentatively add a new position to or delete an existing position from the Classification Plan or reclassify an existing position to a different group subject to the subsequent ratification of its action by a formal amendment of the Classification Plan at the next Annual or Special Town Meeting. *(Amended ATM 2010.)*

30.6. Review Salary Plan. The Board shall, from time to time, review the Salary Plan. It shall keep informed as to pay rates and policies outside the service of the Town, and shall recommend to the Town any action which it deems desirable to maintain a fair and equitable pay level.

30.7. Variances in Salary Plan. Upon recommendation of an officer supported by evidence in writing of special reasons and exceptional circumstances satisfactory to the Board, the Board may authorize an entrance rate higher than the minimum rate for a position, and such other variances in the Salary Plan as it may deem necessary for the proper functioning of the services of the Town.

30.8. Recruitment. The Board shall recruit applicants for positions in the Classification Plan.

30.9. Records. The Board shall maintain such records as are necessary to comply with fair employment practice laws and the rules of appropriate regulatory agencies, and maintain personnel records of all employees in the Classification Plan, including therein such information as it deems desirable.

30.10. Personnel Policies Nonunion Employees. The Board shall recommend personnel policies and procedures to all boards, officers and officials relating to their employees, and shall establish subject to approval by Town Meeting and administer such procedures and policies for all Town employees not covered by collective bargaining agreements.

30.11. Compliance Advice. The Board shall advise all boards, officers and officials as to compliance with applicable fair employment practice laws and other applicable state and federal laws and regulations.

30.12. Collective Bargaining Agent. The Board shall act as the collective bargaining agent for the School Committee when so directed by that Committee, or for any other Board when so directed by the Select Board.

30.13. Civil Service Law. Nothing in this article, or in the Salary Plan, shall be construed to conflict with G.L. c. 31.

30.14. Requests for Information. All Boards, Officers, Officials and employees thereof shall furnish such information to the Board as it shall request in the performance of its duties.

30.15. General Provisions. The Board shall also be governed by Articles 2 through 7 of these bylaws and other provisions of these bylaws applicable generally to all Boards, except as it is specifically directed by law or a provision of these bylaws to act otherwise.

Town of Westford, Massachusetts

General Bylaws

2022

With amendments through June 11, 2022 Annual Town Meeting
as approved by the Attorney General's Office on August 29, 2022

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Chapter 38: Personnel

[Adapted 3-12-66 ATM Art. 18A as sec. 1, as amended. Replaced 3-18-91 Adj. STM Art. 8. Amendments noted where applicable.]

§ 38.1 Purpose and intent.

The purpose of the personnel bylaw is to establish fair and equitable personnel policies and to establish a system of personnel administration based on merit principles that ensure a uniform, fair and efficient application of personnel policies. The intent of this bylaw is to provide a method of recruitment, selection, and development of a work force that is skilled and effective in accomplishing the service delivery mission of the Town. Personnel actions are to be made without regard to sex, race, religion, color, age as defined by law, handicap, political affiliation or any other non-job related factors, and shall be based on merit and fitness alone.

§ 38.2 Application.

All Town departments and positions shall be subject to the provisions of this chapter, except elected officers of the Town, employees of the school department and employees subject to collective bargaining agreements under Chapter 150E of the Massachusetts General Laws. This bylaw is adopted pursuant to the authority granted by Article LXXXIX of the Constitution of the Commonwealth and Massachusetts General Laws chapter 41, section 108A and 108C.

§ 38.3 Responsibility of the Town Manager.

The Town Manager shall be responsible for the establishment and maintenance of a personnel system based on merit principles. The Town Manager shall have all the personnel management powers and duties as provided by chapter 480 of the Acts of 1989 and shall formulate personnel policies pursuant to section 38.5 of this chapter.

§ 38.4 Contents of personnel policies.

The personnel policies shall establish a personnel system which shall include, but need not be limited to, the following elements:

A. A method of administration. A system of administration which assigns specific responsibility for all elements of the personnel system, including: maintaining personnel records, implementing effective recruitment and selection processes, maintaining the classification and compensation plans, monitoring the application of policies, and periodic reviews and evaluation of the personnel system.

B. The Wage and Classification Plan as contained in Appendix A.

C. A recruitment and selection policy.

D. A centralized personnel record keeping system, or

E. Other elements of a personnel system as deemed appropriate or necessary.

§ 38.5 Adoption of policies. [Amended 5-9-92 ATM Art. 7]

A. The Town Manager is empowered and authorized by this chapter to adopt personnel policies defining the rights, benefits and obligations of employees subject to this chapter, provided however, decisions made by the Town Manager to classify a new position or to

reclassify a position shall be subject to the ratification of the Town Meeting. The Town Manager shall be responsible for the development of personnel policies. Any appointing authority, department head, or any three employees may recommend personnel policies to the Town Manager for consideration. Such policies shall become effective in accordance with the following procedure:

1. Proposed personnel policies shall be prepared by the Town Manager.
2. The Town Manager shall consult with employees that may be affected by proposed changes in personnel policies.
3. The Town Manager shall finalize personnel policies and transmit in writing any proposed policies to the Select Board.
4. Policies shall become effective on the thirtieth day following the day on which notice of the proposed policy is filed with the Select Board unless the Board of Selectmen shall within said period vote to reject any such policy.
5. Copies of new or amended policies shall be posted and distributed to department heads.

B. Notwithstanding the provisions of Massachusetts General Laws chapter 32B, sections 2 and 3, part-time elected officials working fewer than 20 hours per week shall not be considered eligible employees for the purpose of participating in the Town's group health insurance program.

§ 38.6 Personnel Advisory Board. [Replaced 05-06-2006 ATM Art. 23]

There shall be a three member Personnel Board appointed by the Select Board for the purpose of providing advice to the Town Manager who is ultimately responsible for all personnel management powers, duties and responsibilities.

The membership shall consist of three community members at large in addition to the Town Manager and Human Resources Director who shall be non-voting members.

§ 38.7 Severability.

The provisions of this bylaw and any policies adopted pursuant to this bylaw are severable. If any bylaw provision or policy is held invalid, the remaining provisions of the bylaw or policy shall not be affected thereby.

§ 38.8 Effective date.

This bylaw shall take effect upon enactment.

Chapter 90

PERSONNEL

§ 90-1.	Purpose and authorization.	§ 90-6.	Personnel system.
§ 90-2.	Application.	§ 90-7.	Adoption and amendment of personnel policies.
§ 90-3.	Town Administrator.		
§ 90-4.	Human Resources functions.	§ 90-8.	Severability.
§ 90-5.	Personnel Board.		

[HISTORY: Adopted by the Town Meeting of the Town of Westwood as Art. 12 of the General Bylaws; amended in its entirety 5-6-2013 ATM by Art. 18. Subsequent amendments noted where applicable.]

§ 90-1. Purpose and authorization.

The purpose of the Personnel Bylaw is to establish fair and equitable personnel policies and to establish a system of personnel administration based on merit principles that ensures a uniform, fair and efficient application of personnel policies. This bylaw is adopted pursuant to the authority granted by Article LXXXIX of the Constitution of the Commonwealth and MGL c. 41, §§ 108A and 108C.

§ 90-2. Application.

All Town departments and positions shall be subject to the provisions of this bylaw except elected officers, employees with personal contracts, and employees of the School Department. To the extent that any Town employee is subject to a collective bargaining agreement, in the event of a conflict and/or an inconsistency between said agreement and this bylaw, then said agreement shall govern the terms and conditions of that employee's work.

§ 90-3. Town Administrator.

Pursuant to Section 6-2-1(k) of the Town Charter, the Town Administrator is responsible for administering personnel policies, practices, rules and regulations, compensation and classification plan and related matters, in consultation with the Personnel Board, for all municipal employees and administering all collective bargaining agreements entered into by the Town.

Additionally, pursuant to Section 6-2-1(a)(i) of the Town Charter, the Town Administrator is authorized to appoint, discipline, suspend or remove Town officers, department heads or principal deputies or agents of elected and appointed boards or officers, and other employees, including employees in civil service positions, for whom no other method of selection is provided by the charter or general or special laws, consistent with the Town's personnel policies and subject to the terms of any applicable collective bargaining agreements; provided, however, that the Town Administrator shall keep the chairman of the Board of Selectmen, or the chairman's designee, informed as to status of all personnel decisions made or to be made hereunder and shall consult with the appropriate department head or principal deputy or agent

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prior to hiring an employee for that department.

§ 90-4. Human Resources functions.

The Town Administrator may organize human resources and personnel functions in a Human Resources Department. Subject to appropriation, the Town Administrator may, consistent with the provisions of Section 6-2-1(a)(i) and (ii) of the Charter, appoint a Human Resources Director to act by and for the Administrator to impartially and equitably oversee all personnel activities and responsibilities of the Town, other than employees of the School Department; provided, however, that the Town Administrator shall retain responsibility for all such delegated acts.

§ 90-5. Personnel Board.

A. Composition; mode of selection; term of office; qualifications. The Moderator shall appoint a Personnel Board consisting of five persons for three-year overlapping terms as provided in Section 7-4-1 of the Town Charter. Each term of office shall commence 30 days following the adjournment of the business session of the Annual Town Meeting, and every member shall serve until a successor is qualified. Any registered voter of the Town may be appointed to the Board; provided, however, that no elected official of the Town or Town employee shall be appointed to the Board. The Board shall annually elect a Chairperson and a Vice Chairperson from its membership at the first meeting following the appointment of new members, and may reorganize as necessary or appropriate. Any three members of the Board shall constitute a quorum for the transaction of business. The affirmative vote of three members shall be necessary for any official act of the Board to be effective.

B. Powers and duties. The Board shall be responsible for formulating recommendations on and reviewing the classification and compensation plans, which plans shall be subject to such approval as required by law. The Personnel Board shall also evaluate classification of positions generally, including requests for reclassification, and cause a review of all positions in the classification plan at appropriate intervals in accordance with proper personnel practices. The Personnel Board shall also, in consultation with the Town Administrator, monitor the implementation and practices of the Town's personnel policies. Finally, the Personnel Board shall provide advice and assistance, to the extent requested, to the Town Administrator and Human Resources Director on any aspect of personnel policies and practices.

§ 90-6. Personnel system.

A personnel system shall be established by promulgation of policies pursuant to § 90-7. The personnel system shall make use of current concepts of personnel management and may include but not be limited to the following elements:

A. Method of administration. A system of administration which assigns specific responsibility for all elements of the personnel system, including: maintaining personnel records, implementing effective recruitment and selection processes, maintaining the classification and compensation plans, monitoring the application of personnel policies and periodic reviews, and evaluating the personnel system.

B. Classification plan. A position classification plan for all employees subject to this bylaw shall be established, based on similarity of duties performed and the responsibilities assumed so that the same qualifications may be reasonably required for, and the same

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schedule of pay may be equitably applied to, all positions in the same class. Nothing in the classification plan shall infringe upon or supersede an appointing authority's ability to hire an employee into a newly created position, provided that the Town Administrator and Personnel Board are first consulted regarding an appropriate starting salary. As part of its regular review, the Personnel Board shall seek to update the classification and compensation plans to include any new positions added during the prior year.

C. A compensation plan. A compensation plan for all positions subject to this bylaw shall consist of:

(1) A schedule of pay grades, including minimum, maximum and intermediate rates for each grade; and

(2) An official list indicating the assignment of each position to specific pay grades.

D. A recruitment and selection policy. A recruitment, employment, promotion and transfer policy which ensures that reasonable effort is made to attract qualified persons and that selection criteria are job related.

E. Personnel records. A centralized recordkeeping system which maintains essential personnel records.

F. Personnel policies. A series of personnel policies which establishes the rights, the benefits to which certain personnel employed by the Town are entitled, and the obligations of said employees to the Town.

G. Other elements. Other elements of a personnel system as deemed appropriate or required by law.

§ 90-7. Adoption and amendment of personnel policies.

The Board of Selectmen shall promulgate personnel policies defining the rights, benefits and obligations of certain employees subject to this bylaw. Policies shall be adopted or amended as follows:

A. Preparation of policies. Any member of the Board of Selectmen, Personnel Board, the Town Administrator, or any three employees may suggest policies for consideration. The Town Administrator shall refer such policies to the Personnel Board, which Board need not consider any proposal already considered in the preceding 12 months. Any person proposing a new or amended policy shall provide the substance and the reason for the proposed policy in writing. The Personnel Board shall hold a public hearing on any proposed policies or amendments. Any proposed policies or amendments shall be posted at least five days prior to the public hearing in prominent work locations, copies of all proposals shall be provided to representatives of each employee collective bargaining unit, and a copy shall be submitted to the Board of Selectmen.

B. Public hearing. The entity responsible for suggestion of the proposed policy or amendment shall present the purpose of the proposal and the implication of any proposed change at the public hearing. Any person may attend the hearing, speak and present information. The Town Administrator and the Personnel Board shall, within 20 days after such public hearing, consider the proposed policies and recommend that the Board of Selectmen adopt the policies (with or without modifications), reject the policies, or indicate that further

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study is necessary.

C. Recommended policies. The Town Administrator, or the Personnel Board at the administrator's request, shall transmit recommendations in writing to the Board of Selectmen within 20 days of any recommendation on proposed personnel policies or amendments. The recommendations shall contain the text of the proposed policy or amended policy, an explanation of the policy and the implications of the policy. The Board of Selectmen shall consider recommendations of the Town Administrator and Personnel Board and may adopt, reject or return recommendations for further action. The Board of Selectmen need only act on proposed policies recommended for adoption. Policies shall become effective upon approval of the Board of Selectmen, unless some other date is specified.

D. Computation of time. In computing time (days) under this bylaw, only days when the Town Hall is open for business shall be counted.

§ 90-8. Severability.

The provisions of this bylaw and any regulations adopted pursuant to this bylaw are severable. If any bylaw provision or regulation is held invalid, the remaining provisions of the bylaw or regulations shall not be affected thereby.

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Chapter 2

TOWN MEETINGS

Section 1.	**Manner in Which Town Meetings are to be Called.**	**Section 4.**	**Standing Committees.**
Section 2.	**Time of Meetings.**	**Section 5.**	**Other Committees.**
Section 3.	**Rules of Procedure.**	**Section 6.**	**Mailing of Reports.**

Section 1. Manner in Which Town Meetings are to be Called.

1.1. Warrants.

Every town meeting shall be called pursuant to a warrant issued by the select board which shall state the time and place at which the meeting is to convene and the subjects which are to be acted upon.

1.2. Notification.

The select board shall cause copies of the warrant for each town meeting to be posted on the town bulletin boards at least seven days before the meeting is to convene. Such posting shall be deemed to be the legal notification of such meeting, and the legal service of such warrant.

1.3. Distribution.

The select board shall cause a copy of the warrant for each town meeting to be delivered in hand, or mailed to the residence of the town moderator, the representative town meeting members and to the head of each town agency at least ten[1] days before the meeting is to convene. The select board shall also provide for the distribution, by mail or otherwise, of a copy of the warrant for each town meeting, to every occupied dwelling in the town, at least ten[2] days before the town meeting is to convene. The distribution provided in this sub-section (.3) shall not be deemed to be a part of the legal service of the town meeting and failure to comply with the provisions of this subsection shall not serve to invalidate the proceedings of any town meeting.

Section 2. Time of Meetings.

2.1. In General.

The town meeting shall meet, in regular meeting, twice in each calendar year and, in special meetings, at such other times as the select board may direct, or as otherwise provided by law.

1. **Art 11 of the 1984 Fall Town Meeting changed “seven” to “ten”.**
2. **Art 11 of the 1984 Fall Town Meeting changed “seven” to “ten”.**

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2.2. **Spring Meeting.**

There shall be a spring town meeting, which shall be primarily concerned with the adoption of an annual budget and other warrant articles which have a fiscal effect on the town. The spring town meeting shall begin on the last[3] Monday of April and shall continue, by adjournment from time to time, until disposition has been made of all articles contained in the warrant. However, no article that contains an appropriation of funds applicable to the annual operating budget for the ensuing fiscal year shall be considered by this town meeting prior to the first Monday of May.

2.2.1. During the first session of the spring town meeting, as the last order of business under Article 1 (reports of town officers), town meeting member precinct meetings shall be held for the purpose of electing precinct chairmen and precinct clerks, electing persons to fill town meeting member vacancies, electing members to the town meeting committee on rules, and to conduct other precinct business that may be necessary and proper. During the first session of the fall town meeting, as the last order of business under Article 1 (reports of town officers), town meeting member precinct meetings shall be held, if necessary, for the purpose of electing persons to fill town meeting member vacancies, and to conduct other precinct business that may be necessary and proper.[4] Persons elected as precinct clerk shall report all election results to the town clerk. Nothing contained herein shall prohibit the holding of precinct meetings at other times and places as town meeting members may deem necessary.

2.3. **Fall Meeting.**

[5] There shall be a fall town meeting, which shall be primarily concerned with nonfiscal matters. The fall town meeting shall begin on the first Monday in November, and shall continue, by adjournment from time to time, until disposition has been made of all articles contained in the warrant. However, in years in which the town Clerk must administer Federal and/or State Elections then the fall town meeting shall begin on the first Thursday after the scheduled Federal or State election and shall continue, by adjournment from time to time, until disposition has been made of all articles contained in the warrant.

2.4. **Notice of Adjourned Session.**

Notice of every adjourned town meeting shall be posted by the town clerk on all the town bulletin boards, and the town clerk shall also notify the absent members by mail within twenty-four (24) hours of the adjournment. The notice shall state briefly the business to be acted upon at said meeting and shall include notice of any proposed reconsideration.[6]

Section 3. Rules of Procedure.

3.1. **In General.**

The proceedings of town meetings shall be governed by the rules of parliamentary

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3. **Art 3 of the 2012 Fall Town Meeting change "fourth" to "last".**
4. **Art 2 of the 1983 Spring Town Meeting amended this sub-section to provide for precinct meetings at the Fall Town Meeting.**
5. **Art 19 of the 2007 Fall Town Meeting by deleting Subsection 2.3 Fall Town Meeting and substituting the language.**
6. **Art 3 of the 1983 Fall Town Meeting added this section.**

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procedure contained in Robert's Rules of Order Revised, as the same may be revised from time to time, unless another provision is made by statute or by these bylaws.

3.2. **Preparation for Debate.**

It shall be the duty of every citizen of the town seeking recognition to speak at a town meeting to have attempted in advance of the town meeting to inform himself regarding the warrant article under consideration. On any warrant article on which a public hearing has not been held, the town manager or the appropriate town agency shall schedule a time and place at which information with respect to said article shall be furnished in advance of the meeting.

3.3. **Participation in Debate.**

The moderator shall first recognize the proponent of the main motion under each article in the warrant unless the maker of any other motion is offering a procedural motion or for the previous question.

The moderator shall recognize any nonresident or minor, provided the town meeting so authorizes.

3.4. **Limitation on Individual Speakers.**

Unless granted an extension of time by vote of the meeting, the individual speaking as the initial proponent on a main motion shall not speak for more than ten minutes. Subsequently, any person speaking on any motion shall not speak for more than five minutes unless granted an extension of time by the meeting. No person shall receive more than one extension of time on any pending motion, but this extension shall be for whatever time voted by town meeting.

3.5. **Limitation on Debate, Special Circumstances.**

Upon a motion to lay on the table, not more than ten minutes shall be allowed for debate, and no person shall speak thereon more than three minutes.

3.6. **Division of Questions.**

If a motion is susceptible of division, it shall be divided and the question put separately upon each part thereof if ten town meeting members so request, or the moderator, in his discretion, so directs.

3.7. **Reconsideration.**

A motion for reconsideration is a main motion and may be offered at any time when no other motion is pending.

If a motion for reconsideration is made, it shall be the first order of business at the next adjourned session of the town meeting. If no adjourned session is ordered, pending motions for reconsideration shall be placed before the town meeting immediately prior to acceptance by the chair of a motion for dissolution of the town meeting.

Favorable action on a motion for reconsideration shall require a two-thirds vote.

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Action on a motion for reconsideration may be postponed by a majority vote.

A subsection of the main motion under an article may be reconsidered without first reopening the main motion under the article.

Not more than one motion for reconsideration on the same subject shall be in order.

3.8. Preparation for Town Meeting.

[7]

3.8.1. Public Hearings.

Public hearings on warrant articles are held for the purpose of informing town meeting members and interested citizens as provided by the charter and other sections of the bylaws.

3.8.2. Warrant Article Requirements.

[8]

1. The proponent of each warrant article shall prepare or cause to be prepared the main motion as it is to be presented, prepare a supporting report and cause copies of each to be made available to town meeting members at the required public hearing. If requested, the select board shall provide, or cause to be provided, assistance with the preparation of the formal motion.
2. The town manager's office shall cause a copy of each main motion and supporting report to be delivered to town meeting members at least seven (7) days before the first session of town meeting, unless prohibited by applicable law.
3. For Warrant Articles sponsored by Town Boards or Committees, absence of a timely main motion and supporting report shall preclude any consideration of the article by the town meeting until seven (7) days after such main motion and report is made available to members, unless otherwise voted by a majority of the town meeting.

Section 4. Standing Committees.[9] [STM Art. 7, 4/25/2022]

4.1. Finance Committee.

4.1.1. Establishment.

There shall be a finance committee having the responsibilities and organized in the manner described below.

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7. **Art 8 of the 1984 Spring Town Meeting added this new sub-section; it was further amended by Art 19 of the 1985 Fall Town Meeting, and again by Art 33 of the 2003 Spring Town Meeting.**
8. **Art 20 of the 2007 Fall Town Meeting deleting Section 3.8.2 - Warrant Article Requirements, and replacing the language.**
9. **Art 5 Spring Town Meeting 2012.**

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4.1.2. **Composition; Term of Office.**

The finance committee shall consist of fifteen voters, who shall hold no other town office. The members shall be appointed for terms of three years each, so arranged that the terms of office of five members shall expire each year.

4.1.3. **Appointment of Members.**

The members of the finance committee shall be appointed by an appointing committee consisting of the moderator, the chairman of the select board and the chairman of the finance committee.

4.1.4. **Time for Appointments.**

Appointments to the finance committee shall be made within thirty days following the dissolution of the spring town meeting.

4.1.5. **Duties.**

The finance committee shall each year receive and review the proposed budget submitted by the town manager. The finance committee shall conduct one or more public hearings and thereafter shall file its recommended budget with the office of the town clerk for distribution to town meeting members and subsequent town meeting action.

The finance committee shall, in addition, prepare a written report, stating the committee's recommendations and its reasons therefor, pertaining to all warrant articles which involve the expenditure of town funds. It may also, at its discretion, report on any article in the warrant.

Copies of such committee reports shall be mailed or electronically distributed to the town moderator, to each town meeting member, to each member of the select board, to each member of the school committee and to the heads of all town departments. Written authorization must be provided to the town Clerk in order to receive electronic distribution of materials.

4.1.6. **Filling of Vacancies.**

Whenever a vacancy occurs on the committee, it shall be filled in the manner set forth in Section 4.1.3 above.[10]

4.2. **Personnel Board.**

[11]

4.2.1. **Establishment.**

There shall be a personnel board having the responsibilities and organized in the

10. Art 26 of the 1992 Spring Town Meeting changed the method of filling vacancies.

11. Art 5 Spring Town Meeting 2012.

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manner described below.

4.2.2. **Composition; Term of Office.**

The personnel board shall consist of seven voters, who shall hold no other town office. The members shall be appointed for terms of three years each, so arranged that the terms of office of no more than three and no fewer than two members shall expire each year.

4.2.3. **Appointment of Members.**

The members of the personnel board shall be appointed by an appointing committee consisting of the moderator, the chairman of the select board and the chairman of the school committee.

4.2.4. **Time for Appointments.**

Appointments to the personnel board shall be made within thirty days following the dissolution of the spring town meeting.

4.2.5. **Duties.**

The personnel board shall conduct research on area wage and working conditions and shall serve in an advisory capacity to town agencies and the town manager.

The board shall also assist in the coordination of collective bargaining activities with all organized groups, excepting the professional school staff.

Not later than March first of each year, the town manager shall submit a proposed compensation plan and personnel policy guide to the personnel board. The board shall hold a public hearing on the proposed compensation plan and personnel policy guide and thereafter forward in writing to the town manager its recommendations regarding the proposed plan and policy guide. When placing his final compensation plan and personnel policy guide before the town meeting, the town manager shall attach thereto all recommendations of the personnel board not adopted by him.

The personnel board shall, in addition, prepare a written report, stating the board's recommendations and reasons therefor, on all warrant articles involving personnel matters, except for new positions in various town agencies.

Copies of such committee reports shall be mailed or electronically distributed to the town moderator, to each town meeting member, to each member of the select board, to each member of the school committee and to the heads of all town departments. Written authorization must be provided to the town Clerk in order to receive electronic distribution of materials.

4.2.6. **Filling of Vacancies.**

Whenever a vacancy occurs on the board, it shall be filled in the manner set forth in Section 4.2.3 above.

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4.3. Committee on Government Regulations.

[12]

4.3.1. Establishment.

There shall be a committee on government regulations, as provided in Article 8, Section 8-5(h) of the charter.

4.3.2. Composition; Term of Office.

The committee on government regulations shall consist of eight town meeting members, one to be appointed from each precinct by the moderator for terms of three years, so arranged that as nearly an equal number of terms as possible shall expire each year.

4.3.3. Duties.

The committee on government regulations shall review all warrant articles which would, if adopted, effect or require changes in these bylaws. The committee shall also be responsible for the decennial review of the bylaws and for the review of proposed changes in the charter.

The committee shall prepare a written report stating the committee's recommendations for favorable or unfavorable action and the reasons therefor, pertaining to any warrant articles which would, if adopted, effect changes in the bylaws or the charter.

Copies of such committee reports shall be mailed or electronically distributed to the town moderator, to each town meeting member, to each member of the select board, to each member of the school committee and to the heads of all town departments. Written authorization must be provided to the town Clerk in order to receive electronic distribution of materials.

4.3.4. Filling of Vacancies.

Whenever a vacancy occurs on the committee, the moderator shall fill the vacancy for the unexpired term.

4.4. Committee on Rules.

[13]

4.4.1. Establishment.

There shall be a committee on rules as provided in Article 8, Section 85(h) of the charter.

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12. Art 5 Spring Town Meeting 2012.
13. Art 5 Spring Town Meeting 2012.

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4.4.2. **Composition; Term of Office.**

The committee on rules shall consist of eight members, one to be elected by and from the town meeting members from each precinct. The terms of office of members of the committee on rules shall be for three years, so arranged that as nearly an equal number of terms as possible shall expire each year.

4.4.3. **Duties.**

The committee on rules shall provide a continuing oversight of the business, conduct and procedures of the town meeting.

The committee on rules shall at least annually prepare a written report stating the committee's recommendations and its reasons therefor, pertaining to the business, conduct and procedures of the town meeting.

Copies of such committee reports shall be mailed or electronically distributed to the town moderator, to each town meeting member, to each member of the select board, to each member of the school committee and to the heads of all town departments. Written authorization must be provided to the town Clerk in order to receive electronic distribution of materials.

The committee on rules shall present to the fall town meeting, and to such other town meetings as it deems appropriate, the name of each town meeting member, who was notified in writing by the town clerk as provided in Chapter 5, Section 3 of the code of bylaws and whom the committee on rules has decided should be considered for forfeiture of office, whose seat may be declared vacant by a vote of the town meeting.

The town clerk shall provide to the committee on rules prior to each spring town meeting the names of all town meeting committees which have been established by a vote of town meeting as provided in Chapter 2, Section 5 of these bylaws. The committee on rules shall present to the town meeting the name of each town meeting committee that should be discharged of its duties by vote of the town meeting.[14]

4.4.4. **Filling of Vacancies.**

Whenever a vacancy occurs on the committee, the remaining town meeting members from the precinct where the vacancy exists shall meet in a precinct caucus and select a person from among themselves to fill the vacancy for the unexpired term. The caucus of the pertinent precinct town meeting members shall be held at a time and place designated by the town clerk.

4.5. **Capital Planning Committee.**

4.5.1. **Establishment.**

There shall be a capital planning committee as provided in Article 6, Section 6-7 of the charter.

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14. Art 18 of the 1985 Fall Town Meeting added the last paragraph to sub-section 4.4.3.

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4.5.2. **Composition; Appointment.**

The capital planning committee shall consist of seven voters, who may hold other town offices. The members shall consist of the following: three members appointed by the select board; one member appointed by the planning board from among its members; one member appointed by the school committee; and two members appointed by the finance committee, at least one of whom shall be from among its members.

4.5.3. **Term of Office.**

The four members of the capital planning committee appointed by the planning board, school committee and the finance committee shall serve at the pleasure of the respective board or committee appointing them. The three members appointed by the select board shall serve three-year terms, so arranged that one shall expire each year.

4.5.4. **Duties.**

The capital planning committee shall each year assist the town manager in the preparation of materials for and the development of a capital improvement program as provided in Article 6, Section 6-7 of the charter. The committee shall also review the capital improvement program prepared by the town manager and shall report its recommendations to the select board and to the finance committee. The town manager's capital improvement program and the capital planning committee's recommendations shall become an integral part of the finance committee's budget report. The committee shall make recommendations to the town meeting regarding the capital program and all articles involving capital expenditures.

4.5.5. **Filling of Vacancies.**

Whenever a vacancy occurs on the committee, the body which appoints the member whose position is vacant shall fill the vacancy within thirty days.

4.6. **Human Services Committee.**

4.6.1. **Establishment.**

There shall be a human services committee, as permitted by Article 2, Section 2-11 of the charter.

4.6.2. **Composition; Appointment.**

The human services committee shall consist of seven voters, who may hold other town offices. The committee shall consist of two public members appointed by the select board and one other member each from each of the following bodies respectively: the select board, the board of health, the council on aging, the school committee or its designee, and the finance committee.

4.6.3. **Term of Office.**

The two public members shall serve terms of three years each, so arranged that they

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shall not expire in the same year. The other members shall serve at the pleasure of the body that appoints them.

4.6.4. **Duties.**

The human services committee shall receive and review all proposals for human services programs which originate outside the town offices and shall make recommendations concerning such proposals to the town meeting.

The committee shall recommend to the town manager as to the town agency which should provide day to day supervision of such programs and at appropriate intervals, review and evaluate ongoing programs for effectiveness and continued need for support.

The committee shall be consulted on such human services proposals as in the judgment of members of other town agencies or the town manager are deemed appropriate for review by the committee.

Staff services shall be provided by the departments represented on the committee.

4.6.5. **Filling of Vacancies.**

Whenever a vacancy occurs on the committee, the body which appointed the member whose position is vacant shall fill the vacancy within thirty days.

4.7. **Committee for Equal Opportunity.**

[15]

4.7.1. **Establishment.**

There shall be a committee for equal opportunity as permitted by Article 2, Section 2-11 of the charter and by Chapter 2, Section 5 of the code of bylaws.

4.7.2. **Composition; Term of Office.**

The committee for equal opportunity shall consist of fifteen residents, who may hold other town offices. The members shall be appointed for terms of three years each, so arranged that the terms of office of five members shall expire each year and that the members appointed by each of the three appointing bodies or officer shall be as evenly staggered as possible.

4.7.3. **Appointment of Members.**

The members of the committee for equal opportunity shall be appointed in the following manner and shall include, insofar as reasonably possible, persons broadly representative of the town's inhabitants in terms of race, sex, religion, national origin, age and special need. The select board shall appoint one from among its members and four other residents who are involved, directly or indirectly, in the providing

15. Under the terms established for the duration of this committee, it ceased to exist at the end of the 1985 Spring Town Meeting.

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of municipal services to the town. The school committee shall appoint one from among its members and four other residents who are involved, directly or indirectly, in the providing of educational services to the town. The moderator shall appoint five additional residents.

4.7.4. **Time for Appointments.**

Appointments to the committee for equal opportunity shall be made as soon as possible after the establishment of the committee and, in subsequent years, shall be made within thirty days following the dissolution of the spring town meeting.

4.7.5. **Duties.**

The committee for equal opportunity shall evaluate the need for, shall develop and shall assist the various town officers, town agencies, organized civic groups and the residents of the town in initiating policies and programs to assure equal opportunity for all citizens of the town regardless of race, sex, religion, national origin, age and special need. The committee shall also monitor the implementation and administration of such policies and programs and evaluate their effectiveness. The committee shall report its findings and recommendations to town officers, town agencies and others as it deems appropriate and shall at least annually make a written report to the school committee, select board and moderator, which report shall be included in the annual town reports. Town officers and agencies shall assist the committee for equal opportunity in performing these responsibilities.

4.7.6. **Filling of Vacancies.**

Whenever a vacancy occurs on the committee, it shall be filled by the appointing board or officer who originally appointed the member whose seat has become vacant.

4.7.7. **Duration.**

The committee for equal opportunity shall remain in existence through the end of the 1985 spring town meeting unless further extended by a vote of the town meeting amending this section.

4.8. **Retiree Health Insurance Advisory Committee.**

4.8.1. **Establishment.**

The town shall have a permanent retiree health insurance advisory committee ("RHIAC") having the duties and organized in the manner described below.

4.8.2. **Duties.**

The RHIAC shall have the following duties and responsibilities as may be further specified in this bylaw:

a. Ongoing communication with town retirees, informing them of proposed legislative changes in health insurance at both the state and the municipal level; proposed changes to carriers, plan designs, or contribution percentages for town

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plans; and programs that can mitigate or reduce the cost of retiree insurance.

b. Ongoing communication with municipal officials including the town manager, the select board, the school committee, the finance committee, the personnel board, the public employee committee (PEC), the insurance advisory committee (IAC) the moderator and town meeting informing them of: potential opportunities to improve municipal insurance; and potential opportunities, based on best practices in other communities, of managing OPEB liabilities without unduly burdening employees or retirees.

c. Ongoing communication with the town's professional health insurance advisors, including actuaries and consultants, to understand: the town's health insurance options, OPEB liabilities and future approaches for funding OPEB.

4.8.3. **Composition; Appointment and Term of Office.**

The RHIAC shall consist of eleven (11) voting members, including one (1) sitting member appointed by each of the following: select board, school committee, finance committee and personnel board; one (1) active nonschool department employee, appointed by the select board; one (1) active employee school department employee, appointed by the school committee; two (2) retired school department employees, appointed by the town moderator; one (1) retired nonschool department employee, appointed by the town moderator; two (2) citizens, appointed by the town moderator. The committee shall also include two (2) nonvoting (ex-officio) members: the town treasurer and the town comptroller. The members of the RHIAC may hold other town offices. Appointments to the RHIAC shall be made after approval of this Section 4.8 by the attorney general.

RHIAC members representing the select board, school committee, finance committee and personnel board shall serve at the discretion of each appointing entity and the ex-officio members shall serve as long as they maintain their current position with the town. The remaining seven (7) RHIAC members (employees, retirees and citizens) shall serve three (3) year terms. To ensure that all RHIAC do not turn over at the same time, one (1) citizen will initially be appointed to a one (1) year term and one (1) citizen will initially be appointed to a three (3) year term; further, one (1) active nonschool department employee will be appointed to a three (3) year term and one (1) active school department employee will be appointed to a two (2) year term; and further, one (1) retired nonschool department employee will be appointed to a three (3) year term and one (1) retired school department employee will be appointed to a two (2) year term and one (1) retired school department employee will be appointed to a one (1) year term.

4.8.4. **Filling of Vacancies.**

Whenever a vacancy occurs on the RHIAC, it shall be filled by the appointing board or officer who originally appointed the member whose seat has become vacant. The newly appointed member will complete the term of the member who they are replacing.

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Section 5. Other Committees.

The town meeting may from time to time establish such other committees as it shall deem appropriate, having such composition, terms and duties not inconsistent with law, as the town meeting shall determine.

Section 6. Mailing of Reports.[16]

The time for distributing copies of the reports required of all standing committees described in this chapter shall be the same as the time for the distribution of the warrant.

16. Article 5 Spring Town Meeting 2012.

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Personnel Board Charge
DRAFT

Mission Statement:

The Town of Concord desires to have personnel policies and procedures, and a Personnel By Law, that support and sustain a healthy work environment for Town employees. We endeavor to become a welcoming community with a strong reputation of fair, consistent and equitable leaders who foster teamwork, embrace all employees, supporting their growth and development towards excellence in all fields of municipal governance.

[goal: condense above to one sentence]

The Personnel Board for the Town of Concord endeavors to support the development of a town that is a welcoming community, with employees who work in an environment that is fair, consistent and equitable; with leaders who foster teamwork and support the growth and development of all employees.

Purpose and Scope:

In support of this Mission, the Personnel Board is a volunteer Board that serves in an advisory role to both the Select Board and the Town Manager. The Personnel Board is also responsible for providing oversight in the administration of the Personnel Bylaw, ensuring that the Bylaw establishes an equitable and efficient system of personnel administration for Concord's non-union, regular employees.

Membership:

The Personnel Board is to consist of five volunteer members, appointed by the Select Board. Each member will serve staggered three-year terms, with a limit of 6 years (or two terms) for any one person to serve on the Personnel Board. Select Board approval of a second term is required. At least some members shall have professional or personal experience or expertise in personnel administration and/or finance, or a related field; the latter to better ascertain and understand the financial impact of proposals on both the Town and employees. Board members to elect Chair or Co-Chairs from amongst its members on an annual basis, with either a Clerk also specified or duties to manage Minutes for the Personnel Board to be outlined.

Duties and Responsibilities:

The Personnel Board shall have advisory responsibility for the administration of the Personnel Bylaw (Wage and Salary Classification Plan) of the Town, including the following:

a) the Personnel Board will review and confirm job classifications, minimum and maximum wage brackets, and salary schedules for all non-union, regular town positions with the Town Manager and the HR Director for approval by Town Meeting, with the exception of:

1. Jobs under the direction and control of the School Committee, provided that school employees may be included in the Plan as requested by the School Committee; and
2. Employees with personal employment contracts.

b) In cooperation with the Town Manager and Human Resources Director, recommends non-wage provisions governing the positions under the Plan for approval by the Town Meeting consistent with applicable laws, including such items as vacations, hours, days and weeks of work, insurance benefits, leaves of absence, sick leave, military leave, jury duty, workers' compensation, overtime, etc.

c) Provides written recommendation to the Town Meeting about any Warrant Article pertaining to non-union employees and/or employees affected by the Personnel Bylaw.

d) Reviews job descriptions for all positions included in the Plan to ensure they are properly classified and align with the overall HR strategy for the Town.

e) At reasonable intervals, review job classification rates of pay under the Wage and Salary Classification Plan, taking into account such factors as pay rates for like jobs in comparable Massachusetts' towns, cost-of-living indexes and current rates of pay for the like jobs for unionized employees in Concord Town and School positions, and make recommendations as appropriate to the Town Meeting.

f) The Personnel Board will receive the appeal of any employee aggrieved by the operation of any provisions of the Classification and Compensation PlanIn addition, the The Personnel Board will receive appeals for non-union regular employees related to other aspects of employment concerns. The Personnel Board will investigate and consider the disputed questions involved, holding private and/or public hearings as appropriate, rendering a recommendation to the Town Manager and the Select Board to take action relative to the dispute as may be authorized in the Classification and Compensation Plan.

g) Upon request of the Town Manager, provide input into the hiring and annual performance review of the Human Resources Director, who provided staff assistance to the Personnel Board.

h) The Personnel Board will resolve all questions and disputes relative to interpretation of the provisions of the Classification & Compensation Plan as may be referred to by the employees and officials of the Town.

i) Personnel Board to provide policy advice to the Town Manager on collective bargaining matters as requested.

Communication: In support of overall town governance, town citizens and town employees, the Personnel Board will be responsible for regular communications with each stakeholder group.

- The Personnel Board will serve as a key support for the Town Manager and Select Board in communicating relevant information about procedural changes (e.g. with the Bylaw).
- The Personnel Board will support the development and maintenance of an Employee Handbook.
- Working with the Town Manager and HR Director, the Personnel Board will support development of a regular communication strategy to share information on basic employment data, and recognize outstanding service by town employees.

Governance: The Personnel Board has no decision-making authority, but as specified in the Personnel Bylaw, the Town Manager, with advice from the Personnel Board, do have joint authority to adopt policies and procedures to implement and interpret the Personnel Bylaw.

- The Personnel Board is to meet at a regular, scheduled time with meeting date/times posted on the town website consistent with the Open Meeting Law. The Personnel Board will stive to post Meeting materials on the town website at least five (5) days prior to the scheduled meeting date.
- At least three (3) members of the committee are necessary for a quorum. Under current Massachusetts public meeting law, attendees can join in person or via webcast.
- Consistent with the provision of the Massachusetts Open Meeting Law, executive sessions are allowed.
- Each year, the Personnel Board is to elect leadership positions as specified in the Personnel Bylaw.
- Any changes to the Personnel Board Charge must be approved by the Select Board.
- Any changes to the Personnel Board Bylaw must be approved by Town Meeting.

Human Resources: In support of the Town Manager and the HR Department, the Personnel Board shall work regularly, with supporting data, to identify and rectify challenges with recruitment, employee turnover, performance review processes. In all these advisory capacities, the Personnel Board shall work to stabilize a diverse, equitable and inclusive workforce.

- The HR Dashboard will be jointly designed and the cadence of updates agreed upon, between the HR Department and the Personnel Board, with approval from the Select Board and the Town Manager. Once established, the HR Dashboard will be reviewed annually to confirm ongoing relevance and updated as needed. Regular updates of the dashboard will be required.

Employee Relations: The Personnel Board will support non-union, regular town employees in developing and maintaining a positive work culture and environment. The Personnel The Personnel Board will review regular employee surveys and make recommendations to the HR Director, Town Manager and Select Board as to how the Town might respond and improve the work culture for Town employees

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