

**TOWN OF BELLINGHAM  
CODE OF BY LAWS**

**DIVISION I - GENERAL GOVERNMENT**

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## CHAPTER 1. GENERAL PROVISIONS

### **Article 1.01. How Code Designated And Cited**

The provisions contained in this Chapter and the Chapters following shall constitute and be designated as the Code of By-Laws, Town of Bellingham, Massachusetts, and may be so cited. Such By-Laws may also be cited as the Bellingham Town Code.

Titles and Subtitles are used in these By-Laws for reference only, and are not to be construed as part of the By-Laws.

### **Article 1.02. Definitions**

Words and phrases specifying or naming any officer, board, or committee of the Town shall be construed as including the lawful successor, or the person or persons having the powers and performing the duties of such officer, board, or committee.

**"Animal Control Officer"** shall mean: Animal Control Officer, or his/her designee

**"Building Inspector"** shall mean: Building Inspector, or his/her designee

**"Capital Improvement"** shall mean:

- (a) Any purchase of land, or
- (b) Any of the following, if having a cost in excess of ten thousand dollars (\$10,000), under a single article:
  - (i) New building, utility, or road construction, or the planning therefor
  - (ii) Building alteration (but not routine repair or maintenance)
  - (iii) Site improvements
  - (iv) Purchase of equipment or vehicles unlikely to be replaced within five (5) years

**"Capital Outlay"** shall mean: any purchase which

- (a) Costs seven hundred fifty dollars (\$750) or more; and
- (b) Has a determinable life expectancy of longer than one (1) year

**"Charter"** shall mean: the Charter approved and accepted by the voters of Bellingham and any amendments thereto, if any

**"Chief Financial Officer"** shall mean: Chief Financial Officer, or his/her designee

**"DEP"** shall mean: Massachusetts Department of Environmental Protection, and/or its successors

"**DPW**" shall mean: Department of Public Works, and/or its successors

"**DPW Director**" shall mean: DPW Director, or his/her designee

"**Fire Chief**" shall mean: Fire Chief, or his/her designee

"**Fiscal Year**" shall mean: the period beginning July first (1<sup>st</sup>) of one year and ending June thirtieth (30<sup>th</sup>) of the following year

"**MGL**" shall mean: Massachusetts General Laws

"**Person**" shall mean: person, firm, or corporation

"**Police Chief**" shall mean: Police Chief, or his/her designee

"**Sealer of Weights and Measures**" shall mean: Sealer of Weights and Measures, or his/her designee

"**Town**" shall mean: Town of Bellingham

"**Town Administrator**" shall mean: Town Administrator, or his/her designee

"**Town Clerk**" shall mean: Town Clerk, or his/her designee

"**Treasurer-Collector**" shall mean: Treasurer-Collector, or his/her designee

Other definitions contained in the Charter shall have the same meaning in these By-Laws.

#### **Article 1.03. Repeal Of By-Laws Not To Revive Repealed By-Laws**

The repeal of a By-Law shall not thereby have the effect of reviving any By-Law theretofore repealed.

#### **Article 1.04. General Penalty For Violation Of By-Laws**

Whoever violates any of the provisions of these By-Laws whereby any act or thing is enjoined or prohibited, shall, unless another provision is expressly made, forfeit and pay a fine not exceeding three hundred dollars (\$300) for each violation, each day representing an independent violation.

#### **Article 1.05. Permits**

##### **Section 1.05.010. Permit Exhibited Upon Demand**

Any person who fails, neglects, or refuses to exhibit his/her permit when the same is demanded of him/her by a Selectman, Commissioner, Inspector, Sealer of Weights and Measures, Treasurer-Collector, Town Clerk, Constable, Police Officer, or Justice of the Peace shall be subject to the same penalty as if he/she had no permit.

### **Section 1.05.020. Conflict With Other Licenses**

Nothing in these By-Laws shall be construed as conflicting with any license issued under the authority of the Commonwealth.

### **Article 1.06. Non-Criminal Disposition**

Any By-Law of the Town, or rule or regulation of its departments, boards, commissions, and committees, the violation of which is subject to a specific penalty, may, at the discretion of the official who is the appropriate enforcing person, be enforced in the method provided in MGL Chapter 40 section 21D. Enforcing person, as used in this By-Law, shall mean the designated official referred to as such in the By-Laws, or such other official as the Board of Selectmen may from time to time designate. If more than one (1) official has jurisdiction in a given case, any such official may be an enforcing person with respect thereto.

### **Article 1.07. Severability**

If any of the provisions of these By-Laws or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions of the By-Laws, or the application of such other provisions which can be given effect without the invalid provision or application thereof, and for this purpose the provisions of these By-Laws are severable.

## **CHAPTER 2. RECORDS**

### **Article 2.01. Records Kept; Location; Open For Inspection**

All officers, boards, and committees of the Town shall cause records of their doings and accounts to be kept in suitable books. Said books shall be kept in their respective places in the Town Offices, and shall not be removed therefrom. Said books shall, unless otherwise provided by law, be open to public inspection at any reasonable time, but shall remain during such inspection under the supervision of the officer, board, or committee having custody thereof.

### **Article 2.02. Public Administration Research Collection**

There is hereby established, and there shall be maintained, a Public Administration Research Collection at the Public Library, the same to be under the supervision of the Library Trustees, for the use of the officers, committees, civic organizations, and individual citizens of the Town engaged in research in matters pertaining to governmental and social problems, particularly as they relate to the Town. To the extent that the library department's facilities permit, it shall assist the citizens of the Town in all matters requiring statistical research or fact-finding in connection with studies ordered by Town Meeting.

The Chairman of each temporary study committee established by Town Meeting shall upon termination of the existence and the work of his/her committee, deposit with the Library Trustees 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 MGL Chapter 66, the Library Trustees may destroy so much of said working papers and material as has no substantial value; and the balance shall be deposited in the Public Administration Research Collection.

The Town Clerk shall furnish the Library Trustees with at least two (2) copies of every publication issued by the Town and distributed through the Town Clerk's office; and any department, board, commission, or committee publishing a report not so distributed shall file at least two (2) copies thereof with the Library Trustees.

### **Article 2.03. Building Committee Working Papers**

Except as the laws of the Commonwealth may otherwise require, the Chairman of each Building Committee, or his/her designated representative, shall upon the termination of the existence and work of his/her committee:

- (a) Provide the department which is to operate and maintain the building with a complete, corrected final set of plans of the finished structure, and shall relinquish to said department all papers guaranteeing the structure of any feature thereof, material used therein, or work done thereon, and
- (b) Relinquish the remaining papers of said committee to the Library Trustees, for the purpose specified in Article 2.02, including therewith an inventory indicating what papers, materials, and records were deposited with the department specified. Subject to the approval of the Town Clerk and the requirements of MGL Chapter 66, the Library Trustees may destroy so much of the material relinquished to the Public Library as has no substantial values; and the balance of such material shall be deposited in the Public Administration Research Collection.

## **Article 2.04. Annual Town Report**

### **Section 2.04.010. Annual Expenditure Reports Required; In Annual Town Report**

All officers, boards, standing committees, and special committees of the Town having charge of the expenditure of Town money shall annually report thereon in writing in such manner as to give the citizens a fair and full understanding of the objects and methods of such expenditures, referring, however, to the report of the Chief Financial Officer for statements in detail of receipts and payments, and may make therein such recommendations as they deem proper. Such reports shall be submitted to the Board of Selectmen for inclusion in the Annual Town Report on or before the tenth (10<sup>th</sup>) of January of each year.

### **Section 2.04.020. Contents Of Annual Town Report**

#### **2.04.021. Chief Financial Officer**

The Chief Financial Officer shall be responsible for the submission of the following:

- (a) The expenditure reports of officers, boards, and committees
- (b) A detailed report of all moneys received into and paid out of the Town Treasury in the previous fiscal year, showing separately payments made from the proceeds of loans as capital outlays for permanent improvements
- (c) The report of the collection of taxes, receipts, payments, and abatements
- (d) Statements of all funds belonging to the Town or held for the benefit of its inhabitants
- (e) A statement of the liabilities of the Town on bonds, notes, certificates of indebtedness, or otherwise, and of any other indebtedness authorized but not incurred, and the purposes thereof
- (f) A statement of transfers made to or from any appropriation

#### **2.04.022. Town Clerk**

The Town Clerk shall submit Abstracts of the records of all Town Meetings held since publication of the last Annual Town Report.

#### **2.04.023. Other Matters**

Such other matters as said report is required by law to contain, or as may be inserted by the Board of Selectmen under discretion granted them by law.

## **CHAPTER 3. OFFICERS AND EMPLOYEES GENERALLY**

### **Article 3.01. Officers, Employees, Agents Not To Receive Extra Compensation; Exception**

No officer and no salaried employee of the Town or any agent of any such officer or employee, shall receive any compensation or commission for work done by him/her for the Town, except his/her official salary and fees allowed by law, without the permission of the Board of Selectmen expressed in a vote which shall appear on their records with the reasons therefor, or by vote of the Town.

### **Article 3.02. General Duties Of Board Of Selectmen**

The Board of Selectmen shall have the general direction and management of the property and affairs of the Town.

### **Article 3.03. Property Inventory To Be Kept; Annual Delivery Of Inventory Required**

The Board of Selectmen shall cause each officer and department head having custody of Town property to keep a true inventory thereof on file, and each officer and department head shall deliver a copy of said inventory to the Chief Financial Officer at least annually.

### **Article 3.04. Grant Of License, Permit For Enterprise; Public Hearing; Notice**

The Board of Selectmen shall grant no license or permit for the permanent establishment of any enterprise - commercial, fraternal, or nonprofit, without first conducting a Public Hearing. Notice shall be given by posting such in a conspicuous place in the Town Hall for at least ten (10) days before the date of such hearing, and by mailing postage prepaid to the petitioner and to immediate abutters of the established license premises as their names appear on the most recent applicable tax list, which term shall include abutters of land directly opposite on any public or private street or way. The provision of notice of Public Hearing of this section shall not apply to Public Hearings pertaining to public utilities installation as per the provisions of MGL Chapter 164 and Chapter 166.

### **Article 3.05. Sale Or Trade Of Obsolete Or Surplus Town Property**

Any board or officer in charge of a department of the Town may, with the approval of the Board of Selectmen, sell any personal property of the Town having a value of less than two thousand five hundred dollars (\$2,500) for any one (1) item, within the possession or control of the department which has become obsolete or is not required for further use by the department, or trade the same in part payment for replacement for which funds have been provided.

In cases of sale of said Town property, the value of which is two thousand five hundred dollars (\$2,500) or more, the Board of Selectmen shall cause notice of said sale to appear in one (1) or more newspapers of general circulation in the Town, once a week for at least three (3) weeks, the final publication to be at least ten (10) days before the time advertised for said sale.

### **Article 3.06. Personnel Board**

#### **Section 3.06.010. Appointment**

In accordance with Section 8-5-12 of the Charter, there is hereby established an unpaid Personnel Board consisting of five (5) registered voters of the Town appointed by the Town

Administrator. Each member of the Personnel Board so appointed shall serve for a term of three (3) years.

**Section 3.06.020. Vacancies**

If any member of the Personnel Board shall resign or otherwise vacate his/her office before the expiration of his/her term, his/her successor shall be appointed, as provided above, to serve for the balance of the un-expired term.

**Section 3.06.030. Compensation**

No member of the Personnel Board may be an employee of the Town other than as clerk to the Personnel Board. Members of the Personnel Board, other than its clerk, shall serve without compensation.

**Section 3.06.040. Organization**

Forthwith after its appointment and annually, the Personnel Board shall meet and organize by electing a Chairman. A majority of the Personnel Board shall constitute a quorum for the transacting of business. A majority vote of those present and voting shall determine the action the Personnel Board must take in all matters upon which it is authorized or required to pass under this By-Law.

**Section 3.06.050. Policy And Administration**

It shall be the duty of the Town Administrator to hold the Personnel Board to its responsibilities as outlined in Article 3.06 of the By-Laws and Section 8-5-12 of the Charter. The Personnel Board shall assist the Town Administrator in his/her duties as the Personnel Administrator and in this role make recommendations to the Town Administrator on policy matters, procedures, and systems of the Town including but not limited to:

- (a) Employee recruitment, testing, selection, and evaluation
- (b) Review of proposals involved with contract negotiations
- (c) To assist in the formulation of various policies required by law (for example: A.D.A., E.O.E., and Sexual Harassment)

## **CHAPTER 4. TOWN MEETINGS**

### **Article 4.01. Town Election**

#### **Section 4.01.010. When Annual Town Meeting Election Held**

The Annual Town Meeting for the election of Town Officers shall be held on the first (1<sup>st</sup>) Tuesday of May of each year.

#### **Section 4.01.020. Hours Polls Are Open**

The polls shall be opened at a time set by the Board of Selectmen in the Warrant for a minimum of eight (8) hours.

### **Article 4.02. Business Of Town Meeting; Except Elections, Ballots**

All business of the Annual Town Meeting, except the election of such officers and the determination of such matters as are required by law to be elected or determined by ballot, shall be considered at a meeting to be held on the fourth (4<sup>th</sup>) Wednesday of May at 7:30 P.M., or on continued dates thereafter.

All business of an obligatory Fall Special Town Meeting shall be considered at a meeting to be held on the second (2<sup>nd</sup>) Wednesday of October at 7:30 P.M., or on continued dates thereafter.

### **Article 4.03. Giving Notice Of Town Meeting; Posting; Time Requirement**

Notice of every Town Meeting shall be given in accordance with Section 2-7-3 of the Charter and by posting attested copies of the Warrant therefor at Town Hall and in other municipal buildings throughout Town not less than sixty (60) days before the day fixed for the Annual Town Meeting, and forty-five (45) days before the day fixed for the Fall Special Town Meeting and any other Special Town Meetings. In the event of an emergency, said notice requirements may be waived by majority vote of the Board of Selectmen but never so that notice is less than fourteen (14) days before the date set for any Town Meeting.

Every Warrant Article shall include the name and address of the Petitioner so that the Finance Committee and other Tribunals may contact them to schedule their appearance at the required Public Hearing.

### **Article 4.04. Finance Committee Report, Annual Town Report Previous To Town Meeting**

The Finance Committee will deliver its Report as provided in the Charter to the office of the Board of Selectmen by noontime ten (10) days prior to any Town Meeting. Upon receipt, the Board of Selectmen and Town Clerk shall make available the Report and Recommendations of the Finance Committee as well as the Annual Town Report at no charge.

### **Article 4.05. Warrant, Finance Committee Report Available At Town Meeting**

Copies of the Warrant and of the Report and Recommendations of the Finance Committee thereon shall be made available to the voters at Town Meeting.

#### **Article 4.06. Notice; Advertisement Of Adjourned Meeting**

As soon as practicable after the adjournment of Town Meeting, on a vote to adjourn to another day, the Town Clerk shall cause a brief statement of the day and hour to which the adjournment was voted and of the business remaining to come before Town Meeting, to be posted at Town Hall and in other municipal buildings throughout Town, and if the period of adjournment will permit, shall cause a similar notice to appear in one (1) or more newspapers of general circulation in the Town.

#### **Article 4.07. Conduct Of Town Meeting**

##### **Section 4.07.010. Required Quorum**

The number of voters necessary to constitute a quorum at any Town Meeting shall be zero (0).

##### **Section 4.07.020. Appointment, Duties Of Tellers; Moderator To Control Stage**

The Moderator shall appoint Tellers, who shall permit only registered voters to enter upon the floor at any Town Meeting. Non-Registered persons shall be seated in sections of the hall under the direction of the Moderator.

##### **Section 4.07.030. Conduct Of Town Meeting**

The Moderator shall determine the rules under which the Town Meeting shall be conducted, so long as such rules are generally accepted in Massachusetts for the conduct of such meetings and so long as a copy of such rules are available at each Town Meeting, on file with the Town Clerk at least fourteen days (14) prior to Town Meeting, and a copy is provided to Town Counsel at least fourteen (14) days prior to Town Meeting.

##### **Section 4.07.040. Order Of Voting On Articles**

Articles of the Warrant of the Town Meeting shall be acted upon in the order in which they appear unless otherwise determined by a two-thirds (2/3<sup>rd</sup>s) vote of the Town Meeting or at the discretion of the Moderator.

##### **Section 4.07.050. Motions That Are Required In Writing**

All Motions having to do with the expenditure of money shall be presented in writing; other Motions shall be in writing if so directed by the Moderator.

##### **Section 4.07.060. Division Of Motions**

If a Motion is susceptible of division, it shall be divided and the question shall be put separately upon each part thereof, if seven (7) voters so request.

##### **Section 4.07.070. Motions Received And Decided Without Debate**

When a question is before Town Meeting, the following Motions shall be received and shall be decided without debate:

- (a) To adjourn

- (b) To lay on the table
- (c) For the previous question

**Section 4.07.080. Amending Amendments To Motions**

An amendment to a Motion shall not be amended.

**Section 4.07.090. Attorneys Representing Clients To Disclose Fact Before Speaking**

Any person employed as an attorney on any matter under discussion at Town Meeting shall disclose the fact of that employment before speaking thereon.

**Section 4.07.100. Method Of Determining Question When Question Is Put**

When a question is put, or on matters requiring a two-thirds ( $2/3^{\text{rds}}$ ) vote, the sense of the meeting shall be determined by the voices of the voters and the Moderator shall declare the vote, or the two-thirds ( $2/3^{\text{rds}}$ ) vote, as it appears to him/her. If the Moderator is unable to decide by the sound of voices or the show of hands, or if his/her decision is immediately questioned by seven (7) or more voters rising in their places for that purpose, he/she must appoint Tellers to make and return the count.

**Section 4.07.110. Effect Of Votes On Amendments Involving Sums Of Money**

On a proposed amendment involving sums of money, the smaller amount shall be put to the question first, and an affirmative vote thereon shall be a negative vote on the larger amount.

**Section 4.07.120. Requisites For Voting On All Articles**

No Article shall be voted unless and until the subject matter thereof shall have been considered after a Public Hearing held in accordance with Article 6.07 by either the Finance Committee or other Tribunal as required by law. The Finance Committee shall publish its recommendations and those of the other Tribunals at least ten (10) days prior to Town Meeting.

**Section 4.07.130. When Vote On Motion By "Yes" Or "No" Ballot**

Town Meeting may order that the vote on any Motion shall be taken by a "Yes" or "No" ballot.

No appropriation of one hundred thousand dollars (\$100,000) or more for capital improvement or capital outlay shall be voted to be raised at Town Meeting except by a secret ballot; said ballot to be printed with (2) parts, one signifying a "Yes" vote and the other signifying a "No" vote; and said ballots to be made available, when and if needed to all registered voters present at Town Meeting.

Provisions of this article relative to secret ballot may be waived by an affirmative vote of nine-tenths ( $9/10^{\text{ths}}$ ) of the registered voters present and voting.

**Section 4.07.140. Reconsideration Of Motions**

No question shall be reconsidered at an adjourned session of a Town Meeting unless that adjourned session is held on the same evening; no vote may be reconsidered on a Motion to adjourn, to lay on the table, or for the previous question.

**Section 4.07.150. Dissolution And Adjournment Of Town Meeting**

No Motion the effect of which would be to dissolve the Town Meeting shall be in order until every Article in the Warrant has been duly considered and acted upon, but this shall not preclude the postponement of consideration of any Article to an adjournment of the Town Meeting at a stated time and place.

**Article 4.08. Notifications By Town Clerk After Town Meeting**

It shall be the duty of the Town Clerk immediately after every Town Meeting to notify in writing all members of committees who may be elected or appointed at such Town Meeting, stating the business upon which they are to act and the names and persons composing the committees, and also to notify all officers, boards, and committees of all votes passed at such Town Meeting in any way affecting them.

**Article 4.09. Report Of Committees; Discharge Of Committees**

All committees established by Town Meeting vote, but not incorporated into the By-Laws, shall report as directed by the Town Meeting. If no report is made within one (1) year after its appointment, a committee shall be discharged unless, in the meantime, Town Meeting shall have granted an extension of time.

## **CHAPTER 5. FINANCIAL AFFAIRS GENERALLY**

### **Article 5.01. Annual Audit Of Accounts**

An audit of the accounts of the Town, including all educational accounts, shall be made annually in accordance with generally accepted accounting principles.

### **Article 5.02. Prescribing Accounting Methods**

The Chief Financial Officer, in accordance with the standards of the Director of the Bureau of Accounts, shall prescribe the methods of accounting and the forms to be used by all officers, boards, and committees of the Town pertaining to their receipts and disbursements.

### **Article 5.03. Moneys Received Paid To Treasurer-Collector Within One Week; True Returns**

All officers, whether elected or appointed, shall except as otherwise provided by law, pay all money belonging to the Town received by them in their respective departments, for the sale of property or from any other source whatsoever to the Treasurer-Collector within one (1) week, and shall make a true return thereof to the Chief Financial Officer, stating the accounts upon which such amounts were received.

### **Article 5.04. Granting Or Renewing Of Certain Licenses And Permits**

- (a) The Treasurer-Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments, and other municipal charges, hereinafter referred to as the "Treasurer-Collector", shall annually furnish to each department, board, commission, or division, hereinafter referred to as the "Licensing Authority", that issued 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 of abatement of such tax or a pending petition before the Appellate Tax Board
- (b) 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 Treasurer-Collector; provided, however, that written notice is given to the Party and the Treasurer-Collector, as required by applicable provisions of law, 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 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 Licensing Authority with respect to such license denial, revocation, or suspension shall be made only for the purpose 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 Licensing Authority receives a certificate issued by the Treasurer-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 of the date of issuance of said certificate.

- (c) 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 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.
- (d) The Board of Selectmen may waive such denial, suspension, or revocation if it finds no direct or indirect business interest by the property owners, its officers or stockholders, if any, or members of his/her immediate family, as defined in MGL Chapter 268 section 1 in the business or activity conducted in or on said property

This section shall not apply in the following licenses and permits:

<u>License/Permits</u>	<u>MGL Chapter/section</u>
Open Burning Permits	48/13
Bicycle Permits	85/11A
Sales of Articles for Charitable Purposes	101/33
Fishing/Hunting/Trapping Licenses	131/12
Clubs/Organizations Dispensing Food/Beverage Licenses	140/21E
Dog Licenses	140/137
Theatrical Events/Public Exhibitions Permits	140/181
Child Work Permit	149/69
Marriage Licenses	207/28

**Article 5.05. Appropriation Balances**

Any sum in any account established by appropriation and not otherwise governed by state statute which remains unexpended, or with respect to which the expenditure thereof has not been committed by contract, at the close of the second full fiscal year following its appropriation shall be closed and returned to the General Fund. However, Town Meeting may approve an extension in the time within which funds may be expended.

## **CHAPTER 6. FINANCE COMMITTEE**

### **Article 6.01. Membership; Appointment; Eligibility**

There shall be a Finance Committee consisting of seven (7) legal voters of the Town, who shall be appointed by the Moderator as hereinafter provided. No elected or appointed officer or employee, other than a member of the Personnel Board or the Capital Improvements Committee, shall be eligible to serve on the Finance Committee.

### **Article 6.02. Terms Of Office**

The Moderator shall annually appoint members, whose term shall be three (3) years, so as to replace those whose terms have expired. All terms of office shall commence immediately upon qualification and shall expire at the close of the final adjournment of the Annual Town Meeting of the year in which the term expires or until a successor is appointed and qualified.

### **Article 6.03. Filling Vacancies**

The Moderator shall fill, for the remainder of the term, any vacancy that may occur in the membership of the Finance Committee.

### **Article 6.04. To Select Own Officers**

The Finance Committee shall elect its own officers.

### **Article 6.05. Members Serve Without Pay**

The members of the Finance Committee shall serve without pay, except the Finance Committee may appoint one (1) of its members to act as a paid clerk.

### **Article 6.06. True Record Of Proceedings Kept**

Members of the Finance Committee shall cause a true record of its proceedings to be kept.

### **Article 6.07. Consideration Of Articles On Warrant; Public Hearing; Report To Town Meeting**

All Articles in any Warrant for a Town Meeting shall be referred to the Finance Committee for its consideration. The Board of Selectmen after drawing any such Warrant shall transmit immediately a copy thereof to each member of the Finance Committee.

A Public Hearing shall be held, at least fourteen (14) days before such Town Meeting upon all such Articles, unless a Public Hearing by some other Tribunal is required by law. The recommendations, if by a Tribunal other than the Finance Committee, shall be made to the Finance Committee at least thirty (30) days before such Town Meeting.

The Finance Committee shall, after due consideration of the subject matter of such Articles, report its recommendations and those of other Tribunals to Town Meeting, in writing.

In an emergency the Finance Committee may waive the thirty (30) day requirement.

### **Article 6.08. Recommending Appropriations**

It shall be the duty of the Finance Committee annually to consider the expenditures in previous years and the estimated requirements for the ensuing year of the boards, officers, and committees of the Town, as prepared by them in such form and detail as may be prescribed by the Finance Committee. The Finance Committee shall add to such statement of expenditures and estimates another column, giving the amounts which in its opinion should be appropriated for the ensuing year, the method of financing, and shall further add thereto such explanations and suggestions relating to the proposed appropriations as it may deem expedient and report thereon as provided in Article 6.07.

### **Article 6.09. Access To Books, Records, Accounts; Town Officers To Furnish Information**

In the discharge of its duty, the Finance Committee shall have the free access to all books of records and accounts, bills, and vouchers, excluding those determined to be executive session records, on which money has been received or paid to and from the Town Treasury, and any other public records as defined in MGL Chapter 4, section 7(26). Officers, boards, and committees of the Town shall, upon written request, furnish the committee with facts, figures, public records, and any other information within ten (10) days of the request.

### **Article 6.10. Annual Report**

It shall be the duty of the Finance Committee to make an annual report of its activities, with recommendations relative to financial matters and the conduct of Town business, to be contained in the Annual Town Report.

### **Article 6.11. Authority To Employ Assistants**

The Finance Committee may employ clerical or other assistance, to be paid from such funds as the Town may appropriate for the use of the Finance Committee.

## **CHAPTER 7. CAPITAL IMPROVEMENTS COMMITTEE**

### **Article 7.01 Appointment**

A Capital Improvement Committee of five (5) members consisting of three (3) Finance Committee members appointed by the Finance Committee and two (2) At-Large shall be appointed by the Board of Selectmen. Members shall serve a term of three (3) years, those from the Finance Committee will serve a term contemporaneous with their term of the Finance Committee. A member's reappointment to the Finance Committee shall not automatically cause reappointment to the Capital Improvement Committee. Any vacancy on the Capital Improvements Committee shall be filled by the Board of Selectmen for the remainder of the term.

### **Article 7.02. Estimates Of Funds For Capital Improvements**

The Capital Improvements Committee shall study those capital improvements as defined in Article 1.02 that are above fifty thousand dollars (\$50,000). The Board of Selectmen and all boards, committees, heads of department, or other officers of the Town authorized by law to expend money shall furnish to the Capital Improvements Committee, with their annual budget requests, detailed estimates of the amount necessary for capital improvements for the departments under their jurisdiction for at least the coming five (5) years.

The Capital Improvement Committee shall consider the relative need, timing, cost, completeness of the planning, community support, availability of outside funding, and other factors the Capital Improvements Committee shall deem appropriate to the individual expenditures and the effect each will have on the financial position of the Town.

### **Article 7.03. Preparation Of Annual Report And Five-Year Capital Program**

The Capital Improvements Committee shall maintain an ongoing five (5) year Capital Improvement Budget which shall be published yearly in the Annual Town Report and be on file at all times in the office of Town Clerk.

### **Article 7.04. Presentation To Town Meeting**

The Capital Improvements Committee shall schedule capital improvement projects for presentation to the Fall Special Town Meeting and other Town Meetings as deemed appropriate.

### **Article 7.05. Stabilization Fund**

All requests for transfers or expenditures from the Stabilization Fund must be presented to the Capital Improvements Committee prior to the Town Meeting at which such transfer or expenditures are to be voted. The Capital Improvement Committee shall make recommendations to Town Meeting on the amount and appropriateness of all such transfers or expenditures from this fund.

## **CHAPTER 8. COUNCIL ON AGING**

### **Article 8.01. Purpose**

The Board of Selectmen shall appoint a Council on Aging for the purpose of coordinating or carrying out programs designed to meet the problems of aging in cooperation with programs of the Commission on Aging established under MGL Chapter 6 section 73.

### **Article 8.02. Members; Terms**

The Board of Selectmen shall appoint a Council on Aging consisting of eleven (7) members in staggered terms of three (3) years. The members of the Council on Aging shall serve without pay.

### **Article 8.03. Filling Vacancies**

Whenever a vacancy shall occur in the membership of the Council on Aging, by reason of death, resignation, inability to act, or for any other reason, the vacancy shall be filled by appointment by the Board of Selectmen for the remainder of the term.

### **Article 8.04. Officers**

The Council on Aging in April of each year shall elect from its membership a Chairman, President, Vice Chairman, and Secretary /Treasurer. Each officer shall hold office until the next annual election. In the event a vacancy occurs in any of the offices above, the Council on Aging shall elect a replacement at its next regular meeting..

### **Article 8.05. Reports**

The Council on Aging shall prepare and submit an annual report of its activities to the Town and shall send a copy thereof to the Department of Elder Affairs.

## CHAPTER 9. CONTRACTS

### **Article 9.01. Officers Not To Participate In Decisions In Which They Have A Personal Interest**

No officer of the Town shall, in his/her official capacity, make or pass upon or participate in making or passing upon, any sale, contract, agreement, or the terms or amount of any payment in which the Town is interested and in which such officer has any personal financial interest, direct or indirect, other than Union or Employment Contracts.

### **Article 9.02: Contracts and Purchases**

All Contracts entered into by the Town which are subject to Federal or State bidding requirements shall be awarded only after there has been full compliance with such requirements. In all other cases, except in cases of public calamity or extreme necessity, whenever any work is required to be done for the Town or any Contract for labor or materials, or both, is to be made on behalf of the Town, for an amount exceeding the sum of \$25,000, the Town officer having the matter in charge shall publicly advertise for bids, and may require that a bond with satisfactory sureties for the faithful performance of such Contract shall be furnished, but no Contract shall be split, separated or divided for the purpose of reducing the amount thereof below said sum of \$25,000. For Contracts in an amount between \$5,000 and \$24,999, the Town officer shall seek written quotes from at least three (3) or more reliable parties, regularly engaged or employed in such work or business. So far as practicable, Contracts for less than \$5,000 shall be made or awarded in such a manner as to secure the benefit of reasonable competition, utilizing sound business practices.

### **Article 9.03. Exceptions**

The provisions of Article 9.02 shall not apply:

- (a) In cases of special emergency requiring immediate action for the preservation of life or the protection of property
- (b) In the case of work or service of a specialized nature for which fair and reasonable competition cannot be obtained
- (c) In the case of a collective bid as defined by MGL Chapter 7 section 22B

### **Article 9.04. Certification Of Exception**

If a contract or purchase is made without competitive bids under the exceptions allowed in Article 9.03 (a) and Article 9.03 (b), such contract or purchase shall have attached to it, previous to its audit by the Chief Financial Officer, a certificate by the officer, board, or committee authorizing the same, setting forth the reason why competitive bids were not obtained.

## **Article 9.05. Competitive Bids**

### **Section 9.05.010. Invitation To Bid**

Competitive bids shall be invited as follows:

- (a) All competitive bids shall be invited by advertisement in one (1) or more newspapers of general circulation in the Town, unless otherwise required by law; said advertisement to be published at least twenty (20) days before the time advertised for the opening of bids
- (b) In all cases of competitive bids, by the sending of letters of invitation, all bearing the same date in each instance, to a sufficient number of vendors, contractors, or other qualified persons to insure fair competition

### **Section 9.05.020. Contents Of Invitation To Bid**

Every invitation for competitive bids shall have the time and place where plans and specifications of proposed work, materials, supplies, or equipment may be obtained, and the time and place at which bids will be opened, and shall reserve to the Town the right to reject any or all such bids.

### **Section 9.05.030. Bid Opening; Split Bid**

All proposals shall be opened in public at the time and place specified therefor. No purchase, and no service or work for which a contract is proposed, shall be split or divided for the purpose of evading the provisions of this Article.

### **Section 9.05.040. Bid Documents A Public Record**

All plans and specifications, letters of invitations, bids on which awards have been made, certificates required by Article 9.04, and contracts, shall be kept on file and shall be open to public inspection at reasonable times.

## **Article 9.06. Requisites For Binding Contracts In Excess Of Five Hundred Dollars**

No contract involving an obligation of the Town in excess of five hundred dollars (\$500) shall be binding upon the Town unless it is in writing and is signed by at least a majority of the board or committee duly authorized or having control of the appropriation against which such obligation is incurred.

## **Article 9.07. Contracts Not To Extend Beyond Three Years; Exception**

No board or officer shall make any contract in behalf of the Town, the execution of which shall necessarily extend beyond three (3) years from the date thereof, except as otherwise provided by law, unless specific authority to do so has been given by vote of Town Meeting.

## **CHAPTER 10. LEGAL AFFAIRS**

### **Article 10.01. Board Of Selectmen Agent Of Town For Purposes Of Suit**

The Board of Selectmen shall be the Agent of the Town to institute, prosecute, and defend any and all claims, actions, and proceedings to which the Town is a party or in which the interests of the Town are or may be involved.

### **Article 10.02. Settlement Of Suits And Claims; Payments In Excess Of Ten Thousand Dollars**

The Board of Selectmen may, at their discretion, compromise or settle any claim or suit to which the Town is a party, which does not require the payment by the Town of an amount in excess of ten thousand dollars (\$10,000). No settlement of a claim or suit obligating the Town in the amount in excess of ten thousand dollars (\$10,000) shall be made, except as authorized by law, without the consent of Town Meeting.

### **Article 10.03. Annual Report Of All Litigation**

The Board of Selectmen in their annual report shall state what actions have been brought against and on behalf of the Town, what cases have been compromised or settled, and the current standing of all suits at law involving the Town or any of its interests.

### **Article 10.04. Appointment Of Town Counsel; Term; Vacancy In Office**

The Board of Selectmen shall after final adjournment of the Annual Town Meeting, appoint a person or firm who is a Member of the Bar in good standing, to serve as Town Counsel for the term of one (1) year beginning July 1<sup>st</sup> through June 30<sup>th</sup> of the following year or until his/her successor is appointed and enters upon the performance of his/her duties. They shall likewise fill any vacancy in said office for the un-expired term.

### **Article 10.05. Duties Of Town Counsel**

It shall be the duty of Town Counsel:

- (a) To conduct the prosecution, defense, or compromise of claims, actions, and proceedings to which the Town is a party, and the prosecution of actions or proceedings by or on behalf of any officer, board, or committee as such
- (b) To conduct the defense of any action or proceedings brought against any officer, board, or committee as such when the Board of Selectmen, having determined that any right or interests of the Town are or may be involved, shall so request
- (c) To conduct proceedings brought by or against the Board of Assessors before the Appellate Tax Board
- (d) To assist in the prosecution of complaints for violation of any By-Law of the Town, when requested so to do by the board or officer enforcing the same
- (e) To examine and report upon titles to all land to be acquired by the Town

- (f) To prepare or approve contracts, bonds, deeds, and other legal instruments in which the Town is a party or in which any right or interest of the Town is involved
- (g) To appear at any and all hearings on behalf of the Town whenever his/her services may be required
- (h) To advise and act for the officers, boards, and committees upon and in legal matters touching the duties of their respective offices

**Article 10.06. Employment Of Special Counsel**

The Board of Selectmen may employ Special Counsel to assist Town Counsel, whenever, in their judgment, necessity therefor arises.

## CHAPTER 11. ANIMALS

### Article 11.01. Dog Licenses

#### Section 11.01.010. License Required; Annual Fee Established

Any owner or keeper of a dog three (3) months of age or older in the Town shall cause that dog to be licensed as required by MGL Chapter 140, commencing on April first (1<sup>st</sup>) of each year. The Board of Selectmen shall establish the annual fee for every dog and kennel license.

#### Section 11.01.020. Vaccination Certificate Required; No Fee For Specially Trained Dogs

When applying for a license, the applicant must show proof by a valid veterinarian's certificate that the dog has been vaccinated against rabies within the last three (3) years if the dog is three (3) months of age or over. No fee shall be charged for a license for a dog specifically trained to lead or serve a blind or 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.

#### Section 11.01.030. Refund Of License Fee

No license fee or part thereof shall be refunded because of subsequent death, loss, spaying, neutering, other disposal of the dog, or removal from the Town or the Commonwealth.

#### Section 11.01.040. Late Fees

Should any owner or keeper of a dog fail to license that dog before July first (1<sup>st</sup>), that owner or keeper shall pay a late fee as established by the Board of Selectmen before obtaining said license, except a dog brought into the Town as provided in MGL Chapter 140 section 138. This late fee shall be applicable from the sixty-first (61<sup>st</sup>) day after arrival of such dog. Any person maintaining a kennel in the Town who fails to license as prescribed by this section and the law of the Commonwealth shall pay a late fee beginning July first (1<sup>st</sup>).

#### Section 11.01.050. Collection Of Fees

All fees collected by the Town Clerk shall be accounted for and paid over to the Treasurer-Collector to be incorporated into the General Fund.

### Article 11.02. Dog Leash Regulations

### **Section 11.02.010. On Property Control**

No person shall permit a dog owned or kept by him/her to run freely within the confines of the property of the owner or keeper unless leashed so as to restrain the dog in such a manner that the dog will not go beyond the property of the owner or keeper, or unless the dog is securely confined to the premises of the owner or keeper by fencing or other appropriate barrier.

### **Section 11.02.020. Off Property Control**

No person shall permit a dog owned or kept by him/her beyond the confines of the property of the owner or keeper unless the dog is held firmly on a leash, which shall not exceed six (6) feet in length.

### **Section 11.02.030. Dogs Prohibited**

No person owning, harboring or having custody and control of a dog shall allow the dog at any time on the premises of any public property which is posted "No dogs allowed".

## **Article 11.03 Dog Deemed Dangerous**

1. Any dog, which according to the records of Animal Control, has inflicted injury on a human being without provocation on public or private property or
  2. Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury, or to otherwise threaten the safety of human beings or domestic animals or
  3. Any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting or
  4. Any dog, which unprovoked, chases or approached a person or domestic animal upon the streets, sidewalks or any public or private property in a menacing fashion or apparent attitude of attack.
- A. Upon receipt of an Affidavit of Complaint signed by one or more persons made under oath before an Animal Control Officer, setting forth the nature and date of the act, the owner of the animal, the address of the owner and the description of the animal doing such act. The Animal Control Officer shall investigate the complaint to determine if in fact the animal is dangerous.

**Exemptions:** "No dog may be declared dangerous if the threat, injury or damage was sustained by a person who, at the time, was committing a willful trespass or tort upon the premises occupied. Any dog used in law enforcement shall be exempt".

- B. The Animal Control Officer after investigation may issue an interim order that such dog be restrained or muzzled for a period not to exceed fourteen (14) days to enable Board of Selectmen or their designee to set up a hearing. If the Selectmen or their designee fail to act during the period of the interim order upon expiration of the period, the interim order automatically is vacated.

C. Once a dog has been deemed dangerous as a result of a hearing, some or all of the following actions will be required of the dog owner:

1. **Enclosure Required:** The dog must be securely confined indoors or in a securely enclosed locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and secure top to prevent the dog from escaping over, under or through the structure and shall also provide protection from the elements. Such pen or structure shall be at least six feet in height and made from material so that the dog cannot put its head through the sides and a child cannot put its hand or fingers through the sides. A dangerous dog shall be considered at large, even if on the owner/keeper's property, if not so confined.
2. **Muzzle Required:** When off its owner's property a dog deemed dangerous shall be kept on a secure leash held by an adult that can control the dog and muzzled in such a manner as not to cause injury to the dog or interfere with the dog's vision or respiration but as to prevent it from biting a person or another animal.
3. Unprovoked severe or fatal attack would result in the dog being humanely euthanized (severe injury means physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery).
4. **Warnings:** The owner or keeper shall display a sign on his or her premises warning that there is a dangerous dog on the property. This sign shall be visible and capable of being read from the public highway or thoroughfare. In addition the owner shall conspicuously display a sign with a symbol warning children of the presence of a dangerous dog.
5. **Notification:** After the hearing the owner or keeper of the dog will receive in writing within seven days the requirements to be met according to the Town. This notice will be served in hand. The owner or keeper of the dog has ten days to appeal this order at the District Court in accordance with Chapter 140.
6. **Inspection:** Animal Control will inspect enclosures at least twice a year and make inquiries whenever necessary to ensure compliance with the provisions.
7. If the owner or keeper of a dog that has been deemed dangerous is unwilling or unable to comply with the above regulations for keeping such an animal then he or she should have the animal humanely euthanized by a licensed veterinarian.
8. **Transfer:** The owner or keeper of a dog deemed dangerous will notify Animal Control if he or she is intending to give the dog away. They will provide the Animal Control Officer of the name, address and telephone number of the new owner who shall comply with the conditions set by the new Town. If the owner of a dangerous dog moves with such dog to a different address, such owner shall notify Animal Control within 24 hours. No dog deemed dangerous by the Town may be moved during the appeal process and no dog shall be allowed to enter the Town of Bellingham if it is in the process of appeal with another Town.

**9. Failure to Comply:** Any dangerous dog shall be immediately confiscated by an Animal Control Officer if (a) dog is not validly registered; (b) dog is not maintained in the proper enclosure; (c) dog is outside of the dwelling of the owner or outside of the proper enclosure and not under the physical restraint of the owner. If the dog has bitten while at large it will be held by the Animal Control Department for a 10-day quarantine and thereafter destroyed in an expeditious and humane manner. If the animal does not need to be held for quarantine, it will be euthanized immediately. The dog owner or keeper shall be responsible for payment of all fees, boarding costs and other related expenses incurred by the Town during this period.

**Article 11.04. Penalty for Failure to Comply with Order**

Any owner or keeper of a dog who shall fail to comply with any order issued by the Dog Office or the Board of Selectmen will immediately turn the dog over to the Town pound. At owner's expense to hold pending appeal to appropriate district court (10 days) and will be held at owner's expense for duration of court case or the Town will seek a warrant to remove the dog for this period.

**Storage Fee – Impoundment**

A storage fee for boarding of impounded animals shall be levied at a rate of ten dollars (\$10.00) per day.

## **CHAPTER 12. BUILDINGS AND STRUCTURES**

### **Article 12.01. Permit Fees**

A schedule of fees for permits as authorized by the State Building Code shall be established and revised from time to time by the Board of Selectmen.

### **Article 12.02. Inspector of Buildings to Engage in Business**

A part-time Inspector of Buildings, Building Commissioner, local or alternate inspector may engage in business in Town, provided that another inspector oversees the inspection of the building project in which he/she is involved.

### **Article 12.03. Obsolete Signs.**

#### **Section 12.03.010. Notice**

A sign and its supports which ceases to advertise a bona fide business conducted, or product sold, on any premises shall be removed within thirty (30) days after written notification from the Inspector of Buildings.

#### **Section 12.03.020. Penalty**

The Inspector of Buildings shall enforce Article 12.03. Penalty for violating Article 12.03 shall be a fine of not more than twenty-five dollars (\$25) per day; each day constitutes a separate offense.

**CHAPTER 13.**

(Unused)

## **CHAPTER 14. MISCELLANEOUS PROVISIONS AND OFFENSES**

### **Article 14.01. Junk Or Secondhand License Required**

No person shall collect, deal in, or keep a shop for the purchase, sale, or barter of junk, old metals, or secondhand articles within the limits of the Town, unless licensed by the Board of Selectmen.

### **Article 14.02. Discharging Firearm, Explosive Article**

No person shall fire or discharge any firearm or other explosive article within the limits of any park, playground, public way, public building, or other public property except with the consent of the Board of Selectmen. Article 14.02 shall not apply to the lawful defense of life, property, or to any law enforcement officer acting in the discharge of his/her duties.

### **Article 14.03. Gravestone Rubbing, Making Impressions Prohibited**

No person may exercise the art of gravestone rubbing in any municipally owned and/or operated cemetery of the Town except with a written permit from the Cemetery Commission. This also applies to any other method of making impressions from gravestones.

### **Article 14.04. Hawkers And Peddlers**

No person hawking, peddling, carrying, or displaying any article for sale shall cry his/her wares to the disturbance of the peace and comfort of the inhabitants of the Town, nor shall he/she carry or convey such articles in any manner that will tend to injure or disturb the public health or comfort, and otherwise than in vehicles and receptacles which are neat, clean, and do not leak.

### **Article 14.05. Veterans' Graves**

No unauthorized person or persons will be permitted to remove or tamper with the flags and/or markers on the graves of veterans, which are placed there by the Memorial and Veterans Day Committee, Cemetery Commission, or the Veterans Grave Officers.

### **Article 14.06. Group Insurance**

The Treasurer-Collector and the Board of Selectmen are authorized and directed to pay a subsidiary or additional rate of premium, or cost, for employees (past and future) and their dependents, retired from the services of the Town because of an on-the-job injury, which shall be equivalent to the rate of premium or cost currently paid by the Town for active employees, and their dependents, for equal health and group life insurance, with the remaining premium or cost to be paid by the retired employee.

### **Article 14.07. Mandatory Recycling; Violations And Penalties**

#### **Section 14.07.010. Prohibited Material**

No person shall place for municipal solid waste collection materials considered to be yard waste nor any material accepted at the Town's recycling center. Yard waste shall include grass clippings, weeds, hedge clippings, garden waste, and leaves.

**Section 14.07.020. Penalties**

Any individual in violation of Article 14.07 shall be penalized as provided in Article 1.06 of the By-Laws. A person designated by the Board of Selectmen as the enforcing person shall enforce this By-Law.

**CHAPTER 15. STREETS AND SIDEWALKS**

**Article 15.01. Numbering Of Buildings**

**Section 15.01.010. Affixing Of Numbers Required**

All persons shall affix to or paint on to buildings owned by them and located on or near the line of Public or Private Ways an Arabic street number designated for such buildings by the Town, and only that street number.

**Section 15.01.020. Visibility Of Numbers**

All numbers shall be affixed or painted so that they are not less than three (3) inches high in size, of sufficient contrast, and kept clear of obstruction so that they are plainly visible from the roadway.

Any building, which is not plainly visible from the roadway, shall place a sign or other device bearing the designated street number of the building or buildings at the entrance to the driveway in a location that is visible from the roadway.

**Article 15.02. Snow Removal Operations**

No resident shall permit or cause snow to be pushed on, pushed over or placed across a Public Way or sidewalk. The penalty for violating Article 15.02 is the responsibility of the resident.

**Article 15.03. Scenic Roads**

**Section 15.03.010. Purpose And Authority**

Article 15.03 is adopted for the purpose of carrying out the authority granted to the Town under MGL Chapter 40 section 15C to protect designated scenic roads.

**Section 15.03.020. Definitions**

In the absence of contrary meaning established through legislative or judicial action pursuant to MGL Chapter 40 section 15C, these terms contained in that statute shall be construed as follows:

**"Cutting or Removal of Trees"** shall mean: the destruction of one (1) or more tree trunks of diameter six (6) inches or more measured four (4) feet from the ground, or of more than one (1) tree trunk of diameter four (4) inches or more measured four (4) feet from the ground, or of more than six (6) limbs or roots of more than four (4) inches in diameter each where cut on a single tree

**"Repair, Maintenance, Reconstruction or Paving Work"** shall mean: any such work done within the right-of-way by any person or agency, public or private, including the construction or alteration of the portion of private driveways within the right-of-way, but not including utility work in trees not affecting the road itself

**"Road"** shall mean: a vehicular-traveled way plus its necessary appurtenances within the right-of-way, including bridge structures, drainage system, retaining walls, traffic-control devices, and sidewalks, but not intersecting streets or driveways

**"Tearing Down or Destruction of Stone Walls"** shall mean: the destruction of more than ten (10) linear feet of stone wall involving more than one (1) cubic foot of wall material above existing road grade per linear foot, but shall not be construed to include temporary removal and replacement at the same location with the same materials

### **Section 15.03.030. Scenic Road Designation**

#### **15.03.031. Procedure**

Any person or group of persons may appear before the Planning Board, Conservation Commission, or Historical Commission to request that a street be designated as a scenic road. Prior to making such recommendation, the board or commission shall hold a Public Hearing thereon, duly advertised according to the established procedures of that board or commission, also noting the date, time, and place of a site visit, if one is to be held. Designation is by majority vote of Town Meeting.

#### **15.03.032. Considerations**

The following shall be considered in making recommendations:

- (a) Historic significance of affected trees and walls
- (b) Exceptional qualities of trees in terms of age, spread, species, or specimen size
- (c) Bordering land uses, present and prospective, and how they impact the importance of retaining trees and walls
- (d) Feasibility of accomplishing the intent of the Scenic Roads Act in light of road design and use

#### **15.03.033. Designated Roads**

The following are designated as scenic roads:

Farm Street from Hartford Avenue (Caryville) to the I-495 Bridge

Maple Street from Hartford Avenue to Mechanic Street

### **Section 15.03.040. Review Procedures**

#### **15.03.041. Filing**

Any person or organization seeking the consent of the Planning Board under MGL Chapter 40 section 15C regarding the cutting or removal of trees or the tearing down or

destruction of stone walls, or portions thereof, in connection with repair, maintenance, reconstruction, or paving work on scenic roads shall submit a request to the Planning Board, together with the following:

- (a) The text of a legal notice identifying the location of the proposed action in terms of enabling readers to reasonably locate it on the ground without need for additional plats or references and describing the proposed changes to trees and stone walls
- (b) A list of the owners of land that is both abutting the affected street and located in whole or in part within three hundred (300) feet of the affected section
- (c) Except in the case of Town agencies, a deposit sufficient for the cost of advertising the notification
- (d) A plan and explanatory material describing the proposed action, restoration, any compensatory efforts proposed, and proposed performance security

#### **15.03.042. Notice**

Notice of the Public Hearing shall be given, as required by statute, by twice advertising in one (1) or more newspapers of general circulation in the Town, the last time at least seven (7) days prior to the hearing. The Planning Board shall also send copies of that notice to the Board of Selectmen, Conservation Commission, Historical Commission, Tree Warden, DPW Director, and the owners of the property identified in 15.03.041 (b).

#### **15.03.043. Relationship To Other Agencies And Authorities**

Planning Board hearings shall be held in conjunction with any to be held by the Tree Warden acting under MGL Chapter 87. Consent to an action by the Planning Board shall not be construed as inferring consent by the Tree Warden under MGL Chapter 87, or vice versa, or of the Board of Selectmen in acting on curb cuts.

#### **15.03.044. Timing**

The Planning Board shall hold its hearing within thirty (30) days from the date on which notice of submittal is received by the Town Clerk and shall make a decision within forty-five (45) days of that receipt, unless a longer time is agreed to by the applicant.

#### **15.03.045. Emergency Work**

The Board of Selectmen may determine that emergency conditions require that work which otherwise would require Planning Board approval may proceed to the extent necessary to protect public health, property, and safety prior to such approval and shall notify the Planning Board in writing of having done so.

**Section 15.03.050. Project Considerations**

In acting on scenic road alteration proposals, the Planning Board shall take into consideration the following:

- (a) Preservation of natural resources
- (b) Environmental and historical values
- (c) Scenic and esthetic characteristics
- (d) Public safety
- (e) Traffic volume and congestion
- (f) Relationship of road design to the standards of the Planning Board Subdivision Regulations and of the Massachusetts DPW
- (g) Compensatory actions proposed, such as replacement trees or walls
- (h) Functional urgency of the repair, maintenance, reconstruction, or paving
- (i) Financial and other consequences of design revision to avoid or reduce damage to trees or stone walls
- (j) Evidence contributed by abutters, Town agencies, and other interested parties
- (k) Availability of reasonable and less damaging alternatives to the proposed action
- (l) Other sound planning considerations

**Section 15.03.060. Compensatory Actions**

The following shall normally be considered adequate compensatory action, unless modified by the Planning Board:

- (a) Trees destroyed shall be replaced with nursery grade trees on the following basis (trees measured four (4) feet above ground):

<b>Tree Removed</b>	<b>Suggested Replacement</b>
Up to 12" diameter	1 tree of 4" diameter
12" to 24" diameter	3 trees of 4" diameter
Over 24" diameter	4 trees of 4" diameter

Replacement trees shall be planted under the supervision of the Tree Warden and shall be planted as soon as construction activity and the season permit.

- (b) Stone walls shall be replaced in kind on a new alignment, connecting with undisturbed walls wherever possible

#### **Article 15.04. Water Discharge Upon Public Way**

No person, owner of property, or person controlling property shall discharge or permit to be discharged into or upon any street, court, lane, public roadway, or roadway to which the public has a right to use, any water so as to create a public safety hazard by freezing or flooding of the roadway.

#### **Article 15.05. Temporary Repairs For Certain Private Ways**

##### **Section 15.05.010. Purpose**

The Board of Selectmen, under MGL Chapter 40 section 6N, shall consider any Private Way or portion thereof which has been open to public use for five (5) or more years for temporary repairs to be performed by the Town after having been petitioned to do so by at least seventy-five percent (75%) of the owners of abutting property. Based on one (1) vote for each abutting property and not the number of owners of a particular property.

Petitions must contain a statement that: "The undersigned agree to keep said Private Way or portion thereof open to public use for the period of years which is the life of the temporary repairs made pursuant to this petition".

##### **Section 15.05.020. Subdivisions Excluded**

Excluded from the terms of Article 15.05 are Private Ways created pursuant to the Subdivision Control Law, MGL Chapter 41 section 81K - 81GG and the Town of Bellingham Subdivision Regulations.

##### **Section 15.05.030. Criteria**

Temporary repairs shall be made on a qualifying Private Way only after the Board of Selectmen have determined that such repairs are required by public convenience and necessity. The Board of Selectmen may, after reviewing a petition, elect to have the Town perform temporary repairs on the entire portion which was petitioned for, or a lesser portion, provided at least seventy-five percent (75%) of the abutting property owners on the appropriate portion of the way are in favor of such action and costs as assessed as per Section 15.05.050. In making its determination as to the public convenience, necessity, and advisability of making temporary repairs, the Board of Selectmen shall take into consideration the following factors:

- (a) The accessibility to emergency vehicles such as police, fire, and rescue vehicles
- (b) The volume of traffic
- (c) The number of years the way has been open to the public (not less than five (5))
- (d) Such other relevant considerations the Board of Selectmen deem appropriate

##### **Section 15.05.040. Temporary Repairs Defined**

Temporary repairs may include the surfacing or resurfacing of a way, the installation and repair of drainage, the filling of potholes, depressions, and ruts, temporary patches, and/or grading.

**Section 15.05.050. Assessment Of Costs**

The Town acting through its Board of Selectmen is hereby authorized to assess betterments upon the owners of properties that derive particular benefit or advantage from the making of such repairs on any such Private Way. Such assessments shall be a sum equal, in aggregate, to the total cost of such repairs, and in the case of each such property, assessed in proportion to the frontage thereof on such way, except as otherwise provided. The provisions of MGL Chapter 80 relating to public improvements and assessments therefore shall apply to repairs to Private Ways ordered to be made under Article 15.05; provided, that no assessment amounting to less than twenty-five dollars (\$25) shall be apportioned, and no assessment may be apportioned for more than five (5) years.

Where the cost of temporary repairs is less than five hundred dollars (\$500) per abutting property, the appropriate sum shall be deposited with the Treasurer-Collector prior to the repairs being commenced. Any abutter, may, by paying the full amount of his/her share of the assessment, avoid the assessment of betterment on his/her land.

**Section 15.05.060. Limitations On Liability**

The Town in making repairs under this Article 15.05 shall not be liable on account of any damage caused by such repairs. Said repairs shall not be undertaken unless the Board of Selectmen have in their possession Agreements executed by all abutting owners of the affected area to release and save the Town harmless on account of any damage whatever caused by such repairs. Such Agreements to release and save harmless shall be recorded in the Registry of Deeds, and shall be deemed to be covenants running with the land and shall be binding upon all subsequent owners thereof.

**Section 15.05.070. Town Not Responsible For Private Way**

No term or provision of Article 15.05, nor any temporary repairs pursuant thereto, shall be interpreted or construed to constitute acceptance by the Town of any duty, responsibility, or liability for a Private Way or portion thereof or for the enforcement of any private right of any petitioner or abutting owner.

**Article 15.06. Street Opening Permits**

**Section 15.06.010. Definitions**

"Public Way" shall mean: a way which has been accepted by Town Meeting under the provisions of MGL Chapter 82 section 17 - 32; or which was created by a Subdivision Plan approved by the Planning Board under the provisions of MGL Chapter 41 section 81K - 81GG; or which the Town Clerk certifies is maintained and used as a Public Way

**Section 15.06.020. General**

- (a) Any trenching, grading, pavement cutting, curb cutting, excavating, stockpiling, or other construction work within a public way, unless done pursuant to a subdivision plan approved by the Planning Board, must be authorized under a street opening permit issued by the DPW

- (b) The Board of Selectmen, acting as the Board of Public Works, shall do the following:
  - (i) Adopt and from time to time amend Street Opening Specifications, Fees, and Procedures after holding a Public Hearing and soliciting comments from the public. The hearing may be held during a regular Board of Selectmen's meeting, and shall be advertised in two (2) or more newspapers of general circulation in the Town at least fourteen (14) days before the time of the hearing
  - (ii) Act as Appeal Board for requests and complaints regarding issuance of Street Opening Permits by the DPW
- (c) All wetlands and other permitting applications are the responsibility of the applicant, and approvals must be obtained prior to the application for a street opening permit
- (d) Failure to obtain a Street Opening Permit shall be deemed as trespassing and may be deemed as destroying property

**Section 15.06.030. Work Within Public Ways**

A Street Opening Permit intended to authorize a street extension, driveway access, or utility connection shall be granted only provided that either:

- (a) The street meets the standards for a Maintainable Level of Adequate Access, or
- (b) The applicant for such opening provides security assuring that he/she will improve the street to meet that standard within a period of time agreed to by the DPW Director and specified in the security agreement

**Section 15.06.040. Minimum Standard For Maintainable Level Of Adequate Access**

**15.06.041. Minimum Width**

The minimum width of the traveled way must be equal to sixteen (16) feet or, if greater, the following:

- (a) For streets that are extensions or continuations of existing adequate streets, the average width of the last fifty (50) feet of the adjacent adequate street
- (b) For streets that connect two (2) existing adequate streets, the width of the narrower of the connecting streets. That width shall be determined by measuring the average width of the connecting adequate street over a length of fifty (50) feet, the center of the averaging area to be the centerline of the proposed traveled way

#### **15.06.042. Roadway Surface And Sub-Grade**

- (a) The sub-base pavement foundation must be a minimum of a twelve (12) inch compacted layer of acceptable road gravel
- (b) The wearing surface must be at least one (1) course of hot mix asphalt pavement with a three and one-half (3½) inch compacted thickness extending to the edge of the traveled way

#### **15.06.043. Other Required Improvements**

- (a) The improvement must include a drainage system that is consistent with Section 43 Stormwater Management in "Rules and Regulations Governing the Subdivision of Land," Town of Bellingham
- (b) The grade of the improved section of roadway must not exceed twelve percent (12%)
- (c) If the road improvement does not connect two (2) streets, a paved turn around must be constructed. The turn around must have a diameter equal to the entire width of the public right of way, or one hundred (100) feet, whichever is less. The turn around must be constructed to the same specifications as the rest of the improvement

#### **Section 15.06.050. Waivers Of Minimum Standards**

The DPW Director may waive strict compliance with the Minimum Standard for Adequate Access requirements in the following cases:

- (a) If that is consistent with a waiver granted by the Planning Board for a plan under Section 254 Waivers of "Rules and Regulations Governing the Subdivision of Land," Town of Bellingham, or
- (b) For repairs to services or driveways serving existing structures

#### **Article 15.07. Selling From Sidewalks, Stalls And Carts**

No person shall place or keep any table, stall, booth, cart, or other structure in any public way, other public place, or upon any sidewalk in the Town for the sale of food, fruit, merchandise, or other thing, without written permission first being obtained from the Police Chief.

#### **Article 15.08. Depositing Dirt, Refuse, Garbage, Wastewater, Filth; In Street, Pond, Vacant Lot**

No person shall throw into, or upon, any street, court, square, lane, road, public square, public enclosure, pond or body of water, or vacant lot within the limits of the Town, any dead animal, dirt, sawdust, soot, ashes, cinders, shavings, hair, shreds, manure, oyster, clam or lobster shells, wastewater, rubbish or filth of any kind, or any refuse, animal or vegetable whatsoever.

**Article 15.09. Trash Containers**

Residents utilizing curbside trash pickup may leave their trash out the night prior to their scheduled pickup day. Such trash shall be placed in metal or plastic containers with appropriate fitted lids. Any other container (for example: plastic bag, paper bag, or cardboard carton) shall be deemed a violation of this By-Law.

## **CHAPTER 16. TRAFFIC AND PARKING**

### **Article 16.01. DPW Director Authorized To Remove Vehicles Hindering Snow Removal**

The DPW Director may, for the purpose of snow removal, plowing snow, or removing ice, from any way, remove or cause to be removed to some convenient place including in such term a public garage, any vehicle interfering with such work, and impose liability for the cost of such removal, and of the storage charges, if any, resulting therefrom, upon the owner of the vehicle.

### **Article 16.02. Off-Road Vehicle Restrictions**

No person shall use or operate a motorized off-road vehicle, including, but not limited to, mini-bikes, all-terrain vehicles (ATV's), snowmobiles, or similar motorized vehicle which is eligible for registration under MGL Chapter 90B or any vehicle as described in MGL Chapter 90B section 20, on any Town owned property, except public roads and streets, or private property, without prior written consent of the Town authority or landowner having the responsibility for the management of such property. Any such consent shall be temporary in nature, shall specify the period of time during which it is in force, and shall be subject to the prohibitions, restrictions, and requirements of all Massachusetts General Laws, including, without limitation, MGL Chapter 90B section 26.

### **Article 16.03. Dwelling In Trailer Coach Park**

It shall be unlawful for any person to remain or live in any trailer coach park for more than ninety (90) days in any six (6) month period, excepting bona fide employees of the trailer coach park.

### **Article 16.04. Keeping On Premises Unregistered Motor Vehicles**

No person, without a permit or license from the Board of Selectmen, shall store, keep, or allow to remain on his/her premises more than one (1) unregistered motor vehicle, assembled or disassembled, unless the same is stored or kept in a garage or other building, except a person duly licensed under MGL Chapter 140 section 59, or those vehicles designated and used for farming, agriculture, or construction purposes. The Board of Selectmen shall not issue such a permit unless it finds that the presence of such a vehicle or vehicles, as the case may be, on such parcel:

- (a) Will not nullify or substantially derogate from the intent and purpose of this By-Law
- (b) Will not constitute a nuisance
- (c) Will not adversely affect the neighborhood in which such parcel is located

#### **Section 16.04.010. Permit Limitations**

Each permit required by this Article shall:

- (a) Specify the maximum number of such vehicles that may be kept, stored, or allowed to remain on such parcel
- (b) Be limited to a reasonable period of time

- (c) Be a personal privilege of the applicant and not a grant attached to and running with the land

## **Article 16.05. Consuming Intoxicating Beverages On Public Ways Or Other Public Property**

A violation of this By-Law shall be deemed to be a breach of the peace.

### **Section 16.05.010. Public Ways**

Whoever shall consume intoxicating beverages on a Public Way within the Town, whether that Public Way be a Town Way, County Highway, State Highway, or a Private Way open to the public shall be punished by a fine not exceeding fifty dollars (\$50). Section 16.05.010 shall also be construed so as to prohibit the following:

The consumption of intoxicating beverages by any person while such person is standing, sitting, walking, running, or otherwise present within such Public Way or is within any vehicle, whether parked or moving, which is within the limits of such Public Way

### **Section 16.05.020. Public Properties**

Whoever shall consume any intoxicating beverages in any Public Building, or on any Public Property, including parks, cemeteries, schoolhouses, school grounds, and public squares, or in any private way or parking area regulated under the provisions of MGL Chapter 90 section 18, shall be punished by a fine not exceeding fifty dollars (\$50).

### **Section 16.05.030. Exceptions**

The foregoing Section 16.05.010 and Section 16.05.020 shall not apply to any activity duly licensed by the Board of Selectmen under the applicable provisions of Massachusetts General Laws.

### **Section 16.05.040. Enforcement**

It shall be the duty of any Police Officer of the Town to arrest any person who violates the provisions of Article 16.05 and to cause such person to be brought before a Justice of the District Court of Milford upon a complaint for violation thereof.

## **Article 16.06 Handicapped Parking**

### **Section 16.06.010. Violation**

It shall be unlawful for the standing or leaving of unattended vehicles unauthorized to occupy parking spaces designated for use by disabled veterans or handicapped persons; or in the "center aisle" or "parking access aisle" areas abutting a handicapped parking space, as may be demarcated by cross-hatched striping; or in such a manner as to obstruct a curb ramp designed for use by a handicapped person as a means of egress to a street or public way.

Section 16.06.020. Signage

Handicap parking spaces shall be identified by signs with white lettering against a blue background bearing the words "Handicapped Parking: Special Plate Required. Unauthorized Vehicles May be Removed at Owner's Expense" and a sign with the words "\$150 Fine", or such other standardized signage that may be recognized as a proper means of clearly identifying handicapped parking spaces and describing the penalties for improper use thereof.

**Section 16.06.030. Penalty**

The penalty for Section 16.06.010 shall be One hundred and Fifty dollars (\$150.00) per offense. For each subsequent offense, in addition to a monetary penalty, the vehicle may also be removed. The Police Department may remove or cause to be removed to some convenient place, including in such term a public garage, any vehicle per this section and 16.06.010, and impose liability for the cost of such removal, and for the storage charges, if any, resulting there from, upon the owner of the vehicle. The fines and penalties hereunder are applicable even if they are not set forth on any signage that identifies a handicapped parking space.

## **CHAPTER 17. VEHICLES FOR HIRE**

### **Article 17.01. License Required**

No person shall set up, use, or drive in the Town any unlicensed taxicab or motor vehicle for the conveyance of passengers for hire from place to place.

### **Article 17.02. Issuance Of License Authorized; Revocation; License Record**

The Board of Selectmen may license taxicabs or motor vehicles for the conveyance of persons for hire from place to place within the Town. They may revoke such licenses at their discretion. A record of all licenses so granted or revoked shall be kept by the Board of Selectmen.

### **Article 17.03. Expiration Of License; Transfer; Fee; When Becomes Void**

Vehicle for Hire licenses shall expire annually on the thirty-first (31<sup>st</sup>) day of December. Licenses shall not be transferred. A license granted shall become void if the applicant neglects or refuses to take out and pay for his/her license within ten (10) days after notice that it has been granted.

### **Article 17.04. Taxicab Stand License**

The Board of Selectmen may grant to the holder of a license under Chapter 17 a license to use a certain portion of a Public Way as a carriage stand for the solicitation of passengers for hire. No person shall use any portion of any Public Way for such purpose without such license.

**CHAPTER 18. ADULT ENTERTAINMENT**

*(Section Disapproved by Attorney General 01/29/2001)*

## **CHAPTER 19. SEWER AND WATER**

### **Article 19.01. Sewer Connections**

All owners or occupants of any buildings upon land abutting on a private or public way to which there is a common sewer stub connection available, shall within thirty-six (36) months of acceptance of this By-Law or acceptance of the common sewer by the Town, connect the building to the common sewer with a sufficient drain.

A variance from this requirement may be granted by the Board of Selectmen on the following condition:

That said land, by reason of its grade, level, or any other cause cannot be drained by gravity into such sewer, and/or provided that a private septic system is installed which meets the requirements of the Board of Health, then said variance to be only for so long as said system continues to meet those requirements as they may be amended or revised.

This By-Law will not preclude a property owner from connecting to the sewer system at some future date, subject to available capacity.

### **Article 19.02. Sewer Lift Station Construction**

This By-Law shall apply only to sewer pumping stations that are constructed on public property or on property that will become public property upon completion of the project.

This By-Law will not apply to pumping stations which service condominium complexes, which must be retained as property of the Condominium Association. The operations, maintenance, and repair of such are to be solely the responsibility of the Condominium Association.

Every attempt will be made between the applicant for a sewer extension permit and the Town to provide for gravity flow sewer services to all buildings serviced by any extension. However, where gravity sewer lines are not possible, in the judgment of the DPW Director, a lift station that will eventually become the property of the Town may be approved under the following parameter:

By depositing in a Town owned and administered special gift account an amount calculated and specified by the DPW Director or the Town Administrator, to earn interest sufficient to fund the projected annual cost of service, maintenance, repair, and parts replacement for each individual lift station over the expected lifetime of buildings served by such lift station. The basis of the calculation shall be that the interest generated by such account will fund the cost of servicing, maintaining, repairing, or replacing parts at the lift station. The donation of said gift is to be made prior to the issuance of the first building permit in any new project, and before the acceptance of a sewer extension permit application for any previously developed property.

### **Article 19.03. Water Use Restriction**

This Bylaw is intended to regulate the use of water supplied by the Department of Public Works (DPW).

#### **Section 19.03.010. Purpose**

The purpose of this bylaw is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a State of Water Supply Conservation or State of Water Supply Emergency

by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town or by the Department of Environmental Protection (DEP).

#### **Section 19.03.020. Definitions**

“State of Water Supply Conservation” shall mean: a State of Water Supply Conservation declared by the Board of Selectmen or DPW Director pursuant to Section 19.03.030

“State of Water Supply Emergency” shall mean: a State of Water Supply Emergency declared by the DEP under MGL Chapter 21G section 15 - 17

“Water Users” shall mean: all public and private users of the Town's public water system, irrespective of any person's responsibility for billing purposes for water used at any particular facility

#### **Section 19.03.030. Declaration Of State Of Water Conservation**

The Board of Selectmen may declare a State of Water Conservation upon an affirmative vote of the majority of the members.

The DPW Director may declare a State of Water Conservation if:

- a. The level of water in the Chestnut Street Stand pipe falls to 65 feet
- b. The demand for water has exceeded the actual pumping capacity of the system for a period longer than four (4) days; or
- c. A mechanical failure has occurred removing one (1) or more of the Town's wells from operation
- d. The DEP requires conservation conditions related to the Town's registered or permitted water withdrawals under the Massachusetts Water Management Act.

Public notice of a State of Water Conservation must be given under Section 19.03.050 before it may be enforced.

#### **Section 19.03.040. Restricted Water Uses**

A declaration of a State of Water Conservation issued by the Board of Selectmen or the DPW Director may include one (1) or more of the following restrictions, conditions, or requirements restraining the use of water for non-essential purposes as necessary to protect the water supply, which shall be included in the public notice required under Section 19.03.050.

- a. **Odd/Even Lawn Watering:** Lawn watering at facilities with odd numbered addresses is permitted only on odd numbered days. Lawn watering at facilities with even numbered addresses is permitted only on even numbered days.
- b. **One Week Day Outdoor Watering:** Outdoor watering by water users is allowed on the day which Town Trash Collection is scheduled for pick up.
- c. **One Weekend Day Outdoor Watering:** Outdoor watering by water users with odd numbered addresses is restricted to Saturdays. Outdoor watering by water users with even numbered addresses is restricted to Sundays.

- d. Outdoor Watering Hours: Outdoor watering is permitted only during off-peak hours, to be specified in the declaration of a State of Water Conservation and public notice.
- e. Hand Held Hose Watering: : Outdoor watering by water users is allowed but only if a hose is continuously attended. No lawn sprinklers or automatic sprinkler systems allowed.
- f. Outdoor Watering Ban: Lawn watering, and all other forms of non-essential outdoor water use, is prohibited.
- g. Filling Swimming Pools: Filling of swimming pools is prohibited.
- h. Automatic Lawn Sprinkler Use: The use of automatic lawn and garden sprinkler systems is prohibited.

**Section 19.03.050. Public Notification of State of Water Supply Conservation**

Notification of any provision, restriction, requirement or condition imposed by the Town as part of a State of Water Supply Conservation shall be:

- Published in a paper of general circulation in the Town,
- Posted on the local cable television government information scroll,
- Posted on the Bellingham Department of Public Works and Town Home web page, or
- Such other means reasonably calculated to reach and inform all users of water of the State of Water Supply Conservation.

Any restriction imposed under Section 19.03.040 shall not be effective until such notification is provided.

Notification of the State of Water Supply Conservation shall also be simultaneously provided to the Massachusetts Department of Environmental Protection.

**Section 19.03.060. Termination of State Of Water Supply Conservation; Notice**

A State of Water Supply Conservation may be terminated by a majority vote of the Board of Selectmen, upon a determination that the water supply shortage no longer exists. Public notification of the termination of a State of Water Supply Conservation shall be given by :

- Announcement on televised meeting of the Board of Selectmen,
- Issuance of a Press Release to papers of general circulation in the Town
- Removal of posting from the local cable television government information scroll, and posting of termination.

- Removal of the notice from the Bellingham Department of Public Works and Town Home web page, and posting of termination ,or
- Such other means reasonably calculated to reach and inform all users

**Section 19.03.070. State Of Water Emergency; Compliance with DEP Orders**

Upon notification to the public that a declaration of a State of Water Supply Emergency has been issued by the Department of Environmental Protection, no person shall violate any provision, restriction, requirement, condition of any order approved or issued by the Department intended to bring about an end to the State of Emergency.

**Section 19.03.080. Penalties**

Any person violating this By-Law shall be liable to the Town in the amount of fifty dollars (\$50) for the first violation and one hundred dollars (\$100) for each subsequent violation, which shall inure to the General Fund. Each day of violation represents an independent violation. Fines shall be recovered by complaint before the District Court. Each separate issuance of a citation pursuant to Article 19.03 shall constitute a separate violation.

**Section 19.03.090. Severability**

The invalidity of any portion or provision of this bylaw shall not invalidate any other portion or provision thereof.

**Article 19.04. Wastewater Treatment And Disposal Facilities**

This By-Law shall apply only to Wastewater Treatment and Disposal Facilities (WWTDF) that are constructed by private parties on public property or on property that will become public property upon completion of a project.

This By-Law will not apply to WWTDF which service condominium complexes, which must be retained as property of the Condominium Association. The operations, maintenance, and repair of such are to be solely the responsibility of the Condominium Association.

Such WWTDF will be approved under the following conditions:

- (a) The WWTDF must be approved and accepted by the DPW Director and its locus must be deeded to the Town prior to any building being connected
- (b) The project must deposit a sum of money into a Town owned and administered special gift account, which is to be calculated and specified by the DPW Director or the Town Administrator. The amount of the gift will be calculated such that the annual interest earned will be sufficient to fund the annual costs of wastewater treatment and disposal that is in excess of the average cost for wastewater treatment paid by the Town prior to adding said WWTDF to the Town system. The special gift account must be established prior to any building being connected.

The Board of Selectmen may waive strict compliance with this By-Law upon receipt of an application for waiver from the proponent and receipt of comments from the DPW, Board of Health, Inspector of Buildings, and Planning Board.

## **Article 19.05. Storm Sewer Treatment Facilities Construction**

### **Section 19.05.010. Definitions**

“Storm Sewer Facilities” shall mean: any constructed stormwater treatment basin or underground structure designed to enhance the quality of stormwater that will be discharged to the waters of the United States with the exception of street catch basins.

### **Section 19.05.020. Applicability**

- a) This By-Law shall apply to Storm Sewer Facilities that are constructed by private parties on public property or on property that will become public property upon completion of a project.
- b) This By-Law will not apply to Storm Sewer Facilities constructed as part of and on land now and in the future to remain part of a condominium complex, which must be retained as property of the condominium association. The operation, maintenance, and repair of such are to be solely the responsibility of the condominium association.

### **Section 19.05.030. Approval Requirements**

Such Storm Sewer Facilities will be approved if the following conditions are met:

- a) The Conservation Commission approves the Storm Sewer Facility as part of a signed order of conditions or written letter.
- b) The locus of the Storm Sewer Facility is deeded to the Town prior to town acceptance of a street or project.

And one of the following conditions are met:

- a) The project deposits a gift to the Conservation Commission Agent into a Town owned and administered special gift account, calculated and specified by the Conservation Commission Agent. The amount of said gift to be design to earn sufficient annual interest earned to fund annual costs of operation, maintenance, and repair of the Storm Sewer Facilities. The special gift account must be established prior to town acceptance of a street or project,
- b) A permanent association of parties owning parcels of land established by the project who will take entire responsibility for the landowners within the project annual costs of operation, maintenance, and repair of the Storm Sewer Facilities.

The Board of Selectmen may waive strict compliance with this By-Law upon receipt of an application for waiver from the proponent and receipt of comments from the DPW, Board of Health, Planning Board, and Conservation Commission.

**Article. 19.06 Traffic Control Lights**

**Section 19.06.010.**

This By-Law shall apply only to Traffic Control Lights that are requested by private parties to be installed on public property and that will become public property upon completion of the project.

**Article. 19.07. Discharges to the Storm Sewer System**

**Section 19.07.010. Purpose**

Increased and contaminated stormwater runoff is a major cause of 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 flooding.

Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the town's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.

The objectives of this bylaw are:

1. to prevent pollutants from entering the town's municipal separate storm sewer system (MS4);
2. to prohibit illicit connections and unauthorized discharges to the MS4;
3. to require the removal of all such illicit connections;
4. to comply with state and federal statutes and regulations relating to stormwater discharges;  
and
5. to establish the legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

**Section 19.07.020. Definitions**

For the purposes of this bylaw, the following shall mean:

**AUTHORIZED ENFORCEMENT AGENCY:** The Board of Selectmen (hereafter the Board), its employees or agents designated to enforce this bylaw.

**BEST MANAGEMENT PRACTICE (BMP):** An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

**CLEAN WATER ACT:** The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.)

**DISCHARGE OF POLLUTANTS:** The addition from any source of any pollutant or combination of pollutants into any Water Resource.

**GROUNDWATER:** Water beneath the surface of the ground.

**ILLICIT CONNECTION:** A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this bylaw.

**ILLICIT DISCHARGE:** Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 19.07.080. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from fire fighting activities exempted pursuant to Section 19.07.080, of this bylaw.

**IMPERVIOUS SURFACE:** Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and rooftops.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM:** The system of conveyances 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, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Bellingham.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT:** A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

**NON-STORMWATER DISCHARGE:** Discharge to the municipal storm drain system not composed entirely of stormwater.

**POLLUTANT:** Any element or property 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 any sewage treatment works or Water Resource. Pollutants shall include without limitation:

- (1) paints, varnishes, and solvents;
- (2) oil and other automotive fluids;
- (3) non-hazardous liquid and solid wastes and yard wastes;
- (4) refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- (5) pesticides, herbicides, and fertilizers;

- (6) hazardous materials and wastes; sewage, fecal coliform and pathogens;
- (7) dissolved and particulate metals;
- (8) animal wastes;
- (9) rock, sand, salt, soils;
- (10) construction wastes and residues; and
- (11) noxious or offensive matter of any kind.

**PROCESS WASTEWATER:** Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

**RECHARGE:** The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

**STORMWATER:** Storm water runoff, snowmelt runoff, and surface water runoff and drainage.

**SURFACE WATER DISCHARGE PERMIT.** A permit issued by the Department of Environmental Protection (hereinafter DEP) pursuant to 314 CMR 3.00, that authorizes the discharge of pollutants to a Water Resource.

**TOXIC OR HAZARDOUS MATERIAL or WASTE:** Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any such substance, defined as Toxic or Hazardous under G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

**WATER RESOURCE:** The MS4 and all public and private receiving surface and ground waters including: all waters within the jurisdiction of the Commonwealth of Massachusetts, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, costal waters, and groundwater.

**WATERCOURSE:** A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

**WASTEWATER:** Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

### **Section 19.07.030. Applicability**

This bylaw shall apply to flows entering the municipally owned storm drainage system.

### **Section 19.07.040. Authority**

This bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

### **Section 19.07.050. Responsibility for Administration**

The Board shall administer, implement and enforce this by-law. Any powers granted to or duties imposed upon the Board may be delegated in writing by the Board to employees or agents of the Board.

### **Section 19.07.060. Regulations**

The Board may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

### **Section 19.07.070. Prohibited Activities**

- a) **Illicit Discharges.** No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system (herein after MS4), into a watercourse, or into a Water Resource.
- b) **Illicit Connections.** No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- c) **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 Board.

### **Section 19.07.080. Exemptions**

Discharge or flow resulting from fire fighting activities.

The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:

- (1) Waterline flushing;
- (2) Flow from potable water sources;
- (3) Springs;

- (4) Natural flow from riparian habitats and wetlands;
- (5) Diverted stream flow;
- (6) Rising groundwater;
- (7) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
- (8) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
- (9) Discharge from landscape irrigation or lawn watering;
- (10) Water from individual residential car washing;
- (11) Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
- (12) Discharge from street sweeping;
- (13) Dye testing, provided verbal notification is given to the Board prior to the time of the test;
- (14) Non-stormwater discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
- (15) Discharge for which advanced written approval is received from the Board as necessary to protect public health, safety, welfare or the environment

**Section 19.07.090. Emergency Suspension of Storm Drainage System Access**

The Board may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Authorized Enforcement Agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

**Section 19.07.100. Notification of Spills**

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately

notify the Fire Department, Police Department, Board of Health, and Department of Public Works. In the event of a release of non-hazardous material, the reporting person shall notify the Authorized Enforcement Agency no later than the next business day. The reporting person shall provide to the Authorized Enforcement Agency written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

#### **Section 19.07.110. Enforcement**

The Board or an authorized agent of the Board shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

- a) **Civil Relief.** If a person violates the provisions of this bylaw, regulations, permit, notice, or order issued thereunder, the Board may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- b) **Orders.** The Board or an authorized agent of the Board may issue a written order to enforce the provisions of this bylaw or the regulations thereunder, which may include:
  - a) elimination of illicit connections or discharges to the MS4;
  - b) performance of monitoring, analyses, and reporting;
  - c) that unlawful discharges, practices, or operations shall cease and desist; and
  - d) remediation of contamination in connection therewith.

If the enforcing person 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, the Board may, at its option, undertake such work, and expenses thereof shall be charged to the violator.

Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Board, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Board within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Board affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, 57, after the thirty-first day at which the costs first become due.

- c) **Criminal Penalty.** Any person who violates any provision of this bylaw, regulation, order or permit issued thereunder, shall be subject to arrest and be punished by a fine as noted in Article 1.04 General Penalty for Violation of Bylaws.
- d) **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 Board, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the Board deems reasonably necessary.
- e) **Appeals.** The decisions or orders of the Board shall be final. Further relief shall be to a court of competent jurisdiction.

Remedies Not Exclusive The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

**Section 19.07.120. Severability**

The provisions of this bylaw are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.

**Section 19.07.130. Transitional Provisions**

Residential property owners shall have one hundred and eighty (180) days from the effective date of the bylaw to comply with its provisions provided good cause is shown for the failure to comply with the bylaw during that period.

**Article # 19.08. Stormwater Management Systems on Private Property**

**Section 19.08.010. Purpose**

This bylaw is intended to provide protection for the water resources by insuring proper erosion and sedimentation control during construction and maintenance of stormwater management systems after construction.

**Section 19.08.020. Applicability**

Any person that fails to follow the requirements of a Stormwater Management Permit and the related Erosion and Sedimentation Control Plan, and Operations and Maintenance Plan issued under the Planning Board Regulations shall be in violation of the Bellingham Code of Bylaws.

**Section 19.08.030. Enforcement**

- A. The Town shall enforce this bylaw, issue violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- B. Orders

- If the Town determines that a person's failure to follow the requirements of a Stormwater Management Permit and the related Erosion and Sedimentation Control Plan, or Operations and Maintenance Plan is creating an adverse impact to a water resource, the Town may issue a written order to the person to remediate the adverse impact
  1. The order shall set forth a deadline by which such remediation must be completed.
  2. If remediation of an adverse impact is not completed by specified deadline, the Town may:
    - i. Proceed with Criminal Penalties as noted below; and
    - ii. Undertake such work, and the property owner on which the stormwater system is located shall reimburse the Town expenses. If the Town undertakes such work, then within thirty (30) days after completing all necessary abatement or remediation measures the property owner shall be notified of the costs incurred by the Town, including administrative costs. The property owner shall pay the amount due. If the amount due is not received within thirty (30) days following the notification of costs incurred, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, § 57, after the thirty-first day at which the costs first become due.

**C. Criminal Penalty.** Any person who violates any provision of this bylaw, may be subject to arrest and be punished by a fine as noted in Article 1.04 General Penalty for Violation of Bylaws.

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**D. Appeals.** The decisions or orders of the Board shall be final. Further relief shall be to a court of competent jurisdiction.

**E. Remedies Not Exclusive.** The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

**Section 19.08.040. Severability.**

If any provision, paragraph, sentence, or clause of this bylaw shall be held invalid for any reason, all other provisions shall continue in full force and effect..

## **CHAPTER 20. COMMISSION ON DISABILITY**

### **Article 20.01. Purpose**

To research local problems of people with disabilities; advise and assist municipal officers and employees in assuring compliance with state and federal laws and regulations that affect people with disabilities; coordinate or carry out programs designed to meet the problems of people with disabilities in coordination with programs of the Massachusetts Office on Disability; review and make recommendations about policies, procedures, services, activities, and facilities of departments, boards, and agencies of the Town as they affect people with disabilities; provide information, referrals, guidance, and technical assistance to individuals, public agencies, businesses, and organizations in matters pertaining to disability; and to coordinate activities of other local groups for similar purposes.

### **Article 20.02. Membership**

The Board of Selectmen shall appoint a Commission on Disability consisting of five (5) members in staggered terms of three (3) years. A majority of Commission members shall consist of people with disabilities, one (1) member shall be a member of the immediate family of a person with a disability, and one (1) member shall be either an elected or appointed official of the Town. The members of the Commission shall serve without pay.

### **Article 20.03. Filling Vacancies**

Whenever a vacancy shall occur in the membership of the Commission on Disability, by reason of death, resignation, inability to act, or for any other reason, the vacancy shall be filled by appointment by the Board of Selectmen for the remainder of the term.

### **Article 20.04. Officers**

The Commission on Disability, within thirty (30) days after the conclusion of the Annual Town Meeting shall elect from its membership a chairperson, and other officers, chosen by a majority vote of the members, who shall hold office until conclusion of the next Annual Town Meeting. In the event a vacancy occurs in any office, the Commission shall hold a special meeting for the purpose of selecting one of its members to fill the vacancy.

### **Article 20.05. Annual Report**

The Commission on Disability shall prepare and submit an annual report of its activities to the Town, which report shall be printed in the Annual Town Report. The Commission shall meet at least once a month.

### **Article 20.06. Gifts**

The Commission on Disability may receive gifts of property, both real and personal, in the name of the Town, subject to the approval of the Board of Selectmen. Such gifts are to be managed and controlled by the Commission for purposes of this By-Law.

Reprinted: 02/04/2009

Ann L. Odabashian, Town Clerk