

**TOWN OF WELLFLEET
GENERAL BYLAWS**

Amended April 27, 2009 / Amended October 26, 2009

TABLE OF CONTENTS

ARTICLE I Town Meeting		
Section 1	Town Meeting	5
ARTICLE II Government of Town Meetings		
Section 1	Committee Reports	5
Section 2	Motions	5
Section 3	Repealed (4/17/09)	5
Section 4	Posting of adjourned sessions	5
Section 5	Standing vote	5
Section 7	Compensation of ad hoc committees	5
Section 8	Matters requiring 2/3 vote	5
ARTICLE III Town Affairs		
Section 1	Deeds and conveyances	6
Section 2	Town seal	6
Section 3	Financial year	6
Section 4	Annual Reports	6
Section 5	Warrants for payments	6
Section 6	Sworn to offices	6
Section 7	Disposal of Town Property	6
Section 8	Inventory of property	7
Section 9	Designation of appropriations	8
Section 10	Bonding of persons collecting monies	8
Section 11	Fees paid to Town by Town Clerk and Tax Collector	8
Section 12	Solid Waste Disposal Fees	
Section 13	Tax Collector designated Town Collector	8
Section 14	Policy and Management Plan	8
ARTICLE V Transportation		
Section 1	Compensation for elected officials	9
Section 2	Compensation for town employees/board members	9
ARTICLE VI Board of Finance		
Section 5	Finance Committee not compensated	10

ARTICLE VII	General	
Section 1	Definition of "street" and "streets"	11
Section 2	Repealed	11
Section 3	Permit for working on street	11
Section 4	Granting of permit for street work	11
Section 5	Barriers for street work	11
Section 6	Debris thrown in street	11
Section 7	Skateboard, etc. on certain streets	11
Section 8	Throwing of stones, etc. on streets	11
Section 9	Posting, painting of buildings, etc.	11
Section 10	Indecent printing, defacing buildings, etc.	11
Section 11	Profane language, accosting persons.	12
Section 12	Obstruction the passage of travelers	12
Section 13	Indecent, disorderly manner	12
Section 14	Loitering by 3 or more persons	12
Section 15	Noise (Hallooing, hooting, etc.)	12
Section 16	Discharge of firearms	12
Section 17	Bonfires	12
Section 18	Repealed	12
Section 19	Consuming alcoholic beverages	12
Section 20	Consuming alcohol under age of 21	12
Section 21	Peeking, spying	12
Section 22	Internal combustion boats on ponds	13
Section 23	Camping, tenting, sleeping in the open	13
Section 24	Beach vehicular traffic	13
Section 24A	Vehicular traffic	13
Section 25	Dog leash	14
Section 26	Noise	14
Section 27	Repealed	14
Section 28	Repair of private roads	15
Section 29	Unregistered vehicles	15
Section 30	Water runoff	15
Section 31	Pit Bull Terrier – repealed 11/26/2009	16
Section 32	Mechanical Protection Devices	16
Section 33	Discharge of sanitary waste, etc.	16
Section 34	Marina - sanitation devices on boats	16
Section 35	Handicapped parking	16
Section 36	Reserved Handicap parking	17
Section 37	Penalties and enforcement	18
Section 38	Repealed (4/27/09)	18
Section 39	Repealed (4/27/09)	18
Section 40	Repealed (4/27/09)	18
Section 41	Cemetery vehicular traffic	18
Section 41a	Yard Sales	19
Section 42	Personal Watercraft	19
Section 43	Penalties and enforcement - street sign posting	20
Section 44	Scenic Roads	20

ARTICLE VIII	Bylaw Procedure and enforcement	
Section 1	Amendment procedure	20
Section 2	Repealed	20
Section 3	Inclusion of bylaws	20
ARTICLE IX	Non-criminal enforcement	
Section 1	Non-criminal enforcement and regulations	21
ARTICLE X	Licenses & Permits	
Section 1	Tax Collector responsibilities	22
Section 2	Licensing Authority denial, revocations, etc.	22
Section 3	Payment agreements	22
Section 4	Waivers by Board of Selectmen	22
Section 5	Exemptions	23
Section 6	General Business licenses and registration	23
ARTICLE XI	Mechanical electronic fire/police alarms:	
	False alarms: penalties	
Section 1	Maintenance of fire alarm	24
Section 2	False fire report notification	24
Section 3	Penalties for more than 3 false fire reports	24
Section 4	Providing Police Dept. with device info	24
Section 5	False police report notification	24
Section 6	Penalties for more than 3 false police reports	25
Section 7	Limitations of liability	25
Section 8	Administrative rules	25
Section 9	Exemptions	25
Section 10	Requirements	25
Section 11	Compliance	25
Section 12	Penalties for Section 10 failure to comply	25
ARTICLE XII	Recycling	
Section 1	Purpose	26
Section 2	Implementation	26
Section 3	Definitions	26
Section 4	Recyclables	27
Section 5	Disposal of Recyclables	27
Section 6	Violation and penalties	27

ARTICLE XIII	Demolition delay	
Section 1	Purpose	28
Section 2	Definitions	28
Section 3	Procedure	28
Section 4	Enforcement	29
Section 5	Non-compliance	30
Section 6	Severability	30
Section 7	Historic District Act	30
ARTICLE XV	Animal Control	31
SPECIAL FLOOD HAZARD DISTRICT REGULATIONS		35
WELLFLEET ENVIRONMENTAL PROTECTION BYLAW		
Article 1	Purpose	37
Article 2	Definition of "person"	37
Article 3	Notice of Intention	37
Article 4	Failure to hold hearing	38
Article 5	Denial	38
Article 6	Emergency projects	38
Article 7	Posting of bond	38
Article 8	Penalties	39
Article 9	Amendments	39
Article 10	Validity	39
TOWN CLERK FEES		40
SPECIAL ASSESSMENT OF HISTORIC PLACES		
Section 1	Creation	41
Section 2	Eligible Properties	41
Section 3	Application process	41
Section 4	Effective date	42
Section 5	Time limits	42
Section 6	General	42

GENERAL BYLAWS OF THE TOWN OF WELLFLEET

ARTICLE I

TOWN MEETING

Section 1. Annual Town Meetings shall be opened at 7:00 o'clock in the evening. Special Town Meetings may be opened at 7 or 7:30 o'clock in the evening at the discretion of the Selectmen.

ARTICLE II

GOVERNMENT OF TOWN MEETINGS

Section 1. Reports of the Committees and any legal matter not covered by an article in the Warrant may be brought before a Town Meeting under a final article inserted in the Warrant to cover such matter.

Section 2. Motions shall be submitted in writing when the Moderator shall so require. A motion may be withdrawn by the mover. No motion to dissolve a Town Meeting shall be in order until every article in the Warrant has been duly acted upon at the meeting.

Section 3. Repealed (4/27/09)

Section 4. Any Town Meeting which shall be adjourned for more than 24 hours shall cause the Town Clerk to effect notices to be posted in two or more public places in Wellfleet.

Section 5. Any decision by the Moderator which may be doubted and/or challenged by any legal voter in attendance shall constitute a call for an open standing vote; tellers appointed by the Moderator shall count those in the affirmative and those in the negative.

Section 7. Compensation and expenses attendant to the activities of ad hoc committees duly created by any Town Meeting shall be appropriated by said Town Meeting. Lacking such appropriation the Selectmen shall be restrained from causing the Town Treasurer to effect any such compensation.

Section 8. On matters requiring a two-thirds vote by statute, a count need not be taken unless the vote so declared is immediately questioned by one or more voters as provided in General Laws Chapter 39, Section 15 or as otherwise provided by these Bylaws.

ARTICLE III

TOWN AFFAIRS

Section 1. All deeds, conveyances, leases, discharges or mortgages, bonds, agreements, contracts or other instruments which shall be given by the Town and which to be valid in law require to be signed, sealed and acknowledged shall, unless other provision is or may be made by law or special vote of a Town Meeting, be signed and acknowledged by the Selectmen in behalf of the Town and shall be sealed by the Town Clerk with the common seal of the Town.

Section 2. The seal of the Town shall be circular in form in the margin the words: "Town of Wellfleet, Incorporated 1763". The device shall represent the first visit of the Pilgrims to Wellfleet Bay; in the foreground are seen the natives and grampus on the beach; approaching from the left the shallop of the Pilgrims and in the background the wooded hills and the date "1620".

Section 3. The financial year of the Town shall begin on the first day of July in each year and end with the last day of June following.

Section 4. The Selectmen shall annually, not less than two weeks before the Annual Town Meeting, cause to be printed and distributed among the taxpayers and voters of the Town a detailed report of the receipts and expenditures from the books of the Town Treasurer during the preceding year with such other information and recommendations as they may deem proper, with detailed estimates of the amounts of money which will be required for the current financial year, combined with reports of all various town offices, and when practicable the reports of all committees appointed by the Town, together with the Warrant for said Town Meetings held during the previous town year. All Officers and committees of the Town shall file with the Selectmen not later than January 5 their annual reports.

Section 5. No money shall be paid from the Town Treasury without a warrant or order therefore directed to the Treasurer, signed by a majority of the Selectmen. No money granted for special purpose shall be applied to any other use, unless by a vote of the Town, and no orders shall be drawn upon the Treasurer for any purpose not authorized by a vote of the Town or by the statutes of the Commonwealth. The orders drawn against any appropriation shall not exceed the same.

Section 6. All persons, committees, boards, and officers who are elected at a Town Meeting or the annual Town Election, or appointed by town authority, shall be notified by the Town Clerk, and sworn in before assuming the duties of their offices.

Section 7. No Town real property shall be disposed of except as particularly and individually authorized by the voters at Town Meeting. The Open Space Committee shall hold an advertised public hearing on any proposed article to dispose of a parcel or parcels to Town real property and shall report its recommendation or recommendations to the Town Meeting prior to the vote on such article. Any Town real property shall be disposed of by the Selectmen only by exchange authorized by a Town Meeting vote or by sale by open bidding at public auction, subject to a minimum bid established by the Board of Assessors. Not less than fourteen (14) days prior to such auction, notice of such auction shall be posted in at least three (3) conspicuous places within the Town and shall be published in at least two (2) newspapers of general circulation in the Town. No town real property or interest therein shall be transferred or conveyed except as particularly and individually authorized by the voters at Town Meeting. This section shall also apply to licenses for an indefinite term or for a term of more than 5 years.

Notwithstanding anything contained herein, any Town real property, the title, restrictions, or boundaries of which is or are under adjudication by any court may be disposed of in any manner recommended in writing by the Town Counsel and a majority of the Board of Selectmen and approved by a two-thirds vote of the Town Meeting. Further, notwithstanding anything contained herein to the contrary, any transfer of real property to the Wellfleet Housing Authority for the exclusive purpose of providing rental housing to low and moderate income residents of all ages eligible to receive state, county or federal subsidies provided said rental housing shall be made available to Wellfleet residents under a local preference program to the extent permissible by law, shall be exempt from this bylaw, if said transfer is approved by a 2/3 vote of the Town meeting and a majority vote of the Housing Authority. Further, notwithstanding anything contained therein to the contrary, any transfer of real property to a duly organized nonprofit corporation for the purpose of providing affordable housing exclusively to low or moderate income residents of the Town of Wellfleet shall be exempt from this bylaw provided said transfer is approved by a 2/3 vote of Town Meeting.

Any Town personal property which the Town Administrator determines to have no market value shall be transferred to the Department of Public Works for disposal. Any other Town personal property valued by the Town Administrator at less than five hundred dollars (\$500) may be disposed of by the Town Administrator only by sale or exchange. All other Town personal property may be disposed of only by sale or exchange and as particularly and individually authorized by the voters at a Town Meeting. Such Town personal property or properties shall be sold or exchanged by the Selectmen, only by sealed bid, subject to a minimum bid established by the Town Administrator. Not less than fourteen (14) days prior to the opening of bids for any such sale or exchange, an invitation for bids for said sale or exchange shall be posted in at least three (3) conspicuous places within the Town and shall be published in at least two (2) newspapers of general circulation in the Town. Notwithstanding anything contained herein to the contrary, a transfer of personal property which was received by the Town as a gift, to the original donor or her-his heir shall be exempt from the provisions of this bylaw, if approved by a majority vote of the Town Meeting. Requirements of this bylaw are in addition to the requirement for the disposal of Town property set forth in the General laws.

Section 8. Each officer and committee of the Town shall annually within ten days after the close of the

financial year file with the Selectmen and Finance Committee an inventory of all property of the Town in their possession.

Section 9. Every order for payment of money shall designate the appropriation against which the same is drawn.

Section 10. All persons collecting monies for the Town of Wellfleet of having town money in their care shall be bonded and the town shall bear the cost of all surety bonds.

Section 11. All fees that the Town Clerk and Tax Collector are lawfully authorized to collect by virtue of their offices shall be collected and paid into the Town Treasury within thirty days of receipt.

Section 12. Solid Waste Disposal Fees

A. All fees charged by the Town of Wellfleet for disposal of solid waste at the municipal transfer station/landfill shall be set annually by the Board of Health after same have been approved by the Board of Selectmen. Said fees shall be set by a vote of the Board of Health only after (1) a public hearing, notice of which shall be posted at Town Hall and published in a newspaper distributed in Wellfleet at least seven (7) days prior to any such public hearing and (2) after the Board of Health has received written notice from the Board of Selectmen that they have voted to approve the proposed fee schedule.

Section 13. Pursuant to M.G.L. Ch. 41, Section 38A, the Tax Collector shall be designated as the Town Collector with the duty, in addition to those as Tax Collector, under the title of Town Collector to collect all accounts due the Town as provided by said statute.

The Town Collector shall in the collection of such accounts have all the remedies provided by M.G.L. Ch. 60, Section 35, 36 and 93 for the collection of taxes on personal estate.

All bills for accounts due the Town shall state that all checks, drafts of money orders shall be made payable to or to the order of the Town and not to or to the order of any officer, board or commission.

This section shall not apply to the collection of interest on investments of sinking or trust funds.

Section 14. No Policy r Management Plan for the town shall be submitted for regional or state certification without:

- (i) the review and approval of the town Board or committee designated by Town Meeting, if any; and
- (ii) approval by a 2/3 vote of Town Meeting.

ARTICLE V

TRANSPORTATION

Section 1. No elected official, except the Tax Collector and Clerk/Treasurer while engaged in the duties and responsibilities of their office, in the Town of Wellfleet shall receive any compensation or remuneration for transportation within the Town limits or otherwise engage same at the Town's expense.

Section 2. When any officer or member of any board, paid or unpaid is called upon to go to any point outside the Town of Wellfleet on official business connected with the duties of his office, he shall be entitled to receive pay for transportation on the following basis: a sum per mile for travel for said fiscal year as the Selectmen shall annually determine and set prior to October 1st of the preceding fiscal year within the state, and reimbursement for actual costs for travel outside of the state. When any year round employee is called upon to go from his/her office during the normally scheduled working hours or is called to duty beyond normally scheduled working hours, to any point within the Town of Wellfleet on official business connected with the duties of his/her office, he/she shall be entitled to receive compensation for transportation at the rate per mile for travel for said fiscal year as the Selectmen shall annually determine and set prior to October 1st of the preceding fiscal year, upon presentation to the Town Accountant of an itemized bill within thirty days.

ARTICLE VI

BOARD OF FINANCE

Section 5. The members of the Finance Committee shall serve without pay for their services; but may be reimbursed for actual expenses incurred in the discharge of their duties thereunder.

ARTICLE VII
GENERAL

Section 1. The words "street" and "streets" where used in these by-laws shall be construed as including all public ways, roads, alleys, lanes, and sidewalks, also those parts of all public squares, and public places which form traveled parts of the highways

Section 2. Repealed.

Section 3. No person shall break or dig up the ground in any street or erect any staging for building, or place or deposit any stone, brick, timber or other building material thereon without first obtaining the written permission of the Selectmen.

Section 4. The Selectmen may grant a permit in writing to any person for the purpose of building or other lawful purpose to dig up, obstruct or encumber so much and such parts of any street as they deem to be safe and proper.

Section 5. The person licensed under the preceding section shall comply with all regulations in such permit and shall at all times maintain suitable barriers around any excavation or obstruction made by him in the street and shall so light the same by lanterns or other means from twilight through the whole night to daylight, as to render the street safe and convenient for travelers.

Section 6. No person shall throw or sweep into or place or drop and permit to remain in any street or public way, any hoops, boards or other wood or material with nails projecting therefrom, or nails, shavings, hair, manure, rubbish, offal or filth of any kind or nature, or any noxious or refuse liquid or solid substance.

Section 7. No person shall coast, roller skate, scooter, play ball, skateboard or engage in any other athletic game on Holbrook Ave., Commercial and East Main Streets or streets or public parking lots of the Central District or upon Route 6 except in accordance with orders and permits given by the Selectmen.

Section 8. No person shall throw stones, snowballs or other missiles or shoot with or use a bow and arrow, or sling in any street or public way.

Section 9. No person shall post or affix in any manner, paint or write or cause to be painted, printed or written, a notice, advertisement or bill upon a post, fence, wall or building in the Town, unless he has previously obtained the consent so to do from the person or persons having possession of such fence, pole, post, wall or building.

Section 10. No person shall make any indecent figures or write, print, paint or cut any obscene word or words upon or break, deface or injure in any manner any fence, post, sign or building or extinguish or

remove without authority any street light so placed as to denote an obstruction in any place or way.

Section 11. No person shall accost or address another person in any street or public place with any obscene or profane language.

Section 12. No person shall willfully or negligently obstruct the free passage of travelers in any street or upon any public sidewalk, nor shall any person so obstructing said street or sidewalk remain steadfast in any or upon any sidewalk after being directed by a police officer to move on.

Section 13. No person shall behave in an indecent or disorderly manner, nor use profane, indecent language, in any public place, building or any street or sidewalk of the Town.

Section 14. Three or more persons shall not continue to stand or remain in a group or near to each other on any street, sidewalk or in any public place in such a manner as to obstruct free passage of other pedestrians after having been requested by the Police or Constable, employed by the Town, to move on.

Section 15. No person shall by loud hallooing, hooting or the making of loud and unseemly noises in the streets or public places willfully annoy or disturb another person.

Section 16. No person shall fire or discharge any kind of firearms, air or spring pistol or rifle, or set fire to any powder or combustible or throw any form of combustible or explosive article in any street or public place except in the discharge of some legal duty, without the permission of the Selectmen.

Section 17. No person shall make any bonfire or any other open fire except under a permit obtained from the Fire Warden.

Section 18. Repealed.

Section 19. It shall be unlawful for any person to consume alcoholic beverages on public highways or in public parking places, including vehicles thereon, including all Town owned property, within the Town of Wellfleet. However, the Board of Selectmen may make exceptions to this bylaw in the case of special events and are authorized to issue special permits to private vendors to serve beer and wine exclusively in accordance with general law, and bylaws governing the issuance of temporary liquor licenses.

Section 20. It shall be unlawful for any person who has not attained the age of twenty-one years to consume or have in his or her possession alcoholic beverages in public places within the Town of Wellfleet.

Section 21. No person, except an officer of the law in performance of his duties, shall enter upon or remain upon the premises of another with the intention of peeking, spying, or looking into the window, door or other aperture of a house or structure in any manner or upon any person or persons therein.

Section 22. No one shall operate or permit to be operated an internal combustion engine on any fresh water pond in the Town of Wellfleet except under the direction of any law enforcement officer, fire or rescue officer, or other authorized official for the expressed purpose of aiding in rescue or other emergency situations.

Section 23. CAMPING, TENTING, SLEEPING IN THE OPEN BY-LAW

No person shall set up between the hours of 8 p.m. and 8 a.m. on any property public or private, without permission of the owner thereof, a camp, tent, or sleep in the open on any property, public or private, without the permission of the property owner within the territory limits of the Town of Wellfleet.

Section 24. BEACH VEHICULAR TRAFFIC BY-LAW

No person shall operate a motorized vehicle on any tidal beach or flat or other land below mean high water except:

- 1) in an emergency for the purpose of protecting endangered persons, animals or property;
- 2) a town, county, state or federal official or employee on official business;
- 3) for the purpose of launching or retrieving a boat not exceeding twenty (20) feet in overall length at a launching point designated by the Selectmen;
- 4) for the purpose of work duly authorized and conditioned by the Conservation Commission and other appropriate authorities;
- 5) for the purpose of setting or retrieving a mooring, entering and leaving the beach at a point designated by the Selectmen;
- 6) a person legally engaged in or working in commercial shellfishing or holding a grant.

Whoever violates this bylaw shall be fined in an amount of two hundred (\$200.00) dollars for each offense. The Town of Wellfleet Police Department (including special officers), the Harbormaster, the Assistant Harbormaster, the Shellfish Constable, the Deputy Shellfish Constable, the Assistant Shellfish Constable, the Health and Conservation Officer, and any other official whom the Board of Selectmen may from time to time designate shall have authority to enforce this Section.

Section 24A. No person shall operate or park a motorized vehicle on:

- (1.) Any bicycle, pedestrian, or bridle path or trail owned or maintained by the Town of Wellfleet, Barnstable County, the Commonwealth of Massachusetts, or the United States, and prohibited to motorized vehicles by competent authority;
- (2.) Any real property of the Town of Wellfleet above the mean-high water line not encompassed within the layout or boundaries of any public or private road, way, public landing, or parking area designated for the parking and operation of motorized vehicles.

EXCEPT

- 1.** In an emergency for the purpose of protecting endangered persons, animals, or property.
- 2.** A town, county, state, or federal official, employee, or authorized agent on official business.

In addition to notice required by General Laws, Chapter 40, Section 32, the Town of Wellfleet shall post signs reasonably calculated to apprise operators of motorized vehicles of the requirements of this bylaw.

The Town of Wellfleet Police Department (including special officers) shall have authority to enforce this bylaw, which enforcement shall include without limitation the non-criminal disposition procedure provided for in General Laws, Chapter 40, Section 21D.

Section 25. DOG LEASH BY-LAW

No person shall permit a dog to enter within the boundaries of any cemetery in the Town of Wellfleet. All dogs within the territorial limits of the Town of Wellfleet shall be restrained by a leash unless confined to property of their owners. Any dog found running at large will be removed and impounded. "If it is the first offense subject to this section committed by a person within a calendar year, the charge shall be dismissed without the payment of any fine; if it is the second offense so committed in the calendar year, the payment of a fine of twenty-five (\$25) dollars shall operate as final disposition of the case; if it is the third offense so committed in a calendar year payment of a fine of thirty (\$30) dollars shall operate as final disposition of the case; if it is the fourth or subsequent offense so committed the payment of a fine of fifty (\$50) dollars shall operate as a final disposition of the case." The owner of any dog so removed is also liable for boarding expenses at the pound at the established rate. The Town of Wellfleet Police Department (including special officers), the Dog Officer, and any other officials whom the Board of Selectmen may from time to time designate shall have the authority to enforce this Section.

Section 26. It shall be unlawful for any person or persons occupying, having the charge of, or being present in or about any building, structure, premises, shelter, mobile or stationary vehicle, boat, or any conveyance, or any part thereof, in the Town, from 10:00 p.m. until 8:00 a.m., at any time to cause, suffer, allow, or countenance any unnecessarily loud, excessive or unusual noise, including any such noise in the operation of any radio, phonograph or other mechanical or electronic sound-making device or instrument, or reproducing device or instrument, or in the playing of any band, orchestra, musician or group of musicians, or in the use of any device to amplify the aforesaid; or the making of loud outcries, exclamations or other loud boisterous noise, or loud or boisterous singing by any person or persons or the use of any device to amplify the aforesaid noise, where such noise is plainly audible at a distance of one hundred and fifty (150) feet from the building, structure premises, shelter, mobile or stationary vehicle, boat, or any conveyance, or any part thereof in which and/or from which it is produced. The fact that the noise is plainly audible at said distance of one hundred and fifty (150) feet shall constitute prima facie evidence of a violation of this bylaw.

Except as authorized by the Board of Selectmen, any person or persons shall be deemed in violation of this bylaw who shall make, aid and abet, or cause, suffer, allow, or countenance the making of such noise, and shall be subject to punishment by fine.

Section 27. Repealed.

Section 28. To allow for the ready passage of emergency and other vehicles, the Highway Surveyor may, as he deems necessary in consultation with the Selectmen and the Police and Fire Department Chiefs', smooth out irregularities on private primary residential access roads in Wellfleet on the following conditions in accordance with Chapter 40, Section 6N of the Massachusetts General Laws:

(a) That those roads have been open for public use for six years;

(b) That fifty (50) percent of the abutters sign an agreement with the Town that (1) the task of major maintenance, repair, drainage, and surfacing remains the obligation of the abutters regardless of the action of the Town under the authority of this article; (2) instead of any betterment charges being assessed, the road, while remaining private, be open for public use for the purposes for which public roads are commonly used, and that signs reading "Private Road Public May Use at Own Risk" be posted; (3) the Town would be indemnified and held harmless, as at present, in connection with any personal and property injury resulting from any Town work on or any defects in such road, such agreement to be recorded in the Barnstable Registry of Deeds, and the Highway Surveyor to maintain a record of labor costs, equipment use and materials to be reviewed by the Selectmen and Finance Committee each January.

Section 29. No person shall after July 1, 1986 have more than one unregistered motor vehicle and one unregistered trailer or any part or portion thereof, un-garaged on premises owned or operated or controlled by him at any time unless authorized by the Board of Selectmen. This by-law shall not apply to trailer parks, boat yards commercial/private, licensed campgrounds, farms or like endeavors, premises duly licensed under provisions of Section 58 and 59 of Chapter 140 of the Massachusetts General Laws. Any person failing to remove such vehicles within seven (7) days after notice by Building Inspector of the Town shall be subject to a fine of one hundred dollars (\$100) and a fine of one hundred and fifty dollars (\$150) for each additional period of seven (7) days of non-compliance. The Town of Wellfleet Police Department (including special officers), the Building Inspector, and any other officer whom the Board of Selectmen may from time to time designate shall have authority to enforce this Section.

Section 30. In order to protect the quality of the waters of the harbor and other wetlands within the town limits, no road or other surface shall be re-graded, constructed, or maintained in such a manner as to divert or direct the flow of runoff, defined as including storm water or any other surface waters, excepting natural pre-existing water courses, into any wetland, as defined in Massachusetts General Laws Chapter 131,S.40. Uncontaminated runoff shall be directed in such a way as to recharge the groundwater within the lot where it originates and in such a manner as not to alter natural runoff into any wetland, nor to cause erosion, pollution or siltation into or towards any wetland. Any owner of property on which a violation of this Section occurs or is occurring shall be warned by the Town of Wellfleet Police Department (including special officers), the Building Inspector, the Health and Conservation Officer, the Shellfish Constable, the Deputy Shellfish Constable, the Assistant Shellfish Constable, the Harbormaster, the Assistant Harbormaster, or any other officer whom the Board of Selectmen may from time to time designate. If the violation continues for a period of more than ninety (90) days beyond the date of such warning, the owner in violation shall be fined one hundred dollars (\$100) for each day or fraction of a day of continued violation. The above said officials shall have authority to enforce this Section.

Section 31. ANIMALS CONSTITUTING A NUISANCE

American Staffordshire Terrier, a/k/a American Pit Bull Terrier or Bull Terrier.

Repealed 11/13/2009

Section 32. MECHANICAL PROTECTION DEVICES BYLAW

It shall be unlawful to install, maintain or use a mechanical protection device that is automatically keyed to and/or activates the telephone (numbers) lines controlled by and/or listed to the Wellfleet Fire Department and/or Police Department. All such devices now installed shall be removed within 60 days of the effective date of this bylaw. For the purpose of this section, mechanical protection devices shall be defined as: An electrically operated instrument composed of sensory apparatus and related hardware which automatically sends over regular telephone lines, by direct connection or otherwise, pre-recorded voice alarm upon receipt of a stimulus from the sensory apparatus that has detected a physical force or unauthorized intrusion, or condition inherently characteristic of a fire. Violation of this section shall be punished by a fine of fifty (\$50.00) dollars for the first offense and two hundred (\$200) dollars each subsequent offense. The Town of Wellfleet Police Department (including special officers) and any other official whom the Board of Selectmen may from time to time designate shall have authority to enforce this Section.

Section 33. No person shall dump or discharge treated or untreated sanitary waste, debris, refuse, garbage, hydrocarbons, or any other pollutant in the great ponds or marine waters within the Town of Wellfleet. Any person who violates this section shall be fined one hundred dollars (\$100) for the first offense and two hundred dollars (\$200) for each subsequent offense. The Town of Wellfleet Police Department (including special officers), the Harbormaster, the Assistant Harbormaster, the Shellfish Constable, the Assistant Shellfish Constable, the Health-Conservation Agent, and any other official whom the Board of Selectmen may from time to time designate shall have authority to enforce this section, which enforcement shall include without limitation the non-criminal disposition procedure provided for the General Laws, Chapter 40, Section 21D.

Section 34. Within the marine waters of the Town of Wellfleet, no person shall remain overnight aboard a boat without a Coast Guard approved marine sanitation device or holding tank. Any person who violates this section shall be fined one hundred dollars (\$100) for the first offense and two hundred dollars (\$200) for each subsequent offense. The Town of Wellfleet Police (including special officers), the Harbormaster, the Assistant Harbormaster, the Shellfish Constable, the Assistant Shellfish Constable, the Health-Conservation Agent, and any other official whom the Board of Selectmen may from time to time designate shall have authority to enforce this section, which enforcement shall include without limitation the noncriminal disposition procedure provided for in the General Laws, Chapter 40, Section 21D.

Section 35. PARKING AREAS FOR THE HANDICAPPED

Any person or body that has lawful control of a public or private way or of improved or enclosed property used as off-street parking areas for business, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural center, residential dwellings, or for any other place where the public has a right of access as invitee or licensees shall reserve parking spaces in said off-street parking areas for any vehicle owned and

operated by a disabled veteran or handicapped person whose vehicle bears the distinguishing license plate authorized by said MGL Chapter 90, Section 2 or for any vehicle transporting a handicapped person and displaying the special identification plate authorized by MGL Chapter 90, Section 2 or for any vehicle bearing the official identification of a handicapped person issued by any other state, or any Canadian province, according to the following formula:

If the number of parking spaces in any such area is more than fifteen but not more than twenty-five, one parking space; more than twenty-five but not more than forty, five percent of such spaces but not less than two; more than forty but not more than one hundred, four percent of such spaces but not less than three; more than one hundred but not more than two hundred, three percent of such spaces but not less than four; more than two hundred but not more than five hundred, two percent of such spaces but not less than six; more than five hundred but not more than one thousand, one and one half percent of such spaces but not less than ten.

Parking spaces designated as reserved under the provisions of this Section shall be identified by the use of above-grade signs with white lettering against a blue background and shall bear the words "Handicapped Parking: Special Plate Required, Unauthorized Vehicles May be Removed at Owner's Expense," shall be as near as possible to a building entrance or walkway; shall be adjacent to handicapped curbs, ramps or other unobstructed methods permitting sidewalk access to a handicapped person; and shall be twelve feet wide or two eight-foot wide areas with four feet of cross hatch between them.

Any person having lawful control of an off-street parking area which is in any respect not in compliance with this section may be warned by a written notice issued by the Wellfleet Police Department (including special officers) or any other official whom the Board of Selectmen may from time to time designate specifying the existing violation or violations. If said violation or violations continue for a period of more than thirty (30) days beyond the date of said warning, the person in violation shall be fined twenty-five dollars (\$25) and fifty dollars (\$50) for each additional period of thirty (30) days non-compliance. The Wellfleet Police Department (including special officers) or any other official whom the Board of Selectmen may from time to time designate shall have authority to enforce this section which enforcement shall include without limitation the non-criminal disposition procedure provided in General Laws Chapter 40, Section 21D.

Section 36. PARKING IN SPACES RESERVED FOR HANDICAPPED PERSONS

No person shall park an unauthorized vehicle within a space designated for use exclusively by disabled veterans or handicapped persons as authorized by Section 35 or in such a manner as to obstruct a ramp designed for use by handicapped persons as a means of access to or egress from a street.

Any person who violates this Section shall be fined three-hundred dollars (\$300.00) and the vehicle may be removed in accordance with the provisions of MGL 266, Section 120D. The Town of Wellfleet Police Department (including special officers) and any other official whom the Board of Selectmen may from time to time designate shall have authority to enforce this Section which enforcement shall include without limitation the non-criminal disposition procedure provided in General Laws Chapter 40, Section 21D.

Section 37. PENALTIES AND ENFORCEMENT

Any person who violates the following sections of this Article shall be fined the following amounts:

Section	First Offense	Each Subsequent
3	\$100	\$200
5	100	200
6	100	200
7	5	10
8	5	10
9	5	10
10	200	200
11	200	200
12	200	200
13	200	200
14	200	200
15	50	200
16	200	200
17	200	200
19	50	100
20	50	100
21	200	200
22	200	200
23	25	100
24A	50	100
26	50	200
32	50	200
44	100	200

The Town of Wellfleet Police Department including special officers and any other official whom the Board of Selectmen may from time to time designate shall have the authority to enforce said Sections.

Section 38. Repealed (4/27/09)

Section 39. Repealed (4/27/09)

Section 40. Repealed (4/27/09)

Section 41. No person shall operate a motorized vehicle within the boundaries of a burial ground or cemetery at a speed in excess of ten (10) miles per hour; or in such a manner as to enter or exit the burial ground or cemetery elsewhere than at a designated entrance gate; or outside the roadways designated for motorized vehicles except for the purposes of maintenance or repair of the cemetery; or in such a manner as to endanger or cause damage to public or private property. Any person who violates this section shall be fined three hundred dollars (\$300) for each offense. The Town of Wellfleet Police Department (including

special officers), the Town of Wellfleet Cemetery Commissioners, and any official whom the Board of Selectmen may from time to time designate shall have authority to enforce this section, which enforcement shall include without limitation the non-criminal disposition procedure provided in the General Laws, Chapter 40, Section 21D.

Section 41a. Any person or organization may conduct a yard sale by first obtaining a permit from the Chief of Police. Not more than two such permits may be granted for any particular location per calendar year. Each yard sale may extend for not more than three consecutive calendar days. The permit holder shall be responsible for the parking of motor vehicles so as not to hinder the free flow of traffic. Any signs posted by the permit holder must be removed by the end of the sale. At the yard sale, the offering for sale of used articles by others may take place with the concurrence of the owner of the property on which the sale takes place.

For the purpose of this Bylaw, "Yard Sale" is defined as the offering for sale of property originally acquired for personal use and not for the purpose of resale.

Violations of this Bylaw shall be punishable by a fine of \$50 for each offense. Each day a violation exists shall be deemed a separate offense.

Section 42 The purpose of this bylaw is to protect the public safety by establishing rules of conduct governing the operation of personal watercraft, by promoting voluntary compliance with the rules, and when necessary, by deterring, through fines and penalties, non-compliance with the Bylaw. The Town of Wellfleet intends to improve, through this bylaw, the safe and appropriate use of personal watercraft.

Personal Watercraft

1. Definition of terms. For the purpose of the Bylaw, the term "Personal Watercraft" shall mean a small vessel which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by persons sitting, standing or kneeling on the vessel. The term includes, but is not limited to jet-skis, wet-bikes or surf-jets, so-called.
2. The use of Personal Watercraft is prohibited within 150 feet of swimmers. (Per Director of Mass. Environmental Police May 12, 2000)ATM 4-26-1999
3. The use of Personal Watercraft is prohibited in Wellfleet Harbor from the groin at Mayo Beach westerly to the Herring River and northerly and entirely to the terminus of the river. Operators of Personal Watercraft shall not enter any marked shellfish grant license areas in Wellfleet Harbor.
4. Personal Watercraft shall be launched only at the municipal ramp at the Wellfleet Marina.
5. Personal Watercraft are prohibited in any Town-owned beach parking lots or on any Town-owned beaches.
6. Criminal complaint. Any violation of this Bylaw shall be punishable by a fine of not more than fifty (\$50.00) dollars for each offense. Each day on which a violation occurs or continues shall be deemed a separate offense, subject to the penalties stated herein.
7. Non-Criminal Disposition. As an alternative to initiating criminal proceeding pursuant to subsection 6 above, the enforcing agent may dispose of a violation pursuant to the following procedures. Whoever violates any provision of this Bylaw may, in the discretion of the Police

Officers, Beach Administrator, Beach Guard Captain, Head Lifeguard, Harbormaster, Assistant Harbormaster, Board of Health, conservation Agent, Shellfish Constable, Deputy Shellfish Constables, Dog Officer or Board of Selectmen, be penalized by a non-criminal complaint pursuant to the provision of M.G.L. Ch. 40, Section 21D. Whoever violates any provision of this Bylaw shall be subject to a fine of twenty-five (\$25.00) dollars for each offense. Each day on which a violation occurs or continues shall be deemed a separate offense, subject to the penalties stated herein.

Section 43 Penalties and Enforcement - street number posting

An owner or occupant who fails to post on his premises the street number assigned thereto within six months after being given notice as hereafter provided of the number which has been assigned or receiving actual notice thereof, whichever occurs earlier, or any owner or occupant who fails to keep said number posted or maintained in a legible condition or any person who unlawfully removes, defaces or conceals said number shall be subject to a fine of fifty (\$50) dollars for each offense. Each case of a failure to post, keep posted or maintained in a legible condition shall constitute a separate offense.

Section 44 Scenic Roads

Except under emergency conditions, defined as unforeseen events that prevent safe travel or effective emergency access, no forestry, repair, maintenance, reconstruction or paving work done with respect thereto shall involve or include the cutting or removal of trees, or the tearing down or destruction of stone walls, or portions thereof, within the layout of a Scenic Road except with prior written consent of the Planning Board after a public hearing held in accordance with MGL c. 40, § 15C. In addition to the notice requirements of the statute, notice of the public hearing shall be sent no less than fourteen (14) days prior to the hearing by first class mail to abutters within 300 feet of the site of the work, as determined by current Assessors' records.

ARTICLE VIII

BYLAW PROCEDURE and ENFORCEMENT

Section 1. Any of the foregoing bylaws may be repealed or amended ONLY at a Town Meeting under an article in the Warrant for this purpose.

Section 2. Repealed.

Section 3. All bylaws or parts of bylaws inconsistent herewith are hereby repealed including all bylaws accepted and adopted at the Annual Town Meeting of February 13, 1935, upon the approval of the bylaws adopted herewith.

ARTICLE IX

Section 1. Non-criminal enforcement of bylaws and regulations. Non-criminal disposition to be an alternative method of enforcement.

Any bylaw of the Town of Wellfleet, or rule or regulation of its boards, committees and commissions, the violation of which is subject to a specific penalty, may in the discretion of the Town Official who is the appropriate enforcing person, be enforced in the method provided in Section 21D of Chapter 40 of the General Laws. Enforcing Person, as used in this chapter of the MGL, shall include but not necessarily be limited to any Police Officer, the Fire Chief, the Building Inspector, the Shellfish Constable, or Assistant Shellfish Constable, the Harbormaster or Assistant Harbormaster, the Health/Conservation Agent and any other officials the Board of Selectmen may from time to time designate, with respect to the enforcement of said bylaws or otherwise designated bylaw. If more than one official has jurisdiction in a given case, any official having said jurisdiction may be the enforcing person.

ARTICLE X

LICENSES & PERMITS ISSUANCE, RENEWAL & TRANSFER

Section 1. The Tax Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the Tax Collector, shall annually furnish to each department , board, commission or division, hereinafter referred to as the Licensing Authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

Section 2. The Licensing Authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the Licensing Authority from the Tax Collector, provided, however, that written notice is given to the party and the Tax Collector, as required by applicable provisions of law, and the party is given a hearing to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the Licensing Authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the Licensing Authority receives a certificate issued by the Tax Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate. Said certificate to be issued within 48 hours of payment of taxes, fees, assessments, betterments or other municipal charges, excluding Saturday, Sunday and Holidays.

Section 3. Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the Licensing Authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided however, that the holder be given notice and a hearing as required by applicable provisions of law.

Section 4. The Board of Selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in section one of chapter two hundred and sixty-eight in the business or activity conducted in or on said property.

Section 5. This section shall not apply to the following licenses and permits: open burning, Chapter 48

Section 13; bicycling permits, Chapter 85, Section 11A sales of articles for charitable purposes, Chapter 101, Section 33; children work permits, Chapter 149, Section 69; clubs, associations dispensing food or beverage licenses, Chapter 140, Section 21E dog licenses, Chapter 140, Section 137; fishing, hunting, trapping licenses, Chapter 131, Section 12; marriage licenses, Chapter 201, Section 28 and theatrical events, public exhibition permits, Chapter 140, Section 181.

Section 6. GENERAL BUSINESS LICENSES AND REGISTRATION

1. Any person or entity operating a business as hereinafter defined shall register with the Board of Selectmen and, if required to do so, shall obtain a "General Business License" prior to commencing said business. For the purposes of this section, a business shall be defined as the selling of commodities or services of any kind to the general public. Business shall not include any business otherwise licensed by the Board of Selectmen pursuant to applicable provisions of the General Laws of the Commonwealth of Massachusetts.

2. The Board of Selectmen may determine from time to time, after a public hearing, notice of which shall be advertised at least seven (7) days prior thereto in a newspaper in general circulation in the Town, which types of business shall be required to obtain General Business Licenses and the fee(s) required for said licenses. Procedures and requirements for the issuance of both the registration required by Paragraph 1 of this Section and the General Business License shall be set forth in Rules and Regulations promulgated by the Board of Selectmen pursuant to the authority conferred upon them in Section 3-5-1 of the Wellfleet Home Rule Charter.

3. Any person who operates an unlicensed business of a type for which the Board of Selectmen have determined that a license shall be required, in accordance with paragraph 2 of this section, or who operates a business as herein defined of which the license has been denied, revoked, or suspended in accordance with Section 2 of this Article, shall be fined one hundred dollars (\$100) for each day or fraction of a day of violation. The Wellfleet Police Department (including special officers) the Building Inspector, and any other official whom the Board of Selectmen may from time to time designate shall have authority to enforce this section.

ARTICLE XI

MECHANICAL ELECTRONIC FIRE AND POLICE ALARMS:
FALSE ALARMS: PENALTIES

Section 1. Any person maintaining, or permitting to be maintained, any mechanical or electronic fire alarm device which transmits an alarm stimulus indicating that it has detected a fire or a condition inherently characteristic of a fire in order to summons the Fire Department to the property, shall maintain the device, or cause the device to be maintained, in good operating condition.

Section 2. Any false report of a fire made to the Fire Department as a result of the transmission of an alarm stimulus shall be reported to the occupant of the premises by the Fire Department. Notice to the person maintaining or permitting the device to be maintained shall be deemed delivered by the leaving of a written notification by Fire Department personnel at the premises where the mechanical or electronic fire alarm device is located.

Section 3. Any person who maintains or permits to be maintained, any mechanical or electronic fire alarm device which transmits more than 3 false reports of fire (excluding line-trouble signals) within any consecutive 12 month period, after written notification by the Fire Department, shall be punished by a fine of \$50.00 for the fourth (4th) offense, \$75.00 for the fifth (5th), \$100.00 for the sixth (6th) and \$25.00 progressively for each additional offense. In no event, however, shall the fine exceed \$300.00 for any one occurrence. The Fire Chief or his designee and any other official whom the Board of Selectmen may from time to time designate shall have authority to enforce this Section.

Section 4. Any person maintaining, or permitting to be maintained any mechanical or electronic device which transmits an alarm stimulus indicating that it has detected an intrusion or a condition inherently characteristic of an intrusion to summon the Police Department to the property, shall maintain the device, or cause the device to be maintained, in good operating condition. Prior to installation of any such device the property owner shall provide the Police Department with the following information:

- a. Type, method of operation of the alarm device.
- b. Floor plan, building design, utilities shut off.
- c. Update owner/caretaker list or employee list for alarm response.
- d. Description of current owner/caretaker or employees motor vehicle, i.e., make, model, color, and plate number.

Section 5. Any false report of an intrusion made to the Police Department as a result of the transmission of an alarm stimulus shall be reported to the owner/caretaker or employee listed to be advised of an alarm response. Notice to the person maintaining or permitting the device to be maintained shall be deemed delivered by the mailing of a written notification by the Police Department to the property owner.

Section 6. Any person who maintains or permits to be maintained any mechanical or electronic intrusion alarm device which transmits more than (3) three false reports of an intrusion (excluding line-trouble

signals) within any consecutive 12-month period, after written notification by the Police Department, shall be punished by a fine of \$50.00 for the (4) fourth offense. \$75.00 for the (5) fifth offense, \$100.00 for the (6) sixth offense and \$25.00 progressively for each additional offense. In no event, however, shall the fine exceed \$300.00 for any one occurrence. The Town of Wellfleet Police Department (including special officers) and any official whom the Board of Selectmen may from time to time designate shall have authority to enforce this Section.

Section 7. Limitations of Liability: Neither the Town of Wellfleet nor any of its officers shall be under any obligation or duty to an alarm user, or to any other person hereunder, by reason of this Article. The Town of Wellfleet specifically disclaims liability for any damages which may be caused by failure to respond to an alarm.

Section 8. Administrative Rules: The Chief of the Police Department and the Chief of the Fire Department may promulgate such rules as may be necessary for the implementation of this Article.

Section 9. Exemptions: The provisions of this Article shall not apply to alarm devices owned or controlled by the Town of Wellfleet.

Section 10. REQUIREMENTS

The owner of a building which has a fire alarm system, fire protection system, or medical alarms, which transmits an alarm off-premise shall be required to:

- a. Obtain a permit to install or alter the system.
- b. Provide a secure key box installed in a location accessible to the Fire Department in case of emergency. The key box shall contain keys to the door(s), fire alarm control panel and other keys necessary to operate or service fire protection or medical systems. The key box shall be a type approved by the Chief of the Wellfleet Fire Department and shall be located and installed as approved by the Chief.

Section 11. The owner of a building which has an existing fire alarm system shall be required to bring said system into compliance with Section 10 within six (6) months from the adoption of this Section.

Section 12. The owner of a building who fails to comply with the provisions of Section 10, after ten (10) days written notice from the Fire Department of such non-compliance, shall be subject to a fine in the amount of one hundred (\$100) dollars. Each day of non-compliance shall be deemed to be a separate offense. The Fire Chief of his designee and any other officials whom the Board of Selectmen may from time to time designate shall have authority to enforce this section.

ARTICLE XII

RECYCLING

Section 1. PURPOSE

The goal of the town of Wellfleet is to dispose of solid waste material in an economically and environmentally responsible manner and to reduce the total amount of solid waste disposed of by the Town.

Section 2. IMPLEMENTATION

The Board of Selectmen shall have the authority to implement the provisions of Section 5 of this Article on a flexible schedule, pursuant to which recyclables in Section 4 will become subject to the mandatory provisions of Section 6. The implementation of the recycling schedule shall be determined by assessing the market conditions, the ability of the community to respond to environmental concerns, and the recommendations from the Recycling Commission and the Board of Health. The implementation schedule, as it may be amended from time to time, shall be established by the Selectmen only after a public hearing, notice of which has been given seven days prior to the hearing date.

Section 3. DEFINITIONS OF SOLID WASTER MATERIALS

1. batteries - all lead acid storage batteries
2. tires - vehicle
3. white goods - such items as refrigerators, clothes-washing drying machines, ranges, metal furniture
4. motor oil - used motor oil
5. scrap metal - miscellaneous metal objects
6. glass - clear-white or colored
7. aluminum - aluminum cans, trays, storm doors, screens
8. tin cans - food or beverage cans made of steel/iron
9. cardboard - heavy paperboard used in boxes, cartons
10. office paper - stationery, copy and computer paper
11. plastics - plastic containers such as milk bottles, water jugs, detergent bottles, styrofoam, plastic bags
12. newsprint - newspaper, newspaper advertisements
13. compostables, leaves, grass clippings
14. demolition and building waste - materials and scrap from new and remodeling construction
15. hazardous waste - as determined by the Board of Health
16. garbage - animal, vegetable or other organic waste

Section 4. RECYCLABLES

The following items shall be deemed to be recyclables:

1. batteries

2. tires
3. white goods
4. motor oil
5. scrap metal
6. glass
7. aluminum
8. tin cans
9. cardboard
10. office paper
11. plastics
12. newsprint

Section 5. DISPOSAL OF RECYCLABLES

When determined by the Selectmen under the provisions of Section 2 above, it shall be mandatory and the responsibility of any person disposing of solid waste at the transfer station to separate the recyclable items from all other solid waste and dispose of same in accordance with applicable Board of Health regulations. The Board of Health shall promulgate regulations which govern the conditions of all items to be recycled as well as the overall implementation of the Recycling Article.

Section 6. VIOLATION AND PENALTIES

As recyclables become regulated, they shall be separated from all other solid waste and brought to the Transfer Station or left for a commercial hauler in the manner required by said hauler. If it is determined by a transfer station attendant that any bag contains regular recyclables, it shall be not be accepted for disposal until said regulated recyclables are separated by the person attempting to dispose of same.

ARTICLE XIII

DEMOLITION DELAY BYLAW

Section 1. Purpose. The purpose of this ordinance is to protect from demolition historically significant buildings which reflect the historical, cultural or architectural heritage of the Town of Wellfleet, and to encourage the owners of such buildings to explore and develop acceptable alternatives to demolition such as preservation, renovation, restoration or relocation.

To achieve these purposes, a Historical Review board shall be appointed by the Selectmen in consultation with the Planning Board. The Historical Review Board, hereinafter referred to as “the Board”, shall consist of three people chosen for their interest in and knowledge of historical structures. The Board shall be empowered to advise the Wellfleet Building Inspector with respect to the issuance of permits for demolition and to hold hearings to explore alternative to demolition.

The term of office of the members of the Historical Review Board shall be for a period of three, four, and five years respectively, and for a term of five years thereafter.

Section 2. Definitions.

2.1 Historically Significant Building: Any building which is either:

- a. Listed in the National Register of Historic Places,
- b. More than seventy-five (75) years old.
- c. Designated by the Board after public hearing(s) as being historically or architecturally significant in terms of period, style, and method of construction or association with historic persons or events.

2.2 Preferably Preserved. Any “historically significant” building, the preservation of which is in the public interest as determined by the Board.

2.3 Demolition. The act of pulling down, destroying, removing, or razing a building, in whole or in part, (including the demolition of exterior walls or roof), or commencing such work with the intent of completing the same, all as determined by the Building Inspector; provided, however, that the term “demolition” shall not include the ordinary maintenance or repair of any building. In addition, the term “

Demolition” defined under this bylaw section shall include the act of enclosing or encapsulating an existing building within new exterior walls or roofed areas.

Section 3. Procedure

3.1 The Board shall furnish the Building Inspector with a list of all “historically significant buildings”.

3.2 The Building Inspector shall, within five (5) days of receipt of an application for a demolition permit for a “historically significant building”, forward a copy of the application to the Board.

3.3 The Board shall determine if the building is “preferably preserved”. If the Board makes an initial determination that the building is “preferably preserved”, then within forty-five (45) days of the receipt of the demolition permit application, the Board shall hold a public hearing to explore alternatives to demolition.

3.4 Notice of the time, place and subject matter of hearings hereunder shall be given by publication in a newspaper of general circulation in the Town once a week for two (2) successive weeks, the first notice to appear at least fourteen (14) days before the day of the hearing (including the day of publication and excluding the day of the hearing) and by mailing a notice of hearing to the owner or applicant, all abutters to the subject property, the Planning Board of the town, the Historical District Commission, the Wellfleet Historical Society the Conservation Commission, the Selectmen and such other persons as the Board may determine.

3.5 If after hearing, the Board determines that the proposed work would destroy or substantially diminish an historic value, it is empowered to impose a demolition delay of up to twelve (12) months from the date of said hearing to afford an opportunity to develop alternatives to demolition.

3.6 The Board shall within seven (7) days of said hearing notify the owner or applicant and the Building Inspector of its decision.

3.7 If at the end of a Board mandated delay, no alternatives have been agreed to by the owner or applicant, the Board shall within seven (7) days notify the Building Inspector who may then issue the permit.

3.8 In addition to the provisions of Section 3.7, the Building Inspector may issue a demolition permit upon written notice from the Board that the building is not “preferably preserved” or that there is no likelihood that either the owner or some other person or group is willing to purchase, preserve, restore or rehabilitate the building or that the applicant has agreed to accept a demolition permit on specified conditions.

3.9 Nothing in this Bylaw shall restrict the building Inspector from issuing a demolition permit if in his opinion the condition of the building poses an imminent and substantial threat to public health or safety.

Section 4. Enforcement

4.1 The Building Inspector shall be authorized to enforce the provisions of this Bylaw.

Section 5. Non-compliance

5.1 Anyone who undertakes demolition of any “historically significant” building without a demolition permit shall be subject to a fine of \$1,000.00. Each day such demolition continues shall constitute a separate offense.

5.2 No building permit shall be issued or be valid for a period of up to two (2) years after demolition of any “historically significant” building in violation of this Bylaw.

Section 6. Severability

6.1 If any provision of this Bylaw is determined to be invalid or unconstitutional by any court of competent jurisdiction, said determination shall not affect the validity of any other section hereof.

Section 7. Historic District Act

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

ARTICLE XV
ANIMAL CONTROL

15.1 Purpose

The purpose of these by-laws is the control of animals to prevent injury to property, persons and animals.

15.2 Administration

The Board of Selectmen shall appoint an Animal Control Officer who, in addition to any other authorized enforcement officers, shall be responsible for the enforcement of these by-laws.

15.3 Definitions

Beach – The zone above the water line at a shore of a body of water, marked by an accumulation of sand, stone, or gravel that has been deposited by the tide or waves.

Domesticated Animal – Any of various animals that have been tamed and made fit for a human environment.

Keeper – Any person, other than the owner, possessing, harboring, keeping, or having control or custody of a dog either permanently or on a temporary basis. If a person under the age of 18 owns or keeps a dog, that person’s custodial parent(s) or legal guardian(s) shall be responsible for complying with the requirements of these by-laws.

Licensing Period – The licensing period means the time between January 1st and the following December 31st of each year, both dates inclusive.

Vicious Dog - Any dog that attacks, bites or injures any human or domesticated animal without provocation or which, because of its temperament, conditioning or training, has a propensity to attack, bite or injure humans or domesticated animals.

15.4 Licensing and Regulation of Vicious Dogs

A. Determination of Viciousness

1. The Animal Control Officer shall investigate all complaints made to the Animal Control Officer, the Town of Wellfleet Police Department, the Board of Selectmen, or the Town Administrator that any dog owned or kept within the Town of Wellfleet has attacked, bitten, or injured any person or domesticated animal, or which by its temperament, conditioning or training has a propensity to attack, bite or injure persons or domesticated animals.

2. The Animal Control Officer is authorized to make whatever inquiry is deemed necessary to determine the accuracy of said complaint, and if the Animal Control Officer determines that the complaint is accurate, the Officer may find that the dog is vicious and may make such orders as he or she deems necessary to ensure compliance with the provisions of these by-laws and to promote public safety.

3. Upon determination by the Animal Control Officer that a dog is vicious, the Animal Control Officer shall issue a written order to the owner or keeper of said dog concerning the restraint or disposal of such dog as they may deem necessary. At a minimum, said order shall state that the dog has been determined to be vicious and shall require the owner or keeper of such dog to comply with the requirements of Section 15.4 Subsection B of these by-laws.

4. Without limiting the generality of the foregoing, the Animal Control Officer may order that said dog be permanently removed from the Town of Wellfleet, that said dog be humanely euthanized in accordance with the provisions of Massachusetts General Laws, Chapter 140, Section 151A, or that said dog be confined in accordance with such limitations as the Animal Control Officer deems appropriate. If an order to euthanize is issued, a certificate must be provided to the Animal Control Officer confirming the action was carried out. If the Animal Control Officer determines that the dog is to be permanently removed, the owner or keeper shall provide the Animal Control Officer with the name, address, and telephone number of the new owner or keeper of the vicious dog.

5. The owner or keeper of any dog determined to be vicious by the Animal Control Officer may request a hearing before the Board of Selectmen. Said request shall be in writing and received by the Board of Selectmen within five (5) business days of the owner's or keeper's receipt of the Animal Control Officer's order. A copy of the hearing request shall also be delivered to the Animal Control Officer. The hearing request shall include an explanation of the measures that the owner or keeper intends to take to protect public safety pending disposition of the matter by the Board of Selectmen. If the Board of Selectmen determines that the measures described are inadequate, it may order that said dog be impounded, at the owner's or keeper's expense, until such time as the Board of Selectmen rules otherwise.

6. After hearing, at which those testifying shall be sworn under oath, the Board of Selectmen may affirm the order, reverse or nullify the order, or issue any such order as it deems necessary to ensure compliance with the provisions of these by-laws and the protection of public safety. The determination of the Board of Selectmen after a hearing shall be final.

7. Nothing in this by-law is intended to limit or restrict the authority of the Board of Selectmen to act in accordance with Massachusetts General Laws, Chapter 140, Sect.157.

B. Control of Vicious Dogs

1. The Animal Control Officer shall notify the Town Clerk of all dogs determined to be vicious pursuant to the terms of these by-laws.

2. The owner or keeper of any dog determined to be vicious in accordance with Subsection A of Section 15.4 of these by-laws, which has not been ordered euthanized or permanently removed from Town, shall re-license said dog as "vicious" within thirty days of such determination. A unique licensing number

shall be assigned to a vicious dog by the Town Clerk. That number shall be noted on the town licensing files.

3. No vicious dog shall be licensed by the Town of Wellfleet for any licensing period unless the owner or keeper of such vicious dog displays a sign not to exceed one square foot on his or her premises warning that there is a vicious dog on the premises. The sign shall be visible and capable of being read from the public or private roadway.

4. All vicious dogs shall be confined in an enclosure approved in writing by the Animal Control Officer. It shall be unlawful for any owner or keeper to maintain a vicious dog upon any premises which does not have a locked enclosure or for any owner or keeper to allow any vicious dog to be outside of the dwelling of the owner or outside of the enclosure, unless it is necessary for the owner or keeper to obtain veterinary care for the vicious dog, or to sell or give away the vicious dog or to comply with the orders or directions of the Animal Control Officer and/or Board of Selectmen with respect to the vicious dog, or to comply with the provisions of these by-laws. In such event, the vicious dog shall be securely muzzled and restrained with a chain having a minimum tensile strength of three hundred (300) pounds and not exceeding three (3) feet in length, and shall be under the direct control and supervision of the owner or keeper of the vicious dog. Vicious dogs shall not be permitted to run loose on any public or private way or any area within the Town of Wellfleet that is open to the general public, including but not limited to parks and beaches.

C. Enforcement and Penalties

1. License Revocation - If the Animal Control Officer determines that a vicious dog is being kept in the Town in violation of these by-laws or any order issued by the Animal Control Officer, Board of Selectmen or of any Court, the Animal Control Officer shall so notify the Selectmen. After giving notice to the owner or keeper of the hearing, the Selectmen shall hold a public hearing on whether to revoke the license of said dog or to take further action including banning the dog from the Town or euthanizing the dog. If the Selectmen revoke the license of said dog and do not order it to be euthanized, they shall notify the owner or keeper of the dog and the Town Clerk within ten (10) days that said dog will be impounded and euthanized if it is found within the Town after the succeeding seven days. The Animal Control Officer or any Town of Wellfleet police officer shall seize and impound any vicious dog found outside of its enclosure in violation of these by-laws or any order issued by the Animal Control Officer, Board of Selectmen or any Court.

2. Non-Criminal Disposition - This regulation may be enforced by the Animal Control Officer or any Town of Wellfleet police officer. Whoever violates any provision of these by-laws may be penalized by a non criminal disposition process as provided in Massachusetts General Laws, Chapter 40, Section 21D and the Town's non-criminal disposition by-law. If a non-criminal disposition is elected, then any person who violates any provision of these by-laws shall be subject to a penalty in the amount of fifty dollars (\$50.00) per day for each day of violation. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

3. Whoever violates any provision of this by-law or order of the Animal Control Officer and/or Board of Selectmen may be penalized by indictment or on complaint brought in the district court. Except as may be otherwise provided by law and as the district court may see fit to impose, the maximum penalty for each violation or offense shall be fifty dollars (\$50.00), assessed in accordance with the provisions of Massachusetts General Laws, Chapter 140, Sections 173-174. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

SPECIAL FLOOD HAZARD DISTRICT REGULATIONS

In special hazard areas subject to high wave impact and/or severe flood inundation (Zones V3,V4,V5,V6,A3,A4,A5) of the Wellfleet Flood Insurance Rate Map (FIRM) for the Town of Wellfleet dated June 19, 1985 and in accordance with any revisions or issuance, no new building shall be erected or constructed and no new subsurface disposal systems installed except as authorized or required by the Board of Health; no paving; no existing structure shall be enlarged; no structure shall be moved except as landward of the reach of mean high tide; no dumping; no filling or earth transfer shall be permitted except as authorized by the Conservation Commission; and there shall be no additional mobile homes.

Within these zones the following uses are permitted:

- 1) Conservation of water courses, plants and wildlife.
- 2) Outdoor recreation, including play areas, nature study, boating, fishing, including shellfishing and marine aquaculture, and hunting where otherwise legally permitted, temporary structures relating to carnivals and recreational activities.
- 3) Grazing, farming, agriculture and the harvesting of crops.
- 4) Temporary non-residential structures used in connection with fishing, shellfishing, aquaculture, harvesting, storage, or sale of products raised in the premises.
- 5) Dwellings, signs and parking lots lawfully existing prior to the adoption of these provisions.
- 6) Utility lines and facilities, and sewerage pipes installed according to plan approved by the Board of Health, the Conservation Commission, and the Plumbing Inspector.
- 7) Boardwalks, wooden stairways, snow fences.
- 8) Non-Commercial signs (as permitted in the residential district, Section 7.2 of the Wellfleet Zoning Bylaw) provided such uses do not affect the natural flow of any water course.

Lot requirements for uses allowed in the underlying zone may be comprised of up to 40% of flood plain district land, provided all structures and related facilities are confined to that portion of the lot situated outside of the floodplain district.

To appeal the restrictions in this section, application may be made to the Wellfleet Board of Appeals for a floodplain exemption from this floodplain bylaw in accordance with the following conditions:

1. A showing of good and sufficient cause.
2. A determination that the granting of an exemption will not result in increased flood heights, decreased flood storage capacity, additional threats to public safety, extraordinary public expense, cause fraud on or victimization of the public, or conflict with existing local laws.
3. A determination that the exemption is the minimum necessary, considering the flood hazard, to afford relief.
4. Compliance in all respects with the State Building Code, Section 744.0.
5. Approval of the Wellfleet Conservation Commission in accordance with MGL Chapter 13, S.40, the Wetlands Protection Act, and with the Town of Wellfleet's Environmental Protection Bylaw.

If an exemption is granted to construct a structure below the base flood elevation, the Board of Appeals shall notify the applicant in writing over their signatures that the issuance of such an exemption will result in

increased premium rates for flood insurance.

The Board of Appeals will maintain a record of all exemptions, including justification for their issuance and report such exemptions issued in the Annual Report submitted to the Federal Insurance Administration.

WELLFLEET ENVIRONMENTAL PROTECTION BY-LAW

AG 7/29/1986

Article 1. The purpose of this bylaw is to protect the natural resources and wetlands existing in the Town of Wellfleet by controlling activities deemed to have a significant or cumulative adverse effect upon environmental values, including by not limited to the following:

- public or private water supply
- groundwater supply and quality
- prevention of pollution
- flood control
- fisheries
- land containing shellfish
- storm damage prevention
- erosion control
- wildlife habitat

Article 2. The term "person" as used in this bylaw shall include any individual, group or individuals, association, partnership, corporation, company, business, organization, trust, estate, the Commonwealth or political subdivision thereof, including the Town of Wellfleet, administrative agency, public or quasi-public corporation of body, or any other legal entity or its representative, agent or assigns.

Article 3. No person shall remove, fill, dredge or alter any fresh water wetland, coastal wetland, bank, beach, dune, flat, marsh, wet meadow, bog, swamp or any estuary, creek, river, stream, pond, lake or any land within 100 feet of the foregoing areas or any land under the ocean, land subject to tidal action or coastal storm flowage; or land subject to flooding (Bordering or isolated) other than in the course of maintaining, repairing, or replacing (but not substantially changing or enlarging) an existing and lawfully located structure or facility used in the service of the public and used to provide electric, gas, water, telephone, telegraph and other telecommunication services, without filing written Notice of his intention to so remove, fill, dredge or alter with the Conservation Commission of the Town of Wellfleet and without receiving and complying with an Order of Conditions as issued by said Commission. Such Notice of Intent shall be sent by certified mail or be hand-delivered to the Commission at the Town Offices and shall include such plans as may be necessary to describe and clearly delineate all proposed activity, its relation to, and its effect on the above-named wetland resources. The same Notice, plans and specifications required to be filed by an applicant under Massachusetts General Laws, Chapter 131, Section 40, plus the parcel number and the assessor's, map number as kept in the Town Offices in Wellfleet may be accepted as fulfilling the requirements of the bylaws. The Commission, in its discretion, may hear any oral presentation under this bylaw at the same public hearing required to be held under the provisions of said Chapter 131, Section 40, of the Massachusetts General Laws. Upon the written request of any person, the Commission may make a Determination of Applicability of this bylaw to any work. Procedures in connection with such a Request for Determination shall be as provided in MGL C.131, S.40 and Regulations thereunder as applicable and in effect on the date of the filing of such Request. Definitions set forth in said chapter and section and the regulations in effect as of the date of this bylaw as issued by the Department of Environmental Quality Engineering thereunder, are hereby made a part of this bylaw.

The Commission and its agent may enter upon the land upon which the proposed work is to be done in

response to a request for a prior determination of applicability of this bylaw or for the purpose of carrying out its duties under this bylaw, and may make or cause to be made such examination or survey as deemed necessary.

If any work subject to an Order of Conditions issued under this bylaw is not substantially completed within three (3) years from the date of issuance of said Order of Conditions, a new Notice of Intent must be filed, public hearing(s) held and the work re-conditioned or denied by the Commission as seems appropriate under the circumstance at the time. The Commission, after a request in writing and a public hearing, may allow an original Order of Conditions to be extended for a period not to exceed two (2) years.

Article 4. Any person aggrieved by the Commission's Order, determination of failure to act may appeal to Superior Court, Barnstable County, pursuant to the provisions of MGL C.249, S4. Filing of a Notice of Intent or a Request for Determination may be accomplished in the same manner as provided in MGL C. 131, S.40 and regulations thereunder, as may be applicable and in effect on the date of such filing, and shall conform in all respects with any submission guidelines adopted by the Commission as part of its Regulations.

Article 5. The Conservation Commission is empowered to deny permission for any removal, dredging, filling, or altering within the areas subject to protection under this bylaw, regardless of any mitigation proposed, including creation of new wetlands, if in its judgement, such denial is necessary to preserve environmental quality of resources and area defined in Article 3 of this bylaw. The Commission may, as alternative to a denial, impose such conditions as it deems necessary to contribute to the protection and preservation of resources described in Article 3 and the values as listed in Article 1, in accordance with the purpose of this bylaw.

Article 6. The Notice required by Article 3 of the bylaw shall not apply to emergency projects necessary for the protection of the health or safety of the citizens of the Town of Wellfleet and to be performed or ordered to be performed by an administrative agency of the Commonwealth or by the Town of Wellfleet. Emergency projects shall mean any projects certified to be an emergency by the Commissioner of the Department of Environmental Quality Engineering or by the Conservation Commission, or other authorized local officials. In no case shall any removal, filling, dredging, or alteration authorized by such emergency certification extend beyond the time necessary to abate the emergency. The Commission is empowered to hold a post-emergency hearing in order to set conditions for any further remedial measures necessary.

Article 7. The Conservation Commission may require the posting of a bond with surety, running to the municipality, and sufficient as to form and surety in the opinion of the Commission's Counsel, to secured faithful and satisfactory performance of the work required by any final Order of Conditions, in such sum and upon such conditions as the Commission may require. Other evidence of financial responsibility which is satisfactory to the Commission may be accepted in lieu of bonding. Notwithstanding the above, the amount of such bond shall not exceed 150% of the estimated cost of the work required or the restoration of affected lands and properties if the work is not performed as required, whichever is greater.

Article 8. Any person who violates any provision of the bylaw, or of any condition issued pursuant to it, shall be punished by a fine of not more than \$200. Each day or portion thereof during which a violation continues shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense. This bylaw may be enforced pursuant to Massachusetts General Laws, Chapter 40, Section 21 (d) by the Conservation Commission through its agent. Upon request of the Conservation Commission, the Board of Selectmen and Town Counsel shall take such legal action as may be necessary to enforce this bylaw and orders issued pursuant to it.

Article 9. The Conservation Commission is empowered thereunder to promulgate and to amend, from time to time, after public notice and hearing, such Regulations as are deemed necessary by it to implement the purpose of this bylaw, whether or not identical to the requirements of MGL C. 131, S. 40. Such Regulations shall not be deemed to be invalid because they are not identical with MGL C.131, S.40, and regulations thereunder, as long as no direct conflict with MGL C. 131, S.40 is thereby created.

Article 10. The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any Order of determination which previously has been issued.

The fees charged by the Town Clerk under Ch. 262, Section 34 of the General Laws are as follows:

ATM 2005

Chapter 262 Section 34

Subsection

- (11) For entering amendment, of a record of the birth of an illegitimate child subsequently legitimized - \$20.00
- (12) For correcting error in the record of birth - \$20.00
- (13) For furnishing certificate of birth - \$10.00
- (13a) For furnishing an abstract copy or record of birth - \$10.00
- (14) For entering delayed record of birth - \$20.00
- (20) For filing certificate of a person conducting business under any title other than his real name - \$20.00
- (21) For filing by a person conducting business under any other title other than his real name or statement of change of his residence, or of his discontinuation, retirement or withdrawal from, or of a change of location of such business - \$15.00
- (22) For furnishing certified copy of certificate of person conducting business under any other title other than his real name or a statement by such person of his discontinuance, retirement or withdrawal from such business - \$5.00
- (24) For recording the name and address, the date and number of the certificate issued to a person registered for the practice of podiatry in the Commonwealth - \$20.00
- (29) For correcting errors in a record of death. - \$10.00
- (30) For furnishing a certificate of death - \$10.00
- (30a) For furnishing an abstract copy of a record of death- \$10.00
- (42) For entering notice of intention of marriage and issuing certificate thereon - \$25.00
- (43) For entering certificate of marriage filed by persons married out of the Commonwealth - \$10.00
- (44) For issuing certificate of marriage - \$10.00
- (44a) For furnishing an abstract copy of a record of marriage - \$10.00
- (45) For correcting errors in a record of marriage - \$20.00
- (54) For recording power of attorney - \$20.00
- (57) For recording certificate of registration granted to a person to engage in the practice of optometry, or issuing a certified copy thereof - \$20.00
- (58) For recording the name and the owner of a certificate of registration as a physician or osteopath in the Commonwealth - \$20.00
- (62) For recording an order granting locations of poles, piers, abutments or conduits, alterations or transfers thereof, and increase in the number of wires and cables or attachments under the provisions of Section 22 of Chapter 166, additional fee for each street or way included in the order - Flat rate - \$25.00 Additional Fee - \$5.00
- (66) For examining records or papers relating to birth, marriage or death upon the application of any person, the actual expense thereof, but not less than - \$10.00
- (67) For copying any manuscript or record pertaining to a birth, marriage, or death - \$5.00
- (75) For filing a copy of written instrument or declaration of trust by the trustees of an association or trust, or any amendment thereof as provided by Section 2, Chapter 182. - \$20.00
- (78) For recording deed of lot or plot in a public burial place or cemetery - \$10.00
- (79) Recording any other documents - Per 1st page - \$10.00 Each additional page - 2.00

**SPECIAL ASSESSMENT FOR SUBSTANTIAL REHABILITATION
OF OWNER-OCCUPIED RESIDENTIAL PROPERTY LISTED ON THE
STATE REGISTER OF HISTORIC PLACES**

Section 1. Creation of Special Property Tax Assessment

The purpose of this bylaw is to adopt a policy with respect to phased property tax assessments for substantial rehabilitation of owner-occupied residential property listed on the State Register of Historic Places as authorized by M.G.L. c. 59, Section 5J.

A special property tax assessment is created for substantial rehabilitation of owner-occupied residential property listed on the State Register of Historic Places (State Register). The increase in assessed value resulting from substantial rehabilitation of eligible properties shall be phased in one-fifth increments over a period of five (5) years to the full assessed value of the property. The special assessment shall extend only to the building(s) or structure(s) that are rehabilitated.

Section 2. Eligible Properties

In order to be eligible for the special assessment, property must meet the following criteria:

- (a) The property to be rehabilitated must be occupied by the owner exclusively for residential purposes and be listed on the State Register which is maintained by the Massachusetts Historical Commission (MHC) pursuant to M.G.L. c. 9, Section 26C, either individually or as a contributing element within an historic district.
- (b) The cost of rehabilitation, as that term is defined in 950 C.M.R. 72.04, must be no less than 25% of the assessed value of the property prior to rehabilitation. Not less than 10% of the cost of rehabilitation shall be dedicated to rehabilitation of the exterior of the historic building.
- (c) The property owner must obtain a certificate from the MHC stating that the proposed rehabilitation meets the Secretary of the Interior's Standards.

Section 3. Application Process

- (1) A property owner must submit an application, on a form provided by the Board of Assessors, which shall include the following information:
 - (a) certification from the MHC that the rehabilitation as proposed meets the Secretary of the Interior's Standards;
 - (b) proof of the applicant's ownership and occupancy of the subject property;
 - (c) the total cost of rehabilitation; and
 - (d) the property's assessed value prior to rehabilitation.
- (2) Within 60 days of receipt of a completed application, the Board of Assessors shall determine whether the proposed rehabilitation meets the eligibility criteria set forth in Section 2, and will notify the owner of its decision in writing. The Board of Assessors will grant final approval of the special assessment upon receipt of the certification described in subsection (3) of Section
- (3) After completion of the rehabilitation, the property owner shall provide to the Board of Assessor's a certification that the completed work conforms with the proposed rehabilitation and meets the Secretary of the Interior's Standards. The owner shall obtain such certification from the MHC, or from the appropriate local preservation commission if the property is in an

historic district, or is a designated landmark, or is otherwise subject to a preservation restriction or bylaw.

Section 4. Effective Date of Special Assessment

The special assessment will take effect on the first day of the next fiscal year after the assessment is approved by the Board of Assessors.

Section 5. Time Limits

- (1) An owner shall apply for the special assessment no later than two (2) years after completion of the rehabilitation certified by the MHC.
- (2) In order to be included in the total cost of rehabilitation as defined in 950 C.M.R. 72.04, all expenditures contributing to the cost of rehabilitation work must be incurred within a three (3) year period.

Section 6. General

- (1) An owner who applies for the special assessment shall agree in writing to maintain the subject property in accordance with the Secretary of the Interior's Standards for the duration of the special assessment. Failure to maintain the property in accordance with the Secretary of the Interior's Standards for the agreed period of time shall result in revocation of the special assessment. In the event that the local preservation commission informs the Board of Assessors that the owner has failed to maintain the subject property in accordance with the Secretary of the Interior's Standards, the Board of Assessors shall notify the owner in writing and the owner shall have 30 days in which to demonstrate that the property has been maintained in accordance with the Secretary of the Interior's Standards or, if not, to remedy such failure.
- (2) An owner who receives the special assessment shall annually, for the duration of the special assessment, provide the Board of Assessors with written certification that he or she still owns and occupies the property which is the subject of the special assessment, and that the subject property is still listed on the State Register.
- (3) The date of any of the following occurrences shall be considered the date of the end of the special assessment:
 - (a) written notice from the owner to the Board of Assessors requesting removal of the special assessment;
 - (b) sale or transfer of ownership during the five (5) year period, except in the course of probate proceedings; or
 - (c) removal of the property from the State Register.