

GENERAL BY-LAWS
OF THE
TOWN OF BILLERICA

THESE BY-LAWS WERE REWRITTEN AND RECODIFIED BY COMMITTEE
APPOINTED UNDER SECTION 7-9-B OF THE 1979 CHARTER AS REVISED IN
1997.

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Re-codified and amended under Article 26 of the Annual Fall Town Meeting of October, 2007 and through
October, 2008.

GENERAL BY-LAWS

Table of Contents

ARTICLE 1. Town Meeting/Election - General Information..... 1-1
Definitions..... 1-1
Town Meetings 1-1
 1.1 Schedule 1-1
 1.2 Quorum 1-1
2. Rules 1-1
3. Elections 1-3
4. Warrant Articles 1-3
 4.1 Schedule 1-3
 4.2 Posting of 1-3
 4.3 Notification 1-3
 4.4 Money Articles 1-3
 4.5 Town Meeting Report..... 1-3
 4.6 Town Meeting Representatives Handbook..... 1-4
5. Collective Bargaining Agreements 1-4
 5.1 Availability 1-4
6. Proposed Budget 1-5
 6.1 Submission to Finance Committee 1-5
ARTICLE II – Certain Powers and Duties of Town Officers 2-1
Definitions..... 2-1
Disclaimer..... 2-1
1. Town Accountant 2-1
2. Council on Aging 2-1
3. Board of Appeals 2-2
4. Assessors..... 2-2
5. By-Law Review Committee (General) 2-2
6. Cemetery Commission 2-2
7. Town Clerk..... 2-2
8. Collector of Taxes..... 2-2
9. Conservation Commission..... 2-3
10. Constables..... 2-3
11. Town Counsel..... 2-3
12. Finance Committee..... 2-3
13. Commission on Disability 2-4
14. Board of Health..... 2-4
15. Historical Commission..... 2-4
16. Historic District Commission..... 2-4

17. Housing Authority.....	2-4
18. Housing Partnership Committee.....	2-5
19. Library Board of Trustees.....	2-5
20. Town Manager.....	2-5
21. Town Manager Screening Committee	2-6
22. Town Moderator.....	2-7
23. Billerica Museum Committee.....	2-7
24. Personnel Board.....	2-7
25. Town Planner.....	2-7
26. Planning Board.....	2-7
27. Department of Public Works (D.P.W.).....	2-8
28. Recreation Commission.....	2-8
29. Town Meeting Representatives.....	2-8
30. Committee on Rules.....	2-9
31. Scholarship Foundation Committee.....	2-9
32. Board of Selectmen.....	2-9
33. Sewer Extension Committee.....	2-10
34. School Committee.....	2-10
35. Shawsheen Valley Regional Vocational Tech. School Dist. Committee.....	2-10
36. Street Acceptance and Discontinuance Committee.....	2-10
37. Town Treasurer.....	2-11
38. Warrant Action Committee.....	2-11
39. Zoning By-Law Review Committee.....	2-11
40. Communication Committee	2-11
41. Indemnification of Town Officials.....	2-12
42. Long Range Master Plan Oversight Committee	2.12
ARTICLE III - Financial Regulation	3-1
1. Taxes	3-1
2. Audit.....	3-1
3. Fees	3-1
4. Bid By-Law	3-1
5. Disposal of Tangible Property	3-1
6. Disposal of Tax Title Property.....	3-2
7. Fees of the Town Clerk.....	3-2
ARTICLE IV - Public Ways	4-1

Definitions.....	4-1
1. Snow Removal	4-1
2. Access Ramps	4-1
3. Adequate Access	4-2
4. Numbering of Buildings.....	4-2
5. Layout, Discontinuing & Accepting Public Ways.....	4-2
6. Truck Traffic	4-3
7. Repair/Improvement of Unaccepted Ways	4-4
8. Placement of Structures on Public Ways	4-4
ARTICLE V - Demolition Review By-Law	5-1
Definitions.....	5-1
1. Intent and Purpose.....	5-1
2. Procedure	5-2
2.1 Receipt of Application	5-2
2.2 Acceptance of Application	5-2
2.3 Determination of Preferable-Preserved.....	5-2
3. Enforcement and Remedies	5-3
3.1 Enforcement	5-3
3.2 Remedies	5-3
ARTICLE VI - Police Regulations	6-1
1. Unlawful Entry	6-1
2. Defacing of Property	6-1
3. Illegal Dumping	6-1
4. Coasting or Sledding	6-1
5. Payment of Penalties	6-1
6. Duties	6-1
7. Discharge of a Weapon or Explosive	6-2
8. Alcoholic Beverages	6-2
9. Sale of Low Alcoholic Beer/Low Alcoholic Wine	6-3
10. Water Craft.....	6-3
11. Solicitation or Canvassing.....	6-3
12. Recreational Vehicles.....	6-5
13. Regulation of Motorized Scooter & Minibikes.....	6-5
ARTICLE VII – Animals	7-1
Definitions.....	7-1
1. Pasturing	7-1

2. Regulation of Dogs	7-1
3. Dangerous Dogs	7-6
ARTICLE VIII - Public Utilities.....	8-1
1. Water	8-1
1.1 Rules & Regulations	8-1
1.2 Assessments	8-1
1.3 Fees.....	8-1
1.4 Fines.....	8-1
8-1	
2. Sewers	8-1
2.1 Time For Connecting... ..	8-1
2.2 Tie-In Prior to Sale	8-1
2.3 Illegal Connections.....	8-1
3. Sewer Assessments.....	8-2
4. All Betterment Assessments	8-3
5. Fire Hydrants	8-3
6. Water Conservation.....	8-3
6.1 Authority	8-4
6.2 Declaration of State of Water Supply Conservation.....	8-4
6.3 Restricted Water Use	8-4
6.4 Stages and Penalties of Water Supply Restrictions	8-4
6.5 Public Notification of State of Water Supply Conservation.....	8-5
6.6 Termination of Change of State of Water Supply Conservation	8-5
6.7 Compliance with DEP Orders	8-5
6.8 Penalties during Water Conservation Conditions	8-5
6.9 Special Restrictions	8-6
6-10 Exemptions.....	8-6
ARTICLE IX - Building Department.....	9-1
Definitions.....	9-1
1. Filing for Building Permits	9-1
2. Fees for Filing	9-1
3. Amending of Schedule of Fees	9-1
4. Plumbing Inspector	9-1
5. Gas Fitting	9-1
6. Earth Material Removal	9-1
7. Abandoned Wells.....	9-2
8. Excavations	9-2
9. Construction Site Activities	9-2
10. Fencing, Screening, and Landscaping.....	9-2
11. Discharge of Water on to Public Ways.....	9-3
12. Inspector of Wires.....	9-3
13. Enforcement	9-3
ARTICLE X - Adult Entertainment	10-1
1. General Rules	10-1
2. Disclosure Statement	10-1
ARTICLE XI - Consultants to Planning Board, Board of Health & Conservation Comm.....	11-1
ARTICLE XII - Personnel By-Law	12-1
ARTICLE XIII - Mandatory Paper Recycling	13-1
ARTICLE XIV – Enforcement of Board of Health Rules, Regulations and By-Laws.....	14-1
ARTICLE XV - Procedures	15-1
1. Registered or Certified Mail	15-1

2. Public Hearings	15-1
3. Violations and Fines	15-1
4. Advertising	15-1
5. Mailed Notices	15-1
ARTICLE XVI - Commons, Parks, Playgrounds and Cemeteries.....	16-1
Definitions	16-1
1. Curfew	16-1
2. Authorized Activity Beyond Curfew.....	16-2
3. Parent’s Responsibility	16-2
4. Procedure for Juveniles.....	16-2
5. Right to Arrest	16-2
6. Penalty for Violation of Section 1	16-2
7. Rules and Regulations Regarding the Use of Parks.....	16-3
A. Buildings and Other Property	16-3
B. Trees, Shrubbery, Lawns	16-3
C. Traffic	16-3
D. Bathing and Swimming	16-4
E. Recreation	16-4
F. Behavior	16-4
9. Posting	16-4
10. Right to Arrest	16-4
11. Penalty	16-5
1. Public Cemeteries.....	16-5
2. Non-Criminal Fines Relating to Cemeteries	16-5
ARTICLE XVII - Gas Stations	17-1
ARTICLE XVIII - Issuing of Licenses and Permits	18-1
ARTICLE XIX - Handicapped Parking	19-1
ARTICLE XX - Construction Employment	20-1
1. Purpose	20-1
2. Policy	20-1
3. Compliance.....	20-1
4. Committee Make-up	20-2
5. Compliance Waiver	20-2
6. Administration Enforcement	20-2
ARTICLE XXI – Discharges to Municipal Storm Sewer System.....	21-1
Definitions.....	21-1
1. Applicability.....	21-3
2. Responsibility for Administration.....	21-3
3. Regulations.....	21-3
4. Prohibited Activities.....	21-3
5. Exemptions.....	21-3
6. Emergency Suspension of Storm Sewer System Access.....	21-4
7. Notification of Spills.....	21-4
8. 8 Enforcement.....	21-4
9. Transitional Provisions.....	21-5
ARTICLE XXII - Wetlands Protection By-Law	22-1
1. Purpose and Authority.....	22-1
2. Jurisdiction.....	22-1
3. Exemption and Exceptions.....	22-2
4. Definitions.....	22-3
5. By-Law Resource Areas and Presumptions.....	22-4
6. Request for Determination of Applicability.....	22-5
7. Administrative Hearing Process.....	22-6
8. Post Decision Process.....	22-8

9. Appeal From Decision of Conservation Commission.....	22-9
10. Regulations Promulgation By Conservation Commission.....	22-9
11. Security.....	22-9
ARTICLE XXIII – Noise By-Law	23-1
1. Declaration of Policy.....	23-1
2. Definitions.....	23-1
3. Designated Noise Zones.....	23-2
4. Exterior Noise Standards.....	23-2
5. Construction Noise Standards.....	23-3
6. Maintenance Noise Standards.....	23-3
7. Commercial Trash Collection and Deliveries or Pick-up.....	23-3
8. Electronic Devices and Musical Instruments.....	23-3
9. Entertainment/Nightclub Noise.....	23-3
10. Motor Vehicles or Motorcycles.....	23-3
11. Special Provisions.....	23-3
12. Prima Facie Violations.....	23-4
13. Penalties for Violations.....	23-4
ARTICLE XXIV-Rubbish Control By-Law	24-1
Definitions.....	24-1
1. Pedestrians and Motorists.....	24-1
2. Loading and Unloading Operations.....	24-1
3. Household Solid Waste Containerization and Removal.....	24-1
4. Commercial Solid Waste Containerization and Removal.....	24-2
5. Maintenance of Areas Free From Rubbish.....	24-2
6. Enforcement Authorization and Fines.....	24-2
ARTICLE XXV – Stormwater Management By-Law.....	25-1
Definitions.....	25-1
1. Scope and applicability.....	25-2
2. Administration.....	25-3
3. Permit Procedures.....	25-4
4. Performance Standards.....	25-4
5. Waivers.....	25-4
6. Enforcement.....	25-4

25-4

SEVERABILITY

STATE STATUTES ACCEPTED.....	S-1
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BILLERICA GENERAL BY-LAWS

ARTICLE I

DEFINITIONS:

Quorum: Equals 121 Town Meeting Representatives

Town Meeting Representatives: Refer to Section 2-5 of the Town Charter under Representative Town Meeting Members

Moderator: The Presiding Officer at Town Meeting

Regular Member: A voting Member

Session: A portion of Town Meeting

Special Town Meeting: A Town Meeting called by the Board of Selectmen other than the Spring or Fall Town Meetings

1 TOWN MEETINGS

1.1 **SCHEDULE:** The Representative Town Meeting shall meet in the Spring and Fall of each calendar year.

- A. The Annual Spring Town Meeting shall begin on the first Tuesday in May.
- B. The Annual Fall Town Meeting shall begin on the first Tuesday in October.
- C. Town Meetings are to commence at 7:30 PM and shall continue by adjourned sessions on consecutive Tuesday and Thursday evenings until all of the business in the warrant has been acted upon.
- D. Town Meeting may waive consecutive session provisions as to any particular Tuesday or Thursday by a two-thirds vote.

1.2 **QUORUM:** The presence of at least one hundred and twenty-one (121) Town Meeting Representatives shall be necessary to constitute a quorum at Town Meeting.

- A. Within twenty minutes (20) from the time at which the Town Meeting is scheduled to begin; either as stated in the warrant as issued by the Board of Selectmen or in the case of an adjourned session as stated by vote, a quorum count shall be called.
- B. If fewer than a quorum of Town Meeting Representatives are present, the session shall forthwith stand adjourned.

1.3 **Notice of Town Meetings** -The Town Clerk shall notify the Town Meeting Members of the time and place at which Town Meetings are to be held, the notice to be sent by mail at least seven days before the meeting is to convene. The notice shall also state that copies of the official warrant are available at the office of the Town Clerk and posted on the Town's website. Any defect in the posting of the Official Warrant on the Town's website shall not invalidate the notice requirements of the By-Law.

1.4 At the first session of the Annual Spring Town Meeting, the Representatives in each of the respective precincts shall elect one of their number to act as Chairman and one of their number to act as Clerk of that precinct, both for a term of one (1) year.

2 RULES

2.1 When a question is under debate, only the following motions shall be accepted:

- (A) Lay on the table
- (B) Move the question
- (C) To refer to committee
- (D) To postpone to a time certain
- (E) To adjourn to a time certain
- (F) To amend
- (G) To postpone indefinitely

The above motions shall have precedence in the order in which they are named.

2.2 No speaker may make a motion to "MOVE" the question immediately after speaking on the same question.

- 2.3 When an amendment to the question is under debate, no motion shall be accepted to move the main motion. However, a motion to move the question on the amendment shall be accepted.
- 2.4 After a voice vote, if the decision of the Moderator is doubted or a division of the house is called for by seven (7) or more Town Meeting Representatives, the Moderator shall require all persons in the house to be seated.
- A. The question shall then be distinctly stated and those voting in the affirmative and negative, respectively, shall be requested to rise and stand in their places until they are counted by the Moderator or Tellers.
 - B. No person shall be counted who does not comply with the request to occupy a seat.
- 2.5 The Moderator may require any motion which is of a complicated nature, or of unusual length, to be put in writing. All amendments to motions shall be in writing.
- 2.6 The Town Meeting members shall receive any substantial wording changes to a warrant article by the beginning of the session preceding the session at which said article is to be voted upon.
- A. The Moderator will decide whether or not an article substantially differs from its printing in the warrant.
 - B. If the proponent fails to submit said changes within the aforementioned time limit, the only action which shall be considered is postponement to a time certain or dismissal.
 - C. Town Meeting may by 2/3 vote waive Section 2.6 B if the amended article is available at least one (1) hour prior to the session at which the original article is to be heard.
 - D. If an article proposes to amend an existing Town By-Law, the Warrant shall include both the original and the amended By-Law.
 - E. If an article references Federal or State law, a summary of said law shall be included in the Warrant by the Selectmen.
 - F. A complete copy of the referenced Federal or State law shall be made available to Town Meeting.
 - G. No part of Section 2.6 is meant to prevent amendments from the floor of Town Meeting.
- 2.7 No person shall be permitted to speak without first obtaining leave of the Moderator.
- A. Any Representative wishing to speak on an article shall stand or raise their hands to be recognized by the Moderator who shall acknowledge them and place their names on a list. Once recognized, each Representative shall be seated and wait to be called upon to speak, in turn, by the Moderator.
 - B. When called upon, the Representative shall approach the microphone giving name and precinct number. If the person wishing to speak is not a Town Meeting Representative, the person shall give name and address.
 - C. They shall then address Town Meeting confining themselves to the question under debate, avoiding personalities.
- 2.8 The Moderator shall permit only Town Meeting Representatives to enter upon the floor of any Town Meeting. The Moderator may designate areas to be occupied by guests and/or Town Officers.
- 2.9 The Moderator shall appoint Tellers for every Town Meeting.
- 2.10 The Moderator shall not recognize anyone rising to speak who has already spoken on the question under debate if there are others who wish to speak that have not spoken, except for the purpose of an explanation or the correction of a mistake.
- 2.11 Motions for reconsideration must have a two thirds vote to pass. Any proponent requesting reconsideration shall be required to state their reason(s) for reconsideration.
- A. A motion to reconsider shall have the same rank as the motion to be reconsidered. If a motion is debatable, a motion to reconsider that motion is also debatable. If the motion is not debatable, reconsideration is not debatable.
 - B. No motion for reconsideration shall be accepted after one (1) hour of Town

Meeting time has elapsed after the vote.

- C. If reconsideration on a motion passes, the motion shall be considered a new motion and any vote taken on that motion shall be considered a new vote and therefore can be reconsidered.

- 2.12 All committees created by Town Meeting shall be appointed by the Moderator unless otherwise directed by vote of Town Meeting
- 2.13 Any portion of the minutes of Town Meeting shall, if requested, be read by the Town Clerk before adjournment. If the requested portion is of unusual length, it may be delivered in writing in a timely manner.
- 2.14 The duties of the Moderator, not prescribed by Statutes or by the Town By-Laws, shall be governed by the current edition of Town Meeting Time.

3. ELECTIONS

The Annual Town Election for the election of Town Officers, Town Meeting Representatives and for the determination of all other matters being referred to the voters shall be held on the first Saturday in April. If the first Saturday in April falls on the first day of Passover or the day before Easter, the annual Town Election shall automatically be moved to the second Saturday in April.

4. WARRANT ARTICLES

- 4.1 **SCHEDULE:** Articles for the Town Meeting Warrant must be received by the Board of Selectmen, prior to 4:00 p.m. at least fifty (50) days prior to the beginning of Town Meeting. The Chairman of the Board of Selectmen shall deliver a copy of these Articles to the Town Clerk at least forty (40) days prior to the beginning of Town Meeting.
- 4.2 **POSTING OF:** The Warrant for all Town Meetings shall be directed to any of the Constables of the Town.
 - A. Publication – Within ten (10) days following the date the warrant for any Town Meeting shall close, the Board of Selectmen shall compile, sign, and cause preliminary copies of the warrant (in a format which may be determined by By-Law for such meeting) to be posted in each precinct of the town and copies of the preliminary warrant to be sent by mail to the Town Moderator, Chairman of the Finance Committee, Town Counsel, and to such other persons as may be designated by By-Law. Additional copies of the preliminary warrant shall be made available at the office of the Town Clerk for any person who may request the same.
 - B. Attested copies of the official Warrant shall be posted in a public place in each precinct, the Town’s website and any other public place as may be directed by the Selectmen.
 - C. The posting of the Official Warrant shall be at least seven (7) days prior to the date of the Spring and Fall Town Meeting and at least fourteen (14) days before a Special Town Meeting.
 - D. Any defect in the posting of the Official Warrant on the Town’s website shall not invalidate the notice requirements of this By-Law.
- 4.3 **NOTIFICATION:** The Town Clerk shall notify, via U.S. mail, the Chairman of the Finance Committee who will in turn notify each member of the Finance Committee that the Clerk’s Office is in receipt of the Town Warrant from the Board of Selectmen.
- 4.4 **MONEY ARTICLES:** All Town Meeting Articles which propose to raise and appropriate, transfer from available funds and/or borrow a sum of money, shall specifically stipulate the

maximum dollar amount to be raised and appropriated, transferred from available funds and/or borrowed.

- A. No motion shall be received that will increase the aforementioned amounts.
- B. The aforementioned restrictions shall not apply to the annual omnibus line item budget articles, funding for collective bargaining agreements, and any article for which purpose is to reduce the tax rate via a transfer from free cash.

4.5 TOWN MEETING REPORT: The Town Manager shall prepare a Town Meeting Report to be distributed to Town Meeting Representatives on the first night of the Annual Spring and Fall Town Meeting and/or any Special Town Meeting and shall post the Town Meeting Report on the Town's website. Said report shall contain but is not limited to the following:

- A). The glossary of Town Meeting terms.
- B). The Official Warrant and/or Special Warrant.
- C). Any and all maps pertaining to proposed rezoning and /or proposed land acquisition articles.
- D). A summary of any referenced Federal or State laws.
- E). Any charts, graphs, or other relevant information that will aid Town Meeting Representatives in making an informed decision.
- F). Any defect in the posting of the Town Meeting Report on the Town's website shall not invalidate the notice requirements of this By-Law.

4.6 TOWN MEETING REPRESENTATIVES HANDBOOK:

The Town shall maintain a Town Meeting Representatives Handbook. Said handbook shall be issued to each Town Meeting Representative. Said handbook shall contain but is not limited to the following:

- 1). The responsibilities of Town Meeting Representatives.
- 2). Article I Section 2 (Rules) of the General By-Laws.
- 3). A list of Boards, Committees, and Officials.
- 4). An explanatory of the conduct of Town Meeting.
- 5). Sample Warrant Articles.
- 6). A chart listing all motions noting the following:
 - a). If the motion requires a second.
 - b). If it is debatable.
 - c). If it is amendable.
 - d). If it can be reconsidered.
 - e). The percentage of vote required for passage.

The Town Meeting Representatives Handbook shall be maintained and updated on a yearly basis by the Committee on Rules.

5. COLLECTIVE BARGAINING AGREEMENTS

5.1 Availability: Copies of all contracts, in their entirety, entered into with employees of the Town pursuant to collective bargaining, including the current pay schedule, the proposed pay schedule to include step increases and longevity, shall be made available to the following persons at least seven (7) days before the Town Meeting is to vote on the question of appropriating funds to implement the said agreements.

- (1). Town Moderator
- (2). Town Accountant
- (3). Chairman, Finance Committee
- (4). Chairman, Personnel Board
- (5). All Town Meeting Representatives

- A. If a motion to appropriate any such funds is made without seven (7) days having elapsed, the question shall be postponed until the next session of the Town Meeting held after such period has elapsed.

- B. Accompanying all such contracts shall be a document highlighting the changes from the previous contract and the estimated total cost of each change over the life of the contract. All contracts and accompanying documents shall be placed on file in the following locations at least seven (7) days before such contracts are to come before the Town Meeting for any action:
 - (1). Town Manager's Office
 - (2). Town Clerk's Office
 - (3). Town Library

6. PROPOSED BUDGET: SUBMISSION TO FINANCE COMMITTEE

- 6.1 At least sixty (60) days before the Town Meeting is scheduled to meet in its Spring session, the Town Manager shall file with the Finance Committee and provide for publication of a proposed detailed and ratified by the Board of Selectmen operating budget for the ensuing fiscal year, as provided for in Section 5-3 of the Charter. The proposed budget shall also be posted on the Town's website. Any defect in the posting of the proposed budget on the Town's website shall not invalidate the notice requirements of this By-Law.
- 6.2 At least sixty five (65) days before Town Meeting is scheduled to meet in its Spring session, the School Superintendent shall file with the Town Manager and provide for publication of a proposed, detailed, and ratified operating budget for the ensuing fiscal year. Notwithstanding the said date for formal submission, the Town Manager may, insofar as it is practical to do so, submit preliminary information and data to the Finance Committee in advance of such date, in order to assist it in the performance of its duties. The proposed school budget shall also be posted on the Town's website. Any defect in the posting of the proposed school budget on the Town's website shall not invalidate the notice requirements of this By-Law.

ARTICLE II

CERTAIN POWERS AND DUTIES OF TOWN OFFICIALS

DEFINITIONS:

Associate Member: (Fin Com): An alternate member who only votes in the absence of a regular member.

Officers: Executive Branch Members as defined by Section 3-1a of the Town Charter

DISCLAIMER:

The following list of Town Officials includes the major Town Officials, Boards, Councils, Committees, and Commissions. The list is not intended to be all inclusive. The listed powers and duties of the following Town Officials include but are not limited to those listed and in any event comport with the requirements of Massachusetts General Law. The listed powers and duties are intended to be a broad definition of those powers and duties.

GENERAL:

- A. Expiration of Office – Unless another provision is made by law, the terms of multiple member bodies shall coincide with the fiscal year of the Town. Appointments to office shall be so made as to be effective on the first day of July, for so many years as may be otherwise provided.
- B. Meeting of Bodies During Town Meeting – No multiple member body of the Town shall schedule a meeting to be held during the time the Town Meeting is in session for the transaction of business. This provision shall not be construed as to prohibit emergency meetings of multiple member bodies held in the same building in which the Town Meeting is in session. This provision shall also not be construed as to prohibit meetings of multiple member bodies held in conjunction with Town Meeting ie: Selectmen, Finance Committee, Planning Board.

1. Town Accountant

- 1.1 It shall be the duty of the Town Accountant to submit bills to the Town Treasurer for payment and to audit the Town Treasurer to ensure proper accounting standards are followed.
- 1.2 The Town Accountant shall be appointed by the Board of Selectmen for a term of three (3) years.
- 1.3 Ex-officio: Town Accountant shall be an ex-officio member of the Finance Committee.

2. Council on Aging

- 2.1 It shall be the duty of the Council on Aging to coordinate or carry out programs designed to meet the needs and problems of the elderly in coordination with the Department of Elder Affairs and the Area Agency on the Elderly.
- 2.2 The Council on Aging shall consist of seven (7) voting members, four (4) or more aged 60 or over, appointed by the Board of Selectmen from the voters and residents of the Town for a term of three (3) years, each so arranged that as nearly an equal number of such terms of office as is possible shall expire each year. In addition, there will also be one (1) non-voting member from each of the following, appointed by each board: the Board of Health, the Housing Authority and the Veterans' Office.
- 2.3 The council shall submit an annual report to the Town and shall send a copy thereof to the Department of Elder Affairs as established under M.G.L, Chapter 40, Section 8B.

3. Board of Appeals

- 3.1 It shall be the duty of the Board of Appeals to grant certain special permits and variances to the Zoning Bylaws under M.G.L, Chapter 40A and the Town's Zoning Bylaws and to hear appeals of decisions of the Building Inspector.
- 3.2 The Board of Appeals shall consist of five regular and two associate members, appointed by the Board of Selectmen for terms of three (3) years each so arranged that as nearly an equal number of such terms as is possible shall expire each year.

4. Assessors

- 4.1 It shall be the duty of the Assessors to oversee the valuation of the property in the Town for taxation purposes.
- 4.2 The Principal Assessor and two (2) Associate Assessors shall be appointed by the Town Manager for terms of three (3) years each so arranged that one (1) such term shall expire each year.

5. Bylaw Review Committee (General)

- 5.1 It shall be the duty of the General Bylaw Review Committee to review the then existing General Bylaws of the Town every five (5) years, in years ending in five (5) or zero (0), and determine if any amendments or revisions may be necessary or desirable.
- 5.2 The General Bylaw Review Committee shall consist of nine (9) members. Eight (8) shall be appointed by the Town Moderator. One (1) shall be a member of the Committee on Rules appointed by said Committee. Each will be appointed for a term of three (3) years. Each member shall be a registered voter of the Town.
- 5.3 Changes in the Town Bylaws shall be presented to the Town at the Annual Spring and/or Fall Town Meetings as required during the review process. The presentation shall include the original text, the proposed wording changes, and an explanation for the changes.

6. Cemetery Commission

- 6.1 It shall be the duty of the Cemetery Commission to over see the Town cemeteries, including sales of lots, perpetual care and expansion.
- 6.2 The Cemetery Commission shall consist of three (3) members appointed by the Town Manager for terms of three (3) years, so arranged that one such term shall expire each year.

7. Town Clerk

- 7.1 It shall be the duty of the Town Clerk to:
 - A. Be the custodian of the Town records.
 - B. Record the proceedings of all town meetings and elections.
 - C. Notify Town Meeting Members of Town Meeting.
- 7.2 The Town Clerk shall be elected for a term of three (3) years.
- 7.3 In the absence of the Town Moderator and the Deputy Moderator, the Town Clerk shall serve as temporary Moderator.

8. Collector of Taxes

- 8.1 It shall be the duty of the Collector of Taxes to:
 - A. Complete an account of the collection of all taxes, and present the same to the Board of Selectmen for settlement on or before January 15 each year and at other times as needed by the Board of Selectmen.
 - B. Pay over to the Town Treasurer all taxes collected, at least once a week until the collection is completed.
 - C. Have the due date printed on all tax bills.
- 8.2 The Collector of Taxes, appointed by the Town Manager, shall serve for a term of three (3) years and may be the same person appointed as Town Treasurer.

9. Conservation Commission

- 9.1 It shall be the duty of the Conservation Commission to develop, conserve and manage the Town's natural resources.
- 9.2 The Conservation Commission shall administer and enforce all applicable Federal, State and local laws, including but not limited to M.G.L. Chapter 131, Section 40, M.G.L. Chapter 40, Section 8C and Article 22 of the General By-Laws (Wetland Protection By-Law). The Commission shall have all of the authority and powers granted to it by these applicable laws.
- 9.3 The Conservation Commission shall consist of seven (7) members appointed by the Board of Selectmen for terms of three (3) years, each so arranged that as nearly an equal number of such terms of office as is possible shall expire each year.

10. Constables

- 10.1 It shall be the duty of the Constable to serve civil process only.
- 10.2 Such number of Constables as the Board of Selectmen deem to be necessary, shall be appointed by them for terms not to exceed three (3) years.
- 10.3 The Selectmen shall not make appointments to the office of "Constable of Billerica" to a resident of another city or town if that city or town will not appoint Billerica residents who hold office of Constable in their city or town.

11. Town Counsel

- 11.1 It shall be the duty of the Town Counsel to handle the Town's legal affairs.
- 11.2 The Town Counsel shall be appointed yearly and retained by the Board of Selectmen.

12. Finance Committee

- 12.1 It shall be the duty of the Finance Committee to:
 - A. Serve as fiscal advisory body to Town Meeting.
 - B. Consider the overall financial needs, programs and problems of the Town.
 - C. Approve/disapprove unforeseen Town and school expenditures between Town Meetings.
 - D. Work in conjunction with the Town Manager to formulate the Town Budget.
- 12.2 The Finance Committee shall consist of eleven (11) members and two (2) associate members, to be appointed by the Town Moderator for terms of three (3) years each so arranged that as nearly an equal number of such terms as is possible shall expire each year. Each member shall be a registered voter of the Town, and not Town Officers.
- 12.3 Vacancies: When a vacancy occurs, other than by the expiration of a term, the Moderator shall appoint a replacement member to fill the unexpired term.
- 12.4 Ex-Officio Member: The Town Accountant shall serve in an advisory capacity as a non-voting member of the Finance Committee.
- 12.5 Meetings:
 - A. Upon being notified by the Town Clerk that the Warrant has been received in that office, the Finance Committee Chairman shall call a meeting of the committee not less than 48 hours nor more than 72 hours after receipt of notification.
 - B. The committee shall meet at other times as necessary for the purpose of considering any other financial affairs of the Town.
- 12.6 The Chairman of the Committee may designate the senior associate member to sit on the Committee in case of absence of any member thereof or in the event of a vacancy on the Committee until said vacancy is filled by the Town Moderator.
- 12.7 The Committee shall carefully consider each warrant article and prepare a written report of their investigations.
 - A. The report shall state if they do or do not recommend the article for passage by Town Meeting and their reasons for so doing.
 - B. The Committee shall have access to all books and records of the Town that they deem necessary to fulfill their duties and obligations.

- C. If the report is not unanimous, a minority report may be filed.
- D. Public Hearings – All articles contained in the Warrant for a Town Meeting shall be referred to the Finance Committee for its consideration before any action shall be taken on any such matter by the Representative Town Meeting. Prior to each Town Meeting, the Finance Committee shall hold one or more Public Hearings to permit public discussion of the subject matter of each warrant article. Notice of such public hearings shall be by publication in a local newspaper at least seven days before the hearing is scheduled to take place. A copy of said notice shall be mailed to the petitioner for each article contained in the Town Meeting Warrant. It shall be the duty of the petitioner(s) for any warrant article that would require the expenditure of Town funds to provide to the Finance Committee at the said public hearing an estimate of the sum of money necessary to fund the warrant article and proposed funding source.

E.

13. Commission On Disability

- 13.1 It shall be the duty of the-Commission on Disability to oversee the administration of the Americans with Disabilities Act as well as other state and local laws and regulations relating to issues of the disabled.
- 13.2 The Commission on Disability shall consist of seven (7) members appointed by the Board of Selectmen for terms of three (3) years each so arranged that as nearly an equal number of such terms as is possible shall expire each year. Four (4) members must be disabled. One (1) member may be a member of a disabled person's immediate family, and one (1) member shall be an elected or appointed official of the Town.

14. Board of Health

- 14.1 It shall be the duty of the Board of Health to enforce the Federal, State, and Local health regulations and Title 5: 310 CMR 15.000 et.seq. of the State Environmental Code.
- 14.2 The Board of Health shall consist of five (5) members, appointed by the Town Manager for terms of three (3) years each so arranged that as nearly an equal number of such terms as is possible shall expire each year.

15. Historical Commission

- 15.1 It shall be the duty of the Historical Commission to plan for community-wide historic preservation, and to preserve categorized historically significant properties, structures and landmarks.
- 15.2 The Historical Commission shall consist of no less than three (3) or more than seven (7) members appointed by the Board of Selectmen for terms of three (3) years each so arranged that as nearly an equal number of such terms as is possible shall expire each year.

16. Historic District Commission

- 16.1 It shall be the duty of the Historic District Commission to review and approve building within the Town's Historic Districts.
- 16.2 Pursuant to M.G.L. Chapter 40C Section 4, the Historic District Commission shall consist of no less than three (3) or more than seven (7) members and not more than seven (7) alternate members appointed by the Board of Selectmen for terms of three (3) years each so arranged that as nearly an equal number of such terms as is possible shall expire each year.

17. Housing Authority

- 17.1 The Housing Authority shall have all the powers and duties given to the Housing Authority by Massachusetts General Laws.
- 17.2 The Housing Authority shall consist of five (5) members. Four (4) members will be elected by the voters of the Town. The fifth member, a resident and registered voter, shall be appointed by the Commonwealth through the Department of Housing and Community

Development. All members serve terms of five (5) years so arranged that one such term shall expire each year.

18. Housing Partnership Committee

- 18.1 It shall be the function of the Committee to study the need for affordable and other housing in the Town and to recommend procedures for the implementation of the Town's housing policy.
- 18.2 The Committee will act as the Town's initial contact with developers of proposed affordable housing residential housing developments which are site specific and for which the developer has indicated an intention to request relief from Town By-Laws or regulations in return for said provisions of affordable housing. In this context, the Committee shall serve as a preliminary negotiating agency on behalf of the town.
 - A. The Committee may also recommend and/or initiate action intended to create and/or for affordable and other residential housing units. In this context the committee will work to create and/or recommend specific actions which are consistent with the Town's affordable housing policy.
 - B. The Committee will also perform such other duties as are necessary to achieve its function or as may be prescribed under law.
- 18.3 The Committee may adopt such rules and regulations as are necessary to carry out its functions, duties and responsibilities. The Committee may adopt subject to the approval of the Board of Selectmen, such rules and regulations as are necessary to carry out its function, duties and responsibilities.
- 18.4 The Committee shall consist of eleven (11) members all to be Billerica residents. Five (5) at large residents of Billerica appointed by the Town Manager, two (2) members of the Board of selectmen, one (1) member of the Housing authority, one (1) member of the Finance Committee, one (1) member of the Planning Board and one (1) member of the School Committee or their designee. The appointments shall be for three (3) year terms each so arranged that as nearly an equal number of such terms of office as is possible shall expire each year.

19. Library Board of Trustees

- 19.1 It shall be the duty of the Library Board of Trustees to assist in the planning, development, and oversight of the Town's Public Library.
- 19.2 The Library Board of Trustees shall consist of nine (9) members appointed by the Town Manager for terms of three (3) years each so arranged that three (3) such terms of office shall expire each year.

20. Town Manager

- 20.1 It shall be the duty of the Town Manager to be the chief administrator of the Town and shall be appointed by the Selectmen. The Town Manager shall attend all Selectmen and Town Meetings and speak on articles when called upon.
- 20.2 The Town Manager shall prepare the Capital and Operating Budget based on a judgment of the needs of the Town after consultation with department heads and the Finance Committee.
- 20.3 The Town Manager shall negotiate collective bargaining agreements with town employees.

20.4 Town Manager Screening Committee

Procedure to fill a vacancy for the Town Manager – Whenever a vacancy occurs in the position of Town Manager or when a vacancy can be anticipated, the Board of Selectmen shall forthwith notify in writing the Town Clerk, the School Committee, the Planning Board, the Finance Committee, the Personnel Board, the Chairmen of the Precinct Delegations and the Committee on Rules. Forthwith following said notification, members of these agencies shall meet in separate sessions to choose persons to serve as members of a committee to screen applicants for the office of Town Manager. Members of the TMSC shall be appointed as follows:

Board of Selectmen	two (2) members
School Committee	two (2) members
Planning Board	two (2) members
Finance Committee	two (2) members
Committee on Rules	one (1) member
Personnel Board	one (1) member
Chairmen of the Precinct Delegations	three (3) members

Persons chosen by each of the said agencies may, but need not be members of the agency by which they are selected to serve. Not more than fourteen (14) days following the date of said notification to the Town Clerk, the thirteen (13) members of the Screening Committee, chosen as provided above, shall meet to organize and to plan for a process for the solicitation by appropriate means to attract suitable candidates for the position of Town Manager.

The Screening Committee shall review all applications for the position of Town Manager as may be received by it, screen all applications, and provide for interviews to be conducted with such number of candidates for the position as it may deem to be necessary or desirable.

Not more than one hundred and fifty (150) days following the date of said notification to the Town Clerk, the Screening Committee shall submit to the Board of Selectmen the names of not less than three (3) and not more than five (5) candidates whom it believes to be best suited to perform the duties of the office. Within thirty (30) days following the date the list of nominees is submitted to it, the Board of Selectmen shall choose one of the said nominees to serve as Town Manager. In the event the Board of Selectmen shall fail to act on such appointment within the said thirty (30) days, the first name on the list as submitted by the Screening Committee shall be deemed to have been appointed.

Thirty (30) days following the date the Town Manager is sworn in by the Town Clerk, the Screening Committee will be disbanded. The above provisions shall be applicable at any time a vacancy occurs or when by reason of retirement or a vacancy can be anticipated in the position of Town Manager.

- 20.5 Additional Qualifications: In addition to the general qualifications required for appointment to the office of Town Manager, as provided in Section 3 – 3 (a) of the

Charter, the qualifications required for the selection of a candidate for the position shall include the following:

- A. That he shall have served full-time as a City or Town Manager (under any title), Assistant City Manager or Assistant Town Manager (under any title) for a period of not less than five (5) years.
- B. That he shall be qualified to become a member of the International City Management Association, in good standing.
- C. That he possess at least an earned Bachelors Degree from a recognized, accredited college or university; and such other requirements as the Screening Committee, established under 3-3(a) of the Charter above may additionally require. Provided, however, that said Screening Committee may, by a four-fifths vote of the full membership, waive the requirements of education in whole or in part based on special and unique municipal management experience beyond the five year minimum otherwise required.

21. Town Moderator

- 21.1 It shall be the duty of the Town Moderator to:
 - A. Preside over the business and conduct of the Town Meeting.
 - B. Appoint the members of various Town committees.
 - C. Appoint a Deputy Moderator, subject to ratification by the Annual Spring Town Meeting. The Deputy Moderator assumes the chair in the absence of the or when the Moderator must disqualify him or herself because he/she wishes to speak from the floor or has a personal interest in the outcome of the particular article.
- 21.2 The Town Moderator shall be elected for a term of three (3) years.

22. Billerica Museum Committee

- 22.1 It shall be the duty of the Billerica Museum Committee to oversee the Town's Museum.
- 22.2 The Billerica Museum Committee shall consist of nine (9) members. One (1) member to be appointed by the Town Manager, one (1) appointed by the Town Moderator, one (1) member appointed by the School Committee, two (2) members appointed by the Board of Selectmen, one (1) member of the Board of Selectmen, one (1) member of the Historical Society, one (1) member of the Historical Commission and one (1) member of the Arts Council, appointed to terms of three (3) years each so arranged that as nearly an equal number of such terms shall expire each year. There shall also be nine (9) alternate members chosen by the same procedure. Each member shall be a registered voter and/or taxpayer of the Town.

23. Personnel Board

- 23.1 It shall be the duty of the Personnel Board to:
 - A. In cooperation with the Town Manager, the Board may initiate, develop and recommend personnel policies and procedures to improve the administration of the Town.
 - B. Certify all personnel actions prior to their effective date to ensure regulatory compliance.
 - C. The Board shall be entitled to, but not required to submit, a recommendation to the Town Meeting on any matter that involves the town personnel system.
 - D. Advise the Town Manager on all collective bargaining negotiations and at its discretion, have a designated member present as an observer during negotiations.
- 23.2 The Personnel Board shall consist of five (5) members to be appointed by the Town Moderator for terms of three (3) years each so arranged that as nearly an equal number of

such terms of office as is possible shall expire each year.

24. Town Planner

- 24.1 It shall be the duty of the Town Planner to work with the Planning Board to oversee planning and subdivision control.
- 24.2 The Town Planner appointed by the Town Manager to serve a term of three (3) years.

25. Planning Board

- 25.1 It shall be the duty of the Planning Board to oversee overall town development planning and subdivision control.
- 25.2 The Planning Board shall consist of seven (7) elected members for terms of three (3) years each so arranged that as nearly an equal number of such terms of office as is possible shall expire each year.
- 25.3 All articles involving zoning changes must be brought before the Planning Board prior to Town Meeting. The Board will provide its' recommendation on such articles to the Town Meeting.

26. Department of Public Works (D.P.W.)

- 26.1 It shall be the duty of the D.P.W. to oversee the development and maintenance of Town's water supply system, sewer system, and highway system.
- 26.2 The Director of the D.P.W. shall be appointed by the Town Manager for a term of three (3) years. The Director shall be responsible to the Town Manager for the supervision of all D.P.W. operations and activities in accordance with policy directives, guidelines and priorities as established by the Board of Selectmen.

27. Recreation Commission

- 27.1 It shall be the duty of the Recreation Commission to issue usage permits for all fields and recreational facilities in the ownership of the Town and those under control of the School Committee, with the permission of the School Committee, and may attach any conditions to such permits in the use of said fields that it may require.
- 27.2 The Recreation Commission shall consist of eleven (11) members appointed by the Town Manager for terms of three (3) years each so arranged that as nearly an equal number of such terms expire each year.
- 27.3 The Recreation Commission shall have all the powers and duties Recreation Commissions are given under Massachusetts General Laws and such additional powers and duties as may be authorized by the Charter, by bylaw or other Town Meeting vote.
- 27.4 The Recreation Commission shall elect from its members a chairman who shall preside at its meetings and act as the head of the Recreation Commission; a vice-chairman who shall assume the powers and duties of the chairman in the absence of the chairman; a secretary to keep in order the records of the Commission and Recreation Liaison Officer to aid in coordinating with the private organizations in the Town.
- 27.5 To aid the Recreation Commission in the performance of its duties, a Recreation Director shall be appointed by the Town Manager who shall carry out the directives and policies of the Commission with regard to the programs under its responsibility.
- 27.6 The Recreation Commission shall prepare, as part of the submittal to its annual budget and consistent with the requirements of Article 5 of the Charter, a five (5) year recreational plan, including the current year and at least four future years, that details the intent of the Commission to construct, reconstruct, maintain and remove from service all Town recreational facilities, except those under the jurisdiction of the School Committee.
- 27.7 The Recreation Commission shall be entitled to, but not required to, submit a recommendation to Town Meeting on any matter that involves town recreational facilities.

28. Town Meeting Representatives

- 28.1 It shall be the duty of the Town Meeting Representatives to be familiar with the issues regarding Warrant Articles in order to make informative comments and insights that lead to interesting debate culminating in a vote either for or against the Articles of the Town Warrant and Budget.
- 28.2 Any registered voter of the Town shall be eligible to be a candidate, to be elected, and to serve as a Town Meeting Representative. Approximately one third of the representatives are elected each year and shall serve a three (3) year term.
- 28.3 Nomination of candidates to serve as Town Meeting Representatives shall be made by nomination papers signed by not less than ten voters of the precinct in which he resides and from which he seeks election.
- 28.4 Town Meeting Representatives shall serve without salary.
- 28.5 A Town Meeting Representative may resign by filing a written resignation with the Town Clerk; such resignation shall take effect upon the date of such filing unless a date certain is specified therein when it shall take effect.
- 28.6 A Town Meeting Representative who no longer resides in the town shall forthwith cease to be a Town Meeting Representative.
- 28.7 A Town Meeting Representative who moves from one precinct in town to another may continue to serve as a Town meeting Representative from the precinct from which he was elected until the next annual town election.
- 28.8 If any person elected as a Town Meeting Representative shall fail to attend one-half or more of all of the sessions of the Town Meeting held in a calendar year his place may be declared vacant by a majority vote of the remaining representatives from his precinct. No such vote shall be valid unless a letter stating an intention to take this vote is mailed by the Town Clerk to the last known address of such person at least seven (7) days before the vote is taken.
- 28.9 Vacancies:
 - A. Any vacancy shall be filled until the next annual Town election, from among the candidates for the office of Town Meeting Representative in such precincts at the most recent Town elections who failed to be elected in descending order of votes received.
 - B. Such candidate must be eligible and willing to serve and provided further such candidate received at least ten votes for the office.
 - C. In the event there is no such candidate, the vacancy shall be filled by the remaining members of the precinct delegation from the voters of the precinct.

29. Committee on Rules

- 29.1 It shall be the duty of the Committee on Rules to provide a continuing oversight of the business of Town Meeting. The Committee shall consider and report on all Warrant Articles which would, if adopted, affect the Town Charter or the General Bylaws as provided in Section 7-9 (a) and (b) of the Charter.
- 29.2 The Committee on Rules shall include of one (1) member to be elected by and from the elected Town Meeting Members in each precinct. The terms of office of the members of the Committee on Rules shall be for three (3) years so arranged as nearly an equal number of such terms of office as is possible shall expire each year. The Town Moderator shall serve as a member ex-officio of the Committee on Rules.
- 29.3 A member of the Committee on Rules may resign in writing to the Chairman of said committee, and upon the vacancy of a member of the Committee on Rules the Chairman of said committee shall forthwith notify the Precinct Chairman of said precinct to hold an election within twenty-one (21) days to fill the remainder of the term of the vacated position

30. Scholarship Foundation Committee

- 30.1 It shall be the duty of the Scholarship Foundation Committee to:
 - A. Raise funds to provide scholarships for students who reside within the Town limits regardless of which schools they attend.
 - B. Select the recipients each year of the Town's sponsored scholarships based on a blinded application process.
- 30.2 The Scholarship Foundation Committee shall consist of eighteen (18) members appointed by the Board of Selectmen for terms of three (3) years so arranged that as nearly an equal number of such terms as is possible shall expire each year.

31. Board of Selectmen

- 31.1 It shall be the duty of the Board of Selectmen to be responsible for the leadership and coordination of Town affairs.
- 31.2 The Board of Selectmen shall consist of five (5) elected members for terms of three (3) years each so arranged that as nearly an equal number of such terms of office as is possible shall expire each year.
- 31.3 The Selectmen shall have full authority, as agents of the Town to:
 - A. Institute and prosecute suits in the name of the Town.
 - B. Appear and defend suits brought against it, unless it is otherwise specially ordered by vote of the Town.
- 31.4 The Selectmen shall by majority vote execute any deed or other instrument that shall be required to carry into effect any vote of the Town, in behalf of the Town, except in a special case as voted by the Town.
- 31.5 The Selectmen shall examine the books of the Treasurer at least every six (6) months. They shall:
 - A. Keep a record of these examinations
 - B. Make sure that all temporary loans are paid on time
 - C. See that the funds of the Town are at all times available
 - D. Ascertain the condition of the treasury
 - E. Report the results to the town in connection with their annual report

32. Sewer Extension Committee

- 32.1 The Sewer Extension Committee shall be responsible for the planning and development of all Sewer Extension Programs for the Town, subject to the approval of the Representative Town Meeting.
- 32.2 The Sewer Extension Committee shall consist of five (5) members, appointed by the Town Manager, for terms of three (3) years each so arranged that as nearly equal number of such terms as is possible shall expire each year, said committee to be the successors to the Sewer Commission. Each member shall be a registered voter and/or taxpayer of the Town.
- 32.3 The Sewer Extension Committee shall exist until such time as the sanitary sewer system for the Town has been substantially completed and less than twenty percent (20%) of the gross area of the town remains without sewer service.
- 32.4 After construction, the maintenance and operation of the sewage system shall be assigned to the DPW.

33. School Committee

- 33.1 It shall be the duty of the School Committee to make all rules and regulations, consistent with law, for the administration and management of the public school system.
- 33.2 The School Committee shall consist of five (5) members elected for terms of three (3) years, so arranged that as nearly an equal number of such terms as is possible shall expire each year.
- 33.3 The School Committee shall appoint the Superintendent and all other officers and employees connected with the schools.

- 33.4 The School Committee shall set compensation, define duties and make rules concerning all employee tenure and discharge.

**34. Shawsheen Valley Regional Vocational Technical School District Committee –
Billerica Representatives (2)**

- 34.1 It shall be the duty of the Shawsheen Valley Regional Vocational Technical School District Committee to make all rules and regulations, consistent with law, for the administration and management of the Shawsheen Valley Regional Vocational Technical School system.
- 34.2 The Billerica Representatives to the Shawsheen Valley Regional Vocational Technical School District Committee shall be elected to a term of three (3) years.

35. Street Acceptance and Discontinuance Committee

- 35.1 It shall be the duty of the Street Acceptance and Discontinuance Committee to review and recommend the acceptance and/or discontinuance of streets.
- 35.2 The Street Acceptance and Discontinuance Committee shall consist of five (5) members, four (4) for a term of one (1) year, appointed annually and the Town Planner. One (1) member of the Board of Selectmen, one (1) member of the Planning Board, one (1) member of the Finance Committee, each Board appointing their own member. The fourth (4) member from the Engineering Department shall be appointed by the Town Manager.

36. Town Treasurer

- 36.1 It shall be the duty of the Town Treasurer to manage the Town finances in the form of short and long-term investment and debt structure.
- 36.2 The Town Treasurer shall be appointed by the Town Manager to serve for a term of three (3) years.
- 36.3 All promissory notes of the Town shall be signed by the Treasurer and countersigned by a majority of the Selectmen. All warrants shall be signed by a majority of the Selectmen.
- 36.4 The Town Treasurer shall:
- A. Not pay any money without a written or printed warrant for the same.
 - B. Annually sign all promissory notes on or before the fourth of February
 - C. Render to the Selectmen in writing, a full account of all receipts and disbursements of the previous fiscal year.
- 36.5 State and County taxes and principal and interest of legally authorized Town notes shall not require the signatures of the Board of Selectmen.

37. Warrant Action Committee

- 37.1 It shall be the duty of the Warrant Action Committee to report to Town Meeting on the status of any and all outstanding Warrant Articles that were approved by Town Meeting.
- 37.2 The Warrant Action Committee shall consist of five (5) members appointed by the Town Moderator for terms of three (3) years each so arranged that as nearly an equal number of such terms of office as is possible shall expire each year.

38. Zoning Bylaw Review Committee

- 38.1 It shall be the duty of the Zoning Bylaw Review Committee to review the then existing Zoning Bylaws of the Town every five (5) years, in years ending in five (5) or zero (0), and determine if any amendments or revisions may be necessary or desirable.
- 38.2 The Zoning Bylaw Review Committee shall consist of nine (9) members, appointed by the Town Moderator for a term of three (3) years.
- 38.3 Changes in the Town Zoning Bylaws will be presented to the Town at the Annual Spring and/or Fall Town Meetings as required during the review process. The presentation shall include the original text, the proposed wording, and an explanation for the changes.

39. Communication Committee

- 39.1 It shall be the duty of the Communications Committee to review the rights-of-way by-laws making recommendations for update, ensure the maintenance of public safety, insure that the right-of-ways are used in an orderly manner and insure the equitable treatment of all users. The committee shall study management issues such as performance bonds, dedications of conduits for municipal and future use, possible compensation for the use of the right-of-ways, co-locations and surplus capacity set-aside agreements.
- 39.2 The committee shall consist of nine (9) members appointed by the Board of Selectmen for three year terms, so arranged that as nearly an equal number of such terms shall expire each year.

40. Indemnification of Town Officials

- 40.1 Pursuant to M.G.L. Chapter 258 Section 13, the Town shall indemnify any duly elected or appointed official for costs and/or damages incurred by them which may arise out of their actions within the scope of their official duties for the Town
- 40.2 This shall include excesses over and above any part of the claim which is covered by an insurance policy or which is otherwise covered by law.
- 40.3 Town Meeting Members (Representatives) are excluded from this section
- 40.4 This section is subject to appropriation.

41. LONG RANGE MASTER PLAN OVERSIGHT COMMITTEE

- 41.1 The Long Range Master Plan Oversight Committee (“Master Plan Oversight Committee”) shall be a committee of the Town of Billerica.
- 41.2 It shall be the duty of the Master Plan Oversight Committee to oversee the implementation of the Town’s Long Range Master Plan, to suggest any proposed amendments to the Master Plan; and to make annual reports to Town Meeting concerning the implementation of or/any other matters related to the Master Plan.
- 41.3 The Master Plan Oversight Committee shall consist of five (5) members appointed to terms of three (3) years so arranged as nearly an equal number of such terms of office as possible shall expire each year. One member shall be appointed by, but does not necessarily need to be a member of, each of the following: Board of Selectmen, School Committee, Planning Board, Finance Committee and the Moderator-

ARTICLE III

FINANCIAL REGULATIONS

1. TAXES

- 1.1 The financial year shall begin on July 01 and end on June 30.
- 1.2 The assessment of taxes shall be completed and the tax list and warrant shall be delivered to the collector, starting on July 1 and continuing quarterly October 1, January 1, and April 1, provided the bond of the Collector has been approved.
- 1.3 All taxes assessed shall be payable quarterly on or before August 1, November 1, February 1 and May 1. When such date falls on a weekend or a holiday, they are payable on the next business day.

2. AUDIT

The books and accounts of the Town shall be audited annually under the direction of the Town Manager by an outside firm of his choice.

3. FEES

- 3.1 All Town officers except for the Town Clerk's office when acting as an agent for the State, are to pay all fees received by them by virtue of their offices into the Town Treasury.
- 3.2 The Town Clerk shall report all fees collected for the State from time to time to the Board of Selectmen and publish the amounts in the annual report.

4. BID BY-LAW

- 4.1 Every contract for the procurement of supplies, services or real property and for the disposal of supplies or real property, shall be solicited and awarded pursuant to the provisions of the Uniform Procurement Act, M.G.L., Chapter 30B, Section 4 and 5.
- 4.2 Every contract for the construction, reconstruction, alteration, remodeling or repair of any public works, or for the purchase of any materials related thereto estimated to cost less than \$25,000.00 shall be solicited and awarded, at the discretion of the procurement officer, pursuant to either the provisions of M.G.L., Chapter 30, Section 39M or the provisions of M.G.L. Chapter 30B, Section 5.
- 4.3 Every contract for the construction, reconstruction, alteration, remodeling or repair of any public work, or for the purchase of any materials related thereto or for the construction, re-construction, installation, demolition, maintenance or repair of any building, for the purchase of any materials related thereto estimated to cost more than \$25,000.00, shall be awarded in accordance with the provisions of M.G.L., Chapter 30, Section 39M or Chapter 149, Section 44 A-H respectively.

5. DISPOSAL OF TANGIBLE PROPERTY

- 5.1 Subject to the provisions of M.G.L. Chapter 30B and upon approval of the Board of Selectmen and the Town Manager, each department head is authorized to sell or trade any tangible property which is owned by the Town and under the control of said department which is obsolete or of no practical value.
- 5.2 If the fair market value of the tangible property to be sold or traded exceeds One-Hundred Dollars (\$100.00), it may be sold or traded subject to the applicable provisions of Article 3 of these By-Laws.

6. DISPOSAL OF TAX TITLE PROPERTY

The Board of Selectmen is authorized to sell property taken by the Town under the Tax Title procedure by the following terms and conditions.

- 6.1 Except as provided in Section 6.3 or 6.5 of this By-Law, no property shall be sold for less than the total book value or 50% of the assessed valuation, whichever is greater.
- 6.2 Notice of intention to sell shall be done under General By-Law, Article 15, Section 5B and 5D, and;
 - A. The notice shall include the minimum acceptable bid as set forth above, and;
 - B. Reference this Article and section
- 6.3 Abutters to parcels of land which do not meet the area, frontage or depth requirements of the Zoning By-Law, and;
 - A. Accept a restriction on the deed prohibiting the construction of any free standing building for human habitation or business purpose and;
 - B. Accept a Deed of Conveyance showing the buyer’s existing lot; may submit a bid of not less than the total book value *or* 25% of the assessed valuation, whichever is greater.
- 6.4 Parcels not meeting Zoning By-Law size requirements shall require a notice to be mailed under General By-Law Article 15, Section 6C, 6D and 6H prior to the bid-opening date. Said notice shall include a description of the land and a copy of Article 3, Section 6 of this By-Law.
- 6.5 The award shall be made to the qualified bidder submitting the highest bid above the stipulated minimum.
 - A. All qualified bidders under Section 6.3 shall have priority over all other bidders.
 - B. First time homebuyers meeting income eligibility guidelines established and/or adopted by the State Department of Housing and Community Development for eligibility for affordable housing programs (1) may submit a bid of not less than the total book value or 25% of the assessed valuation, whichever is greater and (2) shall have priority over all other bidders, except those identified in Section 6.3, provided that, all other things being equal, qualified Billerica residents shall be given preference for this program and, when more than one such Billerica resident qualifies, the number of years of residency in Billerica shall be taken into consideration in accepting the bid. The Board of Selectmen may impose reasonable resale or other restrictions on any sale under this subsection.
- 6.6 All costs relating to the advertising and transfer of the parcel shall be added to the amount of the bid and paid by the purchaser.
- 6.7 The Town may sell adjoining Tax Title parcels to abutters accepting Section 6.3 provisions if their existing property meets the following minimums:
 - A. 5,000 square feet of area, and
 - B. 50 feet frontage, and
 - C. had been recorded on a plan prior to zoning
- 6.8 The Selectmen may accept or reject all offers that they deem not to be in the best interest of the Town.
- 6.9 The Board of Selectmen shall conduct no more than three such sales in any one calendar year.

7. FEES OF THE TOWN CLERK

The fees of the Town Clerk shall be established as set forth in M.G.L., Chapter 262, Section 34 and any acts in amendment thereof or in addition thereto, except for the following fees:

BIRTHS

For furnishing a certificate of birth	\$	10.00
For correcting errors in a record of birth		15.00

For entering a delayed record of birth	15.00
For entering an amendment of a record of birth of an illegitimate child subsequently legitimized	15.00

DEATHS

For furnishing a certificate of death	10.00
For correcting errors in a record of death	15.00
For recording a deed of a lot or plot in a public burial place or cemetery	15.00

MARRIAGES

For issuing a certificate of marriage	10.00
For entering a notice of intention of marriage and issuing certificate thereof	20.00
For entering a certificate of marriage filed by persons married outside the Commonwealth	10.00
For correcting errors in a record of marriage	15.00

BUSINESS

For filing a business certificate of a person conducting business under any title other than the person's real name	30.00
For filing a change of business certificate of a person conducting business under any title other than the owner's real name such as: a statement of change of residence, or of discontinuance, retirement or withdrawal from, or of a change of location of such business	15.00
For furnishing a certified copy of a business certificate of a person conducting business under any title other than the person's real name or a statement by such person of his discontinuance, retirement or withdrawal from such a business	5.00
For filing a copy of a written instrument of declaration of trust by the trustees of an association or trust, or any amendment thereof as provided in M.G.L., Chapter 182, Section 2.	20.00
For filing and indexing an assignment for the benefit of creditors	10.00
For recording the certificate of registration granted to a person to engage in the practice of optometry, podiatry, osteopathy or as a physician or issuing a certified copy thereof	20.00
For recording an order granting locations of poles, piers, abutments or conduits, alterations or transfers thereof, and an increase in the number of wires and cables or attachments under the provisions of M.G.L., Chapter 166, Section 22.	Flat Fee 40.00
Additional fee for each street or way included in such order	Additional Fee 10.00
For receiving and filing of a complete inventory of all items to be included in a "closing out sale", etc.	First page 20.00 each additional page 2.00

GENERAL

For examining the records or papers relating to a birth, marriage or death upon the application of any person; the actual expense thereof, but not less than	5.00
For copying any manuscript of record pertaining to a birth, marriage or death	per page 5.00
For recording a power of attorney	10.00
For recording any other documents	First page 10.00 each additional page 2.00
Voter's Card	5.00

ARTICLE IV

PUBLIC WAYS

DEFINITIONS:

Way: Any street, road, avenue, lane or other public thoroughfare.

Building: Residences, public structures, and places of business

Truck: Any commercial vehicle over 18,000 lbs. registered gross vehicle weight and requiring a Class I and/or Class II driver's license.

Accessory Structure: A building, the occupancy of which is incidental to that of the main building, that is located on the same lot as the main building.

Addition: An increase in building area, aggregate floor area, height or number of a structure.

Alteration: A change or modification of a building or structure, or the service equipment thereof, that affects safety or health and that is not classified as an ordinary repair.

1. SNOW REMOVAL

1.1 It is the property owner's responsibility to remove all the snow from a sidewalk which abuts their property within twenty-four (24) hours from the end of the storm after the street is cleared by the Town.

A. The property owner shall keep the sidewalk clear and passable until all of the snow disappears.

B. Any property owner, who fails to remove the snow from a sidewalk abutting property, shall pay a sum of Ten Dollars \$10.00 for each offense. Each day shall constitute a separate offense.

1.2 No person shall by any means plow, push or discharge in any way, snow or ice onto any way in the Town from adjoining private property so as to cause a hazard to public safety.

A. Violation of Section 1.2 shall be punishable by a fine of One Hundred Dollars (\$100.00) for each offense.

B. Section 1.2 shall be enforced on behalf of the Town by its Police Department. They shall have the right to issue a citation to any and all persons in violation of this section.

1.3 Whenever the Town Manager or his designee declares an emergency exists in the Town in regard to plowing or snow removal, by giving at least six (6) hours notice, it shall be unlawful for the owner, operator or person in charge of any vehicle to park such vehicle on any public street or way in the Town for the duration of the emergency. (Vehicles acting in an emergency are exempt from this by-law).

A. Violation of Section 1.3 shall be punishable by a fine of \$50 for each offense and said vehicle shall be towed at the owner's expense from the public street or way.

B. Section 1.3 shall be enforced on behalf of the Town by its Police Department. They shall have the right to issue a citation to any and all persons in violation of this section and authorize the removal of said vehicle.

1.4 This By-Law may also be enforced by the non-criminal procedures allowed by M.G.L. Chapter 40 Subsection 21D. The Police Department shall be the enforcing authority of this By-Law.

2. ACCESS RAMPS

2.1 Whenever a new housing development, sewage improvement, new sidewalks are constructed, installed or replaced, streets are resurfaced, or any kind of construction disrupts an existing sidewalk, curb cuts (sidewalk ramps) shall be added in accordance with the regulations issued by the Architectural Access Board pursuant to M.G.L., Chapter 22, Section 13A, and the American's with Disabilities Act (ADA).

3. ADEQUATE ACCESS

- 3.1 Intent and Purpose: This section shall govern the use of unaccepted ways used for access to building lots.
- 3.2 Unaccepted ways shall meet the Department of Public Works (D.P.W.) street standards in order to be judged adequate.
The Director of the D.P.W. may grant a Certificate of Waiver from the D.P.W. standards in cases where the unaccepted way meets acceptable construction standards at the time of the occupancy permit application.
- 3.3 All new buildings, excluding accessory structures, additions, and alterations, shall have frontage on ways which provide adequate access for the entire length of the way up to and including the minimum lot frontage required under zoning. The way shall be improved from the nearest way in existence which meets the standards acceptable to the Director of D.P.W.
- 3.4 The layout and design of the way shall be stamped by a Registered Professional Engineer and shall demonstrate compliance with the D.P.W. street standards.
- 3.5 All necessary wetland approvals shall be obtained for road construction prior to issuance of any road opening permits as applicable.
- 3.6 Ways approved under the Subdivision Control Law are exempt from Section 3.
- 3.7 If a request for a Certificate of Waiver is denied, the Director of the D.P.W. will issue a denial letter.
A. The decision to approve or deny may be appealed, within twenty (20) days of the denial letter, to the Board of Selectmen by either the applicant or any property owner along the subject way. The Board of Selectmen may adopt rules and regulations governing such appeals.
B. Failure of the Board of Selectmen to act on the appeal within thirty (30) days of receipt shall constitute constructive approval.
- 3.8 No provision of this section is meant to supersede the authority given to the Planning Board under the Zoning By-Laws or Massachusetts General Laws.

4. NUMBERING OF BUILDINGS

- 4.1 All residences and businesses in the Town shall be numbered consecutively from one end of the way to the other.
The buildings on one side shall be even numbered, and the buildings on the opposite side shall be odd numbered.
- 4.2 All numbering shall be done under the supervision of the Director of D.P.W.
- 4.3 The Director of D.P.W., when necessary, may change the existing numbering of a building.
- 4.4 All vacant lots shall be assigned a number.
The numbers shall be assigned in accordance with the applicable frontage requirements as specified in the zoning by-laws.
- 4.5 All property owners shall be notified in writing of their assigned or changed number.
A. All assigned or changed numbers shall be conspicuously posted on the front of a building within ten (10) days of notification.
B. That building shall not thereafter use any other number.
C. All numbers shall be posted at a conspicuous location on a structure, as defined in M.G.L., Chapter 148, Section 1, so as to be completely visible from the street and shall be at least three inches in height. This requirement refers to new construction.
- 4.6 Any buildings hereafter erected shall bear the number assigned to its lot under this By-Law.
- 4.7 Any person, firm or corporation violating Section 4 of this By-Law after receiving notice, shall be liable to a fine not exceeding \$25.00.

5. LAYING OUT, DISCONTINUING AND ACCEPTING PUBLIC WAYS

- 5.1 Intent and Purpose
This section controls the laying out, widening, altering or discontinuing of all public ways in the Town of Billerica, except those that are under the jurisdiction of the Commonwealth of Massachusetts.

- 5.2 All ways developed under the control of the Planning Board will meet the design and construction standards specified in the approved Rules and Regulations Governing the Subdivision of Land in Billerica, Mass., before they are submitted to the Board of Selectmen for approval.
- The Planning Board shall prepare a report to the Town Meeting on the condition of the way offered for acceptance and any exceptions to the Rules and Regulations that might apply.
- 5.3 Before a way can be accepted by Town Meeting a complete and current record plan and profile must be submitted to the Board of Selectmen for majority approval and signature.
- A. Prior to the submission of the record plan and profile, it shall be signed and approved by the Director of the D.P.W., Town Engineer and the Planning Board Engineer or a Registered Professional Engineer as the case may be.
- B. The plan and profile will comply with standards promulgated by the Director of the D.P.W. and approved by the Board of Selectmen.
- 5.4 All proposed changes to an existing town accepted way shall be submitted by petition to the Board of Selectmen. A layout plan only will be required to discontinue a way.
- 5.5 All ways within the Town, which have never been accepted by the Town, may be submitted to the Board of Selectmen for acceptance by the Town Meeting.
- A. A petition signed by at least ten (10) registered voters shall accompany the submission to the Board of Selectmen.
- B. Each petition will be accompanied by an agreement signed by all property owners abutting the way who claim no damages or will release their damages and a listing of the names of all other property owners who decline to release and the damages claimed by them.
- C. No petition to accept a way shall be included in the warrant until all necessary documents and agreements are complete.
- 5.6 After approval by the Board of Selectmen, the record plan and profile will be date and time filed with the Town Clerk.
- 5.7 Upon acceptance at Town Meeting, the record plan and profile will be transferred to the Engineering Section of the D.P.W. to be retained as a permanent record.
- 5.8 If the way is not accepted at Town Meeting, the plan and profile will be returned to the proponent to be held until further action is taken.
- 5.9 The Director of the D.P.W. shall, with the approval of the Town Manager and the Board of Selectmen, establish rules and regulations for the development of ways which are not developed but which are opened up, virtually impassable, have inadequate access, access is non-existent, or the existing way requires construction to provide safe access. These Rules and Regulations shall be updated as necessary.
- 5.10 It shall be the duty of the Town Clerk to keep a book of records for the sole purpose of recording the location of all ways that are, or may be in the future, laid out within the town. This book shall have an index.

6. Truck Traffic

1. Sterling Road:

No commercial vehicle over 18,000 pounds registered G.V.W. and requiring a Class I and/or Class II driver's license will be allowed to exit Sterling Road on to Rangeway Road. Appropriate signs to be placed on the right hand side of each driveway on Sterling Road, Esquire Road and Republic Road. Additional signs will also be posted at the intersection of Sterling Road and Rangeway Road. This By-Law excludes school buses and any vehicle (s) providing service or delivery on to Rangeway Road.

2. Rangeway Road:

No commercial vehicle over 18,000 pounds registered G.V.W. and requiring a Class I and/or Class II driver's license will be allowed on Rangeway Road south of Route 129 during the hours of 8:00 P.M. to 8:00 A.M. Warning signs to be posted at the discretion of the DPW. At the intersection of Route 129 and Rangeway Road. Two (2)

signs will be posted indicating no truck traffic between the hours of 8:00 P.M. to 8:00 A.M. This By-Law excludes school buses and any vehicle (s) providing service or delivery on Rangeway Road.

7. REPAIR/IMPROVEMENT OF UNACCEPTED WAYS

- 7.1 Upon the petition of at least seventy-five percent (75%) of the owners abutting an unaccepted street, with each ownership entity to count as one petitioner, the Board of Selectmen may, if the Board determines that public necessity requires the repair or reconstruction of said street, expend funds appropriated for the repair or reconstruction of such streets including drainage improvements, if needed, provided the following requirements are met:
- 7.2 Such Streets must be repaired or reconstructed to standards acceptable by the D.P.W.
- 7.3 A betterment assessment must be assessed for one hundred percent (100%) of the total cost to the town of the project.
- 7.4 Prior to any expenditure by the Town on construction, the owners of all land abutting on the way shall: (i) release the Town from all liability in connection with the project; (ii) agree to indemnify and hold harmless the town from all claims of injury or damage by third parties; and (iii) grant to the town and its agents, contractors and employees a license to enter the street to perform the project.
- 7.5 The street must have been open to the public for at least twenty (20) years and, after construction of the project, the street shall remain open to public use for at least twenty (20) years.
- 7.6 No betterment charges shall be assessed unless Town Meeting, in appropriating funds for a particular project, determines that betterments shall be assessed for such project, and in such vote, determine the percentage of project cost to be assessed. If betterments are assessed, assessments shall be made either by a uniform unit method, with each unit equal to an existing or potential lot fronting on the street, or on the basis of lineal frontage of each lot on the street, choice of method to be made by the Board of Selectmen.
- 7.7 A corner or "through" lot having both adequate frontage and access on another street shall not be assessed unless such lot has sufficient area and frontage on the street to be improved, that an additional lot or lots fronting on such street could be created.
- 7.8 No expenditure may be made for any project without a specific Town Meeting vote appropriating the funds necessary for such projects.

8. PLACEMENT OF STRUCTURES ON PUBLIC WAYS

- 8.1.1 This section shall govern the placement of structures on public ways and way under the jurisdiction of the Town of Billerica.
- 8.1.2 No person shall place any structure or part of a structure on a public way or way under the jurisdiction of the Town of Billerica without a permit from the Board of Selectmen.
- 8.1.3 The Selectmen may approve an application, with or without conditions, for the placement of a structure or part of a structure on a public way under the jurisdiction of the town of Billerica. The Selectmen may deny such application in the interest of public health, public safety or public convenience.
- 8.1.4 The Selectmen shall have the authority to adopt regulations for the implementation and administration of this by-law.

ARTICLE V

DEMOLITION REVIEW BY-LAW

PROCEDURES FOR THE DEMOLITION OF HISTORICALLY OR ARCHITECTURALLY SIGNIFICANT BUILDINGS

DEFINITIONS

Building: Any combination or part thereof of materials forming a shelter for persons, animals or property.

Commission: The Billerica Historical Commission or Historic Districts Commission depending on the location of the building in question. If the building is in one of Billerica's Historic Districts then the Historic Districts Commission shall act on the application. All other applications shall be acted upon by the (Billerica) Historical Commission.

Demolish or Demolition: The pulling down, destroying, burning by arson, removing or razing, of a building or structure or any portion thereof, or allowing it to be done by others; or the act of total or substantial destruction of a building or structure with the intent of completing the same.

Permit to Demolish: A permit issued by the Inspector of Buildings as required by the State Building Code for the demolition, partial demolition or removal of a building or structure.

Inventory of Historic Properties: The official inventory on file with the Massachusetts Historical Commission and the Billerica Historical Commission, or any property within the Historic Districts.

Inspector: The Billerica Inspector of Buildings.

Preferably-Preserved Building: Any significant building or structure which the Commission determines is of historical or architectural significance and it would be in the public interest to be preserved or rehabilitated rather than demolished.

Significant Building or Structure: Any building or structure, or portion thereof which:

- A. Is listed on the National Register of Historic Places, either as an individual site or as part of a district, or is the subject of a pending application for listing on said National Register; or
- B. Is located within one of Billerica's Historic Districts; or
- C. Is listed on the State Register of Historic Places; or
- D. Is included in the most recent Inventory of Historical Properties prepared by the Commission, including those buildings listed for which complete surveys may be pending; or
- E. Has been determined by vote of the Commission to be historically or architecturally significant in terms of period, style, method of building construction, or association with a famous architect, builder, owner or event, provided that the owner of such a building and the Inspector of Buildings has been notified within 15 days after such a vote.

Property: The entire parcel of land upon which the demolished significant building was located.

Structure: The combination of materials or part thereof other than a building including but not limited to a sign, fence, wall, statue, mechanical device, bridge, walk, driveway or road.

1. INTENT and PURPOSE

This By-Law is enacted for the purpose of preserving and protecting significant buildings or structures within the Town. These buildings or structures should constitute or reflect distinctive features of the architectural, cultural, political, economic or social history of the Town. The owners of such buildings or structures shall be encouraged to seek out persons who will purchase, preserve, rehabilitate or restore such buildings or structures rather than demolish them. To achieve these purposes the Billerica Historical Commission and the Billerica Historic Districts Commission are empowered to pre-approve all permits for the demolition of part or all of a significant building or structure. The issuance of demolition permits for significant buildings or structures is regulated as provided in this By-Law.

2. PROCEDURE

2.1 Receipt of Application

Upon receipt of an application for a demolition permit for any building or structure, the Inspector of Buildings shall forward a copy to the Commission within seven (7) days of the filing of such application. An application for the demolition of a building or structure shall be made only by the owner(s) of record.

2.2 All applications for a permit to demolish will be accepted and the building or structure's significance will be determined at the next regularly scheduled meeting after receipt thereof.

- A. The Commission will in writing notify the Inspector of Buildings within fifteen (15) days after the determination of their finding. If no meeting is scheduled within forty-five (45) days of the receipt of the application by the Commission, a special meeting must be held within forty-five (45) days.
- B. If the building or structure is determined non-significant, the Inspector of Buildings may issue a permit to demolish.
- C. If the Inspector of Buildings determines that in the interest of public safety a building or structure must be demolished, a permit may be issued after notifying the chairman of the Commission.

2.3 Determination of Preferably-Preserved

- A. Within 30 days after determination of significance, the Commission shall hold a public hearing to determine if the building or structure is preferably-preserved. The Commission shall give public notice of the hearing following the procedures established in M.G.L., Chapter 40(A), Section 11.
- B. The Commission shall also mail notification of the hearing to the direct abutters, the Historic Districts Commission, the Historical Commission, the Inspector of Buildings, the applicant and to such other persons as the Commission shall deem to be entitled to such notice.
- C. If, after the hearing, the Commission determines that the significant building is not a preferably preserved building, the Commission shall so notify the Inspector of Buildings, and applicant in writing, within ten (10) days after the date of such determination.
- D. If the demolition permit application is not acted upon within thirty (30) days after receipt by the Commission, the Inspector of Buildings may issue a permit to demolish.
- E. Upon determination by the Commission that the significant building or structure is preferably-preserved, the Commission shall so advise the applicant and the Inspector of Buildings in writing within ten (10) days of the date of determination.
- F. No demolition permit may be issued within six months after notification that a significant building or structure is determined to be preferably preserved by the commission.
- G. During the six (6) month waiting period, the owner shall make continuing, bona fide attempts to find a buyer or alternative use for the building or structure that will result in its preservation
- H. The Inspector of Buildings may issue a demolition permit for a preferably-preserved building at any time after receipt of written notice from the Commission which states that the Commission is satisfied that there is no reasonable likelihood that either the owner or some other person is willing to purchase, preserve, rehabilitate or restore such building or structure.
- I. No building permit may be issued for the property on which a significant building or structure is located prior to the granting of approval for and the issuance of a permit for demolition of such significant building.
- J. No building or demolition permit shall be granted for the property on which a building or structure determined to be preferably-preserved (except as in 2.3H) until:
 - (1) the plans for the use or development of the site after the demolition have been filed with the Building Department and

- (2) they have been found to comply with all the laws pertaining to the issuance of a building permit: and
 - (3) all the approvals necessary for the issuance of such a building permit, including any necessary zoning variances or special permits, must be granted; and
 - (4) all appeals from the granting of such approvals must be concluded prior to the issuance of a building or demolition permit.
- K. No part of this By-Law is meant to supersede the Historic Districts By-Law. (M.G.L. Chapter 40C)

3. ENFORCEMENT and REMEDIES

3.1 Enforcement

The Commission and the Inspector of Buildings are each authorized to institute any and all proceedings in law or equity as they deem necessary and appropriate to obtain compliance with the requirements of this By-Law, or to prevent a violation thereof. This By-Law may also be enforced by a non-criminal procedure. The Building Inspector shall be the enforcing agent of the Town. Fines shall be as follows:

All offenses – Three hundred dollars (\$300.00)

3.2 Remedies

No building permit of any type shall be issued for any property upon which a significant building or structure has been intentionally demolished in violation of this By-Law for a period of two (2) years after the date of such violation.

ARTICLE VI

POLICE REGULATIONS

1. UNLAWFUL ENTRY

- 1.1 No person shall enter upon the premises of another for the purpose of committing any wanton or malicious act, nor for the purpose or with the intention of invading the privacy of another by peeping into the windows of a house or spying upon any person or persons resident therein, and no person being on the premises of another, shall peep into the windows of a dwelling house thereon nor spy upon any person or persons resident therein.
- 1.2 Anyone found guilty of violating this section shall be punished by a fine of One Hundred Dollars (\$100.00) for each and every offense.

2. DEFACING OF PROPERTY

- 2.1 No one shall affix any bill, placard, device or notice to; or write any figures, or words upon; any building, fence, utility pole or wall in the town; without the permission of the owner or occupant.
- 2.2 No one shall make any indecent drawing or writings upon any fence, tree, building or structure in any public place.
- 2.3 No person shall be allowed to throw posters, handbills, flyers, advertising sheets, waste or rubbish in the public street or ways.
- 2.4 Anyone found guilty of violating this section shall be punished by a fine of not less than Twenty-five Dollars (\$25.00) or more than Fifty Dollars (\$50.00) for each and every offense plus the cost of repair or replacement of the defaced property payable to the owner.

3. ILLEGAL DUMPING

- 3.1 No person shall deposit, dump or store; garbage, trash, hazardous or non-hazardous waste, toxic or non-toxic chemicals, unregistered motor vehicles, parts of motor vehicles, tires, building materials of any type, household or industrial furnishings, or appliances in or upon any public or private way or in or upon any town-owned property.
- 3.2 Violation of this Section is punishable by a fine of Three Hundred Dollars (\$300.00) for each offense, plus the cost of removal and clean up.
- 3.3 This Section shall be enforced on behalf of the Town by it's Police Department which shall have the right to issue a citation to any and all persons in violation

4. COASTING OR SLEDDING

- 4.1 No person shall coast or slide on any sled or other vehicle in or upon any public street or way in the Town except that the Selectmen, at their discretion, may by public notice, designate any streets or ways where coasting may be permitted for a period so designated in such notice.
- 4.2 Violation of this Section is punishable by a fine of not less than Five Dollars (\$5.00) and not more than Twenty-Five Dollars (\$25.00) for each offense.

5. PAYMENT OF PENALTIES

- 5.1 All penalties of forfeiture recovered for breach of any of these sections shall be paid into the Town Treasury.

6. DUTIES

- 6.1 The Selectmen and Police Officers shall have the authority to prosecute violators of the By-Laws.
- 6.2 Police officers may make arrests and serve warrants and other processes necessary for the enforcement of the By-Laws.
- 6.3 The costs and fees shall be the same as allowed in criminal prosecutions before the court or a magistrate.

6.4 Every violation of any provision of this article, except when the penalty is specifically stated, shall be punished by a fine of not less than Twenty-Five Dollars (\$25.00) and not more than One Hundred Dollars (\$100.00).

7. DISCHARGE OF A WEAPON OR EXPLOSIVE

- 7.1 No person shall fire or discharge a firearm, rifle, shotgun, or explosives of any kind within the limits of any highway, road, park or other public property, except with the permission of the Board of Selectmen, or on any private property except with the consent of the owner or legal occupant thereof.
- 7.2 This Section shall not apply to the following:
- A. To the lawful defense of life and property or
 - B. To all law enforcement officers acting in the discharge of their duties, or
 - C. The discharge of firearms, rifles, shotguns or cannons (with blank ammunition) in fulfilling the needs of historical, ceremonial, competitive and sporting activities; starting guns for various road races held throughout the Town and for special events (e.g. Yankee Doodle Homecoming Weekend).
- 7.3 Sporting organizations and/or sporting clubs involved in firearms use will be required annually, during the month of January, to notify the Chief of Police and the Board of Selectmen in writing of their intent to continue their operation as a sporting organization/club for the ensuing year. Said notice shall include a list of the organization/club officers and the location where firearm use is normally held.
- 7.4 Notice of this By-Law shall be posted at each major roadway entering the Town.
- 7.5 Any person violating this By-Law shall be punished by a fine of not more than Two Hundred and Fifty Dollars (\$250.00) for each offense.

8. ALCOHOLIC BEVERAGES: Possession and Consumption

- 8.1 The following definitions shall apply in the interpretation and enforcement of this section:
- Alcoholic Beverages: Any beverage defined as alcoholic beverage in M.G.L., Chapter 138, Section 1.
- Private Property: Any real property within the Town which is not owned by the Town.
- Public Property: All Town commons, school grounds, municipal parking lots, public cemeteries, municipal playgrounds and all real property, buildings, or offices owned by or leased to the Town or occupied or used by any board, department, committee, commission or office of the Town.
- Public Way: The entire bounds of any way, street, road, avenue or lane which is publicly maintained and used for vehicular travel, when any part thereof is open to use by the public. This shall include the entire width of any sidewalk used in conjunction with said way.
- 8.2 No person shall consume any alcoholic beverages on any public way or on any way to which the public has a right of access.
- 8.3 No person shall bring any alcoholic beverages on any public property or onto any private property or possess or consume any alcoholic beverages in or upon any public property or private property without the permission of the owner or person lawfully in charge or control of such public or private property.
- 8.4 All alcoholic beverages possessed or consumed in violation of this By-Law shall be seized and held until final adjudication of the charge against the person or persons arrested or summoned before the court. After final adjudication, all alcoholic beverages seized shall be returned to the persons entitled to the lawful possession of them.
- 8.5 Violations of this section are punishable by a fine of One Hundred (\$100.00) dollars for each offense.
- 8.6 This Section shall be enforced on behalf of the Town by its Police Department which shall have the right to arrest any and all persons in violation of said section in accordance with M.G.L. Chapter 272 Section 59.

9. SALE OF LOW ALCOHOLIC BEER/LOW ALCOHOLIC WINE

Whoever makes a sale or delivery of any low alcoholic beer or low alcoholic wine, or any malt beverage with any alcoholic content, however much reduced, to any person under twenty-one (21) years of age in any establishment licensed under M.G.L., Chapter 138, Section 12, 15,19B, or 19C shall be punished a fine of not more than Three Hundred Dollars (\$300.00). Such low alcoholic beer or such malt beverages or low alcoholic wine shall be sold only by establishments licensed by the Town pursuant to M.G.L., Chapter 138.

10. WATERCRAFT

- 10.1 The operation of any boat or watercraft of any nature powered or propelled by an internal combustion engine of any nature is prohibited on Nuttings Lake, except by emergency personnel when responding to a valid emergency situation.
- 10.2 All watercraft operating on Nuttings Lake shall be operated so as to remain at least ten (10) feet from any areas used for swimming which are marked by suitable buoys designating the swimming area.
- 10.3 The unauthorized alteration, removal or displacement of any sign, marker, or other device used to indicate a swimming area, boating hazard or otherwise give notice of this by-law is prohibited.
- 10.4 No motor boat or any other watercraft shall be operated on any portion of any waterway within the Town in a manner which endangers the safety of the public or is detrimental or injurious to the bordering neighborhoods or to the value of the property thereon.
- 10.5 The operation and use of any snow vehicle or recreation vehicle on any frozen waterway within the Town shall be at the risk of the operator. In the event of a mishap that involves any environmental contamination of any waterway within the Town, the operator shall be responsible for paying the entire cost of any and all environmental clean-up.
- 10.6 The Town may join with any other town, through which a common waterway flows, in the enforcement of this By-Law or any similar By-Law adopted by such other town, in so far as such By-Laws relate to said waterways, and may appropriate money for the enforcement in whole or in part of any and all such By-Laws.
- 10.7 Ever violation of this Section shall be punished by a fine of not less than Fifty Dollars (\$50.00) and not more than Two Hundred and Fifty Dollars (250.00).

11 SOLICITATION OR CANVASSING

11.1 Definition

Solicitor or Canvasser: Any person who, for himself, or for any other person, firm or corporation travels by foot, automobile or any other type of conveyance from place to place, from house to house or from street to street, taking or attempting to lease or take orders, for the sale of goods, wares, merchandise, or services, including without limitation, the selling, distributing, exposing for sale or soliciting of orders, for magazines, books, periodicals or other articles of a commercial nature, the contracting of all home improvements or services to be performed in the future whether or not such individual has, carries or exposes for sale samples of the subject of such sale or whether he is collecting advance payment on such sale. The provisions of this section shall not apply to religious, educational or charitable organizations.

11.2 License Required

It shall be unlawful for any solicitor or canvasser as defined in this Section to engage in such business within the Town without first obtaining a license therefore in compliance with the provisions of this section. The provisions of this section shall not apply to any person exempted under M.G.L., Chapter 101 or any other person exempted by any other Massachusetts General Law, nor shall this section be construed to prevent route salesmen

or other persons having established customers to whom they make periodic deliveries, from calling upon such customers or from making calls upon prospective customers to solicit an order for future periodic route deliveries.

11.3 Application

Applicants for a license shall file with the Chief of Police, on a form issued by the Police Department, a written application signed under the penalties of perjury, containing, but not limited to, the following information:

- A. Name of applicant
- B. Address of applicant (local and permanent home address)
- C. Applicant's height, weight, eye and hair color
- D. Applicant's social security number (not to appear on the license)
- E. The length of time for which the right to do business is desired
- F. A brief description or the nature of the business and the goods to be sold
- G. The name and address of the applicant's employer; if self-employed, it shall so state
- H. A recent photograph of the applicant. The picture shall be supplied by the applicant and be 2" x 2" showing the head and shoulders of the applicant in a clear and distinguishing manner.
- I. If using a motor vehicle: the year, make, model, color, v.i.n., registration number, state of registration and vehicle owner's name and address.

11.4 Application Fee

At the time of filing the application, each applicant shall pay a fee of Twenty Five Dollars (\$25.00).

11.5 Investigation and Issuance of License

- A. Upon receipt of the application, the Chief of Police or his designee, shall investigate the applicants' reputation as to criminal record or any other record which might demonstrate the applicant as a danger to the public.
- B. After an investigation, but within seven (7) business days of the filing of the application, the Chief of Police shall endorse on such application his approval or disapproval, and in the case of disapproval, set forth his reasons therefor.
- C. Failure of the Chief of Police to act on said application within seven (7) business days of the applicant's filing shall constitute an approval.
- D. If disapproved, the applicant shall have the right of appeal to the Board of Selectmen which shall be requested in writing within seven (7) business days of the denial by the Chief of Police.
- E. The Board of Selectmen must act upon the appeal at one of their next two regularly scheduled meetings. Failure to so act shall constitute an approval.
- F. Such license when issued shall contain the signature of the Chief of Police or the Board of Selectmen and shall show the name, address, a recent photograph of the licensee, the date of issuance, an expiration date, and the license number.
- G. The Police Department shall keep a record of all licenses issued for a period of six (6) years. Solicitors when engaged in the business of soliciting or canvassing are required to display the identifying badge issued by the Police Department. The badge shall be worn on an outer garment or otherwise prominently displayed so as to be easily readable by any person facing said solicitor.

11.6 Licenses

- A. Each solicitor is required to possess an individual license.
- B. No license shall be required for officers or employees of the Town, County, State or Federal Governments when on official business.
- C. No license shall be required for minors under the age of eighteen unless in connection with commercial activity.
- D. No license shall be transferred.

- 11.7 Revocation of License
- A. The Chief of Police is hereby vested with jurisdiction over the revocation of licenses.
 - B. Any person aggrieved by such revocation may appeal to the Board of Selectmen, in writing, within seven (7) business days, and a hearing will be scheduled for one of their next two regularly scheduled meetings.
- 11.8 Expiration of License
- A. Each license issued under the provisions of this section shall continue in force from the date of issuance until the thirty-first of December following, unless sooner revoked.
- 11.9 Renewal of License
- A. A license issued under the provisions of this section may be renewed by the Chief of Police.
 - B. An applicant requesting a renewal of a license must apply in person for such license renewal, and provide such information as required to obtain the initial license.
- 11.10 Misrepresentation
- A. No solicitor, licensed or exempted from license, may misrepresent, in any manner, the buyer's right to cancel as stipulated by M.G.L., Chapters 93,93A, and 255.
 - B. No solicitor, licensed or exempted from license, may use any ploy, scheme or ruse which misrepresents the true status or mission of the person making the call in order to gain admission to a prospective buyer's home, office or other establishment for the purpose of making a sale of goods or services.
- 11.11 Trespassing
- A. It shall be unlawful for any solicitor to enter the premises of a person who has displayed a "no trespassing" or "no soliciting" sign or poster.
 - B. It shall be unlawful for solicitors to ignore a person's no solicitation directive or remain on private property after it's owner or occupant has indicated that the solicitor is not welcome.
- 11.12 Solicitation/Canvassing Times
- A. There shall be no soliciting or canvassing between the hours of 6:00 P.M. and 9:00 A.M.
- 11.13 Penalty
- A. Any person violating any provision of this section shall be subject to arrest, and upon conviction, be punished by a fine of not less than fifty Dollars (\$50.00) nor more than One Hundred Dollars (\$100.00) for each and every offense.

12. RECREATIONAL VEHICLES

- 12.1 The use of two, three or four wheel recreational motor vehicles, as partly defined in M.G.L Chapter 90B, Section 20, more commonly known as "dirt bikes" or "ATV's" is hereby prohibited on any land in the Town except that land for which an operator of said vehicle(s) has on their person written permission from the owner or lessee of said land.
- 12.2 No such permitted use of private property by an operator of a vehicle shall occur between nine o'clock post meridian (9:00 p.m.) and ten o'clock ante meridian (10:00a.m.)
- 12.3 Any person or owner of land found to be in violation of this By-Law shall pay a fine of one hundred (\$100.00) dollars per violation. Each day that such violation continues shall constitute a separate offense.
- 12.4 This By-Law may be enforced by a non-criminal disposition. The Billerica Police Department or any other law enforcement agency shall be the enforcing agents for the Town.

13. REGULATION OF MOTORIZED SCOOTERS AND MINI-BIKES

- 13.1 A motorized scooter shall mean any two, three or four wheeled device that has handlebars, is designed to be stood or sat upon by the operator and is powered by a gasoline or alcohol fueled

motor that is capable of propelling the device with or without human propulsion. A “motorcycle” or motorized bicycle” as defined in M.G.L., Chapter 90, Section 1 are not “motorized scooters.” Any motorized scooter, mini-bike or so called pocket bike, not having a minimum seat height of 30 inches is prohibited from use in the Town of Billerica on any street, way, sidewalk, public property (including schools, playgrounds, parks), or in any place to which the public has a right of access or any place to which members of the public have access as invitees or licensees.

13.2 A motorized scooter shall not be operated in the Town of Billerica on any street, way, sidewalk, public property (including schools, playgrounds, parks), or in any place to which the public has a right of access or any place to which members of the public have access as invitees as licensees, by any person under the age of sixteen and one half years of age, nor at a speed in excess of fifteen miles per hour. A motorized scooter shall not be operated on any way by any person not possessing a valid driver’s license or learner’s permit. Every person operating a motorized scooter shall have the right to use all public ways in the Town except limited access or express state highways where signs specifically prohibiting bicycles have been posted, and shall be subject to the traffic laws and regulations of the commonwealth and other traffic ordinances of the Town, except that:

- A. The motorized scooter operator may keep to the right when passing a motor vehicle which is moving in the travel lane of the way; and
- B. When turning left, an operator of a motorized scooter must stop on the right hand side of the road and walk the scooter across the road
- C. Motorized scooters may not be operated on sidewalks, except as may be necessary to enter or leave adjacent property.
- D. Motorized scooters may be operated on bicycle lanes adjacent to various ways.
- E. Every person operating a motorized scooter shall wear protective headgear conforming with such minimum standards of construction and performance as the Registry of Motor Vehicles may prescribe. No person operating a motorized scooter shall permit any other person to ride as a passenger. Every motorized scooter must be equipped with a brake that will enable the operator to make a braked wheel skid on dry, level, clean pavement and an ignition cut off switch.

13.3 Every motorized scooter operating during darkness shall be equipped with the following:

- A. A lamp emitting white light which, while the scooter is in motion, illuminates the road in front of the operator and is visible from a distance of 300 feet in front and from the sides of the motorized scooter
- B. A white or yellow reflector on each side visible from the front and rear of the motorized scooter from a distance of 200 feet; and
- C. A red reflector, or reflective material, attached to the operator and visible from a distance of 500 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle.

13.4 Violations of this By-law shall be punished by a fine of fifty (\$50.00) dollars for the first offense, one hundred (\$100.00) dollars for the second offense, and two hundred (\$200.00) dollars for subsequent offenses committed.

ARTICLE VII

ANIMALS

Definition of Terms:

- A. **Animal Shelter:** Any premises designated by town administrative authority for the purpose of impounding and caring for animals held under authority of this By-Law.
- B. **Animal Control Officer:** Any person or persons appointed by the Town Manager with the approval of the Board of Selectmen, as the dog officer or officers under the provisions of M.G.L., Chapter 140, Sections 151, and 151A to carry out the provisions of this By-Law. In the absence or vacancy in the office or unavailability of the canine control officer, the Town's Inspector of Animals or his deputy shall perform the duties of the canine control officer (s).
- C. **Dog:** All animals of canine species, both male and female.
- D. **Owner and/or Keeper:** Any person or persons, firm, association or corporation owning , keeping or harboring a dog as defined herein
- E. **Veterinary Hospital:** An establishment maintained and operated by a licensed Veterinarian for the boarding of animals for the diagnosis and treatment of diseases and injuries of animals.
- E. **License Period:** The license period shall be from January 1 of each year to December 31 of the same year.

1. PASTURING

Whoever shall pasture any cattle, horses or other animals, either with or without a keeper, upon any street or way in the Town, shall forfeit a sum not less than two nor exceeding ten dollars for each violation thereof; provided that nothing herein contained shall affect the right of a person to the use of the land within the limits of a street or way adjoining his own premises.

2. REGULATION OF DOGS

2.1. Restraint of Dogs

No person shall own, keep or harbor in the Town, outside the confines of the owner's property (meaning owned, rented or leased), any dog which is not held firmly on a leash, no longer than six (6) feet, by a person who shall have control of such a dog.

2.2. Confinement of Dogs

All persons keeping, owning or having possession, charge, custody of any dog shall confine such dog on their own premises by means of a leash, tether, run or enclosure. As used in this By-Law, the term "enclosure" shall include solid walls, wire or stockade fences and electric or so-called "invisible" fences, provided that any such enclosure be in good repair and serve to prevent the dog (s) from leaving the confines of the owner's property at all times and furthermore, owners using electric or "invisible" fences shall provide proof of such fencing when registering the animal and also shall maintain a sign advising that their property has "invisible" or electric fence.

2.3. Unrestrained Dogs

Unrestrained dogs will be taken by the Animal Control Officer and impounded in an animal shelter, and there confined in a humane manner. A police officer at the police officer's discretion may impound the dog. If by an identification tag or by other means the owner can be identified, the Animal Control Officer shall immediately upon impoundment notify the owner of the impoundment of the animal.

2.4. Reclaiming Impounded Dogs

An owner or keeper reclaiming an impounded dog shall pay an administrative fee of fifteen dollars (\$15.00) plus five dollars (\$5.00) boarding charge for each day that the dog has been impounded, to a total maximum payment of \$55.00.

2.5. Female Dogs

Every female dog in heat shall be confined in a building or secured enclosure in such a manner that such female dog cannot come into contact with another animal except for planned breeding. The Animal Control Officer shall have the power to enforce a regulation to eliminate what he may deem to be a nuisance.

2.6. Nuisances

- A. No owner or keeper shall fail to exercise proper care and control of his or her dog to prevent said dog from becoming a public nuisance. Excessive or untimely barking, molesting passersby, chasing vehicles, habitually attacking people or other domestic animals, trespassing upon private property or upon school grounds in such manner as to damage property shall be deemed a nuisance.
- B. Each person who owns, possess or controls a dog walking in any area within the Town other than their own private property is responsible for the removal and disposal of any feces left by the dog. Persons walking dogs must carry with them a device designated to dispose of dog feces. Such devices include but are not limited to plastic bags or "pooper-scoopers." Exempt from the requirements of Section 2.6.A are assistance dogs in the service of their handlers.

2.7. Quarantining of Dog That Bites

Any dog which bites a person shall be quarantined for ten days if ordered by the Animal Control Officer. During quarantine, the dog shall be securely confined and kept from contact with any other animal by confinement indoors. At the discretion of the Animal Control Officer, the quarantine may be on the premises of the owner. If the Animal Control Officer requires other confinement, the owner or keeper shall surrender the animal for the quarantine period to an animal shelter or shall, at his own expense, place it in a veterinary hospital.

2.8. Animals Suspected of Being Rabid

No police officer or other person shall, unless a threat of harm or injury exist or the protection of public health is necessary, kill, or cause to be killed, any dog or cat suspected of being rabid, except after the dog or cat has been placed in quarantine by the Animal Control Officer and the diagnosis of rabies has been made by a licensed veterinarian. If a veterinarian diagnoses rabies in a dog or cat in quarantine, the dog or cat shall be humanely killed and the head of such dog or cat shall be sent to a laboratory for pathological examination and confirmation of diagnosis.

- 2.9 Any Animal Control Officer shall have police powers in the enforcement of this By-Law and no person shall interfere with, hinder, molest or abuse any Animal Control Officer in the exercise of such powers.

2.10 Vaccination

Every owner or keeper of a dog more than six (6) months old shall cause said dog to be vaccinated or re-vaccinated by a licensed veterinarian with anti-rabies vaccine, prior to the date of application for a dog license for said dog. Application for each annual dog license shall be accompanied by written proof of vaccination of the dog against rabies, and if applicable, a spaying or neutering certificate for dog being licensed for the first time.

2.11 Licensing

The owner or keeper of a licensed dog shall cause it to wear around its neck or body a collar or harness of leather or other suitable material, to which shall be securely attached a tag in a form prescribed by and issued by the Town Clerk when a license is issued. Such tag shall state the following: (A) Town of Billerica, (B) year of issued, and (C) tag number. If any such tag is lost, the owner or keeper of such dog shall forthwith secure a substitute tag from the Town Clerk at a cost of one dollar (\$1.00). This Section shall not apply where it is otherwise provided by law, nor shall it apply to a person having a kennel license.

2.12. Kennel License

1. Any person maintaining a kennel shall have a kennel license.
2. Any person who meets the requirements of the Billerica Zoning By-Laws, and MGL. Chapter 140, Section 137A, may obtain a Kennel License from the Town Clerk on a form prescribed and supplied by the Town Clerk and for a fee as set out in Section 2.11.C of the By-Law.
3. The Chief of Police or Animal Control Officer may at any reasonable time inspect or cause to be inspected any kennel and if, in their or his judgment, the same is not being maintained in a sanitary and humane manner, or if records are not properly kept as required by law, shall file with the Selectmen a petition setting forth the facts, and the Selectmen shall upon this petition, or upon a petition of twenty-five (25) citizens, setting forth that they are aggrieved, or annoyed to an unreasonable extent, by one or more dogs at a kennel maintained in Town, because of excessive barking or vicious disposition of said dogs or other conditions connected with such kennel constituting a public nuisance, said Selectmen, within seven (7) days after the filing of such petition, shall give notice to all parties in interest of a public hearing to be held within fourteen days after the date of such notice. Within seven (7) days after such public hearing said Selectmen shall make and order either revoking or suspending such kennel license or otherwise regulating said kennel, or dismissing said petition. Within ten (10) days after such order the holder of such license may bring a petition in the district Court as outlined in MGL, Chapter 140, Section 137C. Any person maintaining a kennel after the license therefore has been so revoked, or while such license is so suspended, shall be punished as set forth in Section 2.12.
4. The provisions of M.G.L., Chapter 140, Section 137D shall be expressly incorporated herewith and shall henceforth apply under this By-Law.

2.13. License Fees

1. The fee for every dog licensed shall be as follows:

Six Dollars (\$6.00)	for every neutered male dog
Six Dollars (\$6.00)	for every spayed female dog
Ten Dollars (\$10.00)	for every male and female dog

The fee for every kennel license shall be as follows:

Twenty Dollars (\$20.00)	for 4 dogs or less
Forty Dollars (\$40.00)	for every kennel license for over 4 but not over 10 dogs.
Seventy-five Dollars (\$75.00)	for every kennel license for over 10 dogs.

2.14. Animal Control Officer

The Town Manager shall appoint Animal Control Officer and as may Assistant Animal Control Officers as might be determined necessary to enforce this By-Law and perform such other duties as the Selectmen may determine. The Selectmen shall determine hours and conditions of work for the Animal Control Officers. Compensation for persons appointed under this By-Law shall be consistent with other By-Laws dealing with salaries of appointed officials. The provisions of M.G.L., Chapter 140, Section 151 and 151A regarding killing and/or transfer of any dog (s) shall apply to this By-Law. No Animal Control Officer shall be a licensed animal dealer registered with the United States Department of Agriculture and no Animal Control Officer, either privately or in the course of carrying out his official assignments as an agent for this Town, or shall any other agent of the Town, give, sell, or turn over any animal which may come into his custody to any business or institute licensed or registered as a research facility or animal dealer with the United States Department of Agriculture. Whoever violates the

provisions of this paragraph shall be punished as provided in M.G.L., Chapter 140, Section 151.

2.15. Emergency Treatment

Any veterinarian registered under the provisions of M.G.L., Chapter 112, Section fifty-five (55) or fifty-six A (56A) who provides emergency treatment of a dog or cat that is injured on any public way in Billerica shall receive in lieu of payment from the Dog Fund as allowed in M.G.L., Chapter 140, Section 151 B, payment from the Dog Fund provided under this By-Law. All other provisions of M.G.L., Chapter 140, Section 151B shall be incorporated herein under this By-Law.

2.16. Damage Caused by Dogs

Whoever suffers damage or loss in a manner described in M.G.L., Chapter 140, Section 161 shall inform the Animal Control Officer of such loss. The Animal Control Officer shall investigate the circumstances of said damage or loss. If the Officer finds that damage or loss has occurred and estimates the damage or loss to be less than Fifty Dollars (\$50.00) he shall submit a report to the Board of Selectman stating the parties involved, the damage or loss, and the amount of the estimate. If the Officer's estimate exceeds Fifty dollars (\$50.00) he shall have the damage or loss, appraised on oath, by three (3) persons.

One (1) person shall be appointed by the Animal Control Officer, one (1) by the person alleged to be damaged, and one (1) by the Board of Selectman. Said appraiser shall act as outlined in M.G.L., Chapter 140, Section 161. A final appraisal shall be submitted to the Board of Selectman within thirty (30) days. The Board may authorize payment or, for reason of insufficient information, seek an independent investigation. If payment is authorized the Board shall issue an order upon the Town Treasurer for any amount they decide in their reasonable discretion to be just. The Board shall notify all interested parties of their decision. The appraisers shall receive payment from the Town in a manner authorized by M.G.L., Chapter 140, Section 161. All funds expended under this Section shall come from the Dog Fund.

The Selectmen may appoint a temporary investigator in any case that the Board believes, in its reasonable discretion, requires further investigation. If said investigator believes that the evidence is sufficient to sustain an action against the owner or keeper of a dog, the investigator shall recommend to the Board of Selectmen that said action be brought. The Selectmen may recommend that the action be brought in the name of the person alleged to have suffered the damage or loss, in the name of the Town of Billerica, or both. The owner or keeper may, prior to any action being brought, pay a settlement to the person alleged to have suffered the damage or loss in an amount that said person deems reasonable. If any dog is found to have worried, maimed, or killed any livestock or fowl, or caused any damage or loss for which their owner would be entitled to compensation from the Dog Fund under this By-Law, the Selectmen shall serve notice upon the owner of the dog directing him to kill or confine said dog within twenty-four (24) hours. Said action shall be taken only after notices given to all interested parties and a public hearing is held to determine who the owner is. If such notice has been given and the owner or keeper fails to either kill or confine said dog within the twenty-four (24) hour period, said owner shall be punished as provided for in M.G.L., Chapter 140, Section 164. Any Police Officer or Animal Control Officer may tranquilize or kill such dog or remove and dispose of such dog in a humane manner if it is found outside

the

enclosure of the owner or keeper and not under their immediate care.

The Board of Selectmen, or their agents thereto authorized in writing, may, after written notice to the owner or keeper, enter upon the premises of the owner or keeper of any dog known to them to have worried or killed live stock or fowls, and then and there kill such dog, unless such owner or keeper whose premises are thus entered for the said purpose

shall give a bond, with sufficient sureties, approved by the Board of Selectmen as set forth in Section 3.2 of this By-Law.

The Town and the Town's agents, servants, employees and/or elected officials obligations and liability hereunder shall be limited to one hundred dollars (\$100.00) per animal, and five hundred dollars (\$500.00) per residence, per fiscal year. This shall not limit the town's remedies and rights to seek compensation in excess of said amount, pursuant to this By-Law. The owner or keeper of a dog which has done damage to live stock and fowls shall be liable in tort to the town for all damages so done in which the town has been requested to pay as provided by MGL. Chapter 140 or by this By-Law. Such action may be brought by the Board of Selectmen, or by a temporary investigator as authorized in this By-Law.

2.17. Dog Fund

There shall be a Dog Fund established by the Town under the provisions of M.G.L, Chapter 44, Section 53E which shall be used to make purchases necessary to administer this By-Law and to pay any expenses relating to this By-Law. Said fund shall be administered by the Town Accountant and may receive funds from usual municipal financing methods and from any fees or fine collected under this By-Law. The Board of Selectmen determine a maximum amount that shall stay in said fund, with all additional funds being turned into the General Fund.

The Board of Selectmen may determine certain salaries or expenses that may not be funded with this fund but must be appropriated through the usual municipal financing procedure, and such determination shall be binding on this administration of this fund by the Town Accountant.

2.18 Penalty

A violation or breach of any one of the above subsections shall be punishable as follows and will not be considered criminal under this article:

\$25.00 for the first violation

\$50.00 for the second violation

\$50.00 for each subsequent violation or surrender of the dog.

Complaints will be sought in a District Court according to M.G.L., Chapter 140, Section 173A.

2.19 No Conflict with General Laws

No provision or interpretation of a provision of this By-Law is intended to be either in conflict with, or an attempt to change, any statutory provision in MGL Chapter 140 pertaining to dogs except as authorized by M.G.L., Chapter 140.

3. DANGEROUS DOGS

3.1 Indication of a Dangerous Dog

- A. Any dog, which, according to the records of appropriate authority has inflicted severe injury of a human being without provocation on public or private property; or
- B. Any dog, which, according to the records of appropriate authority, has killed a domestic animal without provocation while off the owner's property; or
- C. Any dog, owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting; or
- D. Any dog, not owned by a governmental or law enforcement unit used primarily to guard public or private property;
- E. If a dog is deemed dangerous by the above indications, the Selectmen must hold a public hearing to determine if the dog shall be removed from Billerica or destroyed. The hearing shall be held within thirty (30) days of the complaint.
- F. If the owner or keeper of a dangerous dog is a minor, the parent or guardian of that minor shall be responsible for compliance with the specifications of the ordinance for the care and housing of the animal and shall also be liable for all injuries and property damage sustained by any person or domestic animal caused by an unprovoked attack by the dog.

3.2 Insurance Requirements or Bond for Dangerous Dog as Outlined:

The owner or keeper of a dangerous dog shall present to the Town Clerk's Office Proof that the owner or keeper has procured liability insurance in the amount of at least One Hundred Thousand Dollars (\$100,000.00) covering the twelve (12) month period during which licensing is sought. This policy shall be a provision requiring the Town of Billerica to be named as an additional insured for the sole purpose of the Town of Billerica to be notified by the insurance company of any cancellation, termination or expiration of the policy.

3.3 Exemptions for Animals that are Provoked

No dog may be declared dangerous if threat, injury or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by owner or keeper of the dog, or was teasing, tormenting, abusing, or assaulting the dog or has, in the past, been observed or reported to have teased, tormented, abused, or assaulted the dog or was committing or attempting to commit a crime.

4 Fines

- A. The owner of any dog not licensed will be subject to a Twenty Five Dollar (\$25.00) fine. If the dog is not licensed within five (5) working days, the owner will be subject to a second fine of Three Hundred Dollars (\$300.00) a day thereafter.
- B. Any dog involved in a bite, no matter how slight, will be quarantined for a period of ten (10) days and will be taken to a licensed veterinarian for an examination and results sent to the Board of Health; failure to comply, will result in a fine of Three Hundred Dollars (\$300.00) after fourteen (14) days.
- C. Failure to license or register any dangerous dog defined in Section 3.1 within five (5) working days or obtain liability insurance within thirty (30) days shall carry a fine of Three Hundred Dollars (\$300.00) per day; failure to comply with these rules could result in confiscation of the animal.

ARTICLE VIII

PUBLIC UTILITIES

1. WATER

1. Rules and Regulations

- 1.1 Rules and regulations for the Water Division of the Department of Public Works D.P.W. shall be established by the Director of D.P.W.
- 1.2 The rules and regulations shall be approved by the Board of Selectmen and the Town Manager.
- 1.3 Customers shall use water within these rules and regulations.
- 1.4 The customer shall state what the water shall be used for on their application.
- 1.5 These rules and regulations shall be updated as necessary.

2. Assessments

- 2.1 The Town shall levy special assessments to meet the cost incurred for laying water pipes in public and private ways for the conveyance or distribution of water.
- 2.2 An owner of land which receives benefit from the laying of pipes for the distribution of water to his land or buildings shall pay a proportionate amount of the cost not already assessed for those pipes.
- 2.3 The entire cost of laying or extending water pipes shall be determined by a designee of the Director of D.P.W.

3. Fees

- 3.1 Any person applying for water service from any main or main extension which was installed by or as an entrance fee as established by the rules and regulations as established by this article.
- 3.2 The fee or any portion thereof shall be waived if the customer has paid a fee for or has been party to, the installation of the main or main extension or it is the determination of the Director of D.P.W. or his designee that he should be exempt for the reason of hardship.

4. Fines

- A. The Board of Selectmen shall have the authority to establish fines for violations of the DPW Water Division Rules and Regulations.
- B. Fines established by the Board of Selectmen shall not exceed one hundred dollars per violation per day. This By-Law may also be enforced by the non-criminal procedures allowed by M.G.L., Chapter 40, Subsection 21D. The Director of the D.P.W. or designee shall be the enforcing authority of this By-Law.

2. SEWERS

- 2.1 The owner of any building upon land abutting a common sewer line, shall be required to connect to the same by a sufficient drain within one (1) year from the time said sewer line passes their property as stated in Article II, Section 1 of the Town Sanitary Rules and Regulations.
- 2.2 Tie-In Prior To Sale
The owner of any building upon property abutting a common sewer line, who has entered into an agreement to sell said property, shall be required to tie in to the said sewer line prior to the completion of the sale of said property.
- 2.3 Illegal Connections
Any person or entity discovered to have illegally connected to Town Sewer shall be required to comply with the following requirements:
 - A. Apply for, with remittance, the appropriate Town of Billerica Sewer Connection Permit.
 - B. This by-law may be enforced by the non-criminal procedure allowed by M.G.L. Chapter 40, Subsection 21D. Pay a fine of Three Hundred Dollars (\$300.00) to the Town within thirty (30) days of discovery.
 - C. Reimburse the Town of Billerica for all unpaid sewer use. The sewer use charge shall be calculated by the Water Billing Department and will

commence with the date sixty (60) days after Town Sewer was first made reasonably available to the illegally connected building(s) using the most current sewer rates.

3. SEWER ASSESSMENTS

- 3.1 The Board of Selectmen may assess part or all of the cost hereinafter incurred of common sewers upon each owner of land within the territory served by such sewers and who enters his particular sewer into such sewers, or who by more remote means receives benefit by such sewerage system, provided that the project was commenced by petition of a majority of the owners of land within the territory served, each ownership entity to count as one petitioner, or that assessment for the project was approved by vote of Town Meeting by a fixed uniform rate or rate based upon a uniform unit method, as set forth in M.G.L., Chapter 83, Section 15, as the Board of Selectmen may determine in each case in consultation with the Sewer Extension Committee, such assessments to be apportioned fairly and proportionately and to be made within a reasonable time after the project is completed.
- 3.2 The amount to be charged against each parcel of land receiving benefit from a particular sewerage project shall include the cost of the pipes and other material and of the labor in laying them and other expenses incidental thereto and shall be ascertained, assessed and certified by the Board of Selectmen in consultation with the Director of D.P.W. once the project is completed.
- 3.3 The owners served by the project shall be assessed one hundred percent (100%) of the total cost of the project to the Town.
- 3.4 The cost of sewage treatment plants, pumping stations, trunk mains and force mains, being general benefit facilities, shall be separated from that of sewer mains serving adjacent properties, being special benefit facilities. The total cost of the general benefit facilities shall be apportioned by the uniform unit method set forth in M.G.L. Chapter 83, Section 15 on all areas to receive benefits within the sewer district or combination of districts. The cost of the general benefit facilities, attributable to undeveloped land not abutting a sewer street, may not be assessed until sewers are extended to the street on which the undeveloped land abuts or the undeveloped land is otherwise serviced by the public sewage system. The proportional cost of the special benefit and general benefit facilities shall be assessed against all properties, whether developed or undeveloped, abutting a sewer street.
- 3.5 If upon receipt of the notice of assessment sent by the Tax Collector in accordance Section 4, the owner pays the amount due in full, no lien shall be recorded in the Registry of Deeds with respect to the property assessed and it shall be indicated on the next tax bill that the amount of the betterment assessment has been paid and no further notation or demand shall be made with respect to such assessment.
- 3.6 The Board of Selectmen, in consultation with the Sewer Extension Committee, may declare that a sewer laid in any land or way, public or private, opened or proposed to be open for public travel, is a common sewer. If such a sewer is laid in a private way or land at the expense of the owner thereof, his land shall not be assessed for the cost of such sewer, but his land may be assessed for the cost of connecting such sewer with common sewers already established, for benefits received by remote means from the sewerage system and for annual sewer use fees.
- 3.7 The Board of Selectmen may assess and collect estimated sewer assessments in connection with the construction of water pollution collection, pumping, treatment and disposal facilities. The total amount of such estimated sewer assessments shall not exceed one-half of the Town's liability under all contracts it has entered into for the construction of such facilities, and the total of such estimated assessments shall be allocated by the same method used for the allocation of the actual assessments upon the completion of the work.

4. ALL BETTERMENT ASSESSMENTS

- 4.1 Unpaid assessment shall bear interest at a rate equal to two percent (2%) above the rate of interest chargeable to the Town for the betterment project to which the assessments relate, or five percent (5%), whichever is higher, from the thirtieth day after commitment to the Tax Collector.
- 4.2 The Board of Selectmen shall, upon the application of the owner of the real property assessed, if such owner is eligible for an elderly property tax exemption under M.G.L., Chapter 59, Sub-section 5, Clause 41A, enter into a deferral and recovery agreement with such owner, provided that such application is received within six months after notice of such assessment has been sent out by the Tax Collector and provided that said agreement shall contain the provisions set forth in M.G.L., Chapter 80, Section 13B.
- 4.3 Upon the petition of at least seventy-five percent (75%) of the property owners abutting a public way or a private way that has been in existence for five years, seeking the construction of a sewer extension in the way, with each ownership-entity counting as one petitioner, the Board of Selectmen and Sewer Extension Committee shall approve the construction of a sewer in that way, provided that constructing a sewer is feasible from an engineering standpoint and does not require construction of a connecting sewer in any other way, as determined by the Board of Selectmen, the Sewer Extension Committee and Town Engineer. The owners served by the project shall be assessed fifty -percent (50%) of the cost of the project, rather than one hundred percent (100%) provided that:
 - A. The project shall be undertaken only if the cost of the project does not exceed twenty-five percent (25%) of the total amount allocated from the bond authorization for sewer construction projects for that particular fiscal year.
 - B. If the way is a private way, all of the property owners having an easement or ownership interest in the way grant utility and temporary construction easements or waive damages for the taking of utility and temporary construction easements in the way.
 - C. Petitions are submitted at a time not to inhibit over-all sewerage planning, as determined by the Board of Selectmen and the Sewer Extension Committee. Assessments are to be made based upon the uniform unit method of M.G.L., Chapter 83, Section 15.

5. FIRE HYDRANTS

All fire hydrants in the Town shall be maintained as follows:

- 5.1 Test and immediately replace or repair all non-functioning hydrants on a yearly basis.
- 5.2 Lubricate all hydrants on a bi-yearly basis.
- 5.3 Remove growth or debris from around hydrants as necessary.

6. WATER CONSERVATION

Definitions

State of Water Supply Emergency: A State of Water Supply Emergency declared by the Massachusetts Department of Environmental Protection under M.G.L. Chapter 21G, Section 15-17.

State of Water Supply Conservation: A State of Water Supply Conservation declared by the Billerica Board of Selectmen pursuant to Section 6.2 of this By-Law.

Water Users: All public and private users connected to the Town's public water supply, irrespective of any user's responsibility for billing purposes for water used on any particular site.

6.1 Authority

This By-Law is adopted by the Town under its police powers to protect public health and welfare and its powers under M.G.L. Chapter 40 Subsection 21 et seq and implements the Town’s authority to regulate water use pursuant to M.G.L. Chapter 41, Section 69B. This By-Law also implements the Town’s authority under M.G.L. Chapter 40, Subsection 41A, conditioned upon a declaration of water supply emergencies issued by the Department of Environmental Protection.

6.2 Declaration of State of Water Supply Conservation

- A. At the request of the Director of Public Works Department, the Town Manager shall ask the Board of Selectmen to declare a State of Water Supply Conservation. Upon determination by a majority vote of the Board of Selectmen that a shortage of water, treatment limitation, and or distribution limitation exists, conservation measures that are appropriate to insure that an adequate supply of water at sufficient pressure to all users shall be enacted as specified in section 6.4 of this By-Law. Public notice of a State of Water Supply Conservation shall be given under Section 6.5 of this By-Law before it may be enforced.
- B. In the event of a vacancy of a DPW Director, the Town Manager shall ask the Board of Selectmen to declare a State of Water Supply Conservation. In the event of a vacancy of a Town Manager, the DPW Director shall ask the Board of Selectmen to declare a State of Water Supply Conservation.

6.3 Restricted Water Uses

- A. Outdoor watering, including automated sprinkling systems, by water users with odd numbered addresses is restricted to odd numbered calendar days. Outdoor watering, including automated sprinkling systems, by water users with even numbered addresses is restricted to even numbered calendar days.
- B. Outdoor watering, including the use of automated sprinkling systems, by municipal, industrial and commercial users is not allowed between the hours of 5:00 PM Friday through 12:00 AM Monday. Recreational fields are excluded from this restriction.
- C. Private well water is not subject to this By-Law. However, any property using a private well to supply outdoor watering must provide a sign clearly visible from the street that indicates the use of well water. This sign shall be a maximum of one square foot in size.

6.4 Stages and Penalties of Water Supply Restrictions

A declaration of a State of Water Supply Conservation shall invoke Stage I –III restrictions limiting the uses of water as necessary to protect the water supply and public safety. The applicable water conservation Stage with restrictions, conditions and enforcement shall be included in the public notice required under Section 6.

Stage I – Effective May 1 – October 1 Annually Voluntary Water Conservation

Outside water usage limited to odd – even allocation program.

Stage II – Mandatory Water Conservation

Outside water usage limited to odd – even allocation program.

	Residential	Commercial/Industrial
First violation	Written Citation	Written Citation
Second violation	\$50.00	\$100.00
Subsequent violations	\$100.00	\$200.00

Stage III – Mandatory Water Conservation

Lawn sprinklers, irrigation systems, soakers and unattended hoses forbidden. Outside water usage restricted to use of hand held hose only for no more than one (1) hour as determined by the DPW Director.

	Residential	Commercial/Industrial
First Violation	Written Citation	Written Citation

Subsequent Violations -termination of service plus costs of termination and restoration.

Stage IV – Mandatory Water Conservation

All outside use of water is forbidden.

	Residential	Commercial/Industrial
First Violation	Written Citation	Written Citation

Subsequent Violations - termination of service plus costs of termination and restoration.

6.5 Public Notification of a Declaration of a State of Water Supply Conservation

Notification of any provision, restriction, requirement or condition imposed by the Town as part of a State of Water Supply Conservation shall be published in a newspaper of general circulation within the Town, or by such means reasonably calculated to reach and inform all water users of the State of Water Supply Conservation. Any restriction imposed under Section 6.4 shall not be in effect until such notification is provided. Notification of the State of Water Supply Conservation shall also be simultaneously provided to the Massachusetts Department of Environmental Protection.

6.6 Termination or Change of State of Water Supply Conservation

A State of Water Supply Conservation may be terminated or a restriction stage may be changed by a majority vote of the Board of Selectmen, after consultation with the Town Manager. Public notification of termination of a State of Water Supply Conservation shall be given in the same manner required by Section 6.5 unless the termination date was included.

6.7 State of Water Supply Emergency; Compliance with DEP Orders

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

6.8 Penalties during Water Conservation Conditions

- A. For Stage III and Stage IV, first violation notices shall state the consequences for each subsequent violation cited during the restriction period.
- B. Costs of termination and restoration shall be paid in full before service is restored.
- C. Termination and restoration charge minimum \$100.00 or actual cost if higher.
- D. Where service restoration can reasonably be accomplished only outside the Billerica Water Division’s normal working hours (Monday through Friday, 7:00AM to 4:00 PM), the termination and restoration charge imposed on a customer of record and subsequent violations may be higher than \$100.00 in order to recover the Division’s actual overtime costs. The charge imposed outside normal working hours shall be limited to the Division’s actual costs which vary according to the time and personnel involved, day of the week and time of the day and holidays.
- E. The charge for termination and restoration is applicable to all customers located on the mains of the Town for the purpose of water conservation conditions.
- F. Fines shall be recovered by non-criminal disposition in accordance with MGL Chapter 40, Section 21D. Each day of a violation shall constitute a separate offense.
- G. The Water Division shall be the enforcing agent for this By-Law.

6.9 Special Restrictions

A. Automatic Sprinkler Irrigation Systems

All automatic irrigation systems shall require a permit from the Plumbing Inspector prior to installation and operation. All automatic irrigation systems shall be required to have a rain sensor device and a back flow prevention device installed. The fee for said permit shall be set by the Board of Selectmen.

B. Swimming Pools

1. For purposes of this section, a swimming pool is defined as any permanent in-ground pool or an above-ground pool with a minimum size of four feet deep and fifteen feet in diameter.
2. Any complete filling of swimming pools shall be done by the use of private water source.
3. Adding water due to evaporation and normal maintenance shall be done within the provisions set forth in this By-Law.

6.10 Exemptions

Exemptions from this By-Law shall include: new construction erosion control systems and the establishment of wetlands replication. Exemptions shall also include commercial agriculture, water to sustain animal life and commercial car washes. These sites shall be identified and have a water audit conducted by a designee of the DPW Director. All persons seeking exemption from this By-Law for said purposes shall obtain an exemption in writing from the Director of Public Works.

ARTICLE IX

BUILDING DEPARTMENT

Definitions:

Earth Materials: Sod, loam, Clay, sand, peat, gravel, or stone.

1. All applicants filing for building permits or subdivisions shall file copies of plans with the Building Department.
 - 1.1 Plans shall not be less than 8.5" x 9".
 - 1.2 Plans shall have sufficient clarity and detail to indicate the nature and character of the work.
 - 1.3 Plans shall contain the general description and location of the proposed work.
 - 1.4 Plans shall contain information in the form of notes as needed by the Board of Assessors to maintain Assessor's Maps.
2. The following fees shall be charged for all Building Permits issued by the Building Department. (See fees on file at the Building Department).
 - 2.1 Such fees shall be paid to the Building Department.
 - 2.2 In the case of an emergency as determined by the Building Inspector, there will be no fine assessed for starting work without a permit.
3. The Board of Selectmen may amend the schedule of fees, subject to the approval of the next Town Meeting. The Board of Selectmen may, at the request of the Inspector of Buildings, waive payment of the permit fee in the following cases:
 - (1) Any application involving municipal, religious or charitable organizations.
 - (2) In such other cases deemed to be in the best interest of the Town.
4. The Plumbing Inspector shall be the inspector of gas piping and appliances. The Plumbing Inspector shall enforce the rules and regulations established under M.G.L., Chapter 142.
5. No person shall engage in gas fitting without first obtaining a permit from the plumbing inspector. All installations shall be in compliance with the provisions of the Massachusetts Code for Installation of Gas Appliances and Gas Piping as stated in M.G.L, Chapter 142.
6. Earth Material Removal

The removal of more than five hundred (500) cubic yards or thirty truck loads, whichever is smaller, of earth materials from any land in the Town not in public use is hereby prohibited except as listed below:

 - 6.1 Such removal may be authorized in any zoning district by a permit issued by the Board of Appeal.
 - 6.2 No such permit shall be issued until a written application is filed with the Board of Appeal and a public hearing is held.
 - 6.3 Such application shall include a diagram to scale and a statement of the ownership and boundaries of the land for which such permit is sought.
 - 6.4 An abutters list and the approximate locations of all existing public or private ways nearest such land shall be included.
 - 6.5 A permit may include but is not limited to the following conditions:
 - 6.6 extent of time
 - (a) area and depth of excavation
 - (b) steepness of slopes excavated
 - (c) distance between edge of excavation and neighboring properties or ways
 - (d) temporary or permanent drainage
 - (e) the posting of security or bond

- (f) the replacement of not less than six (6) inches of topsoil over the whole or any area from which earth materials are removed where the location of such removal is afterward to become a residential subdivision
 - (g) in the case of continuing sand or gravel pit operations in one general locus, recovering the finished cut banks with a minimum of four inches of topsoil
- 6.6 A copy of the permit with conditions if any or the denial of any application for a permit with the reasons for the denial, shall be filed by the Board of Appeal in the office of the Town Clerk.
- 6.7 Notice of the action taken by the Board of Appeal on any such application shall be mailed by the Board to the interested parties within five (5) business days.
- 6.8 This regulation shall be deemed not to prohibit the removal of less than five hundred (500) cubic yards or thirty (30) truck loads, whichever is smaller, of earth materials as may be required to:
- (1) Be excavated for the purposes of constructing foundations for buildings or other allowable structures after a building permit has been issued.
 - (2) For the purpose of constructing ways in accordance with approved lines and grades.
 - (3) For the purpose of constructing utilities or other engineering works for public service.
- 6.9 This article does not prohibit the transferal of earth materials from one part of a lot of land to another part of the same lot of land.
7. Abandoned Wells
- 7.1 All owners of land in the Town whereon is located an abandoned well or a well in use, shall provide a cover for such well.
 - 7.2 The cover shall be capable of sustaining a weight of 300 pounds.
 - 7.3 The cover shall be kept in place whenever the well is not in active use.
 - 7.4 In lieu of a cover, the well shall be filled level with the surrounding ground.
 - 7.5 Any violation of this By-Law shall be punishable by the penalty provided for in M.G.L., Chapter 40, Section 21, Sub-section 20.
8. Excavations
- All owners of land which has been excavated shall erect barriers on all sides thereof, or take other suitable measures to insure the public safety if such excavation is left open for a period of more than seven (7) days. Any violation of this By-Law shall be punished by a fine of not more than one hundred dollars (\$100.00).
9. Construction Site Activities
- The operation of heavy construction equipment or any related equipment at construction sites, excluding work done by a home owner at their primary residence, shall be limited to the hours of 7:00 AM to 6:00 PM Monday thru Saturday and shall be prohibited on Sundays and legal state holidays.
10. Fencing, Screening, and Landscaping
- Boundary fences, walls, hedges, or shrubs shall be permitted provided that they do not exceed eight (8) feet in height and provided that no fence, wall, hedge, or shrub which obstructs the vision of any motorist shall exceed forty-two (42) inches in height within twenty (20) feet of the street line. No boundary fences, walls, hedges, or shrubs shall exceed forty-eight (48) inches in height within fifteen (15) feet of a habitable room in an abutting dwelling.
- 10.1 Fences shall be erected in such a way that the finished side faces away from the dwelling or yard it surrounds.
 - 10.2 Open storage, loading, and or service areas, and parking lots for six (6) or more cars shall be screened from any adjacent residence by a wall, fence, densely planted trees or shrubs eight (8) feet in height, or be equivalently obscured by natural vegetation.
 - 10.3 Junk, trash, or any other debris shall be confined out of sight in all open storage, loading, and/or service areas and parking lots.

11. DISCHARGE OF WATER ON TO PUBLIC WAYS

The discharge of water on to public ways shall be prohibited between November 15th and April 15th.

12. INSPECTOR OF WIRES

12.1 The Inspector of Wires shall be appointed by the Town Manager pursuant to M.G.L. Chapter 166, Section 32.

12.2 The Inspector of Wires shall have the power to perform the duties and enforce the provisions of M.G.L. Chapter 166 and the State Electrical code and shall supervise every wire over or under streets or buildings in town and every wire within or supplied from buildings and structures subject to the provisions of M.G.L., chapter 143 in the State Building code except for those exceptions found in M.G.L., chapter 166, Section 32.

12.3 All utility companies reinstalling or swapping utility poles within three (3) feet of an existing pole's location within the Town of Billerica must provide prior notice 14 (fourteen) days in advance of such work to the Board of Selectmen unless an emergency exists and they must insure that all markings on the current pole are transferred to the new pole and notify the Board of Selectmen within 30 (thirty) days that such transfer took place.

13. ENFORCEMENT

13.1 The Inspector of Buildings or designee shall be responsible for the enforcement of this By-Law. The provisions of non-criminal disposition or any other remedy allowed by this By-Law may be used to enforce this By-Law.

13.2 Violations of this By-Law shall be punishable by the following fines:

First Offense:	Written Warning or \$100.00
Second Offense:	\$200.00 fine
Third Offense:	\$300.00 fine
Fourth and Subsequent Offenses:	\$300.00 fine and/or enforcement action

ARTICLE X

ADULT ENTERTAINMENT

1. The following shall apply to premises licensed in accordance with the M.G.L., Chapter 138, Alcoholic Liquors, or Chapter 140, Theatrical Exhibitions, Public Amusements, etc., Section 181, Licenses, Fees, Applications, suspension or revocation or Section 183A, concerts, dances, exhibitions, Public shows, etc., application, suspension or revocation, rules and regulations.
 - A. No employee of a licensed establishment or other person may mingle with the patrons of the establishment while such person is unclothed or in such attire to expose to public view any portion of the pubic area, anus, or genitals, or any simulation thereof, nor may a licensed establishment allow any female person to mingle with patrons on the premises while she is appearing in any manner of attire as to expose to public view any portion of the breast below the top of the areola, or any simulation thereof.
 - B. It is forbidden to employ or permit any person in or on the licensed premises to perform any act or acts of sexual intercourse, masturbation, sodomy, flagellation or any sexual acts prohibited by law.
 - C. Employees or entertainers may not engage in touching, caressing, or fondling of the breasts, buttocks or genitals of another.
2. Anyone who is obliged to file an entertainer's disclosure statement with the Commissioner of Public Safety pursuant to the provisions of M.G.L., Chapter 140, Section 181A, appearance under assumed names; statement filed; penalty shall also file a copy of such disclosure with the Chief of Police. The copy of such disclosure shall be accompanied by a copy of photographic identification which sets forth the true name, legal address and date of birth of the entertainer.

ARTICLE XI

CONSULTANTS TO THE PLANNING BOARD, BOARD OF HEALTH AND CONSERVATION COMMISSION

The Planning Board, the Board of Health and/or the Conservation Commission shall require that an applicant for a site plan special permit, subdivision approval or Board of Health variance under the provisions of the Subdivision Rules and Regulations, Zoning By-Laws, the Wetlands Protection By-Law or the Board of Health's Regulations agree, as a condition of the acceptance of the application, to pay the cost of the professional services rendered to the Planning Board, Board of Health and/or the Conservation Commission by a consulting engineer in connection with the application. The consulting engineer shall submit a bill for services rendered directly to the applicant and the applicant shall be responsible for making full payment of such bill directly to the consulting engineer.

Problems or disputes over payment arrangements between the consulting engineer and applicant shall be settled at a regularly scheduled meeting of the board or commission which initiated the review. A majority vote shall be sufficient for resolution.

ARTICLE XII

PERSONNEL BY-LAW

1. EMPLOYEE CLASSIFICATION

- 1.1 There is hereby established a Personnel By-Law (Article XII of the Billerica General By-Law) for those non-school employees and officials of the Town of Billerica, drawing compensation, who are not covered by collective bargaining agreements relative to salaries, wages, hours, benefits, and other conditions of employment.
- 1.2 Employees excluded from Section 1 are all employees whose employment status is classified as temporary, seasonal, emergency, substitute, casual and the like. The position of Town Manager or designee shall not derive, in entirety, any benefit from the provisions of Article #12 - The Personnel By-Law.
- 1.3 Hereinafter, The Town Manager or designee, and the Board Selectmen of the Town of Billerica, shall be referred to as the "Town" in all sections of this By-Law unless duly noted.
- 1.4 This By-Law shall be administered by the Town Manager as provided for in Section 3-3 of the Town Charter.
- 1.5 The starting rate shall be the minimum of the rate range for the job as established by the Town Manager. Subject to the approval of the Town Manager, new employees may be hired in excess of the minimum, but not in excess of the maximum established rate.
- 1.6 In the case of an emergency declared by the Town Manager, the Town may employ emergency employees for a period not to exceed twenty (20) working days.
- 1.7 All employees subject to this By-Law shall be entitled to step increases on the anniversary date of their employment until the maximum for their job is attained, subject to satisfactory performance evaluations as administered by the Town Manager or a designee. In the case of promotion or transfer in job classification, the employee shall be entitled to step increases on the anniversary date of promotion or transfer until the maximum for the new classification is obtained. Permanent part-time employees, covered under this By-Law, working a minimum of 16 hours per week, shall be granted increases in accordance with the percentage given to the regular full-time employees covered by this By-Law.
- 1.8 Benefits outlined in the By-Law shall be pro-rated for all permanent part-time employees, who are covered by this By-Law, working a minimum of 16 hours per week.
- 1.9 Hereinafter, the employees fulfilling the requirements cited under 1.1 and 1.2 of this Section of the By-Law, shall be referred to as the "Town Employee" or "Employee" in all sections of this By-Law unless duly noted.

2. EMPLOYEE RIGHTS AND REPRESENTATION:

- 2.1 Coercion: There shall be no discrimination, reprisals, or retaliation taken against any employee due to their activity, involvement, or assistance in this By-Law by the Town. The Town shall agree there shall be no discrimination, reprisals, or retaliation taken against any Employee for their approbation to the conditions of this Personnel By-Law in its entirety.
- 2.2 Discrimination: The Town shall not discriminate against the Employee, covered by the provisions of the Personnel By-Law, for reasons of race, color, religion, national origin, ancestry, sex, sexual preference or orientation, age, marital status, veteran history, or handicap, in accordance with applicable laws and regulations in the hiring, promoting, transferring, assigning, suspending, demoting, discharging, and relieving an Employee from work.
- 2.3 Committee: A five (5) member Committee shall be created by those Employees covered by the provisions of the Personnel By-Law for the purpose of reviewing, addressing and presenting the Personnel By-Law to the Town Manager or designee. The Town shall grant a leave of scheduled work time, without loss of pay or benefits, to this Committee and all Employees, for as many meetings as deemed necessary by the Committee, with the permission of the appropriate department supervisors.

- 2.4 The Town shall agree to provide an adequate meeting area for this Committee and all Employees covered by this By-Law for the purpose cited in 2.3 of this Section
- 2.5 A written request shall be made by the Committee at least one (1) calendar week prior to the proposed scheduled meeting date, to the Town.
- 2.6 Approval shall not be unreasonably withheld by the Town. Written approval or denial shall be made known and received before three (3) working days of the proposed scheduled meeting, by the Town.
- 2.7 Employees, participating under the conditions of Section II shall not be penalized by loss of pay or benefits and shall not be required to make up such time by the Town.

3. CIVIL SERVICE

- 3.1 The Town and employees covered by the provisions of the Personnel By-Law shall recognize and adhere to all Civil Service and State Labor Laws, rules and regulation, relative to appointments, promotions, transfers, assignments, job titles, discharges, demotions, removals, and suspensions, where such positions and jobs are applicable under Civil Service.
- 3.2 All cases where Civil Service and Job titles are in effect, the Town Manager will use these classifications and job titles.

4. CREDIT UNION

Employees of the Town shall be allowed to operate, maintain and participate in a Credit Union incorporated pursuant to M.G.L., Chapter 171.

5. GRIEVANCE PROCEEDURE

- 5.1 A "Grievance" is hereby defined as a complaint by an employee or group of employees that is based upon an alleged violation of, or an alleged variation from, the provisions of the Personnel By-Law, or the interpretation, meaning or application thereof, and an aggrieved employee is a person or group of persons making such a complaint through the formally prescribed outline of Section 5.
- 5.2 All requests for meeting, hearing, replies, extension, decisions and filing of grievances amongst all parties shall be in the written form.
- 5.3 A grievance shall be first presented by the aggrieved employees to their immediate supervisor within fourteen (14) calendar days of the incident cited as the grievance. A sincere and serious effort shall be made, by all parties involved, to adjust the grievance at an informal hearing within fourteen (14) calendar days of the filing of the grievance. Said grievance shall be cited, identified and outlined, in writing.
- 5.4 If the grievance is not resolved by the activation of Section 5.3 the grievance shall then be presented formally to the Town Manager or designee. The Town Manager shall have ten (10) calendar days to reply to the grievance.
- 5.5 Time periods may be extended, noted in Sections 5.3 and 5.4 4.3 and 4.4 at the actual by mutual agreement of the Town and the employee/committee. Written confirmation as to the extensions taken shall be made known to all parties involved.
- 5.6 If the grievance is not resolved by the activation of Section 5.4 the employee/committee shall formally notify the Personnel Board requesting a hearing within twenty (20) calendar days after the time period of Section 5.4 has expired. The Personnel Board shall answer the grievance within ten (10) calendar days after the formal hearing has taken place.
- 5.7 The aggrieved employee or group of employees shall reserve the right to be assisted by the Committee, as described in Section 2.3, and legal counsel at any time of the grievance period once Section 5.3 has been initiated. The employees shall reserve the right to call witnesses, question witnesses, and submit information and evidence to support their grievance.
- 5.8 Any dispute arising between an employee or group of employees and the Town which is submitted as a grievance for resolution under Section V if such dispute or grievance is a suitable matter for submission to the Massachusetts Civil Service Commission or the

Massachusetts Commission Against Discrimination, (MCAD) this prerogative may be exercised by the employee and with the assistance of the Employee By-Law Committee and legal counsel.

- 5.9 Any grievance not presented in writing within the time specified shall be constituted as a waiver.
- 5.10 The Town Manager, or designee, shall receive written notification when the time set forth in Section 5.4 has expired, from said employee. The Town Manager, or designee, shall be granted under Section 5.10 an extension of Section 5.4 for ten (10) additional calendar days in which to respond to the grievance. Failure to comply within the extension cited in Section 5.10 by the Town Manager or his/her designee, shall be construed as a favorable decision to the employee or group of employees.
- 5.11 The position of Town Clerk, Assistant Town Clerk, and the Town Accountant shall not derive any benefit from Section 5 in its entirety.

6. DISCIPLINE:

- 6.1 No employee shall be disciplined, demoted, transferred, reprimanded or discharged involuntarily except for just cause.
- 6.2 Any Employee, covered by the provisions of the Personnel By-Law, subjected to actual specific disciplinary action (s) shall and must receive written notification stipulating the specific infractions(s) and the specific action(s) to be taken for such infraction(s).
- 6.3 Upon disciplinary actions allegedly not for just cause, the employee may file a claim through Section 5 of the Personnel By-Law or through the provisions of Civil Service (only for employees where this is applicable), but not both.
- 6.4 Written selection of the claim process in Section 6.3 must be filed with the Town Manager or designee or appointing authority, whichever is applicable and required, within ten (10) business days of receiving written notification in Section. 6.2. The selection of one claim process Section 6.3 or Civil Service shall immediately and automatically constitute a waiver of the alternate process.
- 6.5 Failure to elect a claim process in Section 6.3 within ten (10) business days to the appropriate Town official, shall constitute a waiver of both Section 6 of the Personnel By-Law and Civil Service remedies.
- 6.6 The Town shall furnish copies of all correspondence between the employee and employer pertinent to any and all allegations, infractions, and disciplinary actions to the employee By-Law Committee accordingly as to the action taken by the Town under Section 6 against any employee covered by the provisions of the Personnel By-Law.
- 6.7 The Town shall not institute any test program, i.e., alcohol, drug, without prior written notification to all employees and the Committee and approval by the majority of the employees covered by the provisions of the Personnel By-Law.

7. REMOVAL AND SUSPENSION:

- 7.1 As provided for in the Billerica Town Charter under Article 7, Section 7-7, any appointed officer or employee of the Town, except the Town Manager, whose removal or suspension is not covered by the provisions of Massachusetts General Law or the terms of a collective bargaining agreement, whether appointed for a fixed or an indefinite term, may be suspended or removed from his duties by the appointing authority.
- 7.2 The appointing authority when acting to remove or suspend any appointed officer or town employee, shall act in accordance with the following procedure:
 - (A) A written notice of the intent to remove or to suspend and a statement of the cause or causes therefor, shall be delivered in hand to the officer or employee, or mailed by registered or certified mail to his last known address.
 - (B) Within five (5) days following delivery of the said notice, the officer or employee may request a public hearing by submitting, in writing, a request therefor to the

appointing authority and personnel board, and by filing a copy of said request in the office of the Town Clerk and Personnel Board.

(C) The Personnel Board shall hold a public hearing not less than seven nor more than fourteen (14) days following the date of receipt of a request therefor, and shall give not less than five (5) days written notice of such public hearing to the officer or employee affected. The officer or employee shall have a right to be represented by counsel at such hearing, to call witnesses, to examine witnesses and to introduce evidence at the public hearing.

(D) Not more than fourteen (14) days following the public hearing, or not more than fourteen (14) days following the delivery of the original notice of intent if no public hearing has been requested, the appointing authority shall take final action on the removal or suspension and shall, forthwith, notify the officer or employee, in writing, of the removal or suspension, or that the notice of intent has been rescinded.

8. RE-HIRING POLICY:

8.1 All employees, covered by the provisions of the Personnel By-Law, effected by layoffs, cutbacks, position eliminations, or severe actions shall be considered first relative to the re-hiring process as positions become available within the Town. Reasonable and sincere attempts shall be made by the Town to rehire each employee per classification, title, and position duties and responsibilities.

8.2 Civil Service rules and regulations shall apply to those employees, covered by the provisions of the Personnel By-Law, who are covered by the Civil Service Laws. This provision shall not be limited to the layoff and re-hiring process.

9. TERMINATION OF EMPLOYMENT AND LAYOFFS

9.1 Whenever an employee terminates employment with the Town, all benefits associated with cash compensation, which are accumulative in nature, i.e., vacation days, personal days, sick days, shall be paid at the established rate of pay for that time.

9.2 The employees shall also receive all other pay due at the time of employment termination from the Town.

9.3 Termination status of employment shall be regarded as:

- a. Voluntary separation in good standing; or
- b. Retirement; or
- c. Death

The employees shall be compensated for full and pro-rated benefits due.

9.4 All compensation shall be paid to the employee or, in the event of death, payment shall be made to the employee's estate.

9.5 The following department heads are exempt from the layoff procedure: Assistant Town Manager, Principal Assessor, Public Works Director, Treasurer/ Collector, and Town Accountant

9.6 Employees shall have seniority rights in their specific classification according to job title, according to date of hire in that classification, subject to the prevailing provisions of M.G.L. Section 31, dealing with layoff and recall rights, if applicable.

9.7 An employee who is reduced in hours or laid off shall be placed on a recall list.

9.8 No new employees will be hired for any classification until the current recall list for that classification is exhausted.

9.9 In the event of a layoff, affected employees shall be entitled to be compensated for all unused sick leave and all vacation days to which they are entitled as of the layoff date.

10. HOLIDAYS

10.1 The town shall agree to the following twelve (12) holidays, which fall on or are observed on regularly scheduled work days, and shall be granted as paid holidays;

- | | |
|------------------------|------------------------|
| New Year's Day | Labor Day |
| Martin Luther King Day | Columbus Day |
| Washington's Birthday | Veteran's Day |
| Patriot's Day | Thanksgiving Day |
| Memorial Day | Day after Thanksgiving |

Independence Day Christmas Day
Release time for the day before Christmas, the day before New Year's Day and the day before Thanksgiving Day will be 12 noon.

- 10.2 Designated Holidays that fall on Sunday shall be observed on the following Monday and Holidays falling on Saturday shall be observed on the previous Friday.
- 10.3 Any employee on an unpaid leave shall not be eligible for Holiday pay during the period covered by the leave.
- 10.4 An employee on vacation shall be granted an additional day of vacation when a designated Holiday occurs during the vacation period.

11. PERSONAL DAYS:

Each employee shall be granted three (3) days off with pay each fiscal year, at their discretion to conduct personal business. Said days may not be taken on a Holiday. Personal days shall not be accrued and must be taken prior to June 30th of each fiscal year. Loss of said days shall be made if not taken prior to June 30th of each fiscal year. Use of a personal day shall require twenty-four (24) hours notice to the appropriate authority.

12. PERFORMANCE EVALUATIONS:

As of January 1, 1996, all employees covered by the provisions of the Personnel By-Law shall be subject to an annual performance evaluation conducted by the Town Manager or a designee, under criteria established by the Town Manager.

13. VACATION:

13.1 The vacation leave shall be accrued by all employees covered by the provisions of the Personnel By-Law, pro-rated according to the normal and established number of hours worked per week or the number of days worked per week, in the following schedule:

5 years of service or less	2 weeks vacation
More than five, but less than 10	3 weeks vacation
More than 10 but less than 15	4 weeks vacation
More than 15 years of service	5 weeks vacation

Upon completion of six (6) months of consecutive employment, a newly hired Employee may use one (1) of the two (2) weeks vacation. All vacation requests must be approved by the appropriate department supervisor; a minimum of 24 hours advance notice is required.

- 13.2 Any employee may accumulate for paid compensation a maximum of forty (40) vacation days.
- 13.3 Any employee on any type of unpaid leave for more than forty-five (45) calendar days shall not be entitled to vacation time until they return to work, at which time vacation time will be pro-rated.
- 13.4 Any employee, while on vacation for four (4) or more of their vacation days, who is required to return to work due to unforeseen emergencies, hearings, etc., shall be granted a replacement vacation day for each day or portion of a day they are required to return to work.
- 13.5 An employee shall be granted a replacement day of vacation if, while on vacation, a holiday occurs during this period.
- 13.6 The vacation schedule shall commence on the first day of the fiscal year (July 1st). The employee's original employment date with the Town shall dictate the number of vacation weeks the employee is eligible for.
- 13.7 Upon separation or termination of employment, the employee shall receive cash compensation for any and all unused vacation leave allowable under Section 13, not to exceed forty (40) days.
- 13.8 Upon the death of any employee, their pro-rated and accrued vacation days shall be paid to their estate.
- 13.9 Upon the completion of one (1) year of service, an employee may receive credit for any prior state, county, and/or municipal service in the Commonwealth of Massachusetts, for the purpose of calculating vacation time only. The granting of such creditable service time shall be applicable only to vacation benefits, as directed by the Town Manager.

14. BEREAVEMENT:

- 14.1 All employees, covered by the provisions of the Personnel By-Law, shall be granted bereavement leave.
- 14.2 Such leave shall not be charged as sick or vacation leave.
- 14.3 Bereavement leave shall be paid, pro-rated, according to the employee's normal and established number of hours worked per week or the number of days worked per week.
- 14.4 In the event of a death of the following, the employee shall be granted five (5) business days bereavement leave without loss of pay or benefits, following the day of death for: Mother, Father, Spouse, Child, of the employee or of the employee's spouse, any other relative residing with the employee, and in the event of a death of a person whereas the employee is solely responsible for all funeral arrangements of the deceased.
- 14.5 In the event of a death of the following, the employee shall be granted three (3) business days bereavement leave, without the loss of pay or benefits, following the day of death for: Mother/Father-in-Law, Grandparents, Grandchild, Brother, Sister of the employee or of the employee's spouse.
- 14.6 In the event of a death of the following, the employee shall be granted one (1) business day bereavement leave, without the loss of pay or benefits, following the day of death for: Brother/Sister-in-Law, Aunt, Uncle, Niece, Nephew, Cousin, and all other relatives of the employee or of the employee's spouse.
- 14.7 There shall be no distinction of foster, step nor half relatives in the determination and consideration of granting the bereavement leave.
- 14.8 The employee may be granted an additional three (3) business days extension, without loss of pay or benefits, at the approval of the Town Manager or designee. Said extension shall only be granted in the event of travel outside the New England States and extreme and extenuating circumstances which the employee shall make known to the Town Manager or designee.

15. RETIREMENT INCENTIVE:

- 15.1 Early retirement incentive shall, within the appropriation provided, be paid to an employee who has completed at least ten (10) years service with the Town and intends to file for regular retirement. The employees must also meet the established requirement of twenty-five (25) hours per week as a normal and established work week.
 - A. An employee shall receive a ten percent (10%) salary increase if retiring after age sixty (60) but before age sixty-two (62).
 - B. An employee shall receive a fifteen percent (15%) salary increase if retiring after age fifty (50) but before age sixty (60).
 - C. The percentage increment shall be paid over the last twelve (12) months of employment.
 - D. An employee, anticipating retirement, shall notify the Town Manager, or designee, or appointing authority, whichever is applicable, in writing, at least twelve (12) months prior to the proposed retirement date.
 - E. An employee shall complete the "Notification of Proposed Retirement and Authorization for Payroll Adjustment Form" and submit copies of such form to the appointing authority, Personnel Board and the Town Manager.
- 15.2 An employee shall not submit more than one (1) Retirement Incentive Form nor receive more than one (1) Retirement Incentive Compensation from the Town.
- 15.3 An employee, satisfying the requirements of Section 15, shall be granted compensation pursuant to the applicable percentage (10% or 15%) and such compensation shall be increased proportionately by any wage and salary percentage increase that may be granted.
- 15.4 Any employee remaining in the service of the Town, while collecting compensation under Section 16, after the proposed retirement date, shall have their salary/wages adjusted accordingly to reflect the Retirement Incentive Compensation paid during this retirement notification period.
- 15.5 The Town shall adjust the employee's salary/wages to discontinue the retirement incentive pay effective the first business day after the proposed retirement date.

- 15.6 Deductions and adjustments in any employee's salary/wages shall be made by the Town, deemed necessary, to recover the incentive paid to the employee, in accordance with an established schedule determined by the Town.
- 15.7 Upon the death of any employee, their incentive shall be adjusted for the number of weeks worked prior to the event of death with the appropriate incentive percentage and shall be paid to their estate.
- 15.8 Optional to the Employee, an employee with 25 years of full time service as recognized by M.G.L. Chapter 32 with the last 10 years of such full time service being in the Town of Billerica, and has a minimum of 100 sick days accumulated, may request to be designated a "Senior" employee for a period of three (3) consecutive years. During the period of time that the employee is designated as "Senior" shall be the period of time not to exceed three (3) consecutive years selected by the employee. During the period of time that the employee is designated as "Senior" they shall receive a base salary increase of 6% above what their annual salary would have been that year. In addition, during the period of time that each employee is designated "Senior" they will be required to provide a doctor's certificate for each three (3) consecutive days of sick leave or for each day in excess of ten (10) sick days in a year, if requested to do so by the Town. Employees will be designated as "Senior" only once in their career and for only one (1) three year period. An employee who requests to be designated as "Senior" under this section forever forfeit their rights to sick leave buy back. Also any such employee will not be eligible for Sick Leave Buy Back as outlined under Section 23, 23.3 nor will they be eligible for the Retirement Incentive benefits outlined in Section 15, 15.1 – 15.7. Finally, when an employee requests "Senior" status it is an irrevocable decision regardless whether or not the employee completes three years of service from the date of request.
- 16. CERTIFICATION AND LICENSES:**
- 16.1 The Town may agree to compensate, within the appropriations provided, all employees who Are required by statute, job and employment qualifications and requirements, or combinations Thereof, to maintain active and "in good standing" status of such certification, license Requirements and any and all other necessary professional fees.
- 16.2 The Town shall pay tuition, registration fees, and cost of materials for courses and seminars taken by employees covered by the provisions of the Personnel By-Law to enhance their work- related professional development, within the appropriations provided, with the prior approval of the appropriate department head and/or the Town Manager.
- 17. MILITARY DUTY:**
- 17.1 All employees, covered by the provisions of the Personnel By-Law, who are called for Armed Forces military training, shall be paid any difference in compensation between that drawn in the normal and established work period of two (2) weeks in their regular Town employment and the total compensation, excluding travel time, of the military duty.
- 17.2 Such compensation shall not exceed two (2) weeks in a calendar year, and shall not include compensation to members of the National Guard who may be mobilized during an emergency in the Commonwealth.
- 18. MILITARY SERVICE:**
- 18.1 All employees covered by the provisions of the Personnel By-Law, shall be granted a military leave of absence without pay when called involuntarily to active duty with the Armed Forces for purposes other than routine annual tour of duty for training purposes.
The Town shall agree that the employee's seniority rights shall not be affected while their leave of absence for said leave is in effect.
- 19. JURY DUTY:**
- 19.1 All employees, covered by the provisions of the Personnel By-Law, shall receive the amount equal to the difference between their normal compensation and the amount received from the Court.
- 19.2 These provisions shall not make compensation to the employee for travel time.
- 20. MILEAGE:**
- All employees, covered by the provisions of the Personnel By-Law, shall receive compensation

for the use of their personal vehicle in the performance of their established and official duties and responsibilities for the Town. Said compensation shall be paid at the rate equal to the amount the United States Internal Revenue Service allows for business mileage deductions. in tax forms.

21. INSURANCE:

- 21.1 All employees, covered by the provisions of the Personnel By-Laws, shall be eligible to participate in the Contributory Group Life, Accident, Hospitalization and Medical and Surgical Insurance Plan - as defined in M.G.L., Chapter 32B, plan adopted by vote of the Annual Town Meeting of March 1958, one-half (1/2) to be paid by the employee.
- 21.2 Eligibility for such participation shall be at the established requirement of the employee to work a minimum of twenty (20) hours per week.
- 21.3 In the event an employee is absent due to conditions cited in Section 23.8, the Town shall agree to pay the employees' medical insurance up to thirty (30) working days. Such employee shall be required to reimburse the Town in a period not to exceed thirty (30) working days.

22. MATERNITY, ADOPTION AND FAMILY LEAVE:

- 22.1 The Town shall grant to all employees covered by the provisions of the Personnel By-Law, Maternity Leave in accordance with M.G.L., Chapter 149, Section 105D.
- 22.2 The Town shall also grant to all employees covered by the provisions of the Personnel By-Law, leave time for the purpose of adoption in accordance with the provisions adopted under M.G.L., Chapter 318 of the Acts of 1989 under the Maternity Leave Statute.
- 22.3 In addition to the aforementioned leave provisions, the Town shall grant to eligible employees leave time under the provisions of the Family and Medical Leave Act of 1993 and the Small Necessities Act under M.G.L. Chapter 149 Section 52D.

23. SICK DAYS AND SICK LEAVE:

- 23.1 All employees, covered by the provisions of the Personnel By-Law, shall be granted fifteen (15) working days that shall be pro-rated, according to the employee's normal and established number of hours worked per week or the number of days worked per week, as the sick day allotment per fiscal year. Accumulation shall be unlimited.
- 23.2 All new employees shall accrue, but not draw compensation for, sick days during the probationary period of six (6) months.
- 23.3 Any employee terminating employment with the Town under the conditions of retirement, or death, shall receive compensation in cash in an amount equal to a maximum of seventy (70) days for any unused and accrued sick days. Any employee hired on or after January 1, 1996 shall not be entitled to compensation in cash for any unused and accrued sick leave upon termination of employment.
- 23.4 All compensation in cash due the employee, shall be made in accordance with Section 9 (Termination of Employment) of the Personnel By-Law, in its entirety.
- 23.5 Paid sick days shall be considered as time worked.
- 23.6 All employees shall notify their department or the appropriate authority of the illness within a reasonable time before the start of the work day.
- 23.7 Upon notification of using a sick day, the employee shall be at home, hospital, physician/dentist/medical professional's office or en route to or from such a facility. Failure to be in one of the aforementioned locations shall be considered an unauthorized sick day and an abuse of the sick day benefit.
- 23.8 Sick leave shall be granted for sickness, injury or absence due to quarantine.
- 23.9 Employees shall receive compensation payment for sick leave only for the number of accrued unused sick days accumulated.
- 23.10 All compensation in cash due the employee on sick leave shall be made in accordance with Section 9, (Termination of Employment) in its entirety.
- 23.11 Paid sick leave shall be considered as time worked.
- 23.12 All employees, covered by the terms and provisions of the Personnel By-Law, utilizing sick leave for five (5) consecutive working days or more, shall be required to provide a Medical/Dental/Professional's certificate to the appropriate authority within two (2) days of returning to work.

- 23.13 Any employee shall be required to notify the appropriate authority and department that they shall be on sick leave prior to the start of the working day, establish an approximate leave period, and provide an approximate return date. Said employee shall be accessible to their department and/or the appropriate authority. Exceptions shall be considered for, but not limited to, hospitalization, being en route to medical/dental facilities, therapy, for the inaccessibility to the appropriate authority or department.
- 23.14 Sick leave benefits shall cease if a medical/dental/professional certificate is not presented documenting the reason (s) for such leave upon the request of the appropriate authority.
- 23.15 A yearly bonus shall be paid to employees in group 2, (clerical staff) in July for non-use of sick leave for the prior fiscal year:

0 Days	\$500
1 Day	\$400
2 Days	\$300
3 Days	\$100
3+ Days	\$ 0

An employee who has been employed by the town for one (1) year of service will receive this benefit. Payments will be made no later than August 1st for the prior fiscal year and prorated for an employee whose incentive is less than on year. Part time employees will receive a prorated incentive based upon their hours worked. Work related absences would not be used to

determine whether an employee would receive the sick leave bonus. Employees will still have the option of the day off every 6 months as currently written in the contract but not both and they must declare prior to the start of the Fiscal Year.

An employee who have not utilized any sick leave in any six (6) month period shall receive one (1) additional paid day. Said day(s) may be used at the employee's discretion with appropriate prior notice. Eligibility for these incentive days shall commence July 1, 2001, and shall commence again upon the employee's return from sick leave.

24. SICK LEAVE BANK:

- 24.1 All employees, covered by the provisions of the Personnel By-Law, may annually contribute one (1) of their accumulated sick days to a Sick Leave Bank and said contribution shall be matched by the Town. Any employee who chooses not to contribute annually to the Sick Leave Bank shall not be eligible to draw any benefit from the Sick Leave Bank.
- 24.2 The Town will contribute fifty (50) days as a one-time start-up contribution to establish the Sick Leave Bank, effective as of January 1, 1996.
- 24.3 Employees shall not be obligated to contribute if on any July 1st the bank has more than two hundred (200) days.
- 24.4 Withdrawals from the bank shall be approved by a majority vote of a Sick Leave Bank Committee consisting of two (2) persons designated by the employees covered under the Personnel By-Laws and two (2) persons designated by the Town Manager. In the event of a split decision, the Town Manager shall be considered an ex-officio member of the Sick Leave Bank Committee, and as such, shall render a final determination concerning a request to withdraw days from the Sick Leave Bank.
- 24.5 In order to be eligible to draw from the Sick Leave Bank, the employee must:
 - (A) have been employed by the Town for at least one (1) year;
 - (B) be absent because of a personal illness or injury anticipated to last more than six (6) weeks;
 - (C) verify said illness or injury in accordance with the provisions outlined in Section 23, and to the extent requested by the Sick Leave Bank Committee;
 - (D) be willing to take all reasonable steps necessary to make a full recovery and prevent a recurrence of the disability including continued treatment for problems contributing to the disability;

24.6 Decisions made by the Sick Leave Bank Committee shall be final and binding and not subject to reversal by the Town, appeals or grievances.

25. LEAVE OF ABSENCE:

25.1 All employees, covered by the provisions of the Personnel By-Law, may be granted a leave of absence.

25.2 Said leave of absence shall be considered as time the employee leaves their position for any specific reason (s) for which they are not receiving any salary/wages or benefits from the Town.

25.3 A leave of absence may be granted for a three (3) month period. An extension, not to exceed six (6) months, or any portion thereof, may be granted by written notification to and approval of the Town Manager, stating the specific reason (s) why such leave or extension is requested.

25.4 Such leave time period shall not be considered as broken employment. Said leave time period shall not be considered as time worked towards any benefit drawing compensation, until the employee returns to work.

26. ACCIDENTS - OCCUPATIONAL:

26.1 All employees, covered by the provisions of the Personnel By-Law, who are unable to perform duties due to an industrial accident while performing the duties and responsibilities associated with their position, shall receive compensation in accordance with the M.G.L., Chapter 152.

26.2 In the event of an industrial/occupational accident, an employee shall notify the appropriate authority within forty-eight (48) hours after such event occurs.

26.3 Employee's shall not be impeded by the Town from their rights under the Workman's Compensation Act.

27. WORK WEEK:

27.1 The work week for regular, full-time employees shall be defined as five (5) consecutive seven and one-half (7 ½) hour days, Monday through Friday, inclusive. The work week for regular part-time employees shall be established by the appropriate department head.

27.2 Work week exceptions shall include, but are not limited to, departments with earlier/later starting hours, earlier/later closing hours, and weekend hours.

27.3 The normal established full-time work day, in accordance with Section 27.2, shall consist of seven and one-half (7 ½) consecutive hours within the twenty-four (24) hour period. regular starting and quitting time. Exceptions and variations will be a condition of employment or will be mutually agreed and established upon by said employee and the Town.

27.4 Any employee not receiving overtime compensation and working additional hours outside their normal and established work hours and requirements/conditions of the position shall be granted time off by the appointing authority.

27.5 Any employee not receiving overtime compensation who is required to attend meetings, seminars, workshops, etc., that extend beyond the employee's normal and established working hours shall be granted time off by the appointing authority.

27.6 The provisions of Sections 27.4 and 27.5 shall not apply to the department heads as defined in Sections 9.5 thru 9.9.

28. PERSONNEL RECORDS:

28.1 An employee or designated representative, covered by the provisions of the Personnel By-Law, may request and review any and all records maintained by their department, Personnel Board, Town Manager's office, Board of Selectmen's office, and any other Town agency or department during normal and established working hours or upon request to the applicable department/agency.

28.2 Any correspondence, other than established employment forms, shall not be entered into the employee's personnel file or any other Town department/agency files unless said employee is informed by written notification of said entry.

ARTICLE XIII

RECYCLING

1. Mandatory Paper Recycling

Each residential household situated within the Town shall be required to actively participate in a Mandatory Paper Recycling Program. Paper to be recycled includes newspaper/inserts, junk mail, magazines, catalogs, phone books, office paper, chip board such as cereal, cracker and beer and soda boxes, shoe boxes and corrugated cardboard. Provisions of this By-Law shall be effective upon the Town implementing weekly recycling program.

ARTICLE XIV

ENFORCEMENT OF BOARD OF HEALTH RULES, REGULATIONS AND BY-LAWS

Whoever violates any provisions of the Board of Health Rules and Regulations may be penalized by non-criminal disposition as provided for in M.G.L., Chapter 40 Section 21D. The Board of Health may use the non-criminal method of disposition in addition to already established methods of enforcement. The enforcing agents shall be the Board of Health, its agents, or its designees.

The penalties for violations of Board of Health Rules and Regulations shall be as follows:

First Offense	Written Warning/or \$100. fine
Second Offense	\$200 fine
Third Offense	\$300 fine
Fourth and Subsequent Offenses	\$300 fine and/or enforcement action

ARTICLE XV

PROCEDURES

1. REGISTERED OR CERTIFIED MAIL

Any notice required by any Town By-Law to be sent by registered mail may be sent by either registered or certified mail.

2. PUBLIC HEARINGS

All public hearings will be held in accordance with one or all of the following standards as specified in this by-law:

- A. seven (7) days notice prior to the hearing
- B. ten (10) days notice prior to hearing
- C. fourteen (14) days notice prior to the hearing
- D. in a local publication
- E. by certified mail
- F. by return receipt requested mail
- G. to direct abutters
- H. to abutters to abutters
- I. to all abutters
- J. within one hundred (100) feet
- K. within three hundred (300) feet

3. VIOLATIONS AND FINES

Unless it is specifically stated otherwise in the By-Law, after a person has been notified in writing of a violation, each day that a violation of a General By-Law exists shall be treated as a separate offense.

4. ADVERTISING

All advertising shall be published in a paper of local circulation in accordance with one or more of the following standards as specified in the By-Law:

- A. for one (1) week
- B. consecutively for two (2) weeks
- C. consecutively for four (4) weeks
- D. the last notice not to exceed ten (10) days prior to
- E. the last notice not to exceed seven (7) days prior to
- F. Any advertising shall be posted on the Town's website. Any defect in the posting of any advertising on the Town's website shall not invalidate the notice requirements of this By-Law.

5. MAILED NOTICES

All mailed notices will be sent in accordance with one or all of the following standards as specified in the By-Law:

- A. seven (7) days notice prior to
- B. ten (10) days notice prior to
- C. fourteen (14) days notice prior to
- D. by certified mail
- E. by return receipt requested mail
- F. by direct abutters
- G. to abutters to abutters
- H. to all abutters
- I. within one hundred (100) feet
- J. within three hundred (300) feet
- K. all residents
- L. all voters

**ARTICLE XVI
COMMONS, PARKS, PLAYGROUNDS AND CEMETERIES**

DEFINITIONS

For purpose of this By-Law, the following terms, phrases, words and their deviations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number and words in the singular number the plural. The word "SHALL" is always mandatory and not merely directory.

- (a) Commons, Parks, Playgrounds and Cemeteries are public places laid out for the purpose of rest and/or recreation or burial of deceased, either bequeathed, under trust or control of the Town, regulatory control of the Board of Selectmen of the Town, or under the control of the Billerica School Department or the Cemetery Commission or any board or commission delegated with the authority of any of the above-named.
- (b) Custodian is any person over the age of twenty-one (21), who is loco parentis, in place of parents, to a juvenile.
- (c) Guardian is any person other than a parent, who has legal guardianship of a juvenile.
- (d) Juvenile is any person under the age of seventeen (17) years old.
- (e) Parent is the natural or adoptive parent of a juvenile.
- (f) Public Places: Any street, road, way or sidewalk which abuts a common, park, playground, school yard or cemetery to which the public has a right of access and shall include a common, park, playground, school yard or cemetery as defined herein.
- (g) Recreation shall mean such game or sport for which a specific area is laid out for or designated in a common, park, playground or school yard. The controlling board or body may allow reasonable alternatives for which their approval is required.
- (h) Road, Street and Way shall mean any road, street, or way to which the general public has a right of access which abuts a common, park, playground, school yard or cemetery.
- (i) Town is the Town of Billerica.

1. CURFEW

It shall be unlawful, for any person, adult or juvenile to remain idle, wander, stroll or play in any common, park, playground, or cemetery either on foot, bicycle, or any kind of vehicle, of the Town as follows:

- (A) Commons, parks, playgrounds and cemeteries under the direct control of the Town, between the hours of one (1) hour after sunset and one (1) hour before sunrise.
- (B) Commons, parks, playgrounds and cemeteries under the assigned control of the Board of Selectmen of the Town between the hours of one (1) hour after sunset and one (1) hour before sunrise except from April 1st to November 1st between the hours of 10:00 P.M. and 5:00 A.M.
- (C) **EXCEPTIONS** to the provisions of Section 2, Sub-paragraphs (1) and (2) shall be those lighted recreational areas, within the parks and playgrounds of the Town or under control of the Board of Selectmen, which shall be between the hours of 12:01 A.M. and 5:00 A.M. from April 1st to November 1st of each year.
- (D) Commons and parks under the control of the School Department, between the hours of one (1) hour after sunset to one (1) hour before sunrise.
- (E) Playgrounds or school yards under the control of the School Department shall have off-limit hours set and posted by the School Department.
- (F) All public places, roads, streets, way and sidewalks, abutting any of the above mentioned commons, parks, playgrounds and cemeteries shall, during the above mentioned "CURFEW" hours be utilized for the purpose of travel and shall be unlawful for any person to remain idle, loiter or conduct themselves in any form of recreation.
- (G) The Common in the Town Center and Talbot Oval shall be exempt from this curfew.

2. AUTHORIZED ACTIVITY BEYOND CURFEW

Such authorized activity permitted by the issuance of a permit by the Town Board of Selectmen or School Department shall extend the hours of the "CURFEW", as indicated in Section 2, herein, of the common, park, playground or cemeteries under such control, for the particular common, park, playground or cemetery only, and such permit shall not be unreasonably withheld.

3. PARENT'S RESPONSIBILITY

It shall be unlawful for a parent, guardian or other adult person having custody or control of any juvenile under the age of seventeen (17) to suffer to permit, or by inefficient control to allow such person to be on a common, park, playground or cemetery during the hours of the established "CURFEW" as prescribed, herein, or posted for a particular common, playground, park or cemetery **UNLESS** such parent, guardian, custodian or other adult person herein has made a missing person notification to the Police Department.

4. PROCEDURE FOR JUVENILES

(A) Any police officer of the Town upon finding a juvenile in violation of Section 2 of this By-Law, shall ascertain the true name and address of such juvenile and shall warn the juvenile he or she is in violation of the "CURFEW" and shall direct the juvenile to proceed at once to his or her home or usual place of abode. The police officer shall make an official report to the Chief of Police, who shall direct his representative to notify the parent or guardian or person having custody or control of such juvenile. The first violation within a calendar year shall constitute a "WARNING" and shall so be noted in the records of the police department.

(B) A second or subsequent violation by a juvenile **OR** if such juvenile refuses to heed a warning or direction of any police officer of the Town **OR** refuses or attempts to falsify his true name and/or address or true age, he or she shall be taken to the Police Department and the parent, guardian, or other adult person having custody of such juvenile shall be notified to come and take charge of the juvenile. If the parent, guardian or other adult person cannot be located or fails to come and take charge of the juvenile within a reasonable time of such notification by the police department, the juvenile probation officer shall be contacted who shall take charge of the juvenile or shall authorize the release of the juvenile to a responsible person.

5. RIGHT TO ARREST

Any police of the Town upon viewing a violation by any person, other than a juvenile, of the "CURFEW" provisions of Section , 1 (one) of this By-Law, shall have the right to arrest such person, and bring him to the police station to be properly identified.

6. PENALTY FOR VIOLATION OF SECTION 1 (one)

A. A person, other than a juvenile, violating the curfew provisions of Section 1 (one) of this By- Law, and found guilty, shall be fined a sum of Fifty Dollars (\$50.00) for the first offense and Two Hundred Dollars (\$200.00) for each subsequent offense thereafter.

B. Any juvenile found violating the curfew provisions of Section 1 (one), of this By-Law, shall be summoned to the Juvenile Court of the Lowell District Court on the second or each subsequent offense. Any parent, guardian, or other adult person having custody or control of a juvenile who violates the curfew provisions of Section 1 (one), of this By-Law, and is found guilty by the Juvenile Court of Lowell District Court of a second violation, shall be fined a sum of Fifty Dollars (\$50.00) and for each subsequent offense a fine of Two Hundred Dollars (\$200.00).

7. RULES AND REGULATIONS REGARDING THE USE OF PARKS

The following rules and regulations shall govern the use of commons, parks, playgrounds, school yards and cemeteries of the Town.

A. BUILDINGS AND OTHER PROPERTY.

- (1) Disfigurations and removal. No person shall willfully mark, deface, disfigure, injure, tamper with, or displace or remove, any buildings, tables, benches, fireplaces, railings, paving or paving material, water lines or other public utilities or parts or appurtenances thereof, signs, notices or placards whether temporary or permanent, monuments, stakes, posts or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.
- (2) Restrooms and washrooms. No person shall fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition. No person shall cause any graffiti condition, or post in any manner any unauthorized material.
- (3) REMOVAL OF NATURAL RESOURCES. No person shall dig or remove any sod, soil, rock, stones, trees, shrubs, planks, timber, wood or other materials or make any excavations by tool, equipment, blasting or other means or agency.
- (4) FILTH OR OFFENSIVE MATTER. No person shall carry or cart by any means any filth, or offensive matter, or substance whatever, or to be a nuisance.
- (5) ERECTION OF STRUCTURES. No person shall construct or erect any building or structure of whatever kind, whether permanent or temporary in character unless authorized to do so.
- (6) POLITICAL SIGNS
 - (A) This General By-Law permits the use of political signs on all public places within the Town, providing that these signs are held or manned by an individual or individuals. Unmanned signs will be confiscated and destroyed.
 - (B) Signs will be permitted to be posted at all polling/election locations within the Town on Election Day, at such locations as shall be designated by election officials no less than 150 feet from the entrance of such polling places, in conformance with M.G.L, Chapter 54, Subsection 65. These signs may or may not be held/manned by an individual or individuals.
 - (C) All political signage must be removed from all polling/election locations by 6:00 P.M. on the day following election day. Signs which remain at polling/election locations beyond 6:00 P.M. of the day following the election will be confiscated and destroyed.

B. TREES, SHRUBBERY, LAWNS

- (1) INJURY AND REMOVAL. No person shall damage, cut, carve, transplant or remove any tree or plant or injure the bark, or pick the flowers or seeds of any tree or plant. No person shall attach any rope, wire, string or other contrivance to any tree or plant. A person shall not dig in or otherwise disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of any area.
- (2) CLIMBING TREES, ETC. No person shall climb any trees or walk or stand or sit upon monuments, vases, fountains, fences or gun carriages or upon any other property not designated or customarily used for such purposes.
- (3) HITCHING OF ANIMALS. No person shall tie or hitch a horse or other animals, including domesticated animals, to any tree or plant. This does not bar a person from bringing a domesticated animal into the park, providing that such domesticated animal is under the control of such person so as not to disturb or injure any other person, tree or plant

C. TRAFFIC

- (1) **MOTOR OR RECREATIONAL VEHICLES.** No person shall ride, lead or drive any motor vehicle or recreational vehicle in or upon any common, park, playground, school yard or cemetery without permission by the Town Board of Selectmen or School Department.
- (2) **BICYCLES.** No bicycles shall be allowed on a common, park, playground or cemetery EXCEPT on a paved road, sidewalk or path designated for that purpose by the Town or their authorized agent. A bicyclist shall be permitted to wheel or push a bicycle by hand over any grassy area or paved area reserved for pedestrian use. **OPERATION OF A BICYCLE,** in permitted areas, shall be on the right side of the road, path, or paved way and shall be kept in single file when two or more are operating in a group. Operation shall at all times be reasonable with reasonable regard to the safety of others.

D. BATHING AND SWIMMING:

- (1) **SWIMMING AREAS.** Swimming areas available at certain commons, parks, playgrounds or beaches are under the control of a specific agency and permission for use of such is under their authority at the designated hours of the day and in compliance with such regulations as required by such agency. Any person, adult or juvenile, who refuses to obey the instructions of a water instructor, lifeguard or director of the swimming area shall be refused the use of the area and shall be evicted. If said person refuses to leave peacefully when so ordered, said person may be subject to arrest.
- (2) **BATHING ATTIRE:** All bathing attire shall conform to commonly accepted standards of bathing suits.
- (3) **BATH-HOUSES.** No person shall dress or undress in any vehicle, toilet or other place within the confines of a common, park, playground or beach area except in such bathing houses or structures provided for that purpose.

E. RECREATION: - The only games allowed to be played on commons, parks, playgrounds, and school yards are those for which a particular area has been designated. Alternatives require the permission of the designated authority, be it the Town, Board of Selectmen or the School Department.

F. BEHAVIOR - No person in a common, park, playground or cemetery shall:

- (1) **ALMS** - Solicit alms or contributions in any form for any purpose whether public or private, except by permission of the Board of Selectmen
- (2) **GAMES OF CHANCE** - Gamble or participate in or abet any game of chance.
- (3) **IDENTIFICATION** - Failure to properly identify himself or herself upon direction of a Police Officer by giving his or her true name, address, or age in case of a juvenile or by producing proper identification papers with such information.
- (4) **INTOXICATING BEVERAGES** - Violate the provisions of the Public Drinking By-Law.
- (5) **LOITERING AND BOISTEROUSNESS** - Sleep on seats or benches or engage in loud, boisterous, abusive, threatening, insulting or indecent language, or engage in any disorderly conduct or behavior tending to annoy others or breach the public peace.

8. POSTING

All commons, parks, playgrounds, school yards and cemeteries shall be posted with signs indicating the authorized hours of use for the calendar year, the arrest provisions and the stipulated fine.

9. RIGHT TO ARREST

Any Police Officer of the Town upon viewing a person violating the rules and regulations indicated by Section 7 (seven) of this By-Law, shall have the right to arrest said person. Said person shall be required to state their true name and address and true age or by producing proper identification papers with such information. In the case of a juvenile who violates the rules and regulations indicated by Section 7 (seven) of this By-Law, the procedures set forth in Section 4 (four) of this By-Law shall be followed.

10. PENALTY

- A. Any person, other than a juvenile, violating any of the rules and regulations established by Section 7 (seven) of this By-Law, or established by the Board of Selectmen of the Town, or by the School Department of the Town, and charged directly with such violation and found guilty, shall be fined the sum of Fifty Dollars (\$50.00) for the first offense and Two Hundred Dollars (\$200.00) for each subsequent offense.
- B. Any juvenile found violating the “Rules and Regulations” established by Section 7 (seven) of this By-Law, shall be summoned to the Juvenile Court of the Lowell District Court on the second offense and each subsequent offense. Any parent, guardian, or other adult person having custody or control of a juvenile, who violates the rules and regulations, Section 7 (seven) of this By-Law, and is found guilty by the Juvenile Court of Lowell District Court of a second violation shall be fined a sum of Fifty Dollars (\$50.00) and for each subsequent offense a fine of Two Hundred Dollars (\$200.00).
- C. The penalty provisions for violation of any other statutory provisions of the M.G.L., or for violations of the Public Drinking By-Law shall have precedence.

11. PUBLIC CEMETERIES

All public cemeteries in the Town shall be operated in accordance with the provisions of M.G.L. Chapter 114 Sections 10 thru 50.

12. NON-CRIMINAL FINES RELATING TO CEMETERIES

- A. Any person who without authority removes flowers, shrubs, flags, monuments or memorial tokens from any cemetery or burial grounds under the authority of the Billerica Cemetery Commission shall be punished by a fine of Three Hundred Dollars (\$300.00) for each offense.
- B. Any person who commits an act of vandalism in any cemetery or burial grounds under the authority of the Billerica Cemetery Commission shall be punished by a fine of Three Hundred Dollars (\$300.00) for each offense.
- C. Whoever violates section (A) or (B) above shall be penalized by a non-criminal disposition as provided in M.G.L., Chapter 40, Section 21D. Police Officers shall be the enforcing authority for such purposes.

ARTICLE XVII

GAS STATIONS

1. Self-service gas station shall mean that type of gas station wherein motor fuel is dispensed by anyone other than an employee of the gas station.
2. Notwithstanding any other provision of this By-Law, no self-service gas stations shall be permitted in the Town except as provided for in Section 17.3 and 17.6.
3. Subject to approval of the licensing authority, a full service gas station may include one or more islands of self-service pumps, in addition to the full service island, if the licensing authority finds it is in the public interest. In determining whether additional self-service islands are in the public interest, the licensing authority shall consider public safety, traffic congestion, the level of automotive services (e.g. repairs, maintenance, emergency services, etc.) and other factors related to the public interest.
4. All self-service pumps shall have posted thereon in a conspicuous place, with consistent lettering, a set of instructions for use of the self-service pumps, payment options, and other such procedures. In all places where the foregoing instructions appear, an instruction to shut off the automobile's engine, extinguish all smoking materials, turn off, and discontinue use of mobile telephones prior to pumping any gasoline shall also be included. The gas station shall also provide and maintain a free air pump with an adjustable meter.
5. The owner of a gas station shall be subject to Section 17.3 when any substantial change in the operation of the gas station relative to provision of repairs, inspections, preventative maintenance, gasoline, or ancillary services.
6. For the purposes of this By-Law, those gas stations existing on May 12, 1992, shall be deemed to have met the public interest test required in Section 17.3 on the day of the acceptance of this section by the Town Meeting.
7. The Board of Selectmen shall mail a copy of this By-Law by certified mail to all self service gas stations annually.
8. All self service gas stations shall post a copy of this By-Law in a conspicuous place.

ARTICLE XVIII

ISSUING OF LICENSES & PERMITS

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 persons, 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 pending petition before the appellate tax board.
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 license authority receives a certificate issued by the Tax Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate.
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 limitation 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 provision of law.
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, in any, or members of his immediate family, as defined in M.G.L, Chapter 268, Section 1 in the business or activity conducted in or on said property. This section shall not apply to the following licenses and permits: open burning, M.G.L, Chapter 48, Section 13; bicycle permits, Chapter 85, Section 11A; sales of articles for charitable purposes, Chapter 101 Section 33; children work permits, Chapter 149, Section 69; clubs, associations dispensing food or beverage licenses, Chapter 140, Section 21E; dog licenses, Chapter 140, Section 137; fishing, hunting and trapping licenses, Chapter 131, Section; marriage licenses, Chapter 207, Section 28; and theatrical events public exhibition permits Chapter 140, Section 181.
5. All business establishments requiring a license shall receive approval of their operating hours from the Board of Selectmen.
6. The Selectmen shall establish the fee for Automatic Amusement Device Licenses not to exceed One Hundred Dollars (\$100.00) per machine. In accordance with M.G.L., Chapter 140, Section 177A,
as amended from time to time, any individual or business desiring to keep and operate an automatic

amusement device for hire, gain or regard shall secure an annual license from the Board of Selectmen. The Board of Selectmen shall not grant a license for any automatic amusement device which presents a risk of misuse as a gaming device. Automatic amusement devices which represent a risk of misuse as gaming devices are those devices which have one or more of the following features:

- A. The device involves matching random numbers, patterns or cards
- B. The device accumulates more than twenty-six (26) plays
- C. The device is equipped with a "knock off" switch, button or similar device
- D. The device has a mechanism for adjusting the odds
- E. The device has a remote control feature that can rest the device from another location
- F. The device is capable of returning money to the player, other than the change for the excess amount put in
- G. The device permits a player to pay for more than one game at a time
- H. Each game on the device does not cost exactly the same amount for each player, and a player may change any aspect of the game by paying a different amount than any other player before or during the game.
- I. There is a metering device that accounts for both money/points in and money/points out. All licenses for automatic amusement devices granted by the Board of Selectmen shall be subject

to

inspection by the Billerica Police Department to insure conformance with submitted application information and local By-Law requirements. Any unlicensed automatic amusement device shall be subject to immediate seizure by the Billerica Police Department in accordance with Massachusetts General Laws.

Any person found in violation of this By-Law shall be punished by a fine of Two Hundred Dollars (\$200.00) for each offense

7. No person shall engage in the roadside sale of any items, articles or food, unless a current valid license from the Board of Selectmen is conspicuously displayed. The sale of garden vegetables, fruits, berries, plants and/or flowers grown on the premises shall not require such license. No license shall be required for the occupant of a legal business location who conducts roadside sales on the business premises, when such sales are in connection with, and accessory to the primary business activity. This section shall not apply to the occasional sale by the property occupant of their personal property.
8. The Selectmen may issue licenses to such persons as they deem suitable to be dealers in and keepers of shops for the purchase, sale or barter of junk, old metals, or second hand articles within the Town. Junk collectors shall be deemed to be any person who, by going from place to place within the Town collects by purchase or otherwise junk, old metals or second hand articles, subject to the provisions of M.G.L., Chapter 140, Sub-Section 54. The licensee shall agree to abide by and be subject to all the provisions of this Section or any By-Law relating to such license.
9. The Selectmen may issue a license to any person for the purpose of occupying or obstructing a sidewalk, for a limited time, while erecting, altering, or repairing a building or structure. The licensee shall furnish a satisfactory bond to the Town to hold it harmless from all claims for loss or damage arising from the occupancy or obstruction under the license. The licensee shall place a good and convenient temporary side walk around such obstructions when ordered to do so by the Selectmen, Building Inspector or the Police Department. The Police Department shall enforce this section.

ARTICLE XIX

HANDICAPPED PARKING

1. The Police Department and all members thereof assigned to traffic duty, are hereby authorized to remove and tow away, or have removed and towed away by commercial towing services, at the sole expense of the owner of said motor vehicle, any motor vehicle left unattended or parked in a parking space reserved and designated for use by a vehicle of a handicapped person, unless said vehicle shall be lawfully designated as a vehicle of a handicapped person. Motor vehicles so towed away shall be stored in a safe place and restored to the owner or operator thereof upon payment by the owner or operator of the expenses incurred in said removal and storage.

2. The person or body entity 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 centers, residential dwellings or for any other place where the public has a right of access as invitees or licensees shall reserve parking spaces in said off-street parking areas for any vehicle owned and operated by a handicapped person whose vehicle bears the distinguishing license plate or equivalent permit authorized by M.G.L., Chapter 90. Section 2, according to the following formula:

Total Number of Parking Spaces	Handicapped Parking Spaces Required
Not more than 15	0
16 to not more than 25	1
26 to not more than 40	0.05 x Parking Spaces but not less than 2
41 to not more than 100	0.04 x Parking Spaces but not less than 3
101 to not more than 200	0.03 x Parking Spaces but not less than 4
201 to not more than 500	0.02 x Parking Spaces but not less than 6
501 to not more than 1000	0.015 x Parking Spaces but not less than 10
1001 to not more than 2000	0.01 x Parking Spaces but not less than 15
2001 to not more than 5000	0.075 x Parking Spaces but not less than 20
More than 5000	0.005 x Parking Spaces but not less than 30

The above mentioned parking spaces 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 curb ramps or other unobstructed methods permitting sidewalk access to a handicapped person; and shall be twelve (12) feet wide or two (2) eight (8) foot wide areas with four (4) feet of cross hatch between them.

3. In the absence of the operator of any motor vehicle violating any provisions of the By-Law, it shall be deemed that the registered owner of such vehicle was the operator.

4. Any motor vehicle bearing a handicapped parking permit or motor vehicle registration plate designating the vehicle as one used by a handicapped person shall be authorized to park in a designated handicapped parking space. The Chief of Police, his designee, or the Town Clerk may issue a temporary handicapped Parking Permit to any person upon application with supporting medical affidavit signed by a licensed physician designating the applicant as physically handicapped. Said temporary permit shall be issued with an expiration date not to exceed sixty (60) days from the date of issue and shall be displayed in front right windshield of any vehicle parked in a designated handicapped parking space. In the case of a motorcycle or any other non-automotive vehicle the permit shall be affixed in a visible place as close to the right front of the vehicle as is practical.

5. The unauthorized use of a temporary permit shall be punishable by a fine of Fifty Dollars (\$50.00).
6. Each day that any violation continues shall constitute a separate offense.
7. All motor vehicles parked in areas which are open to the public and serving one (1) or more buildings shall be ticketed if they are found to be parked in a handicapped space or blocking ramps or curb cuts used for handicapped access. Violators of this section shall be fined no less than one hundred dollars (\$100.00) and no more than three hundred dollars (\$300.00)

ARTICLE XX

CONSTRUCTION EMPLOYMENT

DEFINITIONS

Billerica area residents – any person for whom the principal place of residence is within the Town for at least six (6) months prior to the award of a particular construction project.

1. PURPOSE

There is a need to ensure that Billerica residents receive the maximum benefits from the economy of the Town specifically regarding the economic benefit to construction employees in the construction of any public building or public works projects. Therefore, it is appropriate for the Town to make certain that the construction of any public building or public works project (hereinafter called “construction project”) ensures that a substantial percentage of construction and employees include Billerica residents through compliance with this Billerica Residents Construction Employment By-Law.

2. POLICY

On any construction project (funded in whole or in part by Town funds, or funds which, in accordance with a federal grant or otherwise, the Town expends or administers, or which the Town is a signatory to the construction contract) the developer, contractor or subcontractor shall comply with the following requirements:

- (a.) A minimum of twenty-five (25%) percent of the total construction employees work hours in each craft shall be completed by Billerica residents.
- (b) All developers, contractors and subcontractors shall agree that any apprentices hired shall be apprentices indentured to a bona fide apprenticeship program, approved by the Commonwealth of Massachusetts.
- (c) This policy shall be in effect and enforceable when the Commonwealth of Massachusetts’ rate of unemployment is at a level of six percent (6%), or higher, on the date of execution of said contract, as determined by the Commonwealth of Massachusetts Division of Employment and Training, Research Bureau, as published by said agency monthly.

3. COMPLIANCE

The Town Manager’s Office, acting through the Building Inspector, shall be responsible for enforcing compliance with provisions of this By-Law. Upon issuance of a building permit, the developer shall submit to the Planning Board and/or Building Inspector, the following:

- (a) Scope of construction
- (b) Construction time schedules
- (c) Projected number of employees and hours, related to construction
- (d) Types of trades to be hired; and
- (e) Names, addresses and principals of contractors and subcontractors being hired.

Upon request, all developers shall submit weekly workforce reports listing the following:

- (a) Name of employees
- (b) Residential address of each employee, and length of residence
- (c) Proof or verification of residence
- (d) Craft of each employee
- (e) Job category of each employee
- (f) Hours worked of each employee
- (g) Hourly wage of each employee, and
- (h) Company for which each employee is employed

The Billerica Residents Employment Monitoring Committee and/or Special Projects Coordinator shall review all information submitted, and shall make certain that such requirements are complied

with. If such requirements are not complied with, the enforcement procedures of Section 5 shall be implemented.

4. BILLERICA RESIDENTS EMPLOYMENT MONITORING COMMITTEE

The Billerica Residents Construction Employment By-Law, its enforcement and compliance with its requirements shall be monitored by the Billerica Residents Construction Employment Monitoring Committee, as provided herein. Such Committee shall be comprised of five (5) individuals, including the following:

- A. A designee of the Town Manager
- B. A designee of the Selectmen
- C. A designee of the Planning Board/Town Planner
- D. A designee of the Town Moderator
- E. A designee of the Director of Public Works

Such Committee shall meet on a monthly basis, or as needed, and shall review and monitor all information and documentation provided by developers to establish compliance with said By-Law. If, through such monitoring, it is determined that one or more developers are not complying with said By-Law, the committee shall immediately request the Town Manager and Building Inspector initiate procedures for enforcement, as provided in Section 5 of said By-Law. The sole exception to the implementation of such enforcement procedures is the determination and approval of the Committee, as defined in Section 4, that compliance cannot be obtained because of high local construction employment levels of Billerica residents, and that therefore, a waiver from compliance should be allowed.

5. COMPLIANCE WAIVER

In the event of high local construction employment levels of qualified Billerica residents, and documented inability of developers, contractors and subcontractors to hire Billerica employees because of such high local construction employment levels, compliance with the provisions of this By-Law may be waived, in whole or in part, on a case by case basis, through a determination made by the Billerica Residents Committee, as defined in Section 3, that high local employment levels prohibit the developer, contractors and subcontractors from hiring Billerica employees as required. Such documentation shall include evidence of efforts conducted by the developer, contractor and subcontractor which shows a high level of effort in attempting to obtain Billerica employees. Such effort shall include local advertising to seek Billerica employees, and solicitations of local companies for contracting purposes.

6. ADMINISTRATION ENFORCEMENT

In the event of violation of the By-Law, upon three (3) days written notice to the violator, the Town, through its Town Manager and its Building Inspector, shall take proper legal action to achieve the following:

- (a) Assessment of a fine of Three Hundred (\$300.00) Dollars per day of violation, or the maximum amount by law whichever is less, against the developer who violates this By-Law, to be paid within thirty (30) days of such assessment.

ARTICLE XXI

DISCHARGES TO THE MUNICIPAL STORM SEWER SYSTEM

DEFINITIONS

Authorized Enforcement Agency:	The Billerica Board of Health, its employees, or agents designated to enforce this By-law.
Best Management Practice (BMP):	An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.
Clean Water Act:	The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as may be amended from time to time.
Discharge of Pollutants:	The addition, from any source, of any pollutant, or combination of pollutants, into the municipal storm sewer system or into the waters of the United States or Commonwealth.
Groundwater:	Water beneath the surface of the ground.
Illicit Connection:	A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm sewer system, including without limitation sewage, process wastewater, or wash water, and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this By-law.
Illicit Discharge:	Direct or indirect discharge to the municipal storm sewer system that is not composed entirely of stormwater, except as exempted in Section 5. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from fire fighting activities exempted pursuant to Section 5.1, of this By-law.
Impervious Surface:	Any material or structure on or above the ground that prevents water from infiltrating into the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and rooftops.
Municipal Separate Storm Sewer System (MS4) or Municipal Storm Drain System or Municipal Storm Sewer System:	A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains); A. Owned or operated by a State, city, town, borough, county, parish, district, association or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district, or drainage district, or similar entity or an Indian tribe or an authorized tribal organization or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States; B. Designated or used for collecting or conveying storm water; C. Which is not a combined sewer; and D. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

National Pollutant Discharge Agency, Elimination System (NPDES) Storm Water Discharge Permit: Non-Stormwater Discharge:	A permit issued by the United States Environmental Protection Agency or jointly with the Commonwealth, that authorizes the discharge of pollutants to waters of the United States. Discharge to the municipal storm sewer system not composed entirely of stormwater.
Person:	An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.
Pollutant:	Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include without limitation: A. Paints, varnishes, and solvents, B. Oil and other automotive fluids, C. Non-hazardous liquid and solid wastes and yard wastes, D. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations, and floatables, E. Pesticides, herbicides, and fertilizers, F. Hazardous materials and wastes; sewage, fecal coliform and pathogens, G. Dissolved and particulate metals, H. Animal wastes, I. Rock, sand, salt, and soils with the exception of winter salting & sanding, J. Construction wastes and residues, and K. Noxious or offensive matter of any kind
Process Wastewater:	Water, which during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.
Recharge:	The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.
Stormwater:	Rainfall runoff, snow melt runoff, and surface water runoff and drainage. Runoff shall mean rainfall or snowmelt water flowing over the ground surface.
Surface Water Discharge Permit:	A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.
Toxic or Hazardous Material or Waste: chemical,	Any material, which because of its quantity, concentration, or corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.
Watercourse:	A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

Waters of the Commonwealth: All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.
Wastewater: Any sanitary waste, sludge, or septic tank or cesspool overflow, and process wastewater.

1. APPLICABILITY

This By-law shall apply to flows entering the municipal separate storm sewer system.

2. RESPONSIBILITY FOR ADMINISTRATION

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

3. REGULATIONS

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

4. PROHIBITED ACTIVITIES

4.1 Illicit Discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system (MS4), into a stormwater BMP on public or private property, into a watercourse, or into the waters of the Commonwealth.

4.2 Illicit Connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm sewer system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

4.3 Obstruction of Municipal Storm Sewer System. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm sewer system without prior written approval from the Board of Health.

5. EXEMPTIONS

5.1 Discharge or flow resulting from fire fighting activities.

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

- A. Waterline flushing,
- B. Flow from potable water sources,
- C. Springs,
- D. Natural flow from riparian habitats and wetlands,
- E. Diverted stream flow,
- F. Rising groundwater,
- G. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater,
- H. Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation,
- I. Discharge from landscape irrigation or lawn watering,
- J. Water from individual residential car washing,
- K. Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance or erosion,
- L. Discharge from street sweeping,

- M. Dye testing, provided verbal notification is given to the Board of Health prior to the time of the test,
- N. Non-stormwater discharge permitted under a NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Massachusetts Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations, and
- O. Discharge for which advanced written approval is received from the Board of Health as necessary to protect public health, safety, and welfare, or the environment.

6. EMERGENCY SUSPENSION OF STORM SEWER SYSTEM ACCESS

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

7. NOTIFICATION OF SPILLS

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of or suspects a release of materials at that facility or operation resulting in, or which may result in, discharge of pollutants to the municipal storm sewer system or waters of the Commonwealth, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire and police departments and Board of Health and Department of Public Works, Engineering Division. In the event of a release of non-hazardous material, the reporting person shall notify the Board of Health no later than the next business day. The reporting person shall provide to the Board of Health written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator shall retain onsite a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years from the date of the spill.

8. ENFORCEMENT

The Board of Health, or its authorized agent, shall enforce this By-law, resultant regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

8.1 Civil Relief. If a person violates the provisions of this By-law, regulations, permit, notice, or order issued thereunder, the Board of Health may seek injunctive relief in a court of competent jurisdiction restraining the person from activities that would create further violations or compelling the person to perform abatement or remediation of the violation.

8.2 Orders.

- A. The Board of Health, or its authorized agent, may issue a written order to enforce the provisions of this By-law or the regulations thereunder, at the expense of the violator or property owner, which may include,
 - (a) elimination of illicit connections or discharges to the MS4,
 - (b) performance of monitoring, analyses, and reporting,
 - (c) that unlawful discharges, practices, or operations shall cease and desist, and
 - (d) remediation of contamination in connection therewith.
- B. If the enforcing agent determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation

must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Billerica may, at its option, undertake such work, and expenses thereof shall be charged to the violator.

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

8.3 Criminal Penalty. Any person who violates any provision of this By-law, regulation, order or permit issued hereunder, shall be punished by a fine of not more than \$300 per offense. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

8.4 Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town of Billerica may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D, in which case the Board of Health, or other authorized agent, of the Town shall be the enforcing person. The penalty for the first violation shall be a written warning and/or a \$100 fine. The penalty for the second violation shall be a \$200 fine. The penalty for the third and subsequent violations shall be a \$300 fine. Each day, or part thereof, that such violation occurs, or continues, shall constitute a separate offense.

8.5 Entry to Perform Duties under this By-Law. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Board of Health, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this By-law and regulations and may make or cause to be made such examinations, surveys or sampling as the Board of Health deems reasonably necessary.

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

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

9. TRANSITIONAL PROVISIONS

Residential property owners shall have 180 days from the effective date of this By-law to comply with its provisions.

ARTICLE XXII

BILLERICA WETLANDS PROTECTION BY-LAW

1. PURPOSE AND AUTHORITY

1.1 Purpose. The purpose of this by-law is to protect the wetlands, water resources, and adjoining land areas, including floodplains, in the town of Billerica by controlling activities deemed by the Billerica Conservation Commission (hereinafter “Commission”) likely to have a significant or cumulative effect upon wetlands resource area values.

1.2 Authority. The Home Rule authority of Billerica and the authority granted to the Town by the Wetlands Protection Act, Mass. Gen. Laws, Ch. 131 ss 40, entitles the Town to protect additional wetlands resource areas and resource area values with standards and procedures stricter than those of said Wetlands Protection Act and the regulations promulgated thereunder by the Massachusetts Department of environmental Protection at 310 CMR 10.00 (hereinafter “Act”).

2. JURISDICTION

2.1 Regulation:

A. The Billerica Conservation Commission shall have jurisdiction to regulate all proposed activities and alterations within a wetlands resources area protected by this by-law and within 100 feet from all such resources area, provided, however, that there shall be no 100-foot buffer zone to a riverfront area wetlands resource area. In addition, the Commission shall have jurisdiction to regulate those activities and alterations outside the 100-foot buffer zone if such activities have altered a wetland resource area or the area within the 100-foot buffer zone from a wetlands resource area. The Commission shall regulate such activities so as to protect the wetlands resource area values.

(1) A “wetlands resource area protected by this by-law” is: any freshwater wetlands; marshes; wet meadows; bogs; swamps; vernal pools; banks; reservoirs; lakes; ponds; rivers; streams; creeks; beaches; lands under water bodies; and lands subject to flooding or inundation by groundwater or surface water. Said wetlands resource areas are defined in Section 5 and shall be protected whether or not the wetlands resource areas border surface waters.

(2) The “resource area values protected by this by-law” shall include, without limitation, the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water quality, water pollution control, fisheries, shell fisheries, wildlife, wildlife habitat, rare species habitat including rare plant species, agriculture, aquaculture and recreation values deemed important to the community.

B. No person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter, as that term is defined in Section 4 of this by-law, a wetlands resource area protected by this by-law or an area within 100 feet from such resource area without receiving and complying with a by-law wetlands permit issued by the Commission; provided, further, that all appeal periods have elapsed.

- C. Any person desiring to know whether a proposed activity or an area is subject to this by-law may request a determination of applicability or a resource delineation confirmation from the Commission in writing.

2.2 Enforcement

- A. No person shall alter or cause, suffer, or allow any activity or alteration of any wetlands resource area or its buffer zone protected by this by-law; or leave in place unauthorized fill in a wetlands resource area or its buffer zone protected by this by-law; or otherwise fail to restore to its original condition an illegally altered wetlands resource area or its buffer zone protected by this by-law.
- B. No person shall fail to comply with a wetlands permit or an enforcement order issued by the Commission pursuant to this by-law.
- C. The Commission shall have authority to enforce this by-law, the regulations authorized by the by-law, and by-law permits by violation notices, enforcement orders, and civil and criminal court actions, as appropriate. Members of the Commission and the Agent of the Commission are empowered to act as “enforcing persons” under these provisions.
- D. The Commission may order any person who alters a wetland resource area or buffer zone in violation of the provisions of this by-law and the regulations promulgated thereunder to restore the land and wetlands resource area to its original condition and take other action deemed necessary to remedy such violations.
- E. Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement and as further provided in Article VI, Section 6, of the General By-Laws.

3. EXEMPTION AND EXCEPTIONS

- 3.1 Normal Maintenance or Improvement of Land in Agricultural Use. The application and permit required by this by-law shall not be required for work performed for normal maintenance or improvement of land in agricultural use as defined by the Act. Provided, however, nothing contained within this provision shall prohibit the Commission from exercising its full enforcement powers under this By-Law should it determine the activity is not “normal maintenance or improvement of land in agricultural use.”
- 3.2 Public Utilities. The application for and issuance of a by-law wetlands permit shall not be required for 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 to provide electric, gas, water, telephone, telegraph, or other public services, provided that written notice has been given to the Commission before commencement of work, and provided that the work conforms to any performance standards and design specifications in regulations adopted by the Commission.
- 3.3 Emergency Projects. The application for and issuance of a by-law wetlands permit shall not be required for emergency projects necessary for the protection of the health and safety of the public.
 - A. The project shall only be considered an emergency project under this by-law if:
 - (1) the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof; and (2) advanced notice, oral or written, has been given to the Commission before commencement of work or within twenty-four (24) hours after commencement; and (3) the Commission or its designee certifies the work as an emergency project; (4) be performed only for the time and place certified by the Commission for the limited purpose necessary to abate the emergency; (5) the project proponent must file, within twenty-one (21) days of commencement of an emergency project, a By-Law Wetlands Permit application with the Commission for review as provided by the By-Law.

- B. To further qualify as an emergency project, the work must: (I) be performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and (ii) the project proponent must file, within twenty-one (21) days of commencement of an emergency project, a by-law wetlands permit application with the Commission for review as provided by this by-law.
 - C. Upon failure to meet the above and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.
- 3.4 Mosquito Control Work. The provisions of this By-Law shall not apply to any mosquito control work done under the provisions of Mass. Gen. Laws, ch. 40 ss 5, clause (36) in eg, 252,
- 3.5 No other Exceptions to By-Law. Other than as stated in this section, the exceptions provided in the Act shall not apply under this by-law.

4. DEFINITIONS

The following definitions shall apply in the interpretation and implementation of this by-law. Except as otherwise provided in this by-law or in regulations of the commission, the definitions of terms in this by-law shall be as set forth in the Wetlands Protection Act (Mass. Gen. Laws, ch. 131, ss40) and regulations (310 CMR 10.00).

- 4.1 Act. The term “Act” means the state Wetlands Protection Act (Mass. Gen. Laws, ch. 131, ss 40) and regulations (310 CMR 10.00).
- 4.2 Alter. The term “alter” shall include, without limitation, the following temporary or permanent activities when undertaken to, upon, within, or affecting wetland resource areas and buffer zones protected by this by-law; provided, however, that the term “alter” shall not apply to maintaining or replacing within the existing foot print, without enlargement of that footprint, structures and vegetation that legally exist at the time of the adoption of this by-law:
- Removing, excavating, or dredging of soil, sand, gravel or aggregate materials of any kind;
 - Changing the preexisting drainage and runoff characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics;
 - Draining or otherwise disturbing surface water levels or the water table;
 - Dumping, discharging, or filling with any material that would degrade water quality;
 - Placing fill or removing material that would alter elevation;
 - Driving piles and erecting or expanding buildings or structures of any kind;
 - Placing obstructions or object in water;
 - Destroying, including cutting, any vegetation within a wetlands resource area;
 - Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters;
 - Conducting any activities, making changes, or performing work that may cause or tend to contribute to pollution of any body of water or groundwater;
 - Conducting incremental activities that have, or may have, a cumulative adverse impact on the resource areas protected by this by-law.
- 4.3 Commission. The term “Commission” shall mean the Conservation Commission of the Town of Billerica, established under the authority of Mass. Gen. Laws, ch 40, ss 8C, the members of which are appointed by the Board of Selectmen for terms of three years.
- 4.4 Person. The term “person” shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent such is subject to the Town

By-Laws, administrative agency, public or quasi-public corporation or body, the town of Billerica, and any other legal entity. The term “person” shall also include the legal representatives, agents, or assigns of the above named entities and other legal entities.

- 4.5. **Rare Species.** The term “rare species” shall include, without limitation, all vertebrate and invertebrate animal and all plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of fisheries and wildlife, regardless of whether the site in which they occur has been previously identified as a habitat by the Division.

5. **BY-LAW RESOURCE AREAS AND PRESUMPTIONS**

The provisions of this by-law apply to the following wetlands resource areas and presumptions. Except as otherwise provided in this by-law, the wetlands resource areas shall be as set forth in the Act.

- 5.1. **Bank.** A “bank” shall mean the land area which normally abuts and confines a water body; the lower boundary being the mean annual low flow level and the upper boundary being the first observable break in the slope or the mean annual high water line, whichever is higher.
- 5.2. **Buffer Zone.** A “buffer zone” shall mean that area of land extending 100 feet horizontally outward from the boundary of any wetlands resource area subject to protection under this by-law or the Act, provided, however, that there shall not be a 100-foot buffer zone to the wetland resource area known as the “riverfront area.” By regulation, the Commission may require within a buffer zone certain setbacks and/or an area of natural vegetation of sufficient width and vegetative community type to assure protection of the wetlands resource area and mitigation of proposed activities. Nothing herein shall preclude the Commission from establishing a no-alteration zone on a case-by-case basis.
- 5.3. **Freshwater Vegetated Wetlands.** A “vegetated wetlands” shall mean a freshwater wetlands that may either border on another water body or wetlands resource area or not be connected by surface water to any other water body or wetlands. A vegetated wetland is an area where the soils and vegetation meet the criteria of the Act. The types of freshwater vegetated wetlands are bogs, marshes, wet meadows, and swamps as those are defined in the Act.
- 5.4. **Riverfront Area.** A “riverfront area” shall mean that area of land situated between the mean annual high-water line of a river and a horizontal parallel line located two hundred feet from said mean annual high-water line. The 100-foot buffer zone is not applicable to the riverfront area; provided, however, that by regulation the Commission may require with the out riparian area a zone of natural vegetation of sufficient width and vegetative community type and/or setbacks to assure protection of the riverfront area and mitigation of proposed activities. Nothing herein shall preclude the Commission from establishing a no-alteration zone on a case-by-case basis.
- A. The riverfront area is presumed important to the protection of rivers, ponds, and lakes because activities undertaken in close proximity to these resource areas have a high likelihood of adverse impact upon the wetlands or other resources, either immediately as a consequence of construction or over time as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat.
- B. The Commission may therefore establish, by regulations, performance standards for protection of such lands including without limitation strips of continuous, undisturbed vegetative cover within the two hundred-foot area or other form of work-limit or setback to buildings, roads, landscaping and other features.
- C. In the review of riverfront areas, the Commission shall not issue any by-law wetlands permit allowing any activity unless the applicant, in addition to meeting the otherwise applicable requirements of this by-law, has proved by a preponderance of the evidence that (I) there is no practicable alternative to the

proposed project with less adverse effects and (ii) that such activities, including proposed mitigation measures, will have no significant adverse impact on the riverfront area or values protected by this by-law. The Commission shall regard as practicable an alternative that is reasonably available and capable of being done after taking into consideration the proposed property use, overall project costs, but the Commission shall not use such consideration as an overriding factor in making its decision.

- 5.5. Stream. A “stream” shall mean a body of running water, including brooks and creeks, that moves in a definite channel in the ground due to hydraulic gradient. A portion of a stream may flow through a culvert or beneath a bridge. Streams may be intermittent or perennial.
- A. An “intermittent stream” shall mean a body of running water that does not flow through out the entire year.
- B. A “perennial stream” shall mean a body of running water that flows throughout the year, except in periods of extended drought as such may be defined by the regulations of the Commission. A perennial stream is a river.

6. REQUEST FOR BY-LAW DETERMINATION OF APPLICABILITY AND RESOURCE DELINEATION CONFIRMATION; APPLICATION FOR BY-LAW WETLANDS PERMIT; FEES; CONSULTANTS

- 6.1 Request for By-Law Determination of Applicability. Any person desiring to know whether a proposed activity or an area is subject to this by-law may in writing request a determination from the Commission.
- 6.2 Request for Resource Delineation Confirmation. Any person desiring to know whether a delineation of a wetland resource area protected under this by-law and, if appropriate, the extent of the buffer zone to that wetlands resource area protected under this by-law may in writing request a confirmation from the Commission. Such a request for by-law confirmation shall include information and plans as are deem necessary by the Commission.
- 6.3 Application for By-Law Wetlands Permit. Written application for a by-law wetlands permit shall be filed with the Commission to perform activities affecting resource areas protected by this by-law.
- A. The application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the wetlands resource areas and buffer zones protected by this by-law. The Commission in an appropriate case may accept as the application and plans under this by-law any application and plans filed under the Act
- B. No activities shall commence without receiving and complying with wetlands permit issued pursuant to this by-law.
- 6.4 Filing Fee. At the time of a request for a by-law determination, request for a confirmation, or an application for a by-law wetlands permit, the applicant shall pay a filing fee as specified in regulations of the Commission. The regulations of the Commission need not set a by-law filing fee for every type of request or application and the regulations may provide for a waiver of the by-law filing fees so set. Town projects are exempt from filing fees under this Section. The by-law filing fee is in addition to that required by the Act and the filing fee shall be deposited in a revolving fund, separate from the account established for filing fees paid under the Act, as such revolving fund may be established by Town Meeting vote.
- 6.5 Consultant Fee. Upon receipt of a request for a By-Law determination or confirmation or an application for a By-Law permit, or at any point during the hearing process, the Commission is authorized to require an applicant to pay a fee for the reasonable costs and expenses borne by the Commission for specific expert engineering and other consultant services deemed necessary by the Commission to come to a final decision on

the request or application. The consultant shall be a qualified individual selected and approved by the Commission by Article XI of the General By-Laws of Billerica.

- A. The exercise of discretion by the Commission in making its determination to require the payment of a consultant fee shall be based upon its reasonable finding that additional information available only through outside consultants is necessary for the making of an objective decision.
- B. The specific consultant services may include, but are not limited to performing or verifying the accuracy of resource area surveyed delineation; analyzing resource area functions and values, including wildlife habitat evaluations; performing hydrogeologic and drainage analysis; and researching environmental or land use law.
- C. The Commission may require a wildlife habitat study of the project area, to be paid for by the applicant, whenever it deems appropriate, regardless of the type of resource area or the amount or type of alteration proposed. The decision shall be based upon the Commission's estimation of the importance of the habitat area considering, but not limited to, such factors as proximity to other areas suitable for wildlife, importance of wildlife corridors in the area, or possible presence of rare species in the area.
- D. The consulting expert shall submit his or her bill for services rendered directly to the applicant and the applicant shall be responsible for making full payment of such bill directly to the consultant. Problems or disputes over payment arrangements between the consultant and the applicant shall be settled at a regularly scheduled meeting of the Commission by a majority vote of the Commission.

7. ADMINISTRATIVE HEARING PROCESS

7.1. Notice of Filing

- A. Abutters. A person filing an application for a determination, resource delineation, or wetlands permit under this by-law shall, at the same time, give written notice thereof, by certified mail (return receipt requested) or hand delivered, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the applicant, including any in another municipality or across a body of water.
 - (1) The notice to abutters shall have enclosed a copy of the application, with plans, or shall state where copies may be examined and obtained by abutters.
 - (2) When a person requesting a determination is other than the owner, the applicant shall send a copy of the request and plans to the owner.
 - (3) An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. The Commission shall not open a public hearing until such proof of notice is received by the Commission.
- B. Other Municipal Boards and Commissions. Any person filing an application for determination, confirmation of resource delineation, or wetlands permit pursuant to this by-law, shall provide a copy thereof at the same time, by certified mail (return receipt requested) or hand delivery, to those town departments specified by the Commission as requiring notice. A copy shall be provided in the same manner to the conservation commission of the adjoining municipality, if the request or application pertains to property within 300 feet of that municipality.
 - (1) An Affidavit of the person providing notice, with a copy of the notice mailed or delivered, shall be filed with the Commission.

- (2) The Commission shall not take final action until the boards and officials have had fourteen (14) days from receipt of notice to file written comments and recommendations with the Commission, which the Commission shall take into account but which shall not be binding on the Commission. The applicant shall have the right to receive any comments and recommendations, and to respond to them at a hearing of the Commission, before final action.
- 7.2. Notice of Hearing. The Commission shall conduct a public hearing on any application for a determination, resource area delineation, or Wetlands Permit under this By-Law. The Commission shall give written notice, at the expense of the applicant, at least five business days prior to the hearing, in a newspaper of general circulation in the Town of Billerica.
- 7.3. Hearing Process. The Commission in an appropriate case may combine its hearing under this by-law with the hearing conducted under the Wetlands Protection Act.
- A. Commencement of Hearing. The Commission shall commence the public hearing within twenty-one (21) days from receipt of a completed application, unless an extension is authorized in writing by the applicant.
- B. Continuance of Hearing. The Commission shall have authority to continue the hearing to a specific date announced at the hearing, for reasons stated at the hearing, which may include the need for additional information from the applicant or others deemed necessary by the Commission in its discretion, based on comments and recommendations of the boards and officials noted in Section 7.1.B of this by-law.
- 7.4. Issuance of Decision. The Commission in an appropriate case may combine the decision issued under this by-law with the Order of Conditions, Order of Resource Area Delineation, or Determination of Applicability issued under the Act. In all permit decisions, the Commission shall make written findings and reasons as provided in Section 7.4.B of this by-law
- A. Determination of Applicability or Resource Area Delineation. The Commission shall issue its determination of applicability or resource delineation decision in writing within twenty-one (21) days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant.
- B. By-Law Wetlands Permit. The applicant for a by-law wetlands permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the by-law permit application will not have significant or cumulative effects upon the resource area values protected by this by-law. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit. If the Commission, after a public hearing, determines that the activities that are subject to the by-law wetlands permit application or the land and water uses, which will result therefrom, are likely to have significant or cumulative effects upon the wetland resource area values protected by this by-law, the Commission shall deny a by-law wetlands permit for the activities requested or issue a by-law wetlands permit that protects the wetland resource area values enumerated in this by-law and those that may be found by the Commission.
- (1) Where no conditions are adequate to protect those wetland resource values, the Commission shall deny a permit for failure to meet the requirements of this by-law. The Commission may also deny a permit for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in the regulations of the Commission; or for failure to avoid or prevent significant or cumulative effects upon the resource area values protected by this by-law.

- (2) If it issues a by-law wetlands permit, the Commission shall impose conditions that the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions.
 - (a) In establishing those conditions, the commission shall take into account the cumulative adverse effects of loss, degradation, isolation, and replication of protected wetland resource areas and their buffer zones throughout the relevant watershed area, resulting from past activities, permitted and exempt, and foreseeable future activities.
 - (b) To prevent wetlands loss, the Commission shall require applicants to avoid wetlands alteration wherever feasible; shall minimize wetlands alteration; and, where alteration is unavoidable, shall require full mitigation. The Commission may authorize or require replication of wetlands as a form of mitigation, but only with adequate security, professional design, and monitoring to assure success, because of the high likelihood of failure of replication.

8. POST DECISION PROCESS

- 8.1 Recording in Registry of Deeds. No work proposed in any request or application shall be undertaken until the determination, confirmation of By-Law wetland resource area boundary, or By-Law wetlands permit issued by the Commission with respect to such work has been recorded in the registry of deeds or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the permit certifies in writing to the commission that the document has been recorded.
- 8.2 Amendment, Revocation or Expiration of a Determination, Confirmation or Permit under the By-Law
 - A. An amendment to a determination, confirmation or permit issued under this by-law shall be in accordance with the Act.
 - B. A by-law determination or by-law wetland resource area boundary confirmation shall expire three (3) years from the date of issuance.
 - C. A by-law wetlands permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission.
 - (1) Any by-law wetlands permit may be renewed once for an additional one-year period, provided that a request for a renewal is received in writing by the Commission before expiration.
 - (2) Notwithstanding the above, a by-law wetlands permit may identify requirements that shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place and shall apply to all owners of the land.
 - D. For good cause the Commission may revoke any by-law determination, confirmation of by-law wetland resource area boundary, by-law wetlands permit, or other permit, order, determination, or other decision issued under this by-law after notice to the holder of the issued document, the public, abutters and certain town boards and a public hearing

8.3 Certificate of Compliance. Upon request by the landowner or holder of a by-law wetlands permit, the Commission may issue a certificate of compliance. The Commission shall record on the certificate all conditions that shall remain in effect. Said certificate shall be recorded in the registry of deeds or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies.

9. **APPEAL FROM DECISION OF CONSERVATION COMMISSION**

A decision of the Commission may be appealed to the superior court in accordance with applicable law.

10. **REGULATIONS PROMULGATION BY CONSERVATION COMMISSION**

After public notice and public hearing, the Commission shall promulgate rules and regulations to effectuate the purposes of this by-law, effective when voted by the Commission and filed with the Town Clerk. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this by-law. At a minimum, these regulations shall define essential terms in this by-law not inconsistent with the by-law, and procedures governing the amount and filing of fees and the deposit of such fees in a revolving fund as may be established by Town Meeting vote.

11. **SECURITY**

As part of a permit issued under this by-law, in addition to any security required by any other municipal or state board, agency, or official, the Commission may require that the performance and observance of the conditions imposed thereunder, including conditions requiring mitigation work, be secured wholly or in part by one or more of the methods described below;

11.1 Financial Assurance Mechanisms. By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a Certificate of compliance for work performed pursuant to the permit.

11.2 Restrictions on Property. By accepting a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of the Town of Billerica whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

ARTICLE XXIII

BILLERICA NOISE BY-LAW

23.1 Declaration of Policy:

In order to control unnecessary, excessive and annoying noise in the Town of Billerica, it is hereby declared to be the policy of the Town to prohibit such noise generated from or by all sources as specified in this By-Law.

It shall be unlawful for any person to make, continue to make, permit or cause to be made or continued, any loud, excessive, unnecessary or unusually loud noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of reasonable persons of normal sensitivities. Furthermore, it shall be unlawful for any person who has custody and control of the premises to allow or permit another person to make, continue or permit to be made or continued any loud, excessive, unnecessary or unusually loud noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of reasonable persons of normal sensitivities within the limits of the Town of Billerica.

23.2 Definitions

Except as may be specified herein, acoustical terminology used throughout this By-Law is that approved as American National Standard Acoustical Terminology [ANSI S1.1-1994] by the American National Standards Institute (ANSI). The following words, phrases and terms as used in this By-Law shall have the meanings as indicated below:

A. BACKGROUND SOUND LEVEL shall mean the sound level associated with a given environment, being a composite of sounds from all sources excluding the alleged offensive noise, at the location and approximate time at which a comparison with the alleged offensive noise is to be made.

B. CONSTRUCTION shall mean those activities requiring a building permit, and shall also include any site preparation, cemetery burial and caretaking operations, seismic surveys, grading, assembly, erection, substantial repair, alteration, or similar action, including demolition, for or of public or private rights-of-way, structures, utilities or similar property.

C. The abbreviation dBA shall mean the A-weighted sound pressure level expressed in decibels and referenced to 20 micropascals. The abbreviation dBC shall mean the C-weighted sound pressure level expressed in decibels and referenced to 20 micropascals.

D. EMERGENCY VEHICLE: shall mean any vehicle operated in an effort to protect, provide or restore public safety, including, but not limited to, ambulances, police vehicles and fire vehicles.

E. EMERGENCY WORK: shall mean any work performed in an effort to protect, provide or restore public safety, or work by private or public utilities when restoring utility service or any work performed for the purpose of preventing or alleviating the physical trauma or physical damage threatened or caused by an emergency – an occurrence or set of circumstances involving actual or imminent physical trauma or property damage.

F. ENFORCING PERSON: shall mean any police officer, building official or public health official of the Town or any other Town employee designated by the Town Manager for this purpose.

G. **IMPACT DEVICE:** shall mean a construction device in which or by which a hammer, meaning a moving mass of hard solid material, is mechanically by means of a working fluid or compressed air caused to repetitively impact upon and transmit kinetic energy to a tool. The tool may be included as a part of the device, as in the case of a moil on a paving breaker or the drill steel of a jackhammer, or it may be a mass to which the impact device is temporarily connected as in the case of a pile and pile driver. Examples of impact devices are pile drivers, paving breakers, power impact hammers, impact wrenches, riveters and stud drivers.

H. **INTRUDING NOISE:** shall mean the total sound level created, caused, maintained by, or originating from an alleged offensive source at a specified location while the alleged offensive source is in operation.

I. **PERSON:** shall mean a person, firm, association, co-partnership, joint venture, corporation or any entity recognized by applicable law, public or private in nature.

J. **SOUND LEVEL:** shall mean the instantaneous A-weighted sound pressure level, in decibels, as measured with a sound level meter set to the “A” weighting scale, slow response.

K. **SOUND LEVEL METER:** shall mean an instrument meeting American National Standard Institute's Standard S1.4-1983 for Type 1 or Type 2 sound level meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data

23.3 **Designated Noise Zones.** The properties hereinafter described are hereby assigned to the following noise zones:

NOISE ZONE I: All properties utilized as residential uses in accordance with the Town of Billerica Zoning By-Laws. and the grounds of any school, hospital or similar health care institution; house of worship or library while the same is in use, and any Cemetery or Open Space.

NOISE ZONE II: All other property used in accordance with the Town’s Zoning By-Law.

23.4 **Exterior Noise Standards:** It shall be unlawful for any person at any location within the area of the Town to create any loud noise, or to allow the creation of any noise, on property owned, leased, occupied or otherwise controlled by such person, which causes the sound level when measured on complainant's property to exceed the greater of:

- A. The maximum allowable exterior sound level outlined in Table I; or
- B. Five dB over the background sound level.

Table 1. Maximum Allowable Exterior Sound Level		
Noise Level	Daytime level 7:00AM to 10:00 PM	Nighttime level 10:00PM to 7:00AM
I	60 dBA	50 dBA
II	70 dBA	65 dBA

If the intruding noise source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the background sound level can be determined, the measured sound level obtained while the source is in operation shall be compared directly to the maximum allowable exterior sound level outlined in Table I.

23.5 **Construction Noise Standards**

- A. Noise associated with construction is permitted between 7:00 AM and 6:00 PM on weekdays and Saturdays provided the sound level from:
 - 1. Non-impact devices does not exceed 70 dBA as measured over a time interval of 1 minute with the sound meter set to slow located on any other property, but at least 50 feet from the construction activity;
 - 2. Impact devices does not exceed 90 dBA as measured with a sound level meter set to slow response located on any other property, but at least 50 feet from the construction activity.
 - B. Between the hours of 6:00 PM and 7:00 AM on weekdays and Saturday, and at any time on Sunday or a legal holiday, noise associated with construction, shall be limited by the standards of Section 23.4.
- 23.6 Maintenance Noise Standards
- A. Noise associated with maintenance is permitted between 7:00 AM and 6:00 PM on weekdays and Saturdays and between the hours of 9:00 AM and 6:00 PM on Sunday, provided the sound level does not exceed 80 dBA as measured with a sound level meter set to slow response on any other property, but at least 50 feet from the maintenance activity;
 - B. Between the hours of 6:00 PM and 7:00 AM on weekdays and Saturday, and between the hours of 6:00 PM and 9:00 AM on Sunday or a legal holiday, noise associated with maintenance, shall be limited by the standards of Section 23.4.
- 23.7 Commercial Trash Collection and Deliveries or Pick-up
- A. The operation of commercial trash compactors or collection of trash, rubbish, refuse or debris, which generates noise in excess of the criteria given in Section 23.4 at any point of public or common pass-by between the hours of 7:00 PM and 7:00 AM is prohibited.
 - B. Deliveries or pick-ups for commercial or business purposes between 10:00 PM and 6:00 AM are prohibited unless the noise level of such deliveries or pick-ups in nearby residential areas does not exceed the noise criteria listed in Section 23.4.
- 23.8 Electronic Devices and Musical Instruments
- No person owning, leasing or controlling the operation of any electronic device or musical instrument shall willfully or negligently cause or permit noise levels to exceed the criteria given in Section 23.4.
- 23.9 Entertainment/Nightclub Noise
- For the nighttime periods (11pm to 8am) no sound from Entertainment establishments shall create audible sound that exceeds a C-Weighted level of 67 dBC at residential locations. (Note: this limit addresses low frequency or bass noise)
- 23.10 Motor Vehicles or Motorcycles
- Motor vehicles or motorcycles operated on public ways in the Town of Billerica or in any place where the public has the right of access as invitees or licensees may not exceed a maximum sound level of 103 dBA. It is also in violation of the By-law to operate a motor vehicle or motorcycle without a sound-limiting device connected to the exhaust system. This prohibits so called "straight pipe" exhaust systems. This section shall not include screeching sounds emitted from emergency braking. Measurement for the purposes of this Section shall be at a distance of 36 inches from the noise source.
- 23.11 Special Provisions: Noise associated with the following activities shall be exempted from the provisions of this By-Law:
- A. All Town-owned facilities and vehicles and public works projects.
 - B. Emergency work or emergency vehicles.

C. The operation of any vehicular alarm, provided it terminates within 15 minutes of the initially recorded complaint.

D. Activities, other than construction, conducted in public parks and playgrounds, and on public or private school grounds so long as authorized by the appropriate jurisdiction including but not limited to school athletic and school entertainment events.

E. Occasional outdoor gatherings, public dances, shows, and sporting and entertainment events provided said events are conducted pursuant to a permit or license issued by the appropriate jurisdiction relative to the staging of said events.

F. Snow removal performed by snow blowers, snow throwers or snow plows when appropriately outfitted with a muffler.

G. Any activity to the extent regulation thereof has been preempted by Town, State or Federal Law or by agreement between Town, State or the Federal Government.

H. The maintenance of real property (not construction), such as the temporary use of power tools and equipment such as lawn mowers, chain saws, septic pumping trucks and similar equipment, provided said activities take place between the hours of 7:00 AM and 10:00 PM on any day.

23.12 Prima Facie Violations. Any measured noise exceeding the sound level standards as specified in Sections 23.4, 23.4, and 23.4 may be deemed by the enforcing person to be prima facie evidence of a violation of the provisions of this By-law.

23.13 Penalties for Violations

A. Violations under Article 23, in the discretion of the enforcing person, may be enforced by non-criminal disposition as provided in MGL Chapter 40, Section 21D.

B. The penalty for a violation under this By-law shall be \$50 for a first offense, \$100 for a second offense, \$200 for a third offense, and for each succeeding offense each day or part thereof shall constitute a separate offense.

ARTICLE XXIV

RUBBISH CONTROL BY-LAW

Definitions

Rubbish is any combustible and noncombustible waste materials and includes but is not limited to such materials as paper, rags, cartons, boxes, wood, rubber, leather, tree branches, yard trimmings, grass clippings, tin cans, metals, mineral matter, glass, crockery, dust and the residue from the burning of combustible materials.

Public property includes, but is not limited to, the following exterior locations: streets that have been accepted by town meeting, street medians, roads, road medians, catch basins, sidewalks, strips between streets and sidewalks, lanes, alleys, public rights-of-way, public parking lots, grounds, municipal housing project grounds, municipal vacant lots, parks, beaches, playgrounds, other publicly-owned recreation facilities, and municipal waterways and bodies of water.

Private property includes, but is not limited to, the following exterior locations owned by individuals, firms, corporations, institutions, churches or organizations: yards, grounds, tops of buildings, driveways, entranceways, passageways, parking areas, working areas, storage areas, vacant lots and recreation facilities.

Containers shall be watertight receptacles with tight fitting covers made of metal or other durable rodent-proof material for the storage of solid waste.

1. Pedestrians and Motorists

- 1.1 It shall be unlawful for any person to throw, discard, place or deposit litter in any manner or amount on any public or private property, except in containers lawfully provided therefore.
- 1.2 It shall be the duty of every person distributing commercial handbills, leaflets, flyers or any other advertising and information material to take whatever measures necessary to keep such materials from littering public or private property.
- 1.3 Yard sale signs, open house signs and any other signs or notices, with the exception of government and school related signs, posted to advertise a specific event cannot be posted sooner than five (5) days prior to the event, and such signs and/or notices must be removed from all places of posting no later than 24 hours after the conclusion of the event. Failure to comply with these guidelines will make the person(s) or organization responsible for holding the event subject to fines as stated under Section 1.9, Enforcement Authorization and Fines.

2. Loading and Unloading Operations

No person shall, at any exterior location, load or unload any materials where the entire material is not to be placed in a vehicle or in a building as the case might be, unless suitable containers for litter are maintained at the place of the loading or unloading.

3. Household Solid Waste Containerization and Removal

- 3.1 All residences located in any area in which collection is by the Town or an approved contractor shall have sufficient container capacity to accommodate their normal volume of solid waste between collections.
- 3.2 All items too large to fit into containers such as, but not limited to, appliances, furniture and mattresses, shall be disposed of only in accordance with regulations set by the Town.

- 3.3 All loose material which normally fits into containers but which are excess as a result of special circumstances, shall be bundled and tied securely to prevent them from blowing or scattering and shall be placed by the containers.
- 3.4 Containers shall be kept closed or contents shall be contained in a manner to prevent the entrance of vectors and the escape of objectionable odors and spillage.
- 3.5 It shall be unlawful for any person to deposit household solid waste in any receptacle maintained on a sidewalk or at any other location for disposal of litter by pedestrians or in any commercial solid waste receptacle.
- 3.6 The duties imposed by Sections 3.1 through 3.4 of this bylaw shall be carried out by the occupant of a dwelling unit or owner or managing association of a multi-unit dwelling in the Town above the age of 17, and any such occupant shall be liable for any penalty that may be imposed for violation of such sections.

4. Commercial Solid Waste Containerization and Removal

- 4.1 Every person, including an artificial person such as a corporation, partnership, religious society, trust or similar entity, shall deposit solid waste in a suitably sized container, which container shall be maintained by such persons in good condition at such location.
- 4.2 Containers shall be kept closed at all times, and the area around the containers shall be kept free of litter at all times.
- 4.3 It shall be unlawful for any person to whom Sections 4.1 and 4.2 of this bylaw apply to deposit solid waste in any household receptacle or public receptacle maintained on a sidewalk or at any other location for disposal.
- 4.4 Collection and disposal of private solid waste containers shall not commence prior to 7:00 a.m. and shall cease no later than 7:00 p.m.

5. Maintenance of Areas Free from Rubbish

- 5.1 All exterior private property shall be kept free of litter and rubbish. This requirement shall apply to the removal not only of loose litter but also of materials that become trapped at such locations as fences and wall bases, grassy and planted areas, borders, embankments and other places of accumulation, excluding private composting.
- 5.2 It shall be unlawful to sweep or push litter from private property, sidewalks, and/or strips into streets. Sidewalk and strip sweepings must be picked up and put into household or commercial solid waste containers.
- 5.3 No owner or occupant of land above the age of 17 and no artificial occupant of land such as a corporation, partnership, religious society, trustee or similar entity owning or occupying land or officer, partner, director or trustee thereof or a person in charge of its business or employee customarily responsible for maintaining the cleanliness of its land shall permit land to be maintained in violation of Section 5.1 and 5.2 of this article.
- 5.4 Any person, entity, civic group, or sports organization that uses public property including recreation complexes and sporting fields, shall be responsible to remove all Rubbish and debris that was brought to the premise by said person, entity, civic group, or sports organization. Failure to remove created litter will make the person(s) or organization responsible for holding the event subject to fines as stated under Section 6, Enforcement Authorization and Fines.

6. Enforcement Authorization and Fines

- 6.1 Any person, including an entity or corporation operating a business, found to have violated any provision of this bylaw shall make a good faith effort to correct the violation within 72 hours of receiving an order of correction from the enforcement agent. Any person failing to comply with any provision of this by-law may be

warned or fined in accordance with the non-criminal disposition process, Massachusetts General Law Chapter 40, section 21D, adopted by Town Meeting at its meeting of

October 5, 2000 (warrant article #47) as follows: 1st offense – written warning or one hundred (100) dollar fine; 2nd offense – two hundred (200) dollar fine; 3rd offense – three hundred (300) dollar fine; 4th and subsequent offenses – three hundred (300) dollar fine and/or enforcement action. Each day's failure to comply with the order(s) of correction shall constitute a separate violation. All fines collected will be deposited to the general fund.

- 6.2 Any person wishing to grieve order of correction or fine received may file a grievance hearing with the Town Manager or his designee. Decision made by the Town Manager or his designee is final.
- 6.3 This By-law will be enforced for the town by its Health Department, Building Department, Recreation Director, Police Department, Town Manager or his designee.
- 6.4 A copy of this Bylaw shall be distributed by the Town Clerk after the approval by the Attorney General to every employee of the Police Department, Recreation Department, Board of Health, and Department of Public Works of the Town and to the Building Inspector and Town Manager.

ARTICLE XXV

STORMWATER MANAGEMENT BY-LAW

DEFINITIONS:

- Alter:** Any activity, which will measurably change the ability of a ground surface area to absorb water or will change existing surface drainage. Alter may be similarly represented as “alteration of drainage characteristics,” and “conducting land disturbance activities.”
- Best Management Practice (BMP):** Structural and nonstructural techniques that are recognized to be effective and practical means to prevent and/or reduce increases in stormwater volumes and flows, reduce point source and nonpoint source pollution, and promote good stormwater quality and protection of the environment. “Structural” BMPs are devices that are engineered and constructed to provide permanent or temporary storage and treatment of stormwater runoff. “Nonstructural” BMPs use natural measures to reduce pollution levels, do not require extensive construction efforts, and/or promote pollutant reduction by eliminating the pollutant source. Nonstructural BMPs include managerial techniques that focus on the preservation and protection of natural features.
- Common Plan:** Any announcement or piece of documentation (including a sign, public notice or hearing, advertisement, drawing, ANR plan, or permit application, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor marking, etc.) indicating imminent or future construction activities.
- Land Disturbance:** Any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material. See also ALTER.
- Massachusetts Stormwater Management Policy:** The Policy issued by the Department of Environmental Protection, and as amended from time to time, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act G.L. c. 131 § 40 and Massachusetts Clean Waters Act G.L. c. 21, §. 23-56. The Policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.
- Municipal Separate Storm Sewer System (MS4), or Municipal Storm Drain System, or Municipal Drainage System:** The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Billerica.
- Stormwater Authority:** Board of Health or authorized agent(s), as defined in the Stormwater Management By-law. The Board of Health, or its agent(s), is responsible for coordinating the review, approval and permit process as defined in these Regulations authorized by the Stormwater

Management By-law. Other Boards and/or departments may participate in the review process as defined in the Stormwater Management By-law.

Stormwater Management: The use of structural or nonstructural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates. Stormwater Management includes the use of structural, and nonstructural stormwater management practices.

Stormwater Management Permit: A permit issued by the Board of Health, after review of an application, plans, calculations, and other supporting documents, which show that the proposed project is designed to protect the environment of the Town from the deleterious affects of uncontrolled and untreated stormwater runoff.

Additional terms that apply to issuance of a Stormwater Management Permit established by this By-law shall be defined and included as part of the Regulations promulgated and, from time to time, amended under Section 2.2 of this By-law, a copy of which shall be available at the Board of Health and the office of the Town Clerk. Terms not defined in said Regulations or pertinent statutes shall be construed according to their customary and usual meaning unless the context indicates a special or technical meaning.

1. SCOPE AND APPLICABILITY

1.1 Unless exempt pursuant to Section 1.2 of this By-law, all activities under the jurisdiction of this By-law shall be required to obtain a Stormwater Management Permit from the Board of Health prior to beginning any site work. This By-law shall be applicable to all new development and redevelopment projects including:

- A. Any Subdivision as defined in the Massachusetts Subdivision Control Law (MGL, Chapter 41, Sections 81K – 81GG) requiring a Definitive Plan,
- B. Any activity that results in a land disturbance greater than one acre within the Town of Billerica;
- C. Any activity that results in a land disturbance of less than one acre if the project is part of a larger common plan of development that eventually will disturb more than one acre within the Town of Billerica; and
- D. Any alteration, redevelopment, or land use conversion in an area with “higher potential pollutant loads” as described in Standard 5 of the Massachusetts Stormwater Management Policy, as it may be amended from time to time.

Plans that do not require approval under the Subdivision Control Law, hereafter referred to as “ANR lots”, and meet one or more of the applicability criteria above are subject to the provisions of this By-law and are not exempt from obtaining a Stormwater Management Permit.

1.2 Exemptions: No person who meets the applicability of this By-law shall alter land within the Town of Billerica without having obtained a **Stormwater Management Permit (SMP)** with the following exceptions:

- A. In the course of customary Cemetery management,
- B. Maintenance of existing landscaping, gardens or lawn areas,
- C. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act 310 CMR 10.04 and MGL Chapter 40A Section 3,
- D. Emergency repairs to any stormwater management facility or practice, such that the original design location, size, and technology remain the same, that poses a threat to public health or safety, or as deemed necessary by the Board of Health.

1.3 Coordination with Other Town Permits.

- A. No Town Earth Removal Permit, Order of Conditions from the Conservation Commission, Building Permit, subdivision approval, special permit, variance or finding shall constitute compliance with this By-law. For a project or activity

that meets the Scope and Applicability of this By-law, no work may commence until the developer submits a complete Stormwater Management Permit application, the Board of Health issues a Stormwater Management Permit, and the developer certifies that all land clearing, construction, and development will be done pursuant to the approved Plans and Permit.

- B. This By-law is not intended to interfere with, abrogate, or annul any other By-law, rule or regulation, statute, or other provision of law. The requirements of this By-law shall be considered minimum requirements, and where any provision of this By-law imposes restrictions different from those imposed by any other By-law, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall take precedence.
- C. For projects within any resource area protected under law, including, but without limitation: the Billerica Wetlands Protection By-law, Massachusetts Wetlands Protection Act, the Massachusetts Rivers Act, the Massachusetts Watershed Protection Act, or the BMP design and selection criteria given in the most current Massachusetts Stormwater Management Policy, as amended, shall be considered the more restrictive or more protective of human health and the environment, and shall take precedence over the Billerica Stormwater Management By-law.

2. ADMINISTRATION

- 2.1 **Stormwater Authority.** The Board of Health is hereby designated as the Stormwater Authority. The Board of Health, or its agent, shall administer, implement and enforce this By-law. The Billerica Board of Health may appoint an Agent to issue Permits and sign Plans provided for in this By-law. The Board of Health may appoint another Town department, commission or board to act as its authorized Agent for site inspections and enforcement of this By-law.
- 2.2 **Stormwater Regulations.** The Board of Health may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, clerical, inspection, and/or consultant fees), procedures and administration of this Stormwater Management By-law after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation at least seven (7) days prior to the hearing date. After public notice and public hearing, the Board of Health may promulgate rules and regulations to effectuate the purposes of this By-law. Failure of the Board of Health to promulgate such rules and regulations, or a legal declaration of their invalidity by a court, shall not act to suspend or invalidate the effect of this By-law.
- 2.3 **Stormwater Management Manual:** The Board of Health will utilize the Massachusetts Stormwater Management Policy and Handbooks, as amended from time to time, for criteria and information including specifications and standards for the execution of the provisions of this By-law. These include a list of acceptable stormwater treatment practices, with specific design criteria for each. Unless specifically altered in this Stormwater Management By-law, stormwater management practices that are designed, constructed, and maintained in accordance with the Massachusetts Stormwater Management Handbooks' design and sizing criteria may be presumed by the Board of Health to be protective of Massachusetts water quality standards.
- 2.4 **Appeals of Action by the Board of Health.** A decision of the Board of Health shall be final. Further relief of a decision by the Board of Health made under this By-law shall be reviewable in the Superior Court in an action filed within 60 days thereof, in accordance with M.G.L. Chapter 249 § 4.

3. PERMIT PROCEDURES

Permit procedures and requirements, including permit submittals, right-of-entry, fee schedule, and public hearing process, shall be defined and included as part of the Regulations promulgated under Section 2.2 of this By-law.

4. PERFORMANCE STANDARDS

Criteria for erosion and sediment control and post-construction stormwater management, including stormwater performance standards, shall be defined and included as part of the Regulations promulgated under Section 2.2 of this By-law.

5. WAIVERS

5.1 The Board of Health may, at its discretion and after due consideration and consultation with the Conservation Commission, Planning Board and DPW Director, decide to waive and exempt strict compliance with any requirement of this Town of Billerica Stormwater Management By-law or the Regulations promulgated hereunder, where it makes a written finding that such action is:

- A. Allowed by federal, state and local statutes and/or regulations;
- B. In the public interest; and
- C. Consistent with the purpose and intent of the Town of Billerica Stormwater Management By-law and its Regulations.

5.2 Criteria for granting a waiver shall be defined and included as part of the Regulations promulgated under Section 2.2 of this By-law.

5.3 Any waiver requests shall be discussed and voted on at the public hearing for the project.

6. ENFORCEMENT

The Board of Health, or its authorized agent, shall enforce this By-law and resulting regulations, orders, violation notices, and enforcement orders, and may pursue all criminal and civil remedies, including injunctive relief and monetary damages and costs of litigation and attorney fees, for such violations and for abatement and mitigation and compliance actions taken by the Board of Health. As an alternative to criminal prosecution or civil action, the Board of Health may elect to utilize the non-criminal disposition procedure set forth in Chapter 1, Section 19 of the Board of Health Regulations, and General By-laws Article XIV. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Board of Health's agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this By-law and may make or cause to be made such examinations, surveys or sampling as the Board of Health deems reasonably necessary to determine compliance with a permit issued under this By-law. Enforcement shall be further defined and included as part of the Regulations promulgated under Section 2.2 of this By-law.

SEVERABILITY

It is hereby declared that sections, paragraphs, sentences, clauses and phrases of these By-Laws are severable and if any phrase, clause, sentence, paragraph or section of these By-Laws shall be declared unconstitutional or otherwise invalid by the valid judgment of a court of competent jurisdiction such unconstitutionality or invalidity shall not effect any of the remaining phrases, clauses, sentences, paragraphs and sections of these By-Laws.

STATUTES

YEAR	GENERAL LAWS CHAPT. & SECT.	SUBJECT MATTER	ART. #
1890	Chap. 264 - Acts of 1886	Precinct Voting Town	19
1890	Chap. 431 - Acts of 1888	Superintendent of Schools	21
1890	Chap. 417 - Acts of 1893	Australian Voting System	5
1894	Act 310 of 1894	Town Hall Indebtedness above limit allowed by law	3
1897	Chap. 471 - Acts of 1897	Water Works (Supply)	2
1899	Chap. 264 - Acts of 1890	Cemetery Commission	25
1899		Choose Highway Surveyor by ballot	4
1900	Chap. 309 - Acts of 1885	Licensing Groves	19
1900	Chap. 370 - Acts of 1891	Manufacture & Distribute gas and electricity	3
1902	Chap. 19, Sec. 37	Civil Service for Police	12
1906	Act 11, Sec. 364, 365	Official Ballots	2 & 3
1906	Chap. 346 - Acts of 1902	Moderator to be elected for one-year term	21
1908	Chap. 191 - Acts of 1907	Est. Board of Selectmen as Board of survey	18
1908	Chap. 186 - Acts of 1907	Payment of pensions to Widows & Children of Police/Fire Dept.	33
1908	Chap. 32, Sec. 24 as amended in 1907	Relative to forest fires	3
1909	Chap. 209, Acts of 1908	Provide protection of forest or sprout lands from fire	22
1910	Chap. 560 - Part 5 Sec. 381 - Acts of 1907	Relating to precinct voting	24
1911	Chap. 634 - Acts of 1911	Auth. County to establish a retirement system	Ballot
1912	Chap. 28, Revised Laws	Authorization to lay out parks	Ballot
1913	Chap. 431, Sec. 381 Acts of 1912	Precinct Voting	1
1913	Chap. 807 - Acts of 1913	Workmen's Compensation	Ballot

1914	Chap. 217 - Acts of 1914	Laborers' Vacation	Ballot
1914	Chap. 688 - Acts of 1914	Saturday, Half-Holiday	Ballot
1914	Chap. 790 - Acts of 1914	Party Enrollment	Ballot
1915	Chap. 129 - Resolves of 1915	Const. Amend. - Auth. Taking of land to relieve cong. of population & provide homes for citizens	Ballot
1917	Chap. 624 - Acts of 1910	Town Accountant	8
1917	Constitution Amendment	Absentee Voting	Ballot
1919	Chap. 311 - Acts of 1919	Est. & Maintain continuation of schools & courses for employed minors	Ballot
1919	Chap. 116 - Acts of 1919	Relative to Savings Banks, Institutions for Savings to place deposit on interest monthly	Ballot
1920	Chap. 166 - Acts of 1920	Day off for Police	Ballot
1920	Chap. 490, Part 2, Sec. 53 - Acts of 1909	Relative to Tax Title	33
1921	Chap. 480 - Acts of 1920	Civil Service - Est. office of Fire Chief & Asst. Chief	18
1922	Chap. 83, Sec. 25, 26, & 27 Gen. Laws 1920	Sidewalk Improvement	30
1922	Chap. 31, Sec. 21-23, 24, 25, 26-45	Veterans Preference	10
1923	Chap. 391 - Acts of 1923	Collection of Water Rates	5
1928	Chap. 136, Sec. 21 - 28	Lord's Day - sports permitted	18
1929	Chap. 143, Sec. 3, 6, 7, 8, 9, 10, 11 and 12	Inspection of Buildings	52
1932	Chap. 221 - Acts of 1930	Bd. Of Selectmen to act as Board of Public Works	Ballot
1933	Act to Establish	Precinct Voting-Town Elections	44
1935	Sec. 6B of Chap. 40;		
1935	Chap. 351 - Acts of 1930	Uniforms of Police & Fire Dept.	51
1935	Chap. 131, Sec. 105B	Steel Traps	Ballot
1936	Chap. 125 - Acts of 1935	Supt. Of Public Works	Ballot
1936	Chap. 40, Sec. 42A, 42B, 42C, 42D, 42E & 42F	Collection of Water Rate	49
1939	Chap. 185 - Acts of 1939	Town to furnish water to Bedford	5
1939	Chap. 31, Sec. 49	Civil Service - Police Chief	38
1940	Chap. 152, Sec. 69 as amended by Chap. 435 - Acts of 1939	Workman's Compensation	2
1943	Chap. 85 - 11A of Gen. Laws		
1943	Chap. 710 - Acts of 1941	Bicycle Registration	16
1944	Chap. 32, Sec. 26 - 31H Inclusive	Contributory Retirement System for Employment	Ballot
1944	Chap. 31, Sec. 48	Civil Service - Regular Fire Dept.	35
1945	Chap. 40, Sec. 6C	Auth. Cities & towns to appropriate funds for snow & ice removal on private ways	Ballot
1946	Chap. 723 - Acts of 1945	Municipal Dept. for Veterans	22
1946	Chap. 487 - Acts of 1913	Promotion of Call Firemen	35
1946	Chap. 727 - Acts of 1945	Equal pay for teachers	Ballot
1947	Chapter 31	Civil Service - DPW Employees	Ballot

1948	Chap. 31, as amended	Civil Service -Official & Labor Force	Ballot
1948	Chap. 346	Assessors - Term of Office	Ballot
1950	Chap. 136, Sec. 4B as inserted by Sec. 3; Chap. 207 - Acts of 1946	Bowling Alleys on Lord's Day	14
1951	Chap. 639 - Acts of 1950	Civil Defense	6
1951	Chap. 820 - Acts of 1950	Retirement	40
1951	Chap. 48, Sec. 43	Fire Chief to be Fire Warden	43
1951	Chap. 41, Sec. 81A	Planning Board - 5 Members	61
1952	Chap. 40, sec. 21 (13)	Town Offices to pay fees into Town Treasurer	17
1952	Chap. 781 - Acts of 1951	Retirement	51
1953	Chap. 147, Sec. 16C	Hours of Policemen	52
1953	Chap. 40, Sec. 30A	Board of Appeals	55
1954	Chap. 48, Sec. 56	Hours of Perm. Membership of Fire-fighting force	24
1954	Chap. 40 Sec. 13A	Workmen's Compensation Insurance Fund	84
1955	Chap. 40, Sec. 6A	Municipal Advertising	71
1955	Chap. 43A, Sec. 6	Rep. Town Meeting Government	Ballot
1956	Chap. 41, Sec. 100A	Indemnification of Officers or Employees	39
1957	Chap. 40, sec. 6E	Temporary Repair of Private Ways	59
1957	Chap. 40, Sec. 42G	Assessing costs of laying water pipes in certain ways	84
1957	Chap. 40, Sec. 42H	Relating to fixed uniform rates - water	85
1957	Chap. 40, Sec. 42I	Relating to recording of determination - as liens	86
1957	Chap. 40, Sec. 5; Chap. 40, Sec. 8A	Est. an Industrial & Development Committee	25
1958	Acts of 1949	Vacation for Permanent Police & Fire	Ballot
1958	Chap. 32B	Group Life Ins. & Gen. Medical Ins. For certain employees & dependents	Ballot
1958	Chap. 145 - Acts of 1956	Executive Secretary	8
1959	Chap. 332 - Acts of 1958 Chap. 142, as amended	Extending applications relative to supervision of plumbing	38
1960	Chap. 493 - Acts of 1959	Pensions, retirement & annuities	40
1962	Chap. 41, Sec. 108E	Min. Comp. For Police	Ballot
1962	Chap. 40B	Regional Planning	26
1962	Chap. 40A, Sec. 8	Rezoning Regulations	61
1962	Chap. 143, Sec. 3-O	Plumbing Insp. To be Gas Insp.	71
1962	Chap. 40, Sec. 8C	Conservation Commission	87
1962	Chap. 40, Sec. 22D; Chap. 322 - Acts of 1961	Towing of Motor Vehicles	96
1962	Chap. 41, Sec. 111	Vacation for Municipal Employees	Ballot
1962	Chap. 40, Sec. 8B	Est. Council for Aging	79
1962	Chap. 41, Sec. 108E	Minimum salary for Reg. Police Officers	Ballot
1962	Chap. 322 - Acts of 1961	Towing Motor Vehicles-Private Ways	96
1963	Chap. 121, Sec. 26K, as amended	Housing Authority	84
1964	Chap. 392, sec. 8	Relating to cost of construction	

		of sewer system	40
1967	Chap. 40, Sec. 22D	Removal of vehicles impeding snow removal	15
1968	Chap. 697 - Acts of 1963	Est. Historical Comm.	67
1968	Chap. 48, Sec. 58D	42 Hr. Work Week for Fire Dept.	Ballot
1970	Chap. 40D	Est. Industrial Development Financing Authority	5
1971	Chap. 40, Sec. 108L	Career Incentive Pay - Police	25
1971	Chap. 32B, Sec. 11D	Death Insurance for Police & Fire Department	Ballot
1972		Exempt Board of Health Director from civil service	23
1972	Chap. 91, Sec. 29, as amended by Chap. 5 of Acts of 1955	Town to assume liability for certain work done by Mass DPW	71
1972	Chap. 486	Granting License for Beano	Ballot
1972		Approval of new Charter	Ballot
1973	Chap. 624	Civil Service for Town Engineer	Ballot
1973	Chap. 344 - Acts of 1970	Revolving fund for payment of off-duty police detail	23
1973	Chap. 90, Sec. 18A	Pedestrian control regulation	5
1973	Chap. 40, Sec. 5 (Clause 66)	Expense for implementing Chapter 40, Sec. 8G	32
1973	Chap. 91, Sec. 29, as amended by Chap. 5, - Acts of 1955	Town to assume liability for work done by Mass. DPW	12
1974	Chap. 40, Sec. 15C	Est. Concord Road as Scenic Route	24
1976	Chap. 364 - Acts of 1975	Exempting seasonal employees of Rec. Commission from Civil Service	Ballot
1976	Chap. 32B, Sec. 8A	Distribution of Ins. Dividend	Ballot
1977	Chap. 40, Sec. 15C	Est. Dudley Rd. as a Scenic Route	45
1978	Chap. 78, Sec. 10	Elect Library Trustees	18
1980	Chap. 147, Sec. 32 through Sec. 47 inclusive		
	Chap. 140, Sec. 181	Boxing Bouts	12
1980	Chap. 258, Sec. 13	Indemnify Municipal Employees	Ballot
1981	Chap. 71, Sec. 71E, added by Chap. 639 - Acts of 1977	Revolving Accts. for School Dept.	12
1981	Chap. 90, Sec. 20A ½	Moving & Parking violations & collection of revenues	3
1981	Chap. 44, Sec. 53D	Revolving Acct. for Recreation Dept.	32
1982	Chap. 644 - Acts of 1981	Regulate parking area for vehicles of disabled veterans & handicapped	14
1983	Chap. 148, Sec. 26C	Automatic heat & smoke detectors	2
1983	Chap. 148, Sec. 26E	Time & manner of installation of smoke detectors	3
1983	Chap. 40, Sec. 4G	Advertising bids for Contract Proposals	29
1983	Chap. 545 - Acts of 1982	Installation of Automatic Sprinkler system	49
1985	Chap. 59, Sec. 5,		

	Clause 17C (Chap. 743 of Acts of 1981)		10
1986	Chap. 40, Sec. 8J	Est. Handicap Commission	23
1986		Exempt Board of Registrars' Clerks from Civil Service	21
1987	Chap. 152, Sec. 69	Workman's Compensation for Elected & Appointed Town Officials	25
1987		Exempt Finance Committee Clerk from Civil Service	14
1988	Chap. 44, Sec. 53C	Deposit & Expenditures of Off-duty Police Detail	10
1988	Chap. 597, Sec. 1 Acts of 1982	Exempt from motor vehicle excise tax vehicles owned & registered by a former POW	29
1988	Chap. 59, Sec. 5, Clause 17D; Chap. 73 of Acts of 1986	Exempting applicants domicile in determining qualifications for exemption of certain minors, surviving spouses & persons over age 70	30
1988	Chap. 64G, Sect. 3A	Hotel Tax	35
1989	Chap. 59, Sec. 57; Chap. 42 - Acts of 1988	Due date for municipal charges & bills; Unpaid charges subject to interest	35
1989	Chap. 40, Sec. 58	Placing liens on real property for unpaid ambulance fees	36
1989	Chap. 40, Sec. 57	Denial/revocation of licenses for failure to pay municipal taxes	16
1989	Chap. 245 - Acts of 1988 amend. Chap. 41, Sec. 81U	Planning Board to spend securities for completion of subdivisions	41
1989		Exempt Conservation Commission Clerk from Civil Service	42
1989		Exempt Veterans' Service Clerk from Civil Service	43
1989		Exempt Personnel Bd. Clerk from Civil Service	44
1989		Exempt Town Accountant Clerks from Civil Service	45
1990	Chap. 60, Sec. 23B	Certificate of Lien Fee Schedule	4
1990	Chap. 148, Sec. 26H	Automatic Sprinklers in boarding houses requirement	30
1990	Chap. 148, Sec. 26I	Installation of automatic sprinkler systems	31
1990		Exempt Assessor's Clerical help from Civil Service	37
1991	Chap. 41, Sec. 653 of Acts of 1989	Quarterly Tax Bills	23
1991	Chap. 291 - Acts of 1990	Enhanced 911 Services	25
1992	Chap. 133, Sec. 48 Acts of 1992	Early retirement incentive for Municipal Employees	8
1993	Chap. 360 - Acts of 1993	Exempt Board of Health	

		Public Health Nurse from Civil Service	34
1993	Chap. 44, Sec. 53G	Special Act - Consulting Eng. to review Subdivision Rules & Reg., Health Reg., Comprehensive & Special Permits	16
1993	Chap. 44, Sec. 53C	Est. revolving Acct. for Police Detail (10/93)	4
1993	Chap. 19 - Acts of 1993	Incentive for Economic Develop. (10/93)	11
1994	Chap. 40, Section 42A-42F	Collection of water rates, method of collections - Liens for delinquent charges	24
1994	Chap. 44, Sec. 53E ½	Revolving Account - Merrimack Valley Dive Rescue Team	26
1994	Chap. 40, Sec. 22F	Fees & Charges	5
1994	Chap. 40, Sec. 8K	Establish a Mapping Commission	28
1994	Chap. 486, Sec. 5 - Acts of 1980	Est. Civic & Convention Center Commission	29
1994	Chap. 31, Sec. 61A and 61B	Exempt Paul Gallagher Jr. From Max. hiring age provision	30
1994		Exempt Town Accountant from Civil Service (Petition Legislature)	31
1994	Chap. 71, Sec. 83 Acts of 1993	Early Retirement Incentive for Teachers	7
1995	Chap. 59, Sec. 5, Clause 41C	Statutory Exemption - Elderly	35
1995	Chap. 80, Sec. 13B	Deferral of payment of assessments for those eligible under G.L. C. 59, SS. 5, Clause 41A	39
1995	Chap. 59, Sec. 5; Clause B	Exemption of real & personal property owned by Veteran's Organizations	49
1995	Chap. 33, Sec. 59	Allowance for reservists while on annual training	50
1997	Chap. 59, Sec. 5, ss 37A	Statutory Real Estate Tax - Exemption for Blind Persons	4
1997	Chap. 44, Sec. 53 ½	Revolving Fund for Police Dept.	5
1997	Chap. 140, Sec. 147A as amended	Withdrawal from County Dog System	37
1998	Chap. 32B, Sec. 18	Medicare Extension Plans, Mandatory transfer of retirees	20
1998	Chap. 32B, Sec. 9D1/2	Payment of additional insurance premium costs of retired employee or surviving spouse	21
1999	Chap. 60, Sec. 3D	Tax check-off to aid senior/ disabled resident taxpayers	24
2000	Chap.127, Sec. 59 of Acts of 1999	Senior Citizen Tax Work-off Abatement	13
2002	Chap. 126 of Acts 126 & Capt. 73 of Acts of 1986-17D, - 22;22A;22B; 22C;22D;22E;37A; & 41C of Sec. 5,Chapt.59	Additional real estate tax exemption in amount of uniform 60% for all persons qualified	18

