Note: Bylaw amendments voted at the October 15, 2012 Special Town Meeting have been approved by the Attorney General's office and are available as a separate document from the Town Clerk's Office and online.

Town of Westford, Massachusetts

General Bylaws

August 30, 2012

Including amendments voted at the March 24 & 26, 2012 Annual Town Meeting as approved by the Attorney General's Office on May 1, 2012

Table of Contents

Administrative Bylaws

Chapter		Page
1.	Penalties for Violating Bylaws and Regulations	1
2.	Annual Town Report	3
3.	Assessors	4
7.	Board of Health	5
9.	Building Department	6
10.	Bylaw Review Committee	7
14.	Community Preservation Committee	8
16.	Council on Aging	10
20	Fees	11
22.	Finance Committee	12
33.	Legal Affairs	15
35.	Meetings of Town Boards and Committees	16
38.	Personnel	17
42.	Sale of Property	19
48.	Tax Possession Sale Committee	20
51.	Town Meetings	21

General Bylaws

Chapter		Page
58.	Alcoholic Beverages	24
61.	Hazardous Materials Storage	25
68.	Numbering of Buildings	31
80.	Demolition Delay	32
82.	Discharges to the Municipal Storm Drain System	37
84.	Dogs	44
90.	Earth Removal	46
94.	Fire Alarms	51
95.	Firearms	52
96.	Fire Lanes	53
114.	Junk Dealers	54
123.	Collection of Delinquent Taxes – Denial of Licenses and Permits	55
124.	Public Consumption of Marijuana	57
132.	Plumbing Standards	59
136.	Public Safety	60
140.	Right to Farm	61
145.	Scenic Roads	63
147.	Stormwater Management	68
148.	Streets and Sidewalks	75
157.	Transient Merchants	79
160.	Trees and Plants	82
162.	Trench Regulations	83
165.	Junk Automobiles	84
169.	Water	86
171.	Wetlands	89
175.	Amendments	97

Zoning ..... *(separate publication)*

Index of Bylaws

Chapter	Page
Alcoholic Beverages	24
Amendments	97
Annual Town Report	3
Assessors	4
Board of Health	5
Building Department	6
Bylaw Review Committee	7
Collection of Delinquent Taxes – Denial of Licenses and Permits	55
Community Preservation Committee	8
Council on Aging	10
Demolition Delay	32
Discharges to the Municipal Storm Drain System	37
Dogs	44
Earth Removal	46
Fees	11
Finance Committee	12
Fire Alarms	51
Firearms	52
Fire Lanes	53
Hazardous Materials Storage	25
Junk Automobiles	84
Junk Dealers	54
Legal Affairs	15
Meetings of Town Boards and Committees	16
Numbering of Buildings	31
Penalties for Violating Bylaws and Regulations	1
Personnel	16
Plumbing Standards	59
Public Consumption of Marijuana	57
Public Safety	60
Right to Farm	61
Sale of Property	19
Scenic Roads	63
Stormwater Management	68
Streets and Sidewalks	75
Tax Possession Sale Committee	20
Town Meetings	21
Transient Merchants	79
Trees and Plants	82
Trench Regulations	83
Water	86
Wetlands	89
Zoning	*(separate publication)*

Chapter 1: Penalties for Violating Bylaws and Regulations

[Adopted 2-17-47 ATM Art. 35. Replaced 5-11-87 Adj. ATM Art. 17. Amended 5-11-02 ATM Art. 30 Replaced 3-28-2011 Adj. ATM. Amendments noted where applicable.]

Sec. 1.1. Violations

Any bylaw of the Town of Westford, or rule or regulation of its boards, commissions, and committees, the violation of which is subject to a specific penalty, may, in the discretion of the Town Official who is the appropriate enforcing person, be enforced in the method provided in Section 21D of Chapter 40 of the General Laws.

Sec. 1.2. Enforcement

A. "Enforcing person" shall mean the Board of Selectmen or any Police Officer of the Town of Westford, with respect to any offense; and the following boards and officials or any authorized agent for each of the boards or officials listed, each with respect to violation of bylaws and rules and regulations within their jurisdictions:

Animal Control Officer
Board of Health
Building Commissioner
Bylaw Enforcement Officer
Conservation Commission
Conservation/Resource Planner
Fire Chief
Highway Superintendent
Planning Board
Plumbing Inspector
Water Department Superintendent

B. If more than one official has jurisdiction in a given case, any such official may be an enforcing person with respect thereto. The Town Manager shall compile a detailed statement of the actual jurisdictions assigned to the appropriate enforcing person. The statement shall be filed with the Selectmen and available for inspection.

Sec. 1.3. Penalties

A. When enforced through this noncriminal disposition procedure, the penalty for violation of any Town bylaw, rule, or regulation, unless otherwise specified therein, shall be as follows:

First offense:	$100
Second offense:	$200
Third offense:	$300
Fourth and subsequent offenses:	$300

B. Each day upon which a violation exists shall be deemed to be a separate offense.

Chapter 2: Annual Town Report

[Adopted 10-18-2010 STM, Art. 12.]

§2.1 Annual Town Report on Fiscal Year.

The Board of Selectmen shall print the Annual Town Report for the period beginning July 1 and ending the following June 30 of each fiscal year.

Chapter 3: Assessors

[Adopted 3-9-57 ATM Art. 32. Amendments noted where applicable.]

§ 3.1. Assessors' Duties. [Amended 3-18-61 ATM Art. 27; 5-11-02 ATM Art. 30]

The duties of the Board of Assessors, Principal Assessor, Administrative Assessor, and Assessor's office shall be in full compliance with Massachusetts General Laws chapter 59. The assessor's office shall be responsible, as required by law, to make available annually a list of taxable property.

Chapter 7: Board of Health

[Adopted 2-17-47 ATM Art. 35. Amended 5-11-02 ATM Art. 30]

§ 7.1. Annual Report.

The Board of Health shall annually prepare a report to be printed in the Annual Town Report, showing in detail the statistics of the health and sanitary condition of the Town, with recommendations for its improvement, together with a full and comprehensive statement of its work and that of its appointees, during the previous year.

§ 7.2. Authority to make and publish regulations.

The Board shall make and publish such regulations as it deems necessary for public health and safety, and from time to time shall cause said rules and regulations to be printed in a form suitable for public distribution.

§ 7.3. Authority to make appropriations.

The Board shall have charge of the appropriations for quarantine purposes, in addition to the regular health appropriation, and any special appropriation made by the Town, which concern the health and sanitation of the Town, not specifically entrusted to any other department.

Chapter 9: Building Department

[Adopted 6-11-63 STM Art. 12, as amended. Replaced 6-20-83 AdjATM Art. 46. Amendments noted where applicable.]

§ 9.1. Building Inspector's salary.

The salary of the Building Inspector shall be determined by the Selectmen.

§ 9.2. Relief from personal liability.

The Building Inspector or any employee charged with the enforcement of the Building Code shall not be personally liable while acting for the Town and such Inspector and employees are hereby relieved from all personal liability for any damage that may accrue to persons or property as the result of any acts required or permitted in the discharge of their official duties.

§ 9.3. Fees.

Except as may be otherwise provided by the Massachusetts General Laws or by the State Building Code, fees for all permits shall be established by the Selectmen and paid to the Building Inspector.

§ 9.4. Appeals. [Amended 3-27-2010 ATM, Art. 18]

Whoever is aggrieved by any order, decision, or interpretation of any official of the Town charged with the administration or enforcement of any of its rules or regulations, may appeal to the local Board of Appeals. The entry fee for any such appeals shall be established by said board.

Chapter 10: Bylaw Review Committee

[Adopted 10-16-2006 Art. 20]

§10.1. Establishment

A. There is hereby established a Bylaw Review Committee, consisting of 3 voting members. The Committee members shall be appointed by the Board of Selectmen in the following manner:
   1. 1 member to be appointed for an initial term of 1 year and thereafter for a term of 3 years.
   2. 1 member to be appointed to an initial term of 2 years and thereafter for a term of three years.
   3. 1 member to be appointed for a term of 3 years.

B. The Town Clerk shall be an ex officio, non-voting member of the committee.

§10.2 Duties [Amended 5-10-08 ATM Art. 20]

A. The Committee shall review the Town's General Bylaws on a regular basis to ensure their internal consistency and their conformity in formatting, placement, and chapter numbering.

B. The Committee shall review the Town's General Bylaws on a regular basis to ensure their consistency with any applicable law and the Town Charter.

C. The Committee may propose to the Selectmen for inclusion in the warrant for the next annual or special town meeting any amendments or additions to the General Bylaws that the Committee determines should be made so as to resolve inconsistencies within the Bylaws or with applicable law or the Town Charter.

D. The Committee shall assist any Town board, officer, administrator, or member of the public, if requested, in drafting amendments or additions to the General Bylaws that will be proposed for inclusion in a Town Meeting warrant.

E. Whenever practicable, the Selectmen shall submit to the Committee all proposed amendments or additions to the General Bylaws prior to their inclusion in the warrant for any town meeting. The Committee shall meet and review all such proposed amendments and additions and shall report to the Selectmen its recommendations as to their form and consistency with existing provisions of the General Bylaws and the Town Charter and as to their placement in the General Bylaws.

F. The Committee chair or some members of the Committee designated by the Committee shall report to the Town Meeting its recommendation on any article in the Warrant that proposes an amendment or addition to the General Bylaws. The Committee's recommendation shall be based on the form and consistency of the proposed amendment or addition and on its placement in the General Bylaws. The Moderator shall call upon the Committee for such report prior to the discussion or vote on such article.

G. The Committee shall assist the Town Clerk in preparing from time to time the publication of the General Bylaws including all amendments and additions thereto.

§10.3 Failure to Observe Provisions

Failure to observe any provision of this Article shall not affect the validity of any change in the General Bylaws that has been duly adopted by vote of the Town Meeting.

§10.4 Severability

In case any section, paragraph, or other part of this chapter is for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph, or part shall continue in full force and effect.

Chapter 14: Community Preservation Committee

[Adopted 5-7-01 Adj. ATM Art. 23. Amendments noted where applicable.]

§ 14.1. Establishment.

There is hereby established a Community Preservation Committee ("Committee), consisting of 9 voting members pursuant to Massachusetts General Laws chapter 44B. The composition of the Committee, the appointing authority and the term of office for the committee members shall be as follows:

A. 1 member of the Conservation Commission as designated by the Conservation Commission for a term of 3 years.

B. 1 member of the Historical Commission as designated by the Historical Commission for a term of 3 years.

C. 1 member of the Planning Board as designated by the Planning Board for an initial term of 2 years and thereafter for a term of 3 years.

D. 1 member of the Recreation Commission as designated by the Recreation Commission for an initial term of 2 years and thereafter for a term of 3 years.

E. 1 member of the Housing Authority as designated by the Housing Authority for an initial term of 1 year and thereafter for a term of 3 years.

F. 4 members to be appointed by the Board of Selectmen, 2 members to be appointed for a term of 1 year and thereafter for a term of 3 years, 1 member to be appointed for a term of 2 years and thereafter for a term of 3 years, and 1 member to be appointed for a term of 3 years.

G. If there are no persons acting in the capacity of or performing like duties of any such commission, board or authority the Board of Selectmen shall have the authority to appoint a member representative of such commission, board or authority. Should any individual be unable to complete his/her term of appointment, the appointing authority of that individual shall appoint a new member to complete the term.

§ 14.2. Duties.

A. The Committee shall study the needs, possibilities and resources of the town regarding community preservation before making any recommendation to Town Meeting. The Committee shall consult with existing municipal boards, including but not limited to the Conservation Commission, the Historical Commission, the Planning Board, the Recreation Commission and the Housing Authority, or persons acting in those capacities or performing like duties, in conducting such studies. The Committee shall consult with other town boards, commissions or committees as it deems necessary. As part of its study, the Committee shall hold 1 or more public informational hearings on the needs, possibilities and resources of the town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of 2 weeks preceding a hearing in a newspaper of general circulation in the town.

B. The Committee shall make recommendations to the Town Meeting based on its studies for the acquisition, creation and preservation of open space, for the acquisition and preservation of historic resources, for the acquisition, creation and preservation of land for recreational use, for the creation, preservation and support of community housing and for rehabilitation or restoration of such open space, historic resources, land for recreational use and community housing that is acquired or created as provided in this section. With respect to community housing, the Committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

C. The Committee may include in its recommendation to the Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds in the Community Preservation Fund for general purposes that are consistent with community preservation. Recommendations to the Town Meeting shall include the anticipated costs of such recommendations.

D. The Committee shall keep a full and accurate account of all of its actions, including its recommendations and the action taken on them and records of all appropriations or expenditures made from the Community Preservation Fund. The committee shall also keep records of any real property interests acquired, disposed of or improved by the city or town upon its recommendation, including the names and addresses of the grantors or grantees and the nature of the consideration. The records and accounts shall be public records.

§ 14.3. Requirement for a quorum.

The Committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the community preservation committee shall constitute a quorum. All meetings of the community preservation committee shall be held in accordance with the Open Meeting law, Massachusetts General Laws chapter 39, section 23B. The community preservation committee shall approve its actions by majority vote.

§ 14.4. Amendments.

This chapter may be amended from time to time by a majority vote of the Town Meeting, provided that the amendments would not cause a conflict to occur with Massachusetts General Laws chapter 44B.

§ 14.5. Severability.

In case any section, paragraph or part of this chapter be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

§ 14.6. Effective Date.

Each appointing authority shall have 30 days after approval by the Attorney General to make their initial appointments. Should any appointing authority fail to make its appointment within the allotted time, the Town Manager shall make the appointment.

Chapter 16: Council on Aging

[Adopted 3-11-67 ATM Art. 21. Amendments noted where applicable.]

§ 16.1. Establishment; purpose. [Amended 5-11-02 ATM Art. 30]

There is hereby established a Council on Aging for the purpose of coordinating or carrying out programs designed to meet the problems of the aging in coordination with programs of the Massachusetts Department of Elder Affairs established under Massachusetts General Laws chapter 40, section 8B, as most recently amended, or as the same may be hereafter amended.

§ 16.2. Membership; terms. [Amended 5-9-92 ATM Art. 9; 5-11-02 ATM Art. 30]

The Council on Aging shall consist of 7 members to be appointed by the Selectmen, and all of the members shall be residents of the Town. When the Council is first established 2 members shall be appointed for terms of 3 years each, 2 members shall be appointed for terms of 2 years each, and 3 members shall be appointed for a term of 3 years each; and their successors shall be appointed for terms of 3 years each. A vacancy occurring other than by expiration of term shall be filled in the same manner as the original appointment.

§ 16.3. Annual report. [Amended 5-11-02 ATM Art. 30]

The Council shall submit an annual report to the Town for inclusion in the Annual Reports and shall send a copy to the Massachusetts Department of Elder Affairs.

§ 16.4. Appointments.

The Council may appoint such clerks and other employees as it may require.

Chapter 20: Fees

[Adopted 5-7-83 ATM Art. 27 and 5-10-86 ATM Art. 27. Amendments noted where applicable.]

§ 20.1. Disposition of fees. [Amended 5-11-02 ATM Art. 30]

All fees received by the Town Clerk by virtue of Massachusetts General Laws chapter 262, sections 34, shall be paid into the Town treasury.

§ 20.2. Sealer of Weights and Measures fees. [Amended 3-27-2010 ATM, Art. 19]

Fees for the Sealer of Weights and Measures within the Town of Westford are hereby established by the Board of Selectmen, through notification and a public hearing on the matter, to cover the costs incurred for the service.

Chapter 22: Finance Committee

[Adopted 2-17-47 ATM Art. 35, as amended. Replaced 5-7-88 ATM Art. 14, as amended. Replaced 12-7-99 AdjSTM Art. 14. Amendments noted where applicable.]

§ 22.1. Executive summary.

The Finance Committee is appropriately interested in the Town's annual operational budget development, financial policy, and all planning anticipated to have a financial impact on the Town. The Committee can make recommendations on any financial matter before Town Meeting or on ballot referenda and provide the underlying rationale and supporting information for each recommendation.

§ 22.2. Membership; compensation.

There shall be a Finance Committee consisting of 9 voters of the Town, none of whom shall hold any other elective or appointed Town office or position having to do with the expenditure of money. The members of the Finance Committee shall be sworn to the faithful performance of their duties and shall serve without compensation.

§ 22.3. Duties.

A. The Finance Committee shall be appointed by the Moderator for the purpose of advising the Town Meeting on all matters relating to the appropriation, borrowing, expenditure, and receipt of money by the Town, including, but not limited to, the annual budget as set forth below, the Town's indebtedness, capital needs, and all other municipal affairs having a financial impact upon the Town.

B. The Finance Committee shall recommend approval or disapproval to the Town Meeting of the annual operating and capital budgets as set forth below, and also upon any article or matter within a Town Meeting warrant which may involve the appropriation or expenditure of money. Such recommendations shall include any other advice the Committee deems advisable. The Committee may also issue recommendations on referenda or other matters appearing on the ballot having financial impact upon the Town, excluding the choice of individuals for Town offices.

§ 22.4. Terms; vacancies; organization.

The terms of members shall be for 3 years and shall be staggered in such a manner that 3 terms expire in each year. The terms shall begin upon July 1 in the year in which appointments are made. A vacancy shall exist whenever a member resigns in mid-term by informing the Moderator and Town Clerk of such intent. Vacancies shall be filled by the Moderator for the remainder of the unexpired term only. The Committee shall meet at the call of the majority of duly appointed members, or at the call of the Town Clerk as soon as practicable after July 1 of each year to organize, elect such officers as it may deem necessary, and to adopt and amend such rules and regulations, organization, and procedures as are consistent with these bylaws and the General Laws of the Commonwealth.

§ 22.5. Advisor.

The Finance Director shall serve as an advisor to the Finance Committee.

§ 22.6. Areas of responsibility. [Amended 11-12-02 STM Art. 16]

A. Development of annual operating and capital improvement budgets.

1. Immediately upon the close of the fiscal year, the Finance Director shall compile statements in tabulated form for 1) the amounts appropriated and amounts expended from each appropriation during the preceding fiscal year and 2) an analysis of the adequacy of the appropriations and revenue estimates for the current fiscal year. Copies of the same, together with any other information he/she deems advisable, shall be immediately transmitted to the Board of Selectmen, the Town Manager, and the Finance Committee. The Town Manager, in consultation with the Finance Director and Finance Committee, shall then set completion dates for all phases of the succeeding fiscal year's budget development process.

2. Upon analysis and consideration of the information provided and gathered, the Town Manager shall issue a budget development message to all departments and boards by the agreed upon date. The message shall outline the current and projected financial condition of the Town and budgetary goals for the succeeding fiscal year.

3. The Town officers, boards, committees, and department heads authorized by law to expend funds, shall submit detailed estimates of the amounts necessary for the proper maintenance of their departments in the upcoming fiscal year to the Town Manager and Finance Committee no later than the agreed upon date. Furthermore, such officers, boards, committees, and department heads authorized by law to expend funds, shall submit a capital budget for the upcoming fiscal year to the Town Manager and the Finance Committee no later than the agreed upon date.

4. All budgets thus submitted shall be consistent with the policy direction contained in the budget development message and shall be accompanied by sufficient explanation and supporting data to clearly support the amounts described.

5. The Town Manager and Finance Committee shall either separately or jointly review the budgets submitted to them, and each shall hold such hearings and meetings as deemed necessary. The Town Manager shall, no later than the agreed upon date and after making additions and deletions as he/she sees fit, adopt a final proposed operating and capital budget for presentation to the Annual Town Meeting for the succeeding fiscal year.

6. The Finance Committee shall, after due consideration, recommend the amounts which, in its judgment, should be appropriated for the ensuing year, and shall accompany the same with such explanations and suggestions thereto as it may deem advisable for the proper information of the voters. The Finance Committee shall print these recommendations and information together with the Town Manager's proposed budget and the warrant[*], and shall distribute this document to all residents of the Town at least 10 days prior to the Annual Town Meeting.

B. Management of Finance Committee reserve fund.

Town Meeting may appropriate monies into a reserve fund for the transfer of funds by a majority vote of the Finance Committee, to meet “extraordinary or unforeseen expenses” within a Town function during the fiscal year.

[*] The word *warrant* in this instance may mean a summary of all warrant articles and not necessarily the full text of the warrant.

C. Recommendations upon warrant articles and ballot questions which have a financial impact.

The Finance Committee may study the financial implications and impact of all warrant articles before the Town Meeting, or a question on a ballot. It shall then inform the voters of its findings and recommendations.

D. Participation in planning/negotiation activities.

1. The Finance Committee, or a designated member, may be an active participant in any board or committee created for the purpose of formulating financial policy and procedures which affect bonded debt, free cash use, capital budgeting, investments, expanding revenue sources, and any other financial planning activities.

2. The Finance Committee, or a designated member, may be a non-voting member to all official and unofficial ad-hoc committees created for the purpose of negotiating the purchase of any land, buildings, rights, interests, etc., in excess of $10,000.

Chapter 33: Legal Affairs

[Adopted 2-17-47 ATM Art. 35. Amendments noted where applicable.]

§ 33.1. Actions against the Town.

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

§ 33.2. Authority to settle certain claims. [Amended 3-6-65 STM Art. 2]

The Selectmen may, subject to the approval of the Town, settle or compromise any claim, action, suit or other proceeding made or instituted by them in behalf of the Town. They may settle or compromise, without such approval, any such claim, action, suit or proceedings which does not involve more than $1,000. Subject to appropriation therefor, they may settle any claim, action, suit or other proceeding against the Town.

Chapter 35: Meetings of Town Boards and Committees*

[Adopted 3-9-57 ATM Art. 32. Amendments noted where applicable.]

§ 35.1. Notice of meetings or cancellations. [Amended 5-11-03 ATM Art. 30]

No meeting of a Town board or committee shall be held or canceled unless each member thereof has received reasonable notice of such meeting or cancellation.

* New bylaw made up of section previously numbered 51.12

Chapter 38: Personnel

[Adapted 3-12-66 ATM Art. 18A as sec. 1, as amended. Replaced 3-18-91 Adj. STM Art. 8. Amendments noted where applicable.]

§ 38.1. Purpose and intent.

The purpose of the personnel bylaw is to establish fair and equitable personnel policies and to establish a system of personnel administration based on merit principles that ensure a uniform, fair and efficient application of personnel policies. The intent of this bylaw is to provide a method of recruitment, selection, and development of a work force that is skilled and effective in accomplishing the service delivery mission of the Town. Personnel actions are to be made without regard to sex, race, religion, color, age as defined by law, handicap, political affiliation or any other non-job related factors, and shall be based on merit and fitness alone.

§ 38.2. Application.

All Town departments and positions shall be subject to the provisions of this chapter, except elected officers of the Town, employees of the school department and employees subject to collective bargaining agreements under Chapter 150E of the Massachusetts General Laws. This bylaw is adopted pursuant to the authority granted by Article LXXXIX of the Constitution of the Commonwealth and Massachusetts General Laws chapter 41, section 108A and 108C.

§ 38.3. Responsibility of the Town Manager.

The Town Manager shall be responsible for the establishment and maintenance of a personnel system based on merit principles. The Town Manager shall have all the personnel management powers and duties as provided by chapter 480 of the Acts of 1989 and shall formulate personnel policies pursuant to section 38.5 of this chapter.

§ 38.4. Contents of personnel policies.

The personnel policies shall establish a personnel system which shall include, but need not be limited to, the following elements:

A. A method of administration. A system of administration which assigns specific responsibility for all elements of the personnel system, including: maintaining personnel records, implementing effective recruitment and selection processes, maintaining the classification and compensation plans, monitoring the application of policies, and periodic reviews and evaluation of the personnel system.

B. The Wage and Classification Plan as contained in Appendix A.

C. A recruitment and selection policy.

D. A centralized personnel record keeping system, or

E. Other elements of a personnel system as deemed appropriate or necessary.

§ 38.5. Adoption of policies. [Amended 5-9-92 ATM Art. 7]

A. The Town Manager is empowered and authorized by this chapter to adopt personnel policies defining the rights, benefits and obligations of employees subject to this chapter, provided however, decisions made by the Town Manger to classify a new position or to reclassify a position shall be subject to the ratification of the Town Meeting. The Town Manager shall be responsible for the

development of personnel policies. Any appointing authority, department head, or any three employees may recommend personnel policies to the Town Manager for consideration. Such policies shall become effective in accordance with the following procedure:

1. Proposed personnel policies shall be prepared by the Town Manager.
2. The Town Manager shall consult with employees that may be affected by proposed changes in personnel policies.
3. The Town Manager shall finalize personnel policies and transmit in writing any proposed policies to the Board of Selectmen.
4. Policies shall become effective on the thirtieth day following the day on which notice of the proposed policy is filed with the Board of Selectmen unless the Board of Selectmen shall within said period vote to reject any such policy.
5. Copies of new or amended policies shall be posted and distributed to department heads.

B. Notwithstanding the provisions of Massachusetts General Laws chapter 32B, sections 2 and 3, part-time elected officials working fewer than 20 hours per week shall not be considered eligible employees for the purpose of participating in the Town's group health insurance program.

§ 38.6. Personnel Advisory Board. [Replaced 05-06-2006 ATM Art. 23]

There shall be a three member Personnel Board appointed by the Board of Selectmen for the purpose of providing advice to the Town Manager who is ultimately responsible for all personnel management powers, duties and responsibilities.

The membership shall consist of three community members at large in addition to the Town Manager and Human Resources Director who shall be non-voting members.

§ 38.7. Severability.

The provisions of this bylaw and any policies adopted pursuant to this bylaw are severable. If any bylaw provision or policy is held invalid, the remaining provisions of the bylaw or policy shall not be affected thereby.

§ 38.8. Effective date.

This bylaw shall take effect upon enactment.

Chapter 42: Sale of Property

[Adopted 3-19-60 Adj. ATM Art. 37. Amendments noted where applicable.]

§ 42.1. Sale or transfer of certain Town property. [Amended 5-11-02 ATM Art. 30]

Any officer, board or committee in charge of a department of the Town may, with the approval of the Selectmen, sell and transfer at private sale any personal property of the Town within the care, custody, possession or control of the department which has become obsolete or which is no longer required for further use by the department and which does not, in the opinion of the Selectmen, exceed $500 in value. The officer, board or committee, subject to the approval of the Selectmen may, in the name and behalf of the Town, transfer by a good and sufficient bill of sale title to such property for a sum and upon terms as it or they shall determine.

Chapter 48: Tax Possession Sale Committee

[Adopted 9-17-85 STM Art. 18. Amendments noted where applicable.]

§ 48.1. Establishment; members. [Amended 5-11-02 ATM Art. 30]

There shall be a Tax Possession Sale Committee of 3 members, to be appointed by the Board of Selectmen.

§ 48.2. Terms.

Members shall serve for 3-year terms each; provided, that of the individuals first appointed, one will serve for 1 year, one will serve for 2 years and one will serve for 3 years; and thereafter each member shall serve for 3 years. Terms shall start October 1, of each year.

§ 48.3. Vacancies.

A vacancy occurring other than by expiration of term shall be filled for the remainder of the term in the same manner as an original appointment.

§ 48.4. Residency requirements.

All members shall be residents of the Town.

§ 48.5. Responsibilities. [Amended 5-11-02 ATM Art. 30]

The Committee shall have the care, custody and control of all land acquired by the Town under the provisions of Massachusetts General Laws chapter 60, as the same may be amended from time to time, and may sell and convey such land at public or private sale on such terms and conditions as said Committee shall determine.

Chapter 51: Town Meetings

[Adopted 2-11-24 ATM. Amendments noted where applicable.]

§ 51.1. Annual Town Meetings and Elections.

A. **Date and time of Annual Town Elections.** [Amended 2-20-33 ATM Art. 13; 2-17-47 ATM Art. 35; 3-12-66 ATM Art. 36; 12-19-73 STM Art. 4. Replaced 10-2-90 STM Art. 10. Amended 5-11-02 ATM Art. 30] The Annual Meeting for the election of Town officers and the determination of matters as by law or vote of the Town are required to be elected or determined by ballot shall be held on the first Tuesday of May each year. The polls shall be open at 7:00 A.M. and shall remain open until 8:00 P.M.

B. **Date and time of Annual Town Business Meetings.** [Amended 5-11-2009 Adj ATM Art. 22] All other business of the Annual Town Meeting shall be considered at 10:00 A.M. on the fourth Saturday in March, except that if the Board of Selectmen determines that such date conflicts with the traditional observance of a religious holiday, the Board of Selectmen may delay the Annual Town Meeting to a subsequent Saturday that does not conflict with any religious holiday.

C. **Notice of Annual Town Meetings.** [Amended 2-17-47 ATM Art. 35; 3-9-57 ATM Art. 32; 11-1-61 STM Art. 10. Replaced 11-15-00 AdjSTM Art. 24; 5-11-02 ATM Art. 30; Amended 11-12-02 STM Art. 16]

   1. The Board of Selectmen shall give notice of every Annual Town Meeting by posting an attested copy of the warrant at the Town Hall, the J.V. Fletcher Library, and each post office in Westford at least 14 days before the meeting.

   2. The Finance Committee shall print and distribute the warrant* with the Finance Committee's recommendations and the Town Manager's proposed budget to all residents of the Town at least 10 days before the meeting.

D. **Deadline for acceptance of warrant articles for Annual Town Meeting.** [Adopted 3-9-57 ATM Art. 32; amended 3-9-74 ATM Art. 41; 5-11-02 ATM Art. 30; 10-19-2009 Art. 10] The Board of Selectmen shall include in the warrant for the Annual Town Meeting any article it receives in accordance with the provisions of Massachusetts General Laws Chapter 39 Section 10, by 2:00pm on the fourth Tuesday in January.

E. **Availability of Reports and Records Prior to Annual Town Meeting.** [Adopted 5-10-08 ATM Art. 17] All reports and records to be voted on at an Annual Town Meeting must be made available to the public at least 14 days prior to Annual Town Meeting. The words "reports and records" shall mean any written or printed book or paper, or any photograph, microphotograph, map or plan.

   1. Reports and records must be published on the Town's web site, and available in paper copy at the Town Clerk's office.

   2. Nothing in this bylaw changes any existing reporting or notification requirements that may be established by other bylaws or Massachusetts General Law.

---

* The word *warrant* in this instance may mean a summary of all warrant articles and not necessarily the full text of the warrant.

§ 51.2. Special Town Meetings.

A. **Date and time of Special Town Meetings.** [Amended 2-17-47 ATM Art. 35; 3-9-57 ATM Art. 32; 11-21-91 STM Art. 5; 5-11-96 ATM Art. 24; 5-11-02 ATM Art. 30] Special Town Meetings may be called on any day not earlier than 7:30 P.M., except that on a Saturday a Special Town Meeting may be called at any time determined by the Board of Selectmen to be in the public interest and convenience.

B. **Special Town Meeting quorum requirement.** [Amended 2-17-47 ATM Art. 35; 3-9-57 ATM Art. 32; 11-21-91 STM Art. 5; 5-11-96 ATM Art. 24; 5-11-09 Adj ATM Art. 23] A quorum of 200 registered voters shall be required to convene a Special Town Meeting. Once a Special Town Meeting has been opened, there shall be no requirement to maintain the quorum.

C. **Notice of Special Town Meetings.** [Adopted 11-15-00 Adj. STM Art. 24. Replaced 5-11-02 ATM Art. 30; Amended 11-12-02 STM Art. 16] The Board of Selectmen shall give notice of every Special Town Meeting by:

1. Posting an attested copy of the warrant at the Town Hall, the J.V. Fletcher Library, and each post office in Westford at least 14 days before the meeting.
2. Printing and distributing the warrant* and the voter registration deadline to all residents of the Town at least 10 days before the meeting.

D. **Availability of Reports and Records Prior to Special Town Meeting.** [Adopted 5-10-08 ATM Art. 17] All reports and records to be voted on at a Special Town Meeting must be made available to the public at least 14 days prior to the meeting. The words "reports and records" shall mean any written or printed book or paper, or any photograph, microphotograph, map or plan.

1. Reports and Records must be published on the Town's web site, and available in paper copy at the Town Clerk's office.
2. Nothing in this bylaw changes any existing reporting or notification requirements that may be established by other bylaws or Massachusetts General Law.

§ 51.3. Entry and speaking restrictions. [Amended 2-17-47 ATM Art. 35; 3-9-57 ATM Art. 32; 5-11-02 ATM Art. 30]

At all Town Meetings, no person whose name is not on the list of voters shall be permitted to address the meeting or shall be admitted to the floor of the hall, except those who may be invited by a two-thirds vote of the meeting. It shall be the special duty of the police and election officers to enforce this law by use of the voter list. This shall not be construed to prohibit press reporters from admission. The Moderator shall determine the bounds of the floor of the hall.

§ 51.4. Official procedures to be followed. [Amended 2-17-47 ATM Art. 35; 3-9-57 ATM Art. 32; 5-8-99 ATM Art. 2]

The proceedings of Town Meetings shall be governed by the rules of practice contained in *Town Meeting Time, A Handbook of Parliamentary Law*, most recent edition, except as modified by law or these bylaws or except as the Moderator determines is not appropriate for a Town Meeting.

* The word *warrant* in this instance may mean a summary of all warrant articles and not necessarily the full text of the warrant.

§ 51.5. Motions, amendments and votes. [Adopted 2-17-47 ATM Art. 35; amended 3-9-57 ATM Art. 32; 10-28-57 STM Art. 10; 5-13-97 Adj. ATM Art. 22]

Not more than 2 amendments to any motion shall be pending at any one time. A motion and amendments to a motion shall be voted upon in inverse order; provided that in any case in which 2 or more amounts of money have been presented for appropriation by motion and amendments thereto, the largest amount shall be voted upon first. All motions and amendments to motions shall be presented in writing, if the Moderator so requests. On matters requiring a two-thirds vote by statute, a count need not be taken unless the vote so declared as two-thirds by the Moderator is immediately questioned by 7 or more voters as provided in the Massachusetts General Laws, chapter 39, section 15.

§ 51.6. Secret ballots. [Adopted 3-9-57 ATM Art. 32; 5-11-02 ATM Art. 30]

Upon any motion or amendment to a motion, the Moderator, at the request of any 20 voters attending the meeting, shall direct that the vote be by secret written ballot. Tellers may collect these by hand, and ballot boxes need not be used.

§ 51.7. Reconsideration of votes. [Adopted 3-10-62 ATM Art. 23; 5-11-02 ATM Art. 30]

No vote taken at any Town Meeting or at an adjourned session of any meeting shall be reconsidered at any adjourned session of the meeting, except upon the affirmative vote of two-thirds of the meeting.

§ 51.8. Committee appointments and reports. [Adopted 2-17-47 ATM Art. 35; amended 3-9-57 ATM Art. 32; 5-11-02 ATM Art. 30]

The Moderator shall appoint and fill vacancies on committees created and directed by Town Meeting unless otherwise especially directed by the Meeting. All committees so appointed shall be directed to report back within a definite time. If a committee does not report back within the time stated, or at the first Annual Town Meeting held thereafter, it shall be considered discharged. The Moderator shall not be a member of any committee he/she appoints.

Chapter 58: Alcoholic Beverages

[Adopted 3-9-74 ATM Art. 17. Amendments noted where applicable.]

§ 58.1. Definitions.

The following definitions shall apply in the interpretation and enforcement of this bylaw:

Alcoholic beverages shall mean any beverage defined as an alcoholic beverage in section 1 of chapter 138 of the Massachusetts General Laws.

Common shall mean the triangular parcel of land owned by the Town in Westford center, which is bounded by Main Street, Lincoln Street and Boston Road.

Private property shall mean any real property within the Town of Westford which is not owned by the Town.

Public property shall mean and include the Common, municipal parking lots, municipal parks, municipal playgrounds and the area of any real property, building, or office owned by or leased to the Town or occupied or used by any board, department, committee, commission, or office of the Town.

Public way shall mean the entire width between the lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel and shall include the entire width of any sidewalk within the lines of such way. In the case of ways established by prescription or concerning which no official layouts exist, the edges of the surface of the traveled way shall be deemed to be the lines of such public ways.

§ 58.2. Public consumption prohibited.

No person shall consume any alcoholic beverage on any public way or on any way to which the public has a right of access.

§ 58.3. Possession on private and public property.

No person shall bring any alcoholic beverage onto any private property or onto any public property, or possess or consume any alcoholic beverage in or upon any public property or private property without the permission of the owner or person lawfully in charge or control of such private or public property.

§ 58.4. Seizure of beverages in violation.

All alcoholic beverages possessed or consumed in violation of this bylaw shall be seized and held until final adjudication of the complaint against the person charged with such violation. After final adjudication all beverages seized shall be returned to the person lawfully entitled thereto.

§ 58.5. Violations and penalties.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not to exceed $50 for each offense.

Chapter 61: Hazardous Materials Storage

[Adopted 6-28-82 AdjATM Art. 16, as amended. Replaced 5-13-97 AdjATM Art. 33. Amendments noted where applicable.]

§ 61.1. Authority. [Amended 11-12-02 STM Art. 16]

This bylaw is adopted by the Town of Westford under its home rule power, its police powers to protect the public health, safety, and welfare, and its authorization under Massachusetts General Laws chapter 40, section 21(1).

§ 61.2. Purpose.

The purpose of this bylaw is to protect, preserve, and maintain the existing and potential groundwater supply, groundwater recharge areas, and surface water within the Town of Westford from contamination, and to protect public health and safety. Nothing in this bylaw shall be construed as inconsistent with, or in interference with, the authority vested upon the Fire Chief under Massachusetts General Laws chapter 148, or any state rules and regulations adopted pursuant thereto.

§ 61.3. Definitions. [Amended 11-12-02 STM Art. 16]

The following definitions shall apply in the interpretation and implementation of this bylaw:

Abandoned means being out of service for a period in excess of 180 days, in the case of a tank or storage facility for which a license is required under the provisions of Massachusetts General Laws chapter 148, or for a period of 12 months, in the case of any other tank or storage facility.

Above-ground tank or storage facility shall mean any tank or storage facility, whether inside or outside a building, which is not underground.

Discharge means the disposal, injection, dumping, spilling, leaking, incineration, or placing of any hazardous material or any constituent thereof into or on any land or water so that such material may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

Hazardous materials means any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water. Hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as toxic or hazardous under Massachusetts General Laws chapters 21C and 21E and 310 CMR 30.00, and also include such products as solvents and thinners.

Hazardous wastes shall mean any waste as set forth in Massachusetts General Laws chapter 21C.

Leak shall mean any uncontrolled movement of any hazardous material out of a tank or storage facility or its components, or any uncontrolled movement of water into a tank or storage facility or its components, measured as set forth in 527 CMR 9.02.

Out of service shall mean not in use, with no regular filling or drawing; or not being maintained, without adherence to the requirements of this bylaw; or uncontrolled, without being attended or secured; or any combination thereof.

Priority pollutant shall mean a hazardous material listed in 40 CFR Pt. 423, App. A, a copy of which is available from the Board of Health.

Tank or storage facility shall mean any structure used, or designed to be used, for the storage of hazardous materials of any kind. The term shall include 55 gallon drums or containers of hazardous materials. Tank or storage facility shall not include the storage of the following:

A. fuel oil for heating purposes in a free standing container of 330 gallons or less within a building, regardless of the number of such-sized tanks;

B. liquefied petroleum gas containers of 1,000 gallons or less;

C. pesticides, fertilizers, and hazardous materials in the original package in quantities normally associated with household use, including retail displays at retail establishments, and;

D. working or single-use containers storing volumes not exceeding 5 gallons of hazardous materials intended for use within 24 hours.

Town shall mean the Town of Westford.

Underground tank or storage facility shall mean any tank or storage facility including piping in connection therewith, which meets at least one of the following criteria:

A. The top of which is located below ground.

B. Any portion of which is 4 feet or more below ground or as defined by Massachusetts General Laws chapter 527 CMR 9.00.

§ 61.4. Registration.

A. All tanks or storage facilities for the storage of hazardous materials with a capacity to hold more than 50 gallons liquid volume, 25 pounds dry weight, or 2 pounds of priority pollutants shall be registered with the Board of Health and the Fire Department, if applicable. Such registration shall contain the following information:

1. Name, address, and telephone numbers (day and night) of the owner or operator.

2. Capacity and contents of the tank or storage facility, with specific description of the type of hazardous material being stored.

3. The date of installation of the tank or storage facility, if available.

4. The type of tank or storage facility construction, and indication of any leak detection methods in place.

5. The depth below ground level of the lowest and highest points of the tank or storage facility, of the tank or storage facility is underground.

6. Description of any previous leaks, including approximate dates, causes, estimated amounts, and repairs taken.

7. If the tank or storage facility is underground, additional material as required by section 61.6, herein.

B. Owners or operators of tanks or storage facilities which meet the registration requirements of section 61.4.A shall register such tank or storage facility initially within 90 days of the enactment of this bylaw, and annually thereafter within 30 days of January 1, provided, however, that such owners or operators with currently registered tanks or storage facilities under the provisions of this Chapter 61 in effect prior to the adoption of this bylaw shall register such tanks or storage facilities first within 30 days of January 1, 1998. Owners or operators of tanks or storage facilities which later meet the registration requirements shall register such tanks or storage facilities initial-

ly within 30 days of meeting such requirements, and thereafter annually within 30 days of January 1.

C. In addition to registration, owners or operators of tanks or storage facilities registered in accordance with sections 61.4.A and 61.4.B shall maintain on the premises an inventory, reconciled on a monthly basis, of purchase, sale, use, disposal, or discharge of hazardous materials. The purpose of the inventory is to detect any product loss and to provide ongoing record of all hazardous materials within the Town over the registration period. If unaccounted for product loss is discovered in the monthly reconciliation, the owner or operator shall comply with the provisions of section 61.7 herein. Accurate daily inventory records required pursuant to Massachusetts General Laws chapter 148 or any state regulation shall suffice for the purpose of this section, and may be submitted, under section 61.4.D below, in accordance with this bylaw.

D. Upon the request of the Board of Health, owners or operators subject to this chapter shall produce within 24 hours, their latest reconciled inventory.

§ 61.5. Above-ground tanks or storage facilities. [Amended 11-12-02 STM Art. 16]

A. Surfaces underlying above-ground tanks or storage facilities containing hazardous materials, or areas in which hazardous materials are used, transferred, or delivered to such tanks or storage facilities, shall be impermeable to the materials being stored, and shall be enclosed by a permanent dike if impermeable construction. The dike system shall be sufficient to contain the capacity of the largest tank or storage facility plus 10% of the aggregate capacity of all other tanks or storage facilities within the enclosure. Double-walled tanks with continual interstitial monitoring may meet the diking requirements of this regulation. Nothing in this section shall be construed to replace the application of the dike requirements to tanks or storage facilities licensed under Massachusetts General Laws chapter 148.

B. Wastes containing hazardous materials shall be held on the premises in product-tight container for removal by a licensed carrier for disposal in accordance with Massachusetts General Laws chapter 21C.

C. Above-ground tanks or storage facilities shall be prominently labeled to provide notice as to the types of hazardous materials stored within.

§ 61.6. Underground tanks or storage facilities.

A. In addition to the information set forth in section 61.4, all owners or operators of underground tanks or storage facilities containing hazardous materials, in any quantity, shall provide to the Board of Health and the Fire Department, if applicable, the following additional information:

1. The location of each tank or storage facility on the premises, complete with sketch map
2. The age of each tank or storage facility, evidence of the date of installation, including any permits, if applicable.

Such information shall be filed in the same manner, and at the same times, as that information required by section 61.4, above.

B. All materials used in the construction of any underground tank or storage facility shall be suitable for the purpose, and such tank or storage facility shall be designed or constructed to withstand any normal stress to which it may be subjected. Where applicable, such tank or storage facility shall be constructed in accordance with Massachusetts General Laws chapter 148 and 527 CMR 9.00 et.seq., as amended.

C. Owners or operators of underground tanks or storage facilities for which evidence of an installation date is not available shall, at the order of the Board of Health, have such underground tanks or storage facilities tested, in accordance with section 61.6.D, herein. The tank or storage facility shall be emptied, to the extent feasible, prior to such testing. If the Board of Health determines that the tank or storage facility is not product-tight, it shall be repaired or disposed of under the direction of that authority in accordance with 527 CMR 9.00.

D. All steel underground tanks or storage facilities with a capacity greater than 550 gallons shall be subject to mandatory testing 15 years after the date of installation, and annually thereafter, or if evidence of date of installation is not available, and the Board of Health so determines, in accordance with the standards of National Fire Protection Pamphlet No. 329, Chapter 4-3.10, or other test of superior or equivalent accuracy. The tank or storage facility shall be emptied, to the extent feasible, prior to such testing. Owners or operators may demonstrate to the Board of Health, pursuant to section 61.9, herein that such tests are not appropriate when, after a showing to the Board of Health of monitoring devices, double-walled construction, or equivalent safety precautions, the Board of Health determines that the underground tank or storage facility does not represent a threat to ground or surface water quality. Such variance shall be required yearly. Nothing in this subsection shall be construed to replace or supersede the testing requirements of Massachusetts General Laws chapter 148 or any state regulation promulgated thereunder.

E. The Board of Health recommends that all steel underground tanks or storage facilities with a capacity of less than 550 gallons be removed immediately after the termination of the manufacturer's warranty for the facility, or after 15 years of the date of installation of the facility, whichever last occurs.

F. Where the Board of Health has probable cause to believe that the underground tank or storage facility has caused a leak or a discharge to occur, said Board may order the testing of such tank or storage facility within 3 workdays.

G. If the testing required by this section indicates that a leak or discharge has occurred, the owner or operator shall proceed in accordance with section 61.7, herein.

H. Underground tanks or storage facilities shall have appurtenances prominently labeled to provide notice as to the types of hazardous materials stored within.

§ 61.7. Defects.

A. All leaking tanks or storage facilities must be reported to the Board of Health or the Fire Chief and emptied by the owner or operator within 12 hours, or as prescribed by state regulation, after detection of any leak.

B. The Board of Health shall determine whether any tank or storage facility or its components that have been identified as the source of a leak shall be repaired, or removed and replaced, and shall notify the owner of its decision. In making its determination, the Board of Health shall be governed by the provisions of Massachusetts General Laws chapter 148 and 527 CMR 9.00.

C. If the Board of Health determines that a tank or storage facility or its components shall be removed, any removal shall be completed within 90 days after that authority has notified the owner, in writing, of its decision.

§ 61.8. Abandonment and other concerns.

A. The holder of any license issued pursuant to Massachusetts General Laws chapter 148 for underground storage of any liquid hazardous material shall notify the Board of Health and the Fire Chief whenever the provisions of said license ceased to be exercised. Upon such notification, the Fire Chief shall prescribe appropriate action under Massachusetts General Laws chapter 148 and applicable state regulations.

B. All other tanks or storage facilities, not regulated by Massachusetts General Laws chapter 148, shall be regulated as follows:

1. The owner of tank or storage facility with an intent to abandon such tank or storage facility shall promptly notify the Board of Health and the Fire Chief of the decision to abandon. Except as provided in section 61.8.B.3, no tank or storage facility may be abandoned in place.

2. Abandoned tanks shall be emptied of all hazardous materials under the direction of the Board of Health. The product and tank shall be disposed of, at the owner's expense, as directed by that authority.

3. If the owner of a tank or storage facility, which is located under a building and which cannot be removed from the ground without first removing the building, decides, in conjunction with the Fire Chief under the provision of 527 CMR 9.00, to abandon said tank or storage facility, the owner shall promptly notify the Board of Health of this decision, and, subject to the directions of the Board of Health, have all the hazardous materials removed from the tank or storage facility and have same filled with a concrete slurry mix as set forth in 527 CMR 9.00, or as prescribed by the authority having jurisdiction.

4. If the Board of Health determines that a tank or storage facility or its components shall be removed, any removal shall be completed within 90 days after that authority has notified the owner, in writing, of its decision.

§ 61.9. Variances.

The Board of Health may vary the application of any provision of this bylaw, unless otherwise precluded by law, when in its opinion, the applicant has demonstrated that an equivalent degree of environmental protection required under this bylaw will still be achieved. The applicant at his/her own expense must notify all abutters by certified mail at least ten days before the hearing at which such variance request shall be considered. The notification shall state the variance sought and the reasons therefor. The Board of Health shall also notify, within 14 days of receipt of a variance request, the Fire Chief, Conservation Commission, and Building Inspector, of any variance requested under this Section, for their response in writing. The Board of Health shall hold a hearing on such variance request within 45 days of its receipt. Any variance granted by the Board of Health shall be in writing, as shall be any denial of a variance request, and shall contain a brief statement of the reasons for the granting or denial of the variance.

§ 61.10. Fees.

A. The Board of Health may charge reasonable fees and shall publish a fee schedule.

B. The Board of Health may charge for additional expenses incurred in the enforcement of this chapter 61.

C. Any person registering a tank or storage facility pursuant to this chapter 61 shall pay a fee to the Town's Board of Health. Such fee shall be due on the same date as the initial or annual registration. Failure to pay the fee shall constitute a violation subject to the penalties contained herein.

§ 61.11. Enforcement.

A. All discharges of hazardous material within the Town are prohibited.

B. Any person having knowledge of any discharge of hazardous materials shall immediately report the discharge to the Board of Health and the Fire Chief.

C. The Board of Health or its agents may enter upon privately owned property consistent with the authority conferred upon the Board by Massachusetts General Laws for the purpose of performing their duties under this bylaw.

D. Any person who violates any provision of this bylaw shall be punished by a fine of not more than $300. Each day or portion thereof during which a violation continues shall constitute a separate offense; if more than one violation exists, each violation shall constitute a separate offense. Upon the request of the Board of Health or the Fire Chief, the Board of Selectmen shall take such legal action as is necessary to enforce this bylaw.

§ 61.12. Severability.

If any provision of this bylaw is held to be unconstitutional, or in violation of state law, it shall not affect any other provision or the administration thereof.

Chapter 68: Numbering of Buildings

[Adopted 3-18-61 Adj. ATM Art. 4. Amendments noted where applicable.]

§ 68.1. Numbering of Buildings [5-11-09 Adj. ATM Art. 26]
Every building in the Town of Westford, including but not limited to dwellings, apartment buildings, condominiums, and business establishments, shall have affixed thereto a number representing the address of such building. Said number shall be situated on the building and/or appurtenant land so that it is visible from the nearest street or road providing vehicular access to such building.

§ 68.2. Authority to determine and designate numbers. [5-11-2002 ATM Art. 30; 5-11-09 Adj. ATM Art. 26]
The Board of Selectmen shall have the authority to determine and designate numbers for all buildings abutting upon or adjacent to public ways. The Board of Selectmen may, however, create and delegate said authority to an E911 Committee comprised of the Fire Chief, the Police Chief and the Building Commissioner or their designees.

§ 68.3 Authority to adopt rules and regulations. [5-11-09 Adj. ATM Art. 26]
The Board of Selectmen or an E911 Committee created by the Board of Selectmen shall adopt rules and regulations for the administration of this Chapter.

§ 68.4. Compliance required. [5-11-2002 ATM Art. 30; 5-11-09 Adj. ATM Art. 26]
No person shall refuse or neglect to affix to any building owned by him/her the street number designated by the Board of Selectmen or the E911 Committee, nor shall any person affix or suffer to remain on any building owned or occupied by him/her a street number other than the one designated by the Board of Selectmen or the E911 Committee.

§ 68.5. **Size and placement of numbers.** [5-11-2002 ATM Art. 30; 5-11-09 Adj. ATM Art. 26]
The Board of Selectmen or the E911 committee shall determine the appropriate size and visibility requirements for the placement of house numbers. At a minimum, residential house numbers must be 3 inches in height.

§ 68.6. Violations and penalties [5-11-2002 ATM Art. 30; 5-11-09 Adj. ATM Art. 26]
Owners who are found to be in violation will receive written notice of non-compliance and be ordered to comply within 30 days. Penalties will be assessed if owners fail to comply within 90 days of written notice. Any person or entity who violates this chapter shall be subject to a fine of $25 for each day of the violation.

Chapter 80: Demolition Delay

[Adopted 5-11-98 Adj. ATM Art. 25. Amendments noted where applicable.]

§ 80.1. Intent and purpose.

This bylaw is adopted for the purpose of preserving and protecting significant buildings within the Town which constitute or reflect distinctive features of the architectural, cultural, political, economic, or social history of the Town; to encourage owners of such buildings to seek out persons who might be willing to purchase, preserve, rehabilitate, or restore such buildings rather than demolish them. To achieve these purposes the Westford Historical Commission (herein after the "Commission") is empowered to advise the Building Commissioner with respect to the issuance of permits for demolition of significant buildings.

§ 80.2. Definitions. [Amended 5-5-07 ATM Art. 17]

Applicant – Any person or entity who files an application for a demolition permit. If the applicant is not the owner of record of the premises upon which the building is situated, then owner must indicate on or with the application his/her assent to the filing of the application.

Application – An application for the demolition of a building.

Building – Any combination of materials capable of being used as shelter for persons, animals or property.

Commission – The Westford Historical Commission.

Commissioner – The Westford Building Commissioner.

Demolition permit – The permit issued by the Commissioner as required by the state building code for demolition or removal of a building or structure.

Historically significant building or structure - Any building or structure which is:

A. importantly associated with one or more historic persons or events, or with the architectural, cultural, political, economic or social history of the Town, the Commonwealth of Massachusetts or the United States of America; or

B. is historically or architecturally important by reason of period, age, style, method of building construction or association with a particular architect or builder, either by itself or in the context of a group of buildings or structures.

§ 80.3. Regulated buildings and structures. [Amended 5-5-07 ATM Art. 17]

A. A building or structure listed on, or is within an area listed on, the National Register of Historic Places or the State Register of Historic Places, or the subject of a pending application for listing on either of said Registers; or

B. A building or structure located within 200 feet of the boundary line of any federal, state or local historic district; or

C. A building or structure included in the Inventory of the Historic Assets of the Commonwealth, or designated by the Commission for inclusion in said inventory including those buildings listed for which complete surveys may be pending; or

D. A building or structure determined by vote of the Commission to be historically or architecturally significant in terms of period, style, and method of building construction based on the following criteria:

a. Properties listed or pending their listing on the State Register of Historic Places and the Inventory of Historic Assets of the Commonwealth for the Town of Westford.

b. Properties in existence in or before a rolling 85 year timeframe based upon the calendar year in which the demolition permit application was filed with the Building Commissioner.

c. Properties that appear on the 1855 Symmes Maps.

d. No demolition permit shall be issued for a regulated building or structure without full compliance with the provisions of this bylaw.

§ 80.4. Procedure. [Amended 5-5-07 ATM Art. 17]

A. The Commissioner shall forward a copy of each demolition permit application for all regulated buildings or structures identified in section 80.3 of this bylaw to the Commission within 7 days after the filing of such application. No demolition permit shall be issued at that time.

B. Following the receipt of such application, the Commission shall determine within 45 days after the Commission's next regularly scheduled meeting whether the building or structure is historically significant. The date of a regularly scheduled Commission meeting shall be defined as the third Wednesday of the month. The applicant for the permit shall be entitled to make a presentation to the Commission if he/she makes a timely request (at least 7 days prior to the scheduled meeting date) in writing to the Commission.

C. If the Commission determines that the building or structure is not historically significant, it shall so notify the Commissioner and the applicant in writing and the Commissioner may issue a demolition permit.

D. If the Commission determines that the building or structure is historically significant, it shall notify the Commissioner and the applicant in writing that a demolition plan review must be made prior to the issuance of a demolition permit. If the Commission fails to notify the Commissioner and the applicant of its determination within 30 days after its determination in 80.4.B, then the building or structure shall be deemed not historically significant and the Commissioner may issue a demolition permit.

E. Within 30 days after the applicant is notified that the Commission has determined that a building or structure is historically significant, the applicant for the permit shall submit to the Commission 7 copies of a demolition plan which shall include the following information:

a. a map showing the location of the building or structure to be demolished with reference to lot lines and to neighboring buildings and structures

b. photographs of all street facade elevations

c. a description of the building or structure to be demolished

d. the reason for the proposed demolition and data supporting said reason, including, where applicable, data sufficient to establish any economic justification for demolition, and

e. a brief description of the proposed reuse of the parcel on which the building or structure to be demolished is located.

F. The Commission shall hold a public hearing within 30 days of receipt of the demolition plan referenced in section 80.4.D, with respect to the application for a demolition permit, and shall give public notice of the time, place, and purposes thereof at least 14 days before said hearing in such manner as it may determine, and by mailing, postage prepaid, a copy of said notice to the applicant, to the owners of all adjoining property and other property deemed by the Commission to be

materially affected thereby as they appear on the most recent real estate tax list of the Board of Assessors, to the Planning Board, to any person filing written request for notice of hearings, such request to be renewed yearly in December, and to such other persons as the Commission shall deem entitled to notice. The costs associated with the preparation of abutters list and notifications as well as publication in a local newspaper will be borne by the Demolition Permit Applicant. Within 60 days after its receipt of the demolition plan, the Commission shall file a written report with the Commissioner on the demolition plan which shall include the following:

a. a description of age, architectural style, historic association and importance of the building or structure to be demolished

b. a determination as to whether or not the building or structure should preferably be preserved.

G. The Commission shall determine that a building or structure should preferably be preserved only if it finds that the building or structure is an historically significant building or structure which, because of the important contribution made by such building or structure to the Town's historical and/or architectural resources, it is in the public interest to preserve, rehabilitate or restore.

H. If, following the demolition plan review, the Commission does not determine that the building or structure should preferably be preserved, or if the Commission fails to file a report with the Commissioner within the time limit set out in section 80.4 above, then the Commissioner may issue a demolition permit.

I. If, following the demolition plan review, the Commission determines that the building or structure should preferably be preserved, then the Commissioner shall not issue a demolition permit for a period of 6 months from the date of the filing of the Commission's report unless the Commission informs the Commissioner prior to the expiration of such 6-month period that it is satisfied that the applicant for the demolition permit has made a bona fide, reasonable and unsuccessful effort to locate a purchaser for the building or structure who is willing to preserve, rehabilitate or restore the building or structure, or has agreed to accept a demolition permit on specific conditions approved by the Commission. During the 6-month review period, the Commission shall invite the applicant to participate in an investigation of alternatives to demolition.

§ 80.5. Determination of applicability.

An owner of a regulated building or structure may petition the Commission for a determination of applicability of the bylaw. Within 30 days after its determination in 80.4.B, the Commission shall determine whether the building or structure is historically significant. The applicant for the permit shall be entitled to make a presentation to the Commission if he/she makes a timely request in writing to the Commission. The determination by the Commission of whether a regulated building or structure is historically significant shall be made in writing signed by the Commission and shall be binding on the Commission for a period of 5 years from the date thereof.

§ 80.6. Emergency demolition.

If the condition of a building or structure poses a serious and imminent threat to public health or safety due to its deteriorated condition, the owner of such building or structure may request the issuance of an emergency demolition permit from the Commissioner. If possible and as soon as practical after the receipt of such a request, the Commissioner shall arrange to have the property inspected by a board consisting of himself/herself, the Chairman of the Commission, the Chairman of the Board of Health, and the Chief of the Fire Department, or their respective designees. After inspection of the building or structure and, to the extent possible, consultation with this Board, the Commissioner shall determine whether the condition of the building or structure represents a serious and imminent threat to public health or safety and whether there is any reasonable alternative to immediate demolition of the building or structure which would protect the public health or safety. If the Commissioner finds that the condition of the building or structure poses a serious and imminent threat to public health or safety, and that there is no reasonable alternative to the immediate demolition permit under the provisions of this section 80.6 they shall prepare a written report describing the condition of the building or structure and the basis for his/her decision to issue an emergency demolition permit with the Commission. Nothing in this section 80.6 shall be inconsistent with the procedures for the demolition and/or securing of building and structures established by chapter 143, section 6-10 of the Massachusetts General Laws. In the event that a Board of Survey is convened under the provisions of section 8 of said chapter 143 with regard to any building or structure identified in section 80.3 of this bylaw, the Commissioner shall request the Chairman of the Commission or his/her designee to accompany that Board of Survey during its inspection. A copy of the written report prepared as a result of such inspection shall be filed with the Commission.

§ 80.7. Administration.

The Commission may adopt such rules and regulations as are necessary to administer the terms of this bylaw. The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this bylaw. Administrative and advertising fees shall be borne by the petitioner/applicant. The Commission may delegate authority to a municipal employee to assist in the collection of administrative and advertising fees from the Applicant.

The Commission may review and revise its regulations and fee schedules from time to time, following an advertised public hearing. Any amendments to these regulations shall take effect upon filing a copy of the amendments with the Westford Town Clerk's Office.

§ 80.8. Non-compliance.

A. The Commission and the Building Commissioner 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 bylaw, or to prevent a violation thereof.

B. No building permit shall be issued with respect to any premises upon which a significant building has been voluntarily demolished in violation of this bylaw for a period of 22 months after the date of the completion of such demolition. As used herein "premises" includes the parcel of land upon which the demolished significant building was located

C. Upon a determination by the Commission that a building is a preferably-preserved significant building, the owner shall be responsible for properly securing the building, if vacant, to the satisfaction of the Building Commissioner. Should the owner fail to secure the building, the loss of such building through fire or other cause shall be considered voluntary demolition for the purposes of section 80.6.

D. Anyone who demolished a building or structure identified in section 80.3 of this bylaw without first obtaining and complying fully with the provisions of a demolition permit, shall be subject to a fine of not less than $100 not more than $300.

§ 80.9. Severability.

If any section, paragraph or part of this bylaw be for any reason declared invalid or unconstitutional by any court authority, every other section, paragraph and part shall continue in full force and effect.

Chapter 82: Discharges to the Municipal Storm Drain System

[Adopted 5-10-08 ATM Art. 19]

§ 82.1. Purpose.

A. Increased and contaminated stormwater runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding.

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

C. The objectives of this bylaw are:

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

§ 82.2. Definitions.

The following definitions shall apply in the interpretation and enforcement of this bylaw. Terms not defined herein shall be construed according to their customary and usual meaning.

Authorized Enforcement Agency shall mean the Board of Health, its employees or agents designated to enforce this bylaw.

Clean Water Act shall mean the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.

Discharge of Pollutants shall mean the addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

Facility or Operation shall mean any business, establishment, or performance of work that uses, generates, or handles material that is considered a pollutant.

Groundwater shall mean water below the land surface in a saturated zone, including perched groundwater.

Illicit Connection shall mean a surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of

whether said connection was previously allowed, permitted, or approved before the effective date of this bylaw.

Illicit Discharge shall mean a direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 82.8.

Municipal Separate Storm Sewer System (MS4) or **Municipal Storm Drain System or Municipal Storm Sewer System** shall mean a conveyance or system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, municipal street, catch basins, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, ditch, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Westford.

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit shall mean a permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

Nonpoint Source shall mean any source from which pollution is discharged which is not identified as a point source, including, but not limited to urban, agricultural, or silvicultural runoff.

Non-Stormwater Discharge shall mean a discharge to the municipal storm drain system not composed entirely of stormwater.

Perched Groundwater shall mean groundwater occurring when water, infiltrating the soil from above, reaches an underlying layer of impervious or relatively impervious soil that restricts its downward movement. Perched water can result from heavy rainfall and then disappear in a matter of hours, or the water may remain for months.

Person shall mean 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.

Point Source means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete, fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

Pollutant shall mean 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;

g. sewage, fecal coliform and pathogens;
h. dissolved and particulate metals;
i. animal wastes;
j. rock, sand, salt, soils with the exception of winter salting and sanding in quantities that will not clog or otherwise impair the performance of stormwater conveyances;
k. construction wastes and residues; and
l. noxious or offensive matter of any kind.

Process Wastewater shall mean 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 shall mean the process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

Riparian Habitat shall mean the aquatic and terrestrial environment where a plant or animal naturally or normally lives and grows adjacent to streams, lakes, or other waterways.

Stormwater shall mean storm water runoff, snow melt runoff, and surface water runoff and drainage.

Stormwater Best Management Practice shall mean a structural or nonstructural technique for managing stormwater to prevent or reduce non-point source pollutants from entering surface waters or ground waters. A structural stormwater best management practice includes a basin, discharge outlet, swale, rain garden, biofilter or other stormwater treatment practice or measure either alone or in combination including without limitation any discharge pipe, overflow pipe, conduit, weir control structure that: (a) is not naturally occurring; (b) is not designed as a wetland replication area; and (c) has been designed, constructed, and installed for the purpose of conveying, collecting, storing, discharging, recharging or treating stormwater. Nonstructural stormwater best management practices include source control and pollution prevention measures.

Surface Water Discharge Permit shall mean a permit issued by the Department of Environmental Protection 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 shall mean any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under Massachusetts General Laws chapters 21C and 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

Watercourse shall mean 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 shall mean all waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, wetlands, and groundwater.

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

§ 82.3. Applicability.

A. This bylaw shall apply to flows entering the municipal separate storm sewer system.

B. This bylaw is not intended to interfere with, abrogate, or annul any other bylaw, rule or regulation, statute, or other provision of law. The requirements of this bylaw should be considered minimum requirements, and where any provision of this bylaw imposes restrictions different from those imposed by any other bylaw, 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.

§ 82.4. Authority.

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

§ 82.5. Responsibility For Administration.

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

§ 82.6. Regulations.

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

§ 82.7. Prohibited Activities.

A. Illicit Discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system, into a watercourse, or into the waters of the Commonwealth.

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

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

§ 82.8. Exemptions.

A. Discharge or flow resulting from fire fighting activities.

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

1. Waterline flushing;
2. Flow from potable water sources;
3. Springs;
4. Natural flow from riparian habitats and wetlands;
5. Diverted stream flow;
6. Rising groundwater;
7. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
8. Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
9. Discharge from landscape irrigation or lawn watering;
10. Water from individual residential vehicle washing;
11. Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
12. Discharge from street sweeping;
13. Dye testing, provided verbal notification is given to the Board of Health prior to the time of the test;
14. Non-stormwater discharge permitted under an National Pollutant Discharge Elimination System 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
15. Discharge for which advanced written approval is received from the Board of Health as necessary to protect public health, safety, welfare or the environment.

§ 82.9. Emergency Suspension of Storm Drainage System Access.

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

§ 82.10. Notification of Spills.

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of

or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire and police departments and the Board of Health and the Engineering Department. 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 of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

§ 82.11. Enforcement.

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

B. Civil Relief. If a person violates the provisions of this bylaw, 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 which would create further violations or compelling the person to perform abatement or remediation of the violation.

C. Orders. The Board of Health or an authorized agent of the Board of Health may issue a written order to enforce the provisions of this bylaw or the regulations thereunder, which may include:

1. elimination of illicit connections or discharges to the municipal separate storm sewer system;
2. performance of monitoring, analyses, and reporting;
3. that unlawful discharges, practices, or operations shall cease and desist; and
4. remediation of contamination in connection therewith.

D. If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator fail to abate or perform remediation within the specified deadline, the Town of Westford may, at its option, undertake such work, and expenses thereof shall be charged to the violator.

E. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town of Westford, including administrative costs. The violator 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 violator and shall constitute a lien on the violator's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in Massachusetts General Laws chapter 59, section 57, after the thirty-first day at which the costs first become due.

F. Criminal Penalty. Any person who violates any provision of this bylaw, regulation, order or permit issued thereunder, shall be punished by a fine of not more than $300.00, excluding the cost of

G. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town of Westford may elect to utilize the non-criminal disposition procedure set forth in Massachusetts General Laws chapter 40, section 21D, and the Town of Westford General Bylaws Chapter 1.2 A in which case the Board of Health or its authorized agent shall be the enforcing person. The penalty for the 1st violation shall be $100.00. The penalty for the 2nd violation shall be $200.00. The penalty for the 3rd and subsequent violations shall be $300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

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

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

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

§ 82.12. Severability.

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

§ 82.13. Transitional Provisions.

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

Chapter 84: Dogs

[Adopted 3-7-53 ATM Art. 34. Amendments noted where applicable.]

§ 84.1. Additional fee for late license. [Amended 5-9-92 ATM Art 11; amended 5-11-2002 ATM Art. 30]

All owners or keepers of dogs, kept in the Town of Westford, who on the first day of April of each year, have not licensed said dog, or dogs, as prescribed in Massachusetts General Laws chapter 140, section 137, shall be required to pay an additional fee of $25.

§ 84.2. Definitions. [Adopted 3-11-67 ATM Art. 19]

As used in this and subsequent sections,

At large shall be intended to mean off the premises of the owner, and not under the control of the owner or authorized escort either by leash, cord, chain or otherwise.

Owner shall be intended to mean any person or persons, firm, association or corporation owning, keeping or harboring a dog owned or kept in the Town.

§ 84.3. Prohibited activity; exceptions; penalties. [Amended 5-11-2002 ATM Art. 30]

A. **Prohibited activity and exceptions.**[Adopted 3-11-67 ATM Art. 19. Amended 5-7-88 ATM Art. 18] No owner or keeper of any dog shall permit a dog, whether licensed or unlicensed, to run at large at any time. The provisions of this section shall not be intended to apply to dogs participating in any dog show, nor to "seeing-eye" dogs properly trained to assist blind persons when such dogs are actually being used by blind persons for the purpose of aiding them in going from place to place, nor to any dogs being trained for or actually being used for hunting purposes.

B. **Violations and penalties.** [Adopted 3-11-67 ATM Art. 19. Amended 3-9-74 ATM Art. 16; 5-6-78 ATM Art. 20; 5-11-91 STM Art. 7] Whoever violates any provision of this section shall be punished according to the following procedure and schedule of fines, which are hereby declared to be an alternative to the procedure and schedule set forth in Massachusetts General Laws chapter 140, section 173A:

First offense:	$10
Second offense	$25
Third and each subsequent offense	$50

§ 84.4. Authority to pass additional orders. [Adopted 3-11-67 ATM Art. 19; amended 5-11-2002 ATM Art. 30]

Nothing contained this chapter shall prevent the Selectmen from passing any orders authorized by Massachusetts General Laws chapter 140, section 167 at such times as they shall deem it necessary to safeguard the public.

§ 84.6. Nuisance dogs; violations and penalties. [Adopted 11-16-98 STM Art. 18]

A. No person shall own or keep in the Town any dog which, by biting, barking, howling, scratching or crying, or in any other manner disturbs the peace and quiet of any neighborhood, destroys private property, or endangers the safety of any person.

B. Any violation of this section may be enforced by the Animal Control Officer through non-criminal disposition procedure in accordance with the following schedule of fines:

First offense:	warning
Second offense:	$25 fine
Third offense:	$50 fine
Each subsequent offense:	$100 fine

Chapter 90: Earth Removal

[Adopted 3-10-51 ATM Art. 43. Amended 3-6-54 and Art. 46 11-1-61 STM Art. 5. Replaced 5-8-76 ATM Art. 18. Amendments noted where applicable.]

§ 90.1. Permit required.

The removal of soil, loam, sand, gravel or other earth material from any land within the Town of Westford, except as hereinafter provided, shall be allowed only in accordance with a written permit issued by the Board of Selectmen, upon written application in such form as prescribed herein, and after a public hearing. In making its determination whether to issue a permit the Board of Selectmen shall obtain the recommendation of the Planning Board, Conservation Commission and all other persons and agencies deemed by the Board to be affected thereby and shall consider the impact of the activity upon neighborhood values, public health, safety, conservation, wildlife, watershed areas, future water supplies (aquifers) and in general, the public interest.

§ 90.2. Exemptions. [Amended 5-30-85 Adj. ATM Art. 39]

A. No permit shall be required under section 2 of this chapter for the removal of loam, sand, gravel or other earth material from one portion of a parcel to another portion of the same parcel when incidental to or in connection with the construction of a building on said parcel, or in connection with the construction or improvement of a road on the parcel, or for the improvement of the parcel.

B. The owner of a parcel of land that is subject to the subdivision control process under Massachusetts. General Laws chapter 41, as amended, or is subject to the Planning Board site plan review process provided for under chapter 173 of the Westford bylaws, as amended, shall not be required to obtain a permit under section 90.4 of this chapter for the removal from said parcel of loam, sand, gravel, or other earth material when such removal is incidental to or in connection with the construction of a building on said parcel or in connection with the construction of a building on said parcel or in connection with the construction or improvement of a road on said parcel, provided, however, that the owner of said parcel shall have first obtained a permit from the Planning Board for such removal.

   1. The Planning Board may issue such a permit only with the following exceptions and under the following conditions:

      a. No permit may be issued for the removal of loam from the Town of Westford unless the applicant established to the satisfaction of the Planning Board that there is no market for the loam in the Town of Westford.

      b. The application for such permit shall be included as a separate item on the Planning Board agenda.

      c. A public hearing shall be held by the Planning Board on such application, after notice thereof has been published in a newspaper of general circulation in the Town at least 7 days before the day of the hearing, the cost of such publication to be paid for by the applicant.

      d. The Planning Board has determined that such earth removal is in fact incidental to such construction or improvement and does not involve unnecessary topographical changes on the parcel.

      e. The permit shall specify the following:

         i. the starting date and duration of the earth removal operation

ii. the hours of operation

iii. the area and depth of excavation and the depth to spring high groundwater after such excavation

iv. the total volume of material to be excavated, including the material to be moved within the site and the material to be removed from the site

v. the destination of the material and the routes for transporting it through the Town

vi. a prohibition against removing material from the parcel during periods of precipitation, and

vii. any other restrictions that the Planning Board decides to impose.

2. No such permit shall be construed to exempt the applicant from full compliance with the Massachusetts Wetlands Protection Act (Massachusetts General Laws chapter 131, section 40, as amended) and with any wetlands protection bylaws of the Town of Westford.

C. Special Permits [Amended 11-13-95 STM Art. 5]

1. The Board of Selectmen may issue a special permit without complying with sections 90-4 and 90-5 of this chapter, for the removal of loam, sand, gravel, or other earth material from a parcel of land, with the following exceptions and under the following conditions;

a. No permit may be issued under this section 90.2.C for the removal of loam from the Town of Westford.

b. The amount of material to be removed from the parcel shall not exceed 1,000 cubic yards.

c. The duration of the permit shall not exceed 120 days from the date if issuance.

d. No permit may be issued by the Selectmen for any parcel of land that is subject to the subdivision control process under Massachusetts General Laws chapter. 41, as amended, or Planning Board site review process provided for under these bylaws. The owner of such parcel may seek a permit from the Planning Board under section 90.2.B above.

2. No such special permit shall be construed to exempt the petitioner from full compliance with the Massachusetts Wetlands Protection Act (Massachusetts General Laws chapter 131, section 40 as amended) and with any wetlands protection bylaws of the Town of Westford.

D. Persons regularly engaged in the business of quarrying granite shall not be required to obtain a permit for the removal and sale of granite or other materials removed in conjunction with such quarrying business.

E. Permits issued under this chapter prior to the adoption of these amendments are not invalidated by these amendments; provided, however that such permits upon expiration shall be extended only under the terms of this chapter, as amended.

F. Existing sand and gravel processing plants in an industrial zone, when operated in conjunction with earth removal on the same premises, shall be exempted from the provisions of sections 90-3, 90-4, 90-5 and 90-6 of this chapter, as amended.

G. [Added 3-26-2012 Adj. ATM Art. 30] No permit shall be required for the removal of not more than 400 cubic yards of earth material from a parcel of land, where the material to be removed is displaced due to the construction of a residential structure and/or the installation of any driveways, roadways, retaining walls and utilities to serve such structure.

§ 90.3. General Limitations. [Amended 10-23-96 STM Art. 44]

A. No permit shall be issued which allows active removal from a parcel of more than 5 acres in size at any one time.

B. No permit shall be in force for a period exceeding 2 years. (This provision shall not be deemed to prohibit extensions of time which is covered in section 90.6.)

C. No permit shall be issued for commercial removal of loam or topsoil to be transported outside the Town.

D. No permit shall be modified except upon written application and after a public hearing, all under the provisions of section 90.5 of this bylaw.

E. No sand and gravel being removed under permit may take place nearer than 300 feet of a street or way, within 50 feet of a natural stream or pond, within 100 feet of a lot line, nor to an elevation lower than 6 feet above historical high groundwater as determined from monitoring wells and historical table fluctuation data compiled by the United State Geologic Survey, unless a lower elevation is specifically recommended by the Planning Board in conjunction with planned future use of the land in question. Natural vegetation shall be left and maintained on the undisturbed land for screening and noise control purposes.

F. The Board of Selectmen may impose such further limitations as to the time, and as to the extent of permitted removal, and such other appropriate conditions, limitations and safeguards as the Board shall deem necessary for the protection of the neighborhood, and of the public health, safety, convenience, and welfare, and shall condition the continuance of the permit upon compliance with such conditions, limitations and safeguards and with such regulations of the Board relating to such removal as may then be in force or may thereafter from time to time be adopted.

G. The Board of Selectmen shall require as security cash, savings bank passbook or a performance bond from a Massachusetts Insurance Company, assigned absolutely to the Town or other like security to insure compliance with the terms, limitations and safeguards of such permit and such regulations, in an amount sufficient to cover the cost of same. The Selectmen may require the Planning Board to review a cost estimate which shall be submitted by the applicant for security deposit.

H. Upon conclusion of earth removal operations covered by the permit all areas upon which operations have been conducted shall be covered with existing topsoil, brought to the finished grades required and seeded with a suitable cover crop except where ledge rock is exposed and all large stones, boulders and stumps which protrude above finished grade shall be buried or removed. No slope shall be left which is steeper than 1:3. The Selectmen may require a cash bond or other equivalent security to guarantee growth of the crop cover on such areas within 2 growing seasons.

§ 90.4. Application for removal. [Amended 10-23-96 STM Art. 44]

Application for the removal of sand, gravel and earth materials from the property of the applicant must be submitted with the following basic information:

A. A site plan consisting of a topographic map prepared by a Registered Engineer or Land Surveyor clearly identifying the parcel for which application is made, showing roads, adjacent properties, water-courses and drainage features. The map will have a contour interval of 2 feet and of suitable scale, showing locations of test borings or pits, and either

   1. the elevation of historical high groundwater as determined from monitoring wells and historical table fluctuation data compiled by the United States Geologic Survey over the entire parcel or

2. evidence that the final proposed grade is of sufficient elevation above ground water.

The plan will be reviewed for adequacy, and the application shall not be considered complete until compliance is made with this section. For operations proposed under section 90.2.C, a site development plan for commercial/industrial site, or a lot plan for a residential site may be considered in lieu of the above provisions.

B. The legal name and address of the owner of the parcel.

C. The legal name and address of the applicant.

D. Adequate evidence of the applicant's ownership or authority to seek the permit, as the case may be.

E. The names and addresses of all abutters, owners of land directly opposite on any public or private street or way and owners of the land within 300 feet of the property line all as they appear on the most recent applicable tax list.

F. The estimate quantity of earth to be removed, and the rate of removal.

G. The resulting finished grades or contours following completion of removal activities and provisions for preventing erosion and sedimentation of watercourses during and after completion of earth removal.

H. The proposed future use of the parcel in question.

I. The form of security proposed to be submitted in accordance with provisions of section 90.3.

J. Proposed hours of operation.

K. Proposed routes of transportation.

L. Proposed plan for the revegetation of excavated areas.

§ 90.5. Public hearing.

Upon written application in the prescribed form the Selectmen shall provide one copy each to the Planning Board and Conservation Commission. If after receiving notice from the above-mentioned Board and Commission, or after 30 days, whichever is the lesser, and having satisfied itself that the application is in order, the Board of Selectmen shall cause notice of the time and place for a public hearing to be published in a newspaper of general circulation in the Town for each of 2 successive weeks, the first publication to be at least 14 days before the day of the hearing. They shall also send notice thereof by registered mail at least 10 days before the day of the hearing, to the petitioner, to the owners of all land abutting the parcel as to which such permit is sought (including land areas across from any public or private street or way) and to owners of land within 300 feet of the property line all as they appear on the most recent tax list to the Planning Board, to the Conservation Commission, and to all other persons and agencies deemed by the Board to be affected thereby. The cost of such publication and giving of notice shall be paid by the petitioner, who shall furnish such sum at the time of filing the application.

§ 90.6. Renewal of permits

Upon application for a renewal of a permit granted under provisions of this bylaw, the Board of Selectmen may in its discretion grant 2 renewals for periods up to one additional year each without a public hearing, provided, however, the Board has given notice of such application by advertisement in a newspaper of general circulation in the Town and by certified mail postage pre-paid to all the abutters, as they appear upon the most recent tax list, and to the Planning Board, and Conservation Commission, and no written notice of objection to such renewal has been filed with the Town Clerk within 21 days of the giving of such notice. Renewals with respect to permits granted under the previous bylaw shall not be grant-

ed. No permit shall be renewed if it appears that there are substantial violations of any condition of the permit for which renewal is being sought of any existing permit.

§ 90.7. General conditions and restrictions.

A. As part of, and as set forth in, any such permit, the Board of Selectmen shall impose such reasonable restrictions and conditions on the exercise of the permit as they deem to be in the public interest, including but not limited to:

1. duration of permit
2. area and depth of excavation
3. hours of operation
4. type and location of structures
5. distance of excavation from street and lot lines and water courses
6. re-establishment of ground levels, grades, and vegetation
7. provisions for temporary and permanent drainage and drainage control features
8. routes for transporting material through the Town
9. proper screening of the area from public ways
10. inspection of the premises at any time by the Board or its representatives

B. Prior to issuing a permit, the Board of Selectmen may establish reasonable fees to defray the cost of inspection during and upon completion of operation and may require additional detailed survey and proper horizontal and vertical control for purposes of subsequent inspection.

§ 90.8. Violations and penalties.

The Board of Selectmen may revoke or suspend at any time any permit issued under the provisions of this bylaw or any previous bylaw for violation of any conditions or provisions thereunder. Penalties for violation of any provisions or conditions of the bylaw shall be provided under chapter 40 section 21 clause 17 of the Massachusetts General Laws.

§ 90.9. When effective.

This chapter shall take effect as provided by law.

§ 90.10. Existing Regulations.

Nothing in this chapter shall be deemed to amend, repeal or supersede the zoning bylaws of the Town now or hereafter in effect. Nothing in this chapter shall derogate from the intent and purposes of such zoning bylaws.

§ 90.11. Validity.

The validity of any section or provision of this bylaw shall not invalidate any other section or provision thereof.

Chapter 94: Fire Alarms

[Adopted 5-11-09 Adj. ATM Art. 28]

§ 94.1. Authorization; notification of hearings.

The Board of Selectmen and Fire Chief shall hereby be authorized to promulgate regulations relative to fire protection and safety in the Town, including, but not limited to installation and operation of fire alarms and other fire protective systems and carbon monoxide alarms and to set fees for services incidental to permitting and monitoring such systems and alarms, provided, however, that such regulations

must be consistent with applicable statutes, including the provisions of Massachusetts General Laws Chapter 148, the State Building Code (780 CMR), and the Massachusetts Fire Prevention Regulations promulgated by the State Board of Fire Prevention Regulations (527 CMR). Prior to promulgation of the regulations, or to amendment thereof, the Board of Selectmen and Fire Chief shall hold a public hearing for which notice shall be provided at least one week prior to the hearing.

§ 94.2. Enforcement; violations and penalties.

Notwithstanding the provisions of Sections 1.1 through 1.3 of the Town Bylaws, violations of the regulations promulgated by the Board of Selectmen and Fire Chief promulgated under authority of this bylaw may be enforced through any lawful means in law or in equity by the Board of Selectmen or the Fire Chief, including but not limited to enforcement by non-criminal disposition in accordance with Massachusetts General Laws Chapter 40, Section 21D. Each day a violation exists shall constitute a separate violation. The regulations authorized by this section shall establish specific penalties for violation thereof in amounts not to exceed $300.00 per violation.

Chapter 95 – Firearms

[Adopted 4-7-73 Adj. ATM Art. 17. Replaced 5-11-89 Adj. ATM Art. 19. Replaced 5-5-90 ATM Art. 31. Amendments noted where applicable.]

§ 95.1. Prohibited activity on public property.

Subject to existing law, no person shall fire or discharge any firearms on any public property within the Town without the possession of written permission, provided that nothing herein shall be construed to authorize or permit the discharge of firearms on public property at any time for target practice or on any public property which is under the care, custody or control of the School Committee or the Conservation Commission.

§ 95.2. Prohibited activity on private property.

Subject to existing law, no person shall fire or discharge any firearms on any private property within the Town without the possession of written permission of the owner or legal occupant thereof.

§ 95.3. Exceptions.

This bylaw shall not be construed to prohibit the discharge of firearms:

A. By a law enforcement officer or a member of the Armed Forces of the United States in the performance of his/her duties.

B. In the lawful defense of life or property.

C. By the members of any bona fide hunting club or fish and game association, on land belonging to such club or association.

D. In the use of blank cartridges for sporting events and ceremonial or demonstration purposes, or the use of tools actuated by gun powder discharge for construction purposes.

E. For target practice on private property with the possession of written permission of the owner or legal occupant thereof, provided that suitable precautions and safety measures have been taken to prevent injury or damage to persons or property outside of or beyond such private property.

§ 95.4. Violations and penalties.

Any person violating any of the provisions of this bylaw shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined $100 for the first offense, $200 for the second, $300 for the third and each subsequent offense.

Chapter 96: Fire Lanes

[Adopted 5-11-87 Adj. ATM Art. 20. Amendments noted where applicable.]

§ 96.1. **Leaving vehicles unattended.**

It shall be unlawful to leave any motor vehicle unattended within the limits of any private way furnishing means of access for fire apparatus to any building.

§ 96.2. **Establishment**.

It shall be unlawful to obstruct or park a motor vehicle in any fire lane such fire lane to be designated by the Chief of the Fire Department and shall be posted as such. Said fire lane to be *not less than* 18 feet wide for all buildings in any shopping center, nursing home, office building, or other public building. The establishment of fire lanes as set forth above shall be at the sole discretion of the Chief of the Fire Department and shall run from the wall of the building or any overhang of the building or any sidewalk adjacent thereto. Any fire lane in excess of 18 feet wide shall have the approval of the property owner or person in control of such property.

§ 96.3. Notification of designation; posting.

A. The Chief of the Fire Department shall notify all record owners of the designation of fire lanes.

B. The record owner of each building upon notification of the designation of a fire lane by the Chief of the Fire Department, shall provide and install signs posting the area as such as provided in section 96.2.

§ 96.4. Towing of vehicles; storage.

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 service, at the sole expense of the owner of said motor vehicle, any motor vehicle left unattended or parked in any designated fire lane or within the limits of any private way furnishing means of access for fire apparatus to any building. 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.

§ 96.5. Violations and penalties. [Amended 5-8-00 Adj. STM Art. 1]

The fine for leaving motor vehicles in private ways shall be $100 for each offense. Violations of this chapter shall be punishable as provided in Selectmen's Regulations Chapter 199: Vehicles and Traffic.

§ 96.6. Operator to be responsible.

In the absence of the operator of any motor vehicle violating any provision of this chapter, it shall be deemed prima facie evidence that the registered owner of such vehicle was the operator.

Chapter 114: Junk Dealers

[Adopted 2-11-24 ATM. Replaced 2-17-47 ATM Art. 35. Amendments noted where applicable.]

§ 114.1. License required. [Amended 3-9-57 ATM Art. 32]

The Selectmen may license suitable persons to engage regularly in the business of being a dealer in and keeper of shops for the purchase, sale, or barter of junk, old metals, or secondhand articles; they may also license suitable persons to engage regularly in the business of acting as junk collectors, to collect by purchase, or otherwise, junk, old metals and secondhand articles from place to place in said Town; and they may provide that such collectors shall display badges upon their persons or upon their vehicles, or upon both when engaged in collecting, transporting or dealing in junk, old metals or secondhand articles and may prescribe the design thereof. The annual fee for such license shall be $50.

§ 114.2. Record of purchases required. [Amended 5-11-2002 ATM Art. 30]

Every such shopkeeper shall keep a book, in which shall be written at the time of every purchase of any such article a description thereof and the name, age and residence of the person from whom and the day and hour, when such purchase was made and such book shall at any time be open to the inspection of the Selectmen and by their designee to make such an inspection.

§ 114.3. Examination of premises. [Amended 5-11-2002 ATM Art. 30]

Every such shopkeeper shall allow his/her shop and all articles of merchandise therein to be at any time examined by the Selectmen and by their designee, and every collector shall allow any place, vehicles or receptacle used for the collection or keeping of such articles of merchandise to be at any time examined by the Selectmen and by their designee.

§ 114.4. Storage; fence requirements. [Added 3-9-57 ATM Art. 32; amended Amended 5-11-2002 ATM Art. 30]

Every such shopkeeper shall store all such merchandise in a building or behind a solid fence of sufficient height to screen such merchandise from any public way. The fence shall be set back not less than 35 feet from a public way.

§ 114.5. Violations and penalties. [Amended 5-11-2002 ATM Art. 30]

Any person or entity who violates this chapter shall be liable to the following fines for each day the violation continues:.

For the first offense and each subsequent offense: $50

Chapter 123: Collection of Delinquent Taxes – Denial of Licenses and Permits

[Adopted 10-2-90 STM Art. 11. Amendments noted where applicable.]

§ 123.1. Authority.

This bylaw is adopted pursuant to Massachusetts. General Laws chapter 40, section 57.

§ 123.2. Annual list of delinquent parties.

The Treasurer/Collector of the Town shall annually no later that October 15 furnish to each department, board, officer or commission (hereinafter referred to as the "licensing authority") that issued licenses or permits a list of persons, corporations, or business enterprises (hereinafter referred to as "the party") that has, as of October 1 of the year, neglected or refused to pay any local taxes, fees, assessments, betterments, or other municipal charges for a period of 12 months or more and that such party has not filed in good faith an application for an abatement of such tax or a pending petition before the Appellate Tax Board.

§ 123.3. Denial, revocation or suspension of licenses. [Amended 5-11-2002 ATM Art. 30]

A. A licensing authority of the Town may deny, revoke, or suspend any license or permit, including renewals or transfers, of any party whose name appears on said list furnished by the Treasurer/Collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the Treasurer/Collector, subject to notice and a hearing as set forth below. Not less than 14 days prior to any contemplated action to deny, revoke or suspend a license or permit, the licensing authority shall notify any such party of the proposed action and of the date and time of the hearing at which the party may be heard on the proposed action. The list furnished by the Treasurer/Collector shall be prima facie evidence for denial, revocation or suspension of a license or permit to a party. The Tax Collector shall have the right to intervene in such hearing to deny, revoke or suspend. Any license or permit denied, revoked, or suspended under this section shall not be reissued or renewed until the licensing authority receives a certificate from the Treasurer/Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges payable to the Town as of the date of issuance or until the party has entered into a payment agreement as set forth below.

B. Any finding made by a licensing authority with respect to such a license denial, suspension or revocation 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.

§ 123.4. Payment agreements. [Amended 5-11-2002 ATM Art. 30]

Any party shall be given the opportunity to enter into a payment agreement with the Treasurer/Collector, thereby allowing the licensing authority to issue a certificate indicating limitations to the license or permit. The validity of said license or permit 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 the license or permit; provided that the holder is given notice and a hearing as required by applicable provisions of law.

§ 123.5. Waiver of denial, revocation or suspension.

On petition by any party whose license or permit has been denied, revoked or suspended, the Board of Selectmen may waive any such denial, suspension or revocation if it finds that there is no direct or indirect business interest by the property owner appearing on the list furnished by the Treasurer/Collector, its officers or stockholders, if any, or members of his/her immediate family in the business or activity on said property.

§ 123.6. Exemptions.

This chapter shall not apply to the following licenses and permits:

License or permit	Massachusetts General Laws
Bicycle permits	Chapter 85, sec. 11A
Children work permits	Chapter 149, sec. 69
Clubs or like associations dispensing food or beverage licenses	Chapter 140, sec. 21E
Dog licenses	Chapter 140, sec. 137
Fishing, hunting and trapping licenses	Chapter 131, sec. 12
Marriage licenses	Chapter 207, sec. 28
Open burning	Chapter 48, sec. 13
Sales of articles for charitable purposes	Chapter 101, sec. 33
Theatrical events, public exhibition permits	Chapter 140, sec. 181

Chapter 124: Public Consumption of Marijuana

[Adopted 10-18-2010 STM, Art. 11.]

§124.1. Definitions

The following definitions shall apply in the interpretation and enforcement of this bylaw.

> Marijuana shall mean marijuana (or tetrahydrocannabinol) as defined in Massachusetts General Laws Chapter 94C, Section 1 as amended.
>
> Consume shall mean taking into the human body by means of inhalation, ingestion, absorption or injection.

§124.2. Public Consumption prohibited.

No person shall burn, smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in Massachusetts General Laws Chapter 94C, Section 1, as amended) while in or upon any area owned by or under the control of the Town, including but not limited to, any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, school, school grounds, cemetery, or parking lot; or in or upon any bus or other passenger conveyance operated by a common carrier; or in or upon any place accessible to the public, including any person in a motor vehicle while it is in, or upon any public way or any way to which the public has a right of access within the Town.

§124.3. Seizure of marijuana in violation.

Any marijuana or tetrahydrocannabinol burned, smoked, ingested, or otherwise used or consumed in violation of this bylaw shall be seized, held, and disposed of in accordance with Massachusetts General Laws Chapter 94C, Section 47A.

§124.4. Identification of person(s) found in violation.

Whoever is found in violation of this bylaw shall, when requested by an official authorized to enforce this bylaw, state his or her true name and address to said official.

§124.5. Enforcement.

This bylaw may be enforced through any lawful means in law or in equity including, but not limited to, enforcement by criminal indictment or complaint pursuant to Massachusetts General Laws Chapter 40, Section 21, or by non-criminal disposition pursuant to Massachusetts General Laws Chapter 40, Section 21D, by the Board of Selectmen, the Town Manager, or their duly authorized agents, or any police officer.

§124.6. Penalties.

The fine for a violation of this bylaw shall be $300 for each offense. A penalty imposed under this bylaw shall be in addition to any civil penalty imposed under Massachusetts General Laws Chapter 94C, Section 32L.

An offender under the age of 18 that violates this bylaw shall be subject to forfeiture and a $100 fine, provided he or she also completes a drug awareness program which meets the criteria set forth in Massachusetts General Laws Chapter 94C, Section 32M. The parents or legal guardian of any offender under the age of 18 shall also be notified of the offense, as set forth in Massachusetts General Laws Chapter 94C, Section 32N, and informed of the drug awareness program and community service requirements. If an offender under the age of 18 fails within 1 year of the offense to complete both a drug awareness program and the required community service, the $100 fine for violation of the bylaw may be increased to $300 and the offender and his or her parents shall be jointly and severally liable to pay that amount. A fine of $300 shall also be imposed for offenders under the age of 18 for each subsequent offense of this bylaw.

And that the Town add an entry in Chapter 1, Section 1.4 of the General Bylaws, as follows:

Chapter	**Enforcing persons**	**Offense**	
Chapter 124 Public Consumption of Marijuana	Selectmen, Town Manager, any police officer	1st and each subsequent offense	$300
Chapter 124 Public Consumption of Marijuana by a person Under 18 but over 14 years of age	Selectmen, Town Manager, any police officer	1st offense	$100 and complete drug awareness program
Chapter 124 Public Consumption of Marijuana by a person Under 18 but over 14 years of age	Selectmen, Town Manager, any police officer	Failure to complete the drug awareness program and each subsequent offense	**$300**

Chapter 132: Plumbing Standards

[Adopted 10-11-61 STM Art. 11, as amended. Replaced 6-20-83 Adj. ATM Art. 46.]

§ 132.1. Plumbing Inspector.

There shall be a Plumbing Inspector, appointed annually by the Building Commissioner during the month of June for the term of 1 year, or until his/her successor has been appointed and qualified. To be eligible for appointment as Plumbing Inspector, the individual must be a practical plumber and must have had practical experience either as a Master Plumber or Journeyman, continuously, during 5 years next preceding his/her appointment.

§ 132.2. Registration of plumbers; notices of work to be performed.

A. All persons who desire to engage in, carry on or work at the business of plumbing within the Town of Westford, shall be registered or licensed by the State Examiners of Plumbers in accordance with the applicable provisions of Massachusetts General Laws chapter 142 and the Uniform State Plumbing Code (248 CMR).

B. Every plumber before commencing work in a building, shall first, except in the case of repair of leaks, file at the office of the Board of Health, upon blanks provided for that purpose, a notice of the work to be performed; and no such work shall be done in any building except in accordance with plans, to be submitted, if required, which shall be approved by the Plumbing Inspector, and a permit issued therefor.

§ 132.3. Establishment of fees.

Fees for all permits shall be established by the Selectmen.

§ 132.4. Violations and penalties.

Any person or entity who violates this chapter shall be liable to the following fines for each day the violation continues:

For the first and each subsequent offense: $100

Chapter 136: Public Safety

[Adopted 3-9-57 ATM Art. 32. Amendments noted where applicable.
Section 136.4 Swimming Pools deleted 3-27-2010, Art. 20]

§ 136.1. Barriers around excavations

A. Any owner of land, which has been excavated, except for quarries more than 150 feet from a public way, shall, at the request of the Selectmen, erect barriers or take other suitable measures to protect persons from damages incident thereto.

B. The penalty for violation of this section shall be as follows:

For the first offense:	$50
For the second offense:	$100
For each subsequent offense:	$200

§ 136.2. Abandoned wells or cesspools.

A. An owner of land, whereon is located an abandoned well or cesspool, or a well or cesspool in use, shall, at the request of the Selectmen, either provide a covering for such well or cesspool capable of sustaining a weight of 300 pounds or fill the same to the level of the ground.

B. The penalty for violation of this section shall be a fine of not less than $100 nor more than $500.

§ 136.3. Storage of unused refrigerators and iceboxes.

No owner of land shall keep or store on such land outside of a dwelling a refrigerator or ice box not in use unless the doors of such refrigerator or ice box have been removed.

Chapter 140: Right To Farm

[Adopted 5-7-2005 ATM Art. 26, Amended 5-6-2006 ATM Art. 21]

§ 140.1 Legislative purpose and intent.

A. The purpose and intent of this bylaw is to state with emphasis the Right to Farm accorded to all citizens of the Commonwealth under Article 97 of the Constitution, and all state statutes and regulations thereunder including but not limited to Massachusetts General Laws Chapter 40A, Section 3, Paragraph 1; Chapter 90, Section 9; Chapter 111, Section 125A, and Chapter 128 Section 1A. We the citizens of Westford restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution ("Home Rule Amendment").

B. This bylaw encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Westford by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies. This bylaw shall apply to all jurisdictional areas within the Town.

§ 140.2 Definitions.

A. The word "farm" shall include any parcel or contiguous parcels of land or water bodies used for the primary purpose of commercial agriculture, or accessory thereto.

B. The words "farming" or "agriculture" or their derivatives shall include, but not be limited to the following:

1. farming in all its branches and the cultivation and tillage of the soil
2. dairying
3. production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities
4. growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations
5. raising of livestock including horses
6. keeping of horses as a commercial enterprise
7. keeping and raising of poultry, swine, cattle, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.

C. "Farming" shall encompass activities including, but not limited to, the following:

1. operation and transportation of slow-moving farm equipment over roads within the Town
2. control of pests, including, but not limited to, insects, weeds, predators and disease organism of plants and animals
3. application of manure, fertilizers and pesticides
4. conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to marketing the agricultural output or services of the farm
5. processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand including signage thereto

6. maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products
7. on-farm relocation of earth and the clearing of ground for farming operations.

§ 140.3 Right To Farm declaration.

The Right to Farm is hereby recognized to exist within the Town of Westford. The above-described agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices. The benefits and protections of this bylaw are intended to apply exclusively to those commercial agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right To Farm bylaw shall be deemed as acquiring any interest in land, or as imposing any land use regulation, which is properly the subject of state statute, regulation, or local zoning law.

§ 140.4 Public notification.

The Town shall use available media as appropriate to notify and educate the public regarding its commitment to encouraging:

A. the pursuit of agriculture
B. the promotion of agriculture-based economic opportunities
C. the protection of farmlands within the Town of Westford by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies.

Should the Town establish an Agricultural Commission, this shall be one of the ongoing tasks of the Town's Agricultural Commission.

§ 140.5 Resolution of disputes.

A. Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the Board of Selectmen, the Bylaw Enforcement Officer, or the Board of Health, depending upon the nature of the grievance. The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have.
B. The Bylaw Enforcement Officer or Board of Selectmen may forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the referring Town authority within an agreed-upon time frame.
C. The Board of Health, except in cases of imminent danger or public health risk, may forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the Board of Health within an agreed-upon time frame.

§ 140.6 Severability clause.

If any part of this bylaw is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this bylaw. The Town of Westford hereby declares the provisions of this bylaw to be severable.

Chapter 145: Scenic Roads

[Adopted 5-10-95 Adj. ATM Art.24. Amendments noted where applicable.]

§ 145.1. Purpose.

The Town of Westford adopts the provisions of Massachusetts General Laws chapter 40, section 15C, as amended, which provides, in part, that any repair, maintenance, reconstruction or paving work done with respect to any road, as defined in section 145.2 of this chapter, designated as a scenic road shall not involve or include the cutting or removal of trees, or the tearing down, destruction, or alteration of stone walls or portions of stone walls, except with the prior written consent of the Planning Board after a public hearing. The Town of Westford Scenic Roads Bylaw is intended to ensure that:

A. ways will be recommended for designation as a scenic road on stated criteria

B. ways so designated will not be altered without following proper procedures and without adherence to proper considerations, and

C. ways so designated will not be altered by the decision of any person, organization, or agency other than the Planning Board.

§ 145.2. Definitions.

In the absence of a contrary meaning established through legislative or judicial action pursuant to Massachusetts General Laws chapter 40, section 15C, the following terms, contained in that statute and in this chapter, shall be defined as follows:

Cutting or removal of trees shall mean the removal of one or more trees, trimming of major branches, or cutting of roots sufficient in the Tree Warden's opinion to cause the eventual destruction of a tree.

Person shall mean an individual, partnership, corporation, public utility, trust, foundation, or governmental agency.

Repair, maintenance, reconstruction, or paving work shall mean any work done within a right-of-way by any person or agency, public or private, including, but not necessarily limited to, any work on any portion of any right-of-way which was not physically commenced at the time the road was designated as a scenic way; and the construction of any new driveway or private way or the alteration of any existing driveway or private way in so far as such alteration takes place within the right-of-way when such work involves the cutting down of trees or the destruction of stone walls.

Road shall mean the entire right-of-way of a vehicular traveled way plus its necessary appurtenances including, but not necessarily limited to, bridge structures, drainage systems, retaining walls, traffic control devices, and sidewalks, but not including intersecting streets, driveways and private ways. The right-of-way includes the area on and within the boundaries of the public way. If the boundaries are not officially known, any affected tree or stone wall shall be presumed to be within the public right-of-way until shown otherwise.

Trees shall include a tree whose trunk has diameter of 6 inches or more as measured 1 foot off the ground.

§ 145.3. Designation of a public way as a scenic road. [Amended 11-13-95 STM Art. 10; 10-7-97 STM Art. 13; 05-13-02 STM Art. 29; 05-08-04 ATM Art. 17]

A. Pursuant to Massachusetts General Laws chapter 40, section 15C, the Town of Westford, by Town Meeting vote, may designate a road as a scenic road.

B. The Planning Board, Conservation Commission, or the Historical Commission may make recommendation or requests for scenic roads designation.

§ 145.4 Procedure for designating a scenic road. [Amended 05-08-04 ATM Art. 17]

Before any Town Meeting vote on designating a road as a scenic road, the Planning Board shall conduct a public hearing. Notice of this hearing shall appear twice in a local newspaper in each of two successive weeks. The first publication must be not less than fourteen (14) days before the day of the hearing. In addition, at least 14 calendar days before this public hearing, the Planning Board shall mail notification of the meeting to the Board of Selectmen, the Conservation Commission and the Historical Commission and to all owners as of the preceding January 1 of property located in whole or in part on any road proposed as a scenic road. The notification shall identify the road or portion of a road to be designated as a scenic road and shall also include, at a minimum, section 145.1, Purpose and Section 145.5 Criteria, of this bylaw. The Planning Board shall present a written or oral report with recommendations to the Town Meeting.

§ 145.5. Criteria. [Amended 05-08-04 ATM Art. 17]

A. The Planning Board, in determining which roads or portions of roads it should –recommend to Town Meeting to be designated as scenic roads, shall consider the following criteria:

    1. ways bordered by trees of exceptional quality or trees which, when considered as a group, provide a viewer with a scenic streetscape
    2. ways bordered by stone walls
    3. ways bordered by bodies of water or by wetlands
    4. ways bordered by conservation or park land
    5. ways bordered by recreational fields
    6. ways bordered by historical landmarks, whether natural or man made
    7. ways bordered by any other natural or man made features of aesthetic value
    8. ways for which any alteration is being planned or is likely to be planned in the future or
    9. ways for which any alteration would lessen the aesthetic value of natural or man made features bordering them.

B. In acting on scenic roads, the Planning Board shall take into consideration the following:

    1. preservation of natural resources
    2. environmental and historical values
    3. scenic and aesthetic characteristics
    4. public safety
    5. the characteristics of local residential traffic and residential expectations
    6. relationship of road design to standards of the Planning Board's subdivision regulations
    7. compensatory actions proposed, such as replacement of stone walls and trees

8. functional urgency of repair, maintenance, reconstruction, or paving
9. financial and other consequences of design revisions to avoid or reduce damage to trees or stone walls
10. additional evidence contributed by abutters, Town agencies, and other interested parties or
11. other sound planning considerations.

§ 145.6. Procedures Following Town Meeting Designation Of A Scenic Road. [Amended 05-08-04 ATM Art. 17]

Upon the designation of any road or portion of a road as a scenic road, the Planning Board shall, within 30 days, take the following steps:

1. Notify all municipal departments that may take any action with respect to such road;
2. Notify the Massachusetts Highway Department;
3. Publish in the local newspaper by an informal article that the road, roads, or portion of a road or roads, have been so designated;
4. Indicate such designation on all maps currently in use by municipal departments[1]; and
5. Notify all utility companies or other such parties which may be working on the border of such road.

§ 145.7 Scenic Roads in Westford. [Amended 05-08-04 ATM Art. 17; 05-06-06 ATM Art. 20]

The following roads are designated as scenic roads under Massachusetts General Laws chapter 40, section 15C as amended, and this chapter:

a. Hildreth Street, its entire length from Boston Road to Concord Road
b. Old Road
c. Old Lowell Road
d. Vose Road
e. Leland Road
f. Gould Road
g. Chamberlain Road
h. Stony Brook Road
i. Hunt Road
j. Frances Hill Road

§ 145.8 Procedure and Criteria For Approval To Work On a Scenic Road [Amended 05-08-04 ATM Art. 17]

A. Application to perform work in a way designated a scenic road.

Any person or organization seeking the consent of the Planning Board under Massachusetts General Laws chapter 40, section 15C regarding any work including, but not necessarily limited to road repair, maintenance, reconstruction, paving work or curb cuts that will involve the cutting or removal of trees or the tearing down of stone walls, or portions thereof, shall file a request with the Planning Board, together with the following information:

[1] "The definition of "All maps" does not include the Town of Westford, Massachusetts, Zoning Map."

1. information identifying the location of the proposed action in terms of enabling readers to reasonably locate it on the ground, and describing the proposed changes to trees and stone walls;
2. plans, drawing, or other explanatory reference materials showing the specific design or engineering details; and
3. except in the case of Town agencies, a deposit sufficient for the cost of advertising and notification.

B. Notice prior to work on a scenic road.

The Planning Board shall, as required by statute, give notice of its public hearing by twice advertising in a newspaper of general circulation in the area. The first publication of the notice shall be as soon as feasible after the Planning Board received the request from the applicant, and shall, in all cases, be at least 14 days before the hearing. The last publications shall occur, as required by statute, at least 7 days prior to the hearing. The Planning Board shall also send copies of that notice to the Selectmen, Conservation Commission, Historical Commission, Town Engineer, Tree Warden, Department of Public Works, and owners as of the preceding January 1 of property located in whole or in part within 100 feet of the proposed action. If, in the opinion of the Planning Board, a proposed action will have an impact on the scenic quality of the scenic road and/or will result in an increase in vehicular traffic along the scenic road then notice shall be sent to the owners as of the preceding January 1 of property located in whole or in part along the entire length of the scenic road or within 1 mile of the proposed action, whichever is shorter.

C. Timing of notice.

The Planning Board shall hold a public hearing within 30 days of receipt of a properly filed request, and shall make a decision within 45 days of said receipt, unless a longer time is agreed to by the applicant.

D. Tree Warden.

Whenever feasible, Planning Board hearings shall be held in conjunction with those to be held by the Tree Warden acting pursuant to Massachusetts General Laws chapter 87. Consent to an action by the Planning Board shall not be construed as inferring consent by the Tree Warden, or vice versa.

E. Emergency repair.

The procedures of this chapter shall not be required when any Town Department acts in any emergency situation, or when the Highway Superintendent or the Tree Warden or his/her deputy act to remove a structurally unsound tree or act in accordance with Massachusetts General Laws chapter 87 to remove fallen trees or limbs which cause an obstruction to public travel or a dangerous situation with respect to utility lines.

F. Reporting.

The Planning Board shall within forty-five (45) days of receipt of a properly filed application submit a written determination of consent or denial to the applicant and a copy to the Board of Selectmen and the Town Clerk.

G. Public Shade Tree Act.

Whenever feasible, notice shall be given and Planning Board hearings shall be held in conjunction with those held by the Tree Warden when acting pursuant Massachusetts General Laws chapter 87. The consent of the Planning Board to a proposed action shall not be regarded as inferring

consent of the Tree Warden, or vice versa. The Planning Board decision shall contain a condition that no work shall be performed until all applicable provisions of the Public Shade Tree Law, Massachusetts General Laws chapter 87, have been complied with.

§ 145.9. Enforcement.

A. Pursuant to Massachusetts General Laws chapter 40, section 15C the Planning Board shall punish a violation of this chapter:

   1. by a fine not to exceed $300, and/or
   2. by remedial measures.

B. The severity of any enforcement action pursuant to this section shall be in proportion to the severity of the violation or violations, a history of violation of this chapter or other Planning Board orders and conditions by the person being punished, and/or the willfulness of the violation or violations.

C. The Planning Board, in order to protect the due process rights of those accused of violating this chapter and to ensure the predictability and uniformity of enforcement actions made pursuant to this section, shall adopt more detailed regulations and guidelines for the purpose of holding enforcement hearings and of implementing and carrying out the provisions of this section.

§ 145.10. Severability.

If any section or subsection of this chapter is found to be unconstitutional or contrary to the laws of the Commonwealth of Massachusetts or the United States of America then that section or subsection shall be stricken herefrom, and the remainder of this chapter shall remain in full force and effect.

§ 145.11. General.

The Planning Board may adopt more detailed regulations and guidelines for the purposes of implementing and carrying out provisions under this chapter.

Chapter 147: Stormwater Management

[Adopted 5-10-08 ATM Art. 18]

§ 147.1. Purpose.

A. Increased and contaminated stormwater runoff associated with developed land uses and the impacts of soil erosion and sedimentation are known to cause:

- Impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands, and groundwater;
- Contamination of drinking water supplies;
- Erosion of stream channels;
- Alteration and destruction of aquatic and wildlife habitat;
- Flooding; and
- Overloading or clogging of municipal storm drain systems.

B. The objectives of this bylaw are to require practices to control the flow of stormwater from new and redeveloped sites into the Westford storm sewer system in order to:

- Prevent pollutants from entering and discharging from the Westford municipal separate storm sewer system ;
- Control the volume and rate of stormwater runoff resulting from land disturbance activities;
- Ensure that soil erosion and sedimentation control measures and stormwater runoff control practices are incorporated into the site planning and design process;
- Prevent flooding;
- Promote infiltration and recharge of groundwater;
- Encourage the use of low impact development techniques such as reducing impervious cover and the preservation of green space and other natural areas, to the maximum extent practicable and allowable under Westford's Subdivision Rules and Regulations;
- Protect groundwater and surface water from degradation;
- Control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at a construction site;
- Ensure adequate operation and maintenance of structural stormwater best management practices so they work as designed, both long-term and during construction;
- Comply with state and federal statutes and regulations relating to stormwater discharges; and
- Establish Westford's legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

§ 147.2. Definitions.

The following definitions shall apply in the interpretation and enforcement of this bylaw:

Alter shall mean 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."

Approval Not Required (ANR) shall mean a plan of land that does not require approval under the Subdivision Control Law of Massachusetts (Massachusetts General Laws, chapter 41, sections 81K through 81GG).

Common Plan of development shall mean any announcement or piece of documentation (including a contract, public notice or hearing, advertisement, drawing, plan, or permit application, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor marking, etc.) indicating imminent or future plans to disturb earth regardless of how many phases or how long it will take to complete. Under this bylaw, a facility is ***no longer considered a common plan*** if the following criteria are met:

a) The original plan, including modifications, was substantially completed with less than one acre of the original common plan remaining (i.e., <1 acre of the common plan was not built out at the time); **and**
b) There was a clearly identifiable period of time (2 years or more) where there was no ongoing construction, including meeting the criteria for final stabilization.

Land Disturbance shall mean any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material. See also ALTER.

Low Impact Development Techniques shall mean stormwater management practices that are modeled after natural hydrologic features. Low impact development techniques manage rainfall at the source using uniformly distributed decentralized micro-scale controls. Low impact development techniques use small cost-effective landscape features located at the lot level.

Massachusetts Stormwater Management Standards shall mean the requirements described in the Massachusetts Stormwater Handbook, as they may be amended from time to time, that address water quality (pollutants) and water quantity (flooding, low base flow and recharge) by establishing standards that require the implementation of a wide variety of stormwater management strategies. These strategies include environmentally sensitive site design and Low Impact Development techniques to minimize impervious surface and land disturbance, source control and pollution prevention, structural Best Management Practices, construction period erosion and sedimentation control, and the long-term operation and maintenance of stormwater management systems. The Stormwater Management Standards have been incorporated in the Wetlands Protection Act Regulations, 310 CMR 10.05(6) (k) and the Water Quality Certification Regulations, 314 CMR 9.06(6) (a).

Municipal Separate Storm Sewer System (MS4) or **Municipal Storm Drain System or Municipal Storm Sewer System** shall mean a conveyance or system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, municipal street, catch basins, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, ditch, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Westford.

Nonpoint Source shall mean any source from which pollution is discharged which is not identified as a point source, including, but not limited to urban, agricultural, or silvicultural runoff.

Owner shall mean a person with a legal or equitable interest in a property.

Point Source means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete, fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which

pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

Redevelopment shall mean the development, replacement, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites. Standards for Redevelopment only apply to those portions of the parcel that currently contain alteration by human activities. Redevelopment is further defined by Massachusetts Stormwater Management Standard 7.

Stormwater Authority shall mean the Town of Westford Planning Board. The Planning Board is responsible for coordinating the review, approval and permit process as defined in this bylaw. Other boards and/or departments participate in the review process as defined in Section 147.4 of this bylaw.

Stormwater Best Management Practice (BMP) shall mean a structural or nonstructural technique for managing stormwater to prevent or reduce nonpoint source pollutants from entering surface waters or ground waters. A structural stormwater best management practice includes a basin, discharge outlet, swale, rain garden, biofilter or other stormwater treatment practice or measure either alone or in combination including without limitation any discharge pipe, overflow pipe, conduit, weir control structure that: (a) is not naturally occurring; (b) is not designed as a wetland replication area; and (c) has been designed, constructed, and installed for the purpose of conveying, collecting, storing, discharging, recharging or treating stormwater. Nonstructural stormwater best management practices include source control and pollution prevention measures.

Stormwater Management shall mean the use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.

Stormwater Management Permit shall mean a permit issued by the Planning Board, after review of an application, plans, calculations, and other supporting documents, which is designed to protect the environment of the Town from the deleterious effects of uncontrolled and untreated stormwater runoff.

Additional terms that apply to issuance of a Stormwater Management Permit established by this bylaw shall be defined and included as part of the regulations promulgated and, from time to time, amended under section 147.5.B of this bylaw, a copy of which is available at the Planning Board 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.

§ 147.3. Authority.

The Stormwater Management bylaw is hereby established in the Town of Westford, Massachusetts. This bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the rules and regulations of the federal Clean Water Act found at 40 CFR 122.34.

This bylaw shall take effect upon its approval by the Attorney General and publications as provided by Massachusetts General Laws chapter 40, section 32, provided however, that any continuous legally permitted activities in operation on that day may continue.

§ 147.4. Scope and Applicability.

A. This bylaw shall be applicable to the following activities:

1. Any Subdivision as defined in the Massachusetts Subdivision Control Law (Massachusetts General Laws, chapter 41, sections 81K – 81GG) requiring a Definitive Plan;

2. Any activities that result in a land disturbance of one acre or greater within the Town of Westford. Land disturbance shall mean any action that causes vegetation clearing (including tree cutting); or a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material; and

3. Any activities that result in a land disturbance less than one acre if the project is part of a larger common plan of development which will disturb one acre or more within the Town of Westford. Plans that do not require approval under the Subdivision Control Law, hereafter referred to as "Approval Not Required or ANR lots", and meet one or more of the applicability criteria described herein are subject to the provisions of this bylaw and shall obtain a Stormwater Management Permit.

B. Exemptions: No person who meets the applicability of this bylaw shall alter land within the Town of Westford without having obtained a **Stormwater Management Permit (SMP)** with the following exceptions:

1. Ground disturbances in the course of customary cemetery use and regular maintenance,

2. Maintenance of landscaping, gardens or lawn areas,

3. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act 310 CMR 10.04 and Massachusetts General Laws chapter 40A, section 3.

4. Any work or projects for which the required permit applications have been submitted to the Planning Board, Zoning Board of Appeals, and Conservation Commission before the effective date of this bylaw. For proposed Subdivisions, a Definitive Plan must have been submitted to be considered exempt from this bylaw.

5. 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 Planning Board or its authorized agent.

6. Municipal roadway maintenance when conducted in accordance with an approved Stormwater Pollution Prevention Plan, prepared in accordance with the Stormwater Management regulations promulgated under Section 147.5.B of this bylaw, on file with the Planning Board.

C. Coordination with Other Town Permits.

1. 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 bylaw. For a project or activity that meets the Scope and Applicability of this bylaw, no work may commence until the site owner or his agent submits a complete Stormwater Management Permit application, the Planning Board issues a Stormwater Management Permit, and the site owner and responsible parties sign and certify that all land clearing, construction, and development will be done pursuant to the approved Plans and Permit.

2. This bylaw is not intended to interfere with, abrogate, or annul any other bylaw, rule or regulation, statute, or other provision of law. The requirements of this bylaw should be considered minimum requirements, and where any provision of this bylaw imposes restrictions different from those imposed by any other bylaw, 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.

3. In case of conflicting requirements, applicable state statutes and regulations shall be considered the more restrictive or more protective of human health and the environment, and shall take precedence over the Westford Stormwater Management bylaw and the regulations promulgated thereunder. These state statutes and regulations include, but are not limited to, the following documents: the Massachusetts Wetlands Protection Act, the Massachusetts Rivers Act, the Massachusetts Watershed Protection Act, and the Massachusetts Stormwater Management Standards, as amended.

§ 147.5. Administration.

A. Stormwater Authority. The Planning Board is hereby designated as the Stormwater Authority. The Planning Board, or its agent, shall administer, implement and enforce this bylaw. The Planning Board may appoint the Conservation Agent, Town Engineer, or qualified professional to act as its authorized agent for site inspections and to advise the Planning Board.

B. Stormwater Regulations. The Planning Board 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 bylaw 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 fourteen (14) days prior to the hearing date. After public notice and public hearing, the Planning Board may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure of the Planning Board 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 bylaw.

C. Stormwater Management Manual. The Planning Board will utilize the Massachusetts Stormwater Management Handbook, as amended from time to time, for criteria and information including specifications and standards for the execution of the provisions of this bylaw. These include a list of acceptable stormwater treatment practices, with specif-

ic design criteria for each. Unless specifically altered in this Stormwater Management bylaw and regulations, stormwater management practices that are designed, constructed, and maintained in accordance with the Massachusetts Stormwater Management Standards and design and sizing criteria in the Stormwater Management Handbook shall be presumed by the Planning Board to be protective of Massachusetts water quality standards.

D. Actions by the Planning Board. The Planning Board may take any of the following actions as a result of an application for a Stormwater Management Permit as more specifically defined as part of the regulations promulgated as part of this bylaw: Approval, Approval with Conditions, Disapproval, or Disapproval without Prejudice.

E. Appeals of Action by the Planning Board. The decisions or orders of the Planning Board shall be final. Further relief shall be to a court of competent jurisdiction.

§ 147.6. 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 147.5.B of this bylaw.

§ 147.7. 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 147.5.B of this bylaw.

§ 147.8. Waivers.

A. The Planning Board may in its discretion and after due consideration decide to waive and exempt strict compliance with any requirement of the Town of Westford Stormwater Management bylaw or the regulations promulgated hereunder, where it makes a written finding that such action is:

1. Allowed by federal, state and local statutes and/or regulations;

2. In the public interest; and

3. Consistent with the purpose and intent of the Town of Westford Stormwater Management bylaw and its regulations.

B. Criteria for granting a waiver shall be defined and included as part of the regulations promulgated under section 147.5.B of this bylaw.

§ 147.9. Enforcement.

The Planning Board or its authorized agent shall enforce this bylaw 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 Planning Board. As an alternative to criminal prosecution or civil action, the Planning Board may elect to utilize the non-criminal disposition procedure set forth in Massachusetts General Laws Ch. 40, §21D and the Town of Westford General Bylaws Chapter 1.2 A in which case the Planning Board shall be the enforcing person. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Planning Board's agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and may make or cause to be made such examinations, surveys or sampling as the Planning Board deems reasonably necessary to determine compliance with a permit issued under this bylaw. Enforcement shall be further defined and included as part of the regulations promulgated under section 147.5.B of this bylaw.

§ 147.10. Severability.

The invalidity of any section, provision, paragraph, sentence, or clause of this bylaw shall not invalidate any section, provision, paragraph, sentence, or clause thereof, nor shall it invalidate any permit or determination that previously has been issued.

Chapter 148: Streets and Sidewalks

[Adopted 2-11-24 ATM Art. 50. Replaced 2-17-47 ATM Art. 35. Sections 148-13 through 148.20 adopted 5-7-88 ATM Art. 11. Amendments noted where applicable.]

§ 148.1. Animals grazing or running at large.

No person shall suffer horses or grazing beasts or swine to run at large in the Town or to graze within the limits of the highway in the thickly settled parts of the Town; or to graze within the limits of the highway in any other part of the Town unless securely tied.

§ 148.2. Ball games, kites, balloons, and other objects prohibited.

No person shall throw stones, snowballs, sticks or other missiles, or kick a football, or play at any game, in which a ball is used or fly kites or balloons, or shoot with an airgun, bow and arrow, sling shot or other similar device, in or across any of the public ways of the Town.

§ 148.3. Loitering. [Amended 3-7-70 ATM]

No person shall stand or loiter in or on any street sidewalk or public place in such a manner as to obstruct the free passage of travelers thereon; nor shall any person on such street, sidewalk or public place, after being directed by a police officer to move on and disperse, on a same or subsequent day reassemble to loiter or remain; provided, however, nothing herein shall be construed to deny the right of peaceful picketing.

§ 148.4. Excavations; moving buildings.

No person shall break or dig up any sidewalk, street or highway, or place thereon any staging or other temporary structure, or move any building into or along the same without a written permit from the Board of Selectmen or the Board having charge of the streets in such cases. Any permit issued hereunder shall be in force for such time as the Board may specify; shall be issued upon condition that from one-half hour after sunset to one-half hour before sunrise sufficient lights or lanterns shall be so placed as to secure travelers from danger and shall be issued upon such other conditions as the Board may prescribe. The Board granting such permit shall have the right to revoke the same at any time, and may require a bond either before the commencement of work or during its progress to insure its proper performance. Any person having such a permit shall, before the expiration of the same, restore the sidewalk, street or highway to its original condition.

§ 148.5. Dangerous objects on streets.

No person shall throw or place or cause to be thrown or placed upon any street or highway of the Town, any nails, spikes, screws, glass, tin cans or any rubbish or refuse of any kind.

§ 148.6. Vandalism to grounds.

No person shall deface or damage any public monument or damage any public grounds or property.

§ 148.7. Operation of vehicles over closed roads.

No person shall ride, drive or cause to be driven, any horse or vehicle over that part of any street which is being mended, repaired or paved, if a watchman or signs are placed prohibiting the same.

§ 148.8. Closing of streets to coasting.

The Selectmen shall have the right to close any street or highway or portion thereof to coasting.

§ 148.9. Securing of loads on vehicles.

No vehicle shall be driven or moved on any street or highway nor shall any owner of any vehicle knowingly permit such vehicle to be driven or moved on any street or highway unless such vehicle is constructed, or so loaded, as to prevent its contents from spilling, dropping, sifting, leaking or otherwise escaping therefrom. Vehicles loaded with any material which may be blown about by the wind shall be suitably covered to prevent the contents from being blown about the streets and highways.

§ 148.10. **Posting of signs and advertising** [Added 3-9-57 ATM Art. 32]

No person shall affix a commercial or political sign, sign board, or advertising devise, to a tree, post, board or other object within the limits of any sidewalk, street, highway, or other Town property, without first obtaining written permission therefor from the Selectmen which may be revoked at any time.

§ 148.11. **Charges for Tree Warden's services.** [Added 3-12-66 ATM Art. 37]

All charges for services rendered by the Tree Warden to any person, persons, firm, association or corporation, shall be at an hourly rate established by the Selectmen and shall be paid directly to said Tree Warden.

§ 148.12. Driveways. [Added 4-8-72 ATM Art. 19]

A. No person, firm or corporation shall construct, build or establish any driveway over, across or upon any portion of the public sidewalk or public way, or whenever it is necessary to elevate or depress the established grade of any sidewalk or public way, without first having obtained a written permit to do so from the Highway Superintendent. No such permit shall be issued for construction or establishment of any such driveway except in accordance with the typical driveway detail of the Town of Westford. Applications for such permits must be made in writing upon forms furnished by the Town. Said application shall contain the name and address of the person, firm or corporation making the application, the name of the contractor or person who is to construct said driveway and the proposed location and dimensions of said driveway. Complete plans and specifications shall be submitted to the Highway Department at least 48 hours before any such permit shall be issued.

B. All such work shall be done under the jurisdiction of the Highway Superintendent and in accordance with the bylaws of the Town, and shall be inspected upon completion by the constituted member of the Highway Department.

C. Driveways shall be constructed in a manner and of a material equal at least to that existing for the paving in the public street adjacent thereto. Where a driveway of any kind of material is constructed across the sidewalk space, it shall conform to the sidewalk grade as established by the Highway Superintendent.

D. All driveways shall be so graded between the gutter and the sidewalk that it will not be necessary to change the established grade of either and will not elevate or depress any portion of either. No part of said driveway shall extend beyond the curb line in such a manner as to change the grade of said gutter or obstruct the free flow of water in said gutter.

§ 148.13. Deposits of snow; penalties. [Added 5-9-92 ATM Art. 14; amended 5-11-93 Adj. ATM Art. 35]

No person, other than an employee acting for or in behalf of the Town, shall, by himself/herself or through his/her agents, servants or employees, in any manner place or deposit or cause to be placed or deposited any snow, other than incidental amounts thereof on any public sidewalk, street, or way which has been previously cleared of snow by the Town. Violations of this section may be enforced by the Highway Superintendent or his/her designee by non-criminal disposition as provided in Massachusetts General Law chapter 40, section 21D as the same now is or may hereafter be amended. Penalties for such violations shall be $50 for the first offense and $100 for each subsequent offense.

§ 148.14. Definitions.

For the purposes of this chapter the following terms, phrases, words, and their derivation 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 include the plural number. The word "shall" is always mandatory and not merely directly.

Public way shall mean the entire width between the lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel and shall include the entire width of any sidewalk within the lines of such way. In the case of ways established by prescription or concerning which no official layout exist, the edges of the surface of the traveled way shall be deemed to be the lines of such public way.

Driveway shall mean a privately owned access to and from a public way.

Through way shall mean any way designated as such by the Department of Public Works or the Board of Selectmen, as authorized under section 9 of chapter 89 of the Massachusetts General Laws, as amended.

§ 148.15. Purposes.

A. To provide maximum protection to the public through the orderly control of traffic moving onto and from a way.

B. To provide a uniform practice in the design and construction of entrances and exits to properties abutting a public way.

C. To provide for necessary drainage.

§ 148.16. Applications.

An applicant for a permit hereunder shall file with the Building Inspector an application showing:

A. Name and address of the owner, or agent in charge, of the property abutting the proposed work area

B. Name and address of the party doing the work

C. Location of the work area

D. Attached plan showing details of the proposed alteration

E. Such other information as the Building Inspector shall find reasonably necessary to the determination of whether a permit should be issued hereunder.

§ 148.17. Standards for issuance of permit.

The Building Inspector shall issue a permit hereunder when he/she finds:

A. That the plans for the proposed alteration have been approved by the Superintendent of Highways and the Planning Board, to whom they shall be forwarded by the Building Inspector within a reasonable time after receipt thereof.

B. That the alteration will not unreasonably interfere with vehicular and pedestrian traffic, the demand and necessity for parking spaces, in the means of egress to and from the property affected and adjacent properties.

C. That the health, welfare, and safety of the public will not be unreasonably impaired.

D. Driveways should be located to the best advantage with regard to the highway alignment, drainage of the land involved, profile, and sight distance conditions. Unless varied by the Planning Board, driveways shall not be located at the extreme edge (sideline) of property or at intersections or rotaries.

E. Not more than 2 driveways shall be permitted for any one property. Additional driveways should not be requested unless there is a clear necessity for them. No circular drives are allowed unless there is a minimum frontage of 150 feet.

F. The subdivision of a parcel of property by the owner does not in any way change the number of driveways allowed under the standards.

G. The radii of a private driveway may not extend beyond the applicant's property line unless the application is accompanied by a letter and a copy of recordable easements from the applicant's abutter indicating his/her approval of this condition.

§ 148.18. Curb cut replacements.

Where private property use has been modified so that an existing curb cut is no longer needed, the Building Inspector, for the promotion of traffic safety and public convenience, may require the abutting property owner to replace the curb at his/her expense. If the abutting owner fails to comply with the order, the Town may do the work and bill the owner for the cost.

§ 148.19. Exceptions.

No permit shall be required under this bylaw for:

A. Driveways already in existence on the date of adoption of the chapter, except that if any construction or reconstruction of existing driveways is substantially tantamount to a new driveway then this chapter shall be applicable.

B. Driveways reviewed by any other Town board under other existing chapters, rules or regulations or under site plan review or approval under the subdivision control law.

§ 148.20. Severability.

The provisions of this chapter are severable, and if any sentence, section or other part of this chapter should be found to be invalid, such invalidity shall not affect the remaining provisions, and the remaining provisions shall continue in full force and effect.

§ 148.21. Penalty.

Any person, firm, or corporation violating any provisions of this chapter shall be fined not more than $300 for each offense.

Chapter 157 - Transient Merchants

[Adapted 3-7-70 ATM Art. 41. Amendments noted where applicable.]

§ 157.1. Definitions.

For the purpose of this chapter, the following terms shall have the meanings indicated below:

Peddler means any person who sells and makes immediate delivery, or offers for sale and immediate delivery, any goods, wares or merchandise, in possession of the seller, at any place within the Town of Westford other than from a fixed place of business.

Person shall include the singular and the plural and shall also mean and include any person, firm, or corporation, association, club, partnership or society, or any other organization.

Solicitor means any person who sells or takes orders or offers to sell or take orders for goods, wares, or merchandise for future delivery, or for services to be performed, at any place within the Town of Westford other than a fixed place of business.

Transient merchant is any person, firm, or corporation, whether as owner, agent or employee, whether a resident of the Town or not, who engages in or transacts any temporary business within the Town either in one location or by moving from one place to another, selling or buying goods, wares, merchandise, or services, or who solicits for orders, sales, subscriptions or business of any kind, or who solicits for information or donations and shall include all peddlers, canvassers and solicitors.

§ 157.2. Exceptions.

This chapter, except as hereinafter provided, shall not apply to:

A. Persons, firms or corporations selling services, goods, wares, merchandise or materials at wholesale to dealers in such articles.

B. Newspaper carriers.

C. Persons vending and delivering goods, wares or merchandise to regular customers on established routes in the regular course of business.

D. Sales in private residences of the owner's household goods and belongings.

E. Religious, charitable, patriotic or philanthropic organizations; provided, however, that such organizations shall register with the Police Department prior to engaging in any business or activity related to the work or purposes of such organization in Westford and shall furnish such information, in writing, as is required from a permit applicant hereunder.

F. Governmental officers or employees of the Town, county, state or federal government, or any subdivision thereof, when on official business.

G. Insurance companies authorized to do business in Massachusetts.

§ 157.3. Permit required.

No person, firm or corporation shall engage in the business of a transient merchant as defined herein within the Town of Westford without first obtaining a permit in compliance with the provisions of this chapter.

§ 157.4. Application.

A. Each applicant hereunder shall obtain from and file with the Police Department an application for a transient merchant permit and accompany said application with an investigation fee of $5 to cover the cost of investigating the applicant.

B. The written application shall state the nature and place where the business is to be carried on; the length of time for which the permit is desired; the nature of the product or services in which he/she is interested; the name, date of birth and permanent address of the applicant for said permit; the name and address of the person, firm, partnership, association or corporation represented; and the proposed method of operation in the Town.

§ 157.5. Investigation of applicant.

Upon receipt of each such application, the Police Department shall immediately institute such investigation of the applicant, his/her business, financial responsibility and moral character as the Department deems necessary for the protection of the public good, and the Chief of Police or, in his/her absence, the officer in charge of said Department, shall endorse his/her approval or disapproval upon said application within 72 hours after it has been filed with said Department. Each applicant who shows evidence of good character and who pays the fee provided for herein shall be furnished a permit. If the investigation reveals that the applicant has ever been convicted of a felony, then the Chief of Police shall refuse to issue the permit requested, specifying the reasons for such refusal.

§ 157.6. Permit provisions.

A. No permit shall be issued until 3 business days after application therefor is made in writing to the Police Department.

B. All permits shall clearly indicate the dates of issuance and expiration and the name and address of the permittee.

C. All permits issued under this chapter are personal; they shall not be transferable; any holder who allows a permit to be used by any other person shall be guilty of a violation of this chapter.

D. Permittees under this chapter shall carry their permit with them while engaged in permitted activities, and shall display such permit to any police officer or any person being solicited upon request.

E. Annual permits shall be issued on May 1 and expire on April 30 each year.

§ 157.7. Hours and days of operation.

No permittee under this chapter shall sell, peddle, or solicit between the hours of 6:00 P.M. and 8:00 A.M. or on Sundays and legal holidays, unless invited to do so by the owner or occupant of any private residence in the Town.

§ 157.8. Revocation of permit; appeals.

A. Permits issued under this chapter may be revoked by the Chief of Police after notice and hearing for any of the following causes:

1. Fraud, misrepresentation or false statements contained in the application for a permit.

2. Fraud, misrepresentation or false statements in the course of carrying on his/her business of transient merchant.

3. Any violation of this chapter.
4. Conviction of a felony.

B. Notice of the hearing for the revocation of the permit shall be given in writing, setting forth the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the Permittee at his/her last known address, or at an address contained in his/her application for a permit. It shall be mailed at least 5 days prior to the date set for the hearing.

C. Any person aggrieved by the action of the Chief of Police in the denial of a permit, or in refusing a permit, shall have the right of appeal to the Board of Selectmen. Such appeal shall be taken by filing with the Selectmen within 10 days after any notice complained of has been mailed to the permittee's last known address, a written statement setting forth fully the grounds for appeal. The Selectmen shall set a time and place for a hearing on such appeal and notice of the hearing shall be given to the applicant in writing 5 days before the date set for the hearing. The order of the Selectmen on such appeal shall be final and conclusive.

Chapter 160: Trees and Plants

[Adopted 6-28-82 Adj. ATM Art. 19. Amendments noted where applicable.]

§ 160.1 Removal permit required; display, validity. [Amended 5-11-2002 ATM Art. 30]

No person shall remove plants or trees from property in the Town of Westford without having in their possession a permit signed by the owner of the property. If the property is owned by the Town, the permit shall be signed by the Board of Selectmen or its designated agent. The permit shall be dated and shall list the number and species of plants or trees for which permission is granted. It shall be exhibited on demand of any responsible person and shall be valid only on date of issue.

§ 160.2 Violations and penalties.

Penalties for violations shall be $25 for each plant offense and $50 for each tree offense.

Chapter 162: Trench Regulations

[Adopted 5-11-09 Adj. ATM Art. 27]

§ 162.1. Authorization; notification of hearings.
The Board of Selectmen and the Building Commissioner shall hereby be authorized to promulgate regulations relative to implementing a trench opening permitting program pursuant to Massachusetts General Laws Chapter 82A and 520 Code of Massachusetts Regulations 14.00. Prior to promulgation of the regulations, or to amendment thereof, the Board of Selectmen or Building Commissioner or Fire Chief shall hold a public hearing for which notice shall be provided at least one week prior to the hearing.

§ 162.2. Enforcement; violations and penalties.
Notwithstanding the provisions of Sections 1.1 through 1.3 of the Town Bylaws, violations of the regulations promulgated under authority of this bylaw may be enforced through any lawful means in law or in equity by the Board of Selectmen or the Building Commissioner or the Fire Chief, including but not limited to enforcement by non-criminal disposition in accordance with Massachusetts General Laws Chapter 40, Section 21D. Each day a violation exists shall constitute a separate violation. The regulations authorized by this section shall establish specific penalties for violation thereof in amounts not to exceed $300.00 per violation.

Chapter 165: Junk Automobiles

[Adopted 3-8-65 Adj. ATM Art. 25, amended 3-11-67 ATM Art. 25. Replaced 5-9-87 ATM Art. 19. Amendments noted where applicable.]

§ 165.1. License required for maintenance in open. [Amended 5-11-2002 ATM Art. 30]

No junk automobiles shall be kept in the open in any area of the Town of Westford by the owner of the vehicle or by the owner or one in control of the premises wherein such vehicle is kept unless a license has been granted in accordance with the procedure described in this chapter.

§ 165.2. Definitions. [Amended 5-11-2002 ATM Art. 30]

For the purposes of this chapter, a junk automobile shall be one which is worn out, cast off, or discarded and which is ready for dismantling or destruction, or which has been collected for storage or salvage, or for stripping in order to make use of its parts. Any parts from such a vehicle shall be considered a junk automobile under this chapter.

§ 165.3. Exemptions.

Anyone holding a Class Three automobile license under the provisions of Massachusetts General Laws chapter 140, section 58, as amended, is exempt from the provisions of this chapter.

§ 165.4. Issuance of license; appeals. [Amended 5-11-2002 ATM Art. 30]

A license to keep no more than 2 such junk automobiles may be obtained from the Building Commissioner, who may issue a license under the terms and standards set forth in section 165.5 of this chapter. The refusal of the Building Commissioner to issue a license may be appealed to the Board of Selectmen by filing an appeal with the Town Clerk within 20 days of the refusal, and thereafter following the procedure for notice and hearing set forth in section 165.5 of this chapter.

§ 165.5. Application procedure; renewals. [Amended 5-11-2002 ATM Art. 30]

A. A license to keep more than 2 junk automobiles may be requested by filing with the Town Clerk an application in writing to the Board of Selectmen. The Selectmen shall hold a public hearing upon such request, notice of which shall be given by publishing in a newspaper having a general circulation in Westford at least 7 days before the date of the hearing. The cost of publishing shall be paid by the applicant for the license.

B. The Selectmen may grant a license for not longer than 1 year upon such conditions as the Selectmen deem proper to keep such junk automobiles in the open after a public hearing has been held, and the Selectmen determine that the keeping of the same will not depreciate property values in the area, will not create a hazard to the public safety, or will not become a public nuisance. Renewals of a license shall be made only after the procedure set forth above is followed.

§ 165.6. Revocation of license. [Amended 5-11-2002 ATM Art. 30]

Upon the filing with the Board of Selectmen of a petition signed by at least 10 legal residents of Westford asking for revocation of any license issued under this chapter, the Selectmen shall call a public hearing to review the conduct of the licensee under the license. If the Selectmen determine that the operation of the licensee under said license depreciates property values of surrounding property, creates a hazard to the

public safety or constitutes a public nuisance, the Selectmen may, by majority vote, revoke the license. The effective date of such revocation shall be 30 days after the vote of revocation.

§ 165.7. Violations and penalties. [Amended 5-22-89 Adj. ATM Art. 49; 5-11-2002 ATM Art. 30]

Any person or entity who violates this chapter shall be liable to the following fines for each day the violation continues:.

For the first offense:	Warning
For the second offense:	$200
For each subsequent offense:	$300

Chapter 169: Water

[Adopted 12-28-55 STM Art. 7. Amendments noted where applicable.]

§ 169.1. Election of Water Commissioners; authority. [Amended 3-28-2011 Adj. ATM Art. 27]
The Water Department shall be administered by a Board of 3 Water Commissioners appointed by the Town Manager*. The Water Commissioners shall have charge and control of the Water Department and water system subject to the provisions of the Massachusetts General Laws subject to these bylaws, as amended and subject to the Town Manager's authority as defined in the Town Charter.

§ 169.2. Appointment of Water Department Superintendent. [Amended 3-28-2011 Adj. ATM Art. 27]

The Water Commissioners shall appoint a Superintendent of the Water Department to administer the Water Department under their control subject to ratification by the Town Manager pursuant to the Town Charter.

§ 169.3. Responsibility for cost of water connections. [Amended 3-10-56 ATM Art. 42]

The entire cost of all installations made by the Water Department from the water main to the meter on the property of a taker of water shall be borne by such taker and shall be payable by such taker in advance.

§ 169.4. Water service for subdivisions.

The cost of water mains, hydrants, appurtenances and fixtures for a subdivision (as defined Massachusetts General Laws Chapter 41 section 81L as amended) and the cost of installing the same in such subdivision and the cost of connecting the same to the Town water system shall be borne by the person making such subdivision. Water shall be supplied by the Water Department to such water mains only if such person has paid all such costs and has complied with all regulations and requirements of the Planning Board of the Town respecting the installation of such water mains, hydrants, appurtenances and fixtures and respecting the conveyance to the Town of the same, together with any related easements.

§ 169.5. Extension of mains not in subdivisions. [Amended 5-14-56 STM Art. 4; 7-19-57 STM Art. 5]

A. Water mains may be extended along a public or private way not in a subdivision only with the approval of the Water Commissioners or of the Selectmen when acting as Water Commissioners and only if the takers served by such extension agree in writing either:

    1. to pay each year the difference between an amount equal to 15% of the cost of such extension and the revenue received from supplying water to takers served by such extension, such agreements to remain in effect until the aggregate revenues from supplying water to such takers plus the aggregate amounts paid by such takers under such agreements shall have equaled the cost of such extension; or

    2. to pay in advance the difference between the estimated cost of such extension and an amount 15% of which will equal the estimated revenue for the first year during which water is supplied to such extension, all such payments to be adjusted when the actual costs and actual revenues for such first year are determined; or

    3. to pay the entire cost of such extension; or

    4. to pay each year the difference between an amount equal to 7% of the cost of such extension and the revenue received from supplying water to takers served by such extension, such agreements to remain in effect until the aggregate revenues from supplying water to such takers plus the aggregate amounts paid by such takers under such agreements shall have equaled the cost of such extension.

B. Any taker who elects to request an extension under the provisions of sections 169.5.A.1 or 169.5.A.4 hereof, may, either prior or subsequent to the making of such extension, pay his/her

pro-rata share of the entire cost, or the then remaining unpaid cost, as the case may be, of such extension; and, by virtue of such payment, shall not thereafter be held to answer or be accountable in any manner to or for any claim, demand or assessment for any deficiency in the aggregate revenue received for supplying water to the takers served by such extension.

§ 169.6. Use of and tampering with hydrants. [Added 7-29-65 STM Art. 5]

It shall be unlawful for any person not authorized by the Town, to turn on or shut off any Town hydrant or to tamper with, alter or injure any such hydrant.

§ 169.7. Regulation of use [Adopted 5-8-99 ATM Art. 23]

A. Authority.

This section is adopted by the Town under its police powers to protect public health and welfare and its powers under Massachusetts General Laws chapter 40, section 21, et seq. and implements the Town's authority to regulate water use pursuant to Massachusetts General Laws chapter 41, section 69B. This bylaw also implements the Town's authority under Massachusetts General Laws chapter 40, section 41A, conditioned upon a declaration of water supply emergency issued by the Massachusetts Department of Environmental Protection.

B. Purpose.

The purpose of this section is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a State of Water Supply Conservation or State of Water Supply Emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town or by the Department of Environmental Protection.

C. Definitions.

Persons shall mean any individual, corporation, trust, partnership or association, or other entity.

State of Water Supply Emergency shall mean a State of Water Supply Emergency declared by the Department of Environmental Protection under Massachusetts General Laws chapter 21G, sections 15-17.

State of Water Supply Conservation shall mean a State of Water Supply Conservation declared by the Town pursuant to section 169.7.D of this chapter.

Water users or water consumers shall mean all public and private users of the Town's public water system, irrespective of any person's responsibility for billing purposes for water used at any particular facility.

D. Declaration of a State of Water Supply Conservation.

The Town, through its Board of Water Commissioners, may declare a State of Water Supply Conservation upon a determination by a majority vote of the Water Commissioners that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a State of Water Conservation shall be given under section 169.7.F of this chapter before it may be enforced.

E. Water uses.

A declaration of a State of Water Supply Conservation shall include one or more of the following restrictions, conditions, or requirements limiting the use of water as necessary to protect the water supply. The applicable restrictions, conditions or requirements shall be included in the public notice required under section 169.7.F.

1. Odd/even day outdoor watering: Outdoor watering by water users with odd numbered addresses is restricted to odd numbered days. Outdoor watering by water users with even numbered addresses is restricted to even numbered days.
2. Outdoor watering ban: Outdoor watering is prohibited.
3. Outdoor watering hours: Outdoor watering is permitted only during daily periods of low demand to be specified in the declaration of a State of Water Supply Conservation and public notice thereof.
4. Filling swimming pools: Filling of swimming pools is prohibited.
5. Automatic sprinkler use: The use of automatic lawn sprinkler systems is prohibited.

F. Public notification of a State of Water Supply Conservation; notification to DEP.

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 other means reasonably calculated to reach and inform all users of water of the State of Water Supply Conservation. Any restriction imposed under section 169.7.E shall not be effective until such notification is provided. Notification of the State of Water Supply Conservation shall also be simultaneously provided to the Massachusetts Department of Environmental Protection.

G. Termination of a State of Water Supply Conservation notice.

A State of Water Supply Conservation may be terminated by a majority vote of the Board of Water Commissioners, upon a determination that the water supply shortage no longer exists. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner required by section 169.7.F.

H. State of Water Supply Emergency; Compliance with DEP orders.

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

I. Penalties.

Any person violating this section 169.7 shall be liable to the Town in the amount of $50 for the first violation and $100 for each subsequent violation which shall inure to the Town for such uses as the Board of Water Commissioners may direct. Fines shall be recovered by indictment, or on complaint before the District Court, or by non-criminal disposition in accordance with Massachusetts General Laws chapter 40, section 21D. Each day of violation shall constitute a separate offense.

J. Severability.

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

Chapter 171: Wetlands

[Adopted 5-11-87 Adj. ATM Art. 21. Amendments noted where applicable.]

§ 171.1. Purpose.

The purpose of this bylaw is to protect the wetlands, related water resources, and adjoining land areas in Westford by prior review and control of activities deemed by the Conservation Commission likely to have a significant or cumulative effect upon Wetland values, including, but not limited to, the following: public or private water supply, groundwater protection, flood control, erosion and sedimentation control, storm damage prevention, water pollution prevention, fisheries, shellfish, wildlife habitat, recreation, and aquaculture values (collectively, the "wetland values protected by this bylaw").

§ 171.2. Prohibited activities; uses. [Amended 5-13-91 Adj. ATM Art. 22]

A. Except as permitted by the Conservation Commission or as provided by this bylaw, no person shall remove, fill, dredge, alter, or build upon or within 100 feet of any bank, fresh water wetland, flat, marsh, wet meadow, bog, swamp, vernal pool, or beach; upon or within 100 feet of any brook, stream, pond or lake, or upon or within 100 feet of any land under said waters or within 100 feet of the 100-year flood line as determined under the Federal Emergency Management Agency (FEMA).

B. Use prohibitions [Amended 5-7-94 ATM Art. 24; 11-13-00 STM Art. 10; 5-7-2005 ATM Art. 24]

Within the protected 100 feet to the wetlands (hereinafter "buffer zone") and within the wetlands specified in §171-2.A, the Conservation Commission shall prohibit the following uses.

(1) Except as provided below, no septic system or other sewage disposal system, or any component of any septic system or sewage disposal system, shall be installed in wetlands or within the buffer zone to any wetlands (for the purpose of this section, "septic system or other sewage disposal system" shall mean all components thereof, including but not limited to leaching fields; septic tanks; distribution boxes; pump chambers; any and all connecting pipes between the structure, tank, and leaching field; sewer mains; collector lines; pump stations; tanks; manholes; and any other system components). Provided, however, that the following limited installations and uses may be permitted:

(a) A septic system or other sewage disposal system, or components thereof, located within a buffer zone serving a structure existing prior to May 7, 1994, may be replaced within the buffer zone, provided that there is no other feasible alternate location; the capacity of the existing septic system or other sewage disposal system, as shown in the Board of Health records, is not increased; and the proposed new septic system or other sewage disposal system is designed and located to achieve maximum environmental protection.

(b) Where an existing structure or structures on a property is proposed to be razed and replaced with a new structure or structures or to be remodeled, including enlargement of the structure, the Conservation Commission may allow the installation of a septic system or other sewage disposal system, or components thereof, within a buffer zone or connecting lines or pipes in a wetland if the Conservation Commission finds that the applicant provided sufficient information from a competent source to clearly demonstrate, based upon existing site conditions, the nature of the proposed septic system or other sewage disposal system or components thereof, and special design measures, that the proposed septic system or other sewage disposal system or components thereof shall provide sig-

nificantly better environmental protection than provided by the existing septic system or other sewage disposal system.

(c) Further, the foregoing Section 171-2.B(A) shall not be construed to prohibit the installation of sewer mains, collector lines, pump stations, tanks, manholes or other components of any waste water treatment facility approved by the Massachusetts Department of Environmental Protection Bureau of Resource Protection pursuant to 314 CMR 5.00 when said installation is to occur in relation to a parcel or contiguous parcels under the same ownership as of November 1, 2000 which have a waste water treatment facility approved by the Massachusetts Department of Environmental Protection Bureau of Resource Protection pursuant to 314 CMR 5.00 with adequate existing capacity as determined by said Bureau of Resource Protection, and in existence as of November 1, 2000, and where DEP Bureau of Resource Protection has previously mandated that any new construction on the parcel or parcels must be connected to the existing waste water treatment facility, and it is necessary to cross through a Buffer Zone with an approved connection whose sole purpose is to connect from existing or proposed structures to the existing waste water treatment facility and where said installation in the Buffer Zone is to be located in a previously disturbed area within an existing Town maintained Right of Way.

(d) Provided further that the foregoing Section 171-2.B(A) shall not be construed to prohibit the installation of sewer mains, collector lines, pump stations, tanks, manholes or other components of any existing waste water treatment facility approved by the Massachusetts Department of Environmental Protection Bureau of Resource Protection pursuant to 314 CMR 5.00, whether or not said facility is located in another Town when:

a. said installation is to occur solely in relation to a parcel or contiguous parcels in Westford that have been continuously used for school purposes for no less than five years prior to said installation; and
b. the existing wastewater treatment facility has adequate existing capacity as determined by the Bureau of Resource Protection to service the needs of the school to which it is connected; and
c. it is necessary to cross through a Buffer Zone with an approved connection whose sole purpose is to connect the school structure(s) to the existing waste water treatment facility and where said installation in the Buffer Zone is to be located in a previously disturbed area within an existing Town maintained Right of Way or State Highway.

(2) Dumping of any material.

(3) Storage of salts, fertilizers, heavy metals, petrochemical products or toxic substances.

[Adopted 11-12-2002 ATM Art. 17]
Provided further that the foregoing shall not be construed to prohibit the installation of sewer mains, collector lines, pump stations, tanks, manholes or other components of any existing waste water treatment facility approved by the Massachusetts Department of Environmental Protection Bureau of Resource Protection pursuant to 314 CMR 5.00, whether or not said facility is located in another town when:

a. said installation is to occur soley in relation to a parcel or contiguous parcels in Westford that have been continuously used for school purposes for no less than five years prior to said installation; and

b. the existing waste water treatment facility has adequate existing capacity as determined by the Bureau of Resource Protection to service the needs of the school to which it is to be connected; and

c. it is necessary to cross through a Buffer Zone with an approved connection whose sole purpose is to connect the school structure(s) to the existing waste water treatment facility and where said installation in the Buffer Zone is to be located in a previously disturbed area within an existing Town maintained Right of Way or State Highway.

§ 171.3. Exceptions.

A. The permit and application required by this bylaw 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 telecommunication services, provided that the structure or facility is not substantially changed or enlarged, provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to performance standards and regulations adopted by the Commission.

B. The permit and application required by this bylaw shall not apply to emergency projects necessary for the protection of the health or safety of the public, provided that 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, provided that advance notice, oral or written, has been given to the Commission or its agent prior to commencement of work or within 24 hours after commencement, provided that the Conservation Commission or its agent certifies the work as an emergency project, provided that the work is performed only for the time and place certified by the Conservation Commission for the limited purposes necessary to abate the emergency, and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided in this bylaw. Upon failure to meet these 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.

§ 171.4. Applications for permits; Requests for Determination.

A. Written application shall be filed with the Commission to perform activities regulated by this bylaw affecting resource areas protected by this bylaw. The application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the environment. No activities shall commence without receiving and complying with a permit issued pursuant to this bylaw.

B. The Commission in an appropriate case may accept as the application and plans under this bylaw the Notice of Intent and plans filed under the Wetlands Protection Act, Massachusetts General Law chapter 131, section 40.

C. Any person desiring to know whether or not proposed activity or an area is subject to this bylaw may in writing Request a Determination from the Commission. Such a request for determination shall contain data and plans specified by the regulations of the Commission.

§ 171.5. Fees. [Amended 5-7-88 ATM Art. 16; 5-11-93 AdjATM Art. 22; Replaced AdjATM 5-7-07 Art. 20]

At the time of an application, the applicant shall pay a filing fee specified in regulations of the Commission. The fee is in addition to that required by the Wetland Protection Act and Regulations.

§ 171.6: Notice and hearings. [Amended 5-11-93 Adj. ATM Art. 21.]

A. At the time of the filing of a Notice of Intent or Request for Determination the applicant shall submit a current list of abutters to the land for which the application is submitted according to the most recent records of the assessors, including those across a traveled way or body of water. The Commission shall provide a proper legal notice to the applicant, who shall then be responsible for mailing in a timely fashion to arrive several days before the scheduled hearing, copies of the notice to said abutters. The applicant shall present to the Conservation Commission acceptable U.S. Post Office receipts showing that such a mailing has been performed. No public hearing under this bylaw may open until such proof of notification has been presented to the Commission. When the applicant is other than the owner of the property, then the applicant must also mail a copy of the notice to the owner.

B. Hearings.

C. The Commission shall conduct a public hearing on any application or request for determination, with written notice by the Commission given at the expense of the applicant, 5 working days prior to the hearing, in a newspaper of general circulation in the municipality.

D. The Commission shall commence the public hearing within 21 days from receipt of a completed application or request for determination.

E. The Commission shall issue its permit or determination in writing within 21 days of the day following the close of the public hearing thereon.

F. The Commission in an appropriate case may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act, Massachusetts General Laws chapter 131, section 40.

G. The Commission shall have authority to continue the hearing to a date announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information offered by the applicant or others, information and plans required of the applicant, deemed necessary by the Commission at its discretion, or comments and recommendations of boards and officials. In the event the applicant objects to a continuance or postponement, the hearing shall be closed and the Commission shall take action on such information as is available.

§ 171.7. Permits, determinations, and conditions. [Amended 05-07-2005 ATM Art. 25]

A. If the Commission after a public hearing determines that the activities which are the subject of the application are likely to have a significant or cumulative effect upon the wetland values protected by this bylaw, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions.

B. The Commission is empowered to deny a permit for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable or cumulatively adverse effects upon the wetland values protected by this bylaw; and where the Commission deems that no conditions are adequate to protect those values.

C. A permit shall expire 3 years from the date of issuance. Notwithstanding the above, the Commission at its discretion may issue a permit expiring 5 years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is

given to the Commission. The Commission may, at its discretion, extend any permit for up to three (3) periods of up to three (3) years each.

D. For good cause the Commission may revoke or modify any permit issued under this bylaw after public notice and public hearing, in accordance with the provisions of section 171.6, and notice to the holder of the permit.

E. The Commission in an appropriate case may combine the permit or other action on an application issued under this bylaw with the Order of Conditions issued under the Wetlands Protection Act.

§ 171.8. Rules and regulations.

A. After public notice and public hearing the Commission shall promulgate rules and regulations to effectuate the purposes of this bylaw. 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 bylaw.

B. At a minimum these regulations shall define key terms in this bylaw not inconsistent with this bylaw.

§ 171.9. Definitions. [Amended 5-13-91 Adj. ATM Art. 22; 5-7-94 ATM Art. 24]

The following definitions shall apply in the interpretation and implementation of this bylaw.

Alter shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this bylaw:

A. Removal, excavation or dredging of soil, sand, gravel, or aggregate materials of any kind

B. Changing of pre-existing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics

C. Drainage or other disturbance of water level or water table

D. Dumping, discharging or filling with any material which may degrade water quality

E. Placing of fill, or removal of material, which would alter elevation

F. Driving of piles, erection or repair of buildings, or structures of any kind

G. Placing of obstructions or material in a body of water

H. Destruction of plant life including cutting of trees

I. Changing water temperature, biochemical oxygen demand, or other physical or chemical characteristics of water

J. Any activities, changes or work which may cause or tend to contribute to pollution of any body of water or groundwater.

Bank shall include:

A. The portion of the land surface which normally abuts and confines a water body. It occurs between a water body and a vegetated bordering wetland and adjacent flood plain, or, in the absence of these, it occurs between a water body and an upland. A bank may be partially or totally vegetated, or it may be comprised of exposed soil, gravel or stone.

B. The upper boundary of a bank is the first observable break in the slope or the mean annual flood level, whichever is lower. The lower boundary of a Bank is the mean annual low flow level.

Beach: see definition for "bank."

Bog: see definition for "freshwater wetland."

Brook shall be defined as a body of running water, in accordance with the definition of "stream."

Buffer zone shall be defined as all those areas that lie within 100 feet of the boundary of any bank, freshwater wetland, flat, marsh, wet meadow, bog, swamp, vernal pool, beach, brook, stream, pond, or lake; or within 100 feet of the 100-year flood line, as determined under the Federal Emergency Management Agency (FEMA)

Freshwater wetland [Amended 10-17-2011 STM, Art. 11] shall be defined as wet meadows, marshes, swamps, bogs, areas where groundwater, flowing or standing surface water or ice provides a significant part of the supporting substrate for plant community for at least 5 months of the year; emergent and submergent plant communities in inland waters; that portion of any bank which touches any inland waters.

Notwithstanding the above, the following man-made areas shall not be considered freshwater wetlands:

(a) basins or lagoons which are part of wastewater treatment plants;
(b) swimming pools or other impervious man-made basins; and
(c) individual gravel pits or quarries excavated from upland areas unless inactive for five or more consecutive years;
(d) retention and detention ponds created as part of a stormwater management system.

Swamps, as used in this section, shall mean areas where groundwater is at or near the surface of the ground for a significant part of the growing season or where runoff water from surface drainage frequently collects above the soil surface, and where a significant part of the vegetational community is made up of, but not limited to nor necessarily include all of the following plants or groups of plants: alders, ashes, azaleas, black alder, black spruce, buttonbush, American or white elm, highbush blueberry, larch, cowslip, poison sumac, red maple, skunk cabbage, sphagnum mosses, spicebush, black gum tupelo, sweet pepperbush, white cedar, willow.

Wet meadows as used in this section, shall mean areas where ground water is at the surface for a significant part of the growing season and near the surface throughout the year and where a significant part of the vegetational community is composed of various grasses, sedges and rushes; made up of, but not limited to nor necessarily including all, of the following plants or groups of plants: blue flag, vervain, thoroughwort, dock, false loosestrife, hydrophilic grasses, loosestrife, marsh fern, rushes, sedges, sensitive fern, smartweed.

Marshes as used in this section, shall mean areas where a vegetational community exists in standing or running water during the growing season and where a significant part of the vegetational community is composed of, but not limited to nor necessarily including all, of the following plants or groups of plants: arums, bladderworts, bur reeds, buttonbush, cattails, duck weeds, eelgrass, frog bits, horsetails, hydrophilic grasses, leatherleaf, pickerel weeds, pipeworts, pond weeds, rushes, sedges, smartweeds, sweet gale, water milfoil, water lilies, water starworts, water willow.

Lake shall be defined as a body of water with a surface area of 10 or more acres, either artificial or natural.

Marsh See definition for "freshwater wetland."

Person shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the

extent subject to Town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

Pond [Amended 10-17-2011 STM, Art. 11] Any open body of fresh water with a surface area observed or recorded within the last ten years of at least 10,000 square feet. Ponds may be either naturally occurring or man-made by impoundment, excavation, or otherwise. Ponds shall contain standing water except for periods of extended drought. Periods of extended drought for purposes of this definition shall be those periods, in those specifically identified geographic locations, determined to be at the "Advisory" or more severe drought level by the Massachusetts Drought Management Task Force, as established by the Executive Office of Environmental Affairs and the Massachusetts Emergency Management Agency in 2001, in accordance with the Massachusetts Drought Management Plan (MDMP).

Notwithstanding the above, the following man-made bodies of open water shall not be considered ponds:

(a) basins or lagoons which are part of wastewater treatment plants;
(b) swimming pools or other impervious man-made basins; and
(c) individual gravel pits or quarries excavated from upland areas unless inactive for five or more consecutive years.

Stream shall be defined as any body of running water, including brooks, continuous or intermittently flowing, moving in a definite channel in the surface of the ground.

Swamp: see definition for "freshwater wetland."

Vernal pool shall be defined as a vernal pool certified by the Massachusetts Natural Heritage and Endangered Species Program.

§ 171.10. Security.

The intent of section 171.10 is to secure against the potential of significant environmental damage. As part of the permit issued under this bylaw, 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 hereunder be secured wholly or in part 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 insure the protection of the interests of this bylaw.

§ 171.11. Enforcement; violations and penalties.

A. The Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this bylaw and may make or cause to be made such examinations, surveys or sampling as the Commission deems necessary.

B. The Commission shall have authority to enforce this bylaw, its regulations, and permits issued thereunder by enforcement orders and civil and criminal court actions.

C. Upon request of the Commission, the Board of Selectmen and the Town Counsel shall take legal action for enforcement under civil law. Upon request of the Commission the Chief of Police shall take legal action for enforcement under criminal law.

D. Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

E. Any person who violates any provision of this bylaw, regulations thereunder, or permits issued thereunder, may be punished by a fine of not more than $300. Each day or portion thereof during

which a violation continues shall constitute a separate offense, and each provision of the bylaw, regulations, or permit violated shall constitute a separate offense.

F. In the alternative to criminal prosecution the Commission may elect to utilize the non-criminal disposition procedure set forth in Massachusetts General Law chapter 40, section 21D.

§ 171.12. Burden of proof.

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application will not have significant or cumulative effect upon the Wetland values protected by this bylaw. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

§ 171.13. Severability.

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

Chapter 175: Amendments*

[Adopted 2-11-24 ATM. Amendments noted where applicable.]

§ 175.1. Amendment of bylaws. [Amended 3-11-57 Adj. ATM Art. 32(26)]

These bylaws may be amended at any Town Meeting, an article or articles for such purpose having been inserted in the warrant for the meeting. For purposes of these bylaws the repeal of a bylaw or the adoption of a new bylaw shall be deemed an amendment of the bylaws.

§ 175.2. Approval and publication of amendments. [Amended 3-11-57 Adj. ATM Art. 32(26); 3-19-60 Adj. ATM Art. 36; 5-5-79 ATM Art. 11; 5-11-2002 ATM Art. 30]

Any amendment to these bylaws shall go into effect upon its acceptance by a Town Meeting, its approval in the manner required by law, and upon:

A. the publication of reference to the amendment at least two times in one or more newspapers, if any, published in the Town, otherwise in one or more newspapers in general circulation in the Town, and

B. posting copies of the bylaw amendment in at least five public places in the Town, including Town Hall, and in one or more public places in each precinct of the Town, in accordance with Massachusetts General Law chapter 40, section 32, as amended.

All bylaws or votes of the Town inconsistent therewith shall thereupon be repealed.

* New bylaw made up of sections previously numbered 1.2 and 1.3